

## GENERAL CONDITIONS OF TRADING AND ORDERING

### 1. AREAS OF APPLICATION

Deliveries by the ASAPCOM GmbH enterprise are executed solely in accordance with the following trading conditions and with the stipulations of the respective valid price-lists; unless otherwise agreed upon in writing. References will be made to the licence conditions appertaining to the products of the manufacturer. Any other trading conditions of the purchaser will only be effective if they were confirmed by the ASAPCOM in writing. The same applies to any amendments and extensions to these general conditions of trading. Verbal commitments and collateral agreements must basically be confirmed in writing by the ASAPCOM GmbH enterprise.

### 2. DELIVERIES AND PERFORMANCE

2.1 The offers of ASAPCOM GmbH are non-binding. A contract first becomes effective after it has been confirmed in writing by ASAPCOM GmbH.

2.2 ASAPCOM is permitted to supply amended and matching products to those ordered, in so far as their functionality is not impaired and the amendments or adaptations are acceptable to the customer.

2.3 ASAPCOM GmbH explicitly retains the right to make part deliveries as well as the invoicing of them.

2.4 Agreed upon delivery dates are considered to be valid when the product ordered under contract is handed over to the transport company by the agreed upon delivery time. Should the dispatch of the goods ready to be delivered be delayed owing to reasons out of the control of ASAPCOM, then the contractual goods can be kept in storage at the expense and liability of the purchaser.

2.5 The delivery date agreed upon is based on the expected capacity of ASAPCOM GmbH. It bears the proviso that no unforeseen circumstances and obstacles occur, whether caused by ASAPCOM GmbH, the manufacturer, or supplier. For example these can be Act of God, national events, non-allocation of official permissions, work strikes of any kind, sabotage, deficiency in raw materials, late supply of materials incurred through no fault of ASAPCOM GmbH. These circumstances necessitate a respective delivery time even if they occur during an existing delay. In the event that ASAPCOM are delayed more than four weeks with a delivery, the purchaser may withdraw from the contract after the end of a mutually agreed upon extension that was confirmed in writing. Under § 325 BGB the formulation of new claims arising out of delays are invalid and do not validate withdrawal from contract.

2.6 Unless otherwise agreed upon, ASAPCOM GmbH is permitted; albeit without any obligation; to insure the goods to be dispatched against all kinds of transport dangers, at the expense of the purchaser. This as well as any other possible assumption of the transport costs has no bearing on the transit dangers.

### 3. POSTPONEMENT AND CANCELLATION OF DELIVERY DEADLINES

3.1 In the event that the purchaser either partly or entirely cancels orders or agreed upon postponements of delivery deadlines, ASAPCOM GmbH has the right to claim indemnity with respect to the prices quoted on the order in so far there is no other acceptable application possibility for ASAPCOM GmbH and the customer cannot prove that ASAPCOM GmbH has suffered minimum damage.

3.2 Agreements made on the postponement of delivery deadlines have to be in writing. If there should be delay in acceptance of this, ASAPCOM GmbH has not only the right to claims for payment but also to determine a new delivery date or even to withdraw from the contract. Orders may not be cancelled after they have been delivered.

### 4. TAKING DELIVERY AND TRANSFER OF LIABILITIES

4.1 The purchaser has to check over the goods for completeness and any damage immediately they are received. Unless a reprimand is made within a prescribed period of 8 days after receipt of delivery, it will be assumed that the delivery has been accepted.

4.2 With deliveries of computers, computer units, accessories or services, it will be assumed that after the

corresponding contractual item was installed and tested, its delivery is accepted. ASAPCOM GmbH is not bound to issue a test or configuration protocol certificate for the delivered item or service to the purchaser, even in the event that this protocol had been drawn up.

4.3 Irrelevant deficiencies which do not effect the functionality of the delivered item or impair it in any considerable manner do not warrant the purchaser to refuse acceptance of it. This similarly applies if the deficiency was not caused by ASAPCOM GmbH. The trading partner is not committed to accept delivery with the example mentioned.

4.4 Liability passes to the transport company when their representative or other person, nominated by ASAPCOM GmbH take possession of the goods. Or at the latest when the purchaser or his representative, assumes possession of the goods. If without the fault of ASAPCOM GmbH, the dispatch of the goods is delayed or made impossible, liability passes to the purchaser as soon as the all clear to dispatch the goods is received.

