

# Xoto Technology GmbH

## General terms and conditions

### 1. Validity of conditions

(1) Our offers, deliveries and services are based exclusively on these terms and conditions. Consequently, they shall also apply to all future business relations, even if they are not expressly agreed upon again. Our terms and conditions shall be deemed to have been accepted, not later than, upon receipt of the goods or services. Any counter-confirmations made by the purchaser with reference to their own business or purchasing conditions are hereby rejected.

(2) Deviations from these terms and conditions are only effective if they have been confirmed by us in writing.

### 2. Contract conclusion

(1) Information contained in brochures, advertisements, price lists, etc. — particularly with regard to pricing — is subject to alteration and non-binding. Declarations of acceptance and all orders require our written confirmation to be legally effective. The same applies to supplements, amendments or subsidiary agreements.

(2) Drawings, illustrations, dimensions, weights or other performance data will only be binding if expressly agreed in writing.

### 3. Prices

(1) Unless otherwise stated, we are not bound to the prices contained in our general offers. The prices quoted in our order confirmation plus the respective statutory value added tax are authoritative in this regard.

(2) Unless otherwise agreed, prices are quoted ex warehouse including normal packaging.

### 4. Time of delivery and performance

(1) We shall not be responsible for delays in delivery and performance due to force majeure or events which make delivery significantly more difficult or impossible for us - this includes subsequent difficulties in procuring materials, operational disruptions, strikes, lockouts, personnel shortages, transport deficiencies, official orders, etc., even if such events occur at our suppliers or their sub-suppliers and even in the case of bindingly agreed deadlines and dates, unless gross negligence is involved. In the event of any such delays, we shall be entitled to postpone delivery for the duration of the disruption plus a reasonable grace period or to rescind the contract in whole or in part due to the part of the contract which has not yet been fulfilled. This shall also apply if we are already in default.

(2) If the disruption lasts longer than three months or if the purchaser cannot be expected to wait longer than this, they are entitled to withdraw from the contract due to the unfulfilled part of the contract after a grace period granted to us has expired without a successful outcome.

(3) Insofar as we are responsible for non-compliance with bindingly agreed deadlines and dates, the purchaser shall be entitled to compensation for the delay up to a maximum of 5% of the invoice value of the deliveries and services affected by the delay. If the customer accepts the delivery delays by accepting the goods upon delivery, they shall not be entitled to damages or compensation for the delay. The same applies if 80% of the delivery has been made. This does not apply in the event of gross negligence on our part. In such a case, however, compensation for the delay shall be limited to typically foreseeable damages.

(4) We shall be entitled to make partial deliveries and perform partial services at any time.

(5) A full or partial default in payment on behalf of the purchaser releases us from the obligation to make further deliveries, even if a written order confirmation has already been issued for this purpose. We shall not be liable or held responsible for any resulting damages or claims for damages made by the purchaser or third parties.

### 5. Delivery and transfer of risk

(1) The delivery shall be made from our warehouse at the purchaser's expense. In the absence of written instructions, we shall arrange shipment according to our best judgement, but subject to the exclusion of liability for the choice of delivery method.

(2) The risk shall pass to the purchaser as soon as the consignment has been transferred to the person responsible for its transport or as soon as it has left our warehouse for delivery. If delivery becomes impossible through no fault of our own, the risk shall pass to the purchaser when the notification of readiness for dispatch is issued.

## 6. Warranty and liability obligations

(1) If the delivery item is defective or becomes defective within the warranty period due to manufacturing or material defects, we shall, at our discretion and excluding any other warranty claims by the purchaser — in particular, excluding any claims consequential damages by the purchaser or their customers — deliver a replacement or remedy the defect (supplementary performance). Repeated supplementary performance is permitted.

(2) Customary or minor, technically unavoidable deviations in quality, colour, width, weight, specifications or design are excluded from the warranty. Minor changes to the purchased item resulting from technical progress shall not be considered defects.

