



ZEISS Metrology Software

End User License Agreement (EULA)



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1. Introduction

1.1 General Information

This End User License Agreement ("EULA") is a legal agreement between "you" (either an individual or a legal entity, hereinafter referred to as "Licensee" or "Customer") and ZEISS ("ZEISS" or "Licensor") (each individually a "Party" and collectively the "Parties") for your use of ZEISS software products. The Agreement sets forth all rights and obligations for both Licensee and ZEISS and governs your use of all Software Products installed or provided by ZEISS. Any amendment to this Agreement must be in writing and in accordance with the terms and conditions contained herein. By paying the applicable license fee(s) and by downloading, installing or using the Software, you agree that this Agreement shall be enforceable against you in the same manner as a written, negotiated contract signed by you. If you do not agree to the terms of this Agreement, you are not authorized and may not download, install or use any ZEISS software products.

In order to use the ZEISS software products and services, the licensee must have the following:

- (a) a so-called valid Subscription Agreement or
- (b) a valid licence from ZEISS.

Furthermore, individual software products require and use

- (a) which are based on a subscription contract; and/or
- b) with a server-based licensing solution

a secure connection of the application computer with the ZEISS infrastructure and/or the "Cloud Services".

1.2 Licensor is ZEISS Licensee is the end customer. The Licensor grants the Licensee a non-exclusive, non-transferable right to use the "Software Product", which includes the specific software program and the associated licensed software modules, subsequent extensions, updates, patches and associated documentation for internal company operation, as well as the associated manuals and software documentation.

1.3 Essential definitions, descriptions and explanations for different release types of the licensor's software products.

- a) **Major Release** (deliverable medium) means a new version of the software application with new or changed functionalities. A new major release can typically be published once or several times a year.
- b) **Innovation Release / BETA Software** refers to an interim version of the software application with new or changed functionalities. A new interim version is released one or more times between two major releases:
 - Innovation releases are only available to customers with a valid software maintenance and hotline agreement;

- No patch or service pack is provided for an innovation release;
 - Only the current innovation release is valid;
 - There is no backwards compatibility with previous major or innovation releases.
- c) **Service Pack / Hotfix** (deliverable medium) refers to a summary of patches. The advantage of this is that several errors can be corrected by carrying out a single installation. As a rule, a service pack contains all patches (as far as they have not become obsolete) since the release of the last major release or since the last published service pack. In the case of cumulative service packs, only the latest one needs to be installed by the customer, as it contains the previous patches:
- Service packs contain bug fixes. However, they do not contain any new functionalities;
 - Service packs go through a release procedure and are created at regular intervals;
 - In terms of warranty, a number of service packs are made available for each major release of software over a period of two years;
 - Service Packs are available to all customers who may use the major revision in question, regardless of any status as a Software Maintenance and Hotline Agreement contract customer;
- d) **Patch** (deliverable) refers to an update of a major revision to correct one or a few errors. Patches are cumulative in structure. This means that a new patch contains all the changes of the previous patches. Patches are only created if there is an urgent bug fix for one or more customers. Patches are distributed by Software Support to the affected customers or made available for download from the ZEISS Portal.
- e) A **Bug Fix** refers to an error correction for a specific software error. Bug fixes are not delivered separately, but always in the form of patches, service packs or new major releases.
- f) An **Update** is defined as a change to a new major version / major release (jump to the next major version / major release).
- g) An **Upgrade** is defined as a change to a newer major version / major release (skipping at least one major version / major release).
- h) **Continuous Release** refers to the continuous and agile provision of error corrections and functional changes or enhancements. There is no distinction between the different versioning types of major release, innovation release, service pack and patch.
- i) **Setup/Installer** is provided via download and contains the entire range of functions of the main version, which can be activated in stages if necessary.
- j) **Freeware** is software that is provided free of charge for use on a permanent basis.
- k) **Freeware with Registration** is free software that includes extended freeware functionalities through registration by the licensee and is provided for a limited period of time.
- l) **Trial Version** is a time-limited, free transfer of the main version of the software.
- m) **Software Maintenance and Hotline Agreement** is an additional agreement between the licensor and the licensee which, among other things, covers the maintenance/restoration of the operational readiness of the software, its updating, advice and maintenance of the software including documentation.

1.4 Essential definitions, descriptions and explanations for different models of payment for ZEISS software products

- a) **Perpetual Model:** The Licensee acquires a seven-year ZEISS Software right of use (for details see § 2.1.) of the respective major release of the Software Product in accordance with this Licence Agreement by paying a one-off fee. In addition, the Licensee may conclude a software maintenance and hotline agreement which grants additional privileges. The Licensor shall charge an ongoing fee for the Software Maintenance and Hotline Agreement.

