

**TERMS AND CONDITIONS OF SALE, LEASE, RENTAL AND SERVICES  
of ARGOS Slide Scanner Systems GmbH**

**1. General provisions:**

- 1.1 These terms and conditions of sale, lease, rental and services (hereinafter "T&Cs") will apply to any (initiated) transaction with ARGOS Slide Scanner Systems GmbH (hereinafter "**ARGOS**" amongst which:
- (i) all offers and quotations by ARGOS or any confirmation thereof,
  - (ii) any delivery by ARGOS (whether ordered, in process or realised),
  - (iii) any agreement with ARGOS, irrespective the termination or amendment thereof,
  - (iv) any request for support to and support by ARGOS ;
  - (v) any product (equipment, consumable, spare part), support, request, service or (software) license (hereinafter collectively and individually referred to as: "**Product**" or "**Products**" unless specifically referred to otherwise) provided or to be provided by ARGOS and/or
  - (vi) any legal relationship with ARGOS with or for (or for the benefit of) any (potential) customer or first buyer (hereinafter "**Client**").
- 1.2 Definitions:
- Agreement:** the sale, lease, rental and/or service agreement between ARGOS and the Client as set out in the Confirmation Letter and the Annexes thereto including these T&Cs and any documents referred to therein;
- Confidential Information:** all trade secrets or confidential or proprietary information of a party or any affiliated companies which the other party knows or becomes aware of at any time during the term of the Agreement, including but not limited to the agreed Price per Slide, support practices and procedures, customer and supplier information, pricing, formulae, formulation information, application technology, manufacturing information, and laboratory test methods and all of ARGOS's (and any affiliated companies') manuals, documents, notes, letters, records, and computer programs, as well as any other information that the Client should reasonably understand to be of a confidential nature or not to be disclosed to third parties;
- Confirmation letter:** the letter in which the offer and/or quotation and/or proposal of ARGOS is laid down and/or in which an order of a Client is confirmed and which together with these T&Cs contain the Agreement;
- Consumables:** the consumables listed in an Annex to the Agreement, as may be amended by ARGOS from time to time in accordance with the Agreement;
- Contract Year:** in case of lease, rental and or service offers this is 12 months from the start of the lease, rental and/or service term and each 12-months period thereafter;
- Implementation Plan:** the document with such title, as agreed between the Parties and which after signing by both parties will be included as an annex to Agreement;
- VAT:** value added tax in the broadest sense amongst others also including goods and service tax, sales tax, withholding tax.
- 1.3 Any conditions, terms, or proposals of Client, whether issued before, during or after an order or transaction, and deviating from these T&Cs are hereby explicitly rejected and shall not be applicable to any transaction between ARGOS and Client unless explicitly agreed and confirmed in writing by ARGOS.
- 1.4 In case any (clause of an) agreement with ARGOS deviates from the T&Cs, such (clause of an) agreement prevails to the T&Cs only to such extent.
- 1.5 Client is deemed to have accepted these T&Cs upon placing an order, unless expressly agreed otherwise in writing by ARGOS.

- 1.6 ARGOS may always amend the T&Cs at its own discretion. The (amended) T&Cs be made available on the website of ARGOS and will be applicable as of the date of availability on the website unless expressly agreed otherwise in writing. However, unless expressly agreed otherwise these amended T&Cs will only be applicable to new Confirmation letters.

**2. Offers, Orders and agreement**

- 2.1 ARGOS `s offers are open for acceptance within the period stated therein or, when no specific or clear period is stated, within twenty days from the date indicated in the offer, or, when no specific or clear date is stated, the offer will be deemed to be accepted by the Client upon the date of sending of the goods or services by ARGOS to Client.
- 2.2 ARGOS may withdraw or revoke an offer at any time prior to the receipt by ARGOS of the notice of acceptance of Client thereof unless provisions to the contrary have been confirmed in writing by ARGOS.
- 2.3 Any (oral) offers or commitments, will bind ARGOS only after and to the extent that ARGOS has confirmed them in writing. Any amendment of Client to an offer or commitment by ARGOS will only bind ARGOS if this amendment is accepted and confirmed by ARGOS in writing.
- 2.4 ARGOS can accept and reject orders of Client at its sole discretion. An agreement has only been concluded after ARGOS has confirmed an order placed by Client in writing or if ARGOS has commenced with the execution of that order.
- 2.5 In the event that an agreement is concluded by email, or in the event that an agreement is concluded through another means of electronic communication (such as the ARGOS ERP-system), such e-mail message or statement made through another means of electronic communication is deemed to be equal to a written statement and the principle will apply, without prejudice to the provisions laid down in § 2.3, that an agreement may be concluded without ARGOS having to fulfil any conditions provided by law pertaining to electronic communication and/or the conclusion of contracts by electronic means.
- 2.6 ARGOS is at all times entitled to adjustments in the (design and model) of the Products to be delivered and is entitled to substitute Products by equivalent products provided they are either improvements or to comply with government regulations or laws.
- 2.7 The Client will be entitled to cancel an order only after receiving written consent from ARGOS, which consent may be made subject to conditions as deemed appropriate by ARGOS.
- 2.8 All deliveries (goods and services) are subject to e.g., solvency and timely payment assessment procedures of ARGOS. ARGOS may, at any time, require additional payment securities such as advance payments or a bank guarantee as a condition to delivery.
- 2.9 The Client is obliged to keep records that contain all relevant data on the Product including the date of delivery, instalment, test, acceptance, cleaning and repairs.
- 3 Prices**
- 3.1 Prices in any offer, confirmation or agreement are in Euros or any explicitly agreed currency, based on delivery Ex-Works (according to latest version of the Incoterms) ARGOS's warehouse. Unless agreed otherwise in writing, ARGOS charges the prices applicable at the time of delivery in accordance with the delivery terms as set out in § 4. The price does not include any taxes, expenses, duties, or similar levies now or thereafter enacted, applicable to the Products. ARGOS will add or collect these taxes, expenses, duties, or similar levies if required to do so and charge Client accordingly.

