



## arivis Cloud Terms

ZEISS operates a Platform known under the name “arivis Cloud” for image processing and analysis in the field of microscopy. Its goal is to enable researchers to jointly create and combine Modules into Workflows as well as to share data. This Agreement is structured in two parts:

**A. General Terms** (Section A.1 to Section A.19)

govern the access to the Platform and the use of Modules and Workflows through the Platform. The General Terms apply to all Customers (including Partners).

**B. Partner Terms** (Section B.1 to Section B.15)

contain supplementary provisions that are only applicable to Partners (i.e. Customers who distribute own Partner Modules through the Platform).

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## A. GENERAL TERMS

### A.1 DEFINITIONS

Capitalized terms used in this Agreement have the meaning ascribed to them below:

- “Account”** means a Customer’s individual access to the Platform via a web interface or otherwise.
- “Affiliate(s)”** means affiliated enterprise(s) within the meaning of Sec. 15 et seq. German Stock Corporation Act (AktG).
- “Agreement”** means this agreement between ZEISS and you, including its Schedules.
- “Authorized User”** means any person authorized by the Customer to access the Account in accordance with this Agreement.
- “Business Day”** means Monday through Friday, except for public holidays observed throughout the State of Bavaria, Germany.
- “Commission”** means the share of the gross amount of all Customer Receivables collected by the Partner to be paid by the Partner to ZEISS in consideration of the ZEISS Partner Services.
- “Compliance Standards”** means the following requirements: Partner Modules and Distribution Content: (i) comply with the applicable laws; (ii) can be used by ZEISS, its Affiliates and its business partners as permitted under this Agreement and by Customers as permitted under the applicable Partner Module Agreements without violating applicable laws or the intellectual property rights, trade secrets, or other rights of any third party, or restrictions towards third parties, such as confidentiality obligations; (iii) are not subject to a license that requires, as a condition of use, access, or modification of such content, that any other of ZEISS’, ZEISS Affiliates’ or business partners’, or Customers’ software or service interacting with or hosted alongside such Partner Module or Distribution Content: (a) be disclosed or distributed in source code form; (b) be licensed to Recipients for the purpose of making derivative works; (c) not be used for commercial purposes; or (d) be otherwise encumbered in any manner; and (iv) will not subject ZEISS, Partner’s or ZEISS’ Affiliates, Customers, or any third party to liability.
- “Confidential Information”** means any information shared by a Party with the respective other Party under or in connection with this Agreement and which is – when disclosed – identified as “Confidential” or consists of information that, by its nature or context, is sufficient to put the receiving Party on notice of its confidential nature. Any information and materials obtained by the Partner in connection with this Agreement and the Partner’s receipt of ZEISS Services, including, but not limited to, the ZEISS Licensed Material, the Platform and its underlying technology, information regarding ZEISS’s, its Affiliates’ and business partners’ business strategies and practices, methodologies, trade secrets, know how, pricing, technology, software, interfaces, product plans, services, client lists, and information regarding employees, clients, vendors, consultants and Affiliates, are deemed to be Confidential Information of ZEISS.
- “Customer”** means the natural person or legal entity registering to the Platform, in particular, in order to license as a user one or more Modules. For the avoidance of doubt: All Partners are Customers.
- “Customer Content”** means any information, electronic data and content (including comments, data sets, source code, object code and documentation, pictures, processing results, images, logs) stored, uploaded, shared, processed or transmitted by Customer in or through the Platform and/or any Module as part of Customer’s use of or in connection with the ZEISS Services.
- “Customer Receivables”** means, collectively, all obligations of Other Customers to pay License Charges or Service Charges to the Partner.
- “Distribution Content”** means the documents, information, data and other content provided by the Partner along with a Partner Module for the distribution of the Partner Module through the Platform, provided that the Partner Module itself is not part of the Distribution Content.
- “Force Majeure”** means any event caused by circumstances beyond the respective Party’s reasonable control, including acts of God, epidemics, earthquake, fire, flood, embargo, riot, sabotage, attacks on IT

systems, labor shortage or dispute, acts or omissions of civil or military authorities, war, terrorism, even if these circumstances occur with a supplier, subcontractor, vicarious agent or an Affiliate.

- “License Charges”** means all charges, if any, agreed between Customers and the Partner under Partner Module Agreements for the respective Customers’ use of Partner Modules.
- “Modified Materials”** means derivative works or materials created by or for you that are derived from, based upon or incorporate any ZEISS Licensed Material licensed to the Partner under this Agreement.
- “Module”** means a computer program, including any corresponding documentation (as made available), made available to Customer through the Platform, in particular Partner Modules and ZEISS Modules.
- “Other Customer”** means the agreement between ZEISS and an Other Customer on this Other Customer’s access to the Platform.
- “Other Customer’s Agreement”** means the agreement between ZEISS and an Other Customer on this Other Customer’s access to the Platform.
- “Partner”** means such Customer distributing Modules to Other Customers through the Platform.
- “Partner Module”** means a Module distributed through the Platform in the name of the Partner.
- “Partner Module Agreement”** means a contract on the use of a Partner Module concluded between the Partner and a Customer.
- “Partner Private Module”** means a Module that is developed by the Partner for its own use in a separated part of its Account not available to Customers or any other third party.
- “Party” and “Parties”** means us and/or you in the capacity as a party to this Agreement.
- “Partner Base Fees”** means the base fees payable by the Partner to ZEISS in consideration for providing the ZEISS Partner Services.
- “Planned Downtime”** shall mean a period of time in which the Platform is unavailable to you due to testing, development and maintenance windows with regard to the Platform.
- “Platform”** means the online store for Modules and Workflows operated by ZEISS.
- “Platform Availability”** is the average percentage of time, calculated in minutes, during which the Platform is available to you during any given calendar month, excluding Planned Downtimes and Unplanned Downtimes.
- “Pricing Parameters”** means the mandatory specifications for the licensing and payment structure set forth in Schedule 2 to be agreed by the Partner with Customers in relation to their use of Partner Modules.
- “Recipient”** means a Party receiving access to Confidential Information of the other Party.
- “Registration”** means Customer’s online application for access to the ZEISS Services under the terms of this Agreement and ZEISS’ acceptance of such application.
- “Security Standards”** means the following requirements: Partner Modules and any Distribution Content will not: (i) constitute a threat to the security or functionality of the Platform or the ZEISS Partner Services; (ii) adversely impact ZEISS, ZEISS Affiliates, Customers, or any third party, in particular, not present any risk of personal injury; (iii) contain viruses, trojan horses, or other programs that may damage software; and (iv) contains unsigned software or software from an undefined source.
- “Service Charges”** means all charges, if any, agreed between Customers and the Partner under Partner Module Agreements or related agreements for any services of the Partner related to Customers’ use of Partner Modules, including training, consulting, and technical support.
- “Suspension”** means the suspension of: (i) a Customer’s access to the Platform, (ii) the provision of ZEISS Services; or (iii) the granting of rights under this Agreement, in whole or in part.
- “Technology Requirements”** means the technical prerequisites as set forth in Schedule 1 that the Partner must meet for the proper performance of the ZEISS Partner Services.

**“Template Partner Module Agreement”** means the template terms and conditions for Partner Module Agreements provided by ZEISS in Schedule 3.

**“Unplanned Downtime”** shall mean a period of time not within our possession or reasonable control, including force majeure, acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labor problems (other than those involving our employees), computer, telecommunications, internet provider or hosting facility failures or delays involving hardware, software or power systems, network intrusions and denial of service attacks.

**“Update”** means an updated or amended version of a Partner Module.

**“Update of Terms”** means an update of or modification to the terms of this Agreement. Changes to Technology Requirements do not constitute an Update of Terms.

**“Workflow”** means a combination of one or more Modules for the purpose of creating an orchestrated and repeatable pattern of activities and process in the area of microscopy in accordance with the Technology Requirements and Schedule 1.

**“Workflow Integration”** means the integration of one or more Modules available on the Platform.

**“Workflow Integration Contract”** means a separate contract between the Customer and a Workflow Integrator (which may be ZEISS, any of its Affiliates, or any suitable third party) under which the Workflow Integrator performs a Workflow Integration as contractor for the Customer.

**“Workflow Integrator”** means a natural person or legal entity commissioned for Workflow Integration. Workflow Integrator can only be ZEISS or a Customer.

**“you”, “your”** means the Customer in its capacity as a Party to this Agreement.

**“ZEISS”, “us”, “we”, “our”** means Carl Zeiss Microscopy GmbH in its capacity as a Party to this Agreement.

**“ZEISS Module”** means a Module distributed through the Platform by and in the name of ZEISS.

**“ZEISS Module Agreement”** means a contract on the Customer’s use of a ZEISS Module concluded between ZEISS and a Customer subject to the terms of Schedule 3.

**“ZEISS Licensed Material”** means all software development kits, documentation, documents, sample code, scripts, libraries, technology, and other material or information made available to the Partner by ZEISS as part of or in connection with the ZEISS Partner Services, but excluding open source components, such as:

- apeer-module-debugger
- apeer-yeoman-generator
- apeer-ome-tiff-library
- apeer-SDK(s) (matlab/python/java)

**“ZEISS Partner Services”** means the services specified in this Agreement provided by ZEISS to a Partner, including any ZEISS Licensed Material and the access of the Platform described in Section B.1.1 and Schedule 1.

**“ZEISS Services”** means the services specified in this Agreement provided by ZEISS to a Customer as described in Section A.4.1 and Schedule 1. For the avoidance of doubt: ZEISS Partner Services are ZEISS Services.

## **A.2 SUBJECT MATTER AND SCOPE**

A.2.1 This Agreement is concluded between you and us by a successful Registration. We may, in our sole discretion, accept or reject any application for Registration.

A.2.2 Subject to this Agreement, you may (i) by entering into a ZEISS Module Agreement, order and use ZEISS Modules provided by us; (ii) by entering into a Partner Module Agreement, order and use Partner Modules provided by a Partner; and (iii) carry out a Workflow Integration of certain Modules.

