

General Terms and Conditions of Delivery of PHOENIX CONTACT

I. Basic provisions

1. Scope/general

- 1.1. These General Terms and Conditions of Delivery apply to all deliveries of products by any company of the Phoenix Contact Group (the relevant company hereinafter referred to as "**PHOENIX CONTACT**") to the customer (hereinafter referred to as "**CUSTOMER**").
- 1.2. These General Terms and Conditions of Delivery are only applicable with respect to entrepreneurs within the meaning of Section 14 German Civil Code (*Bürgerliches Gesetzbuch* - BGB). They also apply to legal persons under public law or special funds under public law.
- 1.3. Different or additional general terms and conditions of the CUSTOMER do not apply and do not become a constituent part of the contract even if PHOENIX CONTACT has not expressly objected thereto.
- 1.4. If any framework agreement or other contracts with the CUSTOMER of PHOENIX CONTACT have been entered into with respect to the delivery of products, these take precedence. They are supplemented by these General Terms and Conditions of Delivery unless any more specific provisions are agreed therein. In the event of contradictions between these contracts and these General Terms and Conditions of Delivery, the provisions of the contracts shall take precedence.

2. Definitions

AFFILIATED COMPANIES within the meaning of these General Terms and Conditions of Delivery are enterprises in which PHOENIX CONTACT directly or indirectly (i) holds more than half of the voting rights; or (ii) can appoint or dismiss more than half the members of the administrative, management or supervisory board or the bodies appointed for legal representation; or (iii) has the right to manage the business of the enterprise; or (iv) in substance bears the majority of risks and opportunities of an enterprise that serve to achieve a strictly limited and precisely defined objective of PHOENIX CONTACT (special purpose vehicle) and such enterprises that directly or indirectly have the above-stated influence possibilities on PHOENIX CONTACT and their affiliated companies, however, only as long as the above requirements are met. **AFFILIATED COMPANIES** also include the commercial agents (*Handelsvertreter*) belonging to the relevant enterprise. **AFFILIATED COMPANIES** are not third parties within the meaning of these General Terms and Conditions of Delivery.

CONFIDENTIAL INFORMATION is all information and documents of the other contractual partner in each case that are marked as confidential or have expressly been designated as such prior to their provision. **CONFIDENTIAL INFORMATION** is, however, at any rate conditions and prices that PHOENIX CONTACT discloses to CUSTOMERS. Information not deemed **CONFIDENTIAL INFORMATION** is information (a) that was already verifiably known to the recipient upon conclusion of the **INDIVIDUAL CONTRACT** or becomes known to

the recipient thereafter from a third party, without any non-disclosure agreement, statutory regulations or official orders being breached, or (b) which was known publicly upon conclusion of the **INDIVIDUAL CONTRACT** or becomes publicly known thereafter, provided this is not based on any breach of these non-disclosure obligations or (c) has been developed by the recipient independently and without recourse to **CONFIDENTIAL INFORMATION** or in accordance with the exceptions set forth in these clauses (a) and (b).

CONTRACT PRODUCTS are the products plus the product documentation required by law (excluding software) that PHOENIX CONTACT supplies to the CUSTOMER.

DATA are all data in connection with the **INDIVIDUAL CONTRACT**, in particular product, machine, maintenance, production, environmental, analysis and process data. **DATA** within the meaning of this definition are not personal data in accordance with respectively the German Federal Data Protection Act (*Bundesdatenschutzgesetz* - BDSG) or the General Data Protection Regulation (GDPR).

FORCE MAJEURE within the meaning of these General Terms and Conditions of Delivery and within the meaning of the relevant **INDIVIDUAL CONTRACT** is only any prolonged external event (i.e. lasting not less than 14 **WORKING DAYS**) caused by external elementary natural forces or actions of third persons that is unforeseeable based on human judgment and experience, cannot be prevented or rendered harmless with economically reasonable means even with the utmost care that can be reasonably expected according to the circumstances, and that does not have to be accepted by the contractual parties because of its frequency, such as e.g. war, war risks and national disasters. **FORCE MAJEURE** is also deemed to include strikes, lock-outs, official intervention, shortages of power and raw materials, transport bottlenecks or obstacles and operational hindrances through no fault on the part of PHOENIX CONTACT, e.g. fire, flooding and machine damage, and all other obstacles that, seen objectively, have not been culpably caused by PHOENIX CONTACT.

INDIVIDUAL CONTRACT is any contract referring to **CONTRACT PRODUCTS** entered into between PHOENIX CONTACT and the CUSTOMER based on an order letter of the CUSTOMER and an order confirmation of PHOENIX CONTACT.

TEXT FORM is the legible reproduction of any declaration of intent, in particular an e-mail or a letter in which the relevant contractual partner can clearly be identified. An electronic signature and/or a written signature by the relevant contractual partner is not necessary. **TEXT FORM** also includes declarations sent by means of electronic data interchange.

THIRD-PARTY RIGHTS means registered and non-registered industrial property rights and similar rights, as well as applications for the registration of these rights and rights to these rights in the contractual territory (in particular patents, trademarks,

copyrights, designs and neighbouring rights) of anyone who is not a contractual partner.

