

Terms of Delivery and Payment of the firm Amphenol-Tuchel Electronics GmbH

§ 1 Validity of the Terms of Delivery and Payment

The following terms of delivery and payment are valid for all deliveries made by Amphenol-Tuchel Electronics GmbH. Any deviating provisions, particularly terms of purchase from the purchaser, will only then be included as contractual stipulations if they are expressly agreed upon in writing.

§ 2 Formation of the Contract

- (1) Offers from the Seller are of a non-binding nature. All orders and supply contracts only become binding for the Seller pending his written confirmation.
- (2) Samples are to be regarded as average specimens. The free specimens remain the property of the Seller.
- (3) The Seller expressly retains the full proprietary rights and copyright on all drawings and other documents, they may not be placed at the disposal of third parties. All drawings and other sundry documents that are part of an offer must be returned immediately on request if the order is not placed with the Seller.

§ 3 Purchase Price and Incidental Costs

- (1) This is calculated according to the valid price quoted in the Seller's price list on the day of delivery. Fixed prices are subject to express written agreement (acknowledgment of order). The prices are quoted in Euros and are exclusive of value added tax.
- (2) Our prices are based on the given procurement costs on the raw materials market at the time of the acknowledgment of the order. Should these cost or market conditions change, we are entitled to subsequently adjust the price or, if necessary, to rescind from the whole and/or residual order.
- (3) The Seller reserves the right to modify prices quoted or invoiced to purchaser due to changes in tariff, duty and other laws, regulations, or rates between countries. Price adjustments may occur with little or no notice, depending on the communication received from the issuing country or governing authority. The purchaser agrees to bear any additional costs resulting from tariff and duty rate changes affecting components supplied by Seller. This clause applies to all purchases, sales, and transactions between Seller and purchaser, regardless of location or jurisdiction.
- (4) The prices are ex works prices exclusive of freight and packaging. A low quantity surcharge of EUR 20,00 will be added to orders with a net order value of less than EUR 500,00.
- (5) Lending charges and charges for general wear and tear of packaging material as well as any given costs for the return of packaging material are to be borne by the purchaser.
- (6) Quoted freight charges are of a non-binding nature. These prices are based on the valid freight and dispatch costs on the day of the offer. Amendments to these costs up to the day of delivery will be borne by or credited to the purchaser.

- (7) The agreed prices are only valid for each respective order.
- (8) In the event of ex works consignment, parcels will always be dispatched postage prepaid and the postage fees will be charged.
- (9) Special regulations govern deliveries to foreign countries.

§ 4 Passage of Risk

- (1) The risk of loss, worsening and dispatch will in every case be transferred to the purchaser as soon as the delivery item leaves the business and storage rooms of the Seller; this is also true of deliveries with deviant passage of risk.
- (2) Should the dispatch of goods be delayed for a reason for which the Seller is not responsible, then the risk is transferred to the purchaser with announcement of the readiness for dispatch. The same is true if the Seller makes use of his retention rights. Partial deliveries are permissible.

§ 5 Period of delivery

- (1) Periods of delivery and deadlines have to be agreed upon in writing. If a binding period of delivery has been agreed upon, then this period is prolonged appropriately in cases of force majeure (amongst others natural disasters, traffic hold-ups and obstructions, lack of transport means, strikes and war). Should a binding and agreed delivery deadline be exceeded by more than eight (8) weeks, then the purchaser is entitled to withdraw from the contract on expiry of an appropriate respite of at least thirty (30) days. The respite must be set in writing. Withdrawal from the contract must be declared by registered letter. The right to withdraw from the contract may only be asserted by the purchaser within a period of two (2) weeks after the expiry of the respite. All claims for damages from the purchaser due to a delayed delivery are excluded in any case.
- (2) Should the dispatch or the delivery be delayed at the request of the ordering party, the Seller may charge the ordering party storage fees amounting to 0.5 percent of the invoice sum for each started month, beginning one month after the announcement of the readiness for dispatch. However, this sum may not amount to more than five (5) percent of the total invoice sum.
- (3) No liability for compliance with the agreed delivery deadline will be assumed if a preliminary supplier should fall default despite having taken all common and reasonable preventative measures to ensure that the delivery deadline is met. In such a case, the period of delivery will be prolonged by an appropriate extent.