- 3.2 Costs for instalment, services, tests, and training are not included in the price of Products unless expressly agreed otherwise in writing.
- 3.3 Extra charges can be applied for orders under € 500,- exclusive VAT.
- 3.4 Extra handling charges will be applicable and charged to the Client for amongst others legalization, certification (Chamber of Commerce/Embassy), repacking or express orders.
- 3.5 ARGOS shall be entitled to increase the prices including the catalogue prices communicated yearly, in accordance with the Harmonised European Consumer Price Index over the past 12 months plus 2%, for the first time after the first contract year unless price increases are determined by applicable laws in the country of sale.
- 3.6 ARGOS shall be entitled to adjust prices intermediately in the event of increases in cost-determining factors such as fluctuations in exchange rates, raw materials, labour costs or in the event of government measures or increased export or import tariffs. Provided that such increases or measures occurred after the conclusion of the agreement but before delivery.
- 3.7 ARGOS will be entitled to charge the costs of packaging and transport separately. If ARGOS is obliged by law or any regulations to take packaging back, any costs related to taking back or processing packaging will be borne by the Client.

#### **4 Delivery and quantities**

- 4.1 Unless otherwise agreed in writing, delivery will be Ex-Works (according to latest version of the Incoterms) warehouse ARGOS. Unless otherwise agreed in writing by ARGOS. Client will be obliged to take delivery of the Products upon ARGOS's first request. If Client fails to accept delivery, Client will be liable for all costs and damages resulting there from, including but not limited to the costs of storing and redelivering the Products.
- 4.2 Any delivery times quoted by ARGOS will not be firm deadlines unless provisions to the contrary have been explicitly agreed upon in writing between the parties. In the event of late delivery, ARGOS must be declared in default in writing beforehand. ARGOS will be granted a reasonable period of at least fourteen (14) working days as of the date of the receipt of notification of default to fulfil its obligations. If such extended term is exceeded, the Client's sole and exclusive remedy is to cancel the affected and undelivered Products of the related agreement. In such an event, ARGOS will not be liable to pay any damages, unless such damages are direct damages and the consequence of gross negligence or wilful misconduct of ARGOS.
- 4.3 ARGOS shall deliver the Products available in stock and if applicable with a minimum shelf life of 6 months. Products that are out of stock shall be delivered by "back order". Outstanding Products on back order will be delivered as soon as the goods are in stock to complete the order.
- 4.4 ARGOS shall be entitled to allocate its available production and products, in its sole discretion amongst its Clients in case of hindered production, without any liability for any damage to Client.
- 4.6 If delivery of the Products is subject to governmental approvals or an export or import license or otherwise restricted or prohibited, ARGOS may suspend its obligations until such approval or license is granted or terminate its obligations if such an approval or licence is not granted without any liability towards the Client.

#### **5 Payment**

- 5.1 The Client shall pay the invoices in accordance with the conditions stated on the invoice. If no specific conditions are stated on the invoice, the Client shall pay the invoice within

thirty days of the invoice date. The Client shall not be entitled to offset or suspend payment. The date indicated on ARGOS's bank statements on which a payment is received shall be considered the date on which the payment was made.

- 5.2 Unless otherwise agreed in writing, Client will pay the entire invoice, or -in the event of advance payment- the remainder thereof, within the payment period mentioned in the invoice, at the discretion of ARGOS, by transfer to or deposit into an account indicated by ARGOS, without any deduction, discount or set-off. Submission of a complaint will not suspend the Client's obligation to pay.
- 5.3 In case of a recurring standing order, ARGOS shall invoice the Client for the (partial) delivery monthly in advance unless agreed otherwise in writing.
- 5.4 Any payment made by the Client shall – if applicable – first be made against the interest owed by it as well as collection and administration costs and then against any outstanding invoices starting with the oldest.
- 5.5 If Client fails to pay within the term of payment indicated on the invoice, Client will be in default and all claims of ARGOS will become fully due and payable immediately. In that event, ARGOS will -in addition to any other rights and remedies ARGOS may have under applicable law- also be entitled to the legal interest in respect of the outstanding amount until the date of payment in full. The amount subject to the legal interest will be calculated after the end of each month and increased by the interest owed over that month. ARGOS may furthermore suspend, delay, or cancel any delivery or any other performance. Such right shall be in addition to any other rights and remedies available under the applicable law. ARGOS shall be entitled to claim any (extra) judicial costs and compensation of costs for experts.
- 5.6 In the event of late payment, ARGOS will be entitled to compensation of all extra-judicial costs, including but not limited to costs involved in sending reminders, one or more notices of default or demand notices, which extra-judicial costs will amount to fifteen percent (15%) of the total amount payable, without prejudice to any other rights of ARGOS.
- 5.7 Client shall not assign any rights or obligations under an agreement with ARGOS without the prior written consent of ARGOS. Client shall have no right to withhold or reduce any payments or to offset existing and future claims against any payments due by ARGOS or its affiliates.
- 5.8 Complaints about invoices must be submitted in writing to ARGOS within 8 (eight) days after the day of dispatch of the invoices. Such complaint does not suspend the payment period.

