



General Terms and Conditions for Repair Contracts

1. Scope of application

These General Terms and Conditions shall apply exclusively to repair works undertaken by ZEISS, except where other agreements have been explicitly made. Any general terms and conditions of the customer which are inconsistent with or supplement the General Terms and Conditions set forth herein shall only apply to the extent that ZEISS has expressly consented to them in writing. Without such consent, repairs by ZEISS shall in any case be based on the General Terms and Conditions even if the customer has referred to its own general terms and conditions.

2. Scope of work

2.1 ZEISS will undertake the professional execution of the repair work assigned in relation to equipment that ZEISS has manufactured. Unless a different scope of work has been agreed upon in writing, the repair work comprises the performance of those repair works to restore the functionality of the equipment which are recognizable to ZEISS as necessary by the information provided by the customer, by testing the equipment in question and in the course of the repair work.

2.2 ZEISS shall be entitled to engage third parties to carry out repair work.

2.3 The performance of preventive actions to prevent a functional failure (including but not limited to preventive maintenance and inspection) are not part of the scope of work and are only provided by ZEISS based on a separate order and against separate remuneration.

3. Remuneration

3.1 ZEISS' remuneration for the repair work is calculated in accordance with sections 3.2 to 3.3, on basis of the individual scope of work performed. ZEISS' rates applicable at the time of the repair will be charged.

3.2 The working time will be rounded up to the next full hour and charged per hour at the applicable rates for the ZEISS equipment service in accordance with the relevant class of equipment plus setup time and traveling time. Waiting times incurred by ZEISS shall also be deemed as working time.

3.3 Any material required will be invoiced separately. If during the repair work ZEISS uses small parts such as screws, washers etc., ZEISS shall be entitled to charge a flat fee for small parts to simplify invoicing.

3.4 Shipping costs (packaging, transport and insurance) shall be borne by the customer. ZEISS may charge a flat fee for shipping costs and handling.

3.5 Value-added tax at the statutory rate will be charged on the prices quoted.

4. Terms of payment

4.1 The invoices are due without any deductions as soon as ZEISS has provided the repair work and issued an invoice.

4.2 Upon default of payment – or from the due date if the customer is a businessman within the meaning of the German Commercial Code (HGB) – ZEISS shall be entitled to demand default interest of 9 (for consumers 5) percentage points above the base lending rate p.a.. ZEISS reserves the right to claim a higher actual damage.

4.3 Customers may only offset against a counterclaim which is uncontested or has been finally and non-appealably established or is reciprocally linked to the main claim.

4.4 An entrepreneur within the meaning of § 14 of the German Civil Code (BGB) may only withhold its counter-performance because of such counterclaims which are uncontested or have been finally and non-appealably established.

4.5 ZEISS reserves the right to return repaired instruments cash on delivery.

5. Cost estimates

5.1 The expected repair costs stated in the cost estimate are approximate values estimated based on the information the customer has provided and following the examination of the equipment. ZEISS does not assume any liability for the accuracy of the figures contained. If while repairing the equipment it becomes clear that more extensive repair work is necessary, ZEISS shall be authorized to complete the repair work without seeking confirmation from the customer, if the total repair costs do not exceed the approximate value stated in the cost estimate by more than 15 %. Otherwise ZEISS will inform the customer that ZEISS expects the cost estimate to be exceeded and will present a new cost estimate to the customer.

5.2 If on the basis of a cost estimate the customer decides not to proceed with the performance or continuation of the repair work, ZEISS shall be entitled to charge for the cost of preparing the cost estimate and for any services performed up to that point.

6. Repair times

6.1 ZEISS will start carrying out the repair work within a reasonable period. Unless a binding deadline has explicitly been agreed, dates for completion of which the customer is notified are non-binding. ZEISS will carry out on-site repairs within a reasonable period within the framework of reasonable travel planning for ZEISS' repair personnel.

6.2 If the fulfilment of the obligations of ZEISS is delayed or impeded by circumstances beyond ZEISS' responsibility, including but not limited to force majeure, strikes, lockouts, operational breakdown, scarcity of materials and energy, incorrect or late delivery despite a careful choice of supplier, the period for carrying out repairs will be extended by the duration of the hindrance. If a party provides substantial evidence that it cannot reasonably accept such an extension, such party is entitled to withdraw from the contract, without the right to any claims for damages, in so far as the contract has not yet been fulfilled. Any further claims that the customer may assert are excluded.

6.3 If the customer proves to ZEISS that it has suffered damages due to a delay in carrying out a repair work for which ZEISS is responsible due to slight negligence, ZEISS' obligation to pay compensation, subject to the statutory liability conditions, shall be limited to the amount of 1 % of the current taxable fiscal value of the equipment per completed calendar week, but not exceeding 5 % of the current taxable fiscal value of the equipment; Section 11.3 shall apply. Claims for damages in the case of intent or gross negligence as well as the cases specified under section 11.4 remain unaffected by the aforementioned limitation of liability.

7. Transport, insurance and passage of risk

7.1 Unless ZEISS receives instructions to the contrary, ZEISS will choose the route and type of transportation for the return of repaired equipment. Transportation will be charged to the customer even if ZEISS uses its own means of transport. The packaging required for transportation will be charged to the customer at cost.

7.2 ZEISS will insure the goods at customer's expense against normal transportation risks from door to door. The customer must notify the transport company, or, if ZEISS uses its own means of transport, the customer must notify ZEISS immediately in writing of any transport damage.

