

## Terms of Use for WORKS by PHOENIX CONTACT

### 1. General

- 2.1. The following Terms of Use apply to the use of WORKS by the USER. The Terms of Use regulate the extent to which the USER's rights of use to the WORKS are limited.
- 2.2. These Terms of Use govern the contractual relationship between the USER and PHOENIX CONTACT with regard to the use of the WORK. General terms and conditions of the USER shall not become part of the contract even if PHOENIX CONTACT does not expressly object to their inclusion.

### 2. Definitions

**AFFILIATED COMPANIES** are companies in which the USER or PHOENIX CONTACT directly or indirectly (i) holds more than half of the voting rights; or (ii) can appoint or recall more than half of the members of the administrative, management or supervisory body or of the bodies appointed for legal representation; or (iii) has the right to conduct the business of the company; or (iv) viewed economically, bears the majority of the risks and opportunities of a company which serves to achieve a narrowly limited and precisely defined objective of a party (special purpose company) and such companies which directly or indirectly have the aforementioned possibility to influence the respective party as well as its AFFILIATED COMPANIES, but only as long as the aforesaid requirements are met. The AFFILIATED COMPANIES also include the commercial agents associated with the respective company. AFFILIATED COMPANIES are no third parties within the meaning of these Terms of Use.

**PHOENIX CONTACT** is Phoenix Contact GmbH & Co. KG, Flachsmarkstraße 8, 32825 Blomberg, Germany; and/or an AFFILIATED COMPANY that distributes, publicly reproduces or has made available the WORKS.

**PURPOSE OF USE** is the purpose of the use of the WORK as defined in clauses 3.1 and 3.3.

**TEXTFORM** is the readable reproduction of a declaration of intent, in particular e-mail or letter, which clearly identifies the respective party. An electronic signature and/or a handwritten signature by the respective party are not required.

**USER** is any third party who wishes to use the respective WORK of PHOENIX CONTACT.

**WORKS** are all copyrighted works and contents in which PHOENIX CONTACT is entitled to copyright and/or ancillary copyrights, in particular images, video and sound recordings, technical documentation, drawings, logos and CAD files.

**WRITTEN FORM** requires that the declaration of intent – unless otherwise specified in the Terms of Use – is signed by the person(s) entitled to proper representation of the respective party (a) with his name in his own hand or (b) by his notarially certified initials or (c) notarized, and transmitted to the other party as original or as fax.

### 3. Rights of Use

- 3.1. The WORKS may only be used for the USER's own purposes in compliance with the copyright and other rights of PHOENIX CONTACT and only in

accordance with these Terms of Use, in particular clause 3.3.

- 3.2. PHOENIX CONTACT grants the USER a simple (non-exclusive) right to use the WORK, free of charge, sublicensable, non-transferable, spatially and temporally unlimited, to use the WORK within the framework of the PURPOSE OF USE, in particular to download it (provided that it is made available explicitly by means of a download), to store it, to disseminate it, to make it publicly accessible or to make it available to the public and to physically or electronically reproduce it. The USER is also granted the right to label the contents with his own designations if this is necessary for traceability and PHOENIX CONTACT remains recognizable as the author and owner.

- 3.3. The purpose of use is limited as follows:

- 3.3.1. The technical documentation serves to document the USER's own product. Their use is therefore only covered by the license in accordance with clause 3.2 if and to the extent that it is necessary for this purpose.

- 3.3.2. The images, drawings, CAD data and/or other product data provided are for the purpose of distributing the USER's own products and are therefore only covered by the right of use granted in clause 3.2, insofar as they are necessary for their distribution.

- 3.3.3. The use of logos is only permitted within the scope of the cooperation with PHOENIX CONTACT and for the presentation of the jointly achieved results to possible business partners of the USER and requires a business relation of the use to PHOENIX CONTACT. Such a business relationship does not already exist when the USER purchases products from PHOENIX CONTACT. When using the logos on the Internet, the user is obliged to provide a reference in the form of a link to the website of PHOENIX CONTACT ([www.phoenixcontact.com](http://www.phoenixcontact.com)). If the cooperation with PHOENIX CONTACT is terminated, all logos made available up to then are to be deleted immediately and their use ceased.

- 3.3.4. The WORKS must not be used if this results in (i) infringing the rights of third parties, or (ii) unlawful, misleading, malicious, discriminatory, pornographic, sexist, threatening, abusive, defamatory, obscene, defamatory, ethically offensive, violent, harassing, inappropriate for minors, racist, immoral, inciting to racial hatred, xenophobic or otherwise despicable and reprehensible, or (iii) could damage the image or reputation of PHOENIX CONTACT.

- 3.3.5. If the user is a member of the press, the WORKS made available may only be used for editorial purposes.