- b) **Subscription Model:** The Licensee acquires the right to use the respective major release of the Software Product in accordance with this Licence Agreement for a fixed period of time, the so-called Subscription Term. In addition, certain services (hotline support and the right to use the latest version) may be included in a subscription model and are not offered in separate software maintenance and hotline agreements. The licensor charges a subscription fee per subscription term.

1.5 Essential definitions, descriptions and explanations for different licensing models for the licensor's software products.

- a) **Concurrent Use / Floating Licences** can be used by more than one user or instance. The number of users with the right to use the licensed software product at the same time is governed by the number of concurrent use / floating licences if the software product is
 - (a) is installed on a server and is started by a user from another computer that is part of the same internal network as the file server, or
 - (b) is installed on a user's computer but is only available for use if that user's computer can access it from a file server over an internal network; or
 - (c) is temporarily installed on a computer through a documented / controlled "licence check-out process" (borrowing of the licence), which ensures that the number of licences in the network is automatically reduced / adjusted. This includes the automatic return of the granted licence at the end of the period specified in the system or a manual licence return at an earlier point in time.Concurrent Use Licences are available as (a) factory-bound Concurrent Use Licences or (b) global Concurrent Use Licences. Global Concurrent Use Licences are subject to higher fees than Factory Concurrent Use Licences.
 - (d) Provided that the licences are available on a server, the software can be used on premise.
- b) **Single Use Licence** means a licence that limits the right to use the Software Product to a particular instance on which the Software Product is used and/or to a particular person who uses the Software.

1.6 If the Software Product is identified by Licensor as an "Update", "Upgrade", "Patch" or "Subscription", Licensee must have the Software Product Licence identified as appropriate for the Update, Upgrade or Patch by Licensor in order to use the Software Product. A Software Product identified by Licensor as an Update, Upgrade or Patch replaces and/or enhances the original Product that served as the basis for the Update and Upgrade. The Licensee may only use the respective upgrade or patch in accordance with the terms of this Licence Agreement. If the Software Product is an upgrade of a component of a software package licensed as a single product, Licensee may use and transfer the Software Product only as a component of that single product package. The Licensee is not permitted to split it for use on multiple computers.

A valid subscription agreement entitles the licensee to use the latest software product by default.

1.7 The Software Product may contain codes, objects and other intellectual property developed and licensed by licensors or third parties and incorporated into the Software Product ("Embedded Third Party Software"). Any Embedded Third-Party Software or open source code and open source licences used do not restrict or impair the rights of use granted to the Licensee and can be accessed at any time

within the respective software used. In individual cases, the respective licence conditions can be made available by the Licensor upon request at any time.

1.8 Conflicting terms and conditions of purchase of the Licensee or terms and conditions of purchase of the Licensee that deviate from this Agreement shall not become part of the Agreement, even if the Licensor does not expressly object to them. Amendments to the EULA must be expressly agreed in writing by both parties.

2. Term and Termination

2.1 In the perpetual model, this licence agreement and the right of use become legally effective upon payment of the licence fees to the licensor (effective date).

The licence agreement shall commence, with the exception of licence agreements limited in time, on the date specified in the licensor's order confirmation (effective date) or on the entry date specified by the licensee in the agreement (effective date). If two effective dates exist at the time of the agreement, the effective date specified by Licensee in the agreement shall prevail. This Licence Agreement and with it the right of use shall automatically terminate seven (7) years after the Effective Date.

If additional Concurrent Users are added after payment of the initial licence fee, the term for their use of the Software Product shall terminate at the previously existing term in effect at the current time. If the Licensee purchases an upgrade, the term of this Licence Agreement shall continue on the basis set out in the new Licence and Authorisation Document for the upgrade.

2.2 In the Subscription Model, this Licence Agreement shall commence on the first day of the Subscription Term specified in the Licensor's order confirmation (Effective Date) or on the entry date specified by the Licensee in the agreement (text form) (Effective Date). If two effective dates exist at the time of the agreement, the effective date specified by the licensee in the agreement (text form) prevails. To the extent automatic renewals are permitted in Licensee's country, region, province or state, this Subscription will automatically renew for an additional Subscription Term or one year, whichever is shorter ("Extended Subscription Term"), if the Subscription Agreement is not timely terminated. Licensor will use commercially reasonable efforts to notify Licensee of the renewal. Upon any renewal, the prices in effect on the first day of the new Subscription Term will apply. Licensee will be notified of any price increases, if any, in the course of notifying Licensee of the renewal.