7.3 The risk of accidental damages or accidental loss of the repaired equipment passes to the customer as soon as the repaired equipment has left ZEISS' factory or has been handed over to the transport company.

8. Duties of the customer to co-operate

8.1 The customer shall provide ZEISS with the equipment to carry out the repair work –in the case of on-site repairs, at the agreed time– and shall inform the ZEISS' repair personnel without their solicitation of problems that have occurred and of peculiarities with regards to the equipment to be repaired. The customer shall ensure that ZEISS' repair personnel has free and unimpeded access.



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- 8.2 According to the circumstances, the customer shall provide electricity, water, compressed air and other supply facilities, telephones, social rooms, a canteen, changing and washing facilities and similar facilities for use by ZEISS' repair personnel free of charge and shall support appropriately according to the circumstances to enable prompt performance of the repair.
- 8.3 Any special safety and plant regulations in force at customer's premises that must be observed by ZEISS during the repair works shall be notified by the customer to ZEISS' repair personnel, and if necessary, explained in detail to the ZEISS' repair personnel before the repair works begin. If any special instruction, or training or, if applicable, examinations in connection with the abovementioned require a significant amount of time, ZEISS reserves the right to make an additional charge on basis of time and expenditure.
- 9. Acceptance**
- 9.1 After the repair work has been completed on site or after the repaired equipment has been received by the customer, the customer shall be obliged to accept duly performed repair work immediately. The customer may not refuse acceptance on the grounds of minor defects which do not affect the operation of the equipment.
- 9.2 If the customer does not state its refusal to accept the repaired equipment within 30 days after the repair works ended on site or after the repaired equipment was received by customer, the repair works shall be deemed to have been accepted.
- 10. Warranty**
- 10.1 Unless otherwise expressly stipulated hereinafter or in the repair contract, ZEISS warrants in accordance with the statutory provisions for defective repair works, in particular by remedying repair work free of charge and by repairing or replacing defective material free of charge.
- 10.2 Subject to the statutory warranty conditions, warranty shall only exist if the customer proves that ZEISS has carried out a repair work in a defective manner; § 477 of the German Civil Code BGB shall remain unaffected within its scope of application.
- 10.3 If ZEISS does not comply with the legal obligation for cure or does not comply in time or if the cure fails, the customer has the right to demand a price reduction or rescission of the repair contract.
- 10.4 If faults occur in a repaired equipment which are not caused by defective repair, in particular faults due to natural wear and tear, improper handling or other outside influences, these are not covered by the warranty.
- 10.5 If the customer asserts warranty claims the customer must notify ZEISS of defects immediately after they have been discovered and do everything in the customer's power to minimize any damage caused by a defect.
- 10.6 The limitation period for warranty claims is one year for entrepreneurs within the meaning of § 14 of the German Civil Code (BGB) and two years for consumers. However, claims for damages and reimbursement of expenses by the customer which are based on intent or gross negligence or on injury to life, body or health or on the laws of product liability shall be governed exclusively by the statutory provisions.
- 10.7 If the examination of a notice of defect shows that the case does not fall under the warranty, ZEISS shall be entitled to invoice the examination and execution of work at the current prices.
- 11. Liability for damages**
- 11.1 If the customer is unable to use the repaired equipment in conformity with the contract through the fault of ZEISS as a result of the omission or improper implementation of suggestions and advice given before or after the conclusion of the contract or through the infringement of other additional contractual obligations the provisions of section 10 and section 11.2 to 11.5 will apply accordingly to the exclusion of any further claims of the customer.
- 11.2 Without prejudice to the statutory liability requirements, ZEISS shall only be liable for damages and reimbursement of expenses regardless of the legal grounds in the event of intent or gross negligence without limitation and in the event of a slightly negligent breach of an essential contractual obligation (a contractual obligation whose breach endangers the proper execution of the contract and the achievement of the purpose of the contract) limited to the typical contractual damage foreseeable at the time of conclusion of the contract.
- 11.3 The exclusions and limitations of liability in sections 11.1 and 11.2 shall also apply in the event of breaches of obligations by persons whose fault ZEISS is responsible for.
- 11.4 The exclusions and limitations of liability in sections 11.1 to 11.3 shall not apply in cases ZEISS fraudulently concealed a defect, or gave a guarantee of quality in the sense of § 444 of the German Civil Code (BGB) (declaration by ZEISS that the object of purchase has a certain characteristic at the time of passing of risk and that ZEISS will be liable for all consequences of its absence irrespective of fault), or for damages based on injury to life, body or health, or in the case of mandatory liability under the laws on product liability.
- 11.5 In all other respects, the liability of ZEISS is excluded. The statutory burden of proof remains unaffected.
- 12. Final provisions**
- 12.1 ZEISS shall be entitled to process personal data of the customer 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 customer 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.
- 12.2 A written contract or written confirmation is decisive for the existence and content of alleged subsequent agreements, amendments and supplements. The possibility of proof to the contrary remains unaffected.
- 12.3 The place of jurisdiction, provided that the customer is a businessman, 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 General Terms and Conditions. However, ZEISS may also take legal action against the customer at the customer's place of business.
- 12.4 Notice according to § 36 of the German Consumer Dispute Resolution Act: (Verbraucherstreitbeilegungsgesetz or VSBG): ZEISS will not take part in a dispute resolution process in front of an alternative dispute resolution entity according to VSBG and is not obliged to do so.
- 12.5 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)