

## 9900 Series UPS Performance Guarantee

### Guarantee

Mitsubishi Electric Power Products, Inc. (MEPPI) guarantee that the AC to AC efficiency of the UPS Module Series 9900 supplied to Purchaser will not be less than 1% below the specified efficiency published in the Mitsubishi Electric factory specification. The performance test will take place during either a factory or site acceptable test with the module operating on inverter and with the battery disconnected.

### Remedy

In the event the UPS Module Series fails to comply with guarantee, as verified by the factory or site acceptance test, then MEPPI will refund to Purchaser an amount based on the following formula up to a maximum \$ 10,000 per year for three years whichever is less:

$$\text{Refund} = ((EF_A - EF_T)/EF_T) \times \text{Power} \times \text{KwH} \times \text{Time}$$

Where:

$EF_A$  = the actual efficiency measurement performed at the time of the factory or site acceptable test;

$EF_T$  = the Mitsubishi Electric factory specification less 1%;

Power = the amount of power consumed by the UPS Module as set forth on the name plate;

KwH = the prevailing (non-demand) local Kilowatt Hour utility rate;

Time = in hours for three years (total 26,280 hours).

OR \$10,000.00 per year for three years, whichever is less.

### Guarantee Conditions

Test instrumentation for efficiency measurement shall be calibrated by an authorized Testing agency within 6 month period from actual test date. Evidence of calibration certification is required if non MEPPI test instrumentation is used. Test instruments must have sensitivity suitable for determining accurately the performance characteristics of the UPS Module.

The efficiency measurement will be performed while the UPS Module output is connected to a resistive load bank.

The efficiency measurement will be performed with the battery disconnected from the UPS Module.

The efficiency measurement will be taken at the input and output terminals of the UPS Module.

The efficiency measurement actual (EFA) will be calculated by  $EFA = \text{Output, (KW)} / \text{Input, (KW)}$ .

If the efficiency test is performed at the site acceptance test, then this guarantee is dependent upon the presence of MEPPI personnel or its approved representatives during the time the test is performed. If MEPPI personnel or its approved representatives are not present at such time, this guarantee is void.

### **Guarantee Exclusions**

This limited guarantee shall not apply to: (1) a UPS Module which has been damaged during shipment; (2) UPS Module defects caused by installation, start-up, wiring, modification, or alteration; (3) UPS Module defects caused by misuse, physical abuse of the UPS Module, accident, excessive stress or operation of the UPS Module under abnormal environmental conditions or contrary to the UPS Modules' operating instructions; (4) UPS Module defects caused by failure to follow the operational specifications or the handling and operational procedures prescribed in the UPS Modules Owner's Manual.

### **Guarantee Disclaimer and Limitation of Remedies**

**THE FOREGOING GUARANTEE IS EXCLUSIVE AND MEPPI MAKES NO OTHER GUARANTIES OF ANY KIND WHATSOEVER TO PURCHASER OR ANY THIRD PARTIES WITH RESPECT TO THE UPS MODULE AND HEREBY EXPRESSLY DISCLAIMS ALL GUARANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE AND ALL WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE.**

The remedies provided for in these terms and conditions are Purchaser's sole remedies for any failure of MEPPI to comply with its obligations. Correction of any non-conformity in the manner and for the period of time provided for in these terms and conditions shall constitute complete fulfillment of all the liabilities of MEPPI, whether the claims of Purchaser are based in contract, in tort (including negligence or strict liability) or otherwise, with respect to or arising out of the applicable product or service.