

X-ident technology GmbH – General Terms of Sale and Delivery

1. Definitions

(1) The following definitions shall apply to the Terms of Sale and Delivery below:

Terms, Delivery Terms = the subsequent General Terms of Sale and Delivery of X-ident technology GmbH.

X-ident, "we", "us", "our" = X-ident technology GmbH

Customer = customer, mandator or other contractual partner of X-ident.

Goods = Any goods or services ordered from X-ident on the basis of an oral, written or otherwise concluded contractual relationship or a quasi-contractual legal relationship

"Smart Labels" = goods equipped with transponders, in particular labels, tags, tickets.

2. Scope of Application

(1) For deliveries and services to our customers, the General Terms of Sale and Delivery shall apply exclusively, unless individual, written agreements exist. Any acceptance of contrary terms or counter-confirmations of the customer is hereby explicitly refused – no further objection shall be necessary in an individual case. Any terms of the customer require our explicit, written approval.

(2) The terms shall also apply, in their current version on the reference day of the order, to future deliveries without the requirement of renewed forwarding or instruction. X-ident shall immediately make the current terms available upon request.

3. Offers

Our offers are subject to change without notice, delivery ex works. Our written order confirmation shall be binding for both parties. Oral and subsidiary agreements are subject to our written confirmation.

4. Prices and Terms of Payment

(1) Our prices are ex works, including packaging, plus current Value Added Tax. Minimum order amount shall be EUR 250.00. For order amounts below EUR 250.00, a surcharge of EUR 50.00 net will be added. We accept payment in Euro and US Dollar. The conversion rate current on the day of the offer shall apply. Reasonable price adjustments by reason of currency fluctuations or changes in prices of products purchased from our suppliers shall be permitted after conclusion of the contract up to the time of delivery, subject to proof of the cost increase.

(2) Deductions for cash discounts are subject to our written approval. X-ident's invoices for payment are due 15 days after receipt of the goods by the customer. In the event of default in payment, X-ident shall charge the collection fees and charges and default interest to the amount of 5% above the base interest rate according to section 288 German Civil Code (BGB). The enforcement of further damage claims shall not be affected.

(3) In the event that we gain knowledge of facts which support reasonable doubt concerning the credit-worthiness of the customer, we can declare all claims arisen from the business relationship payable immediately, including deferred claims. In the above event, we are entitled to deliver any outstanding goods or services only against advance payment or adequate security.

5. Delivery / Performance

(1) Deadlines and delivery periods are not binding. Delivery periods start with receipt of our order confirmation by the customer, however, not before all details with regard to the execution of the order have been clarified and all other requirements to be fulfilled by the customer, have been met; the above also applies to delivery dates. Deliveries are ex works. The customer bears the risk and cost for returns, unless they ensue on the basis of a justified complaint. If X-ident is obligated to deliver goods, X-ident is free to choose the transport type and route at its reasonable discretion. Should the goods not be claimed in due time after having been made available, X-ident shall have the right to warehouse the goods at the customer's expense.

(2) In case of delivery obligations, premature and partial deliveries are admissible. The day of notification of delivery readiness shall be deemed the delivery day, otherwise the day on which the goods were shipped.

(3) In case of events beyond X-ident's control, such as strikes, power blackouts, unforeseeable traffic jams etc., X-ident's delivery period shall be extended accordingly. The same applies, if such events occur to X-ident's subcontractors. Only in the case of binding delivery dates and delivery periods, shall the customer, with due consideration of the aforementioned extended delivery dates and delivery periods, have the right to rescind, if and when the delivery dates and delivery periods have been exceeded and X-ident did not deliver although a reasonable grace period had been granted. The customer shall be entitled to claim only demonstrable damage caused by default and only if we are responsible for the default due to gross negligence or intent.

6. Supply Contracts On Call

If, in case of Supply Contracts on Call, the customer does not call for or divide the partial deliveries, we shall be entitled, after the expiration of a grace period, to divide the goods, and to either deliver the goods or refrain from the

performance of the partial delivery, or of the remainder of the performance stipulated by contract, and demand payment of damages nonperformance instead.

7. Quality and Quality Tests

(1) Our information regarding technical data, quality descriptions, specifications, data-sheets and advertising statements concerning our goods / services are not binding and do not constitute warranties and representations.

Using suitable methods, such as inspection of incoming shipments, the customer is obligated to satisfy him/herself, before use / further processing / transfer, if the goods were delivered according to specifications with regards to number, condition and other characteristics and in accordance with sections 377, 378 of the German Commercial Code (HGB), and if the goods are suitable for the intended purpose.

(3) X-ident would like to indicate explicitly that the functionality of Smart Labels can be impeded due to high electro-magnetic currents, mechanical or chemical influences or temperature fluctuations. Further processing and transfer of these products are at the sole risk of the contracting party. Under no circumstance does X-ident warrant the use of Smart Labels for a specific purpose. It shall be the responsibility of the customer to warrant the safety of the product.

