

General Terms and Conditions of Purchase

1. Scope

- 1.1 These general terms and conditions of purchase (hereinafter "**General Terms and Conditions**") shall apply exclusively to all deliveries of goods and services (hereinafter "**Deliveries**") of a supplier (hereinafter referred to as "**Supplier**") to a company of the ZEISS Group (hereinafter "**ZEISS**"), unless expressly agreed otherwise.
- 1.2 General terms and conditions of the Supplier contradicting or supplementing these General Terms and Conditions shall only apply to the extent that ZEISS has expressly agreed to them in writing. The requirement of ZEISS' express consent shall apply in any case, even if ZEISS accepts Deliveries in the knowledge of the Supplier's general terms and conditions without expressly objecting to them.
- 1.3 References herein to the applicability of the law and statutory provisions shall only have a clarifying meaning. Even without an express reference, the law and statutory provisions shall apply unless they are amended or excluded herein.

2. Orders

- 2.1 Orders by ZEISS shall be only valid if made in writing or text form.
- 2.2 A written contract or written confirmation shall be decisive for the proof of existence and content of subsequent agreements, amendments, and supplements. The possibility to prove to the contrary remains unaffected.
- 2.3 ZEISS is entitled to revoke an order free of charge if the Supplier does not confirm it to ZEISS unchanged within two weeks after receipt.

3. Deadlines, delay

- 3.1 Delivery dates and deadlines for Deliveries stated in the order or otherwise agreed are binding. If delays are to be expected or have occurred, the Supplier shall notify ZEISS immediately in writing or in text form, stating the reasons for delay.
- 3.2 If the Supplier fails to deliver or perform within a reasonable grace period set by ZEISS or if setting a grace period is not required by law, ZEISS is entitled to refuse acceptance, to withdraw from the contract and/or to demand compensation. ZEISS is also entitled to withdraw from the contract if the Supplier is not responsible for the delay. Additional costs incurred by ZEISS due to the delay of the Supplier, in particular but not limited to costs due to a necessary purchase from a third party, shall be borne by the Supplier, unless the Supplier is not responsible for the delay. Any further legal or contractual claims and rights shall remain unaffected.
- 3.3 ZEISS reserves the right to claim an agreed contractual penalty for improper performance (§ 341 German Civil Code) until final payment.

4. Prices

- 4.1 Prices are fixed prices. They include all expenses in connection with Deliveries to be provided by the Supplier.
- 4.2 Unless expressly agreed otherwise in writing at the time of conclusion of the contract, the price includes in particular but without limitation costs for delivery, transport, shipping and packaging, travel expenses as well as public charges, taxes, official permits and customs duties. Section 2.2 shall apply to alleged subsequent agreements.

5. Execution and delivery

- 5.1 Supplier may only subcontract with the express prior consent of ZEISS, unless such contracts are merely for the supply of standard parts.
- 5.2 Delivery call-offs by ZEISS are binding with regard to the type and quantity of the goods called off as well as the delivery time.
- 5.3 Partial Deliveries require the express prior consent of ZEISS.

- 5.4 Each delivery shall be accompanied by a delivery note stating ZEISS' order number and the details of its contents by type and quantity.

- 5.5 Goods shall be delivered in commercially available disposable standard packaging. If reusable packaging is used, Supplier shall provide the packaging on loan. The return of reusable packaging shall be at the expense and risk of the Supplier. If ZEISS exceptionally agrees to bear the packaging costs, these shall be charged at the proven cost price. Careful use of resources and energy shall be observed at all times.

- 5.6 For appliances, a technical description and instructions for use shall be provided by Supplier free of charge. Where relevant, technical data sheets for the assessment of energy efficiency shall be included.

- 5.7 In the case of software products, Supplier's performance obligation shall only be fulfilled when the complete (system and user) documentation has been handed over to ZEISS. Is software specially created for ZEISS, the source code shall also be provided to ZEISS. Furthermore, the provisions according to section 17 of these General Terms and Conditions shall be fulfilled.

- 5.8 If Supplier carries out Deliveries on the premises of ZEISS, Supplier shall be obliged to comply with the latest instructions on safety, environmental protection, fire protection and efficient use of energy for external parties.

6. Invoices, payments

- 6.1 Invoices shall be submitted separately stating ZEISS' order number. Any invoice shall comply with the respective statutory provisions, including but not limited to § 14 paragraph 4 of the German Value Added Tax Act (German: "**Umsatzsteuergesetz**").

- 6.2 Payment are due 30 days after receipt of Deliveries and invoice or, at the discretion of ZEISS, after 14 days with a 3% discount.

