

**Article 1 General** 1. These general terms and conditions shall apply exclusively to deliveries, services and offers made by us. They are also applicable to all future business relations, even if the parties have not expressly agreed upon them again. These terms and conditions are deemed accepted as between traders at the latest with the acceptance of the goods or the service. The Buyer's acknowledgments with reference to its own terms and conditions of purchase are hereby rejected. 2. All agreements made between the Seller and the Buyer with regard to performance of this contract must be in writing.

**Article 2 Quotations and Entry into Contract** 1. Quotations made by the Seller are not binding and subject to confirmation. Declarations of acceptance of all orders require the Seller's confirmation in writing or by fax in order to be legally valid. 2. Offers in brochures, advertisements, etc. are not binding and subject to change, even with regard to pricing. Specially prepared quotations are only valid for a period of thirty (30) calendar days. 3. Drawings, illustrations, measurements, weights and other information provided are only binding if they are expressly agreed upon in writing. 4. The Seller's sales personnel are not authorized to accept any verbal collateral agreements or make any verbal assurances that go beyond the contents of the written contract. 5. The Buyer is bound to its order for four (4) weeks. Orders shall only become binding with the Seller's written order confirmation. If the Seller fails to reject acceptance within four (4) weeks after receipt of order, the confirmation is deemed as given. 6. All agreements made between the Seller and the Buyer with regard to performance of this contract must be in writing in this contract.

**Article 3 Prices** 1. Unless specified otherwise, the prices proposed by the Seller in its quotations are binding for thirty (30) days starting on the date of the quotation. Relevant are the prices cited in the Seller's order confirmation without the applicable statutory sales tax. Separate contracts are to be made for additional deliveries and services. 2. Unless specified otherwise, the prices shall be FOB storage Eisenach including normal packaging. 3. The final prices are without sales tax.

**Article 4 Period of Delivery and Performance** 1. Delivery dates or deadlines that may have been arranged as binding or without commitment must be made in writing for legal validity. 2. With regard to contractually binding dates and deadlines the Seller shall not be held liable for delays in deliveries and performance resulting from force majeure and other events which make impossible or significantly impede performance, for instance strike, lockout, official decrees, etc. even if they occur to the Seller's suppliers or their subcontractors. Such occurrences entitle the Seller to extend the performance and/or delivery date by the period of the disturbance plus an appropriate start-up period or to cancel the agreement either completely or partially for the part which has not been completed. 3. If the problem last longer than three (3) months, the Buyer is entitled after setting a reasonable grace period to withdraw from the contract with regard to the part that had not been fulfilled. The Buyer shall not be authorized to claim any compensation for damages if the delivery period is extended or if the Seller is released from its obligation. The Seller may only plead the described circumstances if it has notified the Buyer immediately. 4. In case of delays in delivery that can be attributed to the Seller, the length of the grace period to be legally set by Buyer is two (2) weeks, starting on the date of the Seller's receipt of the grace period notice. 5. The Seller is authorized at any time to make partial delivery and performance. 6. The Seller's ability to comply with its delivery and service commitments depends upon the Buyer's punctual and proper fulfillment of its commitments. 7. Should the Buyer fail to accept the delivery or service, the Seller is entitled to seek compensation for damages incurred. In such case the risk of accidental deterioration or accidental loss is passed on to the Buyer.

### **Article 5 Right of Cancellation**

You have the right to cancel this contract within fourteen days without giving any reasons.

The cancellation period is fourteen days and commences on the day on which you or a third party, other than the forwarder delivering the goods, named by you has taken delivery of the goods.

To exercise your right of cancellation, you must communicate to us (AXT-electronic GmbH & Co.KG, Wartburgstrasse

10, 99817 Eisenach, Germany, [service@axt-electronic.de](mailto:service@axt-electronic.de), telephone: 0049 3691 721070, fax: 0049 3691 721080) an unambiguous statement (to be sent by post, fax or e-mail) of your decision to cancel this contract. You may, but need not, use the attached sample cancellation form for that purpose.

