

General Terms and Conditions of Sales

I. General

1.1 Any delivery of the Products and services by Seller shall be subject to the Terms and Conditions set forth herein. Buyer's terms and conditions shall only apply to the extent that Seller expressly accepts these in writing.

1.2 Buyer undertakes that it shall comply with the applicable export control rules during the whole term of the Contract, including but not limited to provide relevant written documents per the requirements of the applicable export control rules. If during the term of the Contract, Seller finds Buyer violates the applicable export regulations or fails to provide the material as required, Seller shall have the right to suspend or terminate the performance of the Contract without assuming any liability of compensation.

If Seller cannot timely or cannot provide the Products and/or perform the service due to the applicable export control rules (e.g., the export control rules of the country of origin or of the export country), Article XVIII Force Majeure shall apply.

II. Information and Consultancy

Information and consultancy in relation to Seller's Products and services is provided as deemed appropriate from existing experience. Any values quoted as part thereof, especially performance data, represent average values which have been determined through experiments under standard laboratory conditions. Seller cannot assume any commitment for Seller's products to precisely meet the quoted values and areas of application. Section XV (Limited Liability) of these Terms and Conditions governs any issues of liability.

III. Offer & Conclusion of Contract

Seller's quotations are non-binding, i.e. invitation for offer, provided the binding force of a quotation was not expressly stipulated in writing. Any delivery or other contract shall only take place following Seller's written acknowledgement of Buyer's order or upon shipment of ordered Products.

IV. Pricing Principle

4.1 Seller's quotation confirmed by both Parties shall solely apply. Additional services will be invoiced separately.

4.2 Unless otherwise specified, all prices are quoted as contract value excluding tax.

4.3 Unless otherwise expressly agreed, Seller's prices are quoted ex works of the Carl Zeiss Group company using these Terms and Conditions. Buyer shall bear all additional freight costs, packing costs in excess of standard packing, public fees and duties.

V. Delivery

5.1 Unless otherwise expressly agreed, Seller shall deliver ex works of the Carl Zeiss Group company using these Terms and Conditions.

5.2 Delivery periods shall only be binding if expressly agreed in writing. Delivery periods shall begin on the date of Seller's order confirmation, however, in no case prior to settlement of all details relating to an order including the furnishing of any required official certificates. Delivery periods shall be deemed to be met on timely notification of readiness to ship if the Products cannot be dispatched in time through no fault of Seller's own.

5.3 With respect to delivery periods and dates, which are not expressly defined as fixed in the order confirmation, Buyer may, within two weeks after expiry of such a delivery period or date, set Seller an adequate grace period for delivery. Seller may only be deemed to be in default after expiry of such a grace period.

5.4 Without prejudicing Seller's rights from Buyer's default, delivery periods and dates shall be deemed to be extended by the period of time during which Buyer fails to comply with its obligations to Seller. In case Seller do not comply with Seller's obligations Seller shall only be liable for all types of damages in accordance with section XV (Limited Liability) of these Terms and Conditions.

5.5 Seller reserves the right to carry out a delivery using Seller's own

delivery organization.

5.6 Buyer may rescind this Contract if Seller's delivery delay is more than 90 (Ninety) days unless the hindrance is merely temporary in nature and a delay would not unreasonably affect Buyer.

5.7 Seller may perform partial deliveries and render partial services if such action would not unreasonably affect Buyer.

5.8 Any contractual or statutory right of Buyer to rescind this Contract, which Buyer fails to exercise within a reasonable period of time set by Seller, shall be forfeited.

VI. Penalty for Late Delivery

6.1 Should Seller fail to make delivery on time as stipulated in this Contract, with exception of Force Majeure causes specified in the above clause, Buyer shall agree to postpone the delivery on condition that Seller agrees to pay a Penalty. The Penalty shall be the exclusive remedy to Buyer due to Seller's delivery delay.

6.2 The Penalty, however, shall not exceed 5% of the total value of the Products involved in the late delivery.

6.3 The rate of Penalty is charged at 0.5% for every seven days, odd days less than seven days should be counted as seven days.

