



XIRIS
Inspection Solutions with Vision

Xiris Automation GmbH

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General Terms and Conditions of Xiris Automation GmbH

1. Validity of General Terms and Conditions. The following General Terms and Conditions of Xiris Automation GmbH (hereinafter referred to as "XIRIS") shall apply to all of Xiris' sales activities. Any deviation of the business and delivery conditions of the customer (hereinafter referred to as the "CUSTOMER") shall not be accepted. In both ongoing and future business relationships with the CUSTOMER, these General Terms and Conditions shall apply.

2. Conclusion of Contracts. The products offered by XIRIS are aimed exclusively at commercial customers, i.e. "entrepreneurs", as defined in Section 14 of the German Civil Code (BGB). In order to conclude a contract, XIRIS shall prepare a non-binding offer for the CUSTOMER, containing all the essential contents of the contract. On the basis of this offer, the CUSTOMER shall place a binding order with XIRIS in writing (email shall suffice). A contract shall only be concluded when XIRIS confirms the CUSTOMER's order in writing (email shall suffice) no later than when the goods are delivered by XIRIS. If XIRIS merely confirms receipt of an order, this shall not constitute an order confirmation. If the CUSTOMER orders goods without having received a concrete offer from XIRIS, this shall be considered an offer to conclude a contract under the terms of the current price list published by XIRIS.

3. Prices, Delivery. Unless otherwise indicated in the underlying offer made by XIRIS, all prices shall be quoted as net amounts in Euros "ex works" from Ratingen, Germany ("EXW", Incoterms 2010). If delivery is agreed to be another location at the request of the CUSTOMER, any additional costs incurred (for transport, packaging, insurance, export and import, etc.) shall be borne by the CUSTOMER and may be charged by XIRIS alongside the purchased products or in a separate invoice. All taxes incurred shall also be borne by the CUSTOMER.

The actual shipping route and shipping company shall be chosen by XIRIS. XIRIS shall package the goods appropriately on the basis of its own experience. XIRIS reserves the right to postpone the delivery or handover of the goods until a prepayment has been made or a credit check has been run on the CUSTOMER. If necessary, the CUSTOMER must provide XIRIS with an appropriate export certificate. XIRIS shall be entitled to make partial deliveries, provided these are reasonable for the CUSTOMER within the scope of the contractually agreed upon purpose. Partial deliveries may be billed separately in proportion to the value of the delivered goods.

Delivery dates or deadlines shall only be considered binding if they are explicitly agreed as such in writing (email shall suffice). Even in such cases, XIRIS shall not be held liable for any deliveries that are delayed or prevented by force majeure or any other events that are not caused by XIRIS and were unforeseeable at the time the contract was concluded (e.g. any form of operational disruption, difficulties in the procurement of materials or energy, transport delays, strikes, or missing, incorrect or late deliveries from suppliers). If such events make it considerably more difficult or impossible for XIRIS to deliver the goods or provide the services, and if the hindrance is not only temporary, XIRIS shall be entitled to withdraw from the contract. If the CUSTOMER wishes to postpone the delivery date after placing an order, XIRIS shall endeavour to honour its request but shall not be obliged to do so.

4. Passage of Risk, Transport Damage. If, at the request of the CUSTOMER, the goods are to be sent somewhere other than the place of performance (see Section 3 Par. 1 of these General Terms and Conditions), the risk of accidental loss and accidental deterioration of the goods shall be transferred to the CUSTOMER as soon as the shipment is handed over to the person responsible for transport (shipping company). If the delivery or handover of the goods is delayed due to circumstances caused by the CUSTOMER, the risk shall be transferred to the CUSTOMER from the moment at which XIRIS or a commissioned third party notifies the CUSTOMER that it was ready for dispatch. If the goods are damaged upon delivery, the CUSTOMER must note these circumstances and the specific nature and extent of the damage on the delivery note provided by the shipping company. Any claims held by the CUSTOMER due to damage caused to the goods during transport shall not be asserted against XIRIS, but against the shipping company.

5. Returns. The CUSTOMER must contact XIRIS' customer service team before returning any goods. The customer service team shall then provide the CUSTOMER with an RMA number to be used for the return. When contacting the customer service team and returning the goods, the CUSTOMER must indicate the invoice number for the order and the appropriate RMA number.

6. Payment. Unless otherwise agreed to in writing (email shall suffice), the CUSTOMER must settle all invoices in full within 30 days of receipt (by email or post, whichever is first). XIRIS shall be entitled to demand reasonable advance payments. The CUSTOMER shall only be entitled to offset payment against any counterclaims that have been legally established or recognized by XIRIS.

