

General Terms and Conditions of Sale and Delivery

These are the general terms and conditions of sale and delivery for products and services (devices, consumables, software and service- and maintenance contracts) of Carl Zeiss N.V., located at Ikaroslaan 49, 1930 Zaventem, Belgium, registered with RPR company number 0440 998 523 Brussels (hereinafter referred to as "ZEISS").

I. PRELIMINARY CLAUSES

- 1.1 The present General Terms and Conditions shall govern all legal relations between ZEISS and the Customer.
- 1.2 ZEISS proposals do not constitute a commitment. Statements made by our representatives, and orders, shall only be valid if ZEISS accepts and confirms the same in writing.
- 1.3 The written consent of ZEISS shall be required in case the customer wishes to cancel an order for the products or services that has been accepted and confirmed by ZEISS. In case of cancellation by the customer, without written consent from ZEISS, the customer shall be liable, without the need to issue a prior notice of default, to pay a fixed damage compensation of 10% of the contracted price (excluding VAT), subject to a minimum of €250, AND ZEISS shall have the right to full compensation of the (production) costs already incurred.
- 1.4 Possible change(s) and/or addition(s) to orders for the products or services shall only bind ZEISS after, and insofar as ZEISS accepts and confirms the same in writing.
- 1.5 If these General Terms and Conditions are in conflict with the General Terms and Conditions of the Customer, the present ZEISS conditions of sale shall take precedence.
- 1.6 If any provision of these General Terms and Conditions should be wholly or partially invalid, the validity of the other provisions of these General Terms and Conditions shall not be affected thereby. The provisions of these General Terms and Conditions shall also be interpreted so as to be valid and enforceable under applicable law.
- 1.7 Any deviations from the present General Terms and Conditions by ZEISS to the benefit of the Customer, shall never entitle the latter to later rely on them or to invoke the application of such a deviation.
- 1.8 In case ZEISS deviates from certain (sub)clauses contained in these General Terms and Conditions, the remaining (sub)clauses shall continue in full force. In case ZEISS does not demand strict compliance with the General Terms and Conditions, this shall not imply any reduction in its rights.
- 1.9 No right or claim arising on the basis of the present General Terms and Conditions or in respect of a breach of contract by the other party may be waived unless such waiver is expressly made and notified in writing. Such a waiver of a right or claim may never be interpreted as a waiver of any other right, even if the two cases are very similar.
- 1.10 If a pre-arranged (with the Customer) scheduled training, scheduled maintenance or other scheduled service is postponed or cancelled by the Customer, a cancellation fee has to be paid. The cancellation fee depends on the time of postponement or cancellation. 30 days before the scheduled service, no cancellation fee is due. 7-29 days before the scheduled service, 20% of the price of the service is due. 1-6 days before the scheduled service, 50% of the price of the service is due. On the day of the scheduled service or without any cancellation, 100% of the price of the service is due.

II. PAYMENTS

- 2.1 Prices are net prices. All expenses, taxes and charges that are incidental to the sale or result from the same shall be borne solely by the Customer. ZEISS shall have the right to annually index the agreed prices of the ZEISS products and services. For orders relating to the purchase of products of less than €150 (excluding VAT), a fixed administration and postage cost of €25 (excluding VAT) shall be charged.
- 2.2 For orders relating to the purchase of products exceeding €50,000 (excluding VAT), an advance payment shall be made amounting to half of the price at the time of placing the order. The remaining half of the price shall be payable at the time of delivery/installation.
- 2.3 Invoices shall be payable from the time of receipt until 30 days after the date of the invoice at the latest.
- 2.4 Interest at the rate of 10% shall be payable on all amounts remaining unpaid as on the due date, by operation of law and without the need for further reminders. A fixed penalty clause for an amount equal to 15% of the amount still due shall apply, subject to a minimum of €40 for administrative and other costs, shall also be payable in addition to the amount due.

2.5 Failure to make payment on the due date shall, by operation of law and without the need for further notices, also cause any payment deadlines granted to lapse, and furthermore, all sums owed to ZEISS shall become immediately payable. In such case, ZEISS shall have the option to cancel all outstanding orders subject to reservation of all rights and claims.

2.6 If the Customer waives the statutory claim of set-off, set-off shall only take place in accordance with a written acknowledgement of debt by ZEISS or a final court decision.

2.7 The prices quoted in offers and/or order confirmations shall be valid for 30 days, unless explicitly stated otherwise or unless there is an increase in the prices charged by ZEISS' suppliers.

