

Conditions of Sale

1. All sales of goods and services by Phoenix Contact Ltd. (hereinafter referred to as "the Seller"), are made subject to the terms and conditions appearing below.
2. **ACCEPTANCE GOVERNING PROVISIONS AND CANCELLATIONS** - No orders shall be binding upon Seller until accepted in writing by the Seller at its Toronto Office or at its Plant handling and processing such orders. The Seller's acceptance of the Buyer's order is conditioned upon the Buyer's assent that the terms and conditions set forth herein shall be deemed a part of such order. No modified or other conditions will be recognized by the Seller unless specifically agreed to in writing, and failure of the Seller to object to provisions contained in any purchase order or other communication from a Buyer shall not be construed as a waiver of these conditions nor an acceptance of any such provisions. No order accepted by the Seller may be altered or modified by the Buyer unless agreed to in writing by the Seller, and no such order may be cancelled or terminated by the Buyer except with the written consent of the Seller and upon payment of the Seller's loss, damage and expense arising from such cancellation or termination.
3. **PRICES** - Unless otherwise stipulated, the prices quoted are effective for and subject to acceptance by the Buyer within 30 days from the date of the proposal, and are subject to correction of clerical errors. All prices are subject to change without notice. In the event of a net price change, the price of equipment on order but unshipped will be the price in effect on the date of shipment. Except that, if delivery is delayed upon instructions from Buyer, prices shall be those in effect when instructions are received to proceed with the order. Price reductions shall apply only to unshipped portions of outstanding orders. Any addition to an outstanding order will be accepted at prices in effect when the addition is accepted. The Seller also reserves the right to adjust the prices herein based on unusual exchange rate fluctuations DM/Cdn\$ at any time and without notice.
4. **TERMS OF PAYMENT** - Unless terms are stipulated, payment shall become due 30 days from date of invoice. If shipment is delayed by the Buyer, date of readiness for the shipment shall be deemed to be the date of invoice for payment purposes. If, in the Seller's judgement, the Buyer's financial condition at any time does not justify the terms specified, the Seller may require full or partial payment in advance before proceeding with the contract. If the Buyer defaults in any payment when due, then the whole contract price shall immediately become due and payable upon demand, or the Seller at his option, without prejudice to other lawful remedies, may defer delivery or cancel this contract. The Seller reserves the right to levy a late payment charge of 1 ½% per month over the prime lending rate for any unpaid amount for each calendar month (or fraction thereof) that such payment is in default. Full carton/package purchases are required. In the event of referral to an attorney for collections, reasonable attorney's fees for collection of the overdue amount shall be paid by the Buyer. In the event payment is not received within 30 days from the date of invoice any discount shall be cancelled and the full price shall be due.
5. **TAXES** - Any tax or other governmental charge now or hereafter levied upon or measured by the transaction between the Seller and the Buyer shall be paid by the Buyer in addition to the prices quoted or invoiced. This shall include, but not be limited to, the Federal Goods and Services Tax as well as the applicable Provincial Sales Tax. Note: The Buyer is obligated to stipulate on the purchase order whether the goods purchased are exempt from the applicable Provincial Sales Tax. If yes, a Provincial Sales Tax exemption number must be provided at time of order.
6. **FREIGHT** - Unless otherwise stipulated, prices are F.O.B. original shipping point, without freight allowance. Delivery to the initial carrier shall constitute delivery to the Buyer, and all goods are shipped at the Buyer's risk.
7. **DELIVERY AND DELAY** - Seller shall not be liable for any loss or damage as a result of any delay in delivery or installation due to any cause beyond Seller's reasonable control, including, without limitation, an act of God, act of the Buyer, embargo or other governmental act or authority regulation or request, fire, theft, accident, strike, slow-down, a war, riot, delay in transportation, inability to obtain necessary labor, materials or manufacturing facilities. In the event of any such delay, the date of delivery shall be extended for a period equal to the time lost by reason of the delay. If shipping or progress of the work is delayed or interrupted for any cause for which the Buyer is directly or indirectly responsible, and additional costs (including storage costs) are incurred by the Seller due to such delays, the Buyer shall reimburse the Seller for such added costs plus reasonable profit thereon.
8. **MINIMUM BILLING** - Orders amounting to less than \$100.00 net will be billed at \$100.00.
9. **LIMITED WARRANTY** - The Seller warrants to the Buyer that the equipment purchased shall be free from defects in material and workmanship under normal use and service for a period of one year from shipment. Written notice and an explanation of the circumstances of any claim that the equipment has proved defective in material or workmanship shall be given promptly by the Buyer to the Seller. The Seller will not be liable for any misuse, improper operations, improper installation, improper maintenance, alteration, modification, accident or unusual degradation of the equipment 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 equipment, shall be or be deemed to be a warranty or representation by the Seller for any purpose, nor give rise to any liability or obligation of the Seller whatsoever. The Buyer's sole and exclusive remedy in the event of 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 equipment at the Seller's election and sole expense.
10. EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT, THERE ARE 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 THE BUYER FROM THE SELLER OR ITS AUTHORIZED DISTRIBUTOR.
11. **LIMITATION OF LIABILITY** - IN NO EVENT SHALL THE SELLER BE LIABLE FOR LOSS OF PROFITS, INDIRECT, SPECIAL, CONSEQUENTIAL OR OTHER SIMILAR DAMAGES ARISING OUT OF ANY BREACH OF THIS AGREEMENT OR OBLIGATIONS UNDER THE AGREEMENT. THE SELLER SHALL NOT BE LIABLE FOR ANY DAMAGES CAUSED BY DELAY IN SHIPMENT, INSTALLATION OR FURNISHING OF EQUIPMENT OR SERVICES UNDER THIS AGREEMENT. No action arising out of any claimed breach of this Agreement may be brought by either party more than two (2) years after the cause of action has accrued.

