

TERMS AND CONDITIONS OF SALE

These Terms and Conditions of Sale of Phoenix Contact USA, Inc. and Phoenix Contact Development and Manufacturing, Inc. (collectively, ("Phoenix Contact"), any other documents or terms referenced herein, and, if applicable, Phoenix Contact's International Software License Terms, (collectively, the "T & C") shall apply to the entity listed on any quotation, and also any end customer of the Customer, (hereinafter collectively known as the "Customer"). Any other of the Customer's terms conflicting with or differing from those contained in this T & C are rejected by Phoenix Contact, unless the terms are expressly agreed to in writing; regardless of whether Phoenix Contact accepts or ships an order(s) without reservation. For the avoidance of doubt, Phoenix Contact expressly rejects the terms and conditions of the Customer, notwithstanding any language to the contrary in the Customer's ordering documents.

1. TITLE

Title to Phoenix Contact's products will not transfer until full payment is received from the Customer. This reservation of title is for the purpose of securing the purchase price and shall not relieve the Customer of its duty to inspect the products upon receipt, to notify Phoenix Contact of any deficiencies or defects, and to exercise due care in the use, installation, operation, and maintenance of the products when on the premises of the Customer or under the control of the Customer. Notwithstanding any reservation of title by Phoenix Contact, risk of loss shall pass to the Customer at the time of shipment.

2. SHIPMENT AND DELIVERY

All orders will be shipped F.O.B. Carrier. All destination, shipping, and other charges shall be paid by the Customer in accordance with Phoenix Contact's then current shipping and billing practices. Delivery dates given in the acceptance of any order are approximate.

3. PRICE

(a) Prices in any of Phoenix Contact's publications are subject to change without prior notification. This price change could, among other reasons, occur as a result of the fluctuation of the exchange rate between the U.S. dollar and the Euro. Catalog prices are based on prices published in the current price list.

(b) All written quotations, unless stated otherwise, are valid for thirty (30) days from the date of quotation. The Customer shall pay all sales, use, excise or similar taxes whenever Phoenix Contact must itself pay and/or collect the tax from the Customer arising out of the sale. Quoted prices do not include all applicable tariffs or similar government-imposed fees; therefore, those fees will be billed as a separate line item on the Customer's invoice.

(c) If Phoenix Contact approves payment by credit card, all credit card orders will function as a prepayment and, in addition, will assess a credit card fee on each order.

4. PAYMENT

The Customer shall make payment within thirty (30) days of date of the issuance of

invoice from Phoenix Contact. The Customer shall pay a late payment charge of one and one-half percent (1 ½ %) per month, or the maximum late payment charge permitted by applicable law, whichever is less, on any unpaid amount for each calendar month (or fraction thereof) in which the payment is in default. Orders amounting to less than \$500.00 will be billed at \$500.00 plus freight. Full carton purchases are required. In the event Phoenix Contact has to engage an attorney for the collection of an overdue invoice, reasonable attorney's fees shall be reimbursed by the Customer. In the event payment is not received within thirty (30) days from the date of an invoice, any discount applied shall be cancelled and the full list price will be due.

5. ACCEPTANCE & RETURNS

The Customer shall inspect the order promptly upon receipt and shall notify Phoenix Contact, in writing, within thirty (30) calendar days after its receipt of the order that the order is nonconforming, or the order will be deemed as accepted. The notice must include a description of the nonconformity and provide all commercially reasonable details. Acceptance of an order shall constitute the Customer's acknowledgment of Phoenix Contact's full performance of its obligations under this T & C. No order delivered and accepted under this T & C is eligible for return except upon (a) written approval of Phoenix Contact and (b) payment of a fair and equitable restocking charge as may be determined by Phoenix Contact's restocking charge policy at the time of return.

6. INDUSTRY RESTRICTIONS

Sale or Resale to Certain Industries.

Phoenix Contact's products and any advisory services provided shall not be used directly on board any aircrafts or spacecrafts, including for installations involving air traffic control or monitoring, whether in the air or on the ground (the "Scope"). More specifically, Phoenix Contact is prohibited from:

- Advising on the use, application, creation, or delivery of products within the Scope; and
- Providing works or other services involving the supply of hardware, software or parts within the Scope.

