ZEISS FORUM **Software Service Contract**

Preamble

The parties, **Customer** (Client) and **Carl Zeiss Canada Ltd.** (Contractor) have concluded a contract for the use of software.

Details of the scope of performance of the software can be found in the contract concluded between the parties. The parties agree as follows:

1. Subject matter of the contract

1.1 The object of this contract is the maintenance of the software described in Annex 1 in the modules specified therein by the Contractor. *The Contractor shall provide the following services exclusively via remote service* outside of its subsequent performance obligations under the transfer contract

   a) the provision of a hotline (section 4.) for customer support

   b) the elimination of errors (section 2.)

   c) the further development of the software (section 3.) i.e. updates and upgrades

In details this entails:

   - Support from our qualified service line

   - Provision of the latest released updates/ upgrades

   - Remote installation support of the latest released updates/upgrades for on-site software, if required

1.2 The Contractor shall provide the services from the conclusion of the contract, but not before the time at which the Client has reported the operational use of the software.

2. Troubleshooting

2.1 The aim of error correction is to produce or maintain the functionality of the software agreed in the software license agreement and updated by addenda. Accordingly, an error exists if the software does not have the functionality in the system environment contractually intended for it and when used as intended and this has more than an insignificant effect.

2.2 The Contractor shall rectify errors in the software reported by the Client within a reasonable period in accordance with the following provisions. Reasonable is the period within which the Contractor can analyze and eliminate the reported errors without culpable delay, considering its order situation and the availability of suitable employees.

2.3 The way the error is rectified shall be at the discretion of the Contractor and regularly by providing software that modifies and/or supplements the software specified in Annex 1, including the provision of documentation of the modified and/or supplemented functions in a form to be selected by the Contractor, which may also be in the form of online help.

2.4 The Contractor shall provide the error correction services with the care customary in the industry. The Contractor does not guarantee the elimination of errors at all or within a certain period. There is also no obligation to ensure a certain availability of the software.

2.5 Errors are to be reported by the client via the ticket system set up by the contractor, stating the priority it considers to be given. The ticket should contain all the information required by the system.

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2.6 The error symptoms are classified as follows:

Priority	Classification	Description
I.	**URGENT**; operations are interrupted	the application cannot be executed,
		Program crashes occur
		Printing and selecting and/or transferring data cannot be started
		Data is not saved or read correctly or completely
II.	**HIGH**; the operating process is impaired	The functionality of the application is impaired or malfunctions occur, in particular:
		Messages are incomprehensible or are not in the correct context for the called function
		Functionalities do not show the expected results
		The response time behavior prevents normal use of the software
III.	**LOW**; the operating process is not impaired	It is possible to work with the software, even if not consistently within the agreed parameters
		User-friendliness is in need of improvement
		Malfunctions can be bypassed

2.7 At the Client's request, the Contractor shall provide the Client with a non-binding estimate of the time expected to be required to rectify the error.

2.8 The response time shall commence upon receipt of the Client's error message by the Contractor. The date of receipt is determined by the information in the ticket system. The response time shall run during the Contractor's operating hours from 08:00 to 19:00 EST.

2.9 The Contractor shall be entitled, but not obliged, to rectify errors outside its business hours; however, this shall only be the case if the Client assures its cooperation to a sufficient extent and bears the additional charges incurred for these services.

2.10 The Contractor may eliminate any errors that occur, considering the prioritization made, at its own discretion by taking the following measures:

a) Provision of software on data carriers or online, which is to be installed by the client itself. This regularly includes the provision of software components ("patches"), but may also include the provision of the complete software, for which a new installation is required;

b) Troubleshooting via remote access or access to the client's systems agreed with the client, through which the software itself can be modified or the settings changed;

c) Proposal to the client to circumvent the errors or to rectify them;

d) in the event that the measures are not possible or do not promise success, by rectifying the fault on site.