(4) Any deviation in quality, color, tint, clarity, and firmness typical for the production of papers, including laminated papers and special papers such as foils, shall not constitute a defect of the goods.

(5) X-ident must be notified immediately, or within 3 business days at the latest, of any defects that have appeared. Otherwise, notifications of defects shall be deemed late.

8. Export Control

In the event that the customer intends to export the goods, he/she shall be responsible for the compliance with the laws regarding import and export control, as well as the customs laws of Germany, Europe and the country of destination. Before commencing export, the customer shall, at his/her own expense, obtain all required permits or other certificates. The refusal of a permit and/or certificate by the competent authorities shall not entitle the customer to return the goods to X-ident or demand compensation...

9. Measurements, Weights, and Amounts

Deviations in measure, weight and amount, as well as with regards to performance, are admissible within the limits of customary standards of tolerance and according to the relevant DIN, CE and VDE regulations. Deviations in amount of up to 10% may not be subject of notice of defect. X-ident reserves the right to modify the goods in keeping with technological development and production standards, provided that the contractually agreed upon usability of the goods to be delivered is not affected.

10. Force Majeure

Events of force majeure, such as natural catastrophes, disturbances, strike, lock-outs and other unforeseeable, unavoidable and serious events, shall release both parties from their respective obligations for the duration of the disturbance provided that the temporary impairment of the performance is brought forth by the event of force majeure. In this event, we are entitled to rescind the not performed part of the contract either partially or completely.

11. Warranty and Liability

(1) It is a pre-requisite for any of the customer's warranty claims that he has fulfilled his duty to inspect and complain (numeral 7) without delay. Without warranty, only such defects are covered which occur during the use of the goods in accordance with the contract. Wear and tear is excluded from the warranty.

(2) Upon delivery of goods, specifically Smart Labels, X-ident recognizes only such conditions as defects that deviate from the operations manual, specifications or other functionality specified in the contract, and only if the deviation has a considerably negative effect on the serviceability concerning the typical use as described in the operations manual or other specifications.

(3) Repair of defects brought on by normal wear and tear, external influences or operational errors are excluded from the warranty and from non-contractual liability. The above also applies to defects arising from modifications of the goods not made by X-ident. X-ident does not warrant compliance of the delivered products with the customer's specific needs and areas of application, or interaction free of errors or of interference with the customer's software / hardware by the same or other producers, and that this does not lead to possible data loss or data speed reduction.

(4) X-ident warrants its products for a period of 6 months from the passing of risk, a unless longer implied warranty exists. The warranty is excluded for test products, samples, prototypes, or pre-series deliveries. The above also applies to defects caused by external influences such as voltage fluctuations or improper installation, operation and

use / upkeep / modifications of the products.

(5) We will replace any defective goods; however, the customer is entitled to demand an appropriate reduction of the purchase price instead. In the event that the goods delivered by us have already been altered or processed, the customer shall have only the right to demand a reduction of the purchase price. In the event that we fail to meet our obligation to deliver a replacement for defective goods, the customer is entitled to rescind the contract after a reasonable grace period has expired. Any further claims of the customer, in particular damage claims based on defects and/or consequential damages, including all economic loss, are excluded, unless we are liable for gross misconduct (intent or gross negligence), including that of our vicarious agents. This also applies to claims concerning the lack of guaranteed qualities according to sections 463, 480, paragraph 2 of the German Civil Code (BGB).

12. Reservation Of Ownership

(1) All goods delivered by us remain our property until complete payment of all current, conditional or future claims resulting from the business relationship with the respective customer has been received. The above shall also apply in the event that individual or all claims have been included by us in a current account and the balance has been deducted. If payment is made with a bill of exchange, reservation of ownership shall continue until the unconditional payment of the bill.

(2) The customer shall be entitled to sell and process the delivered goods within his regular course of business, as long as he is not in default vis-à-vis X-ident. In case of a sale of goods subject to reservation of ownership, the customer is obligated to sell these goods subject to reservation of ownership, if the third party does not immediately pay the full amount. No other dispositions, in particular pledging or assignment as security, are permitted.

(3) In the event that the customer acts contrary to the terms of the agreement, especially in cases of payment default, X-ident is entitled to withdraw the goods after a reminder was issued; the customer is obligated to surrender the goods. The fact of the withdrawal or pledging of the goods shall not automatically be interpreted as a rescission of the contract, unless we issue an explicit declaration in this regard.

(4) Upon establishment of the present Agreement, the customer assigns to us all claims, including securities and subsidiary rights arising from the resale to the end-consumer or to third parties, regardless if the goods delivered by us subject to reservation of ownership are sold without or after further processing. The customer is prohibited to enter into agreements with his customers that may affect or exclude our rights in any manner or form. In particular, he is prohibited to enter into agreements that would nullify the advance assignment of future claims to us. Until revoked, the customer is entitled to collect the claims assigned to us. As long as the customer is duly fulfilling his/her payment obligations, we shall not revoke this collection authorization. We are entitled to request from the customer information about the content and scope of the assigned claims, as well as the names and addresses of the debtors in written form.