2.8 ZEISS shall have the right to demand advance payments or some security. If the same is not received, ZEISS may suspend fulfilment of the agreement.

2.9 The Customer consents to hand over to ZEISS all sums due to the latter, under any title whatsoever.

2.10 If payment is not made in accordance with the stipulated conditions, and in case the Customer becomes bankrupt or insolvent, ZEISS shall have the right - wherever applicable - to take back the delivered goods immediately, or to retain the repaired goods until the date of full payment.

III. DELIVERY DEADLINES

3.1 Unless otherwise agreed in writing, all delivery periods shall only be indicative. Under no circumstances can ZEISS be held responsible for delays in delivery that are due to facts beyond its control, particularly, but not limited to, instances in which the Customer fails to honour its commitments under these General Terms and Conditions or under any other contract with ZEISS, or in case the delay is due to ZEISS's own supplier.

3.2 Unless explicitly agreed otherwise in writing, ZEISS shall have the right at all times to have the agreement performed in whole or in part by third parties, in which case the present General Terms and Conditions shall also work in favour of these third parties.

3.3 ZEISS reserves the right to suspend delivery in case the Customer becomes bankrupt or insolvent.

3.4 The Customer undertakes to accept partial deliveries.

IV. SHIPMENT - TRANSFER OF RISK

4.1 The transport costs of the goods shall be borne by the Customer, unless otherwise expressly stipulated by ZEISS.

4.2 The goods shall be delivered directly or indirectly to the Customer, unless otherwise expressly stipulated by ZEISS.

4.3 The goods shall be transported at the Customer's risk, unless otherwise expressly stipulated by ZEISS.

4.4 ZEISS reserves the right to determine the method and route of shipment. In such case, ZEISS shall act in the name and on behalf of the Customer and shall not bear any liability, except in case of the possible application of mandatory or public policy laws, unless otherwise expressly stipulated by ZEISS.

4.5 Risk shall be transferred at the time of delivery of the goods by ZEISS to the carrier. If the carrier does not accept the goods, the goods shall be stored in a place specified by ZEISS. The risk and liability associated with the goods shall then rest with the Customer.

4.6 If, as a result of transport, the goods have visible defects or the delivered goods do not correspond to the delivery note, the Customer shall accept the shipment only after it has had such damage or inconsistency noted on the delivery note. Such notification must be signed by the carrier. The same shall apply if there is a reasonable suspicion of damage (e.g. if the packaging is damaged). The invisible damage caused by the transport must be notified in writing to the carrier as soon as it is discovered. In the two aforementioned cases, the Customer shall inform ZEISS in writing within five calendar days.

V. RETENTION OF TITLE

5.1 The goods shall remain the property of ZEISS until all the amounts owed to ZEISS with regard to these goods have been paid (right of retention of title).

5.2 The Customer undertakes to maintain the goods in perfect condition, and to keep the same insured (for the full replacement value) against all insurable risks, with ZEISS expressly designated as the beneficiary. All claims that the Customer may have, sooner or later, with respect to the goods to which the abovementioned right of retention of title relates, shall be automatically and unconditionally transferred by the Customer to ZEISS.

VI. ACCEPTANCE - COMPLAINTS

6.1 All checks carried out for the acceptance of goods shall be at the expense of the Customer.

6.2 The Customer undertakes to take delivery of the goods, even if they have minor defects. In return, ZEISS undertakes to rectify the aforementioned defects as existing at the time of delivery, free of charge.

6.3 All complaints concerning the goods shall be communicated in a registered letter containing a precise explanation of the complaints, which shall be sent within 5 calendar days after the goods have been received or rejected. The postal date (stamp) shall be the date of dispatch. Once this period has elapsed, there shall be an irrefutable presumption that the goods have been accepted.

6.4 The Customer shall return any goods that it does not accept at its own expense and risk, within eight days of dispatch of the registered letter referred to in 6.3. Acceptance of these goods by ZEISS shall not under any circumstances imply that ZEISS recognises the justification for refusing to accept the goods. Nor shall it mean that ZEISS has waived its rights against the Customer.

6.5 Complaints concerning invoices shall be lodged in the same manner and within the same period as applicable to complaints concerning the goods, failing which an irrefutable presumption shall apply to the effect that the invoice has been accepted.

VII. WARRANTY AND RETURNS

7.1 The warranty shall apply to all defects in material or workmanship, with the exception of consumables. The warranty period shall be suspended during any repair or replacement.

