

TERMS AND CONDITIONS OF SALE

These Terms and Conditions of Sale of Phoenix Contact, Ltd. ("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 that conflict with or differ from those contained in this T & C shall not be accepted by Phoenix Contact, unless the terms are expressly agreed to in writing; regardless of whether or not Phoenix Contact accepts the order and/or ships the product(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 the products of Phoenix Contact shall remain with Phoenix Contact until invoice payment is made in full by 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 FCA original shipping point, without freight allowance. All destination, shipping and other charges shall be paid by the Customer in accordance with Phoenix Contact's then current Order and Shipping Policy. Delivery dates given in the acceptance of any order are approximate and are based on conditions at time of quotation or acceptance of Customer's order. Phoenix Contact may extend delivery or may cancel Customer's order in full or in part without liability. In the event of loss or damage during shipment, any potential claim shall be against the carrier only. Claims for shortages in shipments must be made in writing within ten (10) days after receipt of goods by Customer. If Phoenix Contact does not receive written notification of such shortages within such ten (10) days, it shall be conclusively presumed that the goods were delivered in their entirety. Unless agreed upon otherwise in writing, Phoenix Contact reserves the right to make partial shipments and to submit invoices for partial shipments. Replacement orders for short shipment claims will be reissued and the original shipment will be credited once the claim has been verified.

3. INSURANCE

Until full payment of the purchase price or final acceptance of the equipment, whichever is later, Customer shall keep insured materials and equipment shipped to Customer by Phoenix Contact under policies with such provisions, for such amounts and with such insurers as shall be satisfactory to Phoenix

Contact and shall furnish evidence of such insurance to Phoenix Contact upon request.

4. PRICE

Prices in any Phoenix Contact publication are subject to change without prior notification. This price change could, among other reasons, occur as a result of the fluctuation of currency exchange rates. Catalog prices are based on prices published in the current price list. All written quotations, unless stated otherwise, are valid for thirty (30) calendar days from the date of quotation. The Customer shall pay all sales, use, excise or similar taxes, including the Federal Goods and Services Tax, Harmonized Sales Tax and/or Provincial Sales Tax, whenever Phoenix Contact must itself pay and/or collect the tax from the Customer arising out of the sale. Special Price quotes are effective until the expiration date noted on the quotation and are subject to correction of error and can be adjusted without notice. All Purchase Orders must be priced. Note: The Purchaser is obligated to stipulate on the purchase order whether the goods purchased are exempt from any applicable Federal Goods and Services Tax, Harmonized Sales Tax and/or Provincial Sales Tax. If so exempt, an exemption number from the applicable tax authority must be provided at time of order.

5. PAYMENT

The Customer shall make payment within thirty (30) calendar days of date of the issuance of invoice from Phoenix Contact or as otherwise stated on the invoice. The Customer shall pay a late payment charge of one and one-half percent (1 ½ %) per month, up to 18% annually, on any unpaid amount for each calendar month (or fraction thereof) in which the payment is in default. Orders amounting to less than \$100.00 will be billed at \$100.00 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) calendar days from the date of an invoice, any discount applied shall be cancelled and the full list price will be due. To secure prompt payment of the payment for the Products, the Customer hereby grants to Phoenix Contact a purchase money security interest in the Products and all proceeds thereof (the "Collateral"). The Customer agrees to execute and deliver to Phoenix Contact any financing statements, together with any and all other documents, and shall take such other action as may be required to perfect Phoenix Contact's security interest in the Collateral.

6. 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 in

accordance with Phoenix Contact's practice at the time of return.

7. INDUSTRY RESTRICTIONS

Sale or Resale to Certain Industries.

Phoenix Contact's products and any advisory services provided shall not be used in connection with aircrafts or spacecrafts, including installations for the controlling or monitoring of air traffic (the "Scope"). 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 THESE APPLICATIONS IS STRICTLY PROHIBITED. SHOULD THE CUSTOMER DIRECTLY AND KNOWINGLY SELL PHOENIX CONTACT'S PRODUCTS FOR USE IN THE SCOPE STATED HEREIN, 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.

8. 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 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 After Sales Service Request (ASSR) 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.

Phoenix Contact offers to extend the period of warranty under special conditions to a limited number of products. Details to this exception can be found in Phoenix Contact's document CS CA-6-009 "Extended Warranty" 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.

9. 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. No action arising out of any claimed breach of this T & C may be brought by either party more than two (2) years after the cause of action has accrued.

10. INDEMNIFICATION

(1) The Customer shall indemnify, hold harmless and defend, if requested, Phoenix Contact and its officers, directors, customers, agents and employees against all claims, 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 the following: 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. This includes, without limitation: (a) the breach of any warranty contained herein; (b) any claim based on the death or bodily injury to any person, destruction or damage to property, or contamination of the environment and any associated clean-up costs; and (c) any claim based on the negligence, omissions or willful misconduct of the Customer or any of the Customer's agents, subcontractors, employees or anyone acting on behalf of the Customer.

