



General Terms and Conditions of Purchase

1. Scope of application

- 1.1 Any sale and delivery of goods and services by the Supplier to ZEISS shall be subject to the Terms and Conditions of Purchase set forth herein exclusively except where other agreements have been explicitly made.
- 1.2 Supplier's general terms and conditions that are inconsistent with or supplement the Terms and Conditions of Purchase set forth herein shall only apply to the extent ZEISS has explicitly consented in writing. The requirement of consent applies in any case even if ZEISS accepts Supplier' delivery and services without reservation with knowledge of the Supplier' general terms and conditions.

2. Orders

- 2.1 Orders by ZEISS shall be only valid if made in writing or text form.
- 2.2 A written contract or a written confirmation shall be decisive for the proof of amendments or additions to these General Terms and Conditions of Purchase. The possibility of proof to the contrary remains unaffected.
- 2.3 ZEISS shall be entitled to revoke orders free of charge if Supplier does not confirm an order in unmodified form within two weeks after receipt.

3. Time limits, consequences of default

- 3.1 Delivery dates and time limits for sale and delivery of goods and services stated in the order or otherwise agreed shall be binding. If delays in delivery or performance are expected or occur Supplier shall immediately notify ZEISS in writing or in text form.
- 3.2 If Supplier fails to deliver or perform within a reasonable grace period set by ZEISS or if a grace period is dispensable, ZEISS shall be entitled to refuse acceptance, rescind the contract and/or demand compensation. ZEISS shall be entitled to rescind the contract even if Supplier is not responsible for the default. Supplier shall bear any additional costs incurred by ZEISS because of Supplier's default including without limitation those resulting from the necessity to purchase from third parties instead. Further legal or contractual rights remain unaffected.
- 3.3 The right to demand an agreed contractual penalty for inappropriate performance (§ 341 BGB – German Civil Code) shall be reserved for ZEISS until the final payment.

4. Prices

- 4.1 Prices shall be fixed prices. They shall include all expenses in connection with the sale and delivery of goods and services provided by Supplier.
- 4.2 Except where otherwise expressly agreed upon in writing at the time of contract formation, the price includes in particular costs of delivery, transport, shipment, packaging, travel expenses as well as public charges, tax, official permits and custom duties. Section 2.2 applies to alleged later agreements.

5. Execution, 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. Delivery call-offs shall be binding with regard to the nature and quantity of the goods ordered and the delivery time. Part-deliveries and part-performance shall require the express prior consent of ZEISS.
- 5.2 All deliveries must be accompanied by a delivery note stating the ZEISS order number as well as details of the nature and quantity of the contents.
- 5.3 Deliveries shall generally include customary one-way standard packaging. If reusable packaging is used, it shall be provided on loan by the Supplier. Return of the reusable packaging shall be carried out on Supplier's account and risk. If as an exception ZEISS takes over packaging costs, these costs shall be calculated on basis of verifiable net

costs. The economical use of resources and energy shall be respected at any time.

- 5.4 In the event that equipment is delivered, a technical description and instructions for use shall be included free of charge. Where applicable technical data sheets regarding the energy efficiency shall be included.
- 5.5 In case of software products, the delivery obligation shall only have been met once all the (systems and user) documentation has also been delivered. For software that is specifically developed for ZEISS, the source code shall also be delivered.
- 5.6 When Supplier is delivering goods or providing services on ZEISS' premises Supplier shall obey the directions for non-employees concerning security, environmental- and fire protection and efficient use of energy currently in force.

6. Invoices, payments

- 6.1 Invoices shall be sent by Supplier to ZEISS separately and shall state ZEISS' order number. All invoices shall comply with the applicable statutory regulations, including but not limited to § 14 subsection 4 of the German Value Added Tax Act ("Umsatzsteuergesetz").
- 6.2 Payments by ZEISS shall be due 30 days after receipt of the goods and Supplier's invoice or at ZEISS' choice within 14 days with a 3% discount.
- 6.3 Payments shall not be deemed as acknowledgement that the good or service is in accordance with the contract. In the event that a good or service is defective or incomplete, ZEISS shall be entitled without prejudice to ZEISS' other rights to withhold an reasonable amount of payments with regards to debts based on the business relationship until Supplier has performed in accordance with its contractual obligations.
- 6.4 The cession of Supplier's claims against ZEISS to third parties shall be excluded.

