

**GENERAL BUSINESS TERMS AND CONDITIONS****§ 1 General**

Our general business terms and condition shall apply to all our current and future deliveries and services. These shall also apply for all consequent business transactions and dealings with clients, even if no reference is again made to the same in individual cases.

We do not accept any conflicting or differing business conditions from clients unless we expressly agree to the same in writing. Our general business conditions shall continue to apply even when we continue with delivery without reservation after receiving notification of conflicting business conditions.

All agreements between our clients and ourselves shall be entered into in writing. This applies in particular to subsidiary agreements and amendments to agreements.

Our clients shall be entitled to assign any rights, which they have against us only with our prior agreement in writing.

Pursuant to § 33 of the Federal Data Protection Act, the client is hereby duly notified that we would save its data.

**§ 2 Offer**

The quantity price and delivery times in our offers are subject to change. Our offers shall be understood to be invitations for contractual negotiations. We shall deem offers to be binding only when and insofar as a conformation of agreement is issued or when acceptance is deemed by means of delivery.

We reserve all ownership and intellectual property rights relating to all illustrations, figures, calculations and other documents. Such documentation shall not be made available to any third parties unless we have given our prior express approval for the same.

**§ 3 Price and Payment**

Unless our confirmation of agreement provides for otherwise, our prices are applicable on an ex Works basis. Freight, customs, packaging and insurance will be additionally invoiced.

Insofar as not otherwise agreed, all payments shall become due and outstanding upon delivery (proportionate part payment is due upon partial delivery). Payment shall be made within 30 days without any deduction. In the event of delay in payment, we shall be entitled to impose interest on the outstanding sums at the rate of 8% above the prime lending rate for that year. In the event that we are in the position to be able to prove greater damage due to the delay, we shall be entitled to claim the same.

The client shall not have any rights to off-set or to withhold any sum from the debts due to us unless his claims have been judicially established, are uncontested or recognised on our part.

**§ 4 Delivery**

The delivery datelines set out on our part shall only become binding when we expressly confirm the same to be binding. The timely fulfilment of the client's obligations is a condition precedent for the compliance of delivery datelines and schedules on our part. The time for delivery shall begin to run only subsequent to clarification of all details relating to the performance of the order, subsequent to the receipt of all documentation and full particulars necessary for the performance of the order from the client and insofar as agreed upon, subsequent to the receipt of the relevant deposit. The delivery dateline shall be deemed to have been adhered to when the goods leave our factory or, as the case may be, when the goods leave the specified dispatch station. The dateline shall also be deemed to have been adhered to when the client is duly informed that the goods are ready for dispatch but could not be dispatched on time due to circumstances beyond our control. The aforesaid shall correspondingly apply for delivery dates.

We shall not be held responsible for delivery/service delays due to force majeure or due to events or circumstances, which significantly increase the difficulty of delivery or alternatively, which make the delivery impossible, such as instances in which delays in deliveries from our own suppliers occurs where reasonable replacement deliveries cannot be obtained. The time for delivery shall be reasonably extended for instances of industrial disputes and for instances where obstructions, which are beyond our control and which have a significant influence on the completion or dispatch of the good, arise. The same shall also apply when these events on the part of our suppliers. In the event that such extended times for delivery is extended for a period exceeding three months, both parties shall be entitled to rescind the agreement. The client shall however only be entitled to rescind the agreement when we fail to clarify within a week of his demand for delivery, that we are either rescinding the agreement or willing to deliver within two weeks.

Despite the fact that delivery is fixed for a particular time pursuant to the calendar or a set computable time subsequent to the occurrence of an earlier event, we shall only be deemed to be in delay upon receipt of a written demand. In the event that we are in delay of a delivery, the client is basically obliged to offer a reasonable extension of time to us, which shall have duration of at least two weeks. The aforesaid shall not be applicable when the same is legally superfluous.

In principle, deliveries shall be made ex Works (EXW, Incoterms 2000). The risk of accidental destruction or deterioration shall be transferred to the client at the point of time when the goods are ready for delivery. This regulation shall also apply in the exceptional case when we assume dispatch costs.

The client is obliged to accept delivery, including partial deliveries to a reasonable extent. In the case of goods, which are ready on call, a failure to call on the goods within the agreed time frame would lead to a delay in acceptance.