#### **6 General obligations of the Client**

- 6.1 The Client shall during the term of the Agreement obtain and maintain, at its own expense, all necessary licenses, approvals, registrations, certificates, testing results, classification reports and authorisations and comply with all applicable laws (including import, export control and sanctions laws), regulations, regulatory requirements, and codes of practice in connection with its obligations under the Agreement. ARGOS shall if required and to the extent reasonably possible advise and/or assist the Client to obtain any such relevant documents (e.g. approvals, registrations and/or certificates). The Client shall use the Product(s) covered under the Agreement according to the use for which it is intended.
- 6.2 The Client will operate the Product(s) covered under the Agreement and handle the Consumables with the utmost professional diligence and care and in accordance with the written and oral instructions of ARGOS, including the instructions in the operating manual. A copy of which will be

handed by ARGOS to the Client on the installation date of the Product(s) or can be downloaded by the Client from the ARGOS website. The Client is aware that non-compliance with any instructions provided by ARGOS or the operating manual may result in an impairment of the operability of the Product(s) or even damage to the Product(s), and that the Client is liable for this type of damage or failures and cannot enforce any claims against ARGOS under or in connection with the Agreement.

- 6.3 The Client will comply with the Implementation Plan.
- 6.4 The Client will maintain and keep -if applicable taking into account the type of Product the Client has from ARGOS - detailed written records that can prove that during each step prior to each staining process, the patient tissue has been handled by the Client or its employees or third-party service providers in accordance with the highest industry standards.
- 6.5 If applicable the Client shall ensure that the Product(s) is continuously connected with the internet, amongst others so that ARGOS can provide remote assistance and monitor the number of processed slides.
- 6.6 The Client shall ensure all the technical requirements in the laboratory are available and in working order to satisfactory install the Product(s) e.g. the space and the structural feasibility of the laboratory must comply with the product specifications. In case the Client needs to make some laboratory adjustments these costs will be at its own expense and account.

## **7 Installation**

- 7.1 ARGOS shall install the Product(s) at the Laboratory of the Client on the Installation Date for the Client's use in accordance with this Agreement. The Client shall comply with all instructions of ARGOS in relation to the installation and use, e.g. in relation to the space, temperature and connections required for the Product(s), as well as any health and safety instructions.
- 7.2 If the installation is postponed upon request of the Client or due to the Client or its laboratory not being ready, the additional costs (e.g. lack in revenue for ARGOS, extra insurance costs, transportation costs) and risk will be for the account of the Client.
- 7.3 Notwithstanding paragraph 6.2 and paragraph 6.3, the Client is and remains responsible for the integration of the Product(s) with the laboratory information system of the Client and any work and costs associated therewith. ARGOS shall provide the Client with its standard protocol for integration and upon agreement there upon shall provide any support reasonably requested by the Client in that regard, unless expressly agreed otherwise between the parties.
- 7.4 The Client will inform ARGOS of all circumstances which may be of importance regarding the delivery and/or installation of the Products. ARGOS assumes that it will not encounter any circumstances related to the Client's premises that may hinder ARGOS in the installation of the Product(s). Any costs related to such hinder will be borne by the Client.
- 7.5 Upon installation and set-up of the Product(s) by ARGOS, the parties shall jointly perform tests to ensure that the Product(s) are in compliance with the relevant requirements and shall prepare an acceptance test record by which Client confirms in writing the proper functioning of the Products after installation. The Client shall support ARGOS in setting up the Products as required by ARGOS.
- 7.6 All reasonable costs related to the installation and implementation shall be charged to Client unless agreed otherwise in writing.

## **8 Implementation consultancy services – if offered in the Confirmation Letter**

### **8.1 Implementation**

- a. Under the terms and conditions of the Agreement, the Implementation Plan and this paragraph and provided Client agrees and accepts the requirements laid down in this paragraph, ARGOS agrees to provide implementation consultancy services to the Client in order to assist the Client with the implementation of the Product(s) in the Client's organisation.
- b. The Client will fully cooperate with ARGOS in order to implement the Product(s) in its organisation as further specified in this paragraph and the Implementation Plan.
- c. If the parties expect that the implementation of the Product(s) will not be finished within the agreed timelines or if the scope of the implementation consultancy services as described in the Implementation Plan change or if the employees of the Client involved in the implementation are no longer or less available, a meeting between the Client and ARGOS will be organized. During that meeting, possible new timelines as well as an additional budget or any other amendments necessary will be discussed. If no agreement can be reached, the parties can agree to terminate the implementation services provided.

### **8.2 Support and cooperation**

- a. During the implementation services ARGOS provides implementation, application and technical support as well as back-office assistance to the Client in order to assist the Client with the implementation of the Product(s) in its laboratory.
- b. The Client will provide sufficient resources for the implementation including its own implementation project team. This project team of the Client will be responsible for the implementation and for the result within the organisation. This project team will work closely together with the ARGOS implementation consultants.
- c. The parties will plan regular meetings during the implementation.
- d. The Client must show full commitment of the entire laboratory throughout the implementation and ensure that commitments are fulfilled and agreed timelines are met.

### **8.3 End of implementation services**

- a. ARGOS reserves the right to terminate the implementation services at any time by written notice to the Client if the Client does not take responsibility to prioritise the implementation and the meetings regarding the implementation, or does not have the necessary staff and support available, or in case for any other reason the set goals cannot be reached or are not expected to be met within the agreed timelines and the parties are not able to find a for both parties acceptable solution as specified under 3.1c.

