

**GENERAL CONDITIONS OF SALE OF AVNET IBERIA S.A. SUCURSAL EN ESPAÑA [subsidiary in Spain]**

**11.2005**

1. Purpose

- 1.1. All current or future orders, as well as any service rendered by AVNET IBERIA S.A. Sucursal en España (hereinafter referred to as AVNET or the seller) to the purchasers of its products (hereinafter clients) shall comply with these general conditions of sale.
- 1.2. To be valid, any change to these general conditions must be accepted expressly in writing by AVNET.
- 1.3. Particular conditions shall take precedence over these general conditions only if they are laid down in writing and signed by all the contracting parties. In any event, the part of these general clauses not derogated by a particular clause shall remain in force.

2. Formalisation of the contract

- 2.1. AVNET shall be bound by offers that it makes which are subject to the effective and punctual reception of supplies from the respective manufacturers.
- 2.2. The order placed by the client shall constitute a binding offer that must be expressly accepted by AVNET, either by means of the corresponding order confirmation, or by the dispatch of the requested products, from which moment both parties shall be bound by the present general conditions of sale.
- 2.3. Information supplied verbally by AVNET, as well as any information included in catalogues, brochures, illustrations, drawings, offers and other documentation, shall serve only as a general description of the product, unless there it is expressly stated in writing that it is binding. The seller is not required to provide any information to the client about the changes and modifications made by the manufacturer in the manufacturing and/or composition of the products, where such modification does not affect the functioning or purpose of said product; likewise, AVNET is not required to incorporate these modifications in the products already delivered or corresponding to orders in progress, unless such modification is invoiced in addition.
- 2.4. The minimum acceptable order shall be for €250.00.

### 3. Delivery

- 3.1. Orders shall be delivered on the agreed dates, as far as AVNET has in turn received the supplies of the products from the respective manufacturers in due time and form. The delivery dates indicated by AVNET shall always be estimated, without prejudice to AVNET making its best efforts so that the dispatching and reception of the supplied products are carried out on the dates requested by the client.
- 3.2. The delivery dates shall be presumed observed by AVNET if the products are placed at the disposal of the freight forwarder who is to see to the transport at such time that, under normal conditions, it will be sufficient to carry out the transport.
- 3.3. The delivery time shall not start to run before the order has been confirmed, all necessary licences and permits obtained, especially the import licence, all technical points relative to the ordered product clarified, and before the client has fulfilled all his legal and contractual obligations and has provided the necessary information to AVNET.
- 3.4. All the ordered products shall travel for the account and at the risk of the client. All the supplies of AVNET shall be insured. AVNET shall select the freight forwarder and the shipping route, unless expressly indicated otherwise by the client. The client shall authorise the seller expressly to contract, in the name of the client, such transport as the seller shall deem convenient, unless stipulated expressly to the contrary in writing.

### 4. Incidents in the delivery

- 4.1. AVNET shall be expressly authorised to make partial deliveries of the ordered products and to invoice said partial deliveries separately. Any delay in such a partial delivery shall not authorise the client to cancel the remaining partial deliveries.
- 4.2. In the event of force majeure, war, terrorist attacks, strikes, administrative measures, natural disasters, hindrance of transport, acts or omissions on the part of the government, the civil or military authorities or third parties, changes in the applicable legislation, shortage of raw materials, or any interruption in pending operations, beyond AVNET's control, irrespective of the place or country where they occur, shall exempt AVNET both from the obligation to delivery within the agreed period, and of any responsibilities that may be derived from said concept. If the delivery is delayed by more than four weeks, either party shall have the right to cancel the contract in whole or in part.

- 4.3. If the delivery cannot be made owing to changes in the regulations that govern imports, AVNET shall be entitled to cancel the contract. In such a case, AVNET shall, at the client's request, conclude a new contract in compliance with the new applicable regulations.
- 4.4. If AVNET is late with the delivery of the ordered products for any reason, other than those set out in the preceding sections of these general conditions, the client shall have to request delivery one more time, granting a reasonable period of at least two weeks, before being able to opt for the cancellation of the contract.
- 4.5. The delivery of orders of standard products shall not be changed or cancelled, nor shall the date thereof be changed, without the prior, express consent of AVNET, which may agree or refuse at its discretion.
- 4.6. Orders for non-standard products, such as special products, products to measure, products in kit, products from manufacturers not on the list of EB products, products under development, or any such products identified by AVNET with the initials NCNR, shall not be cancellable nor returnable. Products that cannot be returned shall be sent back to the client carriage forward.
- 4.7. AVNET reserves the right to assign the sales of its products among its clients at its discretion.
- 4.8. AVNET may interrupt the delivery of the ordered merchandise, without incurring any liability, if the client fails to remit payment for any pending quantity when due or if it should have reliable information about the client's financial solvency.
- 4.9. If the client does not lay hold of the ordered merchandise, AVNET may proceed to store said merchandise for the account and at the risk of the client.
- 4.10. If AVNET fails to comply with the provisions of the present general condition, the provisions of Condition number ten shall apply.

