

Licence Agreement XertifiX

between

XertifiX e.V., Haslacher Str. 43, 79115 Freiburg
(hereinafter: "XertifiX e.V.")

and

(hereinafter: "Licensee")

Preamble

XertifiX e.V. (registered society) promotes the production and the marketing of natural stones from India and - with limitations - other third world countries that are produced without illegal child and slave labour. (adherence to [ILO convention 182](#))

The XertifiX concept pursues the following goals:

- (1) Elimination of all illegal child labour by voluntary inspection of production of the affiliated stone manufacturers and exporters. To this end, a comprehensive licence and certification system of the XertifiX organisation in India is serving.
- (2) Elimination of illegal child labour by financing social measures in collaboration with government and non-government organisations. To this end, the levying of licence fees for investing in social programmes for the benefit of children and youths from regions in India in which nature stones are manufactured.

The criteria of the XertifiX concept are listed in Annexes 2 and 3 of this contract.

XertifiX e.V. has exclusive licensing rights to the XertifiX trademark registered in Germany. The foregoing licensing rights form the object of the following Licence Agreement. Registration of the trademark in further countries is being planned.

The Licensee intends to market natural stones manufactured and traded according to the XertifiX concept. To this end, the contractual parties agree as follows:

§1

Licensed Item and Licensed Product

- (1) The licensed item is the trademark pictured in Annex 1. In Germany, the association XertifiX is registered at the registration office.
- (2) The licensed products are natural stones manufactured according to the criteria set forth in this Agreement, or else supplied and/or marketed and labelled with the licensed item, as detailed above.

§ 2

Granting of the License

(1) The Licensee shall receive a simple, non-exclusive and non-transferable licence to use the licensed item in conjunction with the licensed product in the contractual territory specified under § 3 in accordance with the conditions and to the extent specified in this Agreement.

(2) XertifiX e.V. undertakes to grant third parties a utilisation right for the licensed item in conjunction with the licensed product specified in § 1 section (2) exclusively for the purpose of observing the regulations listed in § 1 section (2) in connection with § 4 section (1), § 5 section (1) and (3), § 6 section (1) and § 9 section (2).

§ 3

Contractual Territory

The contractual territory is the Federal Republic of Germany. The Licensee may use the licensed item in other European countries. In cases of doubt, the Licensee is obliged to obtain the consent of XertifiX e.V.

§ 4

Supply Sources

(1) The Licensee undertakes only to acquire products marked or labelled with the licensed item if these originate from authorised manufacturers or exporters which for its part have concluded a co-operation agreement with XertifiX e.V.. The licensee is at liberty to purchase and sell non-certified or non-licensed products in addition to products labelled with the licensed item.

(2) XertifiX e.V. shall inform the Licensee as to any contractual infringement on the part of XertifiX manufacturers and exporters. In cases involving serious infringements against the conditions agreed in the country of origin, this results in the withdrawal of the XertifiX certification.

(3) In such cases, XertifiX e.V. shall inform the Licensee of all essential changes within a reasonable period of time, however, at least 3 months before the respective change enters into effect.

§ 5

License Fees

(1) As counter-performance for using the licensed item to sell and distribute the licensed products throughout the contractual territory, the Licensee shall pay XertifiX e.V. a license fee in the amount of 3% of the statutory import value on a free on board basis in accordance with the full importation invoice plus VAT.

The license fee is only complete if it comprises the total product value, all commission due, plus all additional and ancillary costs to the port of shipment.

(2) The licensing fee becomes due and payable when the goods reach the Licensee's storehouse and the documents are presented for payment. If the products are destined for transit to countries where the XertifiX trademark has not been registered or protected, XertifiX e.V. is to be forwarded a pro-forma notification.

The license fees cover orders and deliveries which were made prior to the termination of the Agreement but did not reach the Licensee's storehouse until the contractual relations had been terminated.

(3) A net statement for the license fee is to be rendered and paid each quarter year. The Licensee shall draw up a statement of accounts within 30 days following the end of each calendar quarter and pay the license fee due for this period of time.

Payment of the license fees shall be made in net plus VAT immediately after XertifiX e.V. has presented its due and proper invoice accordingly.

(4) Payments are to be transferred to XertifiX e.V.- reference "XERTIFIX" account number 7902130500 held at the GLS Bank in Freiburg (bank sort code 43060967).

