

ZEISS Proactive Care Terms of Use

1. Scope

Carl Zeiss Limited and its Group have developed an online platform via which various forms of communication and evaluation of medical device data and content can be carried out remotely (the "**Platform**").

Carl Zeiss Limited ("**ZEISS**" "**We**" "**us**") provides customers with repair and maintenance services for medical equipment pursuant to OPTIME complete+ Service Contracts. Where "**Proactive Care**" is included in the Services under a Service Contract, the Services will include monitoring and remote diagnostic and predictive maintenance services. For this purpose, ZEISS will enable Customer with access to and use of the Platform subject to the terms and conditions set out in these Terms of Use (hereinafter referred to as the "**Service**").

Unless otherwise defined in these Terms of Use, capitalized terms shall have the meaning given to them in the Terms and Conditions for Carl Zeiss Limited Service Contracts.

2. Users

The users of the Platform are divided into different areas of use, which are as follows:

2.1 Medical facilities that own a medical device (clinics, hospitals)

- (a) Medical facilities are those that provide regular medical care to patients and generally offer this in a clinic, a hospital or private practice. There is no minimum size requirement for such a medical facility.
- (b) An activated ZEISS ID account is required to use the full range of functions of the Service.

2.2 Medical users

Every user who registers a ZEISS ID account is considered a ZEISS user. These are usually technical staff employed or contracted by the Customer. ZEISS has the right to validate any users who register for a ZEISS ID account.

3. General provisions for the Service

The following provisions apply to authorized users of the Service:

- 3.1 Communication with ZEISS is only possible via the Platform or by email at customerpartner.med.uk@zeiss.com. ZEISS does not offer a telephone contact option for the use of the Platform.
- 3.2 The services available via the Platform are expressly neither a medical service nor the brokering of medical or other services.
- 3.3 The Customer is solely responsible for enabling, maintaining and guaranteeing an uninterrupted connection to the internet (24 hours a day, 7 days a week, except for regular maintenance windows at the Customer's premises). During maintenance phases, the obligation to continue provisioning is waived by the Customer. The Customer accepts that no remote support can be provided during interruptions.

4. Rights of use and regulations

- 4.1 During the Service Term, we hereby grant authorized users the non-exclusive, non-transferable, non-sublicensable and revocable right and licence to use the Service.
- 4.2 Unless otherwise approved by us in writing, only the persons listed under 2.2 may be designated as authorized users.

- 4.3 Unless otherwise authorized in writing, you may not grant any person other than an authorized user access to the Service.
- 4.4 Authorized users will be granted access to the Service via an account with the access data (e.g. logins and passwords) defined by the authorized user during the registration process and stored by us.
- 4.5 The Customer undertakes that each authorized user will:
- (a) Store their access data carefully and protect it from unauthorized access;
 - (b) Not gain access to the Service by any means other than the authorized user's account or other means permitted by us;
 - (c) Bypass or disclose the authentication or security of the account, the Service or any host, network or account related thereto; and
 - (d) Not use a false identity for the purpose of misleading others or gaining unlawful or unauthorized access to their account or the Service.
 - (e) Follow password guidelines as issued by us from time to time. Passwords may not be used by more than one authorized user and may not be transferred or shared with anyone who is not an authorized user.
 - (f) Exit or log out of their account at the end of each usage session.
- 4.6 Customer and any authorized user are entirely responsible for maintaining the confidentiality and security of login credentials, and the Customer is solely responsible for any and all activities that occur under any account(s) to the extent such activities were authorized by the Customer and/or an authorized user or were not authorized by the Customer and/or an authorized user but could have been prevented by the exercise of due diligence by the Customer
- 4.7 Unless expressly agreed otherwise, we provide the Service and grant the Customer access to the latest version of the Service that we make generally available to customers. We continue to update and develop the technology, features and functionality of the Service and are under no obligation to maintain previous versions of the Service. Upon provision of a modified or new version of the Service, the Customer is no longer authorized to use previous versions.
- 4.8 We are authorized:
- (a) To make changes or updates to the Service (such as, without limitation, functionality, infrastructure, security, technical configurations, application features, etc.), provided, however, that such changes do not result in a material reduction of the features and functionality or the level of performance, security or availability of the Service; and
 - (b) Issue additional system requirements. We will notify the Customer of this at least 14 business days before the changes take effect by sending a written notice (where appropriate) or by notifying you directly through the Platform in such a way that the notice is displayed on log in. Such notice period will not apply if, in our reasonable judgment, we believe that changes to the Service are necessary to avoid:
 - (i) a threat to the security or functionality of the Service;
 - (ii) a risk that may adversely affect the Customer (or its affiliates), us or our affiliates, partners or third parties, including without limitation the risk of personal injury; and/or that may hold you, us, your or our affiliates, partners or third parties liable.