- 6.3 Payments shall not be deemed as acknowledgement that the Delivery is in accordance with the contract. In the event that a Delivery is defective or incomplete, ZEISS shall be entitled, without prejudice to ZEISS' other rights, to withhold a reasonable share of payment with regards to debts based on the business relationship until Supplier has performed in accordance with its contractual obligations.

7. Compliance with applicable laws and regulations

- 7.1 Supplier shall be obliged to comply with all applicable laws and regulations, including but not limited to such laws and regulations relating to human rights, workplace and consumer safety and environmental protection. Supplier grants ZEISS a right to audit the human rights and environment-related legal obligations and shall ensure that ZEISS can also carry out a corresponding audit at Supplier's suppliers and sub-suppliers, if required. Supplier shall indemnify and hold ZEISS harmless from any and all claims by third parties resulting from Supplier's failure to comply with the applicable laws and regulations.

- 7.2 Supplier shall be obliged to comply with the currently applicable regulations regarding restrictions on hazardous substances and not to use banned substances. In addition, ZEISS' works standard 5020 (available under download area Documents for Suppliers (Kunde.de)) shall apply in its currently valid version. Avoidance and hazardous substances according to ZEISS' works standard 5020 and the applicable regulations of the EU, UK, USA and China shall be specified by Supplier. Supplier shall specify all substances to be avoided and all dangerous substances and submit safety data sheets (at least in German or English) with Supplier's offers and with the delivery note of Supplier's first delivery. If Supplier has any evidence that its delivery has violated restrictions on substances or contained banned substances Supplier shall be obliged to immediately inform ZEISS.

- 7.3 With respect to deliveries and the performance of services Supplier alone shall be responsible for compliance with regulations for the prevention of accidents. Any necessary safety equipment and manufacturer's instructions shall be supplied free of charge.

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8. Import and export regulations

- 8.1 For Deliveries from a country (other than Germany) that is within the EU, the EU value added tax identification number shall be quoted. In case Supplier is located in an EU-member country, imported goods shall be delivered to ZEISS duty paid if not expressly agreed otherwise.
- 8.2 Supplier shall comply with all export regulations (especially the export control and customs regulations) applicable in the country of destination and at Supplier's seat and – where applicable - the United States of America. Supplier shall clearly show the corresponding classification (Export Control Classification Number) as well as the applicable statistical product number (HS Code) and the country of origin in the documentation (shipping note, invoice, etc.) provided for all Deliveries that are subject to export licenses or US (re-)export regulations. Supplier shall be obliged to provide at its own expense the required declarations and information under Regulation (EC) No. 1207 / 2001, allow checks to be performed by customs officials and furnish the requisite official letters of confirmation.
- 8.3 Where Deliveries involve technologies in terms of technical knowledge, which are subject to US (re-)export regulations (EAE, ITAR), the European Dual Use regulation or to the German Export Control List, Supplier shall be obliged to inform ZEISS in writing about this circumstance.

9. Code of conduct (code of conduct)

Supplier warrants for itself and all its organizational units and associated companies in which it directly or indirectly holds shares of more than 50% or which it otherwise controls that the provisions of the Code of Conduct of the Responsible Business Alliance (hereinafter "RBA") are complied with for all procedures, processes, products, deliveries and services and that it promotes and demands compliance with the provisions of the RBA Code of Conduct from its own suppliers to the best of its ability. The internationally recognized RBA Code of Conduct is available in various languages at the following link: [http:// www.responsiblebusiness.org/code-of-conduct/](http://www.responsiblebusiness.org/code-of-conduct/).

10 Transfer of risk, acceptance, title

- 10.1 Irrespective of the agreed pricing terms in case of Deliveries without acceptance procedure (for example Deliveries without installation or assembly) the risk of accidental loss and accidental deterioration shall pass to ZEISS upon handover at the delivery address specified by ZEISS.
- 10.2 Irrespective of the agreed pricing terms in case of Deliveries with statutory or agreed acceptance procedure (for example Deliveries with installation or assembly) the risk of accidental loss and accidental deterioration shall pass to ZEISS upon successful completion of acceptance.
- 10.3 Commissioning or use shall not replace the declaration of acceptance by the ZEISS.
- 10.4 Title of delivered goods shall automatically pass to ZEISS upon payment. Any elongated or extended retention of title shall be excluded.

11 Obligation to examine and give notice of defects, expenses

- 11.1 Examination of incoming goods will take place with regards to obvious defects. Hidden defects will be notified within one week once they have been detected according to the circumstances of the orderly course of business. Supplier waives the objection of delayed notification of a defect to this extend.
- 11.2 Where an acceptance procedure is agreed or stipulated by law, there is no separate obligation to examine incoming goods.
- 11.3 If ZEISS returns defective goods to Supplier ZEISS shall be entitled to debit back to Supplier the invoice amount paid plus a lump sum for expenses of 250 €. ZEISS reserves the right to proof higher expenses. Supplier's right to proof lower or no expenses shall be reserved.