THE SALE OF PHOENIX CONTACT'S PRODUCTS FOR USE IN THIS SCOPE IS STRICTLY PROHIBITED. SHOULD THE CUSTOMER DIRECTLY AND KNOWINGLY SELL PHOENIX CONTACT'S PRODUCTS FOR USE WITHIN THE SCOPE, THE CUSTOMER SHALL BEAR THE SOLE LEGAL AND FINANCIAL RESPONSIBILITY FOR ANY CLAIMS OF LIABILITY, DAMAGES, INJURY, OR REGULATORY VIOLATIONS. THE CUSTOMER SHALL FULLY INDEMNIFY PHOENIX CONTACT FROM ANY SUCH CLAIMS OR REGULATORY VIOLATIONS RESULTING FROM THIS RESTRICTION.

7. LIMITED WARRANTY

Phoenix Contact warrants that its product(s) will be free from defects in material and workmanship, under the Customer's normal use and service, for a period of one (1) year

from the date of shipment. The Customer shall promptly provide Phoenix Contact's Customer Service Department with written notice, including an explanation of the circumstances of any claim of an alleged defect in material or workmanship. The Customer shall thereafter follow Phoenix Contact's RMA process. Phoenix Contact will not be liable for any misuse, improper operations, improper installation, improper maintenance, alteration, modification, accident, or unusual degradation of the product or parts due to an unsuitable installation environment. No representation or other affirmation of facts including, but not limited to, statements regarding capacity, suitability for use, or performance of the product, shall be considered as a warranty or representation by Phoenix Contact for any purpose, nor shall it give rise to any liability or obligation of Phoenix Contact whatsoever. The Customer's sole and exclusive remedy in the event of a breach of warranty, as set forth herein, is expressly limited to (1) the correction of the defect by adjustment, repair, modification, or replacement, or (2) issuance of a credit or refund of the purchase price for the defective product at Phoenix Contact's election and sole expense.

EXCEPT AS SPECIFICALLY PROVIDED IN THIS T & C, PHOENIX CONTACT GIVES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

THIS WARRANTY EXTENDS ONLY TO THOSE PRODUCTS WHICH ARE PURCHASED BY THE CUSTOMER EITHER DIRECTLY FROM PHOENIX CONTACT OR ITS AUTHORIZED DISTRIBUTOR.

8. LIMITATION OF LIABILITY

IN NO EVENT SHALL PHOENIX CONTACT BE LIABLE FOR INDIRECT, SPECIAL, CONSEQUENTIAL, MULTIPLE OR PUNITIVE DAMAGES, OR ANY DAMAGE DEEMED AS AN INDIRECT OR CONSEQUENTIAL NATURE ARISING OUT OF OR RELATED TO ITS PERFORMANCE UNDER THIS T & C. THIS SHALL BE TRUE WHETHER A CLAIM IS BASED UPON BREACH OF CONTRACT, WARRANTY OR NEGLIGENCE AND WHETHER GROUNDED IN TORT, CONTRACT, CIVIL LAW OR OTHER THEORIES OF LIABILITY, INCLUDING STRICT LIABILITY OR A DELAY IN SHIPMENT, INSTALLATION OR THE FURNISHING OF PRODUCT OR SERVICES UNDER THIS T & C. TO THE EXTENT OF ANY CONFLICTS WITH OTHER PROVISION(S) OF THIS T & C, THE PROVISION(S) SHALL BE AUTOMATICALLY AMENDED TO WHATEVER EXTENT IS REQUIRED TO MAKE THEM CONSISTENT WITH THIS PROVISION. IN NO EVENT SHALL THE TOTAL CUMULATIVE LIABILITY OF PHOENIX CONTACT WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE FOR THE PERFORMANCE OR BREACH OF THIS T & C OR ANYTHING DONE IN CONNECTION THEREWITH, EXCEED THE TOTAL DOLLAR AMOUNT OF THE APPLICABLE

ORDER(S) FROM WHICH THE LIABILITY AROSE.

