



**General Terms and Conditions for Software Subscription Licenses
Carl Zeiss Philippines Pte. Ltd.**

1. Subject matter of contract

1.1 This software licensing agreement ("**Agreement**") is entered into between the parties listed, and as of the Effective Date stated on the quote for the software subscription license provided by **Carl Zeiss Philippines Pte. Ltd.** or its affiliated companies or partners ("**ZEISS**") to the Subscriber ("**Subscriber**") on a subscription basis. These General Terms and Conditions ("**General T&C**") sets forth the terms and conditions under which the Subscriber may (i) use ZEISS' proprietary software that is specifically licensed to Subscriber pursuant to the End User License Agreement for ZEISS Device Software ("**ZEISS Software**"); and (ii) use the user documentation that ZEISS makes generally available in hard copy or electronic form to its general customer base in conjunction with the licensing of such ZEISS Software.

1.2 ZEISS shall grant to the Subscriber a remunerated, non-exclusive, non-sub-licensable right to use the ZEISS Software programs, subsequent additions, updates, patches and the related documentation (subject matter of the agreement) for internal operations for the entire subscription period.

1.3 Any third-party software provided by ZEISS for joint use with the ZEISS Software for the Subscriber's use shall be subject to such third party's software licensing terms. The licensing terms are stored on the data carrier respectively in a program package provided by ZEISS and/or are furnished at the time the software is installed.

1.4 In case ZEISS marked the ZEISS Software product as an "update", "upgrade", a "patch" or "subscription", the Subscriber, in order to be able to use the ZEISS Software product, must have the respective license for a product which ZEISS designates as suitable for the update, upgrade or patch. A ZEISS Software product marked by ZEISS as an update, upgrade or a patch either replaces or supplements the original product serving as the basis for such an update or upgrade. The Subscriber may only use the respective update, upgrade or patch in conformity with the provisions of this license agreement. In case the ZEISS Software product is a component upgrade of a package of software programs which was licensed to you as an individual product, the ZEISS Software product may only be used and transferred as a component of this individual product package. You may not separate it to use it on more than one computer unless agreed upon in writing.

1.5 The subscription fee shall be invoiced by ZEISS to the Subscriber in advance on an annual basis.

2. Commencement and end of the right of use

2.1 The right to use of the Subscriber starts with full payment of the subscription fee to ZEISS. The Subscriber's right of use shall end automatically in case the subscription period is over and there is no renewal of the subscription or the Subscriber violates any of the licensing terms stipulated in this General T&C.

2.2 The right to use the installed version shall end once updates or upgrades are installed. The Subscriber shall not be entitled to continue to use the previous version(s) and/or to provide it/them and/or sell it/them to third parties in any form whatsoever.

2.3 The term of subscription shall be as agreed on the Agreement ("**Initial Subscription Term**") after which the subscription will automatically be renewed at the then then-current fee for the successive terms until either Party terminates the Agreement.

2.4 The Subscriber may terminate the subscription for convenience by giving a notification of termination or non-renewal to Zeiss at least one round of payment in advance which the termination shall be effective on the end of the payment round.

2.5 In the event of material breach of this Agreement, ZEISS reserves the right to terminate the subscription and immediately suspend the subscription where the termination shall not in any way relieve the Subscriber from the obligation to pay any remaining amount of fee payable to Zeiss.

2.6 Upon the termination or expiration of the subscription:

2.6.1. all the rights and licenses granted to the Subscriber shall be immediately terminated;

2.6.2. the Subscriber shall return and destroy all the confidential information received under this General T&C or the Agreement immediately;

2.6.3. the Subscriber and all authorized users shall cease to access the ZEISS Software under this Agreement; and

2.6.4. ZEISS shall destroy, delete and remove all user credentials, including but not limited to usernames, passwords, as well as any and all materials that have been uploaded to the ZEISS Software.

2.7. The provisions in no. 9 (obligation to delete), no. 13 (intellectual property) and no. 15 (confidentiality and personal data protection) shall survive the termination or expiration of the subscription.

3. Multiple use, hosting

3.1 The Subscriber may not copy the ZEISS Software to a public or distributed network. The Subscriber shall be entitled to have the ZEISS Software hosted by third parties solely for access by the Subscriber. The Subscriber may not authorize the third-party hosting provider to allow third parties access to the ZEISS Software. The Subscriber's hosting provider must agree to be subject to these provisions.

