

1. WARRANTY

(a) **AMtec Assembly Warranty.** For a period of five (5) years from the delivery date, AMtec warrants that the Assembly will be free from defects in workmanship under normal operating conditions and shall conform to the Customer's Specification and/or Drawing. To the extent AMtec provides advisory services, no specific result is assured or guaranteed. If during the warranty period, the Assembly does not comply with the warranties set forth in this Section 1 the liability of AMtec under this warranty is limited, at AMtec's sole discretion, to repair the defect, replace the defective component, or remove the Assembly and provide a refund in an amount not to exceed the original purchase price actually paid for the Assembly, provided that (i) AMtec is promptly notified in writing by Customer during the applicable warranty period with a detailed description of the Assembly defect or nonconformance, and (ii) AMtec confirms to its satisfaction that a defect or nonconformance actually exists. The aforementioned provisions do not extend the original warranty period of the Assembly, or any part thereof, which has either been repaired or replaced by AMtec.

(b) **Manufacturer Warranties.** Manufacturers of certain Assembly components, such as breakers and enclosures ("other Manufacturers") may provide warranties for such components for a shorter period and under different terms than that offered by AMtec. To the extent permissible by the contract between AMtec and these Other Manufacturers, AMtec hereby assigns to Customer any applicable manufacturer warranties. Other Manufacturer's warranties shall supersede the one specified in Section 1(a). AMtec makes no representation or warranty, and customer shall seek no recourse from AMtec, regarding the warranties of Other Manufacturers, including, without limitation, the corrosion resistance of the Assemblies.

(c) **Warranty Exceptions.** This warranty does not apply in any of the following situations:

- (i) the failure of customer or its subcontractors to comply with the specifications and drawings;
- (ii) alterations or repairs made to the Assembly, the Assembly's supporting structure, or to any part of the Assembly or associated wiring and parts without AMtec's written approval;
- (iii) abuse or negligence by anyone other than AMtec;
- (iv) failure of the Assembly to perform as a result of the consequences of legislative, administrative, or executive regulation, order or requisition of the federal government, local utility or public utilities commission, or any state or municipal government or official;
- (v) a Force Majeure which damages the Assembly.

(d) **DISCLAIMER.** THIS SECTION 1 STATES AMTEC'S ENTIRE LIABILITY TO CUSTOMER, AND CUSTOMER'S EXCLUSIVE REMEDY, FOR ASSEMBLY DEFECTS OR NONCONFORMITY. THIS WARRANTY IS EXPRESSED IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING THE IMPLIED WARRANTY OF MERCHANTABILITY, THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, AND OF ALL OTHER OBLIGATIONS OR LIABILITIES ON AMTEC'S PART, AND IT NEITHER ASSUMES NOR AUTHORIZES ANY OTHER PERSON TO ASSUME FOR AMTEC ANY OTHER LIABILITIES. NEITHER THIS WARRANTY NOR ANY DOCUMENT FURNISHED UNDER IT, UNLESS EXPLICITLY STATED, IS INTENDED TO EXPRESS

OR IMPLY ANY WARRANTY OR GUARANTEE WITH REGARD TO THE PERFORMANCE OF THE ASSEMBLY.

2. LIMITATION OF LIABILITY. NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATED TO THIS WARRANTY, INCLUDING BUT NOT LIMITED TO LOST PROFITS, REVENUE OR GOODWILL, LOSS OF USE OR BUSINESS INTERRUPTION, OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY, ARISING OUT OF THIS AGREEMENT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EACH PARTY'S MAXIMUM LIABILITY ARISING OUT OF, RELATING TO OR IN ANY WAY CONNECTED WITH THIS WARRANTY, ITS NEGOTIATION OR TERMINATION, THE RELATIONSHIP OF THE PARTIES OR THE PROVISION OR NONPROVISION OF GOODS OR SERVICES HEREUNDER, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY, SHALL IN NO EVENT EXCEED THE PAYMENTS ACTUALLY RECEIVED BY AMTEC FROM CUSTOMER UNDER CONTRACT. THIS WARRANTY STATES THAT SECTION 1 AND 2 REPRESENT A REASONABLE ALLOCATION OF RISK AND THAT THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

3. **Force Majeure.** Except for Customer's obligations to pay AMtec hereunder, neither Party shall be liable to the other Party for any failure or delay in performance caused by reasons beyond its reasonable control, including, without limitation, acts of God, war, riot, embargoes, terrorists, acts of civil or military authorities, fire, flood hurricanes, typhoons, tornados, winds in excess of ninety (90) mph, volcanoes, earthquakes or accidents. If all or any portion of the Assembly is destroyed by a Force Majeure event, any work done or materials furnished by AMtec in restoring or rebuilding the Assembly will be paid for by Customer as extra work pursuant to the procurement process. Without limiting the generality of the foregoing, AMtec will not be liable or deemed to be in breach of the contract by reason of any delay or failure to perform caused by any act or omission of Customer.

4. **Entire Warranty.** AMtec's Warranty/Limitations of Liability constitutes the sole and entire warranty between the parties, and supercedes all written agreements, commitments, representations or understandings with respect thereto. No other document or amendment of this Warranty shall be part of this Warranty, unless in writing and signed by the parties' authorized representatives.