- 4.9 We may make changes to the Service we provide free of charge at any time at our sole discretion without giving reasons and may make the use any such changes to the Service by the Customer dependent on the use of modified or additional system requirements or subject to other restrictions. If appropriate, we will notify the Customer in advance of such changes. In addition, we may suspend such free services in whole or in part at any time in our reasonable discretion without cause.

We are entitled to engage subcontractors, although this does not alter our contractual obligations under these Terms of Use.

5. Availability of the Platform

- 5.1 During the Service Term and subject to the sections below, we will provide the Customer with access to the Service in compliance with the features and functionalities described in these Terms of Use.
- 5.2 We do not warrant that the Customer's use of the Service will be uninterrupted or error free, or that the Service and/or information obtained by the Customer through the Service will meet the Customer's requirements or that the Service (including the Platform) will be free from any vulnerabilities or viruses.
- 5.3 We will make the Service available during the Service Term, in each calendar month at the availability rate specified below. The demarcation point at which the availability of the Service is measured is the router outlet of the data center where the Service are hosted.
- 5.4 The availability of the Service is specified per calendar month as follows: $\geq 95,1\%$. However, this is not a guarantee, as the average availability generally depends on technical factors beyond the control of ZEISS.
- 5.5 We are not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Service may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 5.6 We will make reasonable efforts to perform scheduled maintenance during local server site hours when expected usage of the Platform is low. These times may be changed upon reasonable notice.

6. Use of the Service

- 6.1 The Customer shall:
- (a) Ensure its use of the Service does not pose a threat to the security or functionality of the Service and/or adversely affect us, our affiliates, partners or third parties;
 - (b) Before accessing and using the Service, take all reasonable precautions against security attacks on its system and to prevent viruses, Trojan horses or other programs that may damage software;
 - (c) Not interfere with or disrupt the integrity or performance of the Platform or other devices or networks connected to the Service and, in particular, not transmit any content that contains viruses, Trojan horses or other programs that may corrupt software;
 - (d) Not use the Service in any way that is likely to damage, disable, overburden, impair or compromise our systems or security or interfere with other users;

- (e) Review and comply with all applicable laws prior to and at all times during the use of the Service, including, without limitation, obtaining and maintaining, at its own expense, all necessary licenses and registrations;
 - (f) Not provide us with any content that would result in a violation of applicable law, intellectual property, trade secrets, data protection, professional secrecy, other third-party rights or restrictions on third parties, such as confidentiality obligations;
 - (g) Not use the Service for purposes other than those expressly permitted in these Terms of Use;
 - (h) Not translate, disassemble, decompile, reverse engineer or otherwise modify the software contained within the Service or attempt to discover the source code of any software contained on the Platform (except to the extent permitted or otherwise expressly authorized by applicable law); and
 - (i) Ensure its use of the Service (including use by any authorized users) does not expose us, our affiliates, partners or third parties to liability.
- 6.2 Customer shall inform us immediately:
- (a) If it becomes aware of any circumstances, and in particular incidents, which indicate that safety and/or compliance standards may not be met.
 - (b) About measures taken by authorities or court decisions that may hinder the use the Service;
 - (c) Any changes to its name or contact details; and
 - (d) If the Customer becomes aware of unauthorized access to its account or the Service.
- 6.3 The Customer is obliged to provide all information and data required under these Terms of Use truthfully and completely and to keep it up to date at all times (e.g. contact information).
- 6.4 Customer is solely responsible for the suitability, content, use and quality of any content uploaded to the Platform and the means by which it (or any authorized user) acquired that content.
- For example, the Customer is solely responsible for:
- (a) The creation and maintenance of independent backup copies of all third-party content; and
 - (b) All obligations to store or archive documents arising from applicable laws, professional regulations or company guidelines.
- 6.5 Customer hereby warrants and undertakes that all authorized users will be acting on its behalf and are capable of binding the Customer. Notwithstanding any additional responsibility under applicable law, Customer are solely responsible for ensuring that authorized users comply with these Terms of Use and applicable law.
- 6.6 Authorized users are Solely responsible for their account and the resulting data streams. ZEISS accepts not responsibility for checking the content of these data streams or deleting them before they are published on the Platform.

7. Hosting infrastructure resources

- 7.1 All content that is used in connection with the Service is hosted and operated on the infrastructure of ZEISS, its affiliates and/or subcontractors.

- 7.2 If necessary, we will provide the Customer with the ordered infrastructure resources in accordance with these Terms of Use.

8. Intellectual property

- 8.1 All right, title, interest and know-how in and to the Service, the content and all other information and any portion or enhancement thereof not expressly granted in these Terms of Use shall remain entirely with the respective party or its third-party business partners and/or licensors.
- 8.2 Customer grants us, our affiliates and business partners a worldwide, non-exclusive, transferable, sublicensable, royalty-free license to use, host, transmit, display, sublicense and reproduce any content provided by the Customer (including any authorized user) for the purpose of providing the Service in accordance these Terms of Use. This does not include health data processed via the Platform.

9. Exemption

- 9.1 If use of the Service is withdrawn by us due to