

Fischer Connectors, Inc. Standard Terms and Conditions

Fischer Connectors, Inc. ("Seller")'s Standard Terms and Conditions of Sale are an integral part of Seller's Quotation and/or final Order Confirmation and/or Acknowledgment of Purchaser's Order. Purchaser shall note these Standard Terms and Conditions on receipt of the Quotation and/or Order Acknowledgment and expressly accepts them by placing the order with Seller.

1 Definitions

"Seller" shall refer to Fischer Connectors, Inc., a Georgia corporation, and any entity that owns or is owned or controlled directly or indirectly by Fischer Connectors, Inc. "Purchaser" shall refer to the entity that receives and accepts Seller's Quotation, and/or Order Acknowledgment. "Product" and "products" include connectors, cable assemblies and all other goods/services sold to Purchaser by Seller.

2 Offer to Sell

Seller's Quotation is an offer to sell its product on the terms and conditions stated herein and is not an acceptance of any offer or the confirmation of an existing agreement. The quoted prices in the Quotation are fixed and valid for the time period shown on the front of the Quotation and/or as specifically identified herein. All prices quoted are exclusive of taxes, insurance, freight charges or other incidental expenses, which are the responsibility of Purchaser. No reference herein to Purchaser's purchase order or any other document prepared by, or communication with Purchaser shall constitute Seller's acceptance of any term or condition therein which varies from these Terms and Conditions.

3 Entire Agreement, Acceptance of Quotation

Seller's Standard Terms and Conditions of Sale may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement and may only be explained, supplemented, modified, altered, waived or superseded by a writing signed by both parties. These Standard Terms and Conditions, together with those of Purchaser's terms that are not inconsistent with them and do not: (i) require Seller to take any action beside the supply of its product and finished product test data; (ii) impose restrictions on Seller's activities in addition to those imposed directly by government statutes, or (iii) add to Seller's obligations, shall constitute the agreement between Purchaser and Seller (the "Additional Purchase Terms"). Terms imposing any different or additional obligations are expressly rejected. Seller may send written confirmation of the purchase order (the "Order Acknowledgment") but Seller hereby objects to and rejects any additional terms (other than additional terms that meet the requirements of Additional Purchase Terms) or different terms, including those contained in Purchaser's purchase order, unless Seller expressly identifies and agrees to such terms in writing in the Order Acknowledgment. These Standard Terms and Conditions together with the Additional Purchase Terms constitute the parties' agreement ("Agreement"). These Standard Terms and Conditions shall govern any changes made to the requirements of the Agreement. It is Seller's intent that its Quotation be treated as an offer. However, if Purchaser's purchase order or any other correspondence from Purchaser is deemed to be an offer, Seller's acceptance of Purchaser's offer is expressly conditioned on assent to these Standard Terms and Conditions.

4 Payment

Payment is due as stated on Seller's Invoice or, if not stated thereon, net 30 days from the date that Products were delivered. Purchaser agrees to pay interest at 12% per annum on all invoices not paid in full by the due date. Seller reserves the right to alter Purchaser's credit limit, if any, at any time, or to require payment for any order prior to delivery. Purchaser's failure to make any payments requested by Seller shall give Seller the option to cancel this Agreement or to delay delivery without otherwise affecting Seller's rights hereunder. Payment shall be made in the currency specified by Seller. As partial payment of sums due Seller may accept any check or tender of payment without entering into an accord and satisfaction, without waiver, and without prejudice to Seller's right to full payment of the remainder due or to become due hereunder notwithstanding any terms or conditions endorsed on or stated in any communication related to such check or tender. Seller may apply any payment tendered by Purchaser to any amount owed to Seller by Purchaser whether under this Agreement or otherwise.

5 Inspection of Order by Purchaser

Purchaser must check any Order Acknowledgment and immediately inform Seller in writing of any error or anomaly within three (3) days of receipt of Order Confirmation.