WORKING DAYS are calendar days from Monday to Friday with the exception of statutory public holidays at the location where PHOENIX CONTACT has its registered office.

WRITTEN FORM requires that any declaration of intent, unless specified otherwise in these General Terms and Conditions of Delivery, is, by the person or persons duly authorised to represent the relevant contractual partner, (a) signed with personal signature or (b) signed by means of a mark made by hand which has been certified by a notary or (c) notarised and sent to the other contractual partner as an original document or as a fax.

3. Conclusion of contract / procurement risk / scope of performance

- 3.1. Any offers made by PHOENIX CONTACT are subject to change, unless they are expressly designated as binding or expressly contain binding commitments or their binding nature has otherwise been agreed. They are requests to submit orders.
- 3.2. The CUSTOMER is bound to its order for fourteen (14) WORKING DAYS, for five (5) WORKING DAYS if the order is in TEXT FORM, following receipt of the order by PHOENIX CONTACT.
- 3.3. An INDIVIDUAL CONTRACT is only concluded between the contractual partners if PHOENIX CONTACT confirms the relevant order in TEXT FORM. This confirmation can on the part of PHOENIX CONTACT be replaced by performing the delivery and / or service.
- 3.4. Any termination and/or cancellation of any INDIVIDUAL CONTRACT by a contractual partner is only possible with the consent of the other contractual partner.
- 3.5. PHOENIX CONTACT is only obliged to render performance using its own inventory (*Vorratsschuld*). The obligation to deliver a thing defined only by class (*Gattungsschuld*) does not constitute the assumption of any procurement risk or any procurement guarantee. PHOENIX CONTACT only assumes any procurement risk within the meaning of Section 276 German Civil Code by virtue of express separate agreement in WRITTEN FORM.
- 3.6. PHOENIX CONTACT is entitled to make excess or short deliveries up to 5 % of the agreed delivery quantity unless the excess or short delivery is unreasonable for the CUSTOMER.
- 3.7. PHOENIX CONTACT is also entitled to deliver CONTRACT PRODUCTS with deviations in quality, dimensions, weight, colour and equipment customary in the industry. Such CONTRACT PRODUCTS are deemed in compliance with the contract.
- 3.8. Information and explanations with respect to CONTRACT PRODUCTS are only given by PHOENIX CONTACT or by commercial agents based on prior experience. They do not constitute any characteristics or guarantees with respect to CONTRACT PRODUCTS. Any guarantee is only then deemed assumed by PHOENIX CONTACT if a characteristic and/or contractual performance is designated as "legally guaranteed" in WRITTEN FORM.

- 3.9. If PHOENIX CONTACT provides instructions for use / application, these have been drafted with the care customary in the industry, but do not release customers from their obligation to carefully check the CONTRACT PRODUCTS with respect to their suitability for their intended purpose. The CUSTOMER at any rate remains, unless agreed otherwise, obliged to check the usability of the CONTRACT PRODUCTS for the purpose intended by it.

- 3.10. The CONTRACT PRODUCTS of PHOENIX CONTACT comply with the generally accepted technical rules and standards at the time the INDIVIDUAL CONTRACT is concluded, unless agreed otherwise in the relevant INDIVIDUAL CONTRACT.

4. Installation and assembly

- 4.1. The assembly of CONTRACT PRODUCTS is only owed by PHOENIX CONTACT if this has been expressly agreed in TEXT FORM between the contract parties. Unless agreed otherwise in WRITTEN FORM, the following provisions apply for the installation and assembly of the CONTRACT PRODUCTS.
- 4.2. The CUSTOMER must at its expense assume and provide in due time: (a) all earthworks, construction works and other ancillary works not related to the industry, including the specialist and unskilled workers, construction materials and tools required for this; (b) the articles and materials required for assembly and commissioning, such as scaffolding, lifting gear and other equipment, fuels and lubricants; (c) power and water at the usage site including connections, heating and lighting; (d) sufficiently large, suitable, dry and lockable rooms at the assembly site for the storage of machine parts, apparatus, materials, tools etc. and appropriate working and recreation rooms for the assembly staff including sanitary facilities appropriate in the circumstances; in order to protect the tools and work materials of PHOENIX CONTACT and the assembly staff deployed by it at the assembly site, the CUSTOMER must also take the measures which it would take to protect its own property; (e) protective clothing and protective equipment necessary as a result of special circumstances at the assembly site.
- 4.3. Prior to commencing installation or assembly, the CUSTOMER must unsolicited provide PHOENIX CONTACT and the persons it uses to perform its obligations with the required information about the location of concealed electricity, gas and water lines / pipes or similar installations as well as the required static details.
- 4.4. The CUSTOMER will ensure that prior to the commencing of installation or assembly, the materials and items necessary to commence the works which are to be provided by the CUSTOMER are at the installation or assembly site and all preliminary work is so advanced prior to commencement of assembly that the installation or assembly can begin as agreed and can be carried out without interruption. This in particular also includes the fact that access roads and the installation or assembly site have been levelled and cleared.