VII. Shipment, Passing of Risk

7.1 Unless otherwise expressly agreed, shipment shall always be carried out at Buyer's risk. The risk shall pass to Buyer as soon as the Products have been handed over to the person executing the shipment.

7.2 If a shipment is delayed for reasons to be attributed to Buyer, the risk of accidental deterioration, loss and destruction shall pass to Buyer on notification of Seller's readiness to ship. Required storage costs after passing of risk shall be borne by Buyer. This shall not affect any other claims.

7.3 If Buyer defaults in accepting, Seller shall be entitled to claim refund of any expenditure associated therewith and the risk of accidental deterioration, loss and destruction shall pass to Buyer.

VIII. Payment

8.1 Except otherwise agreed by the Parties, Payment shall be made thirty (30) days of the issuance date of invoice. Payment shall be considered to have been made on the day the payable sum is received. Bills of exchange and cheques shall not be deemed payment until after they have been honored and will be accepted without any obligation to make timely presentation and timely protest.

8.2 Immediately upon default of payment or from the due date, Seller is entitled to demand default interest of 2 percentage per month. Seller reserves the right to claim a higher actual damage.

8.3 Without the prior written consent with the Seller, the Buyer may not withhold or offset due payments against its own counter-claims

8.4 Any of Seller's receivables shall be immediately payable in the event of a default in payment, a notice given in protest against a bill of exchange or suspension of Buyer's payments, independent of the term of the bills of exchange which may have already been accepted. In any of these aforementioned cases, Seller shall also be able to perform remaining deliveries only against advance payment or provision of security, and, if no such advance payment is made or security provided within a two-week time period, to cancel this Contract without fixing another extension term. This shall not affect any further claims.

IX. Retention of Title

9.1 Delivered Products shall fully remain Seller's property (Products sold subject to retention of title) until all of the contract value receivables, on whatever legal grounds, have been fully paid up.

9.2 Where Buyer resells Products before paying the full price of the Products to Seller, Seller is entitled to the proceeds of Buyer's reselling to the extent of the accounts payables from Buyer to Seller in respect of Products delivered and Buyer shall be deemed as Seller's trustee to possess the proceeds of reselling of Products.

9.3 If Buyer fails to perform payment obligation or other contractual

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obligations, Seller is entitled to rescind the Contract and to possess Products delivered in accordance with the law.

X. Software Rights

- 10.1 Software programs will fully remain Seller's property. No program, documentation or subsequent upgrade thereof may be disclosed to any third party, unless with Seller's prior written consent, nor may they be copied or otherwise duplicated, even for Buyer's internal needs apart from a single back-up copy for safety purposes.
- 10.2 Buyer is granted a non-exclusive, non-assignable right to use the software, including any related documentation and updates, for no other purpose than that of operating the product, for which such software is intended. For programs and documentation created and delivered at Buyer's request, Seller shall grant that Buyer single end user licenses for non-exclusive non-assignable exploitation.
- 10.3 Typically, no source programs are provided. This shall require a special written agreement in each particular case.

XI. Inspection

It is Buyer's responsibility to carefully inspect the Products, even where demo-systems have previously been provided, immediately upon delivery both with regard to the condition of the Products to check whether the delivery is complete. If Buyer fails to notify Seller of any non-conformities with the Specifications within a reasonable period following delivery, not to exceed seven(7) calendar days, or is using the Product in a production environment or for the regular conduct of its business, the Product shall be deemed accepted. The foregoing applies to the inspection and acceptance of Product which is repaired or replaced.

Where any dispute between Seller and Buyer arises from the quality, quantity/weight of the Products, Buyer shall apply to the quality inspection institute mutually agreed by both Parties for an inspection of the Products in respect of their quality, quantity/weight..

The inspection has no prejudice to the warranty provisions hereunder.