2.11 In the case of priority III errors, the rectification can be postponed to the next suitable time by providing software at which the client will provide other extensions and/or changes in accordance with its planning.

2.12 A breach of the Contractor's obligations under this section 2. due to non-compliance with the response time shall be determined according to the objectively given priority, irrespective of the Client's assessment.

3. Further developments

3.1 The Client shall endeavor to continuously develop the software further. The further development of the software can lead to an extension and/or modification of the software with the result that new functionalities are available, existing functionalities are optimized in the process and/or the user guidance or the data management is adapted to the state of the art.

3.2 The Contractor shall make further developments of the software available to the Client in part without further payment obligations, depending on the scope of the further development. More extensive further developments are subject to a charge. There is no entitlement to a specific further development.

4. Hotline

4.1 The Contractor shall advise and support the Client by telephone or other remote communication channels with regard to the use of the software and in the event of software errors.

4.2 The hotline is available to the Client on working days (Monday - Friday, with the exception of public holidays at the Contractor's registered office) between 08:00 and 19:00 EST. During this time, the Contractor shall also answer error messages and queries received from the Client by e-mail. In individual cases, the parties may also agree on the provision of error handling services outside these times for a separate fee.

5. Services not owed

5.1 Unless otherwise agreed in individual cases, there is no entitlement to the following benefits under this care contract:

a) The adaptation of the software to versions used by other users or distributed by the contractor.

b) The adaptation of the software to a changed hardware or software environment, including adaptation to changed operating systems.

c) The adaptation of the software to legal or other sovereign requirements.

d) The elimination of errors from the client's area of risk, in particular errors caused by improper operation or modification of the software, by contamination of software components with computer viruses, use of unsuitable data carriers, abnormal operating conditions not in accordance with the contractually agreed conditions, faulty hardware, failure of the power supply or data-carrying lines, errors due to lack of information security, unsuitable environmental conditions at the location of the software operation and force majeure, as well as

e) the correction of errors resulting from adaptations of the software or parts thereof (reports, key figures, validations) by the client or by third parties at the client's instigation.

f) The installation of the software supplied under this contract.

g) Advice that goes beyond the fault rectification owed.

h) The instruction and training of software users.

5.2 The list is not exhaustive. It cannot be concluded from the absence of a list of services that these services are the subject of the Contractor's contractual obligations. The rights of the Client based on the liability owed by the Contractor under this contract for defaults in performance shall remain unaffected.

5.3 The Contractor agrees to provide services that are not owed under this contract based on a separate agreement.

6. Cooperation of the Client

6.1 The Client will authorize the Contractor to install the Zeiss Smart Services (ZSS) app on the Client's instrument(s) to help facilitate the establishment of a remote connection.

6.2 A prerequisite for the provision of maintenance services under this contract, for troubleshooting and error handling and for application support by the Contractor is that the Client uses the latest available version of the software. There shall only be no obligation to use the latest software version if this is unreasonable for the Client, for example because the latest software version proves to be faulty, and the Client's operations are significantly impaired as a result. The Client shall notify the Contractor immediately in writing, stating the exact reasons, of any unreasonableness in its opinion. Irrespective of this, the obligation to pay the maintenance fees shall continue to exist in relation to the software version previously used by the Client.

6.3 A further prerequisite for the provision of maintenance services is that the Client does not operate the software at a location other than the respective location and in a system environment other than the respective system environment without consultation with the Contractor.

6.4 The Client shall support the Contractor in every respect in the provision of the maintenance services under this contract. In the interest of efficient troubleshooting and error handling, the Client shall, immediately upon commencement of the contract, appoint two responsible employees (so-called key users) with in-depth knowledge (administrative knowledge) of the software to be maintained as contact persons for the Contractor and name them to the Contractor.