The subscription model will be fee-based either

a) on the Effective Date, if the Customer has not purchased any other services for the set-up explicitly related to the Subscription Product concerned and which are an indispensable technical prerequisite for the Licensee's use of the Software; or

b) after ZEISS has set up the service for the customer, which were explicitly acquired in connection with the relevant Subscription Product and which are an indispensable technical prerequisite for the use of the software by the Licensee (e.g. installation).

Subsequent purchases under an existing subscription contract will be invoiced pro rata on a daily basis for the remaining term of the current subscription period.

If a new subscription period begins through an automatic renewal of the subscription contract, the fee for the agreed services including additional purchases will be charged for the originally agreed duration of the new subscription period.

2.3 In the Subscription Model, this Licence Agreement may be terminated by the Licensee vis-à-vis the Licensor as follows:

a) thirty (30) days before the end of the Subscription Period if a Subscription Period of one year was selected at the beginning,

b) fourteen (14) days before the end of the current month if a subscription period of one month was selected at the beginning, or

c) fourteen (14) days before the effective date of an announced price increase,

online via the respective ZEISS portal for registered users, by registered letter or e-mail with a scanned copy of the signed letter of termination, for example a pdf copy, addressed to the e-mail address specified by the Licensor. The termination shall take effect after the expiry of the subscription period selected at the beginning, with which the right of use also ends, or in the case of termination in accordance with Clause 2.3.c on the day of the price increase.

2.4 The Licensor is entitled to terminate this Licence Agreement and the corresponding rights of use with immediate effect if the Licensee breaches any provision of this Licence Agreement or tacitly tolerates a breach of this Licence Agreement by third parties or fails to fulfil its obligations under this Licence Agreement or if the Licensee files for insolvency or if there is a change of control at the Licensee.

2.5 Notwithstanding the foregoing provisions of Section 2 and unless otherwise agreed in this License Agreement, this License Agreement shall terminate automatically upon Licensee's breach of any of its provisions. In addition, unless otherwise agreed (e.g. in the case of Concurrent Use Floating Licences), this Licence Agreement shall terminate automatically if Licensee transfers possession of the Software Product or a copy of the Software to a third party (Clauses 4.3 to 4.6) or sells the computer or measuring device on which the Software Product is installed to a third party. The right to use the previous version(s) ends with the installation of the update or upgrade. The Licensee is no longer entitled to use the previous version(s) on another computer system or to make one or more previous versions available for use by third parties.

2.6 Under no circumstances shall royalties be refundable in whole or in part upon termination or mutually agreed termination of this Agreement, unless ZEISS is responsible for the early termination of this Agreement. The Licensee must comply with the conditions for return and deletion set out in Clause 10. The Licensee undertakes to destroy all copies of the software product - as a whole, in parts or in conjunction with other software - upon termination of this licence agreement.

3. Reproduction Rights

3.1 The Licensee may reproduce the delivered software to the extent that the reproduction is necessary for the use of the software. Necessary reproductions of the software include, but are not limited to, the installation of the software product on the mass storage of the device in accordance with this licence agreement and the loading of the software into the main memory of the computer.

Changes to the hardware may require additional effort for subsequent licensing, repair of the licence or re-licensing by the licensee and/or licensor. This applies in particular to changes or extensions of computer hardware components or the replacement of a computer system as a whole with/without network access (MAC address). If the software product is transferred by the Licensor to other computer hardware, the Licensee may no longer use the transferred software on the "old" system.

3.2 In addition, the licensee is entitled to make a single copy for data backup purposes. This backup copy of the licensed software product must be marked as such.

3.3 If, for reasons of data security or backup, a rapid reactivation of the computer system, including the subject matter of the contract, and the backup of the entire data stock, including the installed software product, are required after a total failure, the Licensee may create the maximum number of backup copies required. The data media concerned shall be appropriately labelled. The backup copies may only be used for archiving purposes.

3.4 The licensee is not entitled to make further copies or to instruct third parties to make further copies, in particular he is not entitled to print out the program code with a printer or to make photocopies of the manual.

4. Resale and Transfer

4.1 If the Software is marked "NFR" or "Not for Resale" or "Evaluation Copy" or "Free time limited trial", Licensee may not use or exploit the Software Product or the accompanying manuals and software documentation for any commercial purpose and may not resell, transfer or otherwise make the Software Product available to others without the express permission of Licensor. Commercial use also includes the use of the software product to create generally accessible computer software.