## **9 Retention of title and ownership**

- 9.1 In the event of sale of Products to Client, title will pass to Client upon full payment of the purchase price including any interest and/or expenses.
- 9.2 Client will be obliged to store the Products delivered under retention of title with due care. Client shall not assimilate, transfer, or pledge any of the Products to any third party until full payment of the purchase price and any obligations to ARGOS. Client shall ensure that the Products remain identifiable as Products owned by ARGOS until full payment of the purchase price and any obligations to ARGOS.
- 9.3 In case the Client fails in the performance of any obligation vis-à-vis ARGOS, or in case ARGOS has good reason to fear that Client will not fulfil its obligations, ARGOS will be entitled to recover the Products delivered under retention of title or to have such recovered. The Client will cooperate



- 9.4 accordingly. The Client will bear the costs of recovery, without prejudice to ARGOS's right to further damages. In case of lease, rental, or any other legal construction whereby ARGOS make(s) (a) Product(s) available to Client for the agreed term, ARGOS remains the sole and full owner thereof. Client will never grant any rights to the Products delivered to the Client nor provide the Products to third parties (for example rent or lend out or provide security interests over it), nor assign any rights or obligations resulting from this Agreement to a third party. The Client shall be obliged to keep the Products free from confiscation, seizure, liens, and security interests of any kind. The Client shall give notice of ARGOS's ownership to any third party attempting to assert any rights in or over the Products and shall inform ARGOS immediately by email and registered mail with request for return receipt when third parties attempt to do so. The Client acknowledges that the Product(s) shall always be and remain property of ARGOS, notwithstanding for example the way it may be attached or affixed to another Product, a wall, a floor or other instrument, and the Client shall do all acts and enter into all agreements necessary to ensure that the Product(s) remain(s) the property of ARGOS. The Client shall retain the Product(s) free from all charges, encumbrances, and collateral guarantees of any kind.
- 9.5 Without the prior written consent of ARGOS, the Client shall not: (a) grant any rights to the Products to third parties (e.g., rent or lend out the Products, sub-rent any of the Products or provide any security rights) or allow a third party to vest any rights therein; or (b) move any of the Products from the Laboratory.
- 9.6 The Client shall place and maintain the permanent markings provided by ARGOS on the Products evidencing ownership, security and other interests of ARGOS therein, as specified from time to time by ARGOS.
- 9.7 ARGOS shall be entitled to inspect the Products at the Client's location, provided that, ARGOS gives the Client one (1) working day prior notice.
- 9.8 The Client shall not make any additions, attachments, alterations, or improvements to the Products without the prior written consent of ARGOS. Any addition, attachment, alteration, or improvement to any Product shall belong to and become the property of ARGOS unless, at the request of ARGOS, it is removed prior to the return of such item of the Products by the Client. Client shall be responsible for all costs relating to such removal and shall restore such item of the Products to its operating condition that existed before any changes were made.
- 9.9 The software incorporated or included with the Product(s) (including updates and upgrades) is copyrighted, and ARGOS retains exclusive right, title, and interest in and to the software and all copies or portions thereof, including all intellectual property rights to the software. Subject to the payment of all fees due hereunder, ARGOS hereby grants the Client a non-exclusive, non-transferable license during the term of the Agreement to use such software in the Product(s) in the Laboratory, solely as required to exercise its rights under the Agreement. Third party software, including certain open-source software products, will be subject to the license rights and restrictions as set forth in the documentation and/or license agreements included with such software. The Client shall not and shall not authorize third parties to (a) modify the software or create derivative works thereof; (b) merge the software with other software; (c) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code of the software; or (d) otherwise use the software, except as expressly allowed pursuant to applicable mandatory law or as specified in the Agreement.

## **10 Transfer of risk and insurance**

- 10.1 As from delivery, in accordance with the applicable Incoterms, whatever the nature of the agreement, and during the time of use, Client shall bear all risks with respect to the Products including damage to, theft of and loss of the Products.
- 10.2 In case of any loss, theft or damage of Product(s), Client shall immediately inform ARGOS by registered mail with request for return receipt.
- 10.3 ARGOS shall decide at its reasonable discretion whether any damaged Product shall be replaced or repaired at the Client's cost. If, in ARGOS's reasonable opinion, the Product(s) cannot be repaired or in case the Products have been lost or stolen, Client shall reimburse ARGOS for the Products in the amount of the fair market value at the time of damage, loss or theft. Due to laboratory Product(s)'s particularity, ARGOS shall be entitled to determine the fair market value at its discretion. The Client, however, shall be entitled to provide evidence of a lower market value.
- 10.4 In case of lease, rental, or another legal construction whereby ARGOS makes one or more Products available to Client for the agreed term or in case of retention of title, Client shall ensure that damage to and loss of the Products as a result of actions and/or omissions by the Client, its employees, its agents, contract partners or third parties in the use, operation or possession of the Products are and shall remain covered by the Client's liability insurance. Apart from this, Client shall ensure the Products at its reinstatement value against at a minimum fire, burglary, water damage, storm and any other external cause. The insurance must always be valid during the term of the Agreement between the parties, or until the moment that ARGOS has notified Client that a Product has been received by ARGOS in good condition. The insurance company must have its place of business in the European Economic Area. The Client shall provide evidence of the insurance cover by submission of an insurance certificate. Should Client fail to meet this obligation, or should ARGOS find out that the insurance cover does not comply with the requirements set out here, ARGOS shall be entitled to take out an appropriate insurance at the Client's cost.
- 10.5 Upon receipt of the Products Client assigns to ARGOS all claims under the insurances mentioned in §10.4. If for any reason such assignment is not valid or not possible, Client hereby provides to ARGOS a right of lien on such claims in advance.
- 10.6 If the assignment is not valid or possible or the right of lien is not validly vested, Client will provide all assistance required by ARGOS to, at ARGOS's option, either assign the claims or establish the right of lien as yet.