## § 5 Quality of the Goods

The goods shall not be deemed to be defective when there are minimal variations in weight, physical and chemical properties, dimensions, forms and colour tones unless such variations contravene product-specific approvals, such as military or civil aircraft approvals or such variations prejudice the function of the goods.

Damage arising from normal wear and tear or those arising from wrongful or negligent handling, excessive strain, utilisation of inappropriate equipment or improper changes or repair work shall not be deemed to be defects.

Specifications and information furnished with regards to construction, suitability, utilisation and handling of our equipment does not free the client from his obligation to check and attempt on his own.

The client is solely responsible to ensure that our goods are utilised in a manner that would not contravene any regulations established by statute, the administration or the workers compensation board.

## § 6 Claims, Liability for Defects

In the case of defects, the deliverer shall be obliged as follows :

1. The buyer is obliged to check the goods by means of checking random samples as per § 377 of the German Commercial Code. In the case of electronic components, the buyer is further obliged to conduct a functional test on one sample from the delivery by concrete utilisation under similar conditions. The buyer shall be obliged to give notice of apparent defects without delay at the latest 6 working days after the delivery date. A failure to give notice of defect on time shall release us from our obligations on guarantee from defects.
2. The buyer is obliged to grant us the opportunity to inspect the goods complained about upon our request for the same. We shall inspect the goods, which are dispatched to us. In the event that the inspected goods exhibit no defects, the buyer shall be obliged to reimburse us for the costs and efforts expended on our part. We shall be entitled to impose a flat rate administrative fee of 50 EUR for claims made against us, unless such claims deal with legal defects.

All parts or services, which become unusable within a period of 12 months from the time of the transfer of risk, regardless of the actual time in operation and which are unusable by reason of an event occurring prior to the transfer of risk, in particular due to faulty construction, defective material or defective performance shall be either repaired or replaced. The seller shall be entitled to elect to either repair/rectify the defective parts or services free of charge or to deliver or perform such new goods or services.

The buyer shall be obliged to perform the contractual obligations contained herein. In particular, the buyer is obliged to adhere to the payment conditions contained herein. In the event that a claim for defect is made, the buyer shall be entitled to withhold payment in such an amount that would reasonably correspond to the defects, which have arisen.

With respect of the remedying of defects, the buyer shall be obliged to exercise fair discretion to allow the seller such necessary time and opportunity as statutorily provided for. The buyer shall not be entitled to undertake any execution by means of substitution prior to the inspection of defects on the part of the seller.

The right of the buyer to make claims for defects shall become time-barred in all cases after the expiry of 12 months from the date of delivery. In the event that no agreement is made within this time period, the parties shall be entitled to agree upon the extension of the limitation period.

We shall not be liable for any defects or consequences arising from faulty or improper alterations or repairs undertaken either by the buyer or any other third party. The aforesaid shall also apply when our goods, such as connectors are fitted together with other components or, as the case may be, casings, which are not manufactured by Amphenol.

The guarantee period for repairs shall be 3 months. The guarantee period for replacement deliveries and replacement services rendered shall be 6 months. Such guarantee period shall continue at least until such time that the original guarantee period for the deliveries expires. The duration for liability for defects shall be extended for such period that that operations are interrupted for the relevant necessary repair works, replacement deliveries or replacement services. This extension of liability period shall only apply for such components and parts, which cannot be serviceably utilised due to operation interruptions.

In the event of wrongful breach of our key contractual obligations, we shall, except for cases involving intentional acts and/or gross negligence, be liable only for damages, which a typical for the relevant agreement and which are reasonable foreseeable. The aforesaid shall not apply for instances of death, damage to health and bodily injury. In the event that contractual supplementary agreements are breached, we shall not be liable for instances of mere negligence, except for instances of death, damage to health and bodily injury.

