

## **AVNET MEMEC WEB PORTAL TERMS OF USE AGREEMENT MyAVM**

This Web Portal Terms of Use Agreement (the "Agreement") is a legal agreement between the Customer (either an individual or the authorized representative of a company or other entity) and AVNET EMG GmbH ("Avnet Memec") regarding MyAVM (the "Service", containing e.g. PCN via email) and related content of Avnet Memec and its licensors (the "Avnet Memec Content"), available through this site (the "Site"). The Service and the Avnet Memec Content are collectively referred to as the "MyAVM" for purposes of this Agreement. If You are agreeing on behalf of a company or other entity to be bound by the Terms and Conditions of this Agreement, the Customer is hereby representing and warranting that the Customer has the authority to act on behalf of, and otherwise bind, the company or other entity. In all such cases, each reference to "the Customer" or "the Customer's" in this Agreement shall refer to the Customer or to the company or other entity the Customer represents, as applicable.

### **myAVM On Line Terms and Conditions of Use**

The Use of the services provided by Avnet Memec (Avnet EMG GmbH) on the website [www.avnet-memec.eu](http://www.avnet-memec.eu) is subject to the following Terms and Conditions of Use ("Terms and Conditions of Use"):

#### **1. DEFINED TERMS**

1.1. Are used herein

**"Customer"** means both an Existing Customer and a Prospect Customer.

**"Existing Customer"** means a customer who already maintains a trading relationship with Avnet Memec and has an account to access the Services.

**"Intellectual Property Rights"** shall have the meaning set forth in Section 6.

**"Linked Website"** means any website to which the Website contains a hyperlink, in particular, but without limitation to, websites operated by the manufacturers of the Products.

**"Products"** means all products with regard to which Avnet Memec informs Customers on availability in accordance with Section 2.1 (a), as set forth on the Website (modified and amended from time to time).

**"Prospect Customer"** means an entity or individual that neither maintains an existing trading relationship with Avnet Memec nor has an account to access the Services, but wishes to access, upon registration according to Section 3.2, information on "User" means a Customer's or Prospect Customer's employee and/or agent acting within the scope of a formal employment or agency relationship authorised by the Customer or the Prospect Customer to use the Services and for whom Avnet Memec provides a "Service" means the information services described in Section 2.1.

**"Avnet Memec"** means Avnet EMG GmbH.

**"Avnet Memec Company"** means any subsidiary of Avnet Inc., including Avnet EMG GmbH, marketing products under the Avnet Memec trademark within the European Union.

**"Website"** means the Internet portal [www.avnet-memec.eu](http://www.avnet-memec.eu) made available to Customers and Prospect Customers for accessing the Services.

Defined terms used in the singular shall be construed to include the plural and defined terms used in the plural shall be construed to include the singular. Avnet Memec and Customer may be referred to individually as a "Party" and collectively as the "Parties". References to "Section" shall mean Section of these Terms of Use. Additional defined terms shall have the meanings given to those terms in these Terms of Use.

## **2. SCOPE**

2.1 On the Website, Avnet Memec makes available to the Customers, having duly registered pursuant to Sections 3.1 and 3.2, the following non binding information:

- (a) Availability of Products
- (b) Specification of customer backlogs
- (c) Shipping history of orders

Whereas Existing Customers are entitled to access the full scope of Services as described in this Section 2.1, Prospect Customers are only permitted to view availability of Avnet Memec products.

2.2 Avnet Memec grants Customers access to the Services free of charge.

2.3 The Use of the Services shall be limited to Users for whom user identifications and passwords are made available by Avnet Memec. The Customers shall be solely responsible for maintaining appropriate security measures to assure that user identifications and passwords are kept confidential and are used only by the individuals to whom such user identifications and passwords have been issued. This Customer's responsibility shall include, but without being limited to, the obligation to inform Avnet Memec [communications@avnet-memec.eu](mailto:communications@avnet-memec.eu) undue delay in writing (including electronic form) on the initial lack of and any modification to the User's right to use the Services on behalf of the Customer.