§ 6

Directive for Use of the Licensed Item

(1) The Licensee undertakes to illustrate the licensed item in its catalogues and prospectuses in connection with the foregoing natural stones.

XertifiX e.V. undertakes to name the Licensee as supply source in public.

(2) The Licensee undertakes to use the licensed item expressly in conjunction with licensed products (§ 1 section (2)). He shall desist from taking any measures which may lead to confusion with the licensed product or promote any products other than the licensed product.

(3) When pursuing advertising goals, the Licensee shall ensure that the licensed item is used in conjunction with the licensed product. As far as scheduled advertising campaigns are concerned, the Licensee is obligated to confer on the factual statements which are to be made on the XertifiX concept in scheduled advertising campaigns, sales promotions and other advertising media for the licensed product prior to its initial release on the market.

Insofar as the Licensee is not in receipt of a written reply from XertifiX e.V. within 7 working days following dispatch, the consent of XertifiX e.V. shall be deemed given. XertifiX e.V. shall not decline to give its consent inequitably.

(4) The Licensee shall desist from taking any measures which may create the impression that the final user or other third parties have claims against XertifiX e.V. (contractual claims, claims arising from product liability etc.) In particular, he shall ensure that XertifiX e.V. is not portrayed as "manufacturer" within the meaning of the law pertaining to product liability. If the Licensee contravenes this obligation and this results in claims being asserted against XertifiX e.V., the Licensee is obligated to indemnify XertifiX e.V. against such claims and to provide compensation accordingly.

Providing that XertifiX e.V. has given its consent in the foregoing cases, liability on the part of the Licensee shall be excluded. § 6 (3) shall apply accordingly.

(5) If the Licensee functions mainly as import or wholesale business, it undertakes to inform the reseller as to the registered trademark protection of the licensed item and the regulations of the preceding paragraphs (1) to (3).

(6) If, in addition to the licensed product, the Licensee processes or markets other natural stones, he is obligated to advise his bank to inform XertifiX e.V. about import invoice amounts of all certified or licensed material.

§ 7

Infringements of Industrial Property Rights and Anti-Competitive Violation

(1) The Licensee undertakes to inform XertifiX e.V. as to all infringements of the licensed item immediately and to aid XertifiX e.V. in the pursuit of trademark infringements. The Licensee is not obligated to participate in the costs of bringing an action in this regard.

(2) The Licensee undertakes to represent the advantages of the XertifiX-concept positively and truthfully and to observe the stringent requirements for advertising under the code of ethics.

(3) The Licensee shall inform XertifiX e.V. immediately of any measures taken under the law pertaining to competition which concern XertifiX e.V..

§ 8

Term of Contract

(1) The Agreement shall enter into force on _____. The Agreement is concluded for an indefinite period.

(2) The Agreement may be terminated by either party at any time on observance of a 3 month period of notice. The period of notice begins at such time as the termination notice is served. When the period of notice has expired, the Licensee is no longer entitled to obtain licensed products marked or labelled with the licensed item.

If the Licensee is exclusively an import or wholesale business, the following rule shall apply: if the Licensee can prove that it has a binding supply order for licensed products marked or labelled with the licensed item which was placed prior to the date on which notice to terminate was given, the licensed item may be used to execute this order in full.

(3) The right to terminate the Agreement for good cause without notice shall remain unaffected.

XertifiX e.V. shall be entitled to terminate the Agreement without notice for good cause which shall be deemed to be given in the following cases in particular:

1. Use of the licensed item for, or application of the licensed item on, nature stones which were not obtained from authorised producers.
2. Intentional or repeated contravention of principles under competition law with regard to advertising and distributing the licensed products bearing the XertifiX-trademark.
3. Repeated delay in distributing the statement of accounts, the payment of premiums or the submission of documents pursuant to § 5 (1) and (2), if the action is not made up for despite warning and setting of a deadline of at least 14 days.
4. Refusal to recognise XertifiX e.V.'s rights to obtain information or to perform controlling measures.

The Licensee is entitled to terminate the Agreement without notice for good cause, which is

deemed to exist if XertifiX e.V. conducts itself vis-à-vis the Licensee as detailed under § 2 (2), and this results in considerable limitation on the part of the Licensee.

§ 9

Contractual Termination

(1) The Licensee may order, advertise and sell licensed products labelled with the licensed item up to such time as the Agreement expires. This shall also apply where the Agreement is terminated without notice by XertifiX e.V.

