

COPERION CONDITIONS OF SALE Form 101

All transactions between Coperion Corporation (Coperion) and the purchaser (Purchaser) concerning goods and services sold by Coperion (Products) will be governed by the following terms and conditions, notwithstanding anything to the contrary which may be set forth in any documents submitted by Purchaser.

1. **AGREEMENT:** These terms and conditions will govern all quotations covering purchase orders for the sale of the Products and are the sole terms and conditions upon which the order from any Purchaser will be accepted. Coperion's acceptance of Purchaser's order will not constitute an acceptance of printed provisions on Purchaser's order form which are inconsistent with or additional to these terms and conditions unless specifically accepted in writing by Coperion. There will be no contract between Coperion and the Purchaser unless and until Coperion, in writing, confirms and accepts the Purchaser's purchase order. No supplementary agreement between the parties will be binding on or enforceable against Coperion unless said agreement is accepted in writing by Coperion.

2. **QUOTATIONS, DRAWINGS AND DESCRIPTIVE DOCUMENTS:** All illustrations, drawings, specifications and other material accompanying Coperion estimates or contained in Coperion catalogs, as well as other data and information furnished by Coperion, are given in good faith as being approximately correct, but are not binding in detail unless explicitly stated by Coperion to be so in writing. All of the materials furnished to Purchaser and all technical and commercial information discussed in connection with the sale is furnished to Purchaser with the understanding that it will be used exclusively by Purchaser to evaluate the feasibility of purchasing Products from Coperion. Purchaser agrees that the material furnished to it by Coperion will not be copied, reproduced, transmitted or communicated by any person to a third person, without the prior written consent of Coperion. If Coperion does not receive the award by confirming and accepting Purchaser's purchase order, all illustrations, drawings and other written material furnished to the Purchaser will be returned promptly upon Coperion's written request for same.

3. **PAYMENT:** Unless otherwise specifically set forth in Coperion's quotation, payment terms will be one third of the sales price with receipt of the final purchase order and two thirds upon delivery of the equipment to the FOB point. Freight and insurance within North America and the cost of installing the equipment are not included in the purchase price. The price stated in Coperion's quotation includes the cost of such packing which, in the sole opinion of Coperion, will provide sufficient protection for the Products during shipment. The cost of packing will not be refunded if, for any reason, the packing is returned. Federal, state and local sales, use and other taxes are not included in the purchase price unless otherwise stated in Coperion's quotation and the Purchaser shall pay the amounts of any present or future taxes imposed on the sale, installation or use of the Products or in lieu thereof, the Purchaser shall provide Coperion with a tax exemption certificate acceptable to the taxing authorities. The price is subject to change at any time, without notice, (i) if changes in governmental actions affect the landing cost of imported goods; or (ii) if any federal, state or local governmental action taking effect between the date of Coperion confirmation of the purchase order and the date of delivery affects the cost of producing or providing the Products. The purchase price of the Products will be payable without deduction of any kind, within such period of time and according to such terms as provided in Coperion's quotation. Alleged counterclaims do not entitle the Purchaser to make deductions or to withhold payment. Only persons duly authorized by Coperion may accept payments on behalf of Coperion. In the event Purchaser fails to make payments when due, then Coperion shall have the right to charge interest at the maximum rate allowed by law. Coperion shall have the right to file, and Purchaser agrees to sign, any documents required to evidence Coperion's security interest in the equipment.