#### 4A. ERECTION AND INSTALLATION

The following regulations are applicable for every kind of erection and installation unless otherwise agreed upon in writing:

4A.1 The customer has to complete the necessary preparatory work in time for ASAPCOM GmbH to undertake a swift, safe and unhindered erection or mounting of the item purchased.

4A.2 If there are particularly delays in the building work, through no cause of ASAPCOM GmbH (credibility loss), which result in mounting and commissioning being delayed, then the purchaser has to adequately compensate for idle time as well as the subsequently incurred additional journeys of the supervisor or of the assembly fitters.

4A.3 The purchaser has to note the working time of the fitters or mounting personnel to the best of his knowledge every week. Furthermore the purchaser is bound to issue the fitters or mounting personnel with a written confirmation of the completion of the mounting or assembly work without delay and without being asked to. ASAPCOM GmbH is not liable for work done by his fitters or mounting personnel or any equipment required for this, as far as this work has nothing to do with the specified delivery, erection or mounting. Neither is ASAPCOM GmbH liable for unforeseen work caused by the purchaser.

4A.4 In the case that ASAPCOM GmbH does the assembly and mounting under a separate invoice, the following extra regulations apply:

a) The purchaser pays ASAPCOM GmbH the agreed upon rates for working time with extras for overtime, night work, weekend and public holiday work, for work carried out in more difficult circumstances as well for planning and monitoring.

b) In addition the following costs are invoiced:

Travel expenses, costs for the conveyance of hand tools and personal luggage, compensation for working time as well as rest days and holidays.

#### 5. PRICES AND CONDITIONS OF PAYMENT

5.1 The prices quoted in the valid price-list are FOB delivery depot, value added tax and other legal specifications in the supplying country as well as packing transport costs and transport insurance will in addition be invoiced to the purchaser accordingly.

5.2 Payments are to be made immediately on receipt of invoice without any deductions. The invoice will be written at the time of delivery. Bills of exchange and cheques will only be accepted by ASAPCOM GmbH when previously agreed upon in writing and are to include any extra appertaining costs or expenses. Exceeding the payment date gives ASAPCOM GmbH the right to demand a delayed interest to the amount of 8% above the actual corresponding discount rate without a further reminder letter. The right to an enforcement of a reimbursement for delayed payment remains valid.

5.3 Regardless of what the purchaser says ASAPCOM GmbH has the right to offset old debts of the purchaser with the payments as per law.

5.4 The charge or enforcement of a retention amount caused by ourselves for not recognising or submitting a timely counterclaim is excluded.

5.5 Should circumstances or information throw a poor economic light on the business situation of the purchaser, ASAPCOM GmbH can at any time demand payment in cash, prepayment or the provision of securities for each separate delivery. Any open demand including those for which ASAPCOM GmbH has accepted a bill of exchange or agreed upon instalment payments, will be immediately due.

5.6. ASAPCOM GmbH is entitled to demand part payment in advance from the purchaser before work is carried out, especially with specific orders: 30 % of the entire sum quoted on placement of order, a further 40% after completion of the preparatory and mounting work and the remainder 30% within 14 days after commissioning without any discounts.

## 6. PROPRIETARY RIGHTS

6.1 The contractual product remains the property of ASAPCOM GmbH until all the demands, as well as all future ones and the entire conditions of trading with the purchaser are fulfilled.

6.2 The purchaser is entitled to pass on the goods in proper business transactions retaining the proprietary rights, though not to use them as a mortgage or a security collateral of any kind. If a third party should take possession of the contractual goods, the purchaser has to make them aware of the ownership of ASAPCOM GmbH and then to inform ASAPCOM GmbH of this immediately. When handing over the goods to a third party, the purchaser is responsible to ensure that the third party is made aware of the rights of ASAPCOM GmbH.

6.3 If joining or mixing the proviso goods with those goods belonging to ASAPCOM GmbH, the company of ASAPCOM GmbH then assumes joint ownership in relation to the invoice value of the proviso goods to the other goods. Amendments or processing of the proviso goods relate to ASAPCOM GmbH as manufacturer within the framework of section 950 of the German law, though without causing them to incur any liabilities.

ASAPCOM GmbH assumes joint ownership of the amended goods within the realms of the existing regulations.