12. **PATENT INDEMNITY** - The Seller shall defend or settle any suit or proceeding brought against the Buyer based on a claim that any equipment made to the Seller design and furnished hereunder constitutes an infringement of any existing United States and Canadian patents, provided the Seller is notified promptly in writing and is given complete authority and information required for the defense, and the Seller shall pay all damages and costs awarded against the Buyer, but shall not be responsible for any costs, expense or compromise incurred or made by the Buyer without the Seller's prior written consent. If any equipment is in the Seller's opinion likely to or does become the subject of a claim for patent infringement, the Seller may at its option and expense procure for the Buyer the right to continue using the device, or modify it to become noninfringing, but in the event the Seller is not reasonably able to modify, substitute or otherwise procure for the Buyer the right to continue using it, the Seller will remove such equipment and refund to the Buyer the amount paid in excess of a reasonable rental for past use. The Seller shall not be liable for any infringement or claim based upon use of the equipment in combination with other equipment not supplied by the Seller, or with modifications made by the Buyer. The foregoing states the entire liability of the Seller to the Buyer arising from patent infringement.

13. **SELLER'S REMEDIES** - Should the Buyer fail to make any payment within ten (10) days of its due date, or fail to perform any other of the Customer's obligation hereunder upon thirty (30) days written notice, or should the Buyer be or become insolvent or be a party to any bankruptcy or receivership proceeding prior to full payment or all amounts payable hereunder, the Seller may: (a) with or without demand or notice to the Buyer declare the entire amount unpaid immediately due and payable; (b) enter upon the premises where the equipment may be found and remove it (the Buyer shall assemble the equipment and make it available to the Seller at a place reasonably convenient to both parties and shall permit and assist the Seller in effecting the retaking and removal of the equipment); and (c) sell any or all the equipment as permitted under applicable law, applying the proceeds of the sale to payment of the expenses of retaking, repairing and selling the equipment, reasonable attorney fees and to the satisfaction of all indebtedness the due and unpaid under this Agreement. Any surplus shall be paid to the Buyer and any deficiency shall be paid to the Seller by the Buyer.

14. **RETURNS** - Goods may not be returned for credit until and unless the Seller has given prior consent in writing to accept them. Materials returned without Seller's written approval will be credited at Seller's evaluation.

15. **INSURANCE** - Until full payment of the purchase price or final acceptance of the equipment, whichever is later, Buyer shall keep insured materials and equipment shipped to Buyer by Seller under policies with such provisions, for such amounts and with such insurers as shall be satisfactory to Seller, and shall furnish evidence of such insurance satisfactory to Seller.

16. **GENERAL** - This Agreement shall only become effective and binding when either (a) it has been accepted and executed by an authorized representative of the Seller, or (b) the equipment has been shipped to the Buyer, with or without acceptance in writing hereon. Notice of acceptance is hereby waived by the Buyer. The Buyer hereby acknowledges receipt of a true and complete copy hereof. No additions to or modifications of any of the Terms and Conditions of Sale as they appear herein shall be binding upon the Seller unless signed in writing by a duly authorized representative of the Seller. Typographical and clerical errors in quotations, orders and acknowledgements are subject to correction. This Agreement is not assignable without the prior written consent of the Seller. Any attempt to assign any of the rights, duties or obligations of this Agreement without such consent is void. If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The Seller is not responsible for failure to fulfill its obligations under this Agreement due to causes beyond its control, or except as agreed herein. THE CUSTOMER ACKNOWLEDGES THAT HE HAS READ THE AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS. FURTHER, THE CUSTOMER AGREES THAT IT IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN THE PARTIES, WHICH 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 AGREEMENT.