- 4.5. If the installation, assembly or commissioning are delayed, the CUSTOMER must to an appropriate extent bear the costs for waiting times and additionally required travel on the part of PHOENIX CONTACT, its staff and the persons it uses to perform its obligations, which are incurred by the delay. This does not apply if the CUSTOMER is not responsible for the delay.
- 4.6. The CUSTOMER must certify the completion of the installation, assembly or commissioning to PHOENIX CONTACT without undue delay in WRITTEN FORM.
5. **Changes to CONTRACT PRODUCTS**

PHOENIX CONTACT is entitled to further develop and make changes to the CONTRACT PRODUCTS (such as infrastructure, safety, technical configurations, application functions, etc.) and to amend the product description accordingly, however, always provided that the changes do not lead to any significant reduction of the functions and functionalities or the performance, safety or availability level of the CONTRACT PRODUCTS that the CUSTOMER has purchased prior to the changes taking effect.
6. **Usage rights pertaining to DATA**
 - 6.1. The owner of the DATA and therefore the person authorised to dispose of the DATA is exclusively the person or party that created the DATA.
 - 6.2. The CUSTOMER is obliged to send PHOENIX CONTACT the required DATA necessary to perform the INDIVIDUAL CONTRACT and to grant PHOENIX CONTACT an irrevocable, global, non-exclusive usage right for the term of the INDIVIDUAL CONTRACT.
 - 6.3. The usage right with respect to the DATA transmitted by the CUSTOMER in particular includes the receipt, storage, organisation, adjustment or amendment, reading, use and their combination or linking with other DATA. PHOENIX CONTACT is entitled during the term of the INDIVIDUAL CONTRACT to disclose the DATA to AFFILIATED COMPANIES or third parties and to grant these appropriate usage rights.
 - 6.4. The CUSTOMER is obliged to send the DATA to PHOENIX CONTACT free of charge, in full, free from THIRD-PARTY RIGHTS and correctly. PHOENIX CONTACT is not obliged to verify the DATA. PHOENIX CONTACT does not have any obligation to return the DATA sent by the CUSTOMER. Usage rights granted with respect to DATA already transmitted prior to termination of the INDIVIDUAL CONTRACT remain unaffected by any termination.
7. **Samples and / or prototypes**
 - 7.1. PHOENIX CONTACT and the CUSTOMER can agree on the provision of samples and / or prototypes (hereinafter referred to as "**SAMPLES**"). SAMPLES are in particular characterised by the fact that they are marked with "sample", "prototype", "M" or similar marks. Unless individual arrangements or other agreements are made, the provision of SAMPLES is conclusively regulated below.
 - 7.2. SAMPLES are development, trial, prior and / or installation versions which are only partially verified and are possibly incomplete and are only provided to the CUSTOMER for test purposes.
 - 7.3. SAMPLES may only be used in accordance with the intended purpose approved in each case and at the approved site. When approved as SAMPLES, they have not yet been sufficiently tested in order to be used in an enterprise subject to series conditions. In order to prevent damage to other things or persons, SAMPLES therefore must be used subject to protective conditions in a secure test environment and may not be used in real operations (production systems). SAMPLES may also only be used in such a way that uninvolved third parties and their employees cannot incur any damage if one of the SAMPLES fails. SAMPLES are only to be used by qualified persons in a separate area and using protective equipment. Staff deployed is to be instructed accordingly by the CUSTOMER and advised of the risks due to a lack of readiness for series production and functional limitations.
 - 7.4. The characteristics of SAMPLES only then become a constituent part of the contract if this has been expressly agreed in WRITTEN FORM.
 - 7.5. If PHOENIX CONTACT renders performance on the basis of a SAMPLE, differences between the SAMPLE and the delivered CONTRACT PRODUCT are, unless agreed otherwise, permissible and do not justify any objections or claims against PHOENIX CONTACT if they are customary in the industry and any agreed specifications are complied with by the CONTRACT PRODUCT delivered.
 - 7.6. The information provided, in particular with respect to suitability, does not rule out an inspection by the CUSTOMER at its own responsibility and may not be used without being checked.
 - 7.7. The passing-on of SAMPLES provided and any attached information to
8. **Delivery / time of performance / default**
 - 8.1. CONTRACT PRODUCTS are delivered FCA at the registered office of PHOENIX CONTACT (Incoterms® 2010).
 - 8.2. The delivery dates specified in the order confirmation are binding if they are designated as binding in the order confirmation. PHOENIX CONTACT will otherwise endeavour to the best of its ability to comply with these. PHOENIX CONTACT is obliged to inform the CUSTOMER without undue delay if circumstances arise which result in the fact that the agreed date cannot be met.
 - 8.3. Delivery periods commence when the CUSTOMER receives the order confirmation of PHOENIX CONTACT. If the CUSTOMER has requested changes after the order is placed, a new appropriate delivery period commences upon confirmation of the change by PHOENIX CONTACT.
 - 8.4. Deliveries prior to expiry of the performance period are permissible. Partial deliveries by PHOENIX CONTACT are also permissible, unless these are unreasonable for the CUSTOMER.
 - 8.5. In the event of any delay in delivery, the CUSTOMER is entitled after setting an appropriate grace period of at least, unless inappropriate, fourteen (14) WORKING DAYS warning that it will reject the delivery, to declare its rescission (*Rücktritt*) from the respective INDIVIDUAL CONTRACT affected by the delay with respect to the delayed part

if PHOENIX CONTACT has not rendered performance beforehand.

