

Standard Terms & Conditions

Revised February 2019

Maddox Industrial Transformer, LLC
303 Greer Dr. Simpsonville, SC 29681
1-800-270-2011 maddoxtransformer.com

1. **DEFINITIONS.** As used in these Terms and Conditions (hereinafter, "Terms"), "MIT" means Maddox Industrial Transformer, LLC and its employees, agents, officers, assigns, and representatives. "Customer" means the party purchasing a product directly from MIT. MIT and Customer may be referred to herein individually as "Party" or collectively as the "Parties". "Quote" or "Quoted" refers to only the written quotation document provided by MIT to the Customer.
2. **TERMS OF SALE/RENTAL.** Should Customer offer to purchase and/or rent any equipment, services, or other items (hereafter, "Equipment") from MIT, MIT's acceptance of such is conditioned upon Customer's assent to these Terms. Any term, provision, or condition in conflict with, in addition to, or in modification of these Terms shall not be binding upon MIT unless such is accepted in writing by an authorized officer of MIT. These Terms are not an acceptance of any offer of Customer to purchase and/or rent, and all offers to purchase and/or rent made by Customer must be approved and accepted by MIT. These Terms shall be applicable whether or not they are enclosed with Equipment received by the Customer.
3. **PRICES, PAYMENT TERMS and SECURITY INTEREST.** Unless agreed to in writing by the Parties, prices quoted by MIT are current at the date of Quote and shall be subject to revision. Prices shall expire thirty (30) days from the date of Quote unless MIT receives a valid and complete purchase order before such time. The amount due shall be paid within the time period specified on the Quote. To secure the purchase price of the Equipment purchased by Customer from MIT, and any other amounts due by Customer to MIT, Customer grants and MIT retains a security interest in the Equipment until such time that any amounts due to MIT by Customer are paid in full. MIT reserves the right to file such appropriate UCC financing statements to perfect its security interest in the Equipment.
4. **TITLE AND DELIVERY.** All deliveries shall be FOB or Ex Works ("EXW") (Incoterms 2000) MIT's location. If delivered ("destined") to port, to a freight forwarder, whether arranged by MIT or by Customer, the freight forwarder will be defined as a representative of MIT and not of Customer. Risk of loss and title to all Equipment (if paid in full) furnished by MIT shall pass directly to Customer at MIT's location. All Delivery dates are estimates and under no circumstances does MIT guarantee date of Delivery.
5. **RENTAL.** Should Customer rent Equipment from MIT: Customer shall be liable for the return of the Equipment to MIT's location in the same condition as it was sent, ordinary wear excepted. In the event that any of MIT's Equipment is lost or damaged after the time the Equipment leaves MIT's location, Customer shall continue to pay rent on the Equipment until (1) the equipment is returned and Customer pays MIT the full cost to repair the Equipment or (2) Customer pays MIT the full replacement cost (i.e. the retail cost) of the Equipment.
6. **CANCELLATION OR REVISIONS.** An order may be cancelled or revised only upon written approval by MIT in its sole discretion. Cancellation charges for a stock (not custom) order shall not be less than 25% of the Equipment price, and due upon invoicing, unless written consent is made by MIT. In the event MIT does not approve such cancellation or revision, Customer shall remain liable for the full price of the Equipment ordered.
7. **WARRANTY.** The only warranty applicable to the Equipment shall be such written warranty provided for on the Quote and set forth on corresponding MIT Warranty document(s). Any warranty provided by MIT with respect to the Equipment shall have no force or effect unless and until full payment for such Equipment has been received by MIT.
8. **INDEMNITY AND RELEASE.** Customer agrees to indemnify MIT and hold it harmless from any and all claims and expenses, including attorney's fees and costs, arising from Customer's use of the Equipment. By using the Equipment, Customer hereby agrees to release MIT from any and all claims, obligations, damages (actual or consequential), and/or cost that Customer may incur arising out of, or in any way, related to the Equipment.

- continues -

9. **LIMITATION OF DAMAGES.** CUSTOMER UNDERSTANDS AND AGREES THAT IN NO EVENT SHALL CUSTOMER OR ANY THIRD PARTY ENTITLED TO THE RECOVERY OF INDIRECT, EXEMPLARY, ACTUAL, CONSEQUENTIAL, INCIDENTAL, SPECIAL, LIQUIDATED, PUNITIVE, OR OTHER DAMAGES. Customer agrees and acknowledges that no special circumstances are present or contemplated by the Parties that would entitle Customer to consequential or special damages. Customer's maximum remedy for a breach of these Terms is the recovery of monies paid to MIT for the Equipment involved in the breach.

10. **FORCE MAJEURE.** MIT shall not be liable for failures in performance due to acts beyond its control, including, but not limited to, acts of God, embargo, stoppage of labor, failure to secure materials or labor from usual sources of supply, riots, acts of war, fire, and acts of governmental or military authorities.

11. **MEDIATION, ATTORNEY'S FEES, and GOVERNING LAW.** In the event of any dispute with respect to these Terms or performance of the Parties hereunder which cannot be reasonably settled by the Parties, MIT and Customer agree to submit the dispute to mediation prior to initiating any litigation. The site of mediation shall be Greenville, South Carolina, unless another site is mutually agreed to between both parties. If any action or proceeding shall be commenced to enforce these Terms, or any right arising in connection with these Terms, the prevailing Party shall be entitled to recover from the other Party, reasonable attorneys' fees, costs, and expenses incurred. The Parties agree that the Terms are to be governed and construed in accordance with the laws of the state of South Carolina, and Customer agrees to submit to the jurisdiction of South Carolina courts in connection with the contractual relationship embodied in these Terms.

12. **SEVERABILITY, NO-ASSIGNMENT, NON-WAIVER, and ENTIRE AGREEMENT.** Every provision of these Terms is intended to be severable. If any term or provision is illegal, invalid, or unenforceable, such shall not affect the remainder. In lieu of such illegal, invalid, or unenforceable provision, there shall be added automatically, as part of these Terms, provisions similar in terms as necessary to render such provision legal, valid, and enforceable. MIT's failure to enforce any or all of these Terms shall not constitute a waiver of its rights with respect to the same or any subsequent breach. Customer agrees not to assign or otherwise transfer its rights or obligations under these Terms without written consent of MIT. These Terms state the entire agreement between the Parties, are binding and controlling, and supersedes all prior proposals and understandings, whether oral or written and all other prior communications between the Parties relating to the subject matter of these Terms.

- end -