

## GENERAL TERMS AND CONDITIONS

### 1. Scope of Application of the General Terms and Conditions

1.1 XARION Laser Acoustics GmbH, with its registered seat in 1040 Vienna, Phorusgasse 8, and the commercial registry number FN385649 g (hereinafter "**XARION**") develops, produces and sells optical sensors based on a patented technology including the electronic equipment and software necessary for the operation of the sensors (the "**Product**"). For the purposes of these general terms and conditions (hereinafter "**Conditions**") XARION's contractual partner is referred to as the "**Customer**".

1.2 These Conditions shall apply to and be binding for all current and - to the extent XARION has not agreed to the applicability of terms and conditions different to these Conditions or other individual terms - future business relationships of any kind between XARION and the Customer. Upon receipt by the Customer of the Product these Conditions shall be deemed accepted by the Customer. XARION hereby expressly rejects the general terms and conditions of the Customer as well as any confirmations or communications made by the Customer incorporating its terms and conditions to the extent that such terms and conditions deviate from these Conditions.

### 2. Offers

Offers made by XARION are non-binding, unless they are explicitly declared binding by XARION in writing. The Customer's order may be accepted by XARION either by an order confirmation or implicit acceptance (e.g. actual delivery of the Product).

### 3. Prices and other Costs

Unless agreed otherwise, the purchase price for the Product shall be equal to the price set forth in the non-binding offer. The prices - unless agreed otherwise - are "ex works" in accordance with the INCOTERMS 2010 and do not include VAT, import charges including duties or levies, any costs or fees for packaging, transport, as well as for any services provided by XARION in connection with the order (e.g. installation or training of the Customer's personnel). All prices shall be charged in euro.

### 4. Delivery

4.1 Delivery periods and deadlines shall be calculated from the day on which XARION has received the Customer's order including all necessary information and specifications. XARION aims to meet the agreed delivery periods and deadlines. Nevertheless, unless otherwise agreed, delivery periods and deadlines shall be non-binding. In case of the explicit agreement on a binding delivery period or deadline XARION shall not be held liable for delays due to circumstances not culpably caused by XARION (including force majeure).

4.2 Unless otherwise agreed, the risk of loss or damage of the Product shall pass to the Customer at the time XARION informs the Customer that the product is being held ready for pick-up ("**Pick-up Date**"). The place of fulfillment shall be XARION Laser Acoustics GmbH, Phorusgasse 8, 1040 Vienna. The customer shall bear the risk and all costs and expenses related to the transport of the Product. Products not picked-up at the Pick-up Date shall be stored by XARION at the risk and costs of the Customer for a period of four weeks. Thereafter, XARION shall have the right to either insist on the fulfillment of the contract or withdraw from the contract after having set an appropriate extension period. In the latter case, XARION may dispose of the Product as it sees fit.

### 5. Terms of Payment

XARION shall be paid the full price without any deduction within 14 days from the Pick-up Date by transferring the respective amount to the bank account quoted by XARION in its offer. If XARION has not received the respective amount within the period mentioned above, the Customer will be in arrears and XARION shall be entitled to claim interest thereon.

### 6. Retention of Title

XARION reserves title to the Product until the purchase price has been received by XARION ("**Reserved Product**"). The Customer has to mark Reserved Products as such and store them separately from its other assets. Resale of the Reserved Products by the Customer shall only be permitted upon prior notification of the proposed resale to XARION stating the name and business address of the third party purchaser and receipt of XARION's explicit consent to the resale. Should XARION give its consent to the resale of the Reserved Product, the Customer hereby assigns its claim out of the resale contract to XARION and XARION hereby accepts such assignment. XARION herewith authorizes the Customer to collect its claim from the third party purchaser provided that it may - at its sole discretion - revoke such authorization anytime. XARION shall at all times be entitled to inform the third party purchaser of the assignment pursuant to this section 6.

### 7. Software

XARION grants the Customer a non-exclusive and non-transferable license for the installation and use of the software delivered with the Product. The software is provided "as is" and XARION makes no warranty or guarantee as to its use or performance and does not warrant or guarantee that the operation of the software will be fail safe, uninterrupted or free from errors or defects. The Customer acknowledges that any use of the software is without limitation at his own risk.

### 8. Restrictive Covenant

The Customer may neither modify, edit, adapt, reverse-engineer, copy, disassemble, decompile or duplicate in any other way the product or the software nor apply any other technical or logical procedures to the product or the software in order to influence or gain information about its structure, processes, functioning or other patentable attributes.

### 9. Warranty (Gewährleistung) and Liability

9.1 The warranty period shall be reduced to 12 months following the passing of risk to the Customer. Apart from that the statutory warranty rules shall apply. All descriptions relating to the Product are made by way of general information of the Customer and shall not constitute warranties by XARION.

9.2 XARION shall only be liable for damages (*Schadenersatz*) caused with willful misconduct or gross negligence. XARION's liability expires after six months following knowledge of the damage and the damaging party. Further, the liability shall be limited pursuant to section 11.