9. INDEMNIFICATION

The Customer shall indemnify, hold harmless and defend, if requested, Phoenix Contact and its parent, affiliates, officers, directors, customers, agents and employees against all liabilities, damages, losses and expenses, including, but not limited to, attorneys' fees and costs of suit arising out of or in any way connected with a third-party claim relating to or arising from the following: (i) the Customer's failure to specify all conditions of its use, its actual use, installation, maintenance or failure to maintain, or its modification to the goods or services provided under this T & C; (ii) The Customer's modification or combination of the products other than as authorized by Phoenix Contact in writing; (iii) any failure by the Customer or its personnel to comply with any applicable laws; (iv) allegations that the Customer breached its agreement with a third party as a result of or in connection with entering into, performing under or terminating this T & C; (v) the Customer's violation of any of the obligations set forth in Section 6; (vi) the death or bodily injury to any person, destruction or damage to property, or contamination of the environment and any associated clean-up costs; or (vii) any claim based on the negligence, acts, omissions, breach of this T & C, or willful misconduct of the Customer or any of the Customer's agents, subcontractors, employees or anyone acting on behalf of the Customer.

(a) Phoenix Contact shall indemnify, hold harmless and defend, if requested, the Customer and its officers, directors, customers, agents and employees against product related liabilities, damages, losses and expenses, including, but not limited to, reasonable attorney's fees and costs of suit arising out of or in any way connected with a third-party claim based on the gross negligence or willful misconduct of Phoenix Contact in its performance of this T & C.

(b) If any product is, in Phoenix Contact's sole discretion, likely to become the subject of a claim for patent infringement, Phoenix Contact may, at its option and expense, procure the right to continue using the product or modify it to become noninfringing. In the event Phoenix Contact is not reasonably able to modify, substitute, or otherwise procure the right to continue using it, Phoenix Contact may require the Customer to cease use of and return the product, at which point Phoenix Contact will refund the Customer the amount paid for the applicable products.

(c) The remedies set forth in this Section shall be the Customer's sole and exclusive remedy for any actual or alleged intellectual property infringement relating to the product. Phoenix Contact shall not be liable for any infringement or claim based upon the Customer or its end customer's: (a) misuse or modification of the product, (b) use of the product in combination with other products not supplied by Phoenix Contact, (c) use of the product not in accordance with the product technical data sheet, or (d) for any infringing modifications made by the Customer.

10. PHOENIX CONTACT'S REMEDIES

Should the Customer fail to make any payment within ten (10) days of its due date, or fail to perform any other of its obligation hereunder, including any inability resulting from insolvency, bankruptcy, or receivership proceedings, Phoenix Contact may: (a) with or without demand or notice to the Customer declare the entire unpaid amount immediately due and payable; (b) enter upon the premises where the product may be found and remove it, whereupon the Customer shall assemble the product and make it available to Phoenix Contact at a place reasonably convenient to both parties and shall permit and assist Phoenix Contact in effecting the retaking and removal of the product; and (c) sell any or all of the product as permitted under applicable law, applying the proceeds of the sale to the payment of any expenses of retaking, repairing and selling the product, any reasonable attorney fees. Any surplus shall be paid to the Customer and any deficiency shall be payable by the Customer to Phoenix Contact.

The remedies provided herein are cumulative and shall be in addition to all other remedies provided by law or equity or under the Uniform Commercial Code.

11. CORPORATE RESPONSIBILITY

Phoenix Contact shall, in the production of its products and/or the provision of services, ensure that human rights are protected, fair labor standards are observed, no discrimination of persons in a protected class occurs, and no forced or child labor shall be permitted. Phoenix Contact confirms that it will neither tolerate any kind of corruption or bribery, nor will it contribute to these activities in any way. Phoenix Contact also will not procure raw materials from regions or countries, known as "conflict regions", where serious ethical or environmental concerns are lawfully raised, or to use them in products. Furthermore, Phoenix Contact complies with the Code of Conduct of ZVEI (German electrical and electronic manufacturers' association). Phoenix Contact will provide the Customer with a link to this code of conduct upon request.