Where the Agreement is terminated with due notice, the contractual parties shall negotiate on possibilities for selling off licensed products which the Licensee has on stock at the time of contractual termination or licensed products for which the Licensee has entered into purchase commitments which have already become binding at the time of contractual termination and can no longer be unilaterally revoked. The Licensee may not advertise licensed products after contractual termination.

(2) At Agreement termination, the Licensee has to give a final account within 30 days after receiving the last authorised delivery detailed under § 5 (3) additional to the defined sell-out period detailed under 9 (1). At the same time he has to pay the resulting premiums and licence fees. In case of a termination without previous notice by XertifiX e.V. he does not have the right to netting or retaining.

(3) At such time as contractual relations expire, the Licensee shall return all documents (printed forms, advertising material, stickers showing the licensed item and suchlike) to XertifiX e.V. at no cost. Alternatively, if XertifiX e.V. so wishes, the Licensee may be instructed to destroy such documents and provide XertifiX e.V. with evidence that this has been carried out accordingly. The Licensee has no right of retention in this regard.

§ 10

Duty of Confidentiality

XertifiX e.V is bound to secrecy about all affairs concerning the Licensee, his customers, employees, manager or other third persons that should come to its notice during the contractual relationship. This duty of confidentiality does not include such information that is available to the general public, or whose publication is evidently not to the disadvantage of the Licensee. In case of doubt, however, any technical, commercial or personal occurrences or affairs that come to the notice of XertifiX in the course of the implementation of the contract are to be treated as business secrets. In such cases, XertifiX is obligated to obtain instructions by the Licensee as to whether the information is to be treated as confidential prior to its publication. The duty of confidentiality does not end with termination of the contractual relationship.

§ 11

Applicable Law and Place of Venue

(1) The parties agree that for all disputes arising out of this Agreement, Freiburg shall have exclusive jurisdiction. In addition, the Licensor may file a complaint before an alternative statutory court of venue.

(2) In all cases of disputes arising out of this Agreement, the laws of the Federal Republic of Germany shall apply.

§ 12

Final Provisions

(1) The provisions of this contract shall apply analogously and retroactively if the Licensee has used the licensed object prior to conclusion of this Agreement with or without the knowledge and approval of XertifiX e.V..

(2) Annexes 1 to 3 form integral parts of this Agreement. XertifiX e.V. is entitled, on observance of a period of notice of 3 months, to change the XertifiX criteria (Annex 3) by making an announcement of such change vis-à-vis the Licensee. In the event of a change of this nature, the Licensee may terminate the Agreement with effect as of the date on which the announced change is scheduled to enter into force. The versions valid on contractual conclusion are attached hereto.

(3) Amendments to this Agreement shall require the written form. Insofar as the Agreement can be changed or adjusted unilaterally by XertifiX e.V., written notification from XertifiX e.V. to the Licensee shall suffice; XertifiX e.V. can, however, request written confirmation of the unilateral contractual amendment from the Licensee as well as a copy of an amended deed of contract.

(4) An English translation has been made of this Agreement. The German version shall be legally binding.

(5) Should any provision of this Agreement be or become invalid either in part or in whole, or should there prove to be an omission, the validity of the remaining provisions shall not be affected thereby. Instead of the invalid provision or to remedy the omission, the parties shall agree on a provision which comes as close as possible in sense and purpose to that which the parties would have agreed on had they considered the matter from the outset.

Freiburg, _____

Place _____, Date _____

Dr. Walter Schmidt
Director
XertifiX e.V.

Name
Position
Licensee

Appendix 1

License Item



and



Appendix 2

License fees are used primarily for remuneration of the inspectors in India (XertifiX India) and for the work of XertifiX e.V. in Germany. Part of the license fees is used by XertifiX e.V. for social measures in India in the context of rehabilitation measures for quarry workers and, if necessary, their children.

Appendix 3

All actors in India in the field of natural stone production and trade who are involved in the XertifiX system are obligated to sign legally binding contracts in which they commit themselves to compliance with the XertifiX criteria.

The following criteria apply as minimum standards:

1. No employment of children according to ILO Convention No. 182.
2. Remuneration of adult workers at least according to the national minimum wage.
3. Disclosure of orders to XertifiX e.V. and XertifiX India in the country of production.
4. Acceptance of inspections without prior notice at any time.