

**GENERAL SALES CONDITIONS**  
**of the company AVNET Europe Comm. VA**  
**Kouterveldstraat 20**  
**1831 DIEGEM**

**06.2007**

**(1) SCOPE AND DEROGATIONS**

- 1.1 The present general sales conditions of the company AVNET Europe Comm. VA (hereinafter referred to as "AVNET") shall apply to all purchase orders transmitted to AVNET. The client is presumed to have accepted these general sales conditions simply by placing his order. General purchase conditions, even if these are communicated afterwards, shall not be applicable to AVNET.
- 1.2 Derogations from the present general sales conditions, even if they are set out on documents from the client or representatives of AVNET, shall not be applicable to AVNET unless AVNET accepted these derogating provision beforehand in writing. Even in such a case, the present general sales conditions shall continue to apply on all other points.
- 1.3 The present general sales conditions replace all previous AVNET general sales conditions.

**(2) OFFER and CONFIRMATION OF ORDER**

- 2.1 Unless otherwise provided for in writing, offers made by AVNET are valid only for guidance. In no circumstances shall AVNET be bound by such offers even after they have been accepted by the client until AVNET has confirmed the order in writing through an order confirmation.
- 2.2 Any errors in the AVNET order confirmation must, on pain of expiry, be communicated to AVNET in writing within three (3) working days after the date of the order confirmation. After this period, the data given on the order confirmation shall be considered correct.

**(3) DELIVERY and DELIVERY PERIOD**

- 3.1 Unless otherwise provided for in writing, the delivery periods indicated by AVNET are always for guidance and are not of a binding nature. AVNET shall not be responsible for absence of delivery on the date indicated.
- 3.2 If, by derogation from Article 3.1, a binding delivery period is agreed, AVNET shall not be bound to payment of compensation for any delay in delivery unless the principle of such compensation has been the subject of a prior written agreement. In no circumstances may such compensation exceed five per cent (5%) of the value of the amounts concerned by the delay in delivery, with a maximum of 50,000 Euros.
- 3.3 Even when a binding delivery date is agreed, if AVNET has been unable at any moment either to fulfil a contractual obligation or, in the event of loss, damage, injury or delay concerning delivery, caused by or resulting from a situation of force majeure or any event or circumstance beyond AVNET's control, inter alia (and without however detracting from the general scope of the foregoing), the occurrence of any

crime, shortage of goods (particularly due to a delivery delay on the part of AVNET suppliers and/or manufacturers for distribution reasons), an act of war (declared or not), a revolt, accident, strike or lock-out, catastrophe of human or natural origin, behaviour or negligence on the part of the purchaser or any limitation imposed by a local, municipal or national authority (including the customs authorities) in Belgium or abroad, the delivery obligations and other obligations of AVNET shall be suspended and the time allowed to AVNET to meet the said obligations shall be prolonged by the duration of the said delay, unless AVNET, at its own convenience, chooses to cancel the order or the remaining part of the order by simple notification to the purchaser, with no further liability. If the delay in delivery exceeds four (4) weeks, the purchaser and AVNET shall have the right to cancel the order in whole or in part, without entitlement to any compensation whatsoever.

If, in such a case, the agreement is totally or partly terminated, the purchaser shall remain obliged to pay AVNET, on a pro rata basis, for any goods delivered in accordance with any agreement.

3.4 AVNET shall be entitled to make partial or phased deliveries. The present general sales conditions shall apply to any delivery. A partial delivery or a delivery concerning a quantity lower than that indicated in the order confirmation shall not release the purchaser from his obligation to accept the delivery and pay the invoiced amount.

3.5 Unless otherwise mutually agreed in writing, every order must concern a minimum amount of 250 EUR.

#### **(4) TRANSPORT, RISK AND COLLECTION OF GOODS**

Goods shall be transported insured. All transport and packaging costs for the goods shall not form part of the purchase price for the said goods and shall be chargeable to the purchaser. Delivery of goods to the transport operator shall be regarded as equivalent to delivery to the purchaser and at that moment the risk shall pass to the purchaser. AVNET shall be free to determine itself the transport operator and the route for delivery. Derogation from the above provisions shall be possible via a written agreement.

#### **(5) RESERVATION OF OWNERSHIP**

AVNET shall remain the owner of the goods supplied until the purchaser has paid the complete purchase price, including all costs, interests and collection charges.

Consequently, the purchaser may not in any way possess goods that have not yet been fully paid for and, more particularly, may not pledge them to third parties, incorporate them in other goods, transfer ownership thereof or burden them with any guaranty whatsoever.