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 workplace and consumer safety and environmental protection. 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. 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.

8. Import and export provisions, conflict minerals

- 8.1 For goods and services 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



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statistical product number (HS Code) and the country of origin in the documentation (shipping note, invoice, etc.) provided for all deliveries and services 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 goods and services to be delivered to ZEISS 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

Supplier, including all of its organizational units and affiliates, in which Supplier directly or indirectly holds more than 50% of shares, shall ensure that the following shall apply. The provisions of the current version of the Code of Conduct of the Responsible Business Alliance (RBA) shall apply to all processes, goods and services provided by Supplier to ZEISS. In addition, Supplier shall promote and take reasonable steps to ensure compliance with the provisions of the RBA Code of Conduct at its suppliers. The internationally recognized RBA Code of Conduct is available in many languages here: <http://www.responsiblebusiness.org/code-of-conduct/>

10. Passage of risk, acceptance, title

- 10.1 Irrespective of the agreed price terms the risk of loss or damage passes to ZEISS in case of delivery of goods and services without acceptance procedure (for example delivery without installation or assembly) upon receipt at the delivery address provided by ZEISS.
- 10.2 Irrespective of the agreed price terms the risk of loss or damage passes to ZEISS in case of delivery with a statutory or agreed acceptance procedure (including but not limited to delivery with installation or assembly) upon successful completion of the acceptance by ZEISS.
- 10.3 Commissioning or use shall not replace the declaration of acceptance by ZEISS.
- 10.4 Upon payment property of the delivered goods shall be automatically transferred to ZEISS. Any elongated or extended retention of title shall be excluded.

11. Obligation to examine goods and notification of defects, expenses

- 11.1 Examination of incoming goods will take place with regards to obvious defects. Hidden defects will be notified within 14 days once they have been detected according to the circumstances of the orderly course of business. Supplier waives the objection of delayed notification 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 5% of the price of the defective goods. 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 of goods shall be replaced immediately by deliveries that are free from defect, and faulty services must be repeated faultlessly. In the event of development or design engineering defects ZEISS shall be entitled to immediately assert the rights pursuant to section 12.5 provided that setting a grace period would be unreasonable.
- 12.4 Supplier shall require the consent by ZEISS to repair defective goods or services. Supplier shall bear the risk of loss and damage during the time in which the good or service to be delivered is not in the possession of ZEISS.
- 12.5 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 period of grace set by ZEISS and Supplier does not lawfully refuse remedy.
- 12.6 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 period of grace has expired, to remedy the defect and any resultant damage or loss by itself or through third parties at Supplier's expense. This shall also apply if ZEISS has to remedy defects immediately so that ZEISS does not miss its own delivery deadlines.
- 12.7 The period of limitation for claims for defects of quality and defects of title shall be 36 months as from the passage of risk in accordance with section 10.1 or section 10.2.
- 12.8 The expiry of the period of limitation shall be suspended from the date of notification of defects until ZEISS' claim for defects has been fulfilled.
- 12.9 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 delivery of goods or performance of services deviates from those demands ZEISS shall be entitled to immediately assert the rights pursuant to section 12.5 provided that setting a grace period would be unreasonable.
- 12.10 ZEISS' further statutory rights shall in any case be reserved.

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 further non-performance or defective performance is certainly to be expected, ZEISS shall also be entitled to rescind this contract and any other contract on the basis of which Supplier is obliged to provide future delivery of goods and/or future performance of services.

14. Indemnification in the event of defects

Supplier shall indemnify ZEISS against all claims raised against ZEISS by third parties – for whatever legal reason – due to a defect of quality or title or another defect of a product delivered by Supplier and shall also reimburse ZEISS' expenses necessary for the defense against the claims.

15. Technical documentation, tools, means of production

- 15.1 All technical documents, tools, in-house standard sheets, means of production, etc., that ZEISS provides shall remain the property of ZEISS; all trademark, copyright or other property rights shall remain with ZEISS. They,



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together with all duplicates made, must automatically be returned to ZEISS as soon as the order has been executed. Supplier shall not be entitled to assert a right of retention in this respect. Supplier may only use the said objects to execute the order. Without authorization, Supplier may not pass them on or make them otherwise accessible to third parties. The said objects may only be duplicated in so far as it is necessary for the execution of the order.