3.2 The MySQL software contained may not be used as a general SQL server or as a standalone application or together with other applications as a contractual software.

4. Decompilation and program modifications

4.1 Any modification of the ZEISS Software by the Subscriber shall not be permissible.

4.2 The ZEISS Software is a medical product. Changes in the ZEISS Software by the Subscriber or by a third party may void the approval of the ZEISS Software as a medical device, the same applies to corrections of errors. ZEISS shall have no obligations and liabilities under this Agreement for any unauthorized modifications done by any person other than the ZEISS' authorized representatives.

4.3 All property rights and copyrights to the ZEISS Software product, to the printed accompanying materials and to all copies of the ZEISS Software product shall belong to ZEISS or ZEISS's supplier. This ZEISS Software product is protected by US-American copyright laws and provisions contained in international contracts. You are not authorized to copy the printed materials accompanying ZEISS Software product.

4.4 The Subscriber shall not be authorized to remove, modify or change any of ZEISS's copyright or brand notices as well as any other properties serving program identification. This includes without limitation all notices in physical and/or electronic media or in the documentation, in the setup assistant or in the dialogue fields "Information about ..." and/or any other notices present or activated online, in the program code or other embodiments that were originally contained in the ZEISS Software product or produced by ZEISS in any other manner.

5. Warranty

5.1 ZEISS guarantees that for the entire subscription period, the ZEISS Software provided to the Subscriber shall conform to the software