(2) Phoenix Contact shall defend or settle

any suit or proceeding brought against the Customer based on a claim that any product made to Phoenix Contact design and furnished hereunder constitutes an infringement of any existing Canadian or United States patent. This indemnity is conditioned upon the Customer's prompt written notification of the claim. Additionally, Phoenix Contact shall be given complete authority to direct the defense and the Customer shall supply all information which is required for the defense. Phoenix Contact shall pay all damages and costs awarded against the Customer, but it shall not be responsible for any costs, expense or compromise incurred or made by the Customer without Phoenix Contact's prior written consent.

If any product is, in Phoenix Contact's opinion, 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 will remove the product and refund to the Customer the amount paid.

Phoenix Contact shall not be liable for any infringement or claim based upon use of the product in combination with other product not supplied by Phoenix Contact, or for any infringing modifications made by the Customer.

11. SELLER'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 Personal Property Securities.

12. 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.

13. 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 which deviate from Phoenix Contact's ISO-9001 quality management system structure. Unless it is specifically agreed upon, in writing, by the parties, Phoenix Contact's ISO-9001 quality management system structure and its imbedded requirements and policies shall take precedence over quality standards of the Customer which may be stated in a purchase order or other transaction documents.

14. EXPORT CONTROL

The Customer acknowledges that any products, software and technical information provided under this T & C will be subject to the laws governing Canada 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.

15. 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) calendar days of the dispute. If the dispute has not been resolved by negotiation as stipulated above, then the parties shall proceed to mediation. A "Notice of Mediation" shall be served to commence the mediation process. The parties shall mutually agree on a mediator; however, if they are unable to agree within fourteen (14) days, each party shall appoint their own mediator to appoint the mediator that will mediate the dispute. Mediation shall commence within thirty (30) calendar days of appointment of the mediator. If no settlement agreement results from mediation, any of the parties or the mediator can send a "Notice of Termination of Mediation". Each side shall bear an equal share of the mediation costs unless the parties agree

otherwise. All communications, both written and oral, during negotiation and mediation are confidential and shall be treated as settlement negotiations for purposes of applicable rules of evidence. If all efforts fail, each party shall have access to all available remedies under the applicable legislation in the Province of Ontario or the applicable federal laws of Canada.

This T & C and any applicable transactional documents shall be governed, construed, and enforced in accordance with the laws of Canada, 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 Canada. Phoenix Contact and the Customer hereby submit to the jurisdiction and venue in these courts and waive any defense of *forum non conveniens*.

16. 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 that would prohibit either party from ordering or furnishing products or from performing any aspects of the obligations required under this Agreement, 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.

17. 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.

18. 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.

19. CANCELLATION

All orders are non-cancellable and any deviations to this requires the written approval of Phoenix Contact. Because Phoenix Contact's expenses related to cancelling 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.

20. 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 reduced to 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 shall bear no 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.

21. 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 with and/or on the basis of 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.

22. 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.

23. CUSTOMER FURNISHED PROPERTY

The Customer bears all risk of loss or damage and shall indemnify Phoenix Contact for any loss, cost, expense or liability for any Customer furnished or specified components, tools, dies, jigs, product, material, facilities or other property to Phoenix Contact in connection with

the performance of this T & C and any applicable order. Phoenix Contact shall not be responsible for any delay in performance, nonperformance or the failure of any product to conform to applicable specifications or conformance to Phoenix Contact's internal qualification testing process resulting, in whole or in part, from Phoenix Contact's use of the customer supplied or customer specified property, product, material, or facilities. In this instance, the Customer shall bear all expense resulting from Phoenix Contact's procurement of a Customer specified component. To the extent that any loss or damage occurs relating to the Products or services provided by Phoenix Contact, the Customer agrees to look solely to its insurance for any loss, damage or injury incurred, whether or not the insurance is sufficient fully to reimburse the Customer. The Customer waives any right of subrogation against Phoenix Contact to recover for any loss, damage or injury.

24. 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.

This T & C may not be assigned 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 shipments or require prepayment if the Customer fails to make any payment when it is due.

This T & C shall enure to the benefit of and be binding on the parties and their respective heirs, executors, successors and assigns.

The Customer acknowledges that it has read this T & C, understands it, and agrees to be bound by its terms and conditions. The Customer further agrees that this T & C constitutes the complete and exclusive understanding between the parties and that it supersedes all proposals or prior agreements, oral or written, express or implied, and all other communications between the parties relating to the subject matter of this T & C.