## **11 Inspection complaints, incidents, and vigilance**

- 11.1 The Products delivered must be checked by or for Client upon receipt at its premises with respect to numbers, labelling, manual, conditions of use and visible defects. Any shortages or visible defects must be reported to ARGOS immediately. The Client must report defects not visible upon delivery in writing to the official address of ARGOS within 48 hours of their discovery and in any event within 48 hours after the time that Client should reasonably have discovered them.
- 11.2 The Client will be obliged to perform the inspection with due care or to have the inspection performed with due care.
- 11.3 The Client is responsible to ensure that any malfunction or deterioration in the characteristics and/or performance of a Product, as well as any inadequacy in the labelling or the instructions for use will be communicated to ARGOS as soon as possible. Especially with respect to any malfunction or deterioration which, directly or indirectly, might lead to or

- might have led to the death of a patient, user, or other persons or to a serious deterioration in their state of health. Communication needs to go to ARGOS Slide Scanner Systems GmbH Product Support Department (Support@ARGOS.eu).  
A serious deterioration of health is an accident that is life threatening or results in permanent impairment of a body function or permanent damage to a body structure or necessitates medical or surgical intervention to preclude this.
- 11.4 The Client will fully cooperate with ARGOS for ARGOS to comply with any obligation ARGOS might have based upon any applicable law or regulation regarding a recall of a Product or a complaint handling procedure especially for the Products that fall under the EU IVDR regulation or MDR regulation.
- 12 Maintenance and Repair / Technical Services**
- 12.1 ARGOS can upon at the request of Client perform technical services for certain Products, these services will be rendered upon acceptance thereof by ARGOS pursuant to an instrument service agreement or "on call".
- 12.2 In case an instrument service agreement is in place, ARGOS will charge the services to Client at applicable prices agreed upon in the service conditions. In case of on-call services, ARGOS will charge the technical services based on time spent multiplied by the hourly rates of the ARGOS service engineer and the cost for materials, spare parts used at list prices and travelling costs plus out of pocket expenses and VAT.
- 12.3 ARGOS shall be entitled to use both new and second-hand spare parts for maintenance and repair services. Defective parts shall be returned to ARGOS in compliance with ARGOS's requirements.
- 12.4 Daily and/or regular routine work for the purpose of keeping the Product(s) in a good working condition shall be performed by the Client's staff as instructed in the ARGOS training course and/or the ARGOS operation manual (e.g. cleaning).
- 12.5 It is at ARGOS's discretion to decide whether maintenance and repair services are performed on site or by remote maintenance or hotline support. The Client shall assist ARGOS in the remedy of failures or functional errors in course of repair and maintenance services, as required by ARGOS. Prior to the performance of maintenance, Client shall be obliged to ensure that the Product(s) may be worked on directly without any risk.
- 12.6 All maintenance and repair services shall be performed from Monday through Friday between 08:00 a.m. and 05:00 p.m., except on public holidays.
- 12.7 To the extent ARGOS has developed software and hardware updates or upgrades for any of the Products, these shall be provided to the Client. Updates will be provided free of charge. Upgrades depending on whether a service agreement is in place or not and depending on the type of service level at extra costs. The Client shall be obliged to accept such updates and upgrades for the Products. ARGOS and Client shall schedule the implementation of updates or upgrades in due time.
- 12.8 ARGOS can offer software-based remote maintenance for some Products. For this purpose, the Products require an Internet connection so that ARGOS may access it remotely. The Client shall therefore provide ARGOS with free access to the Client's Intranet through such an Internet data connection. When Products capable of remote maintenance are provided to the Client, Client shall allow ARGOS to always install the current software for performing remote maintenance. Client makes sure, guarantees and is responsible that ARGOS cannot access any privacy sensitive data of Client or its customers or patients while performing service activities whether remote or on site.
- 12.9 ARGOS shall only use the remote maintenance software/support for the purpose for which it is provided and in any case for providing maintenance to the Products, or for providing the services requested by the Client and for no other purposes. ARGOS assures Client that the remote maintenance performed by ARGOS if limited to providing maintenance only.
- 12.10 All rights of use and all intellectual property rights to the software remain with ARGOS. Client will only obtain a non-exclusive limited right to use the software with respect to the Products in its laboratory. The Client will not make the software accessible to third parties in any way whatsoever.
- 13 Intellectual property rights**
- 13.1 All intellectual property rights related to the Products and to any software, program, or services, advises, ideas, models, designs, manuals, documentations, schedules, samples, analyses, modifications, trade secrets, offers or logo provided or used by ARGOS, are owned by ARGOS unless expressly indicated or agreed otherwise in writing. Any transaction or communication with Client only implies to provide (in the event of an agreement) the non-exclusive and non-transferable limited license to Client to use the Products supplied and the services rendered to Client for the purpose for which they are intended and in accordance with the framework of the agreement with Client.
- 13.2 ARGOS warrants that the Products are free from any third party's industrial property rights or copyrights unless expressly indicated otherwise. Rights to the software used, rest with ARGOS and/or ARGOS has the required third-party license to use the software. For the term of the agreement on the Product, ARGOS grants a non-transferable, limited, non-exclusive right of use to such rights to Client with respect to such a Product and in accordance with the agreement. The Client shall not be entitled to modify or copy the Product and/or software of the Product in any manner whatsoever. This warranty shall extend to Client only and not to Client's agents, purchaser or representatives or third parties.
- 13.3 Client shall inform ARGOS immediately of any third-party claim or infringement with respect to the intellectual property rights of ARGOS.
- 13.4 Client shall not modify, adapt, alter, translate, or create derivative works from any software provided by ARGOS or attempt to derive the source code. Client shall not assign, sublicense, lease, rent, transfer, disclose or otherwise make available such software, or merge or incorporate such software.
- 13.5 Client shall not do or not omit to do anything that may damage the rights of ARGOS.
- 13.6 ARGOS excludes any liability, whether contractual or in tort or as indemnification, if ARGOS is not:  
(i) promptly notified in writing of any third party claim that the Product of ARGOS infringes a third party's patent, copyright, trademark or trade secret; and or  
(ii) if ARGOS has not been given the sole right to control and prepare the defence and settlement of such claim timely; and/or  
(iii) if Client altered, modified, translated or adapted the Product or created derivative works.
- 13.7 In the event and to the extent Client shall be deemed owner of any of such intellectual property rights referred to in this Clause, Client will assign these rights to ARGOS free of charge and immediately perform all acts needed for such assignment.