5. Reparation:

- 5.1. The client shall be required to examine the merchandise at the time of receipt thereof, and shall communicate any vices or defects observed immediately to the seller in writing. In any event, any action for defects in terms of both quantity and quality shall lapse after four days as of said reception.
- 5.2. Inherent vices must be reported within thirty days after the delivery of the merchandise. If said complaints are not reported within the indicated period, the client shall lose all action and the right to take repeated action for this reason against AVNET.

- 5.3. No complaint shall be admissible if the products were altered in any way by the client.
- 5.4. AVNET shall under no circumstances guarantee the suitability of the products for a specific use without express agreement in writing.
- 5.5. AVNET shall not guarantee the defects produced in products supplied once placed at the client's disposal, which are due to wrong handling (failure to comply with the specifications or conditions of use of the product), or damages or other external influences.
- 5.6. Under no circumstances shall the products supplied be guaranteed to third parties other than the client.
- 5.7. Complaints by the client relative to existing defects at the time of the transfer of risks, notified to AVNET within the periods provided under sections 5.1 and 5.2 of this general condition, shall be settled, in AVNET's judgement, by replacing the product by another one in good condition, and accepting the return of the defective product, or correcting (or repairing) the reported defects of the product. If the AVNET does not settle the client's complaints in the indicated form, within a reasonable period, the client shall have the choice of either cancelling the contract or requesting a reduction of the price. If the client has suffered a loss or has incurred expenses as a result of defects in products supplied by AVNET, Clause ten shall apply.
- 5.8. Products shall be returned only in accordance with the AVNET return procedure ("Return Authorisation"). Returns without AVNET's authorisation shall not be accepted without the authorisation of AVNET, which may grant it or refuse at its discretion. Products which are returned shall be packaged in such a way so as not to suffer any type of damage; the client bearing responsibility if they should do so. Products returned owing to defects shall be sent together with a precise and full description of the nature of the defect. Products which cannot be returned in accordance with clause four, shall be sent back to the client carriage forward.

## 6. Price. Conditions of payment

- 6.1. The price only includes the regular packaging. Transport, import and export licences, taxes, levies and/or other types of charges are not included in the selling price.
- 6.2 AVNET reserves the right to change the price, including in the event of a confirmation of the order, when there are increases in the costs of acquisition of

- the products, in any other costs that have a direct reflection on the final selling price.
- 6.3 The place of payment shall be AVNET's address for service.
- 6.4 Payment shall be made within 30 days of the date of dispatch of the corresponding invoice. The client shall under no circumstances withhold payment of the price or part thereof owing to complaints relative to quantity or quality that it lodges against AVNET.
- 6.5 If, however, AVNET has not evaluated the client's solvency, or if the client is in default with regard to AVNET or to third parties, or if there is any other reason that leads AVNET to doubt the client's capacity or willingness to pay, AVNET may make the delivery of its present or future products subject to payment in advance or upon delivery.
- 6.6 In the event that the client does not pay the price on delivery of the products, AVNET shall have the right to retain as security or sold the products to a third party for the account of the client or for its own account, charging the client the difference between the price agreed and the price actually obtained through such sale.
- 6.7 The client shall not have the right of retention or set-off against payment of the amount payable, unless the debt is recognised by AVNET or declared by court judgement that cannot be set aside.
- 6.8 Delay in payment of the price shall entail the payment of legal interest plus two points, by the client on the amount he owes. As soon as the act transposing Directive 2000/35/EC of the European Parliament and of the Council on combating late payment in commercial transactions is approved and enters into force in Spain, it shall apply directly and immediately to these general conditions.
- 6.9 A client who is in default shall, at AVNET's discretion, be required to grant the corresponding acknowledgement in a public instrument, accept the bills of exchange or other securities. In such a case, all expenses, fees, taxes or levies resulting from the default shall be for the account of the client.

## 7 Reservation of title

- 7.2 The ordered merchandise shall be delivered under reservation of title by AVNET until all the client has fulfilled all payment obligations. The client shall be required to cooperate and adopt such measures as are necessary or convenient, and as are proposed or required by AVNET to safeguard its ownership over the merchandise. The reservation of title shall continue in the event that the client

should have credits accepted and recognised against AVNET, or if a system of current accounts has been established between the two.