§ 6 Obligation to provide proof of delivery

§ 6 a Shipments to a third country

- (1) The purchaser is aware of the fact that shipments to a third country require a proof of export to be exempted from value-added tax. The purchaser is responsible for providing these documents (proof of export). In case the Seller fails to provide this proof, the Seller will be automatically obliged to pay the value-added tax to the tax authorities if such negligence is attributable to the purchaser. Subsequently, the purchaser will be obliged to refund this value-added tax of the net value of the purchase price to the Seller.
- (2) The documentary proof of export can be verified by the customs office especially by

an „Export“ or „Alternative Export Notation“. If the Export Notation has not been presented within 90 days after the date of transfer of goods, the customs office initiates the „Follow-Up“ investigation which allows to adduce an alternative proof within 150 days after the date of transfer of goods for export, e.g. documents of the import customs clearance from the third country (original document or certified copy). The purchaser will submit the alternative proof promptly. Additionally, the purchaser will pay to the Seller an administration fee amounting to € 150 for the efforts regarding the Follow-Up procedure unless the reasons for not closing the export procedure on time are beyond the purchaser's control. Both parties reserve the right to prove that the Seller had no, less or respectively higher efforts than the precedingly mentioned fee.

§ 6 b Intra-Community supply

(1) The purchaser is aware of the fact that shipments to an EU Member State require a proof of receipt to be exempted from value-added tax. The purchaser is responsible for providing these documents (certificate of entry). In case the Seller fails to provide this proof, the Seller will be automatically obliged to pay the value-added tax to the tax authorities if such negligence is attributable to the purchaser. Subsequently, the purchaser will be obliged to refund this value-added tax of the net value of the purchase price to the Seller.

(2) Providing evidence of the acknowledgement of receipt can be done as individual or collective statement in different forms.

§ 7 Refusal of Acceptance

Should the purchaser refuse to accept the goods, the Seller may set an appropriate period for the purchaser to then accept the goods. Should the purchaser fail to accept the goods within this set period, then the Seller retains the right to withdraw from the contract or may claim damages for the non-fulfilment of the contract.

§ 8 Payment of the Purchase Price

Unless no other period has been expressly agreed upon, the payments must be made within thirty (30) days of the date of the invoice. An early payment discount will only be granted on expresswritten agreement. The agreed early payment discount will be calculated on the basis of the final invoice sum. The Seller is not obliged to accept bills of exchange or cheques as payment; if they are accepted, then only as a conditional payment. Collection and discount charges, as well as the tax on drafts and bills of exchange are to be borne by the purchaser. These costs must be paid to the Seller together with the invoice sum. The Seller accepts no liability for the punctual presentation, protestation, information and return of the bill of exchange, should the same not be cashed. The period of payment is considered to be met if the supplier can dispose of the amount within this period.

§ 9 Late Payment by the Purchaser

(1) Should the period of payment be exceeded, the purchaser must pay the Seller interest on arrears amounting to eight (8) percent over and above the respective base lending rate valid at that time. The Seller expressly retains the right to claim further damages caused by the delay.

(2) Should payments from the purchaser be discontinued, an application be lodged for

the institution of bankruptcy proceedings against the purchaser, then the Seller retains the right to demand advance payment or that security be provided. The same is also true, should there be a substantial deterioration in the pecuniary circumstances of the purchaser.

§ 10 Warranty claims

(1) Any warranty claims of the purchaser due to defective goods are only valid if the purchaser informs the Seller of this in writing within five (5) days of the delivery of the goods.

(2) After arrival of the consignment, the purchaser has to carry out a factual and technical inspection and/or check of the incoming goods on the basis of our shipping documents. The purchaser cannot be released from this obligatory inspection. As a rule the purchaser has to bear all the costs incurred due to his further processing the goods without having inspected them.

(3) All the warranty claims of the purchaser are initially limited to reworking rights. After unsuccessful reworking the purchaser can claim remedy of defects pursuant to the legal regulations. The aforementioned is not applicable if the Seller has fraudulently concealed the defect or guaranteed the condition of the object.

(4) A requirement of all warranty claims is that we are notified of the defect immediately on discovery and a specimen of the faulty goods is placed at our disposal free of charge.

(5) The limitation period for warranty claims is one year as of the passage of risk for the sold object.

(6) Seller shall have no responsibility or liability with respect to non-conforming Supplies if the non-conformance results from (a) improper storage, (b) improper installation, (c) modifications or repairs made to such Supplies by a party other than Seller, (d) use of the Supplies not in accordance with the mutually agreed written specifications, (e) exposure of the Supplies to conditions not indicated in the mutually agreed written specifications, or (f) combination of the Supplies with systems, products or materials not disclosed to Seller prior to the sale of the Supplies. Seller's warranty coverage does not apply to conditions arising from ordinary wear and tear that may occur in normal operations over time.