The cancellation period will be deemed observed if you send the notice advising us of your cancellation before the cancellation period has expired.

### **The Effects of Cancellation**

If you cancel this contract, we are obliged to return to you without delay, but no later than fourteen days after we received your contract cancellation notice, all the payments that you have made to us, including shipping expenses (except for any additional costs incurred as a result of the fact that you chose a form of delivery other than the most cost-efficient standard delivery offered by us). For these reimbursements, we will select the same means of payment that you used in the original transaction, unless otherwise expressly agreed with you. Under no circumstances will you be charged any fees for reimbursements. We may delay reimbursement until after the goods in question have been returned to us or you submit proof showing that you have sent the goods back, whichever is earlier. You have to send back or return to us the goods immediately, but no later than fourteen days after you advised us of your contract cancellation. This period will be deemed observed if you send off the goods fourteen days before the period expires.

You will have to bear the direct costs for returning the goods.

You will only be liable for any loss in the value of the goods if such loss in value has resulted from any action other than what is required for checking the condition, properties and functionalities of the goods.

End of the information relating to the right of cancellation

**Article 6 Shipment and Passage of Risk** 1. Shipment generally takes place the day after receipt of the order subject to possible delivery options. Therefore it is deemed approximate and without commitment. Shipment is performed at the expense and risk of the Buyer ex works at D-99817 Eisenach. The Seller reserves the right to insure the deliveries against transport damages and to charge the Buyer for the costs incurred. The Buyer must inform the Seller in writing about any complaints within ten (10) days after receipt of the delivery. Transport damages are to be reported directly to the relevant forwarding agent. 2. The risk is transferred to the Buyer as soon as the shipment is handed over to the person taking care of transport or when it leaves the Seller's plant for the purpose of shipment. If the shipment is delayed at the Buyer's request, the risk is passed on to the Buyer with the notice of readiness for shipment. 3. At the request of the Buyer, deliveries will be insured in its name and on its account.

**Article 7 Consulting and Installation** 1. Technical advice and written or verbal information provided by the Seller, particularly with regard to the recommended possible uses of the objects purchased, are given to the best of its knowledge and belief without possible recourse. 2. The Buyer is responsible for the installation of the goods supplied by the Seller.

**Article 8 Warranty** 1. The Seller warrants that the products are free of manufacturing and material defects. If the object of delivery is defective or it does not have the warranted characteristics or becomes damaged due to manufacturing and material defects within the warranty period, the Seller will supply a replacement board or replacement parts excluding any other warranty claims. The Buyer is responsible for replacing the parts and returning the defective board or spare parts. 2. The warranty period begins with the date of delivery. 3. Warranty claims are rejected if the operating or maintenance instructions of the Seller are not complied with, or if the products have been modified, parts replaced or consumables used that do not conform with the original specifications, provided that the Buyer cannot disprove a corresponding substantiated claim that the problem was caused by one of the said circumstances. 4. The Buyer must inform the Seller about defects in writing immediately, however no later than one (1) week after receipt of the object

of delivery. The defective objects of delivery are to be held ready for the Seller's review in the condition, which they are currently in at the time the deficiency was identified.

5. If the repairs or the replacements are not successful after a reasonable period, the Buyer may at its discretion either demand a price reduction or withdraw from the contract.

