



## TERMS AND CONDITIONS OF SALE

By submitting a purchase order to AFP Transformers Corporation., every purchaser agrees that the following terms and conditions will govern the sale by AFP Transformers Corporation ("Seller").

1. **PRICES:** Prices are subject to change or withdrawal without notice prior to acceptance of Customer's order, unless the Seller has stated in writing that prices are to remain firm.
2. **SHIPMENT:** Unless otherwise specifically agreed to in writing by Seller, shipment will be made Ex-Works our Plant, Edison, New Jersey. Seller's liability as to delivery ceases upon delivery of the merchandise ("Goods") to the carrier at its' Edison plant, unless otherwise provided for, irrespective of method of shipment and method of payment. Seller will select method of shipment, unless Customer gives timely, prior written instructions.
3. **DELIVERY:** Seller will endeavor to meet requested delivery schedules. However, shipping dates are approximate and based upon prompt receipt, in writing, of all necessary information. Seller will not be liable for any damages or penalty for delay in delivery of failure to give notice of delay, including but not limited to consequential damages, arising out of in connection with any delay in delivery. Partial deliveries shall not obligate the complete delivery of an order.
4. **TERMS OF THE PAYMENTS:** All amounts due hereunder are earned upon receipt of shipment or the merchandise. All payments are payable within 30 days from date of invoice unless otherwise set forth herein or agreed to by Seller in writing. In the event in Seller's sole judgment, based upon the financial condition or credit history of Customer, Seller determines that that it should not allow any credit to Customer, Seller may require payment (whether in whole or in part) in advance, at the time the merchandise is received or may otherwise adjust the payment terms, including, but not limited to ceasing to supply Customer. Customer acknowledges that all payments shall be made without abatement, deduction, discount or setoff. Late payments are subject to a late fee equal to an interest rate of 2.5% per month on the outstanding balance which will be determined from the date the shipment is received, provided however at no time shall the late fee be higher than the highest interest rate permitted under applicable law. In addition to other Seller remedies Customer shall be required to reimburse Seller for all costs and expenses related to collection of past due amounts (inclusive of attorneys' fees and court costs).
5. **TAXES:** The amount of any present or future sales, excise, use or other taxes applicable to the Goods or the manufacture or sale thereof, will be added to the purchase price and shall be paid by the Customer unless a satisfactory tax exemption certificate has been furnished to Seller prior to shipment.
6. **WARRANTY AND REPAIR CHARGE POLICIES:** All products sold hereunder are warranted against defects in workmanship and material under normal use and service, as referred to below, for a period of one year from the date of delivery, except that, where applicable, liability for the defective components purchased by AFP Transformers, LLC, and resold to the Purchaser hereunder shall conform and be limited to the obligations prescribed by the original manufacturer's warranties applicable to such components. All warranties hereunder are contingent upon prior use in the application for which the product was intended as defined under the purchase order and do not cover products which have been modified or repaired without Seller's approval, or which have been subject to neglect, accident, improper installation or application, or on which the original identification marks have been removed or altered. These warranties will not apply if adjustment, repair, or parts replacement is required because of accident, neglect, misuse, power failure, transportation, or causes other than ordinary use. Seller's responsibility under the warranty shall be limited to the repair or replacement, at Seller's option, at Seller's Edison plant, of any component which fails during the above one (1) year period; provided that the purchaser has promptly reported such failure to Seller in writing and that Seller has, upon inspection, found such component to be defective. All other costs including, but not limited to inspection, site installation and/or decommissioning, all transportation costs, etc., are the responsibility of the purchaser. EXCEPT FOR EXPRESS WARRANTIES STATED ABOVE, SELLER DISCLAIMS ALL WARRANTIES WITH REGARD TO THE PRODUCTS SOLD HEREUNDER, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS, and the expressed warranties stated herein are in lieu of all obligations or liabilities on the part of the Seller's for damages, including but not limited to consequential damages arising out of or in connection with the use or performance of the product.
7. **CANCELLATION:** Cancellations will be accepted only with the specific approval of the Seller and shall be subject to cancellation charges which will include all expenditures made and committed for this order with a reasonable allowance for prorated expenses and profit.
8. **GENERAL:** Seller is not bound by any terms on Customer's purchase order which will attempt to impose any conditions at variance with the terms of sale included herein or stated on Seller's packages, invoices and specification sheets. Customer shall be deemed to have assented to Seller's terms of sale by failure of Customer to reject such terms within 10 days of notification thereof or by acceptance of the Goods. Seller's failure to object to the provisions contained in Customer's purchase order shall not be deemed a waiver of Seller's terms of sale which shall constitute the entire contract made between parties. All clerical errors or commissions are subject to correction. Any contract of sale made hereunder shall be governed by the laws of the State of New Jersey. Customer may not assign the contract made pursuant hereto or any rights therein without the written consent of the Seller.