(7) The terms of the applicable warranties, as set forth above, are the sole and exclusive warranty terms that shall have any force and effect in this agreement and related transactions, and such terms are in lieu of all other warranties, express or implied, including without limitation, the implied warranties of merchantability and fitness for a particular purpose, which are herewith expressly excluded.

(8) All further claims made by the ordering party against the Seller and their vicarious agents which did not occur to the delivery item itself are excluded.

§ 11 Adjustment of the Contract

Should any unexpected events occur which have significant consequences for the operations of the Seller, then the contract will be adjusted in a suitable manner. Wherever this is not economically reasonable the supplier retains the right to withdraw from the contract. Should he wish to enforce this right, then he must inform the ordering party of the said events without delay.

§ 12 Reservation of Proprietary Rights

(1) All deliveries are made under the reservation of proprietary rights. The supplied

goods remain the property of the Seller until complete payment of the purchase price has been effected and all other claims enforced by the Seller against the purchaser from their current business relations have been settled (on payment by cheque or by bill of exchange until the same has been cashed).

(2) Should the purchaser process the goods, then the processing takes place for the Seller, who then gains the proprietary rights to the intermediate or final product, acting as the manufacturer in the sense of § 950 of the German Civil Code (BGB). Should the processing take place using other products which are not the property of the purchaser, then the Seller gains joint proprietary rights to the new object (reserved good) in a proportionate relationship of the value of the goods he supplied to the value of the goods supplied by third parties at the time of processing. Should the reserved goods be installed into the property of a third party by the purchaser as an essential component, then the purchaser will immediately assign the claim for remuneration against the third party to which he is entitled to the Seller.

(3) The purchaser is entitled to sell the goods or the processed product in the course of normal business. In order to ensure the security of the Seller, the purchaser assigns to him as of this moment all of his claims derived from the further sale of the goods against the purchasing party. The purchaser is authorised and obligated to collect the receivables unless the Seller revokes this authorisation.

(4) The collection authorisation of the purchaser lapses without the express declaration of the Seller if the purchaser discontinues his payments. The Seller will not enforce any collection authorisation as long as the purchaser fulfils his obligations to pay.

(5) If the purchaser is in breach of the contract -particularly in default of payment -the Seller is entitled to take the reserved goods back or, if necessary, to demand the assignment of the purchaser's right of possession against any third parties. Taking back or seizing the reserved goods by the Seller is not a withdrawal from the contract.

§ 13 Setting-off

The purchaser will refrain from enforcing any rights of retention. It is only permissible for the purchaser to set off claims against counter-claims if these counter-claims are uncontested by the Seller or have been officially recognized.

§ 14 Limitation of liability

(1) Seller's total aggregate liability for all claims, whether based on breach of contract, negligence, product liability, indemnity, or otherwise, relating to the supplies shall not exceed the price paid by MAHLE for such supplies in the 6 month period preceding the event which gave rise to such claim;

(2) In no event will seller be liable for any special, incidental, punitive, exemplary, enhanced, or consequential damages (including without limitation, loss of use, loss of profit and claims of third parties), however caused, whether in contract or tort or otherwise.

§ 15 Miscellaneous

(1) A cancellation is excluded in all cases when specially manufactured objects (special production) are subject to delivery.

(2) The lent packaging used (pallets and transport containers) are to be returned to the supplier freight prepaid within a period of thirty (30) days.

(3) Unless separately agreed between the parties the parts offered and supplied by the seller are not classified as safety parts (D /TLD parts) and are not determined for military and/or intelligence use. The useage of the parts for safety relevant (for example D /TLD) and/or military and/or intelligence applications is not permitted!

(4) The offered and delivered parts by Amphenol-Tuchel Electronics GmbH are subject to the restrictions of the export inspection specifications of the Federal Republic of Germany and the U.S. government. The customer expressly commits to know the regulations and comply with them.

(5) Offers do not include CCC certification, and any costs associated with this.

§ 16 Place of Contractual Fulfilment and Court of Jurisdiction

The place of contractual fulfilment for all commitments resulting from this supply transaction and the court of jurisdiction for any disputes connected to this supply transaction is the site of the Seller's headquarters Heilbronn as far as permitted by law. German law is applicable.

§ 17 Voidness of Single Clauses

Should any single stipulations of these terms and conditions of trade and supply be or become void, this does not in any way affect the validity of the other stipulations