XII. Quality and Warranty

- 12.1 Seller shall remedy defects if the warranty claim is valid and within the warranty period. It is at Seller's discretion whether Seller remedies the defect by repair or replacement. Seller shall only bear costs necessary to remedy the defect. The Products claimed to be defective shall be returned to Seller for examination in their original or equivalent packaging with transportation charges prepaid for the account of the Buyer.
- 12.2 Seller shall be entitled to refuse to remedy defects in accordance with Seller's statutory rights. Seller is entitled to refuse to remedy defects if Buyer has not complied with Seller's request to return the Products claimed to be defective..
- 12.3 The Customer shall be entitled to rescind the Contract or reduce the contract price in accordance with his statutory rights, however, Buyer shall not be entitled to rescind this Contract or to reduce the contract price, unless Buyer has previously given Seller twice a reasonable period to remedy the defect which Seller has failed to observe. In the event of rescission, Buyer shall be liable for any intentional or negligent actions that cause destruction or loss of the Products as well as for failure to derive benefits from the Products. In case of rescission of the Contract by the Buyer, Seller's sole liability is refund the payment of Seller after deduction of reasonable use fees that the Seller shall pay for using the Product.
- 12.4 Any rights of Buyer to receive damages or compensation shall be governed by the provisions in section XV (Limited Liability) of these Terms and Conditions.
- 12.5 Specifications of Seller's Products, especially pictures, drawings, data about weight, measure and capacity contained in offers and brochures are to be considered as average data. Such specifications and data shall in no way constitute a quality warranty but merely a description or labeling of the Products.
- 12.6 Unless limits for variations have expressly been agreed in the order

confirmation, such variation shall be admissible that are customary within the trade.

- 12.7 Seller shall not accept any liability for defects in the Products supplied if they are caused by normal wear and tear. Buyer shall have no rights against Seller in respect of defects in Products sold as lower-class or used Products. Buyer shall have no rights in respect of defective Products that have been tampered with or altered without Seller's consent, unless it is able to show that the defect in question was not caused by such tampering or alteration of the Products.
- 12.8 Any warranty shall be void if operating or maintenance instructions are not observed, if changes are made to deliveries or services, if parts are replaced or materials used that are not in accordance with Seller's original product specifications, unless Buyer can show that the defect in question resulted from another cause. Seller's warranties will not apply to any Products with respect to which there has been (i) improper installation or testing by Buyer, (ii) failure to provide a suitable operating or storage environment, (iii) use of the Products for purposes other than that for which it was designed, (iv) failure to monitor or operate the Products in accordance with applicable Seller specifications and good industry practice, (v) unauthorized attachment or removal or alteration of any part of the Products, (vi) unusual mechanical, physical or electrical stress, (vii) modifications or repairs done by other than Seller (unless authorized by Seller), (viii) mishandling during shipment of the Products; or (ix) any other abuse, misuse, neglect or accident by Buyer.

Except for the express warranty set forth above, Seller makes no other representations, or warranties, express or implied, statutory or otherwise, regarding the products, their fitness for any purpose, their quality, their merchantability, their non-infringement, or otherwise. Seller's warranty liabilities is subject to provisions of this clause, regardless of the claim of Buyer is based on contract, tort (including fault or strict liabilities) or otherwise.

- 12.9 Buyer shall be obliged to notify defects to Seller in writing or via fax immediately and make reasonable efforts to reduce the loss or avoid the increase of the loss.
- 12.10 The warranty period shall be 12 months counting from the date on which the Service Report or Acceptance Certificate has been signed by the representative of Seller as well as the representative of the Buyer or the end user of the Product. If the report is not signed within 3 months after delivery date and it is due to reason other than the Seller, then the warranty period begin from the delivery date.
- 12.11 The warranty period and the other terms and conditions of warranty for non-Zeiss products shall be subject to the standard of the manufacturer of such products.
- 12.12 **Exemption of Warranty of Quality. Seller is exempted from its obligations under Clause XII and other duties in relation to warranty of quality for non-Zeiss products, consumables and software contained in the Products and other parts of the Products as otherwise stipulated and agreed by both Parties.**

XIII. Services

Except for otherwise provided, Seller may provide maintenance, repair service or other service to Buyer for which a separate service agreement will be entered into between Buyer and Seller.