7. Retention of Title. XIRIS shall retain the title to the delivered goods until all of its claims arising from the business relationship with the CUSTOMER have been settled in full. If the goods subject to the retention of title are sold, processed, remodelled, lost or damaged, the CUSTOMER hereby agrees to assign any claims held against third parties as a result of such actions to XIRIS as security and XIRIS hereby agrees to accept the assignment. In such cases, the CUSTOMER agrees to provide XIRIS with the names and addresses of the third parties and the amount of the assigned claims. If the realizable value of the securities exceeds XIRIS' claims by over 10%, XIRIS shall release the security at its own discretion at the request of the CUSTOMER.

Any processing or remodelling carried out by the CUSTOMER or a commissioned third party, as described in Section 950 BGB, shall be done for XIRIS as the manufacturer. If the goods are processed or remodelled using parts that are not owned by XIRIS, it shall acquire a corresponding degree of co-ownership. XIRIS' co-ownership of the processed or remodelled goods shall be limited to the final invoice amount (incl. VAT) for the goods subject to the retention of title. Any property acquired in this way shall also be subject to the retention of title.

The CUSTOMER must immediately provide XIRIS with a written notification following a change in the location of the goods subject to the retention of title or any third-party access to the goods subject to the retention of title, especially their seizure. The CUSTOMER shall be obliged to send XIRIS a copy of the seizure report and to inform the third party, especially the responsible bailiff, that the goods are owned by XIRIS. The CUSTOMER shall bear the necessary costs for the enforcement of XIRIS' rights.

8. Obligation to Inspect Deliveries, Warranty. As an entrepreneur, the CUSTOMER shall be obliged to inspect the goods and report any defects in accordance with Section 377 of the German Commercial Code (HGB). Any defects must be reported in writing.

If the goods delivered by XIRIS are defective, including any software, XIRIS shall attempt to remedy the defect or deliver a replacement at its own discretion. If XIRIS fails in its attempt to rectify the situation, the CUSTOMER may withdraw from the contract or reduce the purchase price by a reasonable amount. The CUSTOMER shall not be entitled to withdraw from the contract in the event of minor defects. XIRIS shall not assume liability for any defects that emerge in the goods after delivery to the CUSTOMER if these are caused by (i) the improper or incorrect maintenance, installation or unauthorized repair of the goods, (ii) the use of the goods in combination with software, interfaces or other materials that are not provided by XIRIS or not declared as suitable for use by XIRIS, (iii) the unauthorized or improper modification of the goods, (iv) the use of the goods for purposes other than those agreed in the contract, (v) any other improper use, handling, storage or transport of the goods, (vi) the natural wear and tear of the goods, (vii) moisture, the strong heating of the environment, other temperature or weather conditions, or (viii) the use of the goods in unsuitable premises and/or with hazardous or explosive chemicals or other materials.

Any defects in the delivered goods must be fully proven to XIRIS. If only part of the delivered goods is defective, the CUSTOMER shall not be entitled to reject the entire delivery, unless a partial delivery is unreasonable for the CUSTOMER within the scope of the contractual purpose.

The warranty period for defects shall be one year after delivery of the goods. This shall not apply if XIRIS fraudulently conceals a defect.

9. Liability. XIRIS shall not be held liable for any damage that is not caused to the delivered goods themselves; in particular, XIRIS shall not be held liable for loss of profit or any other financial damage incurred by the CUSTOMER. If XIRIS negligently breaches a duty that must be performed to enable the proper execution of the contract in the first place and on the fulfillment of which the contractual partner may regularly depend, its obligation to pay compensation shall be limited to the foreseeable degree of damage that is typically incurred in contracts of that type. If XIRIS' liability is excluded or limited, this shall also apply to the liability of its "affiliated enterprises", as defined in Section 15 of the German Stock Corporation Act (AktG), as well as to the personal liability of its employees, representatives and vicarious agents. The above limitations of liability shall not apply in the event of injury to life, limb or health, in cases of intent and gross negligence, or in the event of any claims made under the German Product Liability Act (ProdHaftG).

10. Intellectual Property, Software. XIRIS shall fully retain all intellectual property rights, especially its rights to patents, designs, trademarks, etc. The CUSTOMER shall only be entitled to use XIRIS' intellectual property if such rights are explicitly granted in the contract.

If software is included in an order, the CUSTOMER shall be granted a non-exclusive, single-user license that will be limited to the contractually agreed purpose. The exact terms of use – and the resulting rights and duties of the CUSTOMER – can be found in the license terms provided by XIRIS for the specific software. The CUSTOMER shall not acquire any rights to the software other than those granted by the license. In particular, the CUSTOMER shall not acquire ownership of the software. The aforementioned license terms shall have no effect on the CUSTOMER's mandatory legal rights, such as the right to create a back-up copy or to decompile the software under the requirements stipulated in Sections 69d and 69e of the German Act on Copyright and Related Rights (UrhG).