6 Deliveries

Seller's obligation with respect to each item and delivery date shall be separate and distinct. Delivery dates are to be treated as estimates only. Seller reserves the right to adjust shipment schedules from time to time with notice to Purchaser. Seller's failure to make delivery of any item or to meet any delivery date shall not affect either party's obligation with respect to any remaining items or deliveries specified in this Agreement. Purchaser should confirm the suitability of Seller's standard manufacturing lead times when placing orders. With respect to each delivery obligation contained in this Agreement: (i) Tender of a shipment to any licensed carrier shall constitute delivery to Purchaser; (ii) Seller shall use its commercially reasonable efforts to deliver in accord with the schedule specified in this Agreement. Any delivery not in dispute shall be paid for in accordance with that order's terms to Purchaser, regardless of any dispute as to the other delivered or undelivered goods. Seller is not obligated to package goods for outside storage. Deliveries of up to ten percent (10%) above or below quantities specified in the order shall be accepted by Purchaser and the invoice price will be adjusted accordingly. Unless otherwise specified by Seller, delivery is made at Purchaser's risk and expense, FOB Alpharetta GA or Origin (Shipping point). The delivery is regarded as complete once the Product leaves Seller's facility. At the written request of the Purchaser, Seller will insure the delivery at Purchaser's expense. Unless specifically instructed by Purchaser, Seller will select an appropriate method of forwarding and routing the Product.

7 Inspection of Product, Claims for Defects

Purchaser shall inspect the Product it receives within thirty (30) days after delivery or within the period required by applicable law, whichever is shorter. Seller must be notified promptly in writing of any non-conformance. With respect to defects discoverable upon reasonable inspection, all claims are waived if not made within thirty (30) days from date delivered. In the event of any claim by Purchaser regarding the quality of the Product delivered, such Product must be promptly offered to Seller for examination. Seller shall have no obligation to replace or provide credit for Product claimed to be defective unless Seller receives representative samples of the Product and is provided an opportunity to examine the Product at a place convenient to the Seller. Purchaser's right to reject Product shall at all times be limited to that portion of the Product actually defective. No Product may be returned without Seller's prior written authorization and return material authorization number. All Products for return must be freight prepaid by Purchaser.

8 Title Risk of Loss

Unless otherwise agreed by the parties in writing, risk of loss or damage to the Product shall pass to Purchaser upon delivery to a common carrier. After Seller's delivery of the Products to the common carrier, all charges of freight, handling and insurance are the responsibility of the Purchaser. Purchaser assumes all risk of loss or damage after delivery of the Products to the carrier; any claims for loss or damage shall be made by Purchaser directly with the carrier. Purchaser shall take title to the Product upon Seller's receipt of payment for the Product delivered.

9 Limited Warranty

Seller warrants that at the time of delivery the Products sold hereunder shall be free from defects in materials and workmanship and shall conform to Seller's specifications, and, if applicable, acceptance criteria to which Seller has agreed in writing. Purchaser retains sole responsibility for determining whether the Products are fit for the intended use, and for suitability of qualification and acceptance criteria. Seller's Limited Warranty does not cover damage due to natural wear and tear, insufficient maintenance, chemical or electrolytic influences, defective wiring work or installation. Seller's Limited Warranty is void if Purchaser or third parties carry out modifications or repairs on the Product without the prior written agreement of Seller. Claims for defects must be received by Seller in writing within one (1) year from Seller's delivery of Product on which the claim is based or such longer period as required by applicable law. Purchaser's exclusive remedy will be limited to repair, replacement at Seller's facilities, or refund for Products which Seller verifies as defective. Seller shall determine which remedy shall apply in its sole discretion. Seller will retain all replaced parts. Except for the warranty set forth in this Section 9, unless otherwise required by applicable law, **SELLER MAKES NO WARRANTY, EXPRESS OR IMPLIED, AND EXPRESSLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE.**