7.2 No warranty shall apply to defects resulting from normal wear and tear or from improper use as well as defects that occur after the modification or repair of the items by persons other than ZEISS technicians and authorised ZEISS agents. The warranty only covers items manufactured by ZEISS.

7.3 The warranty period for new ZEISS products (including software) shall be 12 calendar months. This warranty period shall commence on the day of delivery of the goods. If goods are to be installed, the warranty shall commence on the day on which they are put into use after installation. If goods have to undergo final acceptance by the Customer, the warranty shall commence on the day after the day of acceptance.

7.4 The warranty shall be claimed by registered letter, addressed to ZEISS, immediately after, but at the latest within two weeks of the occurrence of the Defect.

7.5 It is explicitly provided that ZEISS shall not guarantee that the software shall work in all the combinations chosen by the Customer, if these combinations are not included in the descriptions. ZEISS assumes no liability and provides no warranty for software programs, interfaces, etc. from other manufacturers. ZEISS assumes no liability for the loss of data as a result of a repair or maintenance.

7.6 No warranty is provided on the delivery of demo or second-hand equipment.

VIII. INTELLECTUAL PROPERTY

8.1 ZEISS expressly reserves the rights of intellectual property, such as industrial, literary or artistic property rights (the Rights), with respect to its specifications, plans and other documents. Under no circumstances may the same be disclosed to third parties without the prior consent of ZEISS.

8.2 All documents provided shall be returned to ZEISS at its first request if the contract is not concluded or at the time at which the contract comes to an end.

8.3 The Customer undertakes to notify ZEISS immediately, by registered letter, of any claim by third parties concerning these Rights.

8.4 Furthermore, the Customer undertakes not to make any changes to the external appearance of the goods which might produce the impression that the Customer or a third party is the manufacturer of the goods, and shall also not remove the marks affixed on the delivered goods, and to also not affix the manufacturer's marks of the Customer or of a third party on the goods.

8.5 ZEISS shall not assume any liability with regard to the Rights that third parties may assert over items manufactured in accordance with the Customer's plans, studies and descriptions. The Customer shall indemnify ZEISS against the same at all times.

IX. SPECIAL CONDITIONS RELATING TO AFTER-SALES AND SERVICE- AND MAINTENANCE CONTRACTS

9.1 Invoicing shall be done after the Maintenance Contract is signed or after the maintenance has been carried out. Repairs shall be invoiced after the complete repair has been carried out.

9.2 All prices and fees shall be stated in the applicable price list or as agreed in writing. Failing this, ZEISS shall have the right to determine this in all reasonableness.

9.3 ZEISS expressly reserves the right to carry out an inspection of each device before concluding a maintenance contract for the same. Should the device prove defective, even partially, the repair shall be carried out before the maintenance contract comes into effect. The costs shall be invoiced separately. If the device turns out to be in good condition, the work shall be carried out and this intervention shall be considered as a first maintenance visit in accordance with the maintenance contract. If the Customer has several devices, ZEISS may at any time demand that all devices of the same type shall be simultaneously covered by the maintenance contract and/or that a particular device is excluded from the maintenance contract if it can no longer be serviced economically.

9.4 ZEISS personnel shall have free access to the devices in all safety and under the responsibility of the Customer. Delays not attributable to ZEISS shall be charged to the Customer at the prevailing ZEISS rates, on the grounds that the same constitutes work outside the Maintenance Contract.

9.5 ZEISS guarantees the availability of replacement parts for a period of eight years in respect of all devices manufactured by it, following the last production date of the device in question. With regard to IT equipment, ZEISS guarantees the availability of replacement parts/software for 3 years following the last production date of the device in question.

9.6 The work under the maintenance contracts shall be performed on working days (Mon-Fri) between 8.30 a.m. and 5 p.m.

9.7 ZEISS reserves the right to avail of the services of third parties for the performance of its services under the maintenance contracts.

9.8 Work carried out in respect of customer requests that relate to items/work that are/is not covered under the maintenance contract shall be carried out and invoiced at the applicable ZEISS rates, including: changes to and/or on the device, as well as the addition or removal of peripherals or accessories not supplied by ZEISS, changes to the place of installation and the consequences thereof, as well as the rectification of defects due to: inappropriate use, handling or action, repairs carried out by personnel not authorised by ZEISS, (un)suitable production methods, operating materials or environmental conditions, influences from third-party devices, a fault in the necessary facilities external to the device, such as electricity, compressed air, air-conditioning, water cooling, etc., as well as, but not limited to, situations of *force majeure*, such as, without limitation: strike, fire, flood, thunderstorm, lightning, attacks, natural disasters, etc.