The licensee is not entitled to rent, lease, lend or make the software product available to third parties within the scope of hosting or download options, unless the licensor has expressly stated or permitted this in writing.

4.2 However, it is permitted to grant third parties a right of use if they have to use the software product as specified by the licensee. This usually concerns employees of the licensee, but not independent service providers, in particular, however, it is not limited to service technicians, subcontractors of the licensee, etc.

4.3 The Licensee may use the plant-based Concurrent Use / Floating Licences acquired and listed in the Contract Document in each case in a location designated by the Licensee. The relocation of licences to another plant of the Licensee requires the prior consent of the Licensor. A move may take place no more than twice a year. The risks associated with such a move shall be the responsibility of the licensee. The associated costs and expenses shall be borne by the licensee.

The Licensee may use the global Concurrent Use / Floating Licences acquired and listed in the contractual document globally within its company and the companies affiliated with it in accordance with §§ 15 ff. AktG (German Stock Corporation Act). Use by third parties, in particular external service providers (with the exception of service providers in the field of maintenance, calibration, repair, relocation

and conversion of coordinate measuring machines or coordinate measuring machines), customers, suppliers is permitted insofar as they act on behalf of the licensee. The authorised third parties are obliged to comply with the licence conditions.

4.4 If the software product is licensed to a leasing company (lessor), the leasing company shall be free to make the software product available to an agreed lessee under the terms of this licence agreement. If the Leasehold Item is further leased, the Lessor shall be permitted to transfer the rights to use the Software Product together with the Leasehold Item by providing appropriate information (which shall include CMM / system / serial number, software licences granted, name / address of the old and new Lessee) in writing prior to the planned transfer, as well as to require the Lessee to accept the terms of the transferred licence in writing.

4.5 In the Perpetual Model, the Software Product may be transferred to another party as part of the sale of a Device that includes the Software Product, subject to the following conditions:

- (a) no copies of the software product remain with the transferring user;
- (b) as a condition to the effectiveness of such transfer, the receiving party must expressly acknowledge the terms of this Licence Agreement to the Licensor by email with a scanned copy of a signed information letter, such as a pdf copy, addressed to the email address provided by the Licensor; and
- (c) the transferred software must be up to date (latest revised software version) at the time of its transfer. Licences are transferable only within the European Union or outside the European Union only within the countries in which they were originally acquired; and
- (d) all software modules of the software product can only be transferred as a package and not as individual licences.

4.6 In the Subscription Model, the Software Product cannot be transferred to another party as part of the sale of a Device that includes the Software Product Licence. The new owner of the device must enter into a new subscription or purchase the licence in the perpetual model.

4.7 Transfer within legal entities or global groups of the licensee.

If the transferring Licensee and the receiving party are part of a legal entity or part of affiliated companies, the transfer is permitted provided that the receiving party agrees to these Licence Terms (acknowledgement to the email address provided by the Licensor). "Affiliate" means any legal entity that is directly or indirectly controlled by a legal entity or its parent company. "Control" for the purposes of this Licence Agreement means direct or indirect ownership of more than fifty percent (50%) of the shares in that entity or more than fifty percent (50%) direct or indirect participation in the decision-making body of that entity.

4.8 Transfer of software licence options in the perpetual model.

If the Software Product is transferred with the participation of the Licensor, a licence fee shall be payable in accordance with the applicable price list of the Licensor. The number of transfers is limited to a maximum of four (4) during the term of this licence agreement.

5. Multiple Use

5.1 Multiple use of the software is possible depending on the type of licensing (concurrent use / floating licences as dongle or PC-bound licence). Only in an emergency may the licensee use the software on alternative devices of the same type.

Multiple use of the software product must be approved by the licensor or requires the purchase of concurrent use / floating licences. In the event of the use of Concurrent Use / Floating Licences, the total number of concurrently authorised users of the Software Product shall not exceed the number of all Concurrent Use Licences granted to Licensee for the Software Product. Unless otherwise agreed in this License Agreement, all other terms and conditions of this License Agreement apply to Licensee's use of the Software Product under a Concurrent Use License.

5.2 If the Licensee wishes to continue to use the software product that has been replaced by an update or upgrade in parallel with the current software product, he/she requires the prior consent of the Licensor to do so, unless this results from the licences purchased; a pdf copy of the consent must be sent to the e-mail address provided.