9.3 In no event shall XARION be liable for lack of economic success, indirect damages, lost profits, losses of interest, missed savings, consequential damages or pecuniary losses, damages resulting from third party claims or damages resulting from the loss of data, programs as well as their recovery. Potential claims pursuant to

applicable product liability laws remain unaffected.

### 10. Guarantee

10.1 Subject to the remaining provisions in this section (in particular section 10.2 and 10.3) as well as section 11, XARION guarantees that all Products straight from the factory are free from defects in material and workmanship under normal use, for a period of 12 months following the passing of risk to the Customer (not including temporary defects of the functioning of the software).

10.2 In case any defect falling within the scope of the guarantee pursuant to section 10.1 occurs, XARION may (at its sole discretion) either repair or replace the defective Product free of charge. In case XARION replaces the defective Product, property of the replaced defective Product shall pass to XARION at the time the Customer receives the new Product. If - according to XARION's assessment - the repair or replacement of the defective Product is only possible with inappropriate effort, XARION may (i) offer the Customer a price reduction or (ii) withdraw from the contract.

10.3 The guarantee provided by XARION under this section 10 does not cover Products (i) further used by the Customer after becoming aware of a defect, (ii) subject to normal wear (*gebrauchsbedingter Verschleiß*), (iii) showing minor deviations from the agreed and normally assumed quality and condition, which does not affect the Product's value or (iv) alternated, repaired, edited, adapted, supplemented or modified in any other way by the Customer or any third person. XARION further does not provide any guarantee for defects of the Product caused by an abnormal use of the Product, failure to observe operating instructions, overload, lack of maintenance or care of the Product as well as the use of accessory or spare parts, that are not original parts in conjunction with the Product. Further, defects and damages arising from the Customer's own fault and not due to defects in material or workmanship are not covered by the guarantee pursuant to section 10.1.

10.4 Any claim arising out of the guarantee pursuant to this section 10 must be notified to XARION by returning the defective Product including a copy of the respective invoice to XARION at the risk and costs of the Customer. The guarantee pursuant to this section 10 expires if XARION has not received the defective Product including the respective invoice at the address mentioned in section 1.1 within one month following the end of the guarantee period set forth in section 10.1.

10.5 Providing any services pursuant to this guarantee shall not prolong or renew the guarantee period.

### 11. General Limitation of Liability

XARION's maximum aggregate liability - irrespective of the legal ground (including liability pursuant to Sections 9 and 10) - in cases arising out of defects of the Product or any action or omission by XARION shall not exceed the purchase price of the Product in question.

### 12. Export Control

12.1 The Customer agrees to obtain at its own costs all required export licenses or other documents prior to the export of the Product. Further, the Customer agrees to comply with all applicable export laws, restrictions and regulations.

12.2 The Customer shall not directly or indirectly sell, export, re-export, deliver or transfer in any other way the Product to any prohibited or sanctioned country or to any denied, blocked, designated or sanctioned person or entity to the extent legally prohibited. In case of resale the Customer shall inform all further buyers about the obligation to abide any such sanction and export control laws or regulations. Refusal of an export license shall not entitle the Customer to withdraw from the contract or claim damages.

### 13. Disposal of Packaging and Waste Electrical and Electronic Equipment

13.1 The Product as well as the whole Eta product line by XARION are not meant or made for the use in private households. XARION directs its offer solely to commercial customers for purposes of commercial use.

13.2 To the extent legally permitted, the Customer shall at its own costs dispose (*entsorgen*) any waste electrical and electronic equipment in relation to the Product and immediately thereafter furnish evidence of such disposal to XARION to enable XARION to meet its legal obligations as the manufacturer of the Product. In case disposal of the waste electrical and electronic equipment by the Customer is legally not permitted, the Customer shall bear all costs and expenses incurred by XARION in connection with the collection, disposal and treatment of the waste electrical and electronic equipment by XARION. If the Customer is not the end user of the Product, it shall transfer its obligations pursuant to this section 13.2 to its customer by written agreement and shall provide XARION with evidence thereof.

13.3 To the extent legally permitted, the Customer shall at its own costs dispose (*entsorgen*) any packaging and immediately thereafter furnish evidence of such disposal to XARION, to enable XARION to meet its legal obligations as the distributor of the Product. In case disposal of the packaging by the Customer is legally not permitted, the Customer shall bear all costs and expenses incurred by XARION in connection with the disposal of the packaging by XARION. If the Customer is not the end user of the Product, it shall transfer its obligations pursuant to this section 13.3 to its customer by written agreement and shall provide XARION with evidence thereof.

### 14. Miscellaneous

14.1 Individual contractual agreements different to these Conditions shall have precedence over these Conditions.

14.2 If any term hereof is invalid or ineffective, this shall not affect the validity of the remaining terms hereof. The invalid or ineffective term shall be replaced by a term which closest reflects the original intent of these Conditions. This shall also apply to any legal loopholes and the interpretation of these Conditions.

14.3 These Conditions are governed by and construed in accordance with Austrian law, without giving effect to the United Nation's Convention on Contracts for the International Sale of Goods (CISG). All disputes arising from or in connection with these Conditions shall be referred to the court in Vienna having subject-matter jurisdiction.

Vienna, May 2015