**14 Warranties and disclaimer**

- 14.1 ARGOS warrants that under normal use in accordance with the applicable manual, conditions of use and instructions for application, cleaning, repair and notifications and handling of defects and vigilance in respect of the Products that the Products shall as from the date of signing the Installation Report (to the extent applicable) or such other period as may be agreed upon in writing by the parties, be free from defects and that the Products conform to such specifications as ARGOS has agreed to in writing:
- (i) in case of (laboratory) equipment, for the term of 12 months after signing the Installation Report of the joint installation test, or one week after the installation whichever is earlier;
  - (ii) in case of spare parts, for the term of 3 months after repairment by ARGOS ;
  - (iii) in case of consumables (single use products) for the term of 6 months after delivery.
- 14.2 This warranty shall extend to Client only and not to Client`s agents, purchaser, or representatives or third parties. All other warranties are hereby specifically disclaimed by ARGOS.
- 14.3 Should ARGOS be in default of its obligations under this warranty, ARGOS`s sole and exclusive obligation and Client`s sole and exclusive right shall be limited, at ARGOS`s discretion to (i) repair or (ii) provide a replacement of the defective non-conforming Product or (iii) provide an appropriate credit for the purchase price thereof. Client shall set ARGOS a reasonable extension period for meeting its obligations. ARGOS shall decide whether rework is possible, or replacement is supplied. ARGOS`s right to refuse supplementary performance under the statutory conditions remains unaffected.
- 14.4 Warranty for defects of the Products, however, is excluded if/in the event of:
- (i) Client modifies a Product,
  - (ii) inspection, cleaning, repair and/or maintenance has been done by third parties unless approved by ARGOS in writing beforehand and explicitly,
  - (iii) non-compliance with the work processes learned (e.g during the training),
  - (iv) non- compliance with maintenance, vigilance, timely notification of defects, cleaning and repair obligations,
  - (v) failures accepted after the test following installation,
  - (vi) misuse, neglect, improper storage, transportation or improper handling,
  - (vii) use or handling by non-dedicated employees or officers,
  - (viii) incorrect or not following instructions given by ARGOS and/or
  - (ix) off-label use or application for purposes other than those described in the instructions.
- This § 14.4 will apply to all claims, including without limitation, contract, indemnity, wrongful act or otherwise. Client is liable for this type of damage or failures and may not enforce any claims against ARGOS under or in connection with any agreement and/or transaction. Any maintenance and repair services that should be performed as a result may be charged to Client in accordance with §12.2.
- 14.5 Due to the complexity of the Products, data regarding the output are only guidelines and no assured performance values. Minor deviations from these data are not considered to be defects, but common variations under standard operation conditions.
- 14.6 Should ARGOS be in default of contractual obligations, e.g., regarding delivery dates and maintenance and/or repair periods, Client shall set ARGOS a reasonable extension period for meeting their obligations. ARGOS shall decide whether rework is possible, or replacement is

supplied. ARGOS's right to refuse supplementary performance under the statutory conditions remains unaffected. In case of failure, impossibility or unacceptability of rework, Client shall be entitled to terminate the respective agreement prematurely. As a result, the legal consequences pursuant to §18.4 arise.

- 14.7 Client may only ship Products if still under warranty to ARGOS`s designated facility in conformity with ARGOS`s instructions.
- 15 Limitation of liability**
- 15.1 ARGOS's liability for damages for whatever legal reason, e.g., for impossibility, delay, defective or incorrect delivery, contract violation, violation of obligations in negotiations and arising from unauthorized action, shall be limited in accordance with this clause.
- 15.2 ARGOS will assume no liability with respect to damage because of or related to any errors or omissions in advice rendered by it, nor will it assume any liability with respect to damage as a consequence or related to errors or omissions in the instructions recommended by it.
- 15.3 ARGOS will assume no liability with respect to damage because of (partial) incorrect or incomplete information of the Client.
- 15.4 Without prejudice to the preceding paragraphs, in no event will ARGOS be liable to Client or any third party for any indirect, special, incidental, or consequential damages (including, without limitation, loss of profit or damage due to loss of data or loss of patient tissue).
- 15.5 ARGOS shall not be liable in case of simple negligence unless it concerns a violation of essential contractual obligations. Essential contractual obligations include the absence of defects in the delivery item significantly affecting its operability or its fitness for use.
- 15.6 To the extent that ARGOS is liable for damages on the merits in accordance with the above paragraphs, this liability shall be limited to damage which was anticipated by ARGOS as potential consequence of a violation of any agreement or transaction upon its execution or which would have had to be anticipated by ARGOS when applying due diligence.
- 15.7 Without prejudice to §15.1- 15.6, ARGOS's aggregate liability arising out of or in connection with performance or non-performance under any agreement or transaction or any ensuing agreement (including but not limited to any obligation to repay an amount received from Client) in any calendar year will not exceed either the price received by ARGOS from Client under that agreement, or the prices received over all transaction in that calendar year.
- 15.8 The exclusions and limitations included in this §15 will apply to all claims, including without limitation, contract, indemnity, wrongful act or otherwise.
- 15.9 The above-stated exclusions and limitations of liability shall be applicable to the same extent in favour of the executive bodies, legal representatives, employees, and agents of ARGOS.
- 15.10 Any claim of Client for damages must be brought and notified to ARGOS within 60 days of the event giving rise to any such claim. Any lawsuit relative to any such claim must be filed within one (1) year of the date of the claim. Any claims not notified or filed within these terms are null and void.
- 15.11 Any limitation or exclusion set forth above in this §15 shall apply only to the extent permitted by applicable mandatory law.
- 15.12 Any limitation or exclusion set forth above in this §15 is without prejudice to §14 of these T&Cs.