Paragraphs 1-9 hereinabove shall correspondingly apply for such claims made by the buyer for rectification/repair works, replacement deliveries or compensation for damages suffered, which arise within the course of the agreement by reason of recommendations, advice or breach of supplementary contractual

## § 7 Impossibility, Customisation of Agreement

In the event that it is not possible for either the seller or the buyer to perform their obligations or in the event that we delay in the performance of our deliveries or services, the general legal principles shall apply with the following measures :

In the event that the impossibility or the delay is caused by the seller's fault, the buyer shall be entitled to claim compensation for damages suffered. The claim for damages shall be limited to 10 percent of the value of the affected part of the goods or service, which cannot be serviceably utilised due to the impossibility or delay. The buyer shall not be entitled to claim for damages exceeding the said limit of 10 percent. In particular, claims exceeding the said limit of 10 percent for costs arising in replacement purchases are hereby excluded. The aforesaid shall also apply for claims for lump sum damages or contractual penalties in the event of delay. The aforesaid shall not be applicable in events of intentional acts or gross negligence, for which mandatory liability arises. The buyer shall continue to retain the right to rescind the agreement.

## **§ 8 Other Claims for Compensation**

The buyer shall not be entitled to make any claims relating to positive violation of contractual duty (not consisting of delay of performance or due to supervening impossibility), relating to the breach of obligations in the course of contractual negotiations and relating tort. The aforesaid shall not be applicable insofar as mandatory liability arises, for example in cases of bodily injury, damage caused to private property pursuant to product liability statutes, intentional acts or gross negligence.

This limitation of liability correspondingly applies to claims made against the buyer.

## **§ 9 Retention of Property**

The seller shall retain title in the goods until such time that the buyer duly performs all obligations, which arise from the business relationship and which are owed to the seller (hereinafter referred to as the "Retained Goods"). Until such time that title duly passes from the buyer to the seller, the seller shall not be entitled to pledge the Retained Goods or to transfer the same by way of security. The seller shall only be entitled to sell the Retained Goods in the ordinary course of business under the condition that payment for such re-sale is duly received.

In the event that the Retained Goods is assembled or installed together with other goods, we shall retain partial title in the resulting assembled product to such extent that reflects the purchase price plus 20% of the Retained Goods. All assembly and installation shall only be performed in our name and on our behalf. In the event that the Retained Goods are sold to a third party, the buyer shall assign all rights and claims arising from the sale to us. In the event that this third party buyer delays in his obligations of payment, we would not disclose this assignment. The buyer shall be authorised to enforce the claims against the third party buyer and shall bear all costs arising from the enforcement of such claims. In the event that the total value of all titles retained as security exceed the value of all claims against the buyer by more than 20 percent, the seller shall release a corresponding portion of the said security upon the buyer's request for the same.

## **§ 10 Industrial Property Rights and Copyright, Replication**

We shall retain all exploitation rights, property rights and copyrights relating to all illustrations, drawings, samples, specimens, models, drafts, calculations, specifications and all other such documentation. These shall not be made accessible to any third party without our approval.

The buyer shall be obliged to refrain from duplicating/replicating our goods or causing the same to be duplicated. In the event that the buyer breaches this obligation, the buyer shall be imposed a contractual penalty amounting to 100% of the price of the relevant goods per copied piece. The latest price list shall be authoritative in determining the amount to be paid upon breach. The seller shall retain the right to claim compensation for damages suffered.

## **§ 11 Confidentiality**

The contractual parties hereto shall be obliged to keep all information obtained in the course of this business relationship strictly confidential on a permanent basis. The aforesaid shall apply for all business meeting organisations and particularly to all information, which is marked as confidential or which can be recognised to be business or company secrets. Unless it is necessary for the realisation of contractual aims, no recording or information shall be granted to any third party. Information shall be only made accessible to a third party or otherwise available upon receipt of the written agreement from the other party.

## **§ 12 Jurisdiction and Choice of Law**

In the event that the buyer is a registered trader, the courts of Amphenol-Air LB GmbH's domicile shall have the exclusive jurisdiction to hear all disputes arising directly and indirectly from this contractual relationship. We shall however be entitled to commence legal proceedings against clients in their natural forum.

All legal relationships with our clients shall be exclusively governed by the laws of the Federal Republic of Germany.

The INCOTERMS in their current version shall additionally be applicable,

## **§ 13 Binding Character of this Agreement**

In the event that individual specific portions of this agreement are found to be legally unenforceable, the rest of this agreement shall continue to be valid and binding.

The aforesaid shall not apply when the adherence to this agreement would lead to unreasonable difficulties for one of the contractual parties.