6.5 The key users shall bundle and coordinate reports and inquiries from the Client. Before forwarding the reports and inquiries, they shall first check how they can help the users concerned on the basis of their own specialist knowledge. If they are unable to solve the problems that arise, they forward the reports and queries to the contractor via the hotline. They are also authorized to place orders with the Contractor for the provision of services that are not owed under this contract. Other employees of the Client are not authorized to submit reports and inquiries to the Contractor.

6.6 The key users shall also support the Contractor in troubleshooting, e.g. by transmitting test cases and/or test data, providing error logs, screenshots, etc.

6.7 If the Contractor is obliged to provide services that require access to the Client's IT system by means of remote data transmission, the Client shall enable the corresponding access to the software via a communication network (e.g. Internet). If an error cannot be rectified by remote data transmission because this access was not guaranteed and an on-site assignment is therefore necessary, the Contractor shall charge for this according to the current price list plus travel costs and other expenses. Access via remote data transmission shall take place via a connection protected against unauthorized access by third parties.

6.8 If it turns out that a defect reported by the Client does not actually exist or is not attributable to the software (obvious defect), the Client shall bear the costs incurred by the Contractor in the course of error analysis and other processing in accordance with the Contractor's current price list for services, unless the Client was unable to recognize the existence of such an obvious defect even when exercising the necessary care.

7. Duty to inspect and give notice of defects

7.1 The client shall examine the maintenance services, including any amended or supplemented documentation, immediately after delivery, in particular about the completeness and functionality of basic program functions.

7.2 The Contractor must be notified immediately in writing of any defects discovered in the process. The notice of defects must contain as detailed and specific a description of the defects as possible.

7.3 Defects that could not be detected during the proper inspection described above must be reported in writing immediately after discovery. This notification of defects must also contain as detailed and specific a description of the defects as possible.

8. Liability for defects

8.1 Material defects reported to the Contractor by the Client during the term of this contract shall be remedied by the Contractor free of charge.

8.2 If the Contractor provides the Client with software within the scope of error correction pursuant to section 2. or further development pursuant to section 3., the Client shall have the rights pursuant to this section 9. and the

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additionally applicable statutory provisions about the software parts that lead to a modification and supplementation of the previously used software. Insofar as the software provided is identical to the software already in use, the previously existing rights and the existing limitation period shall continue to apply to the existing software parts.

8.3 In the event of an infringement of third-party property rights by the services provided by the Contractor under this contract for which the Contractor is responsible, the Contractor may, at its own discretion, either acquire a right of use sufficient for the contractually agreed use in favor of the Client at its own expense or modify or re-perform the service in question without or only with reasonable effects on its functions for the Client in such a way that third-party property rights are no longer infringed. Section 10 of this contract shall apply to the assertion of claims for damages or expenses.

8.4 Claims for subsequent performance shall lapse within 12 months, except in cases of intent.

9. General liability

9.1 Depending on fault, the contractor shall only be liable in the event of intent, gross negligence and negligent breach of essential contractual obligations, the fulfillment of which is essential for the proper execution of the contract and on the observance of which the contractual partner may regularly rely. In the event of simple negligence, the Contractor's liability shall be limited per claim to the foreseeable damage typical of the contract, but to a maximum of the amount to be paid per contract year as a flat-rate maintenance fee under this contract.

9.2 The Contractor shall not be liable for the loss of data or programs insofar as the damage is caused by the Client failing to carry out regular data backups and thereby ensure that lost data or programs can be restored with reasonable effort.

9.3 Insofar as the Contractor provides the Client with hardware or software on a temporary basis within the scope of this contract, strict liability for defects that already existed at the time the contract was concluded shall be excluded.

9.4 The above provisions shall also apply in favor of the Contractor's legal representatives, employees, and vicarious agents.

10. Rights of use

10.1 If the Contractor provides the Client with software on a permanent basis under this contract as part of the maintenance, it shall grant the Client rights of use to this software to the same extent as those granted by the Contractor to the software originally provided and described in Annex 1.