6. Back-Translation and Programme Changes

6.1 As a matter of principle, the licensee may not make any changes to the software product unless this is necessary to correct errors. The prerequisite is that this is done solely for the purpose of correcting errors that impair the functioning of the software.

In the latter case and if important program functions and working methods could be disclosed during the repair process, the licensee may commission a commercially active third party to carry out the repair if this third party is not a potential competitor of the licensor.

6.2 The reverse translation of the licensed program code into other code forms (decompilation) and other types of reverse engineering of various different phases of software creation are permitted only to the extent that they serve to correct errors that impair the functioning of the software (in accordance with Section 6.1). However, the Licensee may only carry out such decompilation to the extent necessary for the correction and, where applicable, in compliance with the conditions contractually agreed with the holder of the copyright in this Program.

Further, decompilation is permitted in cases to obtain information necessary for interoperability with an independently created computer program and only if this information cannot be obtained otherwise.

6.3 A further prerequisite for the authorisation for reverse translation is the performance of the reverse engineering or the programme observation exclusively by means of procedures which the Licensee is authorised to perform in accordance with this Licence Agreement. In particular, the programme code may in no case be printed out with the aid of a printer.

6.4 All property rights and copyrights relating to the software product, the printed accompanying materials and all copies of the software product remain with the Licensor or its suppliers. This software product is protected under German copyright law, US copyright law and the provisions of international treaties. The licensee is not entitled to reproduce the printed materials accompanying the software.

6.5 The Licensee is not entitled to remove, alter or add to any copyright notices or trademark notices placed by the Licensor. This includes, without limitation, all references in physical and/or electronic media or documents, in "Setup Wizards" or in "About..." dialogue boxes and/or in other references displayed on or activated via the Internet, in program code or other embodiments originally included in the Software or otherwise created by the Licensor.

7 Warranty and Right of Termination

7.1 The Licensor warrants with respect to the Software Product licensed to the Licensee the performance set forth in the Operating Instructions to the extent that the Software Product is installed in the intended system in compliance with the Licensor's guidelines.

7.2 Errors (bugs) in the software product or its software modules are deemed to be errors (bugs) that can be reproduced at any time.

7.3 The Licensor shall correct errors in the software product and in all manuals and other documents within a reasonable period of time after receipt of the corresponding information from the Licensee on the error necessary to correct the error. Errors shall be remedied by rectification, which shall not be invoiced, or by replacement of the delivery, at the option of the Licensor.

7.4 The Licensee's right of termination due to the non-executability of the Software Product may only be exercised after rectifications or replacements have been made twice without success.

7.5 The Licensor neither warrants nor guarantees the functionality of the measurement plans or programs created by third parties or the Licensee / Customer, nor the error-free execution of the measurement plans or programs with the software or on the Licensor's systems. The Licensor excludes any form of warranty or guarantee with regard to third-party measurement plans and programmes, especially after the implementation of software upgrades or new programme versions.

The Licensor particularly emphasises the possibility that the presence of one or more of the factors described below may cause a loss or change in performance in relation to measurement plans:

- a.) The operating system of the computer has been changed between software revisions;
- b.) significant changes to the calculation algorithms;
- c.) Correction of software errors and malfunctions;
- d.) Changes in dependencies between software options;
- e.) incorrect programming of measurement plans;
- f.) Influence of software programs or modules not issued by the Licensor.

8. Liability

8.1 If the Licensee is unable to use the software product in the manner stipulated in the contract and the Licensee is responsible for this due to the failure to implement or the incorrect implementation of suggestions and advice before or after signing the contract or due to the breach of other contractual

obligations, the provisions set out in Sections 7 and 8 shall apply accordingly, to the exclusion of any further claims by the Licensee.

For damages that do not occur to the software product, respectively not to the hardware and the connected device, the liability obligation of the licensor applies exclusively in the following cases, regardless of the respective legal ground:

- wilful misconduct,
- gross negligence of its executive bodies or officers,
- culpable damage to life, limb and health, in the event of errors, which the Licensor has fraudulently concealed or which it has excluded under warranty,
- Software errors within the scope of liability for personal injury and property damage due to personally implemented objects, as set out in the product liability regulations applicable to them.

8.2 In the event of culpable breach of essential contractual obligations, the Licensor shall also be liable in the event of gross negligence on the part of non-executive employees and in the event of slight negligence. In the latter case, liability is limited to damages that are foreseeable and typical for this type of contract.