A.2.3 ZEISS Services exclude: (i) any hardware or software necessary to use the ZEISS Services. You shall be solely responsible for securing and maintaining suitable hardware and software and an internet connection at your own expense.; (ii) the transmission of data to and from the WAN exit of the data center on which the respective ZEISS Services are provided; (iii) any external websites (including embedded widgets or other means of access) linked to or in the Platform (iv) any authorization to use as well as the access to Partner Modules, even if Partner Modules are distributed through the Platform; and (v) any Workflow Integration whether this Workflow Integration is performed by us or any other Workflow Integrator.

A.2.4 The ZEISS Services may contain third-party software, including open source components, which may be subject to additional terms and conditions (made available to you in an appropriate manner) that shall always prevail with respect to such third-party software.

A.2.5 With exception of the ZEISS Partner Services we offer the ZEISS Services free of charge.

**A.3 LIST OF SCHEDULES**

The following Schedules are integral part of this Agreement, available from us on request at all times. As the Schedules are subject to constant updating, we recommend that you download and, if necessary, print a copy of the documents made available under the following website links:

Document:	Website:
Schedule 1 – Technology Requirements	<a href="https://docs.arivis.cloud/create-modules/module-guidelines">https://docs.arivis.cloud/create-modules/module-guidelines</a>
Schedule 2 – Pricing	<a href="https://www.arivis.cloud/home/pricing">https://www.arivis.cloud/home/pricing</a>
Schedule 3 – ZEISS Module Agreement	<a href="https://docs.arivis.cloud/create-modules/module-guidelines">https://docs.arivis.cloud/create-modules/module-guidelines</a>

**A.4 GENERAL PROVISIONS FOR ZEISS SERVICES**

A.4.1 ZEISS Services include:

- Creating, editing and running of private workflows online
- Editing and running of public workflows online
- Uploading of files
- Downloading of files and workflow results
- Storing of files and workflow results
- Viewing of images in the browser
- Annotating of images in the browser
- Sharing of images
- Sharing of results
- Creation of modules to be used by yourself only

- Writing comments for public modules
- Writing comments for public workflows
- Writing comments for shared workflows
- Writing comments for shared modules

A.4.2 ZEISS Services do not include:

- Publishing of modules
- Publishing of workflows
- Sharing of modules with other platform members
- Sharing of workflows with other platform members

A.4.3 We provide any ZEISS Services “as is”. We warrant that the ZEISS Services are free from material defects. The ZEISS Services are free from material defects if they are in accordance with Schedule 1. Minor deviations from Schedule 1 which do not materially impact the usability of the ZEISS Services do not constitute a material defect. In case of a material defect, we will, in our sole discretion, use commercially reasonable efforts to remedy the material defect either by repair or replacement.

A.4.4 You shall give notice to us in writing of every breach without delay and with a detailed description of any breach. You shall cooperate with us by providing any required information and documentation and to provide all other assistance that might be reasonable in order for us to remedy the respective defect.

A.4.5 Our warranty obligations shall not apply to the extent that a claim is based on any modifications of the ZEISS Services by or on behalf of you and/or of Other Customers unless this is expressly permitted by us in writing.

A.4.6 Except for the express obligations set forth in this Agreement, we assume no obligations to you, and any statements about the ZEISS Services and their respective functionality in any communication with you are for information purposes only and do not constitute obligations of us. None of our obligations under this Agreement shall be deemed to constitute a guaranteed quality or other guarantee. In addition, we disclaim any no-fault liability for defects and non-conformance already existing when this Agreement was concluded. Section 536 para. (1) sent. 1 Alt. 1 German Civil Code is excluded.

A.4.7 We will provide to you during the term of this Agreement hosting services on server resources that are under the control of ZEISS or its subcontractors as conclusively described in Schedule 1.

A.4.8 We will use commercially reasonable efforts to make the Platform available to you with a Platform Availability of at least 97.5 %. We will use reasonable efforts to perform scheduled maintenance between 8 am and 8 pm CET. These times are subject to change upon reasonable notice.

A.4.9 The use of the ZEISS Services is subject to the Technology Requirements, such as necessary hardware or operating system. We shall not be liable for any consequences to the extent they are caused by your failure to use the ZEISS Services in accordance with such Technology Requirements.

A.4.10 Unless expressly agreed otherwise, we provide the ZEISS Services as standard services and enable you to use the agreed ZEISS Services made generally available by us. We may update and further develop the technology,

features, and functionalities of the ZEISS Services and upon the provision of a new version you are no longer entitled to use previous versions. Should material changes to the ZEISS Services be implemented which have an impact on your use or should agreed ZEISS Services be restricted, we will to the extent reasonable notify you at least five (5) Business Days before the changes become effective (e.g. by notice through the Platform). Such notice period does not apply if, based on our reasonable judgment, we believe that changes are necessary in order to avoid any: (i) threat to the security or functionality of the ZEISS Services; or (ii) adverse impact on us, our Affiliates, Customers or any third party. To the extent you are, due to such changes, materially deprived of the benefits of this Agreement, you are entitled to terminate this Agreement in writing with effect upon effectiveness of the change at the earliest.

- A.4.11 We provide you access to the ZEISS Services to be provided over the internet at the WAN exit of the data center used by us (demarcation point).
- A.4.12 You shall render to us any cooperation that is reasonable and appropriate for the proper performance of the ZEISS Services. You acknowledge that our proper performance of the ZEISS Services depends on your timely and proper performance of your cooperation obligations. In particular you shall (i) make available to us, in a reasonable format and in a timely manner, all data and information that is necessary for rendering the agreed ZEISS Services, (ii) use reasonable measures to ensure that any personnel involved on your behalf in receiving and using the ZEISS Services is adequately qualified, and (iii) (if applicable) provide timely instructions, approvals or sign-offs. If you fail to cooperate in accordance with this Agreement, we shall not be responsible for any consequences caused by such failure. In particular, Platform Availability affected by such failure to cooperate shall be suspended for a period that equals the duration of your failure to cooperate plus a reasonable time to resume.
- A.4.13 It is your responsibility to ensure, and we will not assume any responsibility, that your use of the ZEISS Services complies with applicable law.
- A.4.14 We may engage any third parties (including our Affiliates) for and in connection with the provision of ZEISS Services.

## **A.5 USE OF ZEISS SERVICES**

- A.5.1 You shall: (i) ensure that your use of the ZEISS Services will not constitute a threat to the security or functionality of the ZEISS Services and/or adversely impact us, our Affiliates, Other Customers, Partners or any third party; (ii) before accessing the Platform and during use, you shall take all reasonable precautions against security attacks on your system and to prevent viruses, trojan horses, or other programs that may damage software; (iii) not interfere with or disrupt the integrity or performance of the Platform or other equipment or networks connected to the Platform, and in particular not transmit any Customer Content containing viruses, trojan horses or other programs that may damage software; and (iv) not use the Platform in a way that could damage, disable, overburden, impair, or compromise our systems or security or interfere with Other Customers.
- A.5.2 You shall: (i) before and at all times during the use of the ZEISS Services review and comply with any applicable law, in particular, at your own expense, obtain and maintain all necessary permits and registrations; (ii) not provide us with any Customer Content the use of which in accordance with this Agreement and/or the applicable ZEISS Module Agreement results in a violation of applicable law, intellectual property, trade secrets, other third-party rights, or restrictions towards third parties, such as confidentiality obligations; (iii) not use the ZEISS Services for any purpose except as expressly permitted by this Agreement and/or the applicable ZEISS Module Agreement; (iv) not translate, disassemble, decompile, reverse engineer, or otherwise modify or attempt to discover the source code of any software contained in the Platform (except to the extent permitted pursuant to applicable law or expressly permitted otherwise); and (v) ensure that your use of the ZEISS Services will not subject us, our Affiliates, Other Customers, Partners, or any third party to liability.

- A.5.3 You shall inform us without undue delay: (i) if you become aware of any circumstances, and in particular of any incidents, indicating that: (a) the security and/or compliance standards pursuant to Sections A.5.1 and A.5.2 are possibly not satisfied, or (b) the use of the Platform or a Module possibly presents risk of personal injury or to the security and stability of our, your, an Other Customer's or a Partner's systems; (ii) about any measures of authorities or court decisions which may possibly hinder use of any Customer Content in accordance with this Agreement and/or the applicable ZEISS Module Agreement; (iii) about any change to your name or contact details; and (iv) if you learn of any unauthorised access to your Account or the Platform.
- A.5.4 You shall state all information and data truthfully and completely and keep these up to date at all time (e.g., contact information).
- A.5.5 You are solely responsible for the suitability, content, use, and quality of your Customer Content and the means by which you acquired such content. For example, you are solely responsible for: (i) the creation and maintenance of independent backup copies of all Customer Content; and (ii) any document retention or archiving obligations resulting from applicable laws or company policies.
- A.5.6 You hereby declare that all Authorized Users who are technically enabled to submit declarations and/or notifications via your Account, including declarations regarding the use of Partner Modules under Partner Module Agreements, act on your behalf and have the capacity to bind you. Notwithstanding any additional responsibility under applicable law, as between you and us, you are solely responsible to ensure that any of your Authorized Users, Workflow Integrators, employees, representatives, vicarious agents (other than us), Affiliates, and third parties which you engage when making use of the Platforms, comply with the provisions of this Agreement and/or the applicable ZEISS Module Agreement and applicable law.
- A.5.7 You are solely responsible for the accuracy, quality, integrity and legality of the Customer Content. We do not monitor the Customer Content and we shall not be responsible for the Customer Content, its storage, communication or transmission. You agree not to upload any content or data which (i) is libelous, defamatory, obscene, pornographic, abusive, harassing or threatening; (ii) contains malicious code; (iii) violates the rights of others, such as content or data which infringes on any intellectual property rights or violates any right of privacy or publicity; or (iv) violates any applicable laws. We reserve the right to delete any Customer Content that we may determine, in our reasonable discretion, violates this Agreement.
- A.5.8 You will be given access credentials (e.g., logins and passwords) for your Authorized Users to use in connection with the ZEISS Services. You shall change the passwords on a regular basis in accordance with appropriate password policies. You, and each Authorized User, are entirely responsible for maintaining the confidentiality and security of your access credentials, and you are solely responsible for any and all activities that occur under your Account(s) to the extent such activities have been authorized by you or an Authorized User, or have not been authorized by you or an Authorized User but could have been prevented by you when exercising due care. Passwords may not be used by more than one Authorized User and you are prohibited from transferring or sharing passwords with any person that is not an Authorized User. You shall ensure that Authorized Users exit or log-off from their Account at the end of each session of use.
- A.5.9 Notwithstanding any additional responsibility under applicable law, you are solely responsible to ensure that any of your employees, Affiliates, and third parties which you engage when making use of ZEISS Services, as well as their employees, comply with the provisions of this Agreement and the applicable law.

