

---

# Central Moloney, Inc.

## Standard Terms and Conditions of Sale

---

The conditions stated below shall take precedence over any conditions which may appear on your standard form, and no provisions or conditions of such form, except as expressly stated herein, shall be binding on the Company.

**Acceptance:** Quotations by Central Moloney, Inc. (hereinafter called the Company), must be accepted within thirty days of the date thereof and may be changed or withdrawn upon notice prior to acceptance.

**Payment:** Invoiced amounts are net and are to be paid thirty days from date of invoice. No discount allowed for earlier payment. These terms apply to domestic shipment only and are subject to approval by Company's credit department. Terms of payment on orders for export shipment are cash in full with order unless stated otherwise in Company's quotation. If the financial condition of Purchaser at any time does not, in the judgment of the Company, justify continuance of the work to be performed hereunder or the terms of payment specified, Company may suspend shipment at its option. Pro-rate payments shall become due as shipments are made. If shipments are delayed by Purchaser, payments shall become due from date when Company is prepared to make shipment. If manufacture is delayed by Purchaser, payment shall be made based on contract price and percentage of completion. Payments withheld beyond thirty days from date of invoice shall be charged at 1/12 the prime rate per month or fraction thereof on any unpaid balance without prejudice to Central Moloney's right to demand immediate payment. Apparatus held for Purchaser shall be at Purchaser's risk and expense.

**Loss Guarantee:** The Company guarantees the Total Owning Cost (T.O.C.) of the transformers bid based on the quantity, evaluation formula and factors of the specific bid. In the event that the transformers supplied exceed the quoted Total Owning Cost based on the Company's certified test reports, the Company will credit the Purchaser's account for the difference between the quoted Total Owning Cost and average Total Owning Cost supplied by line item for the complete blanket purchase order quantity provided that the Purchaser has requested such credit and supplied appropriate documentation within 24 months of the earliest shipment.

**Delivery:** This is a shipment contract. Delivery shall be made F.O.B. Factory, with freight prepaid to closest public or private siding nearest destination. Shipping dates are approximate based upon factory conditions at the time of quotation, the prompt receipt of all necessary information and upon the receipt of complete and final specifications with the order. Shipping dates are also sub-

ject to modification depending upon conditions existing at the time Purchaser's order is received. Any changes or additions made to Purchaser's specifications after an order is received will require the shipment be rescheduled based upon date of receipt of final specifications and upon factory conditions existing at that time.

**Force Majeure:** The Company shall not be liable for delays in delivery or for failure to manufacture or deliver due to (1) acts of God, acts of the Purchaser, acts of civil or military authority, priorities, fires, in-plant test failures, explosion, strikes, floods, blizzards, epidemics, quarantine restrictions, war, riots, insurrection, civil disturbance, delay in transportation or car shortages; or (2) inability, due to causes beyond its reasonable control, to obtain necessary lab, materials, components or manufacturing facilities. In the event of any such delay, the date of delivery shall be extended for a period equal to the time lost by reason of the delay; or (3) other causes beyond its reasonable control. Receipt of the apparatus by Purchaser upon its delivery shall constitute a waiver of all claims for delay. Contracts, which include penalty clauses for failure to meet shipment, will not be acceptable.

**Risk of Loss:** Risk of loss of the apparatus, or any part thereof, shall pass to the Purchaser upon delivery of such apparatus, or part, F.O.B., point of shipment.

**Original Method of Shipment Routing:** The Company will determine the point of origin of shipment and routing. Purchaser requiring shipment by other methods of routing will be billed for any additional handling or transportation charges.

**Cancellation or Deferment of Delivery:** Cancellation of distribution transformers will be subject to cancellation charges irrespectively of whether they are normally stocked items or custom built to order. If cancellation of an acknowledged order occurs, the following charges will apply:

1. Order entered into production schedule but no materials ordered nor engineering efforts expended; 15% of total selling price.
2. Order entered into production schedule, materials ordered and engineering completed. 40% of total selling price.
3. Order released for production or completed: 100% of total selling price.

**Standard Warranty:** The Company warrants transformers of its own manufacture against defects in material and workmanship under normal use and service, for one year from date of installation, but not more than eighteen months after date of shipment. Notice of the alleged defect must be given to the Company in writing with all identifying details including serial number, type of transformer, and date of purchase within a reasonable period of time of the discovery of same during the warranty period. The Company's sole obligation on this warranty shall be, at its option, to repair, or replace, or refund the purchase price of any transformer which proves to be defective as alleged.

No allowances will be made for repairs or alterations effected without specific written authorization from the Company. If requested by the Company, such transformer must be promptly returned freight prepaid and allowed to the Company prior to any attempted repair. The Company accepts no responsibility for loss or damage in transit of goods.

A transformer returned from the field that has PCB content greater than 1 PPM will be returned to the customer at his expense. The warranty on that transformer will be VOID.

Under the terms of this warranty, the Company shall not be responsible or liable for:

- a. Acts of God such as, lightning, tornadoes, hurricanes, floods or other natural occurrences.
- b. Consequential, collateral or special losses or damages.
- c. Equipment conditions caused by fair wear and tear, abnormal conditions of use, accident, neglect or misuse of said equipment.
- d. Labor charges, losses or damage resulting from supplying of defective parts or improper repairs by unauthorized persons.
- e. Repainting the transformer tank or replacing the finish on the cover.