4. **SHIPMENT AND DELIVERY:** Unless otherwise stated in Coperion's quotation, delivery will be made F.O.B. point of shipment. Delivery will be deemed complete and risk of loss will pass to the Purchaser upon delivery by Coperion of the Products to the carrier at the place(s) of business stated in Coperion quotation. If delivery to a carrier is at any time delayed due to circumstances for which Purchaser is responsible, risk of loss will pass to the Purchaser five days after written notification is sent to the Purchaser that the Products are ready for delivery to a carrier. Partial deliveries of the Products are permitted. Delay in delivery of the Products will not be a cause of cancellation of the order by Purchaser. Coperion will in no event be liable for any delays in delivery, or in providing of the Products (regardless of the length of the delay), or the failure to make delivery, or to provide the services, including, but not limited to those caused indirectly in any manner by fires; floods; accidents; riots; acts of God; war; governmental interference, embargoes; strikes; labor difficulties; shortage of labor, fuel, power, materials or supplies; transportation delays of any other cause (whether or not similar in nature to any of those specified herein) whether beyond its reasonable control or which it cannot remedy without great economic hardship. In the event of a delay described in this paragraph, Coperion will be entitled to withdraw in whole or in part from this Contract without liability of any kind. If completion or delivery of goods or the providing of services is delayed due to the fault of the Purchaser, Purchaser will be charged with all costs which Coperion incurs as

result of the delay and a reasonable profit on all such costs. In addition, the Purchaser shall make any such payments at such times that they would have become due had the Purchaser not caused the delay in performance or delivery. Purchaser is responsible to insure that the end destination of any goods provided by Coperion meet any export control laws as defined by the U.S. Department of Commerce.

5. **WARRANTY:** Coperion warrants that the Products sold hereunder will be free from defects in material and workmanship; that such goods will be fit for the ordinary purposes for which such goods are used; and that good title thereto will be conveyed to Purchaser. THE FOREGOING IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTY OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE. This Warranty does not extend to substitute equipment and components specified by Purchaser or to products not of Coperion's manufacture which are peripheral or not integrated into Coperion's goods. As to such products, Coperion will transfer to Purchaser the Warranty, if any, of Coperion's supplier. The Warranty contained herein will inure only to the benefit of Purchaser and may not be transferred to any other person or entity. Should Purchaser at any time transfer this Warranty to any other person, Seller's liability will cease.

Coperion shall not be liable to Purchaser for any damage to the Products caused by normal wear, improper maintenance, disregard of operating instructions, running the machine in excess of its specified limits, use of unsuitable lubricants, other improper handling, damages caused by electrolytic influences, improper machine setup, defective site preparation or unsuitable construction site or any other type of work not performed by Coperion.

No warranty of Coperion, whether made hereunder or implied in law, will be binding upon Coperion unless Purchaser gives Coperion adequate notice of intention to startup goods and an authorized representative of Coperion is present for startup or Coperion waives the requirement in writing. This also applies to the running in of refurbished gearboxes.

Purchaser's exclusive remedies for breach of all warranties pertaining to new Products and installation services (if any are to be provided by Coperion) shall be limited to the replacement of any defective part or portion thereof and the correction of any improper installation; provided, however, that Coperion shall have received prompt written notice from Purchaser of such alleged defect or improper installation, specifying the nature thereof. For new Products, a claim must be made within twelve (12) months after the startup of the Products, but in any event, within eighteen (18) months following the date of shipment. For Refurbished Products, a claim must be made within six (6) months after the startup or use of the Products, but in any event, within twelve (12) months following the date of shipment. Labor and travel expenses incurred in responding to a warranty claim will be paid by Purchaser in accordance with Coperion's then-current field service rates.

Purchaser shall return all Products claimed to be defective to Coperion with transportation prepaid. If, upon examination by Coperion, the Products are found to be defective, Coperion shall, in addition to replacement, pay transportation charges both ways.

While refurbishing used components and/or equipment, certain deficiencies may exist which are not apparent at the time of inspection, quotation and/or work. Therefore, if such deficiencies are: (i) discovered in the course of the work, Coperion would inform Purchaser immediately and only proceed with Purchaser's authorization and acceptance of the additional cost. Accumulated costs up to this point are billable to Purchaser; or (ii) discovered after completion of the work, Coperion assumes responsibility only for workmanship of repair work and components which have been replaced. In the event used components are utilized in the refurbishing process, they are not covered by warranty.