12. QUALITY STANDARDS

Phoenix Contact's internal quality management structure, framework, requirements, and policies may differ from those of the Customer. Accordingly, Phoenix Contact disclaims any obligations to comply with any external Customer quality requirements or Customer policies deviating from Phoenix Contact's ISO-9001 quality management system structure. Unless specifically agreed in writing by the parties, Phoenix Contact's ISO-9001 quality management system structure and its embedded requirements and policies shall take precedence over any Customer quality standards stated in a purchase order or other transaction documents.

13. EXPORT CONTROL

The Customer acknowledges that any products, software, and technical information provided under this T & C will be subject to the laws governing the U.S. and other export laws and regulations. The Customer shall not export, re-export, transfer, or transmit the products, software, or technical information in any manner which would violate any laws

and regulations. This sale is subject to any applicable governmental approvals. The Customer shall sign any requested written assurances and other export-related documents as may be required for Phoenix Contact to demonstrate its compliance with export laws and regulations.

14. APPLICABLE LAW; JURISDICTION

Phoenix Contact and the Customer shall attempt to resolve their disputes amicably through promptly scheduled discussions by those representatives of each party who are involved with the applicable transaction. If these discussions fail within ten (10) days of the conversation, a representative from each party's executive and legal staff shall discuss the issues at hand and attempt to reach a final resolution within thirty (30) days of the dispute. If all efforts fail, each party shall have access to all available remedies under the law.

This T & C and any applicable transactional documents shall be governed, construed, and enforced in accordance with the laws of the Commonwealth of Pennsylvania, without regard to the conflicts of laws provisions. This T & C specifically excludes the provisions of the United Nations Convention on Contracts for the International Sale of Goods. Phoenix Contact and the Customer agree that all disputes relating to this T & C and any applicable transactional document shall be subject to the jurisdiction of and venue in the state and federal courts located in Dauphin County, Pennsylvania. Phoenix Contact and the Customer hereby submit to the jurisdiction and venue in these courts and waive any defense of *forum non conveniens*.

15. FORCE MAJEURE

Neither party shall be in default of this T & C by reason of any failure or delay in the performance of an obligation, other than payment of any monies due, where the failure or delay arises from any cause beyond the party's reasonable control. These causes include, without limitation, acts of nature, pandemics, epidemics, fires, explosions, riots, war or civil disturbance, strikes or other labor unrests, embargoes and other governmental actions or regulations which would prohibit either party from ordering or furnishing products or from performing any aspects of the obligations required under this T & C, and any and all events, regardless of their dissimilarity to the foregoing, deemed to be impracticable under the law. Excused obligations may include, without limitation, delays in transportation, or delay or inability to secure necessary labor, availability of manufacturing facilities, products, parts, materials, fuel, supplies, equipment or power at reasonable prices or in sufficient amounts through a party's usual sources of supply.

16. ACKNOWLEDGEMENT

An order may be accepted by Phoenix Contact either (a) by the execution and return of an order acknowledgement form by an authorized representative of Phoenix Contact, or (b) the shipment of the order to the Customer with or without acceptance in writing. Notice of acceptance is hereby waived by the Customer.

17. DOCUMENT PRECEDENCE

In case of a dispute between this T & C, the Customer's ordering documents, any written agreements or any applicable transactional

documents between the parties, the following descending order of precedence shall apply:

(a) Any written agreement executed by Phoenix Contact and the Customer, including any relevant statement(s) of work therein;

(b) Any specific details agreed upon by both parties and memorialized in a quote or purchase order;

(c) This T & C.

18. CANCELLATION

All orders are non-cancellable. Any deviations require Phoenix Contact's written approval. Because Phoenix Contact's expenses related to canceling firm orders are dependent upon (i) Phoenix Contact's inventory carrying costs, (ii) the likelihood of Phoenix Contact quickly selling the subject products to other buyers, (iii) Phoenix Contact's other related out-of-pocket costs, and (iv) administrative costs, Phoenix Contact may, in its sole discretion, charge the Customer a cancellation fee.