The Company reserves the right to substitute new equipment and/or improve the part(s) on any transformer judged defective without further liability. All repairs performed by the Company, not adjusted as covered by this warranty, will be charged to the Purchaser.

This warranty is VOID unless the Purchaser installs and maintains the transformer in accordance

with proper installation and normal use. Credit will NOT be allowed nor shipment accepted on any transformer returned unless prior approval in writing has been obtained.

**THIS WARRANTY IS THE SOLE WARRANTY OF THE COMPANY AND ANY OTHER WARRANTIES EXPRESSED, IMPLIED IN LAW OR IMPLIED IN FACT, INCLUDING ANY WARRANTIES OR MERCHANTABILITY AND FITNESS FOR USE, ARE HEREBY SPECIFICALLY EXCLUDED.**

No employee of the Company, and no agent or distributor has any authority to change or enlarge the terms of this warranty to obligate the Company to other than strictly the terms of this written warranty.

**Liability Limitations:** Under no circumstances shall the Company have any liability for liquidated damages or for collateral, consequential or special damages, or for loss of profits, or for actual losses or for loss of production or progress of construction, whether resulting from delays in delivery or performance, breach of warranty, negligent manufacture or otherwise. The aggregate total liability of the Company in connection with the performance of this order, whether for breach of contract or warranty, negligence or otherwise, shall in no event exceed the contract price. Purchaser agrees to indemnify and hold harmless the Company from all claims by third parties in excess of these limitations.

**Compliance:** Federal, State and Local. Since the compliance with the various Federal, State and Local laws and regulations concerning occupational health and safety, and pollution are affected by the use, installation and operation of the equipment and other matters over which the Company has no control, the Company assumes no responsibility for compliance with those laws and regulations, whether by way of indemnity, warranty or otherwise.

**Patents:** The Company shall, at its own expense, defend any suit or proceeding brought against the Purchaser, so far as based on a claim that any apparatus or any part thereof furnished hereunder constitutes an infringement of

any patent of the United States, other than a claim covering a process performed by said apparatus, provided that such apparatus or part thereof is not supplied according to Purchaser's design, and is used as sold by the Company, and provided further, that the Purchaser shall have made all payments then due hereunder, and that the Company is notified promptly in writing and is given all necessary authority, information and assistance for the defense of said suit or proceeding. The Company shall pay all damages and costs awarded against the Purchaser in any such suit or proceeding so defended, provided that this indemnity shall not extend to any infringement based upon the combination of said apparatus or any parts thereof with any other apparatus or thing not furnished hereunder. The Company shall not be liable for any settlement of any such claim, suit or proceeding entered into without its written consent. If the apparatus or any part thereof furnished hereunder is, in any suit or proceeding so defended, held to constitute an infringement, and its use is enjoined, the Company shall, at its own expense and at its option, either procure for the Purchaser the right to continue using said apparatus or part, or replace the same with non-infringing apparatus, or modify it so that it becomes a non-infringing, or remove said apparatus or part and refund the purchase price and the transportation and installation costs thereof. The foregoing states the entire liability of the Company for patent infringement by said apparatus or part thereof.

The Company assumes no liability whatsoever for patent infringement by any apparatus or part thereof manufactured to Purchaser's design. To the extent that any apparatus or any part thereof is supplied according to Purchaser's design or instructions, or is modified by Purchaser, or is combined by Purchaser with apparatus or things not furnished hereunder, or is used by Purchaser to perform a process, or produce a product, and by reason of said design, instruction, modification, combination, performance, or production, a suit or proceeding is brought against the Company, the Purchaser agrees to indemnify the Company against costs, liabilities and expenses caused thereby.

**Taxes:** The Company's prices do not include sales, use, excise or similar taxes. In addition to the price specified herein, all present or future sales, use, excise or other similar taxes applicable to the purchase, the Purchaser hereunder shall pay sales or use of the apparatus, or in lieu thereof, the Purchaser shall provide the Company with a tax exemption certificate acceptable to the taxing authorities.

**Return Of Apparatus:** In no event will the Company be responsible for any apparatus or part returned unless it is returned in accordance with the terms and instructions contained in a prior written authorization from the Company.

**Assignment:** Purchaser may not assign its rights or delegate its performance hereunder without the prior written consent of the Company and any attempted assignment or delegation without such consent shall be void.

**Minimum Billing:** The minimum billing charge shall be \$50.00 plus transportation charges.

**No Waiver By Accepting Purchaser's Order:** The Company's failure to object to provisions contained in Purchaser's order or other communication shall not be deemed a waiver of the terms or conditions hereof, nor acceptance of such provisions. No waiver, alteration or modification of any of the terms of conditions hereof shall be binding unless in writing and signed by a duly authorized representative of the Company.

**Governing Law:** This contract is to be construed according to the laws of the STATE OF ARKANSAS.

Revised March 3, 2000  
Date subject to change without notice  
Form: 300322

---

# Central Moloney, Inc.