6. **INSTALLATION:** Coperion is not responsible for installing the Products unless Coperion and the Purchaser otherwise agree in writing. Should Coperion have agreed in writing to undertake installation of the Products, Coperion's obligation will be limited to installation in a workman-like manner. If Coperion furnishes Purchaser with advice or other assistance which concerns any Products supplied hereunder or any system or equipment in which such Products may be installed and which is not required pursuant to this agreement, the furnishing of such advice or assistance will not subject Coperion to any liability, whether in contract, warranty, tort (including negligence), or otherwise.

7. **PATENTS:** Coperion warrants that Products manufactured by it, and any part thereof, will be delivered free of any rightful claim of any third party for infringement of any United States patent in affect as of the date of Coperion's quotation. If notified promptly in writing and given authority, information and assistance, Coperion will defend, or may settle at its expense, any suit or proceeding against Purchaser based on a claimed infringement which would result in a breach of this warranty and Coperion will pay all damages and costs awarded therein against Purchaser due to such breach. In case any said Product or part thereof is in such suit held to constitute such an infringement and the use for the purpose intended of said Product or part is enjoined, Coperion will, as its expense and option, either procure for Purchaser the

right to continue using said Product or part, or replace same with a noninfringing Product or part, or modify same so it becomes non-infringing, or remove the Product and refund the purchase price (less reasonable depreciation for any period of use) and any transportation costs separately paid by Purchaser. The foregoing states the entire liability of Coperion for patent infringement by said goods or any part thereof.

The preceding paragraph will not apply (i) to any Product or part specified by Purchaser or manufactured to design, or (ii) to the use of any Product furnished hereunder in conjunction with any other Product in a combination not furnished by Coperion as a part of this transaction. As to any such Product or part, or use in such combination, Coperion assumes no liability whatsoever for patent infringement and Purchaser will hold Coperion harmless against any infringement claim arising there from; and (iii) to any patent infringement caused by the process applied to the Product by the Purchaser.

8. MISCELLANEOUS: All permits, licenses or authorizations necessary for the installation or use of the Products will be obtained by the Purchaser at its sole cost and expense.

In the event Coperion's scope of supply includes any computer software, Purchaser will not receive title to such software but will receive a use license, subject to terms issued by Coperion separately from these Conditions of Sale.

No right or obligation under this agreement will be assigned without the prior consent of Coperion.

Should any single provision or subparagraph of this agreement be deemed invalid, the balance of the agreement will remain binding and enforceable in accordance with its terms and conditions.

This agreement will be governed by the laws of the State of New Jersey and if a dispute arises which cannot be resolved in accordance with Article 12 herein, Purchaser consents to jurisdiction in New Jersey.

9. INSURANCE AND IDEMNITY: Coperion shall maintain insurance in the following amounts and, if requested by Purchaser, will provide a Certificate of Insurance confirming such coverage. The Certificate will provide that the coverage will not be amended without thirty (30) days written notification to Purchaser.

Workers' Compensation	Statutory Requirement
Automobile Liability (owned, non-owned or hired vehicles)	\$1,000,000 per occurrence (combined single limit bodily injury and property damage)
Comprehensive General Liability (including products liability, completed operations liability, blanket contractual liability, broad form property damage coverage and personal injury liability insurance)	\$1,000,000 per occurrence (combined single limit)

Coperion will indemnify and hold harmless Purchaser against claims or damage arising out of this contract to the extent Coperion recovers under the insurance policies maintained in accordance with the foregoing. This will be the full extent of Coperion's liability for direct damages.

10. CHANGES: Purchaser may direct Coperion to make changes in the Products ordered or in the requirements of the drawings, specifications or instructions. Coperion shall promptly review such changes and within ten (10) days inform Purchaser of any change in Coperion's cost of performance or delay in delivery. Upon mutual agreement as to any price or delivery change, Purchaser shall issue a written change order, which shall be executed by both parties in writing. In the event such change in delivery or price cannot be agreed to, Coperion may elect to stop work on the Purchase Order until a resolution has been made.