#### **(6) ESTABLISHMENT OF A SECURITY AND SUSPENSION OF DELIVERY**

6.1 Independently of the agreed terms of payment, the purchaser shall be bound, at the first request by AVNET, to take out a bank guarantee with a recognised Belgian credit institution, relating to compliance with his payment obligations. AVNET may at any time demand the constitution of the said bank guarantee, i.e. both before any delivery takes place and during delivery itself. Until the purchaser has constituted this bank guarantee, AVNET shall be entitled to suspend any (new) delivery without this giving the purchaser a right to any damages whatsoever.

6.2 The same shall apply for as long as the purchaser fails to fulfil his payment obligations relating to deliveries already made.

## **(7) WARRANTY AND CLAIMS**

In the event of claims, the client must advise AVNET thereof in writing within ten (10) calendar days following delivery of the goods; if it is a matter of a concealed defect, within ten (10) calendar days following discovery of the said defect. In all cases, any claim under warranty must be made within the time limit mentioned in Article 7.4. Any claim made after this limit will not be admitted. No return of goods will be authorised without the prior written agreement of AVNET.

7.1 AVNET guarantees the purchaser that when goods are delivered to him they will correspond to the manufacturer's specifications applicable to these goods. AVNET does not offer any other guarantees, explicit or tacit, relating to the said goods. In particular, AVNET does not offer any guarantee concerning the marketing of goods, their aptitude for a particular use or purpose or any possible shortcomings.

7.2 If it emerges, following an investigation by AVNET, that the goods do not correspond to the manufacturer's specifications, AVNET's liability shall be limited as follows: AVNET may decide to reimburse the purchaser the amount of the purchase price of the goods concerned (without interest) or to repair or replace the goods.

7.3 In all cases and unless otherwise agreed in writing, AVNET grants the purchaser a maximum warranty limit of twelve (12) months. The right to invoke the warranty shall expire on expiry of this time limit of twelve (12) months. The warranty period shall begin at the time of delivery or as from the moment of a delay on the part of the purchaser in collecting the goods. If the manufacturer of the goods grants a warranty period longer than (12) months on the goods concerned, AVNET, at the written request of the purchaser, will allow the purchaser this longer warranty, on the express proviso that the manufacturer gives his agreement in writing beforehand.

## **(8) LIMITATION OF LIABILITY**

8.1 Unless otherwise provided for in the present general sales conditions, AVNET shall be in no way liable for damage due to any cause or of any nature on the basis of a contractual or extra-contractual default, negligence by AVNET or members of its staff or agents, relating to the goods. All the conditions, guarantees or other provisions expressly or tacitly established by law (with the exception of binding legal provisions) or in any other manner are hereby and as far as possible expressly excluded, provided that nothing in the present Article excludes or limits AVNET's liability relating to death or serious injury caused by negligence on the part of AVNET, its staff or its agents, or relating to demands made in accordance with the law of 25 February 1991 on product liability.

8.2 In all cases, AVNET's liability shall be limited to foreseeable damage, to the exclusion of consequential damage including, in particular, loss of income, loss of turnover, losses due to closure, increased production costs or operating costs, loss of clientele, loss of reputation or loss of data.

8.3 No claim by the purchaser against AVNET may exceed the purchase price paid by the purchaser for the goods which are the subject of the claim, independently of the nature of the said claim, whether the latter be contractual, for an illicit act, in application of the warranty or of any other nature; in all cases, it shall be limited to a maximum amount of 50,000 Euros.

## **(9) REFUND ON GOODS**

9.1 AVNET accepts no return of goods without a "Return Material Authorization" (RMA) number, which may be issued by the company AVNET Europe Comm. VA if the latter so decides. The goods that are returned must be duly and sufficiently packaged so as to prevent any damage. The purchaser shall be solely responsible for the aforesaid packaging. All returned goods shall be returned following prior payment of the transport costs and in accordance with the instructions given in the RMA. If it can be asserted that the returned goods have defects, a full description of the nature of the defect must be given and attached to the returned goods. Goods not justifying a refund shall be returned to the purchaser at the expense of the latter.

9.2 Notwithstanding any provision to the contrary in the general sales conditions, orders concerning special customised goods or other off-specification goods may not be cancelled and no refund may be claimed on these goods. Such goods are those which must be assembled, goods which are tested, assembled or integrated for the purchaser, goods requiring production work and goods which in any other way can be regarded by AVNET as not being eligible for cancellation or a refund. Goods on which a refund cannot be paid shall be returned to the purchaser against reimbursement.

## **(10) PRICES**

The price shall be fixed in the order confirmation. Notwithstanding the preceding provisions, prices shall be subject to an increase in the event of an increase in the costs incurred by AVNET, particularly the cost of labour, raw materials, energy, supplies by third parties, or any other circumstance beyond the reasonable control of AVNET.

