



Standard Terms and Conditions (US)

1. Each shipment shall be a separate transaction and payment shall be made accordingly.
2. The Seller will not accept return of rejected material unless authorized in writing prior to shipment. Terms will be inclusive to return authorization. Product(s) may not be returned after 60 days from invoice date.
3. Shipments and Delivery: Delivery of material shall be F.O.B. Tukwila, Washington, unless otherwise specified by Seller. Title and risk of loss or damage to goods shall pass from the Seller to the Buyer upon delivery of the goods by the Seller to the carrier. Procuring and cost of insurance shall be the responsibility of Buyer.
4. Any amounts not paid by the due date set forth on Seller's invoice shall bear interest at 1-1/2% per month. Buyer agrees to pay all costs of collection including a reasonable attorneys' fees and costs, whether or not Seller commences suit to collect overdue amounts.
5. If any suit or action to enforce or to interpret any of the terms of this Agreement, or to recover damages as a result of a breach of any provision of this Agreement, the prevailing party shall be entitled to recover its costs and expenses, including reasonable attorneys' fees in prosecuting or defending such action and any appeals taken there from.
6. BY ACCEPTANCE OF DELIVERY OF THE GOODS LISTED ABOVE, THE BUYER AFFIRMS THAT IT HAS NOT RELIED ON THE SELLER'S SKILL, JUDGEMENT, OR REPRESENTATION TO SELECT OR FURNISH SAID GOODS FOR ANY PARTICULAR PURPOSE. EXCEPT AS OTHERWISE PROVIDED HEREIN, SELLER DISCLAIMS ANY AND ALL EXPRESS OR IMPLIED WARRANTIES OR REPRESENTATIONS, WHETHER EXPRESS OR IMPLIED, AND INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE AND THE IMPLIED WARRANTY OF MERCHANTABILITY.
7. Acceptance or rejection of goods must occur at time of delivery. Buyer agrees that inspection at time of delivery is a reasonable amount of time to inspect the Goods and that, if it accepts the Goods tendered at time of delivery, such acceptance satisfies all of Seller's obligations. After acceptance, Buyer shall have no remedy against Seller whatsoever, and Buyer may not revoke such acceptance for any reason whatsoever. Shipping promises or delivery promises are approximate. The Seller reserves the right to overship or undership each item by ten percent (10%) unless otherwise specified in writing by the seller on the face of this ORDER (applies to Bulk cable).
8. Risk of Loss: Seller assumes no responsibility for the Goods, and all risk of loss, regardless of cause, shall shift to the Buyer once i) Buyer takes possession of the Goods directly from Seller, or ii) Seller delivers the Goods to Carrier for shipment to Buyer. Any claims for lost or damaged product shipped to Seller by Carrier must be made directly to Carrier
9. Cancellation: This Agreement may not be canceled, in whole or in part, by Buyer without Seller's prior written consent, which may be withheld for any reason, on terms and conditions deemed acceptable to Seller.
10. Assignment: Buyer and Seller agree that neither shall assign any right or interest in the Agreement without the written permission of the other party. Any attempted assignment without written permission shall be void and ineffective for all purposes.
11. Force Majeure: Seller shall not be held responsible for any failure of performance to make timely delivery of all or any part of the Goods in the event such failure was due, in whole or in part, to federal, state, or municipal action, statute, ordinance or regulation, strike or other labor trouble, fire or other damage to or destruction of, in whole or in part, the Goods or the manufacturing facility for the Goods, the lack of or inability to obtain raw

1. materials, labor, fuel, electrical power, water or supplies, or any other cause, act of God, contingency or circumstances within the United States not subject to the control of Seller that cause or hinder the manufacture or delivery of Goods.
12. USE OF TRADEMARKS: Buyer does not acquire any rights to use, and shall not use, any of Seller's names, trademarks, logos, designs, service marks, or trade names, including, without limitation, "AFL Hyperscale."
13. Manufacturer warranties supersede those of AFL Hyperscale, LLC. and apply to all products sold under distribution/resale agreements.
14. AFL Hyperscale warranties that its products will be free from manufacturing defects for (2) years from date of purchase. In the event of any manufacturing defects, Seller will repair or replace the defective good as buyer's sole and exclusive remedy. SELLER MAKES NO EXPRESS OR IMPLIED WARRANTIES INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. AFL Hyperscale will not be liable for customer misuse, abuse, improper installation or application of any goods, and any such misuse, abuse, improper installation or application shall void this warranty.
15. Indemnification: Buyer will indemnify, defend, and hold harmless Seller from and all claims, demands, liabilities, or losses, including attorneys' fees and costs, of any nature whatsoever arising from or relating to the Goods, including, but not limited to, any claim, demand, liability, or loss asserted by a third-party relating to the quality of the Goods, its merchantability or fitness for a particular purpose, Buyer's handling of the Goods, or Buyer's use or resale of the Goods.
16. BUYER'S REMEDY ARISING FROM OR RELATING TO THE GOODS OR THIS AGREEMENT SHALL BE LIMITED TO THE COST OF THE GOODS. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY LOSSES OR DAMAGES, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH POTENTIAL LOSS OR DAMAGE.
17. Indemnification: Buyer will indemnify, defend, and hold harmless Seller from and all claims, demands, liabilities, or losses, including attorneys' fees and costs, of any nature whatsoever arising from or relating to the Goods, including, but not limited to, any claim, demand, liability, or loss asserted by a third-party relating to the quality of the Goods, its merchantability or fitness for a particular purpose, Buyer's handling of the Goods, or Buyer's use or resale of the Goods
18. This Agreement sets forth the entire agreement between Buyer and Seller and exclusively determines the rights and obligations of Buyer and Seller, notwithstanding any prior course of dealing, custom or usage of trade or course of performance or any additional or different terms proposed by Buyer at any time.
19. If at any time any one or more of the provisions of this invoice becomes or is held by a court to be invalid, illegal or unenforceable in any respect, the validity and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby.
20. This Agreement shall be governed by and construed in accordance with the laws of the state of Washington. The parties irrevocably consent to the exclusive jurisdiction of the State or Federal Courts in the state of Washington, County of King, for any and all disputes arising under or related to this Agreement.