



## 1 Scope

- 1.1 Any repair work undertaken by us shall be subject to the General Terms and Conditions set forth herein to the extent no other agreements have been explicitly made.
- 1.2 As far as Customer's general terms and conditions are inconsistent with ours, they shall only apply with our explicit written approval or if they are part of tender documentation in public tenders.

## 2 Repair Work

- 2.1 We will undertake the professional handling of repair work ordered by Customer for instruments that we have manufactured. Unless a different scope of work has been agreed upon in writing, the repair work covers the performance of works that are identified as necessary (a) on the basis of the details provided by Customer, (b) on the basis of our examination of the instrument to be repaired, and (c) during the course of the repair work.
- 2.2 We are entitled to engage third parties to carry out the repair work.

## 3 Remuneration

- 3.1 Our remuneration for the repair work is calculated in accordance with sections 3.2 to 3.4 on basis of the individual works undertaken. Our rates applicable at the time of the repair will be charged.
- 3.2 Time worked will be rounded up to the next full hour and charged at the applicable rates for the ZEISS instrument repair service, in accordance with the relevant class of equipment, plus setup and traveling time. Waiting times at Customer's site shall also count as time worked.
- 3.3 Any material required will be invoiced separately. If during the repair work we use small parts such as screws, washers etc., we are entitled to charge a flat fee for small parts to simplify invoicing.
- 3.4 Shipping costs (packaging, transport and insurance) shall be borne by Customer. We may charge a flat fee for shipping costs.
- 3.5 All prices are quoted as net prices and do not include value added tax, which is to be paid additionally by Customer in the amount specified by applicable law.

## 4 Terms of payment

- 4.1 Unless otherwise agreed, our invoices shall be due without any deductions as soon as we have provided the repair work and issued an invoice.
- 4.2 ZEISS is entitled to demand default interest of 10 per-cent p.a. or the statutory default interest if higher immediately upon Customer's default of payment - or from the due date if Customer is an entrepreneur. Furthermore Customer shall be obliged to pay our collection costs and expenses, in so far as these are adequate for the prosecution of our rights. This ad minimum covers the fixed collection amounts as defined in § 1333 (2) ABGB and § 458 UGB (in the applicable form) and the costs of payment reminder letters of a mandated external counsel in accordance with the law (AHK 2005 or other applicable statutes). This foregoing shall not limit other claims and rights we may have. If partial payments have been agreed, we may immediate demand payment of the full amount in case of the non- or untimely payment of partial amounts or subsidiary claims.
- 4.3 Customer may only offset claims that are uncontested or legally binding. Customer may only enforce a right of retention if this is based on the same contractual relationship and if Customer is not an entrepreneur.
- 4.4 We reserve the right to return repaired instruments cash on delivery.

## 5 Cost estimate

- 5.1 Repair costs stated in cost estimates are guidelines estimated on the basis of the information Customer provides and following the examination of the instrument. We cannot guarantee the accuracy of cost estimates. It is therefore expressly noted, that cost estimates are not given with express warranty for their accuracy in terms of § 1170a ABGB. If while repairing the instrument it becomes clear that more extensive repair work is necessary, we are authorized to complete the work without seeking confirmation from Customer, provided this does not cause the overall repair costs to exceed the estimated price by more than 15%. Otherwise we will inform Customer that we expect the cost estimate to be exceeded and will present a new estimate to Customer. In the case of imminent danger we are authorized to complete the necessary repair without Customer confirmation even if the repair costs then exceed the cost estimate by more than 15%.
- 5.2 If on the basis of a cost estimate Customer decides not to order or continue with the repair work, we are entitled to charge for the cost of preparing the cost estimate and for any repair work performed up to that point.

## 6 Repair times

- 6.1 We will start carrying out the repair work ordered by Customer within a reasonable period of time. Unless a binding deadline has explicitly been agreed, completion deadlines communicated to Customer are non-binding. We will carry out on-site repairs within a reasonable period of time within the framework of sensible tour planning for our repair service staff.
- 6.2 If the performance of our obligations is delayed or impeded by circumstances which cannot be prevented with reasonable care, in particular by force majeure, strikes, lock-outs, stoppages, scarcity of materials and energy, incorrect or late delivery despite a careful choice of supplier, the period of time for the repair work will be extended by the duration of the hindrance. If a party provides substantive evidence that it cannot reasonably accept such an extension, it 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 Customer may assert are excluded. ZEISS shall be entitled to charge for the cost of preparing the cost estimate and for any repair work performed up to that point
- 6.3 If Customer proves to have suffered damages due to our delay in carrying out repair work, our obligation to pay compensation in case of slight negligence will be limited to the amount of 1% of the present fiscal value of the instrument per completed calendar week only, but no more than 5% of the present fiscal value of the instrument. Any further claims for damages against us due to delay are excluded except in case of our intent or gross negligence.