- 8.6. PHOENIX CONTACT is not deemed to be in default as long as the CUSTOMER is in default with respect to the performance of obligations to PHOENIX CONTACT, including those from other contracts, unless the CUSTOMER has provided security in accordance with Section 273 (3) German Civil Code.

9. Packaging / loading equipment

- 9.1. The CUSTOMER is entitled to return transport packaging from deliveries to PHOENIX CONTACT to the headquarters of PHOENIX CONTACT. Packaging must be clean, free of foreign materials and sorted by materials. PHOENIX CONTACT is otherwise entitled to charge the CUSTOMER the additional costs incurred for disposal.
- 9.2. If PHOENIX CONTACT provides the CUSTOMER with loading equipment, this must be clean and free of foreign materials. PHOENIX CONTACT is otherwise entitled to charge the CUSTOMER the additional costs incurred for cleaning if a delivery without prior cleaning is not possible or any damage and / or impairment of the CONTRACT PRODUCTS is to be feared.
- 9.3. Returnable pallets and loading equipment of PHOENIX CONTACT remain the property of PHOENIX CONTACT and are to be returned in perfect condition with the next delivery / collection. The return of equivalent or similar pallets in accordance with the above provisions is permissible. If return does not take place within one month of delivery, PHOENIX CONTACT is entitled to invoice the CUSTOMER its costs for the pallets and / or loading equipment loaned to the CUSTOMER. Exchangeable pallets will be exchanged concurrently in accordance with the UIC standard applicable in each case. Costs incurred by PHOENIX CONTACT due to the fact that concurrent exchange of pallets is not possible (e.g. due to the use of pallet service providers) are to be borne by the CUSTOMER.

10. Prices / payment terms / payment default/defence of uncertainty/retention right and set-off

- 10.1. Unless expressly agreed otherwise between the contractual partners, the prices in the currently valid German euro price list of PHOENIX CONTACT as amended, which PHOENIX CONTACT provides to the CUSTOMER free of charge upon request, apply.
- 10.2. All prices are ex works or warehouse plus the statutory VAT applicable in each case. Transport packaging, freight, carriage and, if transport insurance has been agreed, insurance costs as well as other fees and public charges for delivery are not contained in the price.
- 10.3. A net flat processing fee of EUR 15 will be charged by PHOENIX CONTACT in the absence of any other express agreement for orders which do not meet an overall net order value of EUR 100 ("**MINIMUM ORDER VALUE**"). The CUSTOMER expressly has the right to evidence considerably lower costs.
- 10.4. Payments by the CUSTOMER are to be made within 14 calendar days after invoicing by PHOENIX CONTACT. Even in the case of deviating and / or contradictory payment terms within the scope of an INDIVIDUAL CONTRACT, the payment term at any

rate begins on the date of invoicing by PHOENIX CONTACT. Only the statutory provisions apply with respect to claims of PHOENIX CONTACT against the CUSTOMER due to payment default.

- 10.5. The date of payment is deemed to be the date on which the money is received by PHOENIX CONTACT or credited to the account of PHOENIX CONTACT or the account of the point of payment specified by it.
- 10.6. Any payment default on the part of the CUSTOMER within the meaning of Section 286 German Civil Code can cause all payment claims resulting from the business relations with the CUSTOMER to become due immediately.
- 10.7. If payment terms are not complied with or circumstances are known or recognisable which at the due commercial discretion of PHOENIX CONTACT create justified doubt with respect to the CUSTOMER's creditworthiness, including facts which already existed when the contract was concluded, of which PHOENIX CONTACT was not aware or should have been aware, PHOENIX CONTACT is without prejudice to further statutory rights entitled in these cases to discontinue further work on INDIVIDUAL CONTRACTS and to demand advance payments or the provision of appropriate, customary security, e.g. in the form of a bank guarantee of a German bank affiliated to the deposit protection fund for any outstanding deliveries and if any reasonable grace period for the provision of such security expires without any result, without prejudice to further statutory rights to withdraw from the INDIVIDUAL CONTRACT with respect to the part which has not yet been performed. The CUSTOMER is obliged to compensate PHOENIX CONTACT for all damage resulting from non-performance of the INDIVIDUAL CONTRACT.
- 10.8. The CUSTOMER may only set off with counterclaims that are undisputed by PHOENIX CONTACT or non-appealable or assert any right of retention based on such claims.
- 10.9. Incoming payments will initially be used to pay the costs, then the interest and finally the principal claims based on their age. Any provision of the CUSTOMER to the contrary is irrelevant with respect to payment.