## **A.6 LICENSING AND USE OF PARTNER MODULES**

- A.6.1 Through the Platform, we enable you to order Partner Modules by entering into Partner Module Agreements from the respective Partner distributing the respective Partner Module. Each Partner may offer any Partner Module either free of charge or against payment of License Charges at prices designated by the Partner. Also,

any Partner may offer to you support or other services related to any such Module, either free of charge or against payment of Service Charges.

- A.6.2 If you submit declarations through the Platform that are intended for a Partner, including declarations regarding the use of Partner Modules under Partner Module Agreements, you hereby acknowledge that we will transmit the declarations (e.g. offers) and all necessary data relating to you, including but not limited to your contact data, to the respective Partner.
- A.6.3 You acknowledge that: (i) you will enter into all Partner Module Agreements only with the respective Partner; (ii) we and our Affiliates will not enter nor be deemed to have entered into any contractual relationships with you in connection with your use of Partner Modules and any related services; (iii) the Partner provides all services in connection with your use of a Partner Module on the basis of the relevant Partner Module Agreement with you in its own name and on its own account; (iv) the Partner is entitled to engage us and/or our Affiliates as subcontractors in the fulfilment of its obligations under the Partner Module Agreement existing with you at any time and to authorize us and/or our Affiliates to directly or indirectly exercise rights under such Partner Module Agreement in relation to you; (v) even if we provide services or assert rights as per item (vi) in relation to Partner Module Agreements, this does not lead to any contractual or service relationship between us and you, nor any responsibility of us for the provision of services to be provided by the Partner to you under or in connection with the applicable Partner Module Agreement, and in particular not for the Partner Module concerned.
- A.6.4 You acknowledge that in respect of the Partner Modules, Distributed Content and any related services: (i) we are acting as vicarious agent of the respective Partner; (ii) the respective Partner shall be solely responsible to you for any claims and obligations you may have; and (iii) we shall have no responsibility for any such claims or obligations.
- A.6.5 The term and the termination provisions for the Partner Modules are governed by the applicable Partner Module Agreement between you and the respective Partner. Without assuming any responsibility or liability in this respect, we expect the Partners to offer you a one (1)-year minimum period for each Module.
- A.6.6 We are entitled to remove any Partner Module from the Platform and/or suspend your access to any Partner Module at any time, resulting in you not being able to use the Partner Module permanently or during suspension respectively if in our reasonable judgement there is a risk that your use of the Partner Module will: (i) constitute a threat to the security or functionality of the Platform or any other of our systems; (ii) adversely impact us, our Affiliates, a Partner, any Other Customers, or any third party, including any risk of personal injury; or (iii) subject us, our Affiliates, a Partner, any other Customers, or any third party to liability.
- A.6.7 We are entitled to notify you and authorities in a suitable form at any time, if: (i) in our reasonable judgment there is a risk that your use of a Partner Module will: (a) threaten the security or functionality the Platform or any other of your systems; (b) adversely impact you or any third party, including any risk of personal injury; or (c) subject you or any third party to liability; or (ii) such notification is required by law, a court decision, or a request from a governmental body.
- A.6.8 You acknowledge that a removal or suspension pursuant to Section A.6.6 or a notification pursuant to Section A.6.7 by us does not lead to any responsibility of us for the respective Partner Module.

## **A.7 LICENSING AND USE OF ZEISS MODULES**

- A.7.1 Through the Platform, we enable you to order ZEISS Modules by entering into ZEISS Module Agreements with us. We may offer any ZEISS Module either free of charge or against payment of License Charges at prices designated by us. Also, we may offer to you support or other services related to any such ZEISS Module, either free of charge or against payment of Service Charges.

A.7.2 By entering into a ZEISS Module Agreement you will be granted a timely limited right to access and use the respective ZEISS Module as further specified in Schedule 3.

## **A.8 WORKFLOW INTEGRATION**

A.8.1 Subject to your compliance with Schedule 1, any Modules distributed through the Platform may be integrated to Workflows with other Modules ("**Workflow Integration**"). As a result of such Workflow Integration the respective Modules are supposed to interact with each other in accordance with the technical principles described in Schedule 1.

A.8.2 You may conduct the Workflow Integration, at your discretion, yourself or by a commissioned Workflow Integrator. You may, at your discretion, entrust us, our Affiliates, and/or any suitable third party, as commissioned Workflow Integrator.

A.8.3 You shall conduct, or have conducted by a Workflow Integrator, any Workflow Integration in strict accordance with the guidelines for Workflow Integration set forth in Schedule 1 as amended from time to time. Any Workflow Integration by you, your Workflow Integrator, and/or any third party acting on your behalf, in violation of the guidelines for Workflow Integration as set forth Schedule 1 shall constitute a material breach of this Agreement and any applicable ZEISS Module Agreement by you, except where we are responsible for this violation as your commissioned Workflow Integrator.

A.8.4 Any services performed by a Workflow Integrator are subject to a separate Workflow Integration Contract to be concluded between you and the respective Workflow Integrator. Any Workflow Integration Contract shall constitute a distinguished agreement separate from this Agreement, any ZEISS Module Agreement, and this Agreement. You acknowledge that: (i) you will enter into all Workflow Integration Contracts only with the respective Workflow Integrator; (ii) we and our Affiliates will not enter nor be deemed to have entered into any contractual relationships with you in connection with Workflow Integration and any related services, except where we, or any of our Affiliates, explicitly enter into a Workflow Integration Contract with you by duly executing the "ZEISS Workflow Integration Contract" or any materially similar document; (iii) the Workflow Integrator provides all services in connection with your use of Workflow Integration Services on the basis of the relevant Workflow Integration Contract with you in its own name and on its own Account; (iv) the Workflow Integrator is entitled to engage us and/or our Affiliates as subcontractors in the fulfilment of its obligations under the Workflow Integration Contract existing with you at any time and to authorize us and/or our Affiliates to directly or indirectly exercise rights under such agreement in relation to you; (v) even if we provide services or assert rights as subcontractor of a Workflow Integrator other than us as per item (vi) in relation to Workflow Integration Contracts, this does not lead to any contractual or service relationship between us and you, nor any responsibility of us for the provision of services to be provided by the Workflow Integrator to you under or in connection with the applicable Workflow Integrator Contract, and in particular not for the Workflow Integration concerned.

A.8.5 We may exclude any ZEISS Module from a Workflow Integration with certain other ZEISS Modules and/or with certain Partner Modules by informing you either in: (i) our service description of the respective ZEISS Module on the Platform; or (ii) an individual notice to you (e.g., by email). Likewise, any Partner may exclude any Partner Module from a Workflow Integration with certain other Partner Modules and/or with certain ZEISS Modules by informing you either in: (i) Partner's service description of the respective Partner Module on the Platform; or (ii) an individual notice to you (e.g., by email)

A.8.6 Once a Module is integrated into a Workflow in accordance with this Section A.8, you may, but are not obliged to, publish the respective Workflow on the Platform to Other Customers and disclose the results obtained by running the workflow to the public (e.g. via social media). Since the purpose of the Workflow Integration is to combine Modules to Workflows that you or Other Customers have integrated and made available on the Platform (either yourselves or by Workflow Integrators), a Workflow is considered a combination of Module

offerings by us and/or the respective Partner(s), as applicable, and your use of a Workflow constitutes a use of the relevant Modules under the applicable ZEISS Module Agreement(s) and/or the applicable Partner Module Agreement(s). Accordingly, unless explicitly set forth otherwise herein, any and all terms and conditions of this Agreement, the applicable ZEISS Module Agreement(s), and/or the applicable Partner Module Agreement(s), remain unaffected when any of our ZEISS Modules and/or any of Partner Modules is subject to such Workflow Integration, and all of your rights and obligations under this Agreement, the applicable ZEISS Module Agreement(s), and/or the applicable Partner Module Agreement(s) for Modules that you use as part of a Workflow shall be the same as for Modules that you use as stand-alone Modules.

- A.8.7 We shall not be liable to you for: (i) any Partner Modules including their quality, performance, security level, content and freedom from third-party rights; and/or (ii) any impact of any integrated Partner Modules on the ZEISS Services, and (iii) any consequence of a Workflow Integration of one or more Partner Modules with one or more ZEISS Modules unless and to the extent it results from a failure of the integrated ZEISS Module(s) to comply with the technological requirements of ZEISS related to Workflow Integration. There shall be no joint and severe liability between us and any Partner, Workflow Integrator and/or other third party with respect to any Workflow Integration and/or any Modules.
- A.8.8 Where you reasonably claim issues with a Workflow Integration related to a Partner Module, upon your request we will provide you with information if and as available to us that enables you to verify whether the relevant Partner Module complies with our Technology Requirements related to Workflow Integration. You understand that you are solely responsible for analyzing and verifying this information and that our submission of such information to you does not constitute a statement on Partner's compliance with our technological requirements.