XIV. Agent

Seller may render the after-sale services and other services in relation to sales of the Products as the case may be, through a company it designates in China.

XV. Limited Liability

- 15.1 Seller's liability for damages, whether as a result of breach of contract or tort, shall be limited to typical damages for breach of the Contract which are foreseeable by the Seller at the time of the conclusion of this Contract. To the greatest extent permitted by the applicable law, in no event shall Seller have any liability under any contract for any special, incidental, punitive, exemplary, indirect or consequential damages, including but not limited to loss of profit, loss of production, loss of revenue, interest, capital, financing, goodwill, use, business reputation,

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opportunity or productivity, however arising, even if the Seller has been advised of the possibility of such damages. Meanwhile, except for property damages caused by willful act or gross negligence or personal injury, the aggregated liabilities of the Seller for any kind of claims for loss or damage shall, in no event, exceed the price of the Products causing such damages.

15.2 The total sum of any and all liquidated damages under this Contract shall be limited to 5% of the agreed purchase price.

15.3 Buyer shall secure data at appropriate intervals and at least once per day. Seller shall not be liable for losses or alteration of data caused by its software program.

XVI. Intellectual Rights

16.1 In the event of claims against Buyer because of breach of an industrial property right or a copyright in using Seller's deliveries or services, Seller shall be responsible to obtain the right for Buyer to continue using such deliveries or services, provided that Buyer gives immediate written notice of such third party claims and Seller's rights to take all appropriate defensive and out-of-court actions are reserved. If, despite such actions, it proves impossible to continue using Seller's deliveries or services under reasonable economic conditions, it shall be understood as agreed that Seller may, at Seller's discretion, modify or replace the particular delivery or service for removal of a legal deficiency, or reship such delivery or service with refunding of the sales price previously paid to Seller less a certain deduction to account for the age of the delivery or service in question.

16.2 Buyer shall have no further claims alleging infringement of industrial property or copyrights, if Seller has not either violated essential contractual duties or have intentionally or grossly negligently breached contractual duties. Seller shall have no liability where breaches of rights are caused by exploiting Seller's deliveries or services in any other way than quoted by Seller or by operating these together with any other than Seller's own deliveries or services.

XVII. Disposal

17.1 Buyer is obliged to closely observe Seller's Products accompanying documents and to ensure the correct disposal of the Products specified in the delivery note in accordance with the applicable law.

17.2 Buyer shall be obliged to dispose the Products at own costs. Buyer shall be obliged to transfer this obligation on the purchaser of the Products or parts thereof in case of a resale of the Products.

XVIII. Force Majeure

18.1 Seller shall not be held responsible for failure or delay to perform all or any part of this Contract due to flood, fire, earthquake, drought, war, government restraint, change of related policy or any other events which could not be predicted at the time of conclusion of this Contract, and could not be controlled, avoided or overcome by Seller. However, Seller will inform Buyer of the occurrence of such force majeure events in writing as soon as possible.

18.2 If a force majeure event lasts over 60 days, both Parties shall negotiate the performance or termination of this Contract. If an agreement between the Parties cannot be reached within 60 days of the negotiation, either party is entitled to terminate the Contract immediately by giving a written notice to the other party.

XIX. Export Control

19.1 The sale, resale and the disposal of the Products and services including any associated technology or documentation shall be governed by Germany, EU, US export control regulations as well as by the export control regulations of further countries. Any resale of the Products to embargoed countries or to denied persons or persons that use or may use the Products for military purposes, ABC weapons or nuclear technology is subject to a license. Buyer declares with its order the conformity with such statutes and regulations and that the Products will not be directly or indirectly delivered into the countries that prohibit or restrict the import of such Products. Buyer represents and warrants that it has obtained all licenses and permits necessary for entering into and performance of the Contract, including without limitation the

business license, all licenses and permits required for import, resale, use or re-export of the Products as the case maybe.