11. Retention of title

- 11.1. Until full payment of the CONTRACT PRODUCTS delivered in each case, these CONTRACT PRODUCTS remain the property of PHOENIX CONTACT. Any sale of such CONTRACT PRODUCTS that are subject to reservation of title ("**RESERVED PRODUCTS**") and any processing, in particular including transformation, combination, mixing or blending with other goods (hereinafter referred to together as "**PROCESSING**") and any resale of the new thing by the Customer is only permitted in the course of normal business.
- 11.2. The CUSTOMER hereby assigns the claim from any further sale to PHOENIX CONTACT; PHOENIX CONTACT hereby accepts this assignment. If the CUSTOMER sells the RESERVED PRODUCTS after PROCESSING, the assignment of the claim is deemed only to have been agreed in the amount of the part that corresponds to the price agreed between PHOENIX CONTACT and the CUSTOMER

plus a security margin of 10 % of this price. The CUSTOMER is until further notice authorised to collect claims from resale which have been assigned. In the event of revocation, the CUSTOMER is obliged upon request by PHOENIX CONTACT to provide the information required to assert the rights of PHOENIX CONTACT and to hand over the necessary documents.

- 11.3. This reservation of title also covers products created by processing, mixing or combination with goods of PHOENIX CONTACT at their full value, whereby PHOENIX CONTACT is deemed manufacturer. If in the case of any processing, mixing or combination with goods of third parties their ownership rights continue to exist, PHOENIX CONTACT acquires co-ownership in the ratio of the invoice values of the processed, mixed or combined goods. The same otherwise applies for the product created as for the RESERVED PRODUCTS.
- 11.4. Attachments or transfers by way of security are not permitted. In the event of access to the RESERVED PRODUCTS by third parties, in particular attachments, the CUSTOMER will advise of PHOENIX CONTACT's ownership and notify PHOENIX CONTACT without undue delay so that PHOENIX CONTACT can assert its ownership rights.

12. Non-disclosure

- 12.1. The contractual partners agree to keep CONFIDENTIAL INFORMATION secret and not to disclose or make such accessible to third parties. This obligation exists for a period of five (5) years after the relevant INDIVIDUAL CONTRACT ends.
- 12.2. If CONFIDENTIAL INFORMATION has to be disclosed due to statutory obligations or upon the order of a court or a public authority, the recipient obliged to disclose such will to the extent permissible and possible inform the other contractual partner in advance and give it the opportunity to take action against the disclosure.
- 12.3. PHOENIX CONTACT is entitled to grant access to CONFIDENTIAL INFORMATION to (a) lawyers, auditors and other advisors, (b) technical service providers (e.g. data centre operators, host providers, cloud providers) and/or (c) third parties reasonably involved in the execution of corporate transactions relating to PHOENIX CONTACT (e.g. merger, corporate sale or sale of shares), provided (i) this is necessary to protect the justified interests of PHOENIX CONTACT and (ii) the recipients in each case are either subject to a statutory obligation to maintain professional secrecy or have consented to non-disclosure obligations beforehand which are essentially in line with those of these General Terms and Conditions of Delivery.

13. Warranty (Gewährleistung)/notification of defects/serial defects

- 13.1. Claims based on breaches of duty in the form of defects in quality and/or defects in title of the performance owed, in particular of the CONTRACT PRODUCTS, unless expressly agreed otherwise in writing, become statute-barred after a period of twelve (12) months. In the event of unjustified refusal to accept or approve, the limitation period begins on the date of notification that the goods are ready for

assumption. In all other cases the limitation period begins on the date on which risk passes. This does not apply to claims for damages based on any guarantee, the assumption of any procurement risk within the meaning of Section 276 German Civil Code, claims in accordance with clauses I.15.1. (a) to (c) or in the cases provided for in Sections 445a, 445b, 478 German Civil Code (recourse in the supply chain), Section 438 (1) No. 2 German Civil Code (erection of buildings and delivery of things for buildings), Section 634a (1) No. 2 German Civil Code (building defects) or if any other longer limitation period is mandatorily required by law. Nothing of the foregoing shall be construed as a reversal of the burden of proof.

- 13.2. If any defect in quality and/or defect in title exists, PHOENIX CONTACT will at its discretion repair or replace the CONTRACT PRODUCT affected within an appropriate period, provided the defect already existed at the time risk passed. The owed quality of the CONTRACT PRODUCTS is set forth exclusively in these General Terms and Conditions of Delivery and the relevant INDIVIDUAL CONTRACT.
- 13.3. In the case of rectification, PHOENIX CONTACT is obliged to bear all costs necessary for the purpose of rectification, in particular transport, travel, work and material costs as well as the costs for installation and removal in accordance with Section 439 German Civil Code. Claims of the CUSTOMER in accordance with sentence 1 are, however, excluded to the extent that the rectification costs are increased by the fact that the CONTRACT PRODUCTS have been shipped to a place other than the place of performance or the registered office of the CUSTOMER, unless the shipment corresponds to its intended or contractual use. This applies accordingly to claims of the CUSTOMER for the reimbursement of expenses in accordance with Section 445a German Civil Code (recourse of seller), provided the last contract in the supply chain is not for the sale of consumer goods.
- 13.4. Claims for the reimbursement of expenses of the CUSTOMER in accordance with Section 445a German Civil Code (recourse of seller) likewise become statute-barred after twelve (12) months commencing when the statutory limitation period begins, provided that the last contract in the supply chain is not for the sale of consumer goods. These claims of the CUSTOMER for recourse against PHOENIX CONTACT also only exist to the extent that the CUSTOMER has not entered into any agreement with its customers which goes beyond the statutory claims for defects.
- 13.5. If a new CONTRACT PRODUCT is delivered within the scope of rectification, a warranty period in accordance with clause I.13.1 for the replaced CONTRACT PRODUCT begins again at the point in time when risk passes with respect to the new delivery. In the case of a repair of the defective CONTRACT PRODUCT, the warranty period in accordance with clause I.13.1 only begins again with respect to the relevant defect for the defective part of the CONTRACT PRODUCT repaired by PHOENIX CONTACT.
- 13.6. After two unsuccessful attempts at rectification or in the event of conclusive refusal of rectification by