2.4 Avnet Memec reserves the right at any time without any notice to make to change withdraw improve or otherwise modify the Website and/or the Services. This applies, in particular, but without limitation, to the information on availability of Products (Section 2.1 (a)), which shall in no case be construed as an engagement in form of a binding contractual offer. Avnet Memec makes no commitment to make enhancements and/or modifications to the Website and/or the Services.

2.5. Avnet Memec reserves the right to modify these Terms and Conditions at any time without prior notice. Notice of modifications may be given by posting notice of such changes on myAVM, by electronic mail, by facsimile or by conventional mail. The Customer agrees to continue use of myAVM constitutes acceptance of all of the Terms and Conditions, as modified.

2.6 These Terms of Use do not apply to any purchase of Products on which a Avnet Memec Company and a Customer agree subsequently to the use of the Services. Such purchase shall exclusively be governed by the relevant General Terms and Conditions of Sale of the selling Avnet Memec Company in their respectively applicable versions, which are available under [www.avnet-memec/legal-notices.eu](http://www.avnet-memec/legal-notices.eu)

2.7 The Customer may retrieve specific information connected with products via this Web Portal. Any information provided shall only be for reference purposes and is not a definite pledge. All important information, such as delivery dates, prices, availability, etc., are non binding.

## **3. REGISTRATION**

Access to the Services requires a registration with current, complete and accurate information as prompted by the applicable registration.

A successful registration is dependent on customer's acceptance of these Terms and Conditions of Use.

### **3.1 Existing Customers**

When accessing the Website, Existing Customers will be asked to contact their local office in writing (including electronic form). After successful registration, the User designated by the Existing Customer will receive a user identification and a password by Email.

### 3.2 Prospect Customers

When accessing the Website, Prospect Customers will be required to provide the following information for registration:

- User's Name
- Telephone Number
- Fax Number (if applicable)
- Email address
- Company name
- Department
- Job title
- Company address

After successful registration, the Prospect Customer will receive a confirmation of user identification and password by Email.

Customer is solely responsible to maintain an appropriate email account and to promptly update all information and changes to its email account.

The Customer has to make sure that the Customer`s deposited email address must also provide the possibility of an automatic transmission to another email address of the organization in case of absence. Should Avnet Memec suspect that such information is untrue, inaccurate, not current, or incomplete, Avnet Memec reserves the right, but does not undertake any obligation, to suspend or terminate the Customer`s access to myAVM or seek updated information from the Customer.

The Customer is solely responsible for any and all activities that occur under Customer`s account and for ensuring that the Customer exit or log-off from Customer`s account at the end of each session of use. If the Customer is conducting this session on a public computer or is otherwise using a computer to which multiple people have potential access, the Customer has to be sure to follow all relevant instructions and to ensure to be sufficiently / completely disconnected and logged off myAVM and the computer system to prevent unauthorized access to customer`s account with Avnet Memec. The Customer agrees to notify Avnet Memec immediately of any unauthorized use of Customer`s password or account or any other breach of security that is known or suspected by the Customer under [communications@avnet-memec.eu](mailto:communications@avnet-memec.eu).

### 3.3 Forgotten password

In case a User has forgotten his or her password, Avnet Memec will provide him or her, upon specification of his or her user identification, with a new password by Email.

### 3.4 Access to the Services after registration

Any access to the Services after successful registration requires the specification of the user identification and the password.

## 4. LICENSES

Conditioned upon the Customer`s acceptance of all of the Terms and Conditions of Use set forth herein, and otherwise provided to the Customer, the Customer is hereby granted a limited, nonexclusive, nontransferable, non-assignable license to use myAVM via the Site for Customer`s internal business purposes only. The Customer may not provide the Service or the content of Avnet Memec and its licensors to any third party or other

wise make use of myAVM outside the limited scope of this license.

## **5. HARDWARE AND INTERNET ACCESS**

Customers, at their sole expense, shall be responsible for providing, operating and maintaining the equipment, facilities, software, services and testing required to use the Services and access the Internet to communicate with the Website.