- specifications (functions) resulting from the instructions for use, 7.2 provided that the ZEISS Software has been installed on the specified system and in accordance with ZEISS's guidelines.
- 5.2 Only defects that can be reproduced at any time shall be considered to be software defects.
- 5.3 Any defects in the ZEISS Software provided, including the instructions for use and other materials, shall be corrected by ZEISS within a reasonable period of time after the defect was reported by the Subscriber, under the reservation that possibly a new admission of the ZEISS Software is required as a medical device before the ZEISS Software may be put back into operation. The defect shall be corrected by free repair or replacement at ZEISS's option. 7.3
- 5.4 In addition, the statutory warranty of defects provisions shall apply. 7.4
- 6. Liability**
- 6.1 In the event that, through ZEISS's fault, the ZEISS Software is unsuitable for contractual use by the Subscriber as a result of the omission or improper implementation of suggestions and advice given before or after the conclusion of the contract or through the infringement of other additional contractual obligations, the terms of clauses 7 and 8 shall apply accordingly to the exclusion of any further claims of the Subscriber. For damage not directly occurring to the software, hardware and connected equipment, ZEISS shall only be liable - on any legal grounds whatsoever – in the following cases: 8.
- intent, 8.1
 - gross negligence by ZEISS's managing bodies or senior executives, 8.2
 - culpable injury to life, limb and health; defects that ZEISS has maliciously concealed or warranted would not be present;
 - defects in the ZEISS Software to the extent ZEISS is liable under the applicable laws for personal injury or material damage caused to objects in private use.
- 6.2 In case of culpable violation of material contractual provisions, ZEISS shall also be liable in case of slight negligence, but restricted to damage typical for this type of agreement and foreseeable at the time the agreement is concluded. 9.
- 6.3 In addition, ZEISS, its employees and vicarious agents shall be liable for the loss or alteration of data caused by program errors only to the extent that would be unavoidable, provided that the Subscriber had fulfilled its data backup obligations at intervals commensurate with the application involved, but at least on a daily basis. 9.1
- 6.4 In the event of claims resulting from the violation of copyright, ZEISS shall procure for the Subscriber the right to continue using the ZEISS Software or shall modify the ZEISS Software in a way that no violation of copyright exists. If this is not possible under economically reasonable conditions, ZEISS shall – to the exclusion of any further rights - terminate this agreement and Subscriber's rights hereunder and provide Subscriber, upon the return of the ZEISS Software pursuant to 9.1 below, as Subscriber's sole remedy and ZEISS' sole liability for such termination, a refund of any prepaid, unused fees for the ZEISS Software calculated as of the effective date of the termination.. This shall apply subject to the condition that the Subscriber immediately notifies ZEISS in writing of any such claims and imparts responsibility for all defense measures including out-of-court settlements to ZEISS. 9.2
- 6.5 Any further claims of the Subscriber shall be expressly excluded. 9.3
- 7. Subscriber's duty to exercise proper care, risk**
- 7.1 The Subscriber undertakes to take adequate precautions to prevent any unauthorized access by third parties to the program and documentation. In particular, the Subscriber shall instruct its employees not to grant unauthorized third parties access to the ZEISS Software. 10.
- The Subscriber shall store the original data carriers respectively data packages supplied to it in a safe place protected from unauthorized access by third parties and shall expressly instruct its staff to comply with the existing licensing terms and copyright legislation. In particular, the Subscriber shall instruct its employees not to produce any unauthorized copies of the ZEISS Software, of the instructions for use and of the installation instructions.
- Should any of the Subscriber's employees infringe the copyright or grant unauthorized third parties' access to the ZEISS Software, the Subscriber undertakes to make every effort to contribute towards clarifying the violation, in particular to notify ZEISS of the relevant infringing act.
- The Subscriber shall bear the risk of accidental perishing and/or loss, in particular in case the program is stolen. In case of perishing and/or loss, this software license agreement shall end automatically. Without prejudice thereto, the Subscriber may demand that ZEISS issues a new software license and provides a new program. In that case, the respectively valid license fees shall become due.
- 8. Payment of Subscription**
- The software subscription fee and period shall be as quoted by ZEISS ("Subscription Fee"). ZEISS shall issue the invoice of subscription fee to the Subscriber and the payment is due without deduction at the beginning of each subscription period on receipt of invoice.
- All payments are subject to the goods and services, value added tax, and other relevant taxes which may be prevailing at the relevant time, and are due within thirty (30) days from the date of the invoice. In the event of default in payment, ZEISS may demand default interest at an annual rate of four per cent (4%) above the base lending rate of Deutsche Bank, on any outstanding amounts due and owing by the Subscriber to ZEISS, accruable and calculated on a daily basis from the due date to the date of full repayment (before and after judgment).
- 9. Obligation to delete**
- In case of expiration or termination of this software license agreement, the Subscriber's rights to the affected ZEISS Software, confidential information, and any other materials belonging to ZEISS (collectively "Materials") will cease. Subscriber immediately stop using such Materials and shall return such Materials to ZEISS or destroy all copies thereof (except for the copies retained for archival purposes). In addition, Subscriber shall provide ZEISS with written certification signed by an officer of Subscriber, that all copies of the Materials have been returned or destroyed and that no copies have been retained by Subscriber. Following termination, any use of the Materials by Subscriber will be an infringement and/or misappropriation of ZEISS's proprietary rights in the Materials. Upon termination of the Agreement by Subscriber, ZEISS will have no further obligation or liability hereunder and all fees due under the Agreement will become due and payable to ZEISS immediately upon such termination.
- Should the Subscriber fail to comply with the stipulations in clauses 13.1 of this software licensing agreement, ZEISS shall be entitled to claim any losses or damages arising therefrom, including but not limited to any costs associated with mitigating the breach. Any claims for damages by ZEISS shall remain unaffected by this stipulation.
- The Subscriber shall be deemed expressly informed that after termination of the software licensing agreement, it may not continue to use the ZEISS Software and any violation of this stipulation constitutes a non-compliance with the copyright of the holder of the rights. Section 13.3 shall apply mutatis mutandis to the time after the termination of the contractual relationship.
- 10. Software Maintenance**