PHOENIX CONTACT, the CUSTOMER is entitled in accordance with statutory provisions to rescind (*zurücktreten*) the INDIVIDUAL CONTRACT, to reduce the purchase price and / or to demand damages in accordance with clause I.15.

- 13.7. Any rescission (*Rücktritt*) on the part of the CUSTOMER is excluded if the breach of duty is minor, unless PHOENIX CONTACT has assumed the procurement risk in accordance with Section 276 German Civil Code or any guarantee for the performance. Clause 16.2 remains unaffected by this provision.
- 13.8. PHOENIX CONTACT does not assume any responsibility the CONTRACT PRODUCT'S suitability for any particular purpose, unless this has been contractually agreed otherwise between the contractual partners.
- 13.9. In the case of defects in the CONTRACT PRODUCTS, Section 377 German Commercial Code (*Handelsgesetzbuch* - HGB) applies to the CUSTOMER's obligation to inspect and notify defects, providing that notification by the CUSTOMER to PHOENIX CONTACT is in WRITTEN FORM.
- 13.10. If a defect is wrongfully notified due to culpable conduct of the CUSTOMER, PHOENIX CONTACT is entitled to invoice the CUSTOMER for the costs incurred by it as a result.
- 13.11. Irrespective of the above provisions, claims against PHOENIX CONTACT based on defects are excluded to the extent that PHOENIX CONTACT has manufactured the CONTRACT PRODUCTS in accordance with drawings, models or other equivalent descriptions or information of the CUSTOMER provided by the CUSTOMER.
- 13.12. Clause I.14 applies in addition for defects in title.
- 13.13. Clause I.13 conclusively describes the scope in which any warranty obligation of PHOENIX CONTACT exists.

14. THIRD-PARTY RIGHTS

- 14.1. Unless agreed otherwise between the contractual partners, PHOENIX CONTACT is obliged only to deliver the CONTRACT PRODUCTS in the country of the delivery location without infringing THIRD-PARTY RIGHTS that adversely affect the use of the CONTRACT PRODUCTS in accordance with the contract.
- 14.2. If third parties assert claims against PHOENIX CONTACT due to the infringement of THIRD-PARTY RIGHTS before expiry of the warranty period, PHOENIX CONTACT can at its discretion eliminate this defect by (i) acquiring the required rights for the CUSTOMER so that the CONTRACT PRODUCTS no longer infringe any THIRD-PARTY RIGHTS or (ii) change the CONTRACT PRODUCTS such that with comparable usability for the CUSTOMER in consideration of the product quality no THIRD-PARTY RIGHTS are infringed.
- 14.3. The CUSTOMER will inform PHOENIX CONTACT in WRITTEN FORM or in TEXT FORM without undue delay about the assertion of claims by third parties due to any alleged infringement of THIRD-PARTY RIGHTS.
- 14.4. The CUSTOMER will not acknowledge the claimed infringement of rights without prior agreement with

PHOENIX CONTACT and leave any dispute including any out-of-court arrangements either to PHOENIX CONTACT or conduct such only in agreement with PHOENIX CONTACT.

- 14.5. If the CUSTOMER discontinues using the CONTRACT PRODUCTS as a result of the claimed infringement of rights without any court or official order, the CUSTOMER is obliged to advise the claimant asserting the alleged infringement of rights that discontinuing use is not to be understood as any acknowledgment of the breach of THIRD-PARTY RIGHTS.

15. Exclusion and limitation of liability

- 15.1. PHOENIX CONTACT is liable without limitation in the cases listed under (a) - (e) below: (a) for any intentional or grossly negligent breach of duty; (b) in the event of injury to life, body or health; (c) in the event of delay if a fixed delivery and/or performance date has been agreed; (d) in the event that a guarantee for the quality of the goods or the existence of successful performance or a procurement risk within the meaning of Section 276 German Civil Code has been assumed; (e) in the case of any liability in accordance with the German Product Liability Act (*Produkthaftungsgesetz* – ProdHG) or any other mandatory statutory liabilities.
- 15.2. In the event of any breach of material obligations which is not intentional or grossly negligent, liability is limited to foreseeable damage typical for such a contract. Material obligations are obligations the fulfilment of which is indispensable for the proper execution of the INDIVIDUAL CONTRACT and on the fulfilment of which the contractual partner may usually rely.
- 15.3. The contractual partners agree that foreseeable damage typical for the contract or typically for the foreseeable expenses and the liability related to this do not exceed the net invoice amounts in accordance with the INDIVIDUAL CONTRACTS taking the bonuses, rebates, credits to be expected or to be granted into consideration (hereinafter referred to as the "**AMOUNT**"), which the CUSTOMER has paid for the CONTRACT PRODUCTS in the calendar year to PHOENIX CONTACT which proceeds the calendar year in which the damaging event occurs. If the damaging event occurs within the first calendar year, the AMOUNT paid up to that point by the CUSTOMER to PHOENIX CONTACT will for the purposes in this context be extrapolated over twelve (12) months.
- 15.4. In the event of at least grossly negligent default, the liability of PHOENIX CONTACT is limited to 0.5 % of the AMOUNT per case of default and to a maximum of 5 % of the AMOUNT per calendar year.
- 15.5. The limitations of liability also expressly apply to agreed qualities in accordance with Section 434 German Civil Code.
- 15.6. Unless specified otherwise in clauses 15.1 to 15.4, the liability of PHOENIX CONTACT for compensation of damage or expenditure (*Aufwendungersatz*) is excluded.
- 15.7. If the liability of PHOENIX CONTACT is excluded or limited, this also applies to corporate bodies, employees, representatives, persons used to fulfil its obligations and subcontractors of PHOENIX