**16 Force majeure**

- 16.1 In case of force majeure, ARGOS shall be exempt from the performance of its obligations for the period and scope of the effects of such disruptions without being liable for any damage resulting therefrom. Events of force majeure include any circumstances or occurrences beyond ARGOS's reasonable control -whether or not foreseeable at the time of an agreement or transaction- and in particular, but not limited to strike, transport problems, pandemics or epidemics, fire, lock-out, acts of God, war, embargo, break downs as well as unexpected delays in the certification process, government measures or none availability of raw materials whether or not as a consequence of a force majeure event. A situation of force majeure must also be deemed to have occurred on the part of ARGOS if one or more of the above-mentioned circumstances occur within the companies of ARGOS's suppliers and ARGOS cannot or could not perform its obligations or cannot or could not perform such in good time, as consequence.
- 16.2 ARGOS shall make every effort to prevent or limit any adverse effects of force majeure events and Client shall have to make every effort to agree on alternative solutions. Parties shall resume performance of its contractual duties as soon as this is reasonably possible. Should a force majeure event continue for a period of over three (3) months, or if it is foreseeable that it will continue for over three months, each party shall be entitled to terminate the respective agreement. The legal consequences of this §16 arise without any party being entitled to claim damages from each other.
- 16.3 If ARGOS has already partially fulfilled its obligations upon the occurrence of the situation of force majeure or is only able to fulfil its obligations in part, it will be entitled to separately invoice the part already supplied or the part that can still be supplied and Client will be obliged to pay that invoice as if it pertained to a separate agreement.

**17 Application and Other Services**

- 17.1 ARGOS may offer to render to Client, at its request, certain application services or other services to Client ("Application or Other Services").
- 17.2 ARGOS shall invoice Client in advance unless expressly agreed otherwise in writing.
- 17.3 Costs of services are based on hourly rates, time spent, travelling costs plus out of pocket expenses plus VAT unless expressly agreed otherwise in writing.
- 17.4 Client can request ARGOS to perform Application or Other Services periodically or on-call. Unless agreed otherwise in writing, the Application or Other Services are performed at cost of Client. The cost will comprise the time spent by ARGOS's application specialist or other ARGOS employees, times the hourly rate and the traveling costs and any out-of-pocket expenses and VAT.

**18 Term and Termination**

- 18.1 Any agreement is entered into for the agreed term specified in the Confirmation Letter. At the end of the term, the Agreement shall be silently renewed for one-year periods unless a Party indicates in writing to the other Party at least two months before the end of the initial term or any renewal term that it wishes to terminate the Agreement.
- 18.2 If the Client wishes to terminate the Agreement after the initial Agreement year the Client shall inform ARGOS thereof in writing and will set up a face-to-face meeting with ARGOS to discuss the Client's wish to terminate the Agreement. If in the opinion of the Client, ARGOS is not able to or fails to adequately address the Client's reason for termination within 30 working days from the meeting, the Client shall be entitled to terminate the Agreement by written notice to ARGOS with immediate effect, without ARGOS being entitled to any

- damages or other compensation except for payment of any and all outstanding invoices and/or costs due until the date of actual termination of the Agreement.
- 18.3 ARGOS shall always be entitled to terminate an Agreement with immediate effect during the term for good cause. Such cause shall be deemed to exist if Client violates essential provisions of such agreement. As regards immediate or timely notifications such as in the event of defects or with respect to vigilance, all timelines are essential obligations without the possibility of supplementary performance.
- 18.4 Without prejudice to any rights granted by applicable law (including but not limited to any right to rescind the Agreement) or elsewhere in the Agreement, ARGOS shall in addition be entitled to terminate the Agreement and/or any ensuing agreement in whole or in part, with immediate effect, without the Client being entitled to claim any damages or other compensation, if:
- the Client fails to comply with the Implementation Plan.
  - the Client fails to meet the minimum use commitment in two consecutive months (in this case Client will also be due to ARGOS the cost of the incurred loss in revenue).
  - the Client has failed to make any payment to ARGOS on the due date and has not paid the full overdue amount within 10 working days from ARGOS's notice of default.
  - the Client fails to comply with any other obligation in the Agreement and, in the event the breach is remediable, fails to remedy the breach within 10 working days from ARGOS's notice of default.
- 18.5 ARGOS shall furthermore be entitled to terminate any Agreement with Client with immediate effect in case of any direct or indirect change in control regarding Client or its organization, or if a competitor directly or indirectly obtains an interest in or otherwise becomes involved in Client.
- 18.6 Client shall be entitled to terminate any agreement by written notice in the event of a defect of a Product that can be attributed to ARGOS and ARGOS has been unable to repair or replace the defective Product within 30 days after receipt of a written notice of default from Client.
- 18.7 In addition to the other termination rights in this paragraph, each party shall be entitled to terminate an Agreement with immediate effect, if the other party becomes or is deemed to be insolvent or unable to pay its debts or a petition is presented or a meeting convened or resolution passed for the purpose of winding up such party or in case the other party enters into liquidation whether compulsorily or voluntarily or compounds with its creditors generally or if the other party has a receiver or administrator appointed over all or any part of its assets or if the other party takes or suffers any similar action in consequence of debt or insolvency in any jurisdiction.
- 18.8 Any provisions of this Agreement which either are expressed to survive its expiry or termination, or from their nature or context it is contemplated that they are to survive, shall remain in full force and effect notwithstanding such expiry or termination.
- 19 Permits**  
If applicable, Client will obtain, is responsible for and will maintain all necessary permits and guarantees to comply with all applicable laws and regulations in relation to the Products.
- 20 Confidentiality**  
20.1 Each of the parties undertakes to maintain and procure the maintenance of the confidentiality of Confidential Information of the other party at all times and to keep and procure the keeping of all Confidential Information of the other party secure and protected against theft, damage, loss or unauthorised access, and not at any time, whether during the