6.4 Should there be delays in payment, as well as from others as well as in future deliveries or services of ASAPCOM GmbH to purchasers, ASAPCOM GmbH are entitled to enter the premises of the purchaser and remove the proviso goods to reinforce their proprietary rights on the proviso goods.

6.5 Reinforcement or proprietary rights or impounding the delivered item by ASAPCOM GmbH, does not warrant as a withdrawal from the contract in as much as the purchaser is the one who purchased the goods.

6.6 The purchaser renounces his claims from the resale of the proviso goods to the amount of the respective invoice value of the proviso goods to ASAPCOM GmbH at the time of ordering. Within the framework of normal business transactions ASAPCOM GmbH is entitled and bound to impound the goods. If required by to ASAPCOM GmbH, the purchaser has to state the disclaimer amount. To safeguard its claims for payment, ASAPCOM GmbH may invoke this disclaimer.

6.7 In the event that value of the collateral exceeds the payment claims of to ASAPCOM GmbH by 20%, ASAPCOM GmbH releases the excess part of the safety collateral to the purchaser should the latter demand it.

6.8 Items supplied for testing or presentation purposes remain the property of ASAPCOM GmbH. They may only be used by the purchaser in accordance with specially agreed upon arrangements with ASAPCOM GmbH.

## 7. GUARANTEE

7.1 ASAPCOM GmbH is bound to supply the contractual product without any material deficiencies.

Manufacturing of the contractual products is done with necessary care. Nevertheless both parties realise that the current state of technology does not make it possible to exclude deficiencies in hardware and software under normal application assignments.

7.2. ASAPCOM GmbH guarantees that the contractual products concur with the general description in the product information sheet and that they can be basically used within this framework. The technical data and description in the product information sheet or that given in consultation in no way confirms the peculiar properties or affords any guarantees in the sense of contractual law. Guarantees are only applicable if they

are expressly confirmed in writing by ASAPCOM GmbH.

7.3 Guarantee claims made against ASAPCOM GmbH in business transactions come under the statute of limitation of one year after delivery. They are not transferable. Regardless of this ASAPCOM GmbH passes on in full any possible appertaining guarantee and performance warranties of the manufacturer to the purchaser, without having to stand responsible for them himself.

7.4 In the event of guarantee claims, ASAPCOM GmbH can decide on whether to undertake repairs or supply spare parts. Spare parts become the property of ASAPCOM GmbH. Should ASAPCOM GmbH fail to eradicate deficiencies within a prescribed time, the purchaser is then entitled to either reversal of the contract or to demand an appropriate reduction in the purchase price.

7.5 In the case of improvements being done, then ASAPCOM GmbH assumes the work costs.

7.6 The guarantee is not valid if the contractual good was incorrectly installed, repaired, amended or not environmentally friendly positioned by the purchaser or a third party as the installation prerequisites demand. This does not apply if the purchaser can prove that these above mentioned factors were not responsible for the deficiencies.

7.7 On returning the goods, the purchaser has to observe the service and reclamation stipulations of the respective manufacturer printed out in the respective valid price-list. If on examination no signs of deficiencies can be seen, and no claim against the guarantee can be made, then the purchaser will be invoiced with the costs of examination and repair as indicated in the respective valid service price-list of ASAPCOM GmbH.

## 8. PROTECTIVE TRADE RIGHTS AND COPYRIGHT CLAIMS OF THIRD PARTY

8.1 ASAPCOM GmbH accepts no liabilities for the contractual products damaging any protective trading rights or copyright claims of third party. The purchaser has to inform ASAPCOM GmbH of any claims made against him in this respect.

8.2 As soon as the supplied products are designed or made according to the directions of the purchaser, the latter has to release ASAPCOM GmbH from liabilities for any claims for the infringement of protective trading rights or copyright claims of third party. Any possible process costs are to be adequately paid for in advance.

## 9. LIABILITY

9.1 The limitation of ASAPCOM GmbH's liability for such foreseeable damages comes into effect at the time of signing the contract. The amount of liability can only be as high as the sum of the invoice for such a product. ASAPCOM GmbH is not liable for consequential damage, subsequent damage or lost profits.

9.2 The liability of ASAPCOM GmbH for intentional and extreme irresponsible behaviour, as well as light irresponsible behaviour of his voice and executives for services products guaranteed, remains limited in accordance with the above mentioned liability limits of the product liability law.