8.3 In addition, the Licensor, its employees and its vicarious agents shall be liable for data loss or changes due to program errors, limited to the extent that this would have been unavoidable if the Licensee had complied with its obligation to make back-up copies regularly and at least once a day.

8.4 In the event of claims based on copyright infringement, the licensor shall grant the licensee the right to continue using the software product or to make modifications to the software product so that copyright protection is guaranteed. If this is not commercially reasonable, the licensor shall take back the subject matter of the contract and refund the licence fee paid, less an amount corresponding to the duration of the previous use. This shall apply provided that the Licensee notifies the Licensor of this type of claim in writing without delay and allows the Licensor all legal remedies and out-of-court settlements.

8.5 For server interruptions, interruption of licence allocation and other support cases that are not clearly attributable to an incorrectly created licence, the Licensee or its IT provider shall be liable with regard to Concurrent Use / Floating Licences.

The licensee or its IT provider is responsible for maintaining the necessary number of licences to provide its services. The licensor is not liable for interruptions in use and subsequent work / production stoppages.

8.6 Further claims of the licensee are expressly excluded.

8.7 The licensee is responsible for all problems arising from the use of the software product that are not directly caused by the licensor. Therefore, the Licensee is responsible for all data generated and produced during the use of the Software Product. The Licensee is therefore obliged and responsible for compliance with the terms and conditions set out in this Licence Agreement.

9. Obligation of the Licensee to maintain the Software, Transfer of Risk

9.1 In the Perpetual Model, in addition to acquiring a licence in accordance with these End User Terms, the Licensee is obliged to assign the acquired Concurrent Use / Floating Licences to an existing Software Maintenance and Hotline Agreement or, if required, to conclude an additional Software Maintenance and Hotline Agreement in order to use the Software. The right to use the acquired Concurrent / Floating Licence shall only exist if a valid Software Maintenance and Hotline Agreement is in place.

9.2 The respective Software Maintenance and Hotline Agreement applies to the provisions of this EULA in the case of Concurrent Use / Floating Licences and in the Subscription Model. The latest version of the Software Maintenance and Hotline Agreement can be viewed and accessed on the respective website.

9.3 The administration of the floating server is the responsibility of the licensee. The licensee is responsible for the secure operation and maintenance of the server. The licensor or the licensee shall be responsible for importing / installing the licences on the (virtual) floating server. The server hardware is provided by the licensee.

A possible installation of the server infrastructure as well as advice on the operation and maintenance of the server operation by the licensor must be contractually regulated individually within the scope of a project transaction.

9.4 The distribution of licences to use the software is the responsibility of the licensee. However, the users must be employees of the licensee. Use by external stakeholders of the Licensee, e.g. customers or suppliers, is not permitted (see also Clause 4. Resale and Transfer and Clause 5. Multiple Use).

9.5 The Licensee is obliged to prevent third parties from accessing the software and documentation by taking appropriate measures. In particular, the Licensee shall instruct its employees to prevent third parties from accessing the software.

9.6 Should an employee of the Licensee infringe copyright or grant unauthorised third parties access to the Software, the Licensee is obliged to participate in the clarification of the infringement and must inform the Licensor of the relevant hearing of this infringement.

9.7 The licensee bears the risk of accidental loss as well as destruction, especially with regard to theft of the software product or copy protection plug. The licence agreement shall automatically terminate in the event of destruction or loss. The user is obliged to notify the licensor immediately of the loss of a licence dongle.

9.8 Loss of a licence copy protection plug: The licensee is liable for the supplied software copy protection plug. A loss of the software copy protection plug is equivalent to a loss of the software product. The costs for the replacement of the software copy protection plug and the associated software licences shall be charged to the licensee. In the event of theft of the copy protection plug, an official police report is required for the reissue of a licence against payment of a fixed amount for the retransfer currently amounting to 1,500 euros plus VAT.

Notwithstanding the foregoing, the Licensee shall be entitled to demand that the Licensor enter into a new licence agreement and subsequently deliver a Software Product. In this case, corresponding licence fees amounting to the amount for an upgrade shall apply and accrue for the replacement of the stolen software product.

10. Obligation to Return and Delete the Data supplied

10.1 Upon termination of this licence agreement, the licensee is obliged to return all original data carriers, the dongle and all documentation, materials and other documents in his possession. The software product and all documentation must be sent to the Licensor free of charge. In the case of carriage by third parties, the method of delivery must ensure safe delivery (registered mail, secure shipment or similar) and the shipment must be insured up to an amount equal to the amount of the licence fee. The Licensee must confirm in written (text form) that the Software has been successfully uninstalled.