- 10.1 ZEISS shall provide the software maintenance services only for the last main version of the subscribed software which was released by ZEISS. Current revision or version of the software must first be subscribed by the Subscriber under this software licensing agreement.
- 10.2 The following items are expressly excluded from the scope of work and services to be provided by ZEISS under this software licensing agreement and ZEISS may (but is not obliged to) carry out the same upon request by the Subscriber, subject to separate charges payable by the Subscriber in accordance with ZEISS' prevailing current standard rates:-
- a) the elimination of individual or specific program errors or faults:-
 - i. arising from, caused by and/or attributable to Subscriber's own software, hardware or operating systems not included or comprised in the subject matter of the subscribed software;
 - ii. which are peculiar to the Subscriber alone or are user-specific; and/or
 - iii. attributable to other equipment and programs of the Subscriber's used in conjunction with the subscribed software or to any other reason external to the subscribed software;
 - b) the elimination of errors or faults arising from, caused by and/or attributable to:
 - i. incorrect use or misuse of the subscribed software or operator or user error;
 - ii. Unauthorised Modifications made or permitted by the Subscriber to be made to the subscribed software;
 - iii. Unauthorised Modifications made or permitted by the Subscriber to be made to the hardware on which the subscribed software runs;
 - c) the on-site installation of software revisions and updates and firmware supplements on individual devices, machine, or computers; and
 - d) system and application related support provided on-site by ZEISS at the Subscriber's request on the Subscriber's premises.
- 11. Conditions of Software Maintenance**
- 11.1 The Subscriber must provide at its own cost and as specified by ZEISS, adequately configured computer hardware and firmware and the necessary input and output units in respect of the current revision or version of the subscribed software and operating system which the Subscriber is using.
- 11.2 The Subscriber must be a licensed user of the software in accordance with the database records maintained by ZEISS.
- 11.3 The Subscriber's right to software maintenance as defined by the software licensing agreement shall cease if the Customer itself or third parties make changes to or in the software to be maintained or to the computer and peripheral units, software revisions or updates, firmware supplements or documentation provided by ZEISS (or any part thereof), without the prior express written consent of ZEISS ("Unauthorised Modifications"), unless the Customer can prove, to the reasonable satisfaction of ZEISS, that the said changes or modifications have no effect on the software maintenance services provided by ZEISS.
- 11.4 On agreement with ZEISS, the Subscriber shall provide all information reasonably required by ZEISS for the due fulfillment of its obligations under the software licensing agreement.
- 11.5 ZEISS shall be entitled to have the software maintenance performed by or sub-contracted to third parties. The Subscriber agrees that its name, address and the data contained in the software licensing agreement can be communicated to the suppliers of operating systems for software, of computers and other instruments or instrument components, and to other third parties which ZEISS may
- choose for the performance of services to meet its obligations as defined by the software licensing agreement.
- 11.6 The Subscriber is not entitled to transfer or assign its rights or benefits granted to it or any of its obligations under the software licensing agreement to any third party without the prior written consent of ZEISS.
- 12. Error messages and troubleshooting**
- 12.1 The parties agree that each software revision or version only constitutes a specific development status of the data processing program and cannot, as such, be free from errors.
- 12.2 Errors of which ZEISS has been informed and which are not irrelevant to the respective program will be taken care of in the revision of the programs under the scope of general software revisions. The time and the manner of error rectification shall be at the discretion of ZEISS. A program error shall only be deemed present if the function of the program fails to coincide with the specifications of the documentation. It must be possible to describe the error and it must be reproducible at any time.
- 12.3 If ZEISS is unable to reproduce the error itself, it can endeavour to reproduce the error together with the Subscriber on the latter's premises. The Subscriber will support ZEISS in this process. If an error of which ZEISS was notified should turn out to be an application-related problem or a software error caused by the Subscriber, ZEISS shall be entitled to charge the Subscriber with the costs incurred.
- 13. Intellectual Rights**
- 13.1 The Subscriber shall be deemed expressly informed that all rights to the products, in particular intellectual property rights, including their developments, shall belong to the respective ZEISS and they reserve these rights.
- 13.2 Subject to the limited rights expressly granted in this Agreement, ZEISS reserves all rights, title and interest in and to the ZEISS Software, including all related Intellectual Property Rights (as defined below). No rights are granted to the Subscriber hereunder other than as expressly set forth herein.
- 13.3 For the purpose of this General T&C, "Intellectual Property Rights" means any intellectual property right or other (property) right throughout the world, in all media, now existing or created in the future, for all versions and elements, in all languages, and for the entire duration of such rights, arising under statutory or common law, contract, or otherwise, and whether or not registered or registrable, including (a) rights in all inventions, discoveries, utility models, patents, reissues of and reexamined patents, or patent applications (wherever filed and wherever issued, including continuations, continuations-in-part, substitutes, and divisions of such applications and all priority rights resulting from such applications) now existing or hereafter filed, issued or acquired; (b) rights associated with works of authorship, including database rights, copyrights, moral rights, copyright applications and copyright registrations; (c) rights in computer software and programs, source codes, or business methods; (d) rights in materials; (e) rights associated with trademarks, service marks, trade names, internet domain names, business names, logos, trade dress and the applications for registration and the registrations thereof; (f) rights relating to the protection of trade secrets, know-how and/or other confidential information; (g) design rights, whether registered or unregistered; and (h) rights analogous to those in this definition and any and all other proprietary rights relating to intangible property.
- 13.4 Subject to Subscriber's compliance with the terms of this Agreement, ZEISS grants to the Subscriber a non-exclusive, nontransferable, non-sublicensable right to use the ZEISS Software embedded in the