Defects resulting from external electrical risks or infection risks are excluded from liability. We do not assume any liability for operating errors in the camera functionality (recording, measuring, documentation, transfer of data), as well as for any diagnostic results. In particular, any consequential faults resulting from these errors are also excluded.

(3) Unless otherwise agreed upon for individual goods, the warranty period shall be two years and shall commence from the time of delivery. We provide a warranty for consumables or parts subject to wear and tear for the duration of normal use; the warranty for rechargeable batteries is limited to 6 months.

(4) The purchaser is obliged to notify us of any defects in writing as soon as they have been delivered. Defects which could not be discovered even on careful inspection must be reported to us in writing as soon as they are discovered.

(5) In the event of a defect, the purchaser is first obliged to demand supplementary performance (repair or replacement). The purchaser may only withdraw from the contract, demand a reduction in the purchase price or claim damages in the event of intent or gross negligence if the fulfilment of this demand has remained unsuccessful despite the setting of a deadline.

We are entitled to reject the type of supplementary performance determined by the purchaser and to implement an alternative form of supplementary performance provided that it equally complies with the objective of remedying the defect and is feasible without any significant disadvantages for the purchaser.

(6) In the case of rectifications, the warranty period shall be suspended for the period between the receipt of the goods to be repaired and return delivery; in the case of subsequent delivery, the warranty period shall begin once again.

(7) The aforementioned rights shall not entitle the purchaser to any rights of retention with regard to any of our claims which do not relate to the delivery item. In all other respects, the purchaser may only exercise their right of retention up to the amount of a fictitious price reduction.

(8) Claims for damages arising from breach of duty, from the initiation or commencement of contractual negotiations or similar business contacts and from unlawful acts are excluded, both against us and against our vicarious agents, unless the damage was caused intentionally or as a result of gross negligence. This shall also apply to compensation claims for futile expenditure and the indemnification of damages instead of performance, unless the liability is based on an assurance intended to protect the purchaser against the risk of such damages. In any case, our liability shall be **limited** to the typical damages foreseeable at the time of the conclusion of the contract.

These limitations of liability shall not apply if a culpable breach of duty on our part should lead to death, injury or damages to a person's health.

(9) If one of our customer's makes a claim against us based on their right to recourse (§§ 478 f. BGB), our liability shall be limited to the amount of the original purchase price. This limitation of liability shall not apply if a culpable breach of duty on our part has led to the death, injury or damages to the health of our customer, the end customer or third parties.

## 7. Retention of ownership

(1) The following securities shall be granted to us until the fulfilment of all (including any balance) claims to which we are entitled vis-à-vis the purchaser, for any legal reason now or in the future, and until complete indemnification from all contingent liabilities which we have entered into at the purchaser's benefit — these securities shall be released upon request at our discretion to the extent that their value exceeds the claims by more than 20%.

(2) The goods shall remain our property until complete settlement of the claim. As the supplier, processing and / or any transformation of the product shall always take place on our behalf. If our (co-)ownership expires due to combination with other products, it is hereby agreed that the purchaser's (co-)ownership of the uniform item shall pass to us in proportion to its value (invoice value). The purchaser shall store our (co-) owned property free of charge. Goods for which we are entitled to (co-) ownership shall hereinafter be referred to as reserved goods.

(3) The purchaser is entitled to process the reserved goods in the ordinary course of business and to sell them under retention of title as long as they are not in default. Pledges or security assignments are not permitted.

The purchaser hereby assigns to us, by way of security, any claims arising from the resale or any other legal reason (insurance benefits, unlawful acts) with regard to the reserved goods in the amount of the outstanding claims as well as all ancillary claims. We accept any such assignment. We hereby revocably authorise the purchaser to collect the claims assigned to us for our account in their own name. The purchaser shall disclose the assignment at our request and provide us with all the necessary information and documents.

(4) In the event of any third-party claims against the reserved goods, the purchaser shall inform said parties of our ownership and inform us immediately. Any costs and damages shall be borne by the purchaser.