## **A.9 SHARING AND COMMENTING**

- A.9.1 We open to you – without acknowledging a legal obligation – the technical opportunity to gratuitously share with Other Customers your Costumer Content by uploading, transferring, sharing or otherwise publishing your Costumer Content on the Platform, including the technical opportunity to comment on Modules, Workflows and on Customer Content of Other Users. You will have the technical opportunity to revoke and delete own comments at any time. For the avoidance of doubt this shall by no means lead to a liability of us for the legal compliance, freedom of error, usability or functionality of any Customer Content shared or published on the Platform.
- A.9.2 Technical details and technical restrictions for the sharing and publishing process and the comment function are specified in Schedule 1.
- A.9.3 You are aware and acknowledge that we are under no obligation to deploy and publish in or through the Platform any Customer Content.
- A.9.4 You will be solely responsible (*vis-à-vis* ZEISS, its Affiliates, Other Customers and all other third parties) for all publishing activities that occur under your Account, including all Costumer Content shared or published by your Account.
- A.9.5 Customer Content may only be shared and published in compliance with Schedule 1. We are not obliged to review the Customer Content shared or published by you for compliance with Schedule 1.
- A.9.6 For the purposes of sharing and publishing, you have the option of either making Customer Content available to all Other Customers, or only make it available to individual Other Customers selected by you. In both cases, by sharing and publishing Costumer Content on the Platform, you (i) grant to the applicable Other Users, a limited, personal, transferable, non-exclusive license to use any such Costumer Content in accordance with this Agreement, in particular, the right to further share, comment and make available to Other Customers

any such Customer Content; and (ii) warrant that you have (and will have for the entire period of your Customer Content will be published by your Account) all necessary licenses, rights, consents and permissions necessary. In individual cases, the distribution may be subject to further restrictions.

A.9.7 Upon first request, you shall indemnify us against all claims by third parties, in particular claims for copyright, competition, trademark, data protection and personal rights infringements, which should be brought against us in connection with your uploading, publishing, transferring or sharing of Customer Content. You must immediately notify us of any claims by third parties that become known to you in connection with the use of the Customer Content shared or published by you. We are entitled to take appropriate measures to defend ourselves against claims by third parties or to pursue our rights. You must coordinate your own measures with us in advance. This indemnity also includes the reimbursement of reasonable costs that incur or have incurred as a result of legal prosecution/defense.

A.9.8 We reserve the right (but shall not be obliged) to at any time (before, during and after the publication of your Customer Content), without prior notice and at our sole discretion, refuse to publish and remove Customer Content that violates this Agreement, the applicable ZEISS Modules Agreement, the applicable Partner Module Agreement, applicable law or the rights of ZEISS, Others Customers or other third parties.

#### **A.10 INTELLECTUAL PROPERTY**

A.10.1 All rights, title, interest and know how in and to the ZEISS Licensed Material, the Platform, Modules, Workflows, Customer Content, Distribution Content, and any other information and content and any part and improvement of the aforementioned, other than those expressly granted in this Agreement, shall remain wholly vested in the relevant Party or its third-party business partners or licensors.

A.10.2 You grant us, our Affiliates, and our subcontractors, a limited, personal, transferable, non-exclusive license to use, host, link, publish, transmit, display, sub-license, and reproduce Customer Content as reasonably required for the purpose of providing the ZEISS Services to you and/or to Other Customers in accordance with this Agreement or the applicable ZEISS Module Agreement. We may create, analyze and evaluate copies of Customer Content in anonymized form, including for statistical purposes as well as for improving and further developing the ZEISS Services. We will fully respect your preexisting intellectual property rights.

A.10.3 You grant us, our Affiliates, subcontractors and business partners, a worldwide, perpetual, irrevocable, transferable, sub-licensable, and royalty-free license to use any suggestion, recommendation, feature request, or other feedback related to the Platform or the ZEISS Services provided by or on behalf of you, and to incorporate into or otherwise use any such feedback in connection with the ZEISS Services, the Platform or any other products or services.

#### **A.11 EXPORT COMPLIANCE**

A.11.1 You are responsible for ensuring that you may use and access the ZEISS Services as provided by us in compliance with any applicable import or export laws. You shall not import or (re-)export the ZEISS Services in violation of any national or international law, in particular any export or import regulation of the European Union or the United States of America.

A.11.2 Without limiting the foregoing, (i) each Party represents that it is not named on any government list of persons or entities prohibited from receiving exports, and (ii) you shall not access or use the ZEISS Services in violation of any export embargo, prohibition or restriction.

## **A.12 UPDATE OF TERMS**

- A.12.1 We reserve the right to conduct an Update of Terms at any time in our own reasonable discretion, in particular, due to changes in applicable law or further developments of ZEISS Services. We will inform you about any Update of Terms by giving you at least thirty (30) days' prior notice, e.g., by email. The Update of Terms shall become binding upon the Parties upon expiry of the notification period, unless you object to the Update of Terms in text form prior to the expiry of the notification period.
- A.12.2 In case you object, we may terminate this Agreement with effect upon the expiry of the notification period if the continuance of this Agreement without the Update of Terms is impossible or unreasonable for us. We will point out these consequences to you as part of the notification.

## **A.13 SUSPENSION**

- A.13.1 We are entitled to immediate Suspension, if according to our reasonable judgment, you may be in material breach of any other provision of this Agreement and/or the applicable ZEISS Module Agreement. In addition, we are entitled to perform a Suspension if the Suspension is required by law, a court decision, or a request from a governmental body. We shall inform you at our earliest convenience about any Suspension. If and to the extent a reason for the Suspension no longer exists we will restore your access to the ZEISS Services within a reasonable time.
- A.13.2 Our Suspension right is in addition to and restoration is without prejudice to all other rights and remedies we may have.

## **A.14 DATA PROTECTION**

- A.14.1 Each Party shall comply with all data protection laws, regulations, requirements that apply to the performance of each Party's obligations under this Agreement, including but not limited to ensuring that it complies with applicable notification requirements under such laws.
- A.14.2 Should we process personal data on your behalf (in particular as part of hosting services), the Parties will duly execute the then-current data processing agreement to be provided by us.

## **A.15 CONFIDENTIALITY**

- A.15.1 Each Party undertakes to treat confidential the Confidential Information of the other Party and may disclose it only to those employees or other personnel who have a need to know and who are bound to confidentiality by their employment contract or otherwise not less stringent than the provisions herein. Each Party may use Confidential Information of the other Party only for the purpose authorized by this Agreement.
- A.15.2 The confidentiality obligations of this Section shall not apply if the Recipient can prove that: (i) the information is generally known or later became known through no fault of the Recipient; (ii) the Recipient already knew the same information before the obligation to maintain secrecy or the same information was verifiably developed by the Recipient independently; (iii) the information was supplied to the Recipient by a third party without the obligation to maintain secrecy; (iv) the information was released in writing for publication by the other Party; or (v) to the extent the information must be made public on the basis of a binding official or judicial directive.
- A.15.3 The Confidential Information and any copies made of it shall be returned (or upon the other Party's request destroyed) without further request after the termination of this Agreement. The obligation to return/destroy such Confidential Information does not apply to the extent that Confidential Information or copies thereof have to be stored by the Recipient in safe custody according to mandatory law, provided however that during

the retention period provided by such mandatory law this Confidential Information or the copies thereof are subject to an the obligation to secrecy according to the provisions of this Agreement.

## **A.16 LIABILITY**

- A.16.1 We are fully liable for damages: (i) to the extent that liability cannot be limited or excluded according to applicable law, in particular applicable product liability law; (ii) caused by intent or gross negligence; (iii) in cases of damage to life, body or health caused by ordinary negligence; and (iv) in cases of our failure to comply with an agreed guarantee.
- A.16.2 Without prejudice to Section A.16.1, we are not liable for damages or frustrated expenses caused by ordinary negligence, except in cases of a violation of material contractual obligations in a manner jeopardizing the purpose of this Agreement or of contractual obligations the fulfillment of which is indispensable for the proper and due performance of this Agreement and which you will and may usually rely on (*Kardinalpflichten*), provided that, in each such case, our liability shall be limited to the damage or frustrated expenses which is reasonably foreseeable in connection with contracts of the type of this Agreement at the time of its conclusion. The Parties agree that the reasonably foreseeable damages or frustrated expenses within the meaning of this Section shall, in no event, exceed in aggregate EUR 1000.
- A.16.3 Unless otherwise agreed by the Parties, any liability of us for damages or frustrated expenses caused by ordinary negligence exceeding the reasonably foreseeable damages as per Section A.16.2 is excluded.
- A.16.4 Neither Party shall be liable for indirect or consequential damages, including loss of profit, loss of revenue, business interruptions and loss of goodwill. Except for claims under Section A.16.1, any rights, claims and remedies for damages and indemnities arising out of or related to this Agreement, whether in contract, tort or otherwise, shall expire no later than two (2) years.
- A.16.5 Any limitations and exclusions of liability provided in this Agreement also apply to the benefit of any of our Affiliates, directors, employees, agents, business partners, subcontractors, and any other persons used by us in performing any of our obligations as well as their Affiliates, directors, employees, agents, business partners, subcontractors and any other persons used by them.

## **A.17 INDEMNIFICATION**

- A.17.1 We will indemnify you and hold you harmless from and against any losses or damages (including reasonable attorney's fees) finally awarded by a court of final jurisdiction or settled/acknowledged with our prior written approval resulting out of, and defend you (both in and out of court) at our own cost against, any claim of a third party alleging that your use of the agreed ZEISS Services in accordance with this Agreement and/or the applicable ZEISS Module Agreement infringes upon that third party's intellectual property rights, provided that you (i) promptly give us written notice of the infringement claim, (ii) give us sole control of the defense and settlement of the infringement claim, and (iii) provide to us all reasonable assistance to defend such infringement claim. You shall not settle or acknowledge any infringement claim without our prior written consent. Notwithstanding the foregoing, we will have no obligation of defense or indemnification or otherwise with respect to any claim or demand based upon (a) any use of the ZEISS Services not in accordance with this Agreement and/or the applicable ZEISS Module Agreement; (b) any use or interaction of the ZEISS Services with any third party services not explicitly authorized by us, (c) any modification of the ZEISS Services made by any person other than us or our subcontractors, (d) any content provided by any person other than us or our subcontractors; or (e) where you continue the allegedly infringing activity after we have notified you thereof and provided modifications, replacements or other remedies that would have avoided the alleged infringement.