11. RIGHT TO INSPECT: The Products provided by Coperion under this Purchase Order are subject to inspection, expediting and witnessing of Coperion testing by the Purchaser's representative and/or the Owner, who shall be granted access to all non-proprietary areas of Coperion's plant(s) engaged in the manufacturing or processing of this Purchase Order, provided Coperion has seven (7) days notice and the opportunity to participate in same.

12. **ALTERNATIVE DISPUTE RESOLUTION:** By accepting this Purchase Order, each party agrees that in the event of a dispute, it will engage in a formal process conducted by a neutral third party utilizing a recognized non-binding Alternative Dispute Resolution procedure before resorting to any judicial process.

13. **DEFAULTS/REMEDIES:** An event of default shall mean any of the following: Any insolvency by either party; any proceeding of either party for bankruptcy; reorganization or arrangement which, if involuntary, shall remain open for sixty (60) days; any admission in writing by either party of its inability to pay debts as they become due; any assignment by either party for the benefit of its creditors; any failure by Purchaser to make the payments as specified by the Contract; any failure by Purchaser to pay any invoice submitted by Seller in accordance with this Contract within thirty (30) days after submission of such invoice; (and except for "Purchaser" obligation to make payment) repeated failures by either party to perform any of the terms of the Contract in any substantial respect and, which shall continue for thirty (30) days after notice of such default; except where the performance is of such nature that it cannot be completed within thirty (30) days and the defaulting party commences performance within thirty (30) days and thereafter continues in good faith and with due diligence to complete performance. In the event that a default shall occur, the other party shall have the right to terminate this Contract by providing written notice to the defaulting party.

Seller's Default/Termination: In the event of such termination by Seller, Seller's sole liability to Purchaser shall be the excess, if any, of the difference between the unpaid portion of the Contract Price and the direct cost to Purchaser of completing the terminated portion of the Work. If the direct cost of completing the Work exceeds the unpaid portion of the Contract Price, Seller shall pay such reasonable excess to Purchaser. If the direct cost of completing the Work is less than the unpaid portion of the Contract Price, Purchaser shall pay such difference to Seller. Except as set forth in section 14.0 Secrecy, Seller shall have no further obligations or liabilities to Purchaser.

Purchaser's Default/Termination: In the event of such termination by Purchaser, Purchaser's liability to Seller shall be to either (i) take possession of the completed Products and pay to Seller that portion of the contract price applicable to such Products, as well as any costs incurred by Seller up to the point of receipt of notice which cannot be excused; or (ii) not take possession of the Products completed upon receipt of termination, and pay to Seller the direct costs of those respective Products plus an additional twenty (20%) overhead cost.

14. **SECRECY:** Both parties acknowledge and agree that all technical and commercial information marked Confidential or Proprietary and disclosed by either party to the other in connection with the Work was furnished in confidence for purposes of evaluating, installing, operating and maintaining the system. Title to all such information shall remain in the disclosing party. Neither party shall disclose to anyone, and will make every reasonable effort to prevent disclosure to anyone of such technical or commercial information for a period of ten (10) years from the date of the Contract. Neither party, its employees, agents nor independent contractors will use any such information for any purpose other than evaluating, installing, operating, and maintaining the Work. Both parties acknowledge and agree that any violation of this provision will constitute irreparable injury where damages are an inadequate remedy; and, in the event of any such violation, the non-violating party shall be entitled to preliminary and permanent injunctive relief, provided, however, that nothing hereinabove set forth shall prohibit either party from using or disclosing any information which was known to either party or in the public domain prior to such furnishing or which after such furnishing becomes available to either party from the public or by others having the right to do so. The obligations of this section shall survive termination of this Contract.

15. **LIMITATION OF LIABILITY:** In no event, whether in contract, tort (including negligence), strict liability, indemnity or otherwise, shall Coperion be liable for indirect, special, incidental or consequential damages of any nature including but not limited to plant down time, lost profit, increased cost of production. The remedies set forth herein shall be exclusive.