10.2 For independently executable software, the client shall receive the rights in accordance with paragraph 10.1 subject to a condition subsequent at the time of the provision of further software versions. The rights to the previously provided version shall expire with the provision of any further executable software within the scope of this maintenance contract. Until the installation of the software provided, the Contractor shall tolerate the use of the previous version to the extent described in paragraph 10.1.

10.3 The client may not continue to use software that has become surplus due to services under this contract and is obliged to permanently uninstall it, to confirm this uninstallation in writing and to return any original data carriers, including backup copies, to the contractor.

10.4 The provisions of paragraphs 10.1 to 10.3 shall also apply to services provided by the Contractor as part of subsequent performance or as a gesture of goodwill.

11. Confidentiality and data protection

11.1 The parties undertake to maintain confidentiality about all confidential processes of which they become aware during the preparation, execution and fulfillment of this contract, in particular business or trade secrets of the other party to the contract, and not to disclose or otherwise exploit them. This applies to any unauthorized third parties, i.e., also to unauthorized employees of both the own party and the contracting party, unless the disclosure of information is necessary for the proper fulfilment of the contractor's contractual obligations. In cases of doubt,

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the contracting party concerned shall be obliged to request the consent of the contracting party prior to such disclosure. This confidentiality obligation shall remain in force even after termination of this contract.

11.2 The Contractor shall oblige its employees and other vicarious agents to maintain data secrecy accordingly. The Client shall be responsible for compliance with the provisions of data protection law due to the possibility of access to personal data by the Contractor.

12. Duration of contract, termination

12.1 In the case of a subscription, this service contract shall apply for as long as the subscription is valid. Otherwise, this service contract is concluded for an indefinite period and may be terminated in writing by either party with three months' notice to the end of each contract year.

12.2 The right of both parties to terminate the contract for good cause remains unaffected by this. Good cause shall be deemed to exist if the insolvency administrator refuses to enter this contract in the event that insolvency proceedings are opened against the Contractor's assets.

12.3 Any rescission, termination, or similar modification (termination date) of the software license agreement for the software specified in Annex 1 shall not initially affect the existence of this agreement. In such a case, the contract shall end at the next possible point in time at which the party that made the declaration to terminate the license agreement could terminate the contract by ordinary termination. For the remaining term of this care contract from the time of termination, the client shall owe a flat-rate care fee reduced by 60%, insofar as care services can no longer be provided. The right to terminate for good cause remains unaffected. Termination of the transfer contract shall not in itself be deemed good cause.

13. Final provisions

13.1 Any other general terms and conditions of the parties shall not apply to this contract. This shall also apply even if such terms and conditions are not expressly contradicted.

13.2 The Client may only offset the Contractor's remuneration claims under this contract against claims that have been legally established or recognized by the Contractor. The assertion of rights of retention due to the remuneration owed may also be asserted due to the unjustified non-fulfillment of the Client's obligations arising from the contractual relationship for the provision of the software.

13.3 Any amendments and additions to this contract must be made in writing. This also applies to the revocation of this written form clause.

13.4 Should individually provisions of this contract be or become invalid, this shall not affect the validity of the remaining provisions. The parties undertake to replace the invalid provision with a valid provision that comes as close as possible to the economic purpose of the invalid provision.

13.5 The place of performance for all services of the Contractor under this contract shall be the registered office of the Client, unless performance is to be affected at a different location due to the nature of the matter. The exclusive place of jurisdiction shall be the Client's registered office.

13.6 This contract shall be governed by the laws of the province of Ontario. TO THE EXTENT NOT PROHIBITED BY LAW, THE PARITES WAIVE ALL RIGHTS TO A JURY TRAIL IN ANY LITIGATION ARISING FROM OR RELATED IN ANY WAY TO THIS AGREEMENT OR THE TRANSACTION CONTEMPLATED HEREBY.

Appendix 1 Software