(5) In the event that any goods delivered by us are sold jointly with other goods, especially such goods subject to reservation of ownership, the claim against the third party shall be deemed assigned to us in the amount of the price stipulated between our customer and us, if it is not possible in the individual case to identify the amounts corresponding to the goods on the invoice. Once soon as the goods are processed by the customer or are combined with goods owned by either the customer or by third parties, the above will, according to by section 950 German Civil Code (BGB), apply in any event to X-ident as manufacturer, without further any obligation to us. Should our goods be combined with other goods not owned by us, and the goods thus become inseparable, we shall gain joint ownership of the new item in the same ratio as the value of our goods in relationship to the value of the other goods at the time of processing or combination. The customer shall hold the property or partial property on our behalf. X-ident shall become joint owner of the new items in the ratio of the value of the goods in relationship to those items they are connected to, combined with, processed with or modified with.

(6) X-ident agrees to release its securities upon the customer's request, if the value of the security exceeds the value of the secured claims by more than 20%; however, we have the right to select the securities to be released. In the event of executions or other interventions by a third party, the customer is obligated to inform the third party of our security rights, to identify any goods owned by us and to inform us without delay.

13. Industrial Property Rights And Copyright

(1) In the event that a third party brings forth legitimate claims against our customer, based on the violation of industrial property rights or copyright (hereinafter "property rights") by goods delivered by us, contractually utilized products, we shall be liable vis-à-vis the customer exclusively under the following conditions:

At our discretion, we will either secure a right of use for the goods, modify the goods in such a manner as to remove the violation of the property right or exchange the goods.

Should this not be feasible under reasonable conditions, we will take back the goods and refund the purchase price. The above obligation exists only if the customer notifies us in writing and without delay of any third party claims, and if

the customer does not recognize a violation of property rights, and if the customer subjects to our discretion all protective measures and settlement negotiations. If the customer ceases the use of the product to reduce the damage or for other reasons, he/she is obligated to inform the third party that the cessation of use must not be interpreted as recognition of a violation of a property right. (2) Any claims of the customer are excluded, if he/she holds responsible for the violation of property rights. Claims are also excluded in the event that the violation of the property right ensued because of specific customer instructions, applications unforeseen by us, or because of the modification or joint use of the goods with goods not supplied by us by the customer. Any further claims against us are excluded. The above does not apply if, for instance according to the Product Liability Law or in cases of intent, gross negligence, the non-existence of guaranteed qualities, or of breach of essential contractual obligations, liability is mandatory by law. Furthermore, the customer's right to rescind the contract in the above cases shall not be affected.

14. Confidentiality

The customer agrees to maintain confidentiality regarding all technical data, and all other commercial and technical details that are not public knowledge and of which he may become aware during the course of the business relationship with X-ident. The above data may only be utilized and used within the scope of intended use. The above obligation of confidentiality remains in force for a period of up to 24 months after the termination of the contractual relationship.

15. Rescission / Termination

In the event of cessation of payments or if insolvency or composition proceedings regarding the customer's assets are instituted, X-ident is entitled to rescind the contract. In all other events, the legal right of rescission and termination shall apply. X-ident may terminate individual deliveries on demand within the framework of supply contracts-on-call after a reasonable grace period had been granted.

16. Assignment / Right of Retention

The customer is entitled to offset only such counterclaims that are either undisputed or legally effective. The customer shall have the right of retention only relating to claims arising from the same contractual relationship and only if the said claim is undisputed or has been recognized by declaratory statement. Any assignment of the customer's rights relating to the contractual relationship is subject to X-ident's explicit approval.

17. Exclusion And Limitation of Liability

If and inasmuch as the preceding clauses do not contain specific regulations, any damage claims by the customer, regardless of their grounds (e.g. for non-performance, impossibility of performance, default, positive violation of contractual duties, tortious act, settlement by contributions), are excluded. This exclusion of liability shall not apply inasmuch as we are liable under peremptory provisions of the law for intentional and grossly negligent acts of our legal representatives, management bodies, executive officers, and other vicarious agents.

18. Applicable Law / Place Of Performance / Venue / Ancillary Provisions

(1) The law of the Federal Republic of Germany shall apply exclusively to any and all business relationships, including all future business relationships, between the customer and X-ident, excluding the UN Sales Convention and the Hague Convention Relating to a Uniform Law on the International Sale of Goods. Place of performance shall be the respective registered office of X-ident. In the event that the customer is a merchant according to the German Commercial Code, exclusive venue for all actions shall be the respective registered office of X-ident. However, X-ident shall be entitled to bring action against the customer at the customer's general venue.

(2) In the event that one of the provisions of the present Terms should be or become invalid or prove to be not executable, the remaining provisions shall continue to be effective. The parties agree to replace any invalid or not executable provisions with a valid or executable provision that is closest to the intended commercial result of the respective provision.

(3) The contractual relationship is subject to written form. Any amendments and supplements to the contractual agreement and the Terms of Sale and Delivery at issue are valid only if in writing. The above applies also to deviations from the regulation concerning the written form requirement.

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