## **(11) PAYMENT**

11.1 Unless otherwise provided for in writing, every invoice, including taxes, must be paid within thirty (30) calendar days as from the date of the invoice, with no compensation or reduction.

11.2 In the event of a part delivery, each of these parts shall be the subject of a separate invoice which must be settled by the client in accordance with the provisions of Article 11.1.

- 11.3 No form of compensation or reduction shall be authorised, unless otherwise agreed in writing.
- 11.4 All invoices which remain unpaid on the due date shall, automatically and without prior notification, be increased by the legal rate of interest applicable in Belgium plus 3%, until they are paid in full. Furthermore, for each amount which falls due and has not been paid within fourteen (14) calendar days following notification by recorded delivery, a clause for damages of ten per cent (10%) of the total amount invoiced, with a minimum amount of 37.50 Euros, shall be applied to the client, without prejudice to AVNET's right to higher damages demanded in reparation of the injury effectively suffered by AVNET.

## **(12) USE OF PRODUCTS FOR KEEPING PERSONS ALIVE, WITHIN THE CONTEXT OF NUCLEAR AND OTHER APPLICATIONS**

Goods sold by AVNET must be used for purposes determined by the respective manufacturers and are not designed, intended or approved for use within the context of keeping a person alive or respiratory, nuclear or other applications for which it can be reasonably supposed that use of the product may lead to physical injury, death or catastrophic material damage. If the purchaser uses or sells goods for such applications, he recognises that this utilisation or sale is effected at the purchaser's sole risk; furthermore, the purchaser recognises that AVNET and the manufacturer bear no liability, total or partial, in any claim following such utilisation. The purchaser discharges AVNET and the manufacturer of the goods concerned from all liability relating to any debts, damages, losses, costs (including legal costs and lawyers' fees), expenses and responsibilities arising from or connected with this utilisation or sale.

## **(13) SOFTWARE**

If an order includes software or another element falling within the scope of intellectual property, the said software or other element falling within the scope of intellectual property which AVNET makes available to the purchaser shall be subject to copyright and a user licence, whose general conditions are set out in the provisions of the licence agreement concerning this software or intellectual property. Nothing in the present general sales conditions may be interpreted as constituting the granting of a right or licence for the use of software in a manner or for a purpose not explicitly mentioned in the licence agreement.

## **(14) CONTROLS ON EXPORTS / RESELLING**

- 14.1 All goods supplied by AVNET are intended to remain in the country where they are delivered and as agreed with the client. AVNET indicates to the client that the reselling of goods supplied by AVNET or another utilisation of the goods and technology and the accompanying documentation is subject to the regulations concerning controls on exports applicable to the United States of America in countries where the contracting parties reside and in the European Union. In all cases, this may also be subject to the regulations of other countries concerning exports or imports.

- 14.2 It shall be the exclusive responsibility of the purchaser to obtain information on the subject of the applicable legislation concerning exports and imports, to comply with the said legislation and, if necessary, to obtain the requisite export and import licences. AVNET may not assume the slightest responsibility in this connection and shall not be liable for any damages vis-à-vis the purchaser due to failure by the purchaser to comply with any legal provision in this matter.

#### **(15) DATA PROTECTION**

- 15.1 According to the terms of these presents, the purchaser gives AVNET authorisation, within the framework of the legal provisions in force, to receive data, particularly personal data concerning the purchaser and his commercial relations with AVNET, information concerning the purchaser, his personnel, the economic position of his company, his turnover, the turnover planned with AVNET, his credit line and the client's responsibilities towards AVNET. Furthermore, the purchaser gives AVNET authorisation to process these data so as to be able to effect the order or observe the performances of the purchaser.
- 15.2 The purchaser shall be entitled to access his personal data and to correct them if they contain errors.

#### **(16) TITLES**

The titles of the different headings in the present general sales conditions are given solely for convenience. In no way do they define, limit or describe the scope, content or interpretation of the Article to which they relate.

#### **(17) APPLICABLE LAW AND COMPETENT COURTS**

- 17.1 The present general sales conditions and all orders and order confirmations from AVNET shall be governed exclusively by Belgian law, with the exception of the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (Vienna Convention).
- 17.2 Any disputes relating to initiation, execution, interpretation or termination to which a purchase order, agreement or the general sales conditions may give rise shall fall within the exclusive competence of the courts of Brussels or the justice of the peace of the canton of Vilvoorde.
- 17.3 Declaration of supply within the meaning of Regulation EC 1207/2001. We declare that the goods supplied by us do not fall within the scope of Regulation 1207/2001.