10.2 The proper return of the software product includes the complete and final deletion of all existing copies and in particular copies of the software on the computer.

10.3 Should the Licensee fail to comply with the requirements set out in Clauses 10.1, 10.2 of this Licence Agreement, the Licensee shall pay to the Licensor liquidated damages in the amount of the agreed licence fee. Further claims for damages by the Licensor shall remain unaffected and shall be offset against the liquidated damages, if any.

10.4 The licensor may decide not to return the software product and instead request that the software product be deleted, and the documentation destroyed. If the Licensor decides to take this course of action, it shall expressly notify the Licensee of this decision in written (text form).

10.5 The Licensee is expressly advised that he/she may no longer use the software product after termination of the licence agreement and that failure to comply with this requirement constitutes an infringement of copyright. Clause 9.3 shall also apply after termination of the contractual relationship.

11. Data Acquisition

11.1 Upon installation of the software product, depending on the software product, diagnostic as well as technical, usage-relevant and related information, including unique system and hardware identifiers, as well as information on the system software used, software licence and modules as well as all devices and communications controlled by the software (collectively referred to as "systemic data") are recorded locally on the Licensee's computer or the technical prerequisite for the recording of the aforementioned information by the Licensee is prepared if necessary; under the respectively indicated Webseite or in the respective software product, a detailed overview of the recorded data can be viewed. Depending on the application and configuration case, this data may also be stored locally in the network or on servers located in the network in order to enable further products or services of the licensor.

The licensor is entitled to use this systemic data for diagnostic purposes or for licensor services and to collect the data, provided that it is collected and stored for the purposes described above in a form that does not allow any conclusions to be drawn about individuals.

Depending on the software product, data collection can be prevented by uninstalling the analysis software.

11.2 Floating licences: The licensee is obliged to provide licence use extracts up to twice a year upon request. These must show

- how many users the licences
 - how often
 - in which country
 - in which plant (only for plant-based concurrent use / floating licences / server-based network-based licences)
- used in the period of the year preceding the day of the licence server extract.

In this context, the Licensor reserves the right to request the sending of corresponding log files.

Should the Licensee fail to comply with this request even after repeated requests with a reasonable deadline, the Licensor shall be entitled to review the use within the scope of the following paragraph at the Licensee's expense.

Irrespective of the foregoing provision, the Licensor shall be entitled to review compliance with the licence agreement at its own expense and to commission a review for up to one year after termination of the licence agreement. For this purpose, the Licensor shall commission an independent accountant or auditor from an internationally recognised auditing company, who shall be subject to confidentiality obligations. The review will be announced at least 30 days in advance and will take place during normal business hours in a manner that does not unreasonably interfere with the Licensee's normal business activities. The licensee shall promptly provide the accountant or auditor with all information that the accountant or auditor may reasonably request to assist in the review. If a breach of the licence agreement is found, the licensee must reimburse the licensor for all costs of the audit; claims for damages in excess of this may be asserted.

12. Safeguards, Audit Right

12.1 The Licensee shall take suitable measures to secure the software and, if applicable, the access data for online access against access by unauthorised third parties. In particular, all copies of the software and the access data shall be kept in a protected place.

12.2 The Licensee shall, at the Licensor's request, enable the Licensor to verify the proper use of the software, in particular whether the user is using the program qualitatively and quantitatively within the scope of the licences acquired by him. To this end, the user shall provide the licensor with information, grant access to relevant documents and records, and enable an audit of the hardware and software environment used by the licensor or an auditing company named by the licensor and acceptable to the user. The Licensor may carry out the audit at the Licensee's premises during the Licensee's regular business hours with 14 days' notice or have it carried out by third parties bound to secrecy. The licensor shall ensure that the business operations of the licensee are disturbed as little as possible by its on-site activities. If the inspection reveals that the number of licences acquired has been exceeded by more than 5% (five percent) or that the licence has otherwise not been used in accordance

with the contract, the licensee shall bear the costs of the inspection, otherwise the licensor shall bear the costs.

13 Industrial Property Rights and Copyrights

13.1 If a third party asserts claims for infringement of a commercial property right or copyright against the customer because the customer uses a software revision, firmware supplement or associated documentation supplied by ZEISS, ZEISS shall be obliged to pay any cost and damage compensation amounts awarded to the property right holder by a court or awarded with the prior written consent of ZEISS. This is subject to the condition that the customer informs ZEISS immediately in writing of such claims and that ZEISS reserves the right to take all defensive measures and out-of-court settlements. The customer is obliged to support ZEISS in the defence to the best of its ability. Under these conditions, ZEISS shall generally procure for the customer the right to continue using the software revision, firmware supplement or documentation. If this should not be possible under economically reasonable conditions, ZEISS shall be obliged, at its own discretion and at its own expense, either to modify or replace the relevant item in such a way that the property right is not infringed, or to take back the item and refund the remuneration paid for it less an amount taking into account the benefits derived.