12. Liability, warranty

- 12.1 Any contractual exclusion or limitation of liability shall only be valid to the extent ZEISS has explicitly approved them in writing at the time of contract formation. Section 2.2 applies to alleged later agreements.
- 12.2 In case that Supplier has agreed informally with any third party in the course of awarding of the contract and such informal agreement proves to be an illegal restraint of competition, Supplier shall be obliged to pay a lump sum of 15 per cent of the order value to ZEISS, unless a different amount of damage is proven by either party. Further claims and rights remain unaffected.
- 12.3 Defective Deliveries shall immediately be replaced defect-free or be repeated faultlessly. In the event of development or design engineering defects ZEISS shall be entitled to immediately assert the rights pursuant to section 12.6 provided that setting a grace period would be unreasonable.
- 12.4 Supplier shall require the consent of ZEISS to repair defective goods or services.
- 12.5 Supplier shall bear the risk of accidental loss and accidental deterioration during the time in which the defective good or service is not in the possession of ZEISS.
- 12.6 Without prejudice to the statutory rights (including but not limited to rescission, price reduction, damages and reimbursement of expenses), ZEISS may at its own discretion remedy the defect itself or have it remedied by a third party and may request the necessary costs and a corresponding advanced payment if Supplier fails to remedy the defect within a reasonable grace period by ZEISS and Supplier does not lawfully refuse remedy.
- 12.7 In urgent cases (including without limitation where operating safety is in jeopardy or for the purposes of preventing an exceptionally high damage or loss) or for the removal of insignificant defects, ZEISS shall be entitled, after notifying Supplier and after a reasonably short grace period has expired, to remedy the defect and any resultant damage or loss by itself or through third parties at Supplier's expense.
- 12.8 Section 12.7 shall also apply if ZEISS has to remedy a defect immediately in order to avoid its own delay in delivery and thus higher damages.
- 12.9 The limitation period for claims of ZEISS arising from defects in quality and defects in title shall be 36 months from the transfer of risk pursuant to section 10.1 or section 10.2.
- 12.10 The limitation period shall be suspended from the date of notification of defect until ZEISS' claim for defect has been fulfilled.
- 12.11 If Supplier has to deliver or perform in accordance with ZEISS' plans, graphs or other specific demands, Supplier expressly vouches for the conformity with ZEISS' demands. If Deliveries deviate from those demands ZEISS shall be entitled to immediately assert the rights pursuant to section 12.6 provided that setting a grace period would be unreasonable.
- 12.12 Any further legal or contractual claims and rights remain unaffected.

13. Repeated default

- 13.1 If, after receipt of a warning notice by ZEISS, Supplier delivers or performs an essentially identical or similar good or service also late or defective, ZEISS shall be entitled to immediately rescind the contract provided that setting a grace period would be unreasonable.
- 13.2 If a renewed non-performance or defective performance is to be expected with certainty, ZEISS' right of rescission also includes such Deliveries owed by Supplier in the future under this or another contractual relationship.

14. Indemnification in case of material defects and defects in title

Supplier shall indemnify and hold ZEISS harmless against all claims raised against ZEISS by third parties -

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irrespective of the legal grounds - due to a defect of quality or title or another defect of any Delivery by Supplier and shall reimburse ZEISS' expenses necessary for the defense against such claims.

15. Technical documents, tools, production equipment

- 15.1 Technical documents, tools, works standard sheets, means of production etc. provided by ZEISS shall remain property of ZEISS. All trademark rights, copyrights and other industrial property rights shall remain with ZEISS. They shall be returned by Supplier to ZEISS automatically, including all duplicates made, immediately after execution of the order; in this respect Supplier is not authorized to assert a right of retention. Supplier may only use the aforementioned objects for the execution of the order and may not make them available or otherwise accessible to third parties without authorization. Duplication of the aforementioned objects is only permitted to the extent that it is necessary for the execution of the order.
- 15.2 If the Supplier produces the objects mentioned in section 15.1 sentence 1 for ZEISS partly or completely at the ZEISS' expense, section 15.1 shall apply mutatis-mutandis, whereby ZEISS shall become (co-)owner in accordance with its share of the production costs. Supplier shall detain these objects for ZEISS diligently and free of charge. ZEISS shall be entitled at any time to acquire the Supplier's rights in relation to the objects by reimbursement of expenses not yet amortized and to demand the return of the objects.
- 15.3 Supplier is obliged to care for and maintain the aforementioned objects free of charge and to repair normal wear and tear.
- 15.4 If the Supplier commissions a sub supplier with prior approval of ZEISS to manufacture tools and samples for the execution of an order at the expense of ZEISS, the Supplier hereby assigns to ZEISS claims against the sub supplier for transfer of ownership of the tools and samples.