- term of the Agreement or at any time thereafter, without the prior written consent of the other party, directly or indirectly, to use or authorise or permit the use of or disclose, exploit, copy or modify any Confidential Information of the other Party, or authorise or permit any third party to do the same, other than for the sole purpose of the performance of its rights and obligations hereunder.
- 20.2 Each of the parties undertakes to disclose Confidential Information of the other party only to those of its officers, employees, and contractors to whom, and to the extent to which, such disclosure is necessary for the purposes contemplated under this Agreement, and to procure that such officers, employees and contractors are made aware of and observe the confidentiality obligations in this clause.
- 20.3 Each party shall immediately upon becoming aware of the same give notice to the other of any unauthorised disclosure, misuse, theft, or other loss of Confidential Information of the other party, whether inadvertent or otherwise.
- 20.4 The Client guarantees and safeguards that ARGOS cannot access any personal data of any patients of the Client or any third parties or of any employees of the Client if it provides ARGOS remote access to the Instrument in order for ARGOS to provide support services to the Client or in order to determine the actual use of the Product(s) by the Client.
- 20.5 Upon the earlier of a written request from the disclosing party, or the termination or expiration of this Agreement for any reason, each party shall return all Confidential Information of the other party then in its possession or control and will not retain any copies of the same.
- 21 Severability clause**
- 21.1 In case any provision in the T&Cs shall be held invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.
- 22 Applicable law and place of jurisdiction**
- 22.1 These T&Cs and any ensuing agreements shall be governed by Dutch law with exclusion of the UN Convention on Contracts for the International Sale of Goods.
- 22.2 All disputes arising out of or in connection with these T&Cs or any agreement between Client and ARGOS that cannot be solved amicably will be resolved by a Dutch court of law.
- 23 Waste of Electrical and Electronical Equipment (WEEE)**
- 23.1 Pursuant to the Directive 2012/19/CE on waste electrical and electronic equipment (WEEE) and to the applicable national transposition legislation and/or regulations, as amended from time to time, the financing of the management of WEEE may be transferred from the manufacturer to the Client.
- 23.2 Unless otherwise agreed in writing between ARGOS and the Client, the Client hereby accepts such charge and shall therefore:
- Be responsible for financing the collection, treatment, recovery, recycling and environmentally sound disposal of (i) all WEEE arising or deriving from the Products and (ii) all WEEE arising or deriving from Products already on the market where such products are to be replaced by the Products and such products are of an equivalent type or are fulfilling the same function as that of the Products.
  - Comply with all additional obligations placed upon Client by the WEEE regulations by virtue of Client accepting the responsibility set out in this sub § 23.2.
- 23.3 The above-mentioned obligations shall be passed on by successive professional buyers to the final user of the WEEE, always under Client's responsibility. Non-compliance by Client with the above-mentioned obligations may lead to the application of criminal sanctions, as laid down in the applicable national transposition legislation and/or regulations.
- 24 Processing of personal data**
- 24.1 Client guarantees that all applicable statutory regulations, all applicable privacy laws, and regulations regarding processing of personal data and other privacy sensitive information have been and will be complied with.
- 24.2 Both ARGOS and Client will ensure an adequate state-of-the-art protection of personal data and security in compliance with the applicable Data protection laws and regulations.
- 25 Return of ARGOS Property (if applicable)**
- 25.1 Upon expiration or termination of an Agreement, the Client shall allow ARGOS to de-install and pick-up the Product(s) within one business day from ARGOS's request thereto. If the Client does not timely allow ARGOS to pick-up the Product(s), the Client shall forfeit a penalty of EUR € 1,000 (one thousand Euros) (VAT not included) per item of the Product(s), per calendar day for each calendar day that ARGOS is not able to pick-up the Product(s), without any notice of default being required and without prejudice to ARGOS's right to claim specific performance and/or damages.
- 25.2 If the Product(s) is/are returned in a condition evidencing that the Client has not complied with its obligations pursuant to the Agreement, ARGOS is entitled to repair the Product(s) at the Client's cost without any notice of default being required. The Client shall also compensate ARGOS for depreciation in value, if any. If in ARGOS's opinion the Product(s) cannot be repaired, the Client shall compensate ARGOS for the fair market value of the Product(s) to be determined by ARGOS at its discretion. The Client, however, shall be entitled to provide evidence of a lower market value. The Client shall forfeit a penalty of € 1,000 (one thousand Euros) (VAT not included) per item of the Product(s), per reasonably necessary repair day, without any notice of default being required and without prejudice to ARGOS's right to claim damages.
- 26 Transfer, Assignment and Sub-contracting**
- 26.1 The Client may not transfer, assign or sub-contract the Agreement or any of its rights or obligations hereunder without the prior written consent of ARGOS. The prohibition shall also have effect in property law.
- 26.2 The Client hereby approves and cooperates with an assignment or transfer of the Agreement and/or any rights and/or obligations thereunder by ARGOS to a third party.
- 27 Miscellaneous**
- 27.1 A failure or delay by ARGOS to exercise any right or remedy provided under an agreement or these T&Cs or by law shall not constitute a waiver of that or any other right or remedy nor shall it prevent or restrict any further exercise of that or any other right or remedy.



**Important notices and legal notices:**

The Client shall forward all notifications, legal notices related to any Agreement, transaction, order, offer or these T&Cs to info@argos-scanner.com and to:

**Address:**

ARGOS Slide Scanner Systems GmbH  
Ellewick 24  
48691 Vreden  
Germany  
Tel: +49 (0)2564 560100  
Website: www.argos-scanner.com

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