## 7 Transport, insurance and passage of risk

- 7.1 Unless otherwise instructed, we will choose the route and type of transportation for the return of repaired instruments. Transportation will be charged to the Customer even if we use our own means of transportation. The packaging required for transportation will be charged at cost.
- 7.2 We will insure the goods at Customer's expense against normal transportation risks from door to door. Customer is obliged to inspect the instrument for transport damage immediately after receipt. Customer must notify the transport company, or, if we use our own means of transport, Customer must notify us immediately in writing of any transport damage; otherwise Customer will lose any rights Customer may have because of a transport damage.
- 7.3 If Customer is an entrepreneur, the risk of damages to or loss of the repaired instrument passes to Customer as soon as the repaired instrument has left our factory or has been handed over to the transport company.



## 8 Customer's cooperation obligations

- 8.1 Customer shall provide us with the instrument to carry out the repair work - in the case of on-site repairs, at the agreed time - and shall inform our repair service staff without their solicitation of problems that have occurred and of peculiarities with regards to the instrument to be repaired. Customer shall ensure that our repair service staff has free and unimpeded access to the instrument to be repaired.
- 8.2 As appropriate under local conditions, Customer shall provide free of charge electricity, water, compressed air and other utilities, telephones, common rooms, a canteen, changing and washing facilities etc. and the support needed to enable prompt performance of the repair work.
- 8.3 Any special safety and plant regulations in force at Customer's premises that must be observed by the repair service staff during the repair work shall be pointed out, and if necessary, explained in detail before the repair work begin. If any special instruction, training or, if applicable, tests in connection with the above require a significant amount of time, we reserve 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 the repaired instrument has been received, Customer is obliged to accept duly performed repair work immediately. Customer may not refuse acceptance on the grounds of insignificant defects which will not affect the operation of the instrument.
- 9.2 If Customer does not state Customer's refusal to accept the repaired instrument within 30 days after the repair work ended or after the repaired instrument was handed over to Customer, the repair work shall be deemed to have been accepted.

## 10 Warranty

- 10.1 We will meet warranty obligations by remedying repair work free of charge and by repairing or replacing defective material free of charge if Customer demonstrates to us that a repair work has not been carried out properly. In deviation of statutory warranty provisions, Customer shall also within the first six months after acceptance of the repair works bear the burden of proof for defects.
- 10.2 If the remedial work fails, Customer has the right to demand a price reduction or rescission of the repair contract.
- 10.3 Faults occurring in a repaired instrument which are not caused by defective repair, in particular faults due to natural wear and tear, caused by improper handling or other outside influences, are not covered by the warranty.
- 10.4 If Customer assert warranty claims Customer must notify us of defects which have occurred immediately after they have been discovered and do everything in Customer's power to minimize any damage caused by a defect. Provided that Customer is an entrepreneur, Customer - in order to preserve its warranty rights - shall be obliged to examine the repaired instrument within 14 days after acceptance. In relation to defects Customer should have detected with this examination, Customer cannot claim warranty rights after expiry of these 14 days.
- 10.5 The warranty period shall be 12 months. The restart of the warranty period after remedial works have been undertaken shall be excluded except in cases where the defects had been caused by our intent or gross negligence. Customer shall not be entitled to claim consequential damages.
- 10.6 If the examination of a warranty demand shows that there is no warranty case, the performance and invoicing of the examination and, where appropriate, elimination of the fault will be carried out under these Terms and Conditions for Repair Contracts at the current price.

## 11 Liability for damages

- 11.1 If Customer is unable to use the repaired instrument in conformity with the contract through our fault, as a result of improper repair works or advice given to the Customer before or after the conclusion of the contract or through our infringement of other additional contractual obligations, the terms of sections 10, 11.2, 11.3 and 11.4 will apply accordingly to the exclusion of any further claims of the Customer.
- 11.2 We shall only be liable –on any legal grounds whatsoever– for damage which is not caused to the repaired instrument itself in the following cases:
- intention,
  - gross negligence,
  - damage to life, body and health,
  - defects we have concealed fraudulently, or
  - defects of which we have guaranteed the absence.
- 11.3 In the event of the culpable violation of substantial contractual obligations (obligations the breach of which puts the fulfilment of the purpose of the contract at risk), we shall also be liable for ordinary negligence; however this liability shall in terms of the amount be limited to damage that could reasonably have been foreseen and that is typical for a contract of this nature.
- 11.4 Any claims of Customer going beyond the scope of sections 11.1 to 11.3 shall be excluded.

## 12 Final provisions

- 12.1 Customer hereby consents that we store his personal data in relation to our contractual relationship, transfer such data to affiliated companies of the ZEISS group and may use such data for the purposes of informing customer about ZEISS products and services and conducting repair and maintenance works. Customer at any time may withdraw his consent.
- 12.2 Subsidiary agreements, amendments and additions to repair contracts must be in writing in order to be effective. Agreements on the suspension of the requirement of written also require the written form.
- 12.3 The exclusive place of jurisdiction, provided that Customer is an entrepreneur, a legal person under public law or other institution under public law, shall be the competent court at the current seta of Carl Zeiss GmbH (Vienna). However, we may also take legal action against Customer at his place of business.
- 12.4 Governing law shall be the law of Austria 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).
- 12.5 Should any of the clauses of these General Terms and Conditions for Repair Contracts be wholly or partially invalid or void, the validity of the remaining clauses or parts thereof shall not be affected.