- 7.3 The processing or improvement of merchandise over which AVNET has reservation of title shall not grant ownership thereof to the client or the manipulator.
- 7.4 If the products under reservation of title are united or combined with products of third parties, the reserve of title shall persist in proportion to the value the products under reservation of title had prior to such combination.
- 7.5 The client may process or sell the goods under reservation of title in the ordinary course of his business, as far he has not fulfilled his payment obligations to AVNET. In any event, if the merchandise under reservation of title are resold, the credits from said resale in favour of the seller shall be automatically transferred to AVNET, as shall be any other credits forthcoming, by way of compensation for loss, extra-contractual liability, etc. The client shall in such cases be required to provide AVNET with all information and documentation necessary for claiming the subrogated credits. AVNET shall authorise the client to collect said credits in his own name and for the account of AVNET. Said authorisation may be revoked if the client fails to fulfil his payment obligations.
- 7.6 If the value of the products under reservation of title should exceed 10% the amount of the outstanding invoices, provided said excess was not merely temporary, AVNET may, at the request of the client, release the goods under reservation that exceed the aforementioned 10%.
- 7.7 If the client should fail to fulfil his obligations, and in particular, if he is late with payments, or if the client is declared bankrupt, AVNET shall, after prior relevant notification to the client, enter into possession of the merchandise, which the latter shall be required to surrender.
- 7.8 If after remitting payment in full of the price, the sold merchandise were placed under attachment or distraint, the client shall be required to mention expressly in the note which lists the assets being attached, that the goods are property of AVNET and if, in spite of said indication, they are attached, shall facilitate the exercise, by AVNET, of the corresponding action for third party's right to ownership, the expenses for which shall be borne by the client.

## 8 Resale. Export control

- 8.2 The products supplied by AVNET are intended for the country of delivery agreed with the client. The resale or other use of the products or of related technology, or complementary documentation shall be subject to the export control regulations of the United States of America, the countries of residence of the contracting parties,

and the European Union; furthermore, they may be subject to export and import control regulations of other countries. The client shall be required to be informed of the existence of such regulations, to comply therewith and, if necessary, to apply for and obtain the relevant import, export, or re-export licences.

## 9 Limitations of use:

9.1 The products supplied by AVNET shall be used only for the intended use indicated by the respective manufacturer. Unless expressly indicated to the contrary, such uses shall not include life-support systems, uses in connection with nuclear materials or any other use where, a failure in the product could cause harm to life, physical integrity or health, or very large financial damages.

9.2 If the client should make any of the aforementioned uses of the products supplied or programmed by AVNET, or sells them to a third party for such purpose, he shall do so for his account and at his risk, and AVNET shall assume no responsibility in that respect. The client shall, upon request, safeguard AVNET and the respective manufacturer, from all judicial or extra-judicial complaints that may arise as a result, including, in any event, legal costs.

## 10 Liability

10.1 Claims for damages made by the client, for whatever reason, and in particular, for the breach of AVNET's contractual obligations, are expressly excluded as far as they are not due to fraud or serious fault by AVNET.

## 11 Guarantee

11.2 The seller's guarantee shall extend exclusively to products supplied by said seller and shall expire after one year from the date that said products were made available.

11.3 The seller's guarantee shall not apply in the following circumstances: unforeseeable circumstances or force majeure; natural wear of the product; deterioration caused by ill use or employment of products or other unsuited materials, by not complying with the instructions of use and/or of keeping the machine; deficient or insufficient maintenance; repairs or changes made arbitrarily by the buyer or third parties and any other circumstances beyond the seller's control. The seller's guarantee obligation shall be limited to original defects that the product or piece had, with the exclusion of the worsening of such defects caused by the afore-described circumstances.

11.4 If a manufacturer should grant a longer period of guarantee, AVNET shall pass the extension of manufacturer's guarantee onto the client at the latter's request and with the manufacturer's prior consent.

## 12 Intellectual property

12.2 If an order includes software or any other product protected by industrial property rights, said software or industrial property rights shall be transferred to the client under licence of use and copyright, the terms and conditions of which shall be laid down in the licensing contract that accompanies said software or industrial property rights. The terms of these general conditions shall under no circumstances be interpreted as a guarantee of the licence of use in respect of any software or industrial property rights.

## 13 Partial voidance

13.2 These general conditions, considered as a whole, shall not be affected by the voidance, invalidity or liability to be demanded or required of its clauses, those that can not be considered valid falling under the applicable provisions and legal regulations.

13.3 If this is not possible, these conditions shall be interpreted and performed in all their terms as if the void, invalid or non-required provisions had been omitted, insofar as this does not frustrate the basic purpose of these general conditions. The parties shall replace the invalid clauses by others, whose economic purport shall be as similar as possible to fulfil the purposes of these general conditions.

## 14. Personal data

14.1. The buyer shall consent to the processing of his personal data for exclusively commercial purposes, derived from his business relation, in compliance with the Organic Law for the Protection of Personal Data, and other such regulations as may apply on the matter.

## 15. Applicable law

15.1. The place for the performance of these general conditions shall be Madrid.

15.2. Spanish law shall apply to these general conditions. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to these general conditions.

- 15.3. The parties, by express waiver of privileges that may correspond to them, agree to refer any and all disputes that may arise from the interpretation and performance of this document, according to AVNET's choice, to the courts and tribunals of the client's residence or of AVNET's registered office.