- A.17.2 If you are deprived of your use of the agreed ZEISS Services as permitted under this Agreement and/or the applicable ZEISS Module Agreement due to an infringement of such use upon an intellectual property right, then we will obtain for you the right to continue accessing and using the ZEISS Services, or will at our sole discretion replace or modify the ZEISS Services so they become non-infringing; or, if such remedies are not reasonably available, we are entitled to terminate this Agreement and/or the applicable ZEISS Module Agreement in whole or in part. We, in our sole discretion, may provide the remedies specified in this Section A.17.3 prior to your deprivation of your use of the applicable ZEISS Services.
- A.17.3 You will indemnify us and hold us harmless from and against any losses and/or damages (including reasonable attorney's fees), and defend us (both in and out of court) at your own cost against any claims, arising out of or in connection with the following circumstances: (i) an allegation by a third party, including an authority, that your use of the ZEISS Services violates the security and/or compliance standards pursuant to Section A.5; (ii) an allegation by a third party that any Customer Content infringes upon that third party's rights, including without limitation intellectual property rights or privacy rights; (iii) any failure to comply with your obligations under Section A.11; and/or (iv) a breach of this Agreement, the applicable ZEISS Module Agreement, the applicable Partner Module Agreement and/or applicable law, by you. This indemnity also includes the reimbursement of reasonable costs that incur or have incurred as a result of legal prosecution/defense. This Section A.17.3 also applies accordingly in favor of our Affiliates.
- A.17.4 You must immediately notify us of any claims by third parties that become known to you in connection with the use of the ZEISS Services. We are entitled to take appropriate measures to defend ourselves against claims by third parties or to pursue our rights. You must coordinate your own measures with us in advance.
- A.17.5 Any terms or conditions of this Agreement, which by their express terms extend beyond the termination or expiration of this Agreement or which by their nature should so extend shall survive and continue in full force and effect after any termination or expiration of this Agreement.

## **A.18 TERM AND TERMINATION**

- A.18.1 This Agreement takes effect upon Registration and remains in place for twelve (12) months. The term of this Agreement will be extended by another twelve (12) months each unless it is terminated by one of the Parties upon 1 month's notice before expiration of the applicable term.
- A.18.2 Either Party may terminate this Agreement for cause. Events that entitle us to terminate this Agreement for cause include, in particular: (i) acts or omissions by you that entitle us to a Suspension for a continuous period of at least thirty (30) days; (ii) your breach of any obligation or provision of this Agreement which remains uncured for a period of thirty (30) days after receipt of notice thereof; (iii) a material breach of the obligations under this Agreement by you; (iv) our obligation to comply with applicable law or requests by a governmental body, rendering the continued provision of services by us impossible or unreasonable; (v) a change in control of you or your direct or indirect parent company which, as suggested by objective reasons, adversely affects our position, rights or interests; and (vi) the termination or expiration of our relationship with a supplier or subcontractor for the provision of the agreed ZEISS Services or material software or services, rendering their continued provision by us impossible or unreasonable, unless culpably caused by us, and (vii) if you materially or repeatedly breach your obligations regarding the use of a ZEISS Module under a ZEISS Module Agreement and/or a Partner Module under a Partner Module Agreement.
- A.18.3 Each ZEISS Module Agreement takes effect upon our acceptance of your order for the respective ZEISS Module and runs for an unlimited period. Each ZEISS Module Agreement can be terminated by either Party upon twelve (12) months' notice before the end of the respective month. Unless otherwise provided, termination of a ZEISS Module Agreement and/or Partner Module Agreement does not affect any other ZEISS Module Agreement or Partner Module Agreement.

- A.18.4 All termination rights must be exercised by written notice to the other Party, notice in the Support Forum being sufficient.
- A.18.5 Except as provided otherwise, upon the termination of this Agreement, regardless of the reasons: (i) we will permanently suspend your access to the Platform and to discontinue provision of the ZEISS Services; (ii) you are obliged to cease all use of ZEISS Services; and (iii) you are obliged to destroy or delete all ZEISS Material without delay and to provide us with written confirmation to this effect.
- A.18.6 Upon your request made within thirty (30) days after the effective date of termination, we will make available to you for download a file of your Customer Content in text file format. After such thirty (30) day period, we shall have no obligation to maintain or provide any Customer Content and shall thereafter, unless otherwise required by applicable laws, delete all Customer Content in our systems or otherwise in our possession or under our control.

## **A.19 MISCELLANEOUS**

- A.19.1 This Agreement may not be assigned or transferred, nor may any rights or obligations be assigned or delegated, by you without the prior written consent. We may assign this Agreement in whole or in part or its rights and obligations hereunder without your consent or extend this Agreement to any of our Affiliates, or to a third-party successor in interest of all or part of the business to which this Agreement relates, whether: (i) as a result of a change of ownership (including by stock purchase, merger or consolidation); (ii) as a result of the sale of all or a substantial part of the assets or all or a part of the business to which this Agreement relates; or (iii) in connection with any type of spin-off, (de)merger, consolidation, divestiture, dissolution and any other type of business combination or business reorganization, including, the establishment of joint venture companies or otherwise.
- A.19.2 Any amendments to this Agreement must be in writing in order to be effective. A waiver of form shall be effective only if agreed upon in writing.
- A.19.3 Whenever notice by email is sufficient as expressly set forth in this Agreement, notices to us shall be sent to **support@arivis.com** and notices to you shall be sent to your then-current email address as provided by you in the process of Registration or as recently updated by you. If this Agreement requires a notice or a document to be „in writing“ or „in written form“, unless notice by email is sufficient as expressly set forth in this Agreement, such notice or document shall be duly signed by the sender and the signed notice or document shall be delivered, sent or transmitted to the other Party in its original form or as a telefax copy or scanned copy per email. For the avoidance of doubt other electronic communication shall not qualify as a written notice or document.
- A.19.4 This Agreement shall constitute the entire understanding of the Parties regarding the subject matter hereof. Any general terms and conditions of the Parties shall not apply.
- A.19.5 If any provisions of this Agreement should be held to be illegal, invalid or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The Parties shall substitute the illegal, invalid, or unenforceable provision by a legal, valid or enforceable one, approximating as closely as possible the original commercial intent of the Parties.
- A.19.6 Neither Party shall be liable for any failure or delay in its performance under this Agreement due to Force Majeure, provided that the delayed Party: (i) gives the other Party prompt notice of such cause; and (ii) uses commercially reasonable efforts to promptly correct such failure or delay in its performance.
- A.19.7 For all disputes arising out of or in connection with this Agreement, the courts of Munich (Landgericht München I) shall have exclusive jurisdiction.

A.19.8 This Agreement is governed by German law without reference to any other law. The United Nations Convention on Contracts for the International Sale of Goods of April 11, 1980 shall not apply.

## **B. PARTNER TERMS**

The Partner Terms (Section B.1 to Section B.15) contain supplementary provisions that are only applicable to Partners (i.e. Customers who distribute own Partner Modules through the Platform) in their capacity as a Party to this Agreement. Unless explicitly deviated from in the Partner Terms, the General Terms (Section A.1 to Section A.19) fully apply to Partners and ZEISS Partner Services.

### **B.1 ZEISS PARTNER SERVICES**

B.1.1 ZEISS Partner Services enable you to develop and distribute Partner Modules through the Platform and include:

- Publishing of modules
- Publishing of workflows
- Sharing of modules with other platform members
- Sharing of workflows with other platform members

B.1.2 ZEISS Partner Services do not include:

- Creation of modules to be used by yourself only
- Creation of workflows to be used by yourself only
- Sharing of data (e.g. images & results) with platform members as well as non-platform members

B.1.3 As part of or in connection with the ZEISS Partner Services, we may make available to you certain ZEISS Licensed Material, such as documentation (including a description of application program interfaces).

### **B.2 DEVELOPMENT OF PARTNER MODULES**

B.2.1 All Partner Modules you develop and submit to us must always comply with the Technology Requirements, Security Standards and Compliance Standards. We may change or issue additional Technology Requirements at any time by notifying you at least five (5) Business Days before the changed requirements become effective. Such notice period does not apply if, based on our reasonable judgment, we believe that changes to the Technology Requirements are necessary to establish or maintain Security Standards.

B.2.2 You agree not to create any modifications of the ZEISS Licensed Material which would: (i) damage, disable, prevent the use of or access to the ZEISS Partner Services; or (ii) prevent, interrupt, adversely affect or interfere with the installation or operation of existing features or functions of the ZEISS Partner Services.

B.2.3 You agree not to reverse engineer or decompile any of the ZEISS Licensed Material that is not in source code format, except to the extent expressly permitted by applicable law for the purposes of inter-operability, error correction, and security testing. If you have such statutory rights, you shall notify us in writing of any intended reverse engineering or reverse compilation. Although we are not obligated to do so, in the event we provide any error corrections or Updates to the ZEISS Licensed Material, you shall immediately incorporate such error corrections or Updates into the Modified Materials.

B.2.4 When submitting any Partner Module or Update to us, you shall (i) disclose to us all uses of third-party code therein. You warrant that you are and shall be in compliance with the licensing agreements applicable to such third party code; and (ii) provide us with: (a) a complete and accurate list of all Open Source Software

combined, linked or embedded with, in or to the Partner Module; (b) a description of the nature of such Open Source Software, (e.g., standalone software, library, plug-in, interpreter); and (c) a copy of the license terms of such Open Source Software.

B.2.4.1 When distributing through the Platform any Partner Module in which Open Source Software is combined, linked or embedded, you shall comply with all terms of the relevant Open Source Software license, which includes if and as applicable under that license, that you provide Other Customers (i) with the information and documents described in Section B.2.4 (a) and (c); (ii) with the source code of such Open Source Software; and (iii) with all relevant copyright notices and warranty disclaimer notices.

B.2.4.2 Without our prior written consent you shall not combine, link or embed in the Partner Module any Open Source Software which is subject to license terms that would oblige you, us, our Affiliates, or any third party: (i) to distribute, or make available, ZEISS Licensed Material under the license terms of such Open Source Software or substantially similar terms; or (ii) to grant third parties access to the source code of any ZEISS Licensed Material (no copy-left effect).