(5) In the event of breach of contract by the purchaser — in particular in the event of default in payment — we shall be entitled to take back the reserved goods at the purchaser's expense. Our repossession or seizure of the reserved goods shall not in itself constitute an implicit withdrawal from the contract.

(6) If the subject matter of the contract includes the provision of software, this shall not become the property of the customer; the customer shall only have rights of use in accordance with a separate agreement.

## 8. Payment

(1) Unless otherwise agreed, our invoices are due immediately without any cash discounts. Default in payment shall occur no later than thirty days after receipt of the invoice, without the need for a payment reminder. Furthermore, default occurs following a reminder.

(2) The date on which we have the funds at our disposal shall be deemed as the date of payment. Discount deductions are inadmissible as long as previous due invoices are still outstanding. We retain the right to decide against which claims a payment shall be credited, irrespective of the purchaser's provisions to the contrary. In the absence of a provision to the contrary, incoming payments shall first be set off against costs incurred, then against interest and finally against the principal claim.

(3) We reserve the right to refuse cheques or bills of exchange. The acceptance of cheques or bills of exchange is reserved only on account of payment. The purchaser must bear any discount and exchange charges and pay these immediately.

(4) If the purchaser is in default, they shall, in addition to the principal claim, pay interest at a rate of 9% per annum above the base interest rate (LRG rate) of the European Central Bank, provided that we have not incurred a greater interest loss.

(5) If the purchaser fails to meet their payment obligations, in particular if they fail to honour a cheque or bill of exchange or cease payments, if we have to initiate dunning proceedings against them or if we become aware of facts which exclude the granting of credit in accordance with commercial practices, we shall be entitled to demand payment of all of our claims against the purchaser, even if cheques or bills of exchange have already been accepted. In this case, we shall also be entitled to demand advance payments or securities, as well as to withdraw from the contract after a reasonable period of time has expired without a successful outcome and to demand damages instead of performance.

(6) The purchaser shall only be entitled to offset, withhold or reduce payment, even if notices of defects or counterclaims are asserted, provided that we have expressly consented thereto or said counterclaims are undisputed or legally established. Section 6 paragraph 7 remains unaffected.

## 9. Repairs, return of goods

(1) If the purchaser wishes to receive a cost estimate before repairs are carried out, the purchaser is obliged to state this explicitly. The purchaser shall bear the costs of the estimate if the repair is not commissioned.

(2) Except in the case of complaints occurring within the scope of our warranty obligation, goods may only be returned using prepaid postage, with our prior consent and the inclusion of the invoice number as well as the date. The credit note shall be calculated on the basis of an appropriate condition-dependent discount.

## 10. Industrial property rights and copyrights

(1) For the provision of software, the terms and conditions enclosed in or attached to the data carrier shall apply: The purchaser acknowledges these terms by opening the seal.

(2) We shall not be liable for any infringement of industrial property rights, copyrights or other rights of third parties resulting from the provision of software, unless the infringement was caused exclusively as a result of gross negligence or intent on our part. Nevertheless, the purchaser is obliged to inform us immediately of any claims made with regard to such matters. We are also obliged to inform the purchaser of any such circumstances immediately.

(3) When being supplied with software, the purchaser is obliged to ensure that the infringement of copyrights or other property rights resulting from their own use or use by third parties is excluded.

**11. Place of jurisdiction, partial invalidity, applicable law.**

(1) For merchants, the court responsible for the registered office of our company (Paderborn Local Court or the higher regional court of Paderborn) shall be the exclusive place of jurisdiction for all disputes arising directly or indirectly from this contractual relationship.

(2) The law of the Federal Republic of Germany shall apply exclusively, but to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods of 11th April 1980.

(3) Should a provision in these terms and conditions or a provision within the framework of other agreements be or become invalid, the validity of all other provisions or agreements shall remain unaffected. Both we and the purchaser shall be obliged to replace the invalid provision with a valid provision which fulfils the original intended economic purpose of the invalid provision to the extent permitted by law. In the event that this is not possible, any invalid provisions shall be replaced by statutory regulations.