

# General Trade and Delivery Terms

## 1 General

- 1.1 These general Trade and Delivery Terms apply to all deliveries and services of Asetronics AG (hereinafter *Asetronics*). Other terms of the Customer do not apply without the written authorization of Asetronics.
- 1.2 All agreements and legally based statements of the contractual parties must be in writing to be valid.
- 1.3 The Contract with the Customer comes about through written acceptance (order confirmation) by Asetronics.
- 1.4 Electronic signatures consistent with the state of the art that are issued in accordance with currently applicable laws are acceptable and binding. Where possible they replace the physical signature.
- 1.5 Should a clause in these general trade and delivery terms be ineffective, this does not compromise the effectiveness of the other clauses. Should a clause in these terms be partially ineffective, the other part shall remain effective. Parties are obliged to replace an ineffective clause by an effective replacement clause that comes as close as possible to the economic purport of the ineffective contractual clause.
- 1.6 The modules supplied by Asetronics are RoHS (EC-Directive 2011/65/EG for the limitation of the use of certain hazardous substances in electrical and electronic equipment) consistent, insofar as this is marked on the relevant article or delivery position. In the context of the RoHS, Asetronics already uses equivalent lead-free modules that are defined by the manufacturer as the successors of lead-containing modules (with or without a change in manufacturer's part number). Without notice from the Customer to the contrary within 8 workdays, this regulation is considered to have been accepted.

## 2 Scope of deliveries and services

- 2.1 The deliveries and services of Asetronics are listed at the end of these terms including any possible appendices.
- 2.2 Partial deliveries are authorized.
- 2.3 Production-related short or excess deliveries are allowed. Short or excess deliveries comprising up to 10% of the order quantity are standard in the industry and are considered to represent fulfilment consistent with contract. In case of short deliveries of an order quantity, no right exists to later delivery of the missing quantity.

## 3 Technical documents, drawings and auxiliary resources

- 3.1 Specifications in brochures and catalogues are non-binding. Specifications in technical documents are only binding insofar as they are specifically guaranteed.
- 3.2 Each contractual party reserves all rights to drawings and technical documents that he has given to the other party. The receiving contractual party acknowledges these rights and will not make the documents accessible to third parties in part or in full without the prior written authorization of the other party or use them for purposes other than the purpose for which they were provided to him.
- 3.3 Equipment and auxiliary resources of all types, with the exception of those made available by the Customer or those for which payment has been made, are in any case the property of Asetronics.
- 3.4 With regard to equipment and auxiliary resources that the Customer provides for Asetronics, special terms are to be established; maintenance and care costs are in any case the responsibility of the Customer; the storage costs are the responsibility of Asetronics, however maximally up to two years after the last delivery.

## 4 Regulation in the country of destination and technical safety measures

- 4.1 The Customer must inform Asetronics at the latest by the time of placement of an offer of nationally specific regulations and standards that apply to the execution of the deliveries and services.

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- 4.2 In the absence of agreements to the contrary, deliveries and services are consistent with the regulations and standards applicable in Switzerland.

## 5 Prices

- 5.1 All prices are net, EXW (ex works, Incoterms latest edition), without packaging, in Swiss francs, without any deductions and requalification test as per IATF 16949 or ISO 13485. All secondary costs (such as, for example, for freight, insurance, export, trans-shipment, import and other fees, taxes, levies and duties, etc.), that are imposed in connection with the contract are the responsibility of the Customer or refunded to Asetronics on presentation of the relevant receipt if that company has become obligated for these.
- 5.2 Asetronics reserves the right to effect price changes if the exchange rate or material prices change between the time of the offer and its contractual fulfilment. In such a case the price adjustment is consistent with the degree of increase.

A suitable price adjustment also takes place if

- The delivery term is extended afterwards for one of the reasons specified in subparagraph 8.3, or
- The nature or scope of the agreed upon deliveries or services has undergone a change, or
- The construction, material and/or the execution undergoes a change because the documents that the Customer provided do not reflect the actual situation or were incomplete or the Customer referred to regulations or standards as per 4.1 too late.

- 5.3 In components that must be acquired in a minimum packaging unit, Asetronics reserves the right to deliver the excess components to the Customer and invoice him for them if no other order follows within 6 months after the delivery (with regard to contracts, this applies commencing at the end of the term of the contract.).