purchased ZEISS Device to the extent this is necessary to properly use such ZEISS Software in accordance with any applicable software description.

14. Final provisions

14.1 All agreements involving changes, amendments or a concretization of these licensing terms and any special warranties and/or guarantees of a certain condition and arrangements shall be laid down in writing. If they are declared by representatives of ZEISS, they shall only be binding if ZEISS has given its written consent.

14.2 In the event that any one or several of the provisions of this agreement are or become invalid, the validity of the remainder of the agreement shall remain unaffected thereby. In such event, the parties shall replace the invalid provision by a provision which best approximates the original provision in a legally admissible way.

14.3 ZEISS is a member of the ZEISS international group of companies, whose headquarters are in Oberkochen, Germany. Accordingly, ZEISS may perform any of its obligations or exercise any of its rights hereunder by itself, or through, or assign or transfer any of our rights hereunder to, any other member of the ZEISS international group of companies, provided that any act or omission of any such other member shall be deemed to be ZEISS' act or omission.

14.4 The laws of the Philippines shall govern and be used to construe the terms of this software licensing agreement. In the event of a dispute, the parties shall first attempt to settle any disputes (including any disputed claims) in connection with the Contract amicably between the parties. Any disputes, controversies, or differences which may arise between the Parties, out of or in relation to or in connection with this Contract, including any question regarding its existence, validity or termination, or the breach thereof, which cannot be amicably resolved by the Parties as provided in the Contract may at the aggrieved party's election be referred to and finally resolved by (i) a court of competent jurisdiction under the laws of the Philippines; or (ii) arbitration in the Philippines in accordance with the Arbitration Rules of the PDRCI Arbitration Rule 2021 ("**PDRCI Rules**") for the time being in force, which rules are deemed to be incorporated by reference in this clause.

The parties agree that before referring any dispute or difference to arbitration or court proceedings, they shall consider resolving the dispute or difference through formal mediation. If both parties agree to attempt resolving the dispute through mediation, the parties agree to do so at the Philippine Dispute Resolution Center Inc. in accordance with its prevailing prescribed form, rules and procedures. The provision herein shall not amount to any legal obligation on the part of either party to attempt mediation or the extent to which they shall do so, as a mean of resolving their dispute or difference.

14.5 In case the Subscriber does not have a place of jurisdiction in the Philippines, the place of jurisdiction shall still be the Philippines.

14.6 Due to the incorporation of Open-Source Software the particular licenses apply additionally according to the FOSS Disclosure Statement.

15. Confidentiality and Personal Data Protection

15.1 Unless expressly agreed otherwise in writing, information provided to ZEISS in connection with orders shall not be considered confidential unless confidentiality is evident or expressly marked by the Subscriber.

15.2 ZEISS' data privacy notice can be found at:
<https://www.zeiss.com/data-protection/en/home.html?vaURL=www.zeiss.com/data-protection>

15.3 ZEISS is entitled to process personal data of the Subscriber and to transmit it to affiliated companies of ZEISS Group, provided that this

is necessary for the performance of the contract or data subjects have consented. Any data subject is entitled to request information regarding the content and use of the personal data processed by ZEISS. Any request by a data subject shall be addressed to ZEISS Group company using these Terms and Conditions and will be handled in accordance with the applicable data protection laws and regulations. ZEISS and the Subscriber shall comply with the applicable data protection laws and regulations, the European General Data Protection Regulation (GDPR) as well as additional contractual requirements.

16. Confirmation of receipt of information

16.1 The Subscriber is aware of the use of the present licensing terms by ZEISS. It had reasonable opportunity to become familiar with the contents of the agreement.

Valid from September 2024