Avnet Memec may, in its sole discretion, remove the Customer's information from its database, warn Avnet Memec's community of the Customer's actions, issue a warning, suspend or terminate the Customer's access to and any current activities to the myAVM immediately, without notice to the Customer, and refuse to provide the myAVM to the Customer if it breaches the Use of these Terms and Conditions, or if Avnet Memec is unable to verify or authenticate any information that the Customer provides, or if Avnet Memec believes the Customer's actions may cause financial loss or legal liability for Avnet Memec's other customers, affiliates or partners, or Avnet Memec. Avnet Memec reserves the right, in its sole discretion, to refuse access to any user at any time to the myAVM, or any portion thereof. You agree that Avnet Memec shall not be liable to the customer or any third party for any termination of the Customer's access to the myAVM.

## **6. UNSUBSCRIPTION**

Customers may unsubscribe the Services at any time by sending an Email to the following Email address: [communications@avnet-memec.eu](mailto:communications@avnet-memec.eu)

## **7. INTELLECTUAL PROPERTY RIGHTS**

MyAVM is proprietary and is protected via various domestic and international laws and International Treaty provisions.

7.1. All material on the MyAVM, including, without limitation, all informational text, design and "look and feel," layout, photographs, graphics, audio, video, messages, interactive and instant messaging design and functions, files, documents, images or other materials (collectively, the "Materials"), whether publicly posted or privately transmitted, as well as all derivative works, are owned by Avnet Memec or other parties that have licensed their material to Avnet Memec, and are protected by copyright, trademark, trade dress and other foreign and domestic intellectual property laws.

Avnet Memec disclaims any proprietary interest in copyrights, trademarks, trade dress, service marks, logos, slogans, domain names and trade names other than its own. Trademarks, logos, images graphics, audio, and service marks displayed on MyAVM are the property of either Avnet Memec or other third parties; You agree not to display or use such property without Avnet Memec's prior written permission.

7.2. The Materials on MyAVM may not be copied, reproduced, republished, uploaded, posted, transmitted, or distributed in any way, including by e-mail or other electronic means, without the prior written consent of Avnet Memec. Any modification of the Materials, use of the Materials on any networked computer environment, or use of the Materials for any purpose other than non-commercial use for the Customer's internal business purposes, without the prior consent of Avnet Memec, may be a violation of the copyright, trademark, and other proprietary rights in the Materials and is expressly prohibited.

If You have properly accessed MyAVM, You may use and display the visuals, information, and documents contained in or made available through MyAVM solely for the Customer's internal business purposes. All rights not expressly granted herein by Avnet Memec to the Customer is reserved by Avnet Memec or its licensors.

## **8. DISCLAIMERS**

8.1 Avnet Memec provides the Services on an "AS-IS" basis and makes no warranty with respect thereto. Avnet Memec does not warrant the availability, accuracy, integration, reliability, or completeness of the Website and/ or Services. Avnet Memec shall not be responsible for problems caused by data transmission, computer hardware, computer operating systems or the use of the Products in conjunction with other applications and/or services not made available by Avnet Memec nor for typographical or other errors or omissions on the Website.

8.2. Avnet Memec may provide hyperlinks to other internet web sites maintained by third parties or may provide third party content on MyAVM. The content in any such linked sites is not under Avnet Memec control and Avnet Memec is not responsible for the content of those sites, including any further links in another site. If You decide to access any of the third party sites linked to this or any other AVNET Web Site, the Customer understands that the Customer do so entirely at the Customer´s own risk. The Customer understands that it is up to the Customer to take precautions to ensure that the third party the Customer link to for Customer´s Use is free of computer viruses, worms, trojan horses and other items of a destructive nature. By providing a link, Avnet Memec does not necessarily endorse a third party or its web site. Avnet Memec reserves the right to terminate a link to a third party web site at any time in its sole discretion.

8.3 Neither Avnet Memec nor its licensor make any warranty or representation with respect to the Services or Products and Avnet Memec disclaims any and all other warranties, express or implied.