9.9 The service- or maintenance contract shall have a duration of at least 12 months, unless otherwise agreed.

9.10 In the absence of written notice of termination by one of the parties by registered letter at least one month before the expiry date, the contract shall be automatically renewed for a period of 12 months each time. Upon renewal of the maintenance contract, ZEISS shall have the right to make an agreed index adjustment or other additional price adjustments.

9.11 Repairs requested outside the scope of the maintenance contract shall be carried out as soon as possible. The work shall be carried out on working days between 8.30 a.m. and 5 p.m.

9.12 For each device, ZEISS reserves the right to refuse to conclude a maintenance contract.

9.13 A maintenance contract shall not be transferable without the prior written consent of ZEISS.

9.14 A warranty period of three months shall apply to the repair work itself. A warranty period of 12 months shall apply to the equipment, with the exception of consumables.

9.15 Defects resulting from wear and tear or improper use or occurring after modification or repair by persons other than ZEISS technicians/authorised agents shall not be covered by any warranty. The warranty shall only apply to items manufactured by ZEISS.

X. LIABILITY AND COMPENSATION

10.1 In case ZEISS fails to fulfil its obligations, or to do so in time or properly, all liability shall expressly be limited to the maximum of the amount of the invoice for the goods supplied. ZEISS shall never be liable for direct or indirect damages, in any form whatsoever, and this shall explicitly include damages arising due to loss of sales. The Customer shall indemnify ZEISS for claims relating to damage for which ZEISS is not liable in its relationship with the Customer.

10.2 In all other cases, the liability of ZEISS shall be limited to the product liability insurance it has taken out.

10.3 If the Customer wishes to have further liability covered, it shall take out its own insurance.

10.4 The Customer shall at all times fully indemnify ZEISS against damage caused by the Customer itself, by its employees or by third parties.

XI. FORCE MAJEURE

11.1 If, on account of *force majeure*, ZEISS is prevented from fulfilling its obligations towards the other party for a period exceeding 45 calendar days, it shall have the right, at its own discretion, to either suspend the performance of the agreement for a maximum of 6 months, or to consider the agreement to have been fully or partially dissolved, without the possibility for the Customer to claim any compensation, even if ZEISS were to gain any advantage as a result of such force majeure.

XII. DISSOLUTION

12.1 The Parties acknowledge that the agreement shall be fully or partially dissolved by operation of law and without prior notice of default and/or judicial intervention in case of insolvency, bankruptcy or attachment of a substantial part of the assets or liquidation of the Customer.

12.2 Payment obligations, which arose before the time of dissolution, shall continue in full force and effect and shall become immediately due and payable without the need to issue a prior notice of default or for judicial intervention, subject to mandatory legal obligations.

XIII. JURISDICTION CLAUSE

13.1 All agreements with ZEISS shall be governed exclusively by the law of Belgium.

13.2 The courts of the district of Leuven are exclusively competent for all disputes that might arise from contractual relations with ZEISS, including disputes concerning the application and interpretation of these general conditions of sale and delivery.

XIV. PROCESSING OF PERSONAL DATA

14.1 The processing of personal data is subject to privacy regulations and is carried out in ZEISS in full compliance with the provisions of the law. The personal data we have obtained about you shall first be used within the framework of the legal relationship we have with you, and more specifically in relation to the sales or maintenance agreement you have with ZEISS. This information may also be used (i) to fulfil any service you may require, (ii) in connection with the marketing of ZEISS products and services and related products and services, including through direct marketing specifically intended for personalised targeted marketing purposes, and subsequently (iii) to improve our service to you as a business. This information shall not be disclosed to third parties outside the ZEISS group, its affiliated or associated companies, agencies, dealers or licensees and any other undertakings with which ZEISS has agreed to provide services for your benefit, as well as any purchaser, nominee or replacement of the above parties. This information shall initially be processed and managed by ZEISS and may be forwarded to other countries, within as well as outside the European Union, where it may also be processed and stored. Provided that you identify yourself, you as an individual shall have the right to ask what information we have stored about you and to make rectifications to the same wherever necessary. Please contact ZEISS for the same. You can find the ZEISS data protection declaration on the website: www.zeiss.be. In addition, you may contact the Belgian Data Protection Authority: de Commissie ter bescherming van de persoonlijke levenssfeer, Waterloolaan 115, 1000 Brussels.