6. In the event the Buyer gives notice that the products do not comply with the warranty, the Seller may request at its discretion and its expenses that the defective part or device be sent back to the Seller for repair and then returned. 7. Liability for normal wear and tear is not assumed. 8. Only the actual Buyer is entitled to warranty claims vis-à-vis the Seller; such claims are not transferable. 9. The Seller warrants its products with regard to workmanship for a three-year period (one-year period for USA and Canada). Prerequisite for acceptance of warranty is that the Buyer must comply with its contractual obligations. No warranty is expressly given for a cracked pull cord or if oil, grease or similar were applied to the board. In case of suspicion that harmful insecticides are present in or on the device on part of the Buyer, the Seller is entitled to refuse repairs. 10. The warranty does not cover wear-and-tear parts and damages resulting from improper or careless maintenance, incorrect handling, non-compliance with operating instructions or other reasons for which the Seller is not responsible in accordance with statutory provisions. Warranty expires with any technical modifications made by the Buyer. Any repairs or replacements made in no way extend the warranty period.

**Article 9 Limitation of Liability** 1. No claims for compensation of damages arising from positive violation of obligations, culpa in contrahendo and tortious act shall be asserted against the Seller or agents or other parties for which it is liable. This also applies to claims for compensation of damages for non-compliance, if there is no intention and gross negligence present. This also applies to claims for compensation of damages for non-compliance only to the extent in which compensation of indirect or consequential harm caused by a defect is requested. Unless the liability is based on an assurance that should safeguard the Buyer against the risk of such damages. Liability is limited to the damages foreseeable at the time of conclusion of contract.

**Article 10 Retention-of-title Clause** 1. Until the Buyer fulfills all its obligations due to the Seller now or in the future regardless of legal basis, the Seller is entitled to retain the title to goods supplied. The Buyer may not dispose of the goods subject to retention of title. 2. In case of third party access, in particular committing officers, to the goods subject to retention of ownership, the Buyer must point out that the goods are owned by the Seller and shall inform the Seller immediately so that it can insist on its rights of ownership. If the third party is not in the position of reimbursing the Seller for court and private expenses occurring in this context, the Buyer shall be held liable. Should the Buyer act in breach of contract, especially in case of default in payment, the Seller is entitled to reclaim the goods subject to retention of title and, if necessary, demand assignment of the Buyer's right to recovery vis-à-vis third parties. Retraction and distraint of the goods subject to retention of title by the Seller do not represent a rescission of contract.

**Article 11 Payment** 1. Unless specified otherwise, the Seller's invoices are due and payable two (2) weeks after presentation of invoice without any discount. In case of payment by means of credit card, the amount due will be debited with issue of goods. Checks and bills of exchange are accepted only on account of payment. 2. The Buyer shall bear discount charges and collection charges, which are due immediately. 3. The Seller is entitled to apply payments to its existing debts notwithstanding any provisions by the Buyer to the contrary and will inform the Buyer about the type of set-off. If costs and interests have already been incurred, the Seller is entitled to apply the payment first to the costs, and then the interests and finally the main performance. 4. The Seller is not obligated to make further deliveries as long as the invoiced amounts that are due are not paid. If applicable, it may demand cash payment or provision of securities prior to deliveries for any and all outstanding deliveries. 5. Should the Seller become aware of circumstances that make the Buyer's credit standing questionable, the Seller is authorized to demand payment of the remaining balance due even if it has accepted checks. In such cases the Seller is also entitled to demand advance payments or provision of collateral security. 6. The Buyer is only authorized to set off, exercise right of retention or reduce purchase price, even if complaints or counterclaims have been filed, if the counterclaims have become final or are uncontested.

**Article 12 Place of Fulfillment, Competent Court, Severability** 1. Contractual place of fulfillment is the domicile of the

Seller in D-99817 Eisenach.

2. These terms and conditions and the entire legal relations between the Seller and the Buyer are governed by the laws of the Federal Republic of Germany.

3. If the Buyer is a businessperson for the purposes of Germany's Handelsgesetzbuch (Commercial Code), a legal entity of public law or a public special asset, Eisenach is the exclusive competent court for all disputes arising directly or indirectly from the contractual relation.

**Article 13** Should any individual provision or any part of any provision hereof or a provision within the framework of other agreements be or become void or invalid, the validity of the remaining provisions or agreements shall in no way be affected.