19.2 Buyer understands and agrees that Seller's compliance with applicable import and export control regulatory requirements is one of the prerequisites for Seller to perform this Contract. Buyer shall provide the original signed and stamped End-Use Certificate to Seller by signing this Contract. Furthermore, Seller is entitled to request further documents (e.g. company profile/company presentation, presenting end-user/Buyer's business activities) from Buyer, as required by the applicable export control rules. If the documents delayed, the Delivery will be delayed accordingly.

19.3 If the Product is subject to the export license issued by the Country of Export, Buyer shall provide Seller the original Statement of End-User and End-Use issued by the Chinese government authority as soon as possible, but latest within one month after signing this Contract for applying the export license. This document shall be provided not later than ten weeks before the shipment of the Product. If failed, the shipment date of the Products ordered shall be postponed accordingly and a penalty of 0.5% of the value of the Products ordered per week of delay will be charged and the odd days will be calculated as a week. If the Buyer delays the provision of the required certificate for more than two (2) months, Seller is entitled to rescind the Contract and forfeit the deposits or down payment paid by the Seller. Furthermore, Buyer shall provide Seller the original Incoming Goods Receiving Report of the Products stamped by the end-user within one month after they are imported, and Seller is entitled not to provide installation or further service for the Product until receiving it. If Buyer fails to provide it within four (4) months of the delivery of the Product, such failure shall constitute material breach, Seller is entitled to terminate the performance of this Contract and pursue Buyer's liabilities for breach.

19.4 After the purchase of the Product with approved export license, if the end-user, the exact location address for using the Product or the purpose, etc. is no longer consistent with the conditions on the End-Use Certificate, Buyer shall notify Seller immediately and re-fill and provide a new End-Use Certificate and other verification documents to Seller for review. If Seller is required to re-apply for a new export license in accordance with the export control regulations of the Country of Export, Seller has the right to stop performing the Contract immediately until the new export license is obtained. Buyer promises to and will urge the end user to assist Seller to apply for the export license in accordance with Seller's request.

XX. Secrecy and Person Information Protection

20.1 Unless otherwise expressly stipulated in writing, no information provided to Seller in connection with orders shall be regarded as confidential, unless their confidential nature is obvious.

20.2 During the negotiation, execution and performance of the Contract, Buyer will provide personal information ("PI") to Seller. Buyer warrants that its collection and provision of PI are legal and authorizes Seller and its affiliates, whether domestic or overseas, the rights to store, process, transit and use PI. "Use" herein refers to use PI for the purposes of the performance of the Contract and administration of business relationship between Seller and Buyer ("Purposes"). Further, Buyer understands and agrees that provided that PI is kept confidential and compliant with the applicable laws and regulations, for the Purposes, Seller may use and store PI at a database platform of a third party (whether domestic or overseas).

XXI. Governing Law and Dispute Settlement

21.1 This Contract shall be governed and construed in accordance with PRC laws and regulations

21.2 All dispute arising out of or in relation to conclusion and/or performance of this Contract, shall be settled through amicable negotiations. Should no settlement be reached through negotiation, such dispute shall be submitted to Shanghai International Economic and Trade Arbitration Commission for arbitration in Shanghai. The arbitration award shall be final and legally binding upon both Parties.

21.3 The arbitration fee and all the related legal fees (including the

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- attorney's fee) shall be borne by the losing Party unless otherwise awarded by the arbitration institution.
- 21.4 During the course of arbitration, this Contract shall continue to be performed except for the part in dispute and under arbitration.
- XXII. Miscellaneous**
- 22.1 Should any of the clauses of these Terms and Conditions be wholly or partially invalid, the validity of the remaining clauses or parts thereof shall not be affected
- 22.2 Without the prior written consent of Seller, any or all of the rights and obligations of Buyer hereunder shall not be assigned to any third party.
- 22.3 All or any part of this Contract cannot be amended unless otherwise agreed upon by both Parties in writing.
- 22.4 If the Contract is written both in English and Chinese versions, the Chinese version shall prevail in case of discrepancy between the Chinese and English versions.