9.3 No guarantees can be issued by us for the attainment of results, advisory planning or services to be further used by the purchaser for his own purposes. Application suggestions are given to the best of knowledge available. They are not compulsory and do not release the purchaser from undertaking his own trials and tests. On no account can they be grounds for any liability claims for damage or disadvantages arising. Liability for extreme irresponsibility can basically never exceed the value of the material delivered.

9.4 The purchaser is committed to withhold the above mentioned contractual obligations, especially the payment conditions. If there is a reprimand for defects, payment by the purchaser may only be held back in relation to the value of the deficiency. If the contract was made with a trading company, the purchaser may only then withhold payment if he makes his claim in writing.

9.5 The purchaser has to allow ASAPCOM GmbH adequate time and opportunity to carry out the required work.

9.6 Liability for deficiencies do not cover normal wear and tear, neither for damage caused after receipt of the goods by incorrect or careless handling, unreasonable claims, unsuitable working material, deficiencies in the building work, unsuitable building ground or such chemical, electrochemical or electrical influences

arising that were not provided for in the contract.

9.7 There will be no liability granted for faults arising from unprofessional adjustments or repairs by the purchaser.

9.8 The purchaser is bound to inform ASAPCOM GmbH before the commencement of work of possible risks such as power cables, water pipes or gas pipes to the object in question. Without being asked to he is to hand the corresponding ancillary lead and pipe plans to the ASAPCOM GmbH representative.

## 10. HINDRANCES, ADAPTIONS TO THE CONTRACT

10.1 If it is impossible for ASAPCOM GmbH or the purchaser to accept the above mentioned delivery or performances, then the general legal basic laws apply as follows:

a) If such hindrances are caused by ASAPCOM GmbH, then the purchaser is entitled to demand compensation. This is however limited to 10 % of the value of the respective part of the delivery or performance which owing to defects cannot be used in normal operation. All claims by the purchaser higher than 10% limit are excluded. This does not apply if intentional or extreme irresponsibility as well as light irresponsible behaviour of his voice and executives are the reasons for liability claims. The purchaser retains the right to withdraw from the contract.

b) In as far as unforeseeable events as elucidated in 2.5 have a considerable effect on the economical significance or the contents of the delivery or performance or cause significant changes to the running of ASAPCOM GmbH, the contract will be adapted accordingly in good faith. If this should be economically unrealistic, ASAPCOM GmbH retain the right to withdraw from the contract. If ASAPCOM GmbH is to make use of this right, then it must inform the purchaser immediately of its intent even if an extension to the delivery time has already been made with the purchaser.

## 11. EXPORT AND IMPORT PERMISSION

11.1 The goods and technical know-how supplied by ASAPCOM GmbH are for the use of the goods by the purchaser in the agreed upon country. The re-export of contractual goods, whether individual items or in a systematically integrated form has to be applied for by the purchaser and is subject to the regulations of the foreign trade regulations of Germany or those of other agreed upon countries of the purchaser. It is up to the purchaser to inform himself of these regulations. Regardless of whether the purchaser specifies the country of destination for these goods, he still bears the responsibility to acquire the necessary permission of the respective foreign trade authorities before he exports such products.

11.2 Every other further delivery by the purchaser to a third party with or without the knowledge of ASAPCOM GmbH at the same time requires transfer of permission to export regulations. The purchaser is liable to ASAPCOM GmbH for the proper observance of these regulations.

## 12. GENERAL REGULATIONS

12.1 The purchaser is not entitled to withdraw his rights from the contract.

12.2 The term purchaser is to be taken similarly for buyer or customer.

12.3 The place of jurisdiction for delivery of contractual goods as well as the courts of justice for all legal disputes is Heilbronn (Germany).

12.4 The valid legal regulations in Germany are to be found in these general conditions of trading. The standard purchase law (EKG) and the standard seal of contract law (EAG) are not valid here.

12.5 if any or several of the regulations in these general conditions of trading be ineffective or become so, or this contract text contains an incomplete regulation, then the contractual parties will replace the ineffective or incomplete regulations with suitable substitutes that correspond to the business purposes or the valid regulations of ASAPCOM GmbH. The validity of the other regulations remain unaffected.