## 6 Payment terms and conditions

- 6.1 The Customer must pay invoices within 30 days commencing on the date of invoice, net and without any deductions.
- 6.2 The payment dates must also be adhered to if transport, delivery, assembly, placement in operation or acceptance of deliveries or services are delayed or made impossible for reasons not attributable to Asetronics or if significant parts are lacking or secondary work proves to be necessary that, however, does not make the use of the delivery or services impossible.
- 6.3 If the parties have agreed upon a down payment and the Customer fails to pay this according to the contract, Asetronics is authorized, according to its choice, to either adhere to the contract or withdraw from it. In both cases Asetronics reserves the right to claim damages.
- 6.4 If the Customer is in arrears regarding his payment obligation, he must pay arrears interest of 5%, and damages, commencing at the time when payment was due, without the need for a reminder.
- 6.5 The adjustment of mutual claims based on or associated with this contract is only possible with a recognized or legally established counter-claim.

## 7 Retention of proprietary rights

The ownership of the objects delivered remains with Asetronics until complete payment of the agreed upon price. If the Customer comes to be in arrears with regard to payment, Asetronics is authorized to have the retention of proprietary rights entered into the register of proprietary rights at the expense of the customer.

## 8 Dates, delivery period

- 8.1 Delivery must be effected at the time contractually agreed upon between parties.
- 8.2 Adherence to the schedule by Asetronics is predicated upon the Customer's correct fulfilment of the contractual obligations, particularly payment and cooperation obligations.
- 8.3 The delivery date may be extended particularly in the following cases:  
a) Asetronics does not receive the information necessary for the fulfilment of the contract on time or the Customer changes this later;

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b) Extraordinary circumstances arise that Asetronics cannot avoid/prevent despite the exercise of the necessary care, irrespective of whether these arise at Asetronics, the Customer or a third party. Considered to be extraordinary circumstances are such events as epidemics, natural events, mobilization and war, but also significant operational disturbances, accidents, labor conflicts or delayed or incorrect receipt of the necessary raw materials.

- 8.4 On the grounds of a delay in deliveries or services, the Customer can neither withdraw from the contract nor claim a discount or damages or make any other claims, unless the situation involves culpable intent in conflict with law or gross negligence on the part of Asetronics. Asetronics is not liable for intent in conflict with law or gross negligence on the part of auxiliary personnel.
- 8.5 If the Customer defaults in terms of acceptance, Asetronics is authorized to retain the relevant goods at the expense and risk of the Customer, thus releasing itself from obligation. Additionally, Asetronics is authorized to invoice the Customer for the extra costs, particularly storage costs according to normal market prices and interest, resulting from the default in acceptance.

## 9 Transfer of use and risk

- 9.1 Use and risk transfer to the Customer at the latest at the time of commencement of delivery ex works.
- 9.2 If delivery is delayed at the request of the Customer or for some other reason not imputable to Asetronics, the risk transfers to the Customer at the time originally planned for the delivery ex works. From this time onward, shipments are stored and insured at the expense and risk of the Customer.

## 10 Shipment, transport and insurance

- 10.1 Special wishes concerning shipment, transport and insurance must be made known to Asetronics at the latest at the time an order is placed. Shipment takes place EXW (*ex works*, Incoterms latest edition ) at the expense and risk of the Customer. The Customer is to inform the last freight forwarder immediately of any complaints associated with the shipment or transport either upon receipt of the shipment or the freight documents.
- 10.2 The Customer is responsible for insurance against loss of any nature.

## 11 Inspection and acceptance of deliveries and services

- 11.1 Asetronics inspects deliveries and services with its customary care before shipment or after a service has been performed. Should the Customer require further inspections, these are to be agreed upon separately and paid for by the Customer.
- 11.2 The Customer must inspect (partial) deliveries and (partial) services as soon as this is feasible according to normal operating procedures and immediately report any defects in writing to Asetronics. Should he fail to do this, said (partial) deliveries and (partial) services shall be considered to have been accepted. Should defects appear only later, the Customer must report these immediately upon their discovery, because otherwise the delivery shall be considered to have been accepted.
- 11.3 Asetronics must correct a defect of which it has been informed as per Subparagraph 11.2 as soon as possible, and the Customer must give him an opportunity to do this. After the correction, at the request of the Customer or Asetronics an acceptance inspection shall be effected.
- 11.4 Defects of any nature whatsoever in (partial) deliveries do not give the Customer any rights and claims apart from these specifically mentioned in Clause 11 above and Clause 12 below (Guarantee, liability for defects).

## 12 Guarantee, liability for defects

- 12.1 The guarantee period equals 12 months' subject to the surface process ability of circuit boards, commencing upon the departure of the (partial) deliveries ex works. Should a shipment be delayed for a reason not imputable to Asetronics, the guarantee period also terminates at the latest 12 months after the notice of readiness for shipment. For replaced or repaired parts the guarantee period terminates at the conclusion of the original guarantee period. The guarantee lapses prematurely if the Customer or third parties undertake unprofessional changes or repairs on the delivered goods or if, upon occurrence of a defect, the Customer fails to immediately take suitable measures to minimize loss and fails to immediately inform Asetronics in writing of said defect.

