

TERMS AND CONDITIONS

The following terms and conditions, and those on the face hereof, shall control as to any order accepted by AFFINEON, notwithstanding any terms and conditions that may be contained in any purchase order or other document of Customer, and AFFINEON's acceptance of any order is expressly made conditional on Customer's assent to the following terms and conditions and those on the face hereof. Such terms and conditions will constitute the entire agreement between the parties as to any order and will supersede any prior understandings, agreements, representations, or warranties. Such terms and conditions will not be modified, added to, superseded or otherwise altered except by written document signed by an authorized officer of AFFINEON, notwithstanding any terms and conditions contained in the purchase order or other document of Customer. No sales agent or outside representative is authorized to approve any changes to these terms and conditions. AFFINEON's commencement of performance and/or delivery shall not constitute a waiver of these terms and conditions or any acceptance of any terms and conditions contained in the Customer's order or other documents. Acceptance of any product or service by the Customer will be construed as acceptance of AFFINEON's terms and conditions. Any dispute or questions of construction with respect to any order placed with AFFINEON shall be governed by the laws of the State of Florida

All prices are in the applicable currency list on the invoice. Freight terms are FOB AFFINEON's factory or warehouse. Prices, models and specifications are subject to change without notice. Orders must be in writing. Phone orders will be accepted from established accounts when followed by written confirmation. The acceptance of any order does not imply conformance with plans and specifications unless the plans and specifications accompany the order and are accepted as binding by AFFINEON.

Equipment ordered which differs in any way from AFFINEON's standard catalog items will require drawings approved in writing by the Customer. When drawings are approved, they shall take precedence over all other written or verbal instructions. Orders are effective only when accepted and acknowledged by the factory. Minimum order is \$50.00, exclusive of freight.

Price protection will be given on orders entered for immediate shipment and for project orders entered before the effective date of a price increase. All other orders will be billed at the current price at time of shipment. Quotations for custom products are valid for thirty (30) days.

AFFINEON will attempt to ship goods for delivery on or about the times requested by the customer, although time shall not be of the essence in this contract in this regard. AFFINEON will attempt to follow Customer's written instructions as to mode and routing of shipments. In absence of such instructions, AFFINEON shall have absolute discretion as to mode and routing of shipments, including express or parcel post for small shipments. AFFINEON will prepay and bill freight on shipments unless specifically quoted otherwise or upon written instruction from the Customer. Where the Customer has requested expedited freight, the Customer will be responsible for the incurred additional charges.

AFFINEON shall not be liable for late delivery and/or inability to perform due to unforeseen circumstances or conditions, including AFFINEON's inability to obtain supplies and raw materials, government regulations, labor stoppages, casualties, fire, floods, and other causes beyond AFFINEON's control. When such circumstances or conditions have been remedied, AFFINEON will make and Customer will accept delivery/performance. Equipment is shipped at the Customer's risk and our obligation to deliver equipment is discharged upon the equipment's delivery in good condition to the carrier. Shipments are FOB AFFINEON's factory or warehouse. Unless specifically prohibited, partial shipments will be made. Federal, state and/or local taxes, duties and other charges are the responsibility of the Customer. Any changes in engineering drawings, specifications, or in other terms of manufacture, assembly or shipment, requested by Customer, must be in writing and approved by AFFINEON. If any such change by Customer causes an increase in the cost of, or in the time required for performance of, any part of the contract, then AFFINEON shall make a reasonable adjustment to the price of the goods.

If Customer cancels any portion of a Purchase Order prior to shipment, Customer shall be liable to AFFINEON for a cancellation charge equal to AFFINEON's actual costs incurred in connection with that portion of the Purchase Order that is cancelled, including, without limitation, labor, materials and overhead. Customer represents that it is not bankrupt or insolvent. AFFINEON retains a security interest in the goods to secure payment of the purchase price and all other indebtedness now or hereafter owed by the Customer to AFFINEON. At AFFINEON's request, Customer will execute a financing statement or statements evidencing such security interest and will take any other action necessary to perfect the same.

Payment terms require a 50% deposit, with the balance due net 15 days after date of shipment unless otherwise stated on the sales acknowledgment or invoice. If AFFINEON in good faith doubts Customer's ability or willingness to pay, AFFINEON may in its discretion complete its performance of this contract upon a cash in advance basis or make deliveries only upon a C.O.D. basis or file a UCC filing or suspend all or part of its performance hereunder. All payments are applied to the oldest outstanding invoice. Accounts not paid within fifteen (15) days are subject to a 1 1/2% (one and one-half percent) per month (or the highest rate permitted by law, whichever is less) late payment charge. AFFINEON will have the option of withholding performance under any and all orders from the Customer if an invoice remains unpaid when due. All disputes otherwise unresolved between AFFINEON and Customer shall be resolved in a court of competent jurisdiction in the location of AFFINEON's offices, Broward County, Florida. If suit or action is instituted by AFFINEON to enforce payment or performance by the Customer, the Customer agrees to pay all reasonable costs and attorney's fees incurred by AFFINEON.

Claims for shortage or damaged goods must be made within ten (10) days of receipt by the Customer. Equipment will be carefully packed and delivered in good condition to the carrier. All claims for loss or damage in transit must be made by the consignee directly to the carrier. AFFINEON will render every aid and assistance in the presentation and enforcement of such claims without waiver of our rights to have compliance with the terms of payment of our invoices.

Equipment returned without AFFINEON's written permission will not be accepted. Equipment returned for credit must be in accordance with AFFINEON's established product return procedures. Equipment must be unused, in original cartons and in saleable condition, subject to AFFINEON's quality control and test inspection. Restocking charges of \$50.00 or 10% (whichever is greater) plus any repackaging or reconditioning costs will be deducted from the credit. Returns for warranty work will be in accordance with AFFINEON's established warranty procedures. In no case will permission be granted to return specially-modified or custom equipment, or merchandise invoiced more than six (6) months prior to date of Customer's return request.

No failure of AFFINEON to insist upon or compel compliance by the Customer with any of these terms and conditions shall be construed as a waiver by AFFINEON of its right to insist upon compliance. No waiver by AFFINEON of any breach by Customer shall be effective unless in writing signed by an authorized officer of AFFINEON, and no waiver by AFFINEON of any breach by Customer shall be deemed a waiver of any other breach.

If AFFINEON shall fail to repair or replace defective goods within a reasonable time after they are returned to AFFINEON, or if AFFINEON shall wrongfully fail to make delivery or shall wrongfully repudiate this contract, then Customer shall be entitled to recover from AFFINEON such part of the purchase price as has been paid by Customer to AFFINEON. The remedy stated in the preceding sentence shall be Customer's exclusive remedy for any breach, non delivery, or repudiation by AFFINEON or for any other liability of AFFINEON to Customer. This exclusive remedy shall not be deemed to have failed its essential purpose so long as AFFINEON is willing and able to repair or replace defective parts in the prescribed manner.