10 Limitation of Liability and Insurance

NO CLAIM BY PURCHASER OF ANY KIND FOR DAMAGES SHALL BE GREATER IN AMOUNT THAN THE PURCHASE PRICE OF THE PRODUCT IN RESPECT OF WHICH SUCH DAMAGES ARE CLAIMED. SELLER SHALL, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NOT BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, OR OTHER DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF BUSINESS OR PROFIT, BASED ON ANY ALLEGED DESIGN OR MANUFACTURING DEFECT, NEGLIGENCE, BREACH OF WARRANTY, STRICT LIABILITY, INDEMNITY, OR ANY OTHER REASON OR LEGAL THEORY ARISING OUT OF THE USE OR HANDLING OF THE PRODUCT OR ITS PERFORMANCE HEREUNDER, TO THE EXTENT THAT SUCH LIABILITY EXTENDS SELLER'S OBLIGATIONS BEYOND THE PRICE PAID TO SELLER FOR THE PRODUCT ON WHICH SUCH CLAIM IS BASED. SELLER SHALL NOT BE LIABLE FOR ANY DIRECT OR CONSEQUENTIAL DAMAGES ARISING FROM DELIVERY DELAY, WHETHER OR NOT ARISING FROM SELLER'S NEGLIGENCE, OR FROM TRANSIT LOSS OR DAMAGE. SELLER IS NOT OBLIGED TO OBTAIN OR MAINTAIN ANY INSURANCE NOT REQUIRED BY APPLICABLE LAW. FOR PURPOSES OF THIS SECTION, SELLER SHALL INCLUDE SELLER'S AFFILIATES INCLUDING ITS PARENT COMPANY FISCHER CONNECTORS, S.A., A LIMITED LIABILITY COMPANY UNDER SWISS LAW.

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11 Changes

Any changes to the specification or delivery schedule requested by Purchaser will require agreement between the parties as to technological feasibility and price before Seller will be obliged to implement such change. Seller reserves the right to improve and make changes to products sold hereunder without notice or approval, except for changes that would affect the form, fit or function of the delivered Product as outlined in applicable specifications.

12 Cancellation

Purchaser has no right to terminate or cancel without Seller's agreement. Orders cancelled by Purchaser other than for default of Seller will be subject to a cancellation charge. If quantities ordered are reduced or cancelled, Purchaser agrees to pay for all product shipped not yet paid for, all finished goods in transit, all WIP, all sub-components and raw materials associated with the reduction/cancellation of an order and any items where an NCNR agreement exists between Seller and any of its sub-suppliers that are associated with such cancellation or reduction and any other costs, expenses, losses that Seller experiences as a result of such reduction/cancellation. Purchaser's cancellation request(s) must be in writing.

13 Technical Data, Confidential and Proprietary Information

All technical data with which the Purchaser is provided (leaflets, catalogues, technical documents, drawings, descriptions, reproductions, etc.) in hardcopy or electronic form (including all the technical data available on Seller's website www.fischerconnectors.com and associated Fischer Connectors Internet sites) is provided for information purposes only. Seller has no obligation to provide technical data other than its standard finished product inspection data. Seller has no obligation to perform, and this is not an agreement for, research, developmental or experimental work. Seller has no obligation to disclose, convey rights or allow access to technical, financial, or other information protected by it as proprietary or to indemnify Purchaser for such refusal to disclose. Seller reserves the right to amend the technical specifications of the products and services indicated in the Order Confirmation. All technical data transmitted to the Purchaser remains the intellectual property of Seller or its parent company Fischer Connectors, S.A., and may not be reproduced nor copied, communicated to third parties nor used in any way whatsoever without prior written authorization by Seller.

14 Force Majeure

Seller shall not be liable for any delay in delivery or for non-delivery, in whole or in part caused by the occurrence of any contingency beyond the control either of Seller or suppliers to Seller, including, but not limited to, war (declared or not), sabotage, insurrection, rebellion, riot or other act of civil disobedience, act of public enemy, failure or delay in transportation, act of any government or any agency or subdivision thereof, judicial action, labor dispute, fire, accident, explosion, epidemic, quarantine restrictions, storm, flood, earthquake, shortage of labor, fuel, raw material or machinery or technical failure.

15 Representations and Certifications

Seller makes no representations or certifications in connection with this Agreement except those which are expressly contained within these Terms of Sales and, if any, those provided separately which are signed and dated by the Seller and made exclusively applicable to this Agreement.

16 Applicable Law, Collection, Jurisdiction and Venue

This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia, excluding its conflict of laws rule. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction. Should Seller be required to engage the services of an attorney to enforce payment hereunder, Seller shall be entitled to all costs of collection, including reasonable attorneys' fees, and Purchaser agrees that exclusive venue of such suit shall be in the State or Superior Courts of Fulton County, Georgia. The United Nations Convention on contracts for the international sale of goods of 11 April 1980 (known as the Vienna Sale of Goods Convention) shall not apply.