13.2 ZEISS shall have no obligations if property right infringements are caused by software revisions or updates, firmware supplements or documentation supplied by ZEISS not being used in the intended manner or not being used on the specific coordinate measuring machine including peripheral devices.

14. Additional Conditions for Innovation Releases - Beta Software

14.1 Restrictions in the case of innovation releases or beta software: Between regular major releases (official new revision of the software product) of the software, customers with a software maintenance and hotline agreement are provided with new functionalities in innovation releases even before a major release in order to be able to benefit earlier from extended functionalities.

14.2 The right of use pursuant to Section 2.1 End User Licence Agreement - EULA is limited in time to 9 months or until the next major release is made available.

14.3 The functions in the Innovation Releases shall be tested and documented in the same way as for Major Releases. Bug fixes for innovation releases shall only be provided with a new major revision or service patch version linked to the major revision; no separate bug fixes in the sense of service patches shall be provided for innovation releases; innovation release software may not be sold, exchanged or transferred in any other way or made available to third parties.

14.4 Functions made available in innovation releases do not necessarily have to be equally included in the standard scope of the major releases. Measurement plans or programmes programmed, modified or opened and saved in innovation releases are not backwards compatible - neither with predecessor major releases nor with predecessor innovation releases.

14.5 Deviation from clause 8 of the End User Licence Agreement - EULA applies to liability:

Innovation releases or beta software can regularly still contain defects. The granting of a licence for innovation software was made for the purpose of early use of new software functions and the transmission of feedback regarding the quality and usability or also identification of defects. The Innovation Releases or Beta Software are provided "AS IS" and "AS AVAILABLE". They may contain errors or inaccuracies that may cause Licensee's equipment and peripherals connected to it (including, in particular,

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THE LICENSEE SHALL BEAR ALL RISKS AND ALL COSTS ASSOCIATED WITH ITS USE OF BETA SOFTWARE ON ANY PROGRAM, INCLUDING, WITHOUT LIMITATION, ANY COSTS FOR INTERNET ACCESS, COSTS FOR BACKUP COPIES, COSTS FOR THE USE OF ITS EQUIPMENT AND PERIPHERAL DEVICES, AND FOR ANY DAMAGE TO EQUIPMENT, SOFTWARE, INFORMATION OR DATA OF ANY KIND.

The licensor is liable in case of intent and only for malfunctions for which the licensor is responsible for foreseeable damages in case of gross negligence. Liability in case of simple negligence is excluded for indirect damages, loss of data or damages lying in the area of responsibility of the user of the innovation release or Beta Software. Further claims of the licensee are excluded.

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The Licensee warrants to the Licensor that it will not use the Software or any part thereof in violation of any applicable law or regulation, and the Licensee agrees to indemnify and hold the Licensor harmless from any and all claims.

16. Evaluation of User Behaviour in anonymised Form

The Licensee agrees to an evaluation of the user behaviour in anonymised form by the Licensor for the purpose of improving and further developing its products.

17. Other

17.1 All verbal agreements, amendments, extensions or concretisations of these licence conditions as well as the special characteristics of the assurances or agreements or arrangements made must be in writing in order to be legally effective. If these are drafted by representatives or vicarious agents of the licensor, they shall only become legally binding with the written approval of the licensor.

17.2 Should parts of this contract become invalid, this shall not affect the validity of the remaining parts of this contract. The invalid part of this contract shall be replaced by its parties with legally permissible provisions that come as close as possible to the intention of the invalid provisions.

17.3 The laws of the Federal Republic of Germany shall apply to this contract, to the exclusion of the law on the international sale of goods and the rules of conflict of laws.

18. Acknowledgement of Receipt and Acknowledgement

The Licensee has acknowledged the Licensor's use of these Licence Terms. The Licensee has acknowledged these terms and conditions to the extent appropriate.

Carl Zeiss AG
Carl Zeiss-Strasse 20
73447
Oberkochen,
Germany

(January 2022)

ADDENDUM TO THE END USER LICENCE AGREEMENT FOR ZEISS SOFTWARE

("Addendum to EULA")

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