19. NONDISCLOSURE

Phoenix Contact may disclose or grant to the Customer certain access to research, development, technical, economic, or other business information of a confidential nature. This disclosure may or may not be made in writing. As a condition of receiving this information, the Customer shall not use or disclose it to any other person at any time, except as may be necessary in the performance of the order, without Phoenix Contact's written consent. Notwithstanding the foregoing, Phoenix Contact disclaims responsibility for errors or omissions in any information it provides. Additionally, any applicable non-disclosure agreement signed by the parties shall apply to this T & C and any applicable orders.

20. LICENSES & INTELLECTUAL PROPERTY RIGHTS

Phoenix Contact does not grant any licenses and/or rights for using and/or transferring any patents, rights of use, brands, samples, intellectual property or any other property rights under this T & C. The Customer is not entitled to file an application for patents or other property rights using any confidential information obtained as a result of its relationship with Phoenix Contact. In the event the Customer was granted patents or other property rights contrary to the aforesaid, these rights must be transferred under a separate written agreement by the parties. The assignment of confidential information does not constitute any rights for prior use on behalf of the Customer.

21. ORDER INCONSISTENCY & CONFLICT RESOLUTION

The Customer shall bear the responsibility to comply with this T & C and any documents referenced herein. The Customer must clarify with Phoenix Contact any inconsistencies or conflicts in any parts of its order, including additional terms and conditions, general specifications, detailed specifications, etc. Should the Customer fail to resolve these conflicts or inconsistencies, the Customer will be solely responsible for any errors resulting therefrom. Where documents are referenced, the version in effect at the time of order placement shall apply.

22. CUSTOMER FURNISHED PROPERTY

The Customer bears all risk of loss or damage and shall indemnify Phoenix Contact for any claim, loss, cost, expense, or liability for any Customer-furnished or Customer-specified components, tools, dies, jigs, products, materials, facilities, or other property to Phoenix Contact in connection with the performance of this T & C, and any applicable order. When using any Customer-supplied or Customer-specified property, product, material, or facilities, Phoenix Contact will not be responsible for any delay in performance, nonperformance, or failure of any product to conform to the Customer's applicable specifications or to Phoenix Contact's internal qualification testing processes. The Customer shall bear all expenses resulting from Phoenix Contact's procurement of a Customer specified component.

23. GENERAL

Phoenix Contact shall not be bound to any additions or modifications to this T & C unless they are made in writing and signed by a duly authorized representative of Phoenix Contact.

Typographical and clerical errors in any quotations, orders, and acknowledgements are subject to correction.

The Customer may not assign its obligations under this T & C without the prior written consent of Phoenix Contact. Any attempt to assign any of the rights, duties, or obligations of this T & C without this consent is void.

Should any provision in this T & C be deemed as unenforceable by a court of competent jurisdiction, all remaining provisions, to the greatest extent possible, shall remain in full force and effect.

Phoenix Contact's failure to insist on strict performance of any term or condition hereunder shall not constitute a waiver or breach thereof, nor shall it affect Phoenix Contact's legal remedies with respect to any default by the Customer.

All notices and other communications hereunder shall be made in writing, either electronically, with a receipt of acknowledgment, or by certified mail, postage prepaid, to the parties.

This T & C and all shipments made hereunder are contingent upon the Customer's satisfactory financial condition and payment history, as will be determined by Phoenix Contact. Phoenix Contact, in its sole discretion, reserves the right to defer or decline orders or shipments or require prepayment if the Customer fails to make any payment when it is due.

24. FLOW DOWN REQUIREMENTS

NOTICE: As a result of the flow down requirements of the Defense Priorities and Allocation System (DPAS), Phoenix Contact may be required to reschedule the Customer's order in cases where fulfilling the order would prevent Phoenix Contact's compliance with a DPAS-rated order.

THE CUSTOMER ACKNOWLEDGES THAT IT HAS READ THIS T & C, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS.