

## TERMS AND CONDITIONS OF SALE

**1. APPLICABLE TERMS AND CONDITIONS:** The acknowledgment of this order by the seller or commencement of any performance by the seller pursuant to this order shall constitute purchaser's acceptance of the seller's terms and conditions and the prices set forth herein and this order is expressly conditioned upon the applicability of seller's terms and conditions exclusively. No terms or conditions stated by the purchaser shall be binding on the seller unless such terms or conditions are expressly accepted in writing by the seller. The failure of the seller to specifically object to any or all the terms and conditions set forth herein and the purchaser, upon the acknowledgment of the quotation or upon seller's commencement of performance hereunder, shall be deemed to have withdrawn any such terms and conditions that conflict with, are inconsistent with, or are in addition to the terms and conditions set forth herein.

**2. CHANGES:** The purchaser may, at any time, in writing, make changes within the general scope of this order in the drawings, designs, specifications, shipping or packing instructions of place or delivery. If any such changes cause an increase or decrease in the cost of or the time required for performance of any such purchase order affected by such change an equitable adjustment in the price, the delivery schedule or both shall be made and such order shall be modified accordingly.

**3. WARRANTY:**

a. If any of the products on the face of this quotation are electrical components, components thereof, or electrical connectors accessories, then the following warranty terms set forth in this subparagraph (a) shall be applicable to such process. Amphenol Corporation, Amphenol Industrial Operations warrants each new product sold by Amphenol to be free from defects in material and workmanship under normal use and service. The obligation and liability of Amphenol under this warranty is limited to the repair or replacement at its factory, at the option of Amphenol, of any such product which proves defective within ninety (90) days after delivery to the first end user, and is found to be defective in material and workmanship by Amphenol inspection. Amphenol shall not be obligated or liable under this warranty for apparent defects which examination discloses are due to tampering misuse, neglect, improper storage, normal wear and all cases where the products are disassembled by other than authorized Amphenol Representatives. In addition, Amphenol shall not be obligated or liable under this warranty unless the date of delivery to the first end user shall be within six (6) months from the date of delivery to the original purchaser, if different from the first end user, and further provided that written notice of any defect shall be given to Amphenol within thirty (30) days from the date such defect is first discovered.

Products of warranty consideration shall be returned with all transportation charges prepaid to Amphenol Corporation, Amphenol Industrial Operations in shipping containers which are adequate to prevent loss or damage in shipment. Products repaired or replaced under this warranty are warranted for the unexpired portion of the original warranty.

b. Other than the liability set forth in any expressed warranty applicable to the products sold to the purchaser, seller shall not be liable for consequential, incidental or other type of damages and expressly excludes and disclaims such damages resulting from or caused by the use, operation, failure, malfunction or defects of any products sold to the purchaser under any order, resulting from this quotation, it being understood that the products sold to the purchaser are not consumer products.

c. AMPHENOL DISCLAIMS ANY LIABILITY WHETHER UNDER THIS WARRANTY OR OTHERWISE FOR ANY FAILURE OF ITS PRODUCT WHICH IS CAUSED BY, IN WHOLE OR IN PART, THE USE IN OR WITH THAT PRODUCT OF COMPONENT PARTS NOT MANUFACTURED BY AMPHENOL.

d. THE TERMS OF THE APPLICABLE WARRANTY OR WARRANTIES, AS THE CASE MAY BE, AS SET FORTH ABOVE, ARE THE SOLE AND EXCLUSIVE WARRANTY TERMS THAT SHALL HAVE ANY FORCE AND EFFECT IN THIS ORDER, RESULTING FROM THIS QUOTATION, AND SUCH TERMS AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE WHICH ARE HEREWITH EXPRESSLY EXCLUDED.

**4. SHIPMENT:** Shipment generally will be accomplished FOB Seller's plant. Notwithstanding this, if seller prepays the transportation charges, purchaser will be obligated to reimburse seller upon receipt of invoice for the prepaid transportation charges. Any special or abnormal packaging required will be included in the unit price of the item to be delivered or as a separate line item.

**5. QUANTITIES:** Unless Seller otherwise specifically agrees in writing, Seller reserves the right to over or under ship the quantities shown on the face hereof by 5%.

**6. DELIVERY:** Delivery will be accomplished within the time specified on the face of this quotation or if no time is specified within the normal lead time necessary for the seller to deliver the products in question. Anything to the contrary notwithstanding, the seller shall not be liable for any reasonable delay in production or delivery. In the event a delay in production or delivery occurs beyond a reasonable period of time, which delay is occasioned by fire, strikes, civil or military authority, war, hostility, riots, government action, energy crises, the failure of seller's suppliers to make timely delivery of material or components, or where such delay is occasioned by other causes beyond the control of the seller or without its fault or negligence, then the date or dates for delivery of the equipment shall be extended for a period equal to the time lost by reason of any such delay.

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**7. PAYMENTS:** In the event payments are not made in a timely manner seller may either (1) declare buyer's performance in breach and terminate any order resulting from this quotation, for default; (2) withhold future shipment under any order resulting from this quotation until delinquent payments are made; (3) deliver future shipments under any quotation on a C.O.D. or cash in advance basis even after the delinquency in payment plus applicable storage charges, or inventory carrying charges; if any or (4) combine any of the above rights and remedies as is practicable and permitted by law. Nothing herein shall waive any other rights and remedies of seller permitted by law or set forth in any order resulting from this quotation and all rights and remedies set forth herein shall be considered cumulative and all other available rights and remedies.

**8. MATERIAL SHORTAGES AND ALLOCATIONS:** In the event Seller is unable to obtain in a timely manner material sufficient to fulfill all of its orders on hand, the Seller shall have the right as a result of said material shortages to equitably allocate lesser quantities of the products to be delivered to all purchasers on a proportionate basis and the contract price shall be equitably adjusted, taking into consideration, among other things, the reduced quantity of items to be delivered and the increased production costs, if any, to Seller as a result of manufacturing lesser quantities than anticipated.

**9. INSPECTION:** In the event the products herein are subject to source inspection requirements, the products must be inspected within 48 hours of seller's notification to buyer. If inspection does not occur within 48 hours, the products will be deemed to have been accepted by buyer. In the event the products do not meet the drawings, designs and/or specifications, the purchaser shall notify the seller of such noncompliance in writing and give the seller a reasonable opportunity to correct any such noncompliance. The purchasers shall be deemed to have accepted any product delivered hereunder and to have waived any such noncompliance in the event a written notification that the products delivered hereunder do not comply with the drawings, designs and or specifications, is not received by the seller within fifteen days after the purchaser takes custody of the products delivered hereunder.

**10. INSOLVENCY:** Seller may cancel the whole or any part of an order resulting from this quotation in the event of the suspension of purchaser's business, insolvency of purchaser, the institution, by purchaser or others, of bankruptcy, reorganization, arrangement of liquidation proceedings involving or affecting the purchaser, or any assignment for the benefit of creditors of purchaser or receivership that purchaser places itself in or may be placed in. Such cancellation shall be deemed a cancellation for default of purchaser.

**11. PATENT, TRADEMARK AND COPYRIGHT INDEMNITY:** Seller shall indemnify Buyer from any and all damages and costs finally awarded for infringement of any United States patent trademark or copyright in any suit by reason of the sale of any product sold to Buyer hereunder where Seller is an infringer with respect to its sale hereunder, and from reasonable expenses incurred by Buyer in defense of such suit if Seller does not undertake the defense thereof, provided that Seller is promptly notified of any such suit and except for suits against the United States Government. Buyer offers Seller full and exclusive control of the defense of such suit when products of Seller only are involved therein and the right to participate in the defense of such suit when products other than those of Seller are also involved therein; except that, this indemnity shall not extend to infringement resulting from Seller's compliance with Buyer's designs, processes or formulas. Seller's liability for damages hereunder is limited to those computed solely on the value of any product sold to Buyer hereunder. In no event shall Seller be liable for consequential damages or costs applicable thereto. Seller shall also indemnify Buyer's customers and agents for such infringement, if and to the extent that Buyer has agreed so to indemnify them, but to no greater extent than Seller has indemnified Buyer herein and under the same conditions set forth herein. The above is in lieu of any other indemnity or warranty express or implied, with respect to patent trademarks or copyrights.

**12. SPECIAL TOOLING:** Title to dies, tools, jigs, fixtures, patterns or any other type of special tooling shall remain vested in the seller, whether or not paid for or amortized over the products manufactured hereunder to the purchaser.

**13. NON-RECURRING CHARGES:** Non-recurring engineering and tooling charges shall be subject to an upward adjustment limited to 10% to be determined after actual expense is incurred.

**14. TAXES:** Unless otherwise specifically designated on the face page of this quotation, the prices quoted herein do not include sums necessary to cover any taxes or duties including but not limited to Federal, State, Municipal excise, sales or use taxes or import duties upon the production, sale, distribution, or delivery of equipment or furnishing of services hereunder. Any taxes or duties that are due and owing hereunder shall be paid by the purchaser. Accordingly, seller reserves the right to revise its quotation after the execution of this contract between the parties to include any and all taxes or duties that may become due hereunder and seller may invoice purchaser for said additional amount. This clause shall survive the acceptance and complete performance of any purchase order resulting from this quotation by the parties herein.

**15. SET-OFF:** All monies owned under any purchase order resulting from this quotation shall be due under the terms of this agreement and the purchaser is prohibited from setting off said sum due the seller under this purchase order from sums, whether liquidated or not, that are or may be due the purchaser which arise out of a different transaction with the seller, its divisions, subsidiaries or affiliates.

**16. SURCHARGE ADJUSTMENTS:** Seller reserves the right to invoice the buyer in the form of a surcharge for abnormal changes in market conditions for precious metals (i.e. gold, silver, rhodium), raw material allocations, fuel charges or any other extraordinary market condition that can be reasonably associated to the purchased items.

**17. SERVICEABILITY:** If any provision of this quotation is in violation of any Federal, State or local statute or regulations, or is illegal for any reason, said provision shall be self deleting without affecting the validity of the remaining provisions.

**18. APPLICABLE LAW:** This order (or quote) is subject to the laws and regulations applicable in the state of New York, U.S.A.

**19. NON-CANCELLABLE AND NON-RETURNABLE:** Unless otherwise expressly agreed to in writing by Seller, all items purchased shall be considered Non-cancellable and Non-returnable (NCNR).