### **B.3 PARTNER PRIVATE MODULES NOT DESIGNATED FOR OTHER CUSTOMERS**

B.3.1 Before you submit a Partner Module for distribution, you may use it as a Partner Private Module. Partner Private Modules are not designated for Other Customers or any other third party and will only be available to you in a closed container environment under your Account. You shall not distribute, market or make available any Partner Private Module to any Other Customer or any other third party or copy such Partner Private Module to another environment.

B.3.2 You are solely responsible for any development and use of your Partner Private Module. You are not permitted to conduct or enable any Workflow Integration or any combination of a Partner Private Module with other Modules. This rule may be departed from in exceptional cases.

### **B.4 SUBMISSION OF PARTNER MODULES**

B.4.1 Distribution of any Partner Module and any Update thereof through the Platform requires that you submit to us the file of the applicable Partner Module or Update along with (i) the Modified Materials if so requested by us, (ii) all necessary Distribution Content and any minimum information required for Workflow Integration of the Partner Module, including a description of any relevant interface of the Partner Module. This applies also for Updates. The format and manner of the submission and the required minimum information and the Distribution Content are described in Schedule 1.

B.4.2 When submitting any Partner Module to us, you shall choose between three distribution models:

- Model 1: Distribution of the Partner Module without publishing its source code. This means that Other Customers would only be able to use the respective Partner Module on the Platform via online web browser.
- Model 2: Distribution of the Partner Module together with its source code. This means that Other Customers would be able to use the respective Partner Module either (i) on the Platform via online web browser or (ii) locally on Other Customer's own computer (i.e. without the image results having to return to the Platform)
- Model 3: Hybrid distribution of the Partner Module together with the respective docker file. This means that Other Customers would be able to use the respective Partner Module either (i) on the Platform via online web browser or (ii) locally on Other Customer's own computer via OS-level virtualization (e.g. docker containers). This means that the source Code of the Partner Module is indirectly accessible by

Other Customers. You are aware that such hybrid distribution theoretically enables Other Customers to derive (e.g. by decompilation) the source code from the files used by docker.

- B.4.3 You may, at any time provide us with an Update or new or amended Distribution Content, which we will, without prejudice to Section B.4.4, then implement into the Platform within a reasonable period of time. Where required for compliance with the Security Standards or the Compliance Standards, you shall immediately provide us with an appropriate Update or amended Distribution Content.
- B.4.4 You are aware and acknowledge that we are under no obligation to deploy and distribute any Partner Module or any Update that you submit to us. We may reject the deployment or distribution of any Partner Module, Update or Distribution Content in or through the Platform if the Partner Module, Update or Distribution Content that (i) are not compliant with our quality criteria; or (ii) according to our reasonable judgment are not compliant with the Technology Requirements, the Security Standards and the Compliance Standards. Within thirty (30) days after the proper submission of a Partner Module or an Update thereof, we will inform you about the deployment or rejection.
- B.4.5 You acknowledge that the deployment of a Partner Module (including Updates) or Distribution Content by us does not lead to any responsibility of us for the respective Module, Update or Distribution Content, except for our obligations with respect to hosting services pursuant to Section A.5. You further acknowledge that in respect of the marketing and distribution of any Partner Modules we act as your vicarious agent and that you, as principal, shall be solely responsible for any and all claims and liabilities related to Partner Modules.
- B.4.6 We are entitled to terminate your distribution of any Partner Module or Distribution Content on the Platform at any time if: (i) according to our reasonable judgment, it is not compliant with the Technology Requirements, the Security Standards, or the Compliance Standards; or (ii) such termination is required by law, a court decision, or a request from a governmental body. If in our reasonable judgment a Partner Module or Distribution Content infringes third-party rights or applicable law, we may remove it from the Platform at any time. We will inform you without delay about any termination of your distribution or deletion of a Partner Module or Distribution Content
- B.4.7 Upon your request, we will terminate your distribution of Partner Modules within twelve (12) months. However, you are aware that the distribution model 2 and 3 of Section B.4.2 enable Other Customer's offline use of the Partner Module. This means, in particular, in case of any Update or withdrawal of a Partner Module, it will technically not be possible to prevent Other Customers from continuing to use the previous version of the Partner Module offline on Other Customers' own computer. It is your sole responsibility to inform Other Customers about the distribution model chosen by you in accordance with Section B.4.2 and to impose any restrictions within Partner Module Agreement, in particular, with regard to Updates or withdrawals and the source code of the Partner Module.

## **B.5 DISTRIBUTION OF PARTNER MODULES**

- B.5.1 By deploying Partner Modules in the Platform and making the Platform available to Other Customers we enable you to distribute Partner Modules through the Platform.
- B.5.2 Through the Platform, we enable you to conclude Partner Module Agreements with Other Customers that have in place an Other Customer's Agreement with us for accessing the Platform. You may distribute to Other Customers any Partner Module that we deploy in the Platform either free of charge or against payment of License Charges at prices designated by you in line with the Pricing Parameters. Also, you may offer to Other Customers other services related to any such deployed Partner Module, either free of charge or against payment of Service Charges in line with the Pricing Parameters, and regardless of whether you provide the Partner Module free of charge or against payment of License Charges. You shall set any prices charged to Other Customers for the provision of Partner Modules or related services in line with the Pricing Parameters at your

sole discretion. You may change your prices at any time in line with the Pricing Parameters. It is your responsibility to correctly calculate and identify any taxes applying in connection with providing Partner Modules or related services to Other Customers. You shall distribute Partner Modules under a timely limited license on a software-as-a-service basis hosted by us in accordance with Section A.5. When submitting a Partner Module to us you shall inform us of the designated license model and whether you charge your Other Customers any Service Charges.

- B.5.3 You acknowledge that: (i) You will enter into any agreements on the use of Partner Modules with the respective Other Customer; (ii) we or our Affiliates will not enter nor be deemed to have entered into any contractual relationships with Other Customers in relation to their use of Partner Modules; (iii) you will provide Partner Modules for use and any other agreed services to the applicable Other Customer in your own name and for your own account; (iv) even if you engage us as subcontractor in the fulfillment of your obligations under Partner Module Agreements, e.g., with hosting of the Partner Modules, (in which case we will act as your vicarious agent), or authorize us to directly or indirectly exercise rights toward Other Customers under such Partner Module Agreements, we will provide any services only to you as ZEISS Partner Services and will not assume any obligations or responsibilities towards Other Customers with regard to their access to and use of Partner Modules and any other services agreed with you. You agree to clearly communicate to Other Customers at all times that all services in connection with the distribution and licensing of your Partner Modules are exclusively rendered by you and not by us. You are an independent entrepreneur and bear all the economic opportunities and risks relating to the marketing and provision of Partner Modules to the full extent.
- B.5.4 You have the option of either making your Partner Module available to all Other Customers, or only make it available to individual Other Customers selected by you. In both cases, your submission of a Partner Module for placement in the Platform includes your legally binding offer to the respective Other Customers to enter into a Partner Module Agreement for use of the Partner Module. You commission us with the transmission of your offer to Other Customers via the Platform. We may refrain from transmitting the offer if: (i) Other Customer's access to the Platform has been suspended or terminated in accordance with the Other Customer's Agreement; (ii) in our reasonable opinion the respective Other Customer does not provide sufficient guarantee for full compliance with all its duties as set out in your Partner Module Agreement where this may adversely affect us; or (iii) either one of the Parties has given notice to terminate this Agreement. If the Other Customer declares its acceptance of your offer to use your Partner Module via the Platform, we will: (i) inform you of the Other Customer's declaration of acceptance; (ii) enable the Other Customer to access the Partner Module that we host for you; and (iii) activate the Partner Module for use by the Other Customer.
- B.5.5 Upon our notification to you that the Other Customer accepted your offer to use the Partner Module under a Partner Module Agreement, you shall provide to the Other Customer the Partner Module in accordance with the terms of the applicable Partner Module Agreement.
- B.5.6 Since the Other Customer accesses and uses Partner Module(s) through the Platform, and we are hosting the Partner Modules for you, a Suspension of the ZEISS Partner Services or a termination of this Agreement by any Party will suspend or terminate respectively your ability to make available the Partner Module(s) to the respective Other Customers. Accordingly, we shall not be liable for any consequences arising out of or in connection with your inability to fulfill your obligations or to enforce your rights vis-à-vis any Other Customer if this results from a Suspension or termination of the ZEISS Partner Services in accordance with this Agreement, unless you have terminated this Agreement due to a culpable breach of us.
- B.5.7 The right of the Other Customer to access and use any Partner Module is reliant upon a valid Other Customer's Agreement between the Other Customer and us. Accordingly, we shall not be liable for any consequences arising out of or in connection with your inability to fulfill your obligations or to enforce your rights vis-à-vis the Other Customer if this results from a Suspension or termination of the Other Customer's

Agreement in accordance with its terms, unless the Other Customer has terminated the Other Customer's Agreement due to a culpable breach of us.

- B.5.8 You are not permitted to agree on or extend any Partner Module Agreement: (i) if and to the extent we inform you that the Other Customer's access to the Platform has been suspended by us in accordance with the Other Customer's Agreement with the Other Customer has been terminated; (ii) during any Suspension according to Section B.13 or (iii) as soon as either Party has given notice to terminate this Agreement. You shall notify us immediately of every Partner Module Agreement entered into and every relevant amendment of a Partner Module Agreement. We may stipulate a binding template for this communication. You agree to give immediate notice of termination without delay on Partner Module Agreements existing with the relevant Other Customer if we inform you that (a) this Agreement or the Other Customer's Agreement has been suspended for a continuous period of at least thirty (30) days or (b) this Agreement or the Other Customer's Agreement has been terminated in accordance with its applicable terms.
- B.5.9 All Partner Module Agreements entered into shall be consistent with and not less protective of ZEISS than this Agreement. Subject to Sections B.5.10, B.8.3, B.12.5 and B.5.12, you are entitled to provide or agree on terms and conditions of your choosing; provided that you acknowledge that it remains your sole responsibility to ensure compliance of any Partner Module Agreement with your obligations under this Agreement as well as any applicable law.
- B.5.10 Where, due to an Update of Terms, Partner Module Agreements are, in whole or in part, rendered inconsistent with this Agreement, you shall implement required changes in all Partner Module Agreements within thirty (30) days following the effectiveness of the amendment.
- B.5.11 You warrant to us that you will perform all of your obligations towards the Other Customers in accordance with the applicable Partner Module Agreements.
- B.5.12 Subject to applicable law and Section B.8, all Partner Module Agreements must contain a provision according to which you agree to indemnify and hold harmless the Other Customer from and against any losses or damages (including reasonable attorney's fees), and defend the Other Customer (both in and out of court) at your own cost against any claims, arising out of or in connection with an allegation by a third party that
- (i) the Other Customer's use of any Partner Module as stand-alone Module in accordance with the terms and conditions of the Partner Module Agreement, or
  - (ii) the Workflow Integration of any Partner Module by or on behalf of the Other Customer in accordance with Schedule 1, or the Other Customer's use of such integrated Module in accordance with the terms and conditions of the Partner Module Agreement, infringes upon that third party's intellectual property rights. In case of (ii), however, this indemnification shall apply only to the extent that the claim is based on an allegation by the third party that: (a) material of this third party protected by intellectual property rights is contained in the Partner Module; and (b) you have not obtained the rights necessary to grant the Other Customer a license for Workflow Integration of that Partner Module as required under Section B.12.5.