CONTACT.

- 15.8. Without prejudice to clause I.14.1, claims of the CUSTOMER for the compensation of damage and expenditure except in the cases of clause I.15.1 otherwise become statute-barred within twelve (12) months.
- 15.9. Nothing of the foregoing shall be construed as a reversal of the burden of proof.
- 15.10. If PHOENIX CONTACT is obliged to pay compensation for a fault in accordance with the provisions of the German Product Liability Act, the scope of its liability is based exclusively on the provisions of this law. Any liability exceeding this requires an explicit agreement in WRITTEN FORM.

16. FORCE MAJEURE

- 16.1. If PHOENIX CONTACT cannot for reasons of FORCE MAJEURE supply or render performance to the CUSTOMER or cannot do so in due time despite proper and sufficient provision prior to conclusion of the contract (congruent provision), PHOENIX CONTACT will inform the CUSTOMER in WRITTEN FORM or in TEXT FORM without undue delay. In this case, PHOENIX CONTACT is entitled to postpone the delivery and / or performance for the duration of the hindrance or to rescind completely or partially from the INDIVIDUAL CONTRACT on the basis of the part not yet performed, provided PHOENIX CONTACT has met its above obligation to provide information and has not assumed the procurement risk in accordance with Section 276 German Civil Code or any delivery and / or performance guarantee. In the event of withdrawal, PHOENIX CONTACT will without undue delay reimburse the CUSTOMER any payments made with respect to the part of the contract affected by the rescission.
- 16.2. If a binding delivery date or performance date has been agreed and the agreed delivery date or the agreed performance date is exceeded due to FORCE MAJEURE, the CUSTOMER is entitled after an appropriate grace period set by the CUSTOMER has passed without any result to rescind the INDIVIDUAL CONTRACT with respect to the part thereof not yet performed. Further claims of the CUSTOMER, in particular those for damages, are excluded in this case if PHOENIX CONTACT has not assumed the procurement risk in accordance with Section 276 German Civil Code or any delivery and / or performance guarantee. The above provision in accordance with clause I.16.2 applies accordingly if there is no contractual agreement on any fixed delivery/performance date and it is objectively unreasonable to expect the CUSTOMER to continue to adhere to the INDIVIDUAL CONTRACT.

17. Data protection

The contractual partners undertake in each case to comply with all data protection laws and requirements in this respect which apply to the performance of their contractual duties.

18. Entrepreneurial responsibility

The contractual partners are committed in the following sense to their social responsibility within the scope of their entrepreneurial activities worldwide. The contractual partners therefore undertake to comply with the content of the Code of Conduct for

social responsibility as amended of the Central Association of the Electric Industry (*Zentralverband der Elektroindustrie* - ZVEI). This Code of Conduct as an industry guideline states what this in particular means with respect to working conditions, social and environmental accountability as well as transparency, trustful collaboration and dialogue. PHOENIX CONTACT will provide the CUSTOMER with this Code of Conduct upon first request.

19. Export provisions / export control / reservation clause

- 19.1. The CUSTOMER is advised that the export of delivered CONTRACT PRODUCTS, information and documentation can be subject to authorisation or can be excluded in accordance with the export provisions of the Federal Republic of Germany, the European Union and / or the United States of America (US (re-)export provisions) applicable in each case, e.g. due to their type or their purpose or end use, and that infringements are subject to criminal penalties. The CUSTOMER therefore warrants that it will strictly observe all relevant nationally or internationally applicable (re-)export provisions and in any event EU dual-use and sanctions law and obtain any approvals which may be necessary. The CUSTOMER undertakes in this respect in particular to check and ensure that (a) if the CONTRACT PRODUCTS, information and documentation may only be delivered for any use in armaments, nuclear technologies or weapons or to any military recipient with the approval of the relevant, in particular also national authorities, this approval will in the case of resale be obtained in advance; (b) the relevant UN resolutions, EU regulations and German laws as well as regulations of the competent German and European authorities are observed; (c) it will not deliver any products, information or documentation directly or indirectly to any persons and companies set forth in the sanctions lists relevant in each case.
- 19.2. In the event of any culpable breach of the above obligations by the CUSTOMER, the CUSTOMER will indemnify PHOENIX CONTACT upon first request from any and all claims and compensate any damage incurred by PHOENIX CONTACT based on claims that suppliers or licensors of PHOENIX CONTACT, third parties or state and / or national authorities or organisations assert against PHOENIX CONTACT.
- 19.3. The delivery and performance obligations under the relevant INDIVIDUAL CONTRACT (contractual performance) are conditional on performance not being precluded by any obstacles or prohibitions on the basis of national or international regulations, in particular export control provisions and embargoes or other sanctions. The contractual partners undertake to provide all information and documents necessary for export / shipment / import. Delays due to export inspections or approval proceedings suspend agreed deadlines and delivery times. If required approvals are not issued to the contractual partner obliged to obtain these despite the proper filing of an application, the INDIVIDUAL CONTRACT is deemed not to have been concluded with respect to the parts affected; claims for damages are excluded in this respect and due to the above specified exceeding of deadlines, unless the contractual partner obliged to

