



# MGM TRANSFORMER COMPANY

5701 SMITHWAY STREET • CITY OF COMMERCE, CALIF. 90040

(323) 726-0888 • FAX (323) 726-8224

www.mgm-transformer.com

## Terms and Conditions

**APPLICABLE LAW:** MGM Transformer is a California corporation doing business in California and as such requires that any litigation brought against the company have **exclusive venue in California**. Applicable law may be either the laws of the state of California, or the U.C.C. This requirement of California jurisdiction is mandatory despite the fact that MGM ships products nationwide.

**STANDARD CONDITIONS OF SALE:** The information contained herein covers the terms and conditions under which MGM Transformer Company products are sold. Any modifications of these terms and conditions, unless agreed to in writing, will not be recognized.

**CHANGES:** Prices, conditions and terms of sale are subject to change without notice.

**TERMS:** Terms are 1% ten days, net thirty (30) days from date of invoice. The Company may at any time require full or partial payment in advance. If the purchaser delays shipments, payment shall become due from the date when the Company is prepared to make shipment. Apparatus held for the purchaser shall be at the risk and expense of the purchaser.

**QUOTATIONS:** Quotations, written or verbal, are subject to the conditions of sale listed herein. Written quotations automatically expire thirty (30) calendar days from the date issued and are subject to withdrawal by notice within that period. Verbal quotations automatically expire twenty-four (24) hours from the time issued.

**ACCEPTANCE OF ORDERS:** All orders shall be written and are subject to acceptance at the factory.

**EQUIPMENT DESTINED FOR FEDERAL, STATE, OR LOCAL GOVERNMENT:** MGM is not bound to honor quotations for equipment destined for Federal, State, or Local Government unless MGM knows at the time of quoting that it is a government job as these orders frequently involve higher administration costs.

**TAXES:** Prices do not include sales, use, excise, or other taxes. If any products or materials delivered hereunder are determined to be taxable under any sales, use, excise, or other taxes applicable to the sale or delivery of personal property, Purchaser shall be liable for and pay the same without recourse against Seller, or in lieu thereof furnish Seller with a tax-exemption certificate acceptable to taxing authorities.

**ERRORS:** All stenographic and clerical errors are subject to correction.

**DELIVERY:** MGM can arrange for apparatus to be sold F.O.B., point of shipment; or freight prepaid.

**UNLOADING AND DEMURRAGE:** Unless stated otherwise in our quote, it is the customer's responsibility to unload all shipments whether by

rail or truck. All demurrage charges are customer responsibility.

MGM recognizes that sometimes the size or weight of shipments requires the customer to make prior unloading arrangements. In such cases the customer shall advise MGM prior to shipment the hours during which shipments can be received and the notice required before delivery. MGM will then reflect these arrangements on the bill of lading.

**Origin method of shipment and routing:** The company will determine the point of origin, method of transportation, and the routing of shipment. Purchasers requiring other routings will be billed any excess in transportation charges.

**PENALTY CLAUSES:** The Company **will not pay or be liable for any penalty, either liquidated or otherwise, for late delivery or installation**. Shipping dates are estimated and are dependent upon prompt receipt of all information and material necessary. The Company shall also not be liable for any unforeseen delay, i.e. acts of God or inability to obtain necessary labor, materials, or manufacturing facilities due to such causes.

**CANCELLATION:** Buyer shall not have the right to cancel purchase orders because of reasonable delays in deliveries. Any order or contract if cancelled requires payment based on the following table:

Purchase Order Released.....	20%
Engineering Complete.....	50%
Purchasing Complete.....	100%

**Changes:** The customer has the right to change their order, in writing, if agreed upon by seller. Should such changes alter the amount due or time required for production, an equitable adjustment of price and/or time shall be made. Changes affecting function or performance of item ordered may not be made without prior written consent from MGM.

**Warranty:** MGM transformers are guaranteed to be of the highest quality. They are further guaranteed, when used for the purpose intended and operated under normal conditions to give continuous and efficient service. MGM Transformer Company agrees to correct any defect in workmanship or material, which may develop under proper or normal use during the period of one year from date of shipment. Should a transformer fail within the warranty period, MGM will issue authorization to return the failed transformer to one of MGM's plants, freight prepaid. At MGM's option the failed transformer will be repaired, replaced or credit will be issued depending on the nature of the failure. A repaired transformer or replacement will be delivered to the purchaser F.O.B. point of shipment with freight prepaid. Repair, replacement or issuance of credit with regards to the defective transformer will constitute fulfillment of all MGM's liabilities in respect to said transformer. This guarantee **does not include incidental expenses**, such as expense of removing and replacing the transformers from service. This

warranty is exclusive and in lieu of all other warranties of quality whether written, oral or implied (including any warranty of merchantability or fitness for purpose.)

**LIMITATION OF LIABILITY:** MGM shall not be liable in contract or in tort for special, indirect, incidental, or consequential damages, such as but not limited to, loss of profits or revenue, loss of use of power system, cost of capital, cost of purchased or replacement power, or claim of customers of purchaser for service interruptions set forth herein are exclusive, and the liability of MGM with respect to any contract, or anything done in connection therewith such as the performance of breach thereof, or from the manufacture, sale, delivery, re-sale, installation, repair or use of any equipment covered by or furnished under this contract whether in contract, in tort, or otherwise, shall not exceed the price of the equipment or part on which such liability is based.

### RETURNING APPARATUS:

- In no case are goods to be returned without first obtaining the Company's written permission.
- Any material returned and not authorized will not be signed for and will be returned back deadhead to the sender.
- Material accepted for credit is subject to a MINIMUM restocking charge of 20% plus all transportation charges.
- Material built to order is not subject for credit under any circumstances.
- If return is caused by fault of the Company, full credit will be allowed.

**EXPORT PACKING:** Refer to factory for additional cost of export packing.

**SPECIAL CONDITIONS FOR POWER TRANSFORMERS:** Because of their nature, size, and weight, the following additional policies apply to power transformers:

- MGM Transformer Company reserves the right to determine the best mode of shipping. All shipments will be made by truck unless size or weight makes this impossible.
  - Prices quoted for power transformers do not include high voltage or low voltage bushing connectors unless specified in the inquiry and quotation.
  - Field inspection or supervision is not included
  - Standard testing is included. Special testing or witness testing are extra cost items.
- In the event of default by buyer of any obligation buyer agrees to pay costs and expenses including attorney fees, costs of suit and interest at 2% per month.