## **B.6 ADVERTISING**

- B.6.1 Unless this has been agreed in writing, you are not entitled to use trademarks, trade names and other content of us or our Affiliates. However, you are entitled to use the "arivis Cloud" logo, subject to the following conditions:
- (i) Your use of the "arivis Cloud" logo is within the limits of our guidelines, specifications, requirements, or restrictions and in full compliance with this Agreement

- (ii) Your use of the “arivis Cloud” logo happens at your own risk and responsibility. In particular, we will not indemnify you for damages and claims of third parties in connection with the “arivis Cloud” logo.
- (iii) You may only use the “arivis Cloud” logo for direct advertising and marketing of your Partner Modules distributed through the Platform. In connection with your marketing and advertising activities you are required to always ensure that exclusively you, and in particular not us or our Affiliates are identified as the provider of any of Partner Modules, Distribution Content, or other content.

B.6.2 We may, but are not obligated to, advertise the Partner Modules offered by you through the Platform or the Platform itself. For this purpose, you grant us a non-exclusive, non-transferable, sub-licensable, and royalty-free license to: (i) use the Distribution Content; (ii) convert to digital electronic form, excerpt, reformat, adapt or otherwise create derivative works of the Distribution Content; and (iii) use all trademarks or trade names included in the Distribution Content.

## **B.7 OPERATION OF PARTNER MODULES BY OTHER CUSTOMERS**

B.7.1 Upon your request and without prejudice to Section B.4.4, we will: (i) inform the Other Customers about an available Update; and (ii) enable the Other Customers using the respective Partner Module to access and use the Update.

B.7.2 It is your responsibility to monitor usage of Partner Modules by the Other Customers, e.g., the number of users, for our and your internal business purposes, in particular: (i) for security and availability reasons; (ii) to the extent required to ensure compliance of the Other Customer with the applicable Partner Module Agreement; and (iii) to detect, prevent, and suspend any use of the Module exceeding the permitted use under the Partner Module Agreement, to charge for such excess use, and otherwise as necessary for payment and billing related tasks.

B.7.3 Notwithstanding Section B.13 we are entitled to remove any Partner Module from the Platform or suspend the Other Customer’s access to any Partner Module at any time, resulting in the Other Customer not being able to use the Partner Module permanently or during Suspension respectively, if in our reasonable judgment there is a risk that the Partner Module: (i) constitutes a threat to the security or functionality to the Platform or any other of our systems; (ii) adversely impacts the Other Customer, us, or our Affiliates, or any third party, including any risk of personal injury; or (iii) subject the Other Customer, us, or our Affiliates, or any third party to liability. Furthermore, we are entitled to remove any Partner Module from the Platform or suspend the Other Customer’s access to any Partner Module at any time: (i) if this is required by law, a court decision, or a request from a governmental body; (ii) for all Other Customers at any time if this Agreement has been terminated; or (iii) for the relevant Other Customer only if its access to the Platform has been suspended or the Other Customer’s Agreement between us and the Other Customer has been terminated by us; (iv) for all Partner Modules, if your access to the Platform has been suspended in accordance with Section B.13 or this Agreement has been terminated by us. We will inform you about any removal or Suspension as soon as possible.

B.7.4 You shall inform us promptly but no later than twelve (12) months in advance, about any discontinuation of the distribution or maintenance of a Partner Module by you, provided that you shall ensure that the existing Partner Module Agreements are terminated or amended accordingly. You are not entitled to request a temporary or permanent removal of a Partner Module from the Platform prior to expiry of the aforementioned period, except for good cause, e.g. where you are prevented from a continued distribution by applicable law or an administrative or court order.

B.7.5 Upon your request pursuant to Section B.7.4 and at your responsibility, we will remove any Partner Module or suspend the Other Customer’s access to any Partner Module without undue delay. You acknowledge that

a removal or Suspension pursuant to Section B.7.4 does not lead to any responsibility of us for the respective Module vis-à-vis the Other Customer or any other partner. You shall indemnify, defend and hold us harmless from and against any claims of any Other Customer, other partner or any other third party as set forth in Section B.13.1 (v).

B.7.6 Where Other Customers contact us for support queries, we will: (i) process queries concerning the Platform or activation of Partner Modules ourselves; and (ii) transmit queries concerning a Partner Module and its functioning to you and you shall have sole responsibility for providing such support. Upon receipt, you shall immediately transmit support queries from Other Customers concerning the Platform or the activation of Partner Modules to us.

## **B.8 WORKFLOW INTEGRATION**

B.8.1 As a result of such Workflow Integration the respective Modules are supposed to interact with each other in accordance with Schedule 1, which contains Technology Requirements that Modules need as well as certain minimum information you must provide in order to enable a Workflow Integration of the Partner Module.

B.8.2 Workflow Integration of Partner Modules will be carried out by the respective Other Customer. We are not responsible to you for the Workflow Integration, including for your compliance with Schedule 1.

B.8.3 You shall not include in any Partner Module Agreement, or any other contractual arrangement with the Other Customer any provision that may prevent a reasonable Other Customer from creating or publishing a Workflow Integration of a Partner Module.

B.8.4 Once a Partner Module is integrated into a Workflow in accordance with this Section, the Other Customer may publish the respective Workflow on the Platform.

## **B.9 SECURITY AND COMPLIANCE**

B.9.1 You shall: (i) ensure that all Partner Modules submitted to us and all Distribution Content are compliant with the Compliance Standards; (ii) before and at all times during the use of ZEISS Partner Services review and comply with any applicable law, including but not limited to medical device, product liability, product safety, tax, and export control law, in particular, at your own expense, obtain and maintain all necessary permits and registrations; (iii) not use the ZEISS Partner Services for any purpose except as expressly permitted by this Agreement; (iv) except to the extent permitted pursuant to applicable law or expressly permitted otherwise, not translate, disassemble, decompile, reverse engineer, or otherwise modify or attempt to discover the source code of any software contained in ZEISS Partner Services in particular the Platform and the ZEISS Material; and (v) ensure that your use of the ZEISS Partner Services will not subject us, our Affiliates, Other Customers or any third party to liability.

B.9.2 We reserve the right to conduct any type of assessment of compliance of Partner Modules submitted to us and of Distribution Content with the Technology Requirements, the Security Standards, the Compliance Standards, our quality criteria, or otherwise with this Agreement. In order to conduct such assessment, upon our request, you shall immediately provide us access to the Modified Materials, executable files, security and deployment processes, or other features of Partner Modules along with the applicable documentation and any additional information reasonably requested by us.

B.9.3 You shall inform us promptly: (i) if you become aware of any circumstances indicating that any Partner Module submitted to us or items of Distribution Content are not compliant with the Technology Requirements, the Security Standards or the Compliance Standards, provided that the information will also contain the measures you intend to take in order to restore the security or compliance, respectively; (ii) about any

measures of authorities or court decisions which may possibly hinder distribution or use of any Partner Module or Distribution Content; and (iii) about any change to your name or contact details.

- B.9.4 You shall: (i) state all information and data truthfully and completely and keep these up to date at all time (e.g., contact information); and (ii) provide us with the names of representatives who are responsible towards you for distribution of the relevant Partner Module and, where applicable, who you have designated as your vicarious agent in accordance with medical device law.
- B.9.5 You are solely responsible for the development, functioning, suitability, content, management, use, and quality of Partner Modules and Distribution Content and the means by which you acquired such content. In particular, you are solely responsible for: (i) the creation and maintenance of independent backup copies of all Partner Modules and Distribution Content; and (ii) any document retention or archiving obligations resulting from applicable laws or company policies. Thus, we will not be liable for any damage due to loss of data to the extent such damage would have been avoided if you had performed sufficient backup copies.