provide performance has assumed a performance guarantee or a procurement risk in accordance with Section 276 German Civil Code.

- 19.4. PHOENIX CONTACT will upon request specify the relevant points of contact for further information to the CUSTOMER.

20. Provisions relating to obligations under the German Electric and Electronic Devices Act

- 20.1. The CUSTOMER assumes the obligation to dispose properly of the delivered CONTRACT PRODUCTS after their use ends at its own expense in accordance with statutory regulations and indemnifies PHOENIX CONTACT against the obligations in accordance with Section 19 (1) sentence 1 German Electric and Electronic Devices Act (obligation of manufacturers to accept return of devices) and any claims of third parties in this context insofar as the CUSTOMER is responsible for this.

- 20.2. If the CUSTOMER passes on the CONTRACT PRODUCTS to commercial third parties and does not contractually oblige these to assume disposal and to impose the same obligation on their CUSTOMERS, it is incumbent on the CUSTOMER to take back the delivered CONTRACT PRODUCTS at its expense after their use ends and to dispose of these properly in accordance with the statutory regulations.

- 20.3. The claims on the part of PHOENIX CONTACT specified in clauses I.20.1 and I.20.2 to assumption / indemnification by the CUSTOMER become statute-barred ten (10) years after use of the device delivered to the CUSTOMER by PHOENIX CONTACT ends. The ten-year limitation period exists independently of the knowledge of PHOENIX CONTACT and begins at the end of the year in which the claim arises.

21. Applicable law / jurisdiction

- 21.1. Each INDIVIDUAL CONTRACT is governed exclusively by German law. German law also applies to current and future debt obligations that fall under Regulation (EC) No. 864/2007 (Rome II) on the law applicable to non-contractual obligations. The provisions of the UN Convention on Contracts for the International Sale of Goods of 11 April 1980 (UN Sales Law) are excluded.

- 21.2. The courts of Cologne, Germany, have exclusive jurisdiction for all disputes relating to any INDIVIDUAL CONTRACT, if the CUSTOMER has its place of business in a member state of the European Union.

- 21.3. The following applies to CUSTOMERS with their place of business outside the European Union: Any disputes arising out of or in connection with this General Terms and Conditions of Delivery and / or the respective INDIVIDUAL CONTRACT or its

validity shall be finally settled in accordance with the rules of arbitration of the German Institution of Arbitration (DIS) without recourse to the ordinary courts of law. The place of arbitration shall be Cologne, Germany. The arbitration court shall consist of three arbitrators. The language of the arbitration proceedings shall be English.

22. WRITTEN FORM/assignment/acknowledgment

- 22.1. Oral side agreements do not exist. Changes and additions to these General Terms and Conditions of Delivery require WRITTEN FORM and the mutual agreement of the contractual partners. The same applies to any waiver of this requirement for written form or its cancellation. Section 305b German Civil Code (precedence of individual agreements) remains unaffected.

- 22.2. Unilateral declarations and notifications in accordance with these General Terms and Conditions of Delivery in principle require TEXT FORM, unless this is regulated otherwise in these General Terms and Conditions of Delivery.

- 22.3. The CUSTOMER may only assign rights and obligations under or in connection with these General Terms and Conditions of Delivery following the prior written consent of PHOENIX CONTACT. Section 354a German Commercial Code remains unaffected.

- 22.4. Any acknowledgment of breaches of duty by PHOENIX CONTACT always requires WRITTEN FORM.

II. Special provisions for free deliveries

If free deliveries are the subject of the INDIVIDUAL CONTRACT, these General Terms and Conditions of Delivery apply with the following restrictions and additions:

1. General

Clauses I.10 and I.11 do not apply.

2. Warranty/THIRD-PARTY RIGHTS

Clause I.13 and clause I.14 are replaced by:
If PHOENIX CONTACT delivers the CONTRACT PRODUCTS to the CUSTOMER free of charge, this takes place subject to exclusion of any warranty.

3. Exclusion and limitation of liability

Only clauses I.15.1 (a) to (b), I.15.6 and I.15.7 apply. In all other cases, the statutory provisions apply.

Last modified: February 2020