- 15.2 In the event that Supplier wholly or partly creates the objects mentioned in sentence 1 of section 15.1 for ZEISS at the expense of ZEISS, section 15.1 shall apply accordingly. ZEISS shall own the objects on a pro rata basis according to its share of the costs of manufacture, and Supplier shall keep these objects diligently and free of charge for ZEISS; ZEISS may, at any time, acquire Supplier's rights in respect of the object by compensating for expenses that have not yet been amortized and reclaim the object.
- 15.3 Supplier shall be obliged to take care of, service and maintain the aforementioned objects as well as to mend defects caused by normal wear and tear at its expense.
- 15.4 If Supplier, in order to execute the order, after prior consultation with ZEISS at the cost of ZEISS subcontracts the production of samples and tools to a third party Supplier shall cede to ZEISS Supplier's claims for cession of property in those tools and samples against the subcontractor.

16. Provision of materials

- 16.1 Materials that ZEISS provides shall remain the property of ZEISS. Supplier shall store them free of charge with due care and diligence. Supplier shall keep them separate from its property and evidently mark them as the property of ZEISS. They may only be used to implement the order for ZEISS. Damage to materials provided by ZEISS shall be compensated by Supplier.
- 16.2 In the event that Supplier processes or transforms the materials provided by ZEISS, this shall be done for and on behalf of ZEISS as manufacturer. ZEISS shall become the direct owner of the resulting new objects. If the materials provided by ZEISS only constitute a part of the new objects ZEISS shall be entitled to ownership of the new objects on a pro rata basis according to the value of the materials provided and contained therein.

17. Free and Open Source Software (FOSS)

- 17.1 The following provisions of Section 17.2 to 17.6 do not apply if the sale and delivery of goods and services of the Supplier do not contain Free and Open Source Software (FOSS).
- 17.2 Supplier shall be obliged to inform ZEISS in good time, however at the latest with order confirmation, whether and which FOSS is contained in its sale and delivery of goods and services.
- 17.3 Insofar as delivery of goods and services contain FOSS, Supplier shall use the contained FOSS components in accordance with their license terms.
- 17.4 Supplier must enable ZEISS to use FOSS components in accordance with the license terms. ZEISS must be able to sell and distribute them as part of its own ZEISS-products and services to customers.
- 17.5 Supplier shall provide to ZEISS the following at the latest with order confirmation: a) The source code of the relevant FOSS, (insofar as the applicable license terms require the disclosure of this source code); b) a list of all FOSS files used indicating the applicable licenses as well as a copy of the complete text of such license; and c) a written declaration, whether and which goods and services of Supplier as well as products and works derived thereof are affected by a viral effect meaning that they may only be redistributed under the GPL license terms.
- 17.6 If Supplier informs ZEISS only after receipt of the order that its goods and services contain FOSS, ZEISS shall be

entitled to revoke the order within 14 (fourteen) days of receipt of this information.

18. Confidentiality and Data Protection

- 18.1 Supplier shall be obliged to handle confidential and not pass on to third parties all non-evident information and data, including but not limited to business secrets as defined by Section 2 of the German law on protecting trade secrets (GeschGehG), that Supplier becomes aware of through the business relationship with ZEISS.
- 18.2 The prior written consent of ZEISS shall be required for the manufacture for third parties and exhibition of products manufactured specifically for ZEISS, especially those made according to drawings and manufacturing specifications of ZEISS, for publications relating to ordered goods and services and for references to this order 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 to the extent this is necessary for the execution of the contract or provided that the Supplier has acknowledged the processing and transfer of personal data. 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.

19. Miscellaneous

- 19.1 The place of performance (also for rectification) shall be the delivery address given in the order. Except where otherwise expressly agreed upon, Supplier has to fulfil its obligation at the given delivery address.
- 19.2 The place of jurisdiction, provided that Supplier is a merchant, a legal person under public law or a special fund under public law, shall be the place of business of the ZEISS Group company using these Terms and Conditions of Purchase. However, ZEISS may also take legal action against Supplier at Supplier's place of business.
- 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).