11. Obligation to Indemnify XIRIS. The CUSTOMER shall indemnify XIRIS against any claims asserted by third parties on the basis of one (or more) of the following acts: (i) the violation of third-party copyrights or other intellectual property rights resulting from the CUSTOMER's use of the goods in combination with software, interfaces or other materials that are not provided by XIRIS or not declared as suitable for use by XIRIS, (ii) the violation of third-party copyrights or other intellectual property rights resulting from XIRIS' observance of instructions or requirements issued by the CUSTOMER during the production or distribution of the goods, and (iii) the CUSTOMER's improper or incorrect use of the goods, including their unauthorized or improper modification.

This obligation to indemnify XIRIS shall particularly apply to any costs incurred by XIRIS for its necessary legal defense and any compensation payments to be made by XIRIS. In the event of third-party claims, XIRIS shall be entitled to demand a reasonable security payment from the CUSTOMER to cover the amount of the expected damage. XIRIS reserves the right to assert further claims.

In the event of such third-party claims, the contracting parties shall immediately notify each other and discuss the circumstances underlying the claim. The CUSTOMER shall be entitled to defend itself against such claims independently, but it must appropriately consider XIRIS' interests when doing so. XIRIS shall provide the CUSTOMER with the necessary support, particularly the required information. Any expenses incurred as a result shall be reimbursed by the CUSTOMER to a reasonable extent.

12. Responsibility of the CUSTOMER. The CUSTOMER shall not be entitled to use the goods for any purposes other than those agreed in the contract, nor shall it be entitled to grant such rights of use to third parties; this particularly applies to any use for non-civil (military) purposes. In case of doubt, the CUSTOMER must clarify the intended use of the goods with XIRIS in advance. XIRIS reserves the right to request an end user certificate duly completed by the CUSTOMER prior to delivery.

The goods produced by XIRIS must not be intended for use near the human body, especially not in products with life support functions. If the CUSTOMER uses the goods in this way, it shall be held solely responsible and must fully indemnify XIRIS against any third-party claims asserted as a result.

13. Installation / Training. Installation and/or training shall only become part of the purchase agreement with XIRIS if this is explicitly agreed in writing (email shall suffice). These services may be requested under the terms indicated in the current price list. The CUSTOMER must follow all instructions issued by XIRIS regarding the installation and maintenance of the products. If instructions for specific products contradict general instructions issued by XIRIS, the specific instructions shall take precedence.

14. Phone Support. XIRIS currently provides its customers with a technical hotline as a free and optional additional service (for inquiries about installation, use and troubleshooting). On-site support by XIRIS employees may be requested under the terms indicated in the current price list.

15. Trademarks, etc. Unless otherwise agreed in writing, the CUSTOMER shall not be entitled to use the trademarks and brands of XIRIS. This particularly applies to the use of such for advertising or other marketing purposes.

16. Applicable Law, Place of Jurisdiction. German law shall apply to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods. The place of jurisdiction for any disputes shall be Ratingen (Germany). However, each contracting party may also take legal action against the other at their general place of jurisdiction.

17. Other Provisions. Any deviating agreements must be made in writing (email shall suffice). If individual provisions contained in these General Terms and Conditions prove to be ineffective or unenforceable before or after a contract is concluded, this shall have no bearing on the effectiveness of the General Terms and Conditions as a whole. The ineffective or unenforceable provision shall be replaced by an effective and enforceable clause that best reflects the economic objective pursued by the contracting parties through the ineffective or unenforceable provision.

18. No-Russia clause / No-Belarus clause. (1) The Importer/Buyer shall not sell, export or re-export, directly or indirectly, to the Russian Federation or Belarus or for use in the Russian Federation or Belarus any goods supplied under or in connection with this Agreement that fall under the scope of Article 12g of Council Regulation (EU) No 833/2014 and / or Article 8g of Council Regulation Nr. 765/2006.

(2) The Importer/Buyer shall undertake its best efforts to ensure that the purpose of paragraph (1) is not frustrated by any third parties further down the commercial chain, including by possible resellers.

(3) The Importer/Buyer shall set up and maintain an adequate monitoring mechanism to detect conduct by any third parties further down the commercial chain, including by possible resellers, that would frustrate the purpose of paragraph (1).

(4) Any violation of paragraphs (1), (2) or (3) shall constitute a material breach of an essential element of a future Agreement, and the Exporter/Seller shall be entitled to seek appropriate remedies, including, but not limited to:

(i) termination of this Agreement; and

(ii) a penalty of 50% of the total value of this Agreement or price of the goods exported, whichever is higher.

(5) The Importer/Buyer shall immediately inform the Exporter/Seller about any problems in applying paragraphs (1), (2) or (3), including any relevant activities by third parties that could frustrate the purpose of paragraph (1). The Importer/Buyer shall make available to the Exporter/Seller information concerning compliance with the obligations under paragraph (1), (2) and (3) within two weeks of the simple request of such information.