## **B.10 COMMISSION AND PAYMENT**

- B.10.1 In consideration of our provision of the ZEISS Partner Services you shall pay to us
- (i) the Partner Base Fees, and
  - (ii) for Partner Modules for which you charge License Charges or Services Charges, the Commission on the net amount of all Customer Receivables,
- each as set forth in Schedule 2.
- B.10.2 We may invoice the Partner Fees on an monthly basis in arrears.
- B.10.3 You shall invoice all respective Others Customers all Customer Receivables in accordance with the Pricing Parameters.
- B.10.4 Within five (5) Business Days after the end of each calendar month, you shall provide us with a statement of all Customer Receivables collected by you during the preceding month. For each time you intentionally breach your obligation under this Section B.10.4, in particular if you fraudulently give incorrect or incomplete statements of Customer Receivables and/or fraudulently refrain from giving statements of Customer Receivables to us, you shall pay a contractual penalty of EUR 5000. Your obligations under this Section B.10 remain unaffected. The recourse to the continuation context is excluded. Sections 340 (1), 341 (3) and 343 German Civil Code (BGB) do not apply. We reserve the right to assert further rights or claim further damages.
- B.10.5 On the basis of your monthly statements, we will invoice you the Commission for the applicable month in accordance with the rates set forth in Schedule 2. If, despite a reminder and a grace period of thirty (30) Business Days, you fail to provide us with such statement of Customer Receivables, or fail to provide us with such statement in a form sufficient to allow proper billing of the Commission, we are entitled to estimate the amount of the Commission based on the License Charges and Service Charges payable in the preceding month and on the number of activations in the relevant month and to demand payment on that basis. We reserve the right to charge an appropriate processing fee for such estimate. You shall remain required to submit the statement of Customer Receivables for the relevant month even in the event that the Commission is billed based on an estimate as described above. Following the submission of such statement, any difference between the Commission calculated on the basis of the estimate and the Commission owed according to the License Charges and Service Charges actually accrued will be offset and deducted or credited in the next invoice, as the case may be. You acknowledge that we shall be entitled to the Commission even if you are unable to collect the respective Customer Receivables from the respective Other Customer. You shall

endeavor to collect the Customer Receivables to be paid by the Other Customers within reasonable limits. You may appoint a payment services provider suggested by us (if any) or any other payment services provider of your choosing for such collection at your costs. If and to the extent that the collection through one or more payment services providers is embedded into the e-commerce process of the Platform, you are entitled to request from us the integration of an additional payment services provider of your choosing. Such integration is subject to an additional agreement between you and us under which you shall agree to bear all costs and expenses incurred by us due to the integration, provided that we will not unreasonably refuse to enter into such agreement. Where you appoint a payment services provider for collection, you hereby assign to us your disbursement claims against such provider in the amount of the aggregate Commission invoiced to you from time to time. You shall promptly notify the payment services provider of such assignment and you are not entitled to collect any such amount from the payment services provider.

- B.10.6 Unless otherwise stated, the Partner Base Fees and Commission do not include any taxes. We will invoice you, and you shall reimburse us for, any such taxes charged to us by any governmental authority in connection with providing the ZEISS Partner Services to you.
- B.10.7 Where applicable laws require you to withhold and pay any withholding taxes or similar levies, you may do so, provided that your obligation to pay the net amounts of the Partner Base Fees as invoiced by us, and the amounts of any Commission we are entitled to, shall remain unaffected. Therefore, as between the Parties, you shall pay to us the net amount of the Partner Base Fees or Commission (as the case may be) remaining after the respective deduction plus the amount that was deducted, in order to ensure that we receive the full net amount as contractually agreed.
- B.10.8 Once every twelve (12) months, for the first time upon the first anniversary of the effective date of this Agreement, we may in our discretion adjust the agreed Partner Base Fees and Commission rates, with effect for the following commencing month, up to a maximum amount of twenty per cent (20 %) p.a.
- B.10.9 You may not withhold or offset any payments, unless and until your corresponding claims are undisputed by us or established by a competent court of final jurisdiction. If you withhold or offset any payments in violation of the aforesaid, then, without prejudice to our other rights or remedies, upon thirty (30) days' prior notice we may suspend the ZEISS Partner Services on a temporary basis until you have fully settled the withheld amount.

## **B.11 RECORDS AND AUDIT**

- B.11.1 You shall at all times maintain records specifically identifying: (i) the number and identity of all Other Customers authorized to use Partner Modules; (ii) all Partner Module Agreements and related contractual arrangements; (iii) the licensing and payment terms agreed with each Other Customer; and (iv) all Customer Receivables to be paid by all Other Customers along with respective invoices issued to them and all related documentation.
- B.11.2 You shall provide us a list of all updates with regards to Partner Module Agreements including the agreed licensing and payment terms and contract duration no later than five (5) Business Days before the end of each calendar month. We reserve the right to stipulate a binding template list.
- B.11.3 Once every twelve (12) months, or upon justified suspicion of your non-compliance with your obligations referenced in this Section B.11.3, we may, during regular business hours and upon reasonable advance notice, have an auditor conduct an audit to determine: (i) compliance of the Partner Module Agreements with the requirements for Partner Module Agreements set forth in this Agreement; or (ii) the accuracy of the statements of all Customer Receivables to be paid by Other Customers provided to us. The auditor will be bound to secrecy towards us and third parties and may only provide us with information about: (i) compliance of the Partner Module Agreements with the requirements; or (ii) the accuracy of the statements of all Customer

Receivables. You shall make available to the auditor all relevant documentation reasonably necessary to conduct such audit, and permit the auditor to access your facilities and otherwise cooperate fully with the auditor in any such investigation and will take all commercially reasonable actions to assist the auditor in the audit. In performing the audit, both Parties shall comply with applicable data protection law. You shall ensure that no personal data (as defined by applicable data protection law) shall be disclosed to the auditor or to us. If and to the extent the audit cannot be properly performed without your disclosure of certain personal data to the auditor or to us, you shall undertake all reasonable measures to ensure that the disclosure of personal data is limited to what is necessary for the performance of the audit. If the audit reveals: (i) any material non-compliance of the Partner Module Agreements with the requirements; or (ii) deviations of the statements of all Customer Receivables by more than five per cent (5%) on average to our disadvantage, as applicable, the costs of the audit will be borne by you, otherwise they will be borne by us.

## **B.12 INTELLECTUAL PROPERTY**

- B.12.1 Subject to the terms and conditions of this Agreement, we grant to you a non-exclusive, non-transferable right, limited to the duration of this Agreement, to use the ZEISS Licensed Material to create, develop and test Modified Materials and to compile such Modified Materials into Partner Modules for use and distribution exclusively through the Platform. The aforesaid rights are not sub-licenseable.
- B.12.2 We grant to you a non-exclusive, non-transferable right, limited to the duration of this Agreement, to use the Platform as necessary to distribute Partner Modules to Other Customers in accordance with this Agreement.
- B.12.3 You shall not remove any copyright or other proprietary notices of us, our Affiliates or third parties found in or on the ZEISS Partner Services and you shall include such notices in all reproductions of the ZEISS Licensed Material.
- B.12.4 You grant us, our Affiliates, subcontractors and business partners, for the duration of this Agreement a worldwide, non-exclusive, transferable, sub-licensable, and royalty-free license to use, host, make available, transmit, display, and reproduce any Partner Module and Distribution Content, for the purpose of providing the ZEISS Partner Services and assessing its compliance with this Agreement and our quality criteria.
- B.12.5 Subject to applicable law and Section B.8, all Partner Module Agreements must grant Other Customer a non-exclusive, non-transferable, and royalty-free license to: (i) integrate, or have integrated any Partner Module to a Workflow, including the right to make any modifications to such Module, as may be reasonably required for the purpose of the Workflow Integration; and (ii) to use and make available to Other Customers any such Partner Module together with any other Modules as part of a Workflow in accordance with this Agreement.

## **B.13 ADDITIONAL INDEMNIFICATION**

- B.13.1 Without prejudice to Section A.17, you shall indemnify us and hold us harmless from any losses or damages (including reasonable attorney's fees), and defend us (both in and out of court) at you own cost against any claims, arising out of or in connection with the following circumstances: (i) an allegation by a third party, including an authority, that a Partner Module or any Distribution Content is not compliant with the Security Standards or Compliance Standards; (ii) a voluntary or officially ordered recall or withdrawal of your Partner Module; (iii) claims by a third party made out of or in connection with a Partner Module Agreement, any other contractual arrangements between you and an Other Customer, or the use of Partner Modules, provided that your rights of recourse by you against us remain unaffected; (iv) claims by a third party, including an authority, in relation to taxes to be borne by you; (v) any breach of this Agreement, the applicable ZEISS Module Agreement and/or applicable law by you.
- B.13.2 Sections A.17.4 and A.17.5 apply accordingly.

## **B.14 ADDITIONAL SUSPENSION**

- B.14.1 Without prejudice to Section A.13, we are entitled to immediate Suspension, if, according to our reasonable judgment, you are in material breach of any provision of this Agreement, in particular, if any submitted Partner Module or Distribution Content is not compliant with the Security Standards, the Compliance Standards or data protection laws. In addition, we are entitled to a Suspension if payment under this Agreement owed by you is overdue by more than thirty (30) days or the Suspension is required by law, a court decision, or a request from a governmental body. We will inform you at our earliest convenience about any Suspension.
- B.14.2 To the extent we make use of our Suspension right, you remain liable for: (i) all fees you have incurred until the date of Suspension; and (ii) all agreed fees for use of any ZEISS Partner Services not suspended. We will restore access to the suspended ZEISS Partner Services, as applicable, to the extent a reason for our Suspension no longer exists. Our Suspension right is in addition to and restoration is without prejudice to our rights and remedies.

## **B.15 TERM AND TERMINATION**

- B.15.1 In deviation from Section A.18.5, if, subject to the terms and conditions of this Agreement, you have licensed to Other Customers one or more Partner Modules under respective Partner Module Agreements and, as of the effective date of the termination of this Agreement pursuant to Section A.17.5, the one (1)-year minimum period provided in Schedule 3 has not yet expired for all relevant Partner Module Agreements, we will continue to grant you access to the ZEISS Partner Services, however, only to the extent this is necessary to enable you to perform your obligations under the relevant Partner Module Agreements during the respective 1-year minimum period. Once this minimum period for all relevant Partner Module Agreements has expired, Section A.18.5 applies without any further exceptions. As soon as either Party has given notice of termination, you are no longer permitted to conclude or amend any Partner Module Agreement, cf. Section B.5.8. The obligations set forth in this Section B.15.1 shall not apply to any Partner Module Agreement that you conclude or amend in violation of the foregoing restriction.
- B.15.2 Upon any termination by us for your breach of this Agreement, you shall pay to us as a compensation any Partner Base Fees for the remainder of the term after the effective date of termination that would have become payable without such termination. Upon any termination for cause by you, we will refund you any prepaid Partner Base Fees covering the remainder of the term after the effective date of termination, if any. In no event shall any termination relieve you of the obligation to pay any Partner Base Fees or Commission payable to us prior to the effective date of termination. Any further statutory rights to claim Commission that we may have shall remain unaffected.

**For Customer**

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Date

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Name, Position

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Signature

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Date

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Name, Position

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Signature

**For ZEISS**

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Date

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Name, Position

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Signature

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Date

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Name, Position

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Signature