- 3.4. The USER is only entitled to sublicense to AFFILIATED COMPANIES and only insofar as this is necessary for the distribution of his own products.

- 3.5. The right to process or otherwise transform the WORK, including the transfer of excerpts of the WORK is not granted. The right to edit and redesign may only be granted with the prior consent of PHOENIX CONTACT in WRITTEN FORM.

- 3.6. The transfer or assignment requires the separate consent of PHOENIX CONTACT in WRITTEN FORM.
- 3.7. The USER is not entitled to remove company marks, trademarks, logos or other designations of PHOENIX CONTACT from the WORKS.

#### **4. Expiration of the rights of use; Right of revocation**

- 4.1. All rights of use granted to the USER shall expire automatically with immediate effect without separate statement by PHOENIX CONTACT if the USER violates these Terms of Use.
- 4.2. PHOENIX CONTACT reserves the right to revoke the granted rights of use with immediate effect for the future in the following cases:
  - 4.2.1. if the legal relationships and ownership structure of the USER sustainably change in such a way that might give rise to significant economic or legal disadvantages for PHOENIX CONTACT (e.g. majority holding of a competitor); or
  - 4.2.2. if PHOENIX CONTACT no longer has any rights of use in the WORK itself.
- 4.3. PHOENIX CONTACT may, however, revoke the rights of use granted with effect for the future, even without stating reasons, by observing a period of notice of four (4) weeks.
- 4.4. The revocation takes place in TEXTFORM or WRITTEN FORM.
- 4.5. The USER is obliged to return or destroy all WORKS received in the event of expiration or revocation of the rights of use. At the request of PHOENIX CONTACT, destruction shall be confirmed by the USER in TEXTFORM or WRITTEN FORM. A right of retention of the USER is excluded in this respect.

#### **5. Warranty**

- 5.1. The WORK is only owed in the manner and condition as it is actually available PHOENIX CONTACT in each case ("as is-principle"). The correctness of the respective WORK or a previous examination of the WORK for correctness before making them available by PHOENIX CONTACT is not owed.
- 5.2. PHOENIX CONTACT does not assume any warranty for the suitability and merchantability of WORKS for certain purposes and for the freedom from rights of third parties, unless this has been contractually agreed otherwise.
- 5.3. PHOENIX CONTACT is not obliged to inform the USER about updates of the WORKS received after they have been made available to the USER. It is the USER's own responsibility to check whether the WORK is the most current version of the WORK in each case and whether it is suitable for the intended purpose and place of use. PHOENIX CONTACT accepts no liability in this respect.

#### **6. Liability**

- 6.1. Since PHOENIX CONTACT provides the WORKS free of charge, any liability for damages arising directly or indirectly from the use or non-usability of the WORKS is excluded, as far as these are not based on malice, intent or injury to life, body or health.
- 6.2. A violation of the Terms of Use by AFFILIATED COMPANIES is considered a violation of the Terms of Use by the USER.
- 6.3. In the event of a culpable violation of clause 3.3.4 by the USER or his ASSOCIATED COMPANIES, the USER shall indemnify PHOENIX CONTACT from all claims of third parties due to such violation. Furthermore, PHOENIX CONTACT reserves the right to take suitable measures to defend against such claims and to assert all damages, reasonable expenses and other justified claims against the USER, insofar as they are not reimbursed by third parties (e. g. legal expenses insurance).

#### **7. Final provisions**

- 7.1. The laws of the Federal Republic of Germany shall apply, excluding conflict-of-law provisions and the UN Convention on Contracts for the International Sale of Goods. If the USER is a consumer within the meaning of § 13 of the German Civil Code and is not domiciled in Germany, the mandatory provisions of the law which would be applicable without choice of law shall also apply.
- 7.2. Insofar as the USER (i) is a merchant within the meaning of the German Commercial Code and has his registered office within the EU, (ii) is a legal entity under public law or a special fund under public law, (iii) has no general place of jurisdiction in the Federal Republic of Germany or any other member state of the European Union, or (iv) has moved his registered office or habitual residence from Germany after conclusion of the contract or his registered office or habitual residence is not known at the time of filing an action, the exclusive place of jurisdiction for all disputes in connection with the execution of the contract is Cologne, Germany.
- 7.3. Insofar as the USER is a merchant within the meaning of the German Commercial Code and has its registered office outside the EU, the parties agree that any disputes arising out of or in connection with the Terms of Use or its validity shall be finally settled in accordance with the rules of arbitration of the German Institution of Arbitration (DIS) without recourse to the ordinary courts of law. The place of arbitration shall be Cologne, Germany. Notwithstanding the aforementioned, the parties shall be entitled to apply for proceedings within the relief at the state-run courts. The arbitration court shall consist of three arbitrators. The language of the arbitration proceedings shall be English.

**As at: February 2018**