16. Provision of material

- 16.1 Material provided by ZEISS remains the property of ZEISS and shall be stored by the Supplier free of charge and with the care of a diligent businessman separately from its other property and shall be clearly marked by Supplier as the property of ZEISS. It may only be used for the execution of ZEISS' order. Damage to the material shall be compensated by Supplier.
- 16.2 If the Supplier processes or transforms the material provided by ZEISS, this activity shall be carried out on behalf of and for ZEISS as manufacturer. ZEISS shall become the direct owner of the new item created in the process. If the material provided by ZEISS only constitutes a part of the new item created, ZEISS shall be entitled to co-ownership of the new item created on a pro rata basis according to the value of the materials provided by ZEISS and contained in the new item created. Section 16.1 and section 16.2 apply mutatis mutandis to the new item created.

17 Free and open-source software (FOSS)

- 17.1 The following provisions of sections 17.2 to 17.7 shall not apply if the Supplier's Deliveries do not contain any form of so-called free and open-source software (hereinafter "FOSS").
- 17.2 Supplier shall be obliged to inform the ZEISS in good time, however at the latest with the order confirmation, whether and which FOSS its Deliveries contain.
- 17.3 Insofar as Deliveries include FOSS, Supplier shall use the included FOSS components in accordance with their license conditions.
- 17.4 Supplier must enable ZEISS to use FOSS components in accordance with the license conditions. In particular, it must be possible for ZEISS to sell and distribute Deliveries of Supplier as part of its own ZEISS products and services.
- 17.5 Supplier shall provide ZEISS with the following at the latest upon order confirmation: a) the source code of the relevant FOSS (insofar as the applicable license conditions require the disclosure of this source code); b) a list of all FOSS files

used with a reference to the applicable licenses as well as a copy of the complete license text; and c) a written declaration that neither Supplier's Deliveries nor any ZEISS products and works derived thereof are subject to a viral effect (so-called "copyleft effect"), in particular that they are not subject to the GPL license conditions.

- 17.6 If Supplier notifies ZEISS after receipt of an order that its Deliveries contain FOSS, ZEISS shall be entitled to revoke such order within 14 days after receipt of the corresponding written notification.
- 17.7 The so-called copyleft effect is a clause under licensing law which ensures that further developments of a software must be released under the same license condition as the software. In the context of an order by ZEISS, a so-called copyleft effect occurring under licensing law constitutes both a defect in quality and a defect in title. In case of a copyleft effect, Supplier shall be obliged to cure such defect within its warranty obligations by making a change to the software or its components free of charge for ZEISS.

18 Confidentiality and data protection

- 18.1 Supplier shall be obliged to treat confidential and not disclose to third parties all non-public information and data including but not limited to business secrets as defined by section 2 of the German law on protecting trade secrets (GeschGehG) which become known to the Supplier through the business relationship with ZEISS.
- 18.2 ZEISS' prior written consent is required if the Supplier a) wants to manufacture or display products specially made for ZEISS, in particular according to plans, drawings or other special requirements of ZEISS, for third parties or b) wants to refer to ZEISS' orders publicly or vis-à-vis third parties.
- 18.3 ZEISS shall be entitled to process personal data of the Supplier and to transfer personal data to affiliated companies of the ZEISS Group if this is necessary for the performance of a legal transaction or if data subjects have consented thereto. Any data subject is entitled to request information regarding the content and use of the personal data processed by ZEISS. Any request by a data subject shall be addressed to the ZEISS Group company using these Terms and Conditions and will be handled in accordance with the applicable data protection laws and regulations. ZEISS and Supplier shall comply with the applicable data protection regulations, in particular the European General Data Protection Regulation (GDPR) as well as additional contractual requirements pursuant to Art. 28 paragraph 3 of the GDPR.

19. Final provisions

- 19.1 The place of performance for Deliveries as well as any cure shall be the delivery address specified in the order. Unless expressly agreed otherwise, Supplier has to perform and fulfill its obligations at the address specified in the order.
- 19.2 If Supplier is a merchant, a legal entity under public law or a special fund under public law, the place of jurisdiction shall be the registered office of the company of the ZEISS Group using these General Terms and Conditions. ZEISS is nevertheless entitled to assert claims against the Supplier at the place of jurisdiction responsible for the Supplier's registered office.
- 19.3 Governing law shall be the law of Germany with the exclusion of the international conflict of laws provisions thereof and with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).