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- 12.2 Asetronics undertakes, at the written request of the Customer, to repair or replace all parts that have become demonstrably useless as a result of poor quality material, incorrect construction or deficient execution, at its own expense as rapidly as possible. The Customer has no right to other claims. Particularly Asetronics is not liable for loss attributable to wear and tear, excessive use, suboptimal maintenance, failure to follow operating instructions etc.
- 12.3 Liability for promised characteristics is only accepted with regard to such characteristics as are specifically delineated as such in the order confirmation. Under reserve of other agreements, such a guarantee of characteristics is valid at the longest until the conclusion of the guarantee period. Should the promised characteristics not be fulfilled or not be fulfilled entirely, Asetronics has a right to effect the necessary correction work within a suitable period. Should such correction fail, the Customer has a right to a reasonable reduction in the price.
- 12.4 Asetronics accepts no liability for deliveries and services of subcontractors specified by the Customer.
- 12.5 For claims of the Customer due to suboptimal advice and the like or due to a breach of any type of secondary obligations, Asetronics is only liable in case of intent in conflict with law or gross negligence.
- 12.6 Guarantee rights and objections cannot be transferred to third parties without the prior written authorization of Asetronics.
- 12.7 The Customer shall follow the instructions of Asetronics concerning the return of goods under guarantee or for repair.

### **13 Software**

- 13.1 In the absence of other agreements, all program components (software) shall be provided in the form of a license. After full payment of the work copy, the Customer has a right to this work copy along with a non-exclusive, non-transferable license for its use according to purpose for his own purposes without the right to grant sublicenses. The Customer may neither pass on the software, decompile it nor use it further in any other manner.
- 13.2 The content and scope of the license to software from third party suppliers is determined according to the license terms of the relevant third party suppliers.
- 13.3 All other rights, particularly copyrights with all the associated usage rights and authorizations, remain without diminution with Asetronics or the relevant third party suppliers.
- 13.4 The guarantee for software is limited to such defects that cause unreasonable limitations in the function of the goods delivered with the software. Asetronics undertakes to take feasible measures in order to replace the software by non-defective software. Clause 12 applies correspondingly.

### **14 Non-fulfilment, poor fulfilment and the consequences**

- 14.1 In all instances of non-fulfilment or poor fulfilment not specifically delineated in these terms the Customer is authorized to set a reasonable deadline for Asetronics for the relevant deliveries or services, under penalty of withdrawal from the contract in case of continued default. Should Asetronics imputably fail to meet this deadline the Customer may withdraw from the contract regarding these deliveries or services and reclaim any payments already made on the relevant parts of the order.
- 14.2 Any applicable right to damages is limited to 10% of the contractual price of the deliveries and services regarding which withdrawal follows.

### **15 Exclusion of further liability**

All claims of the Customer apart from those specifically delineated in these terms, irrespective of the legal grounds on which they are based, are ruled out. In no case does the Customer have any right to compensation for damage that did not occur to the delivery object itself, such as production collapse, loss of orders, lost profit or any other indirect or direct loss. These limitations do not apply to intent in conflict with law or gross negligence on the part of Asetronics, however they do apply to intent in conflict with law or gross negligence on the part of auxiliary personnel.

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## **16 Taking back packaging materials and its disposal**

- 16.1 The Customer has no right to demand that the packaging materials of products delivered by Asetronics be taken back or disposed of.
- 16.2 Reusable packaging of Asetronics may be returned to Asetronics without the need for a relevant request, at no shipping charge, cleaned and in perfect condition.

## **17 Protective rights, copyright**

The Customer must ensure that goods that Asetronics manufactures at the former's instructions do not violate the copyrights of third parties. If a claim is made against Asetronics from a third party due to a violation of a copyright, the Customer must indemnify Asetronics against all claims. Asetronics will only carry out defense proceedings in such instances if the Customer demands this while accepting a binding obligation to pay the costs of such proceedings. Asetronics is authorized to demand suitable guarantees in such a situation.

## **18 Competent court of jurisdiction and applicable law**

- 18.1 This legal relationship is subject to Swiss law, with the exclusion of the CISG (UN Convention on Contracts for the International Sale of Goods).
- 18.2 Competent court of jurisdiction is Bern, Switzerland. However, Asetronics is authorized to prosecute the Customer at the latter's domicile.
- 18.3 Both parties shall strive to settle any differences extrajudicially.

## **19 Translation**

In case of any differences between the English and the German versions of the present general terms, the German text alone shall prevail.

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