## **9. LIABILITY**

9.1 Avnet Memec shall not be liable to the Customer under or in connection with these Terms of Use except to the extent of Avnet Memec´s negligence where such negligence consists of a breach of a substantial contractual obligation and results in proven direct and foreseeable damage to the Customer, in which event the liability of Avnet Memec shall be limited to and shall in no event exceed ten thousand Euros (10.000 EUR) in respect of any one incident or series of incidents arising from the same cause.

9.2 In no event shall Avnet Memec be liable for any special, consequential, incidental punitive, indirect or alike damage or loss of whatsoever nature, including but not limited to, loss of profit or loss of business.

9.3 Limitation of liability as described in this Section shall not apply if damage or loss is caused by Avnet Memec's wilful misconduct (including fraud) or gross negligence. Similarly, the limitation of liability provided for in this Section shall also not apply to damages caused by personal injury or otherwise prohibited by indispensable, mandatory law.

9.4. You hereby acknowledge and agree to indemnify and hold harmless Avnet Memec, its licensors, and their respective affiliates, subsidiaries, assigns, officers, directors and employees from all costs and expenses (including reasonable attorneys' fees) in the event of any third-party claim relating to Your: (a) breach of any term or condition of this Agreement; or (b) Your use or misuse of MyAVM.

## **10. DATA PROTECTION**

The processing and use of the User's personal data collected on the Website is affected in accordance with the Avnet Memec Data Protection Commitment, available on [www.avnet-memec.eu/privacy](http://www.avnet-memec.eu/privacy)

## **11. GENERAL**

### **11.1 Severability**

Should provisions of these Terms of Use be entirely or partially invalid or unenforceable, or become so at a later date, the validity and enforceability of the remaining provisions of these Terms of Use shall not be effected thereby. The ineffective or unenforceable provision shall be replaced with an appropriate provision, which comes closest to the object of these Terms of Use, or to the intention of the Parties had they included the matter in these Terms of Use. The same shall apply to gaps.

### **11.2 Force Majeure**

Avnet Memec shall not be liable for failure or delays due to causes beyond its reasonable control.

### **11.3 Headings**

Headings are included solely for convenience and are not intended to be full and accurate descriptions of the content of the respective provision.

**11.4 Survival.** All provisions of these Terms of Use which by their nature survive the expiration or cancellation of the Terms of Use or the unsubscription of the Services, including, without limitation to, those relating to intellectual property rights, disclaimers and limitations of liability shall survive the expiration or cancellation of the Terms of Use or the unsubscription from the Services.

**11.5 Representations.** Customer represents that:

- (i) Customer is relying on no representation of Avnet Memec except as expressly specified herein;
- (ii) Customer's use of the Services shall be solely for the conduct of its own business processes;
- (iii) Customer shall not disclose any information contained in the Services to any third party;
- (iv) Customer shall not "data mine" or otherwise compile data from the Services except to the limited extent expressly permitted hereunder and
- (v) Customer's use of the Services shall be solely for lawful purposes and in compliance with applicable laws.

### **11.6 Governing Law and place of Jurisdiction**

These Terms of Use shall be governed by German law, excluding any law or principle that would apply the law of any other jurisdiction. The United Nations Convention for the international sale of goods shall not apply. For disputes arising out of or in connection with these Terms of Use, which cannot be settled amicably, the exclusive venue shall be Munich.

**11.7 Successors and Assigns.** The provisions herein shall be binding on the Parties and their respective successors and assigns.

## **12. Customer Service**

Any questions or comments regarding the Avnet Memec or the Terms and Conditions of this Agreement may be submitted to [communications@avnet-memec.eu](mailto:communications@avnet-memec.eu).

## **13. Printing**

You are encouraged to print a copy of the Terms and Conditions of this Agreement for Your records.

**YOU ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT, UNDERSTAND IT AND ACCEPT THAT IT IS ONLY AVAILABLE IN ENGLISH, AND YOU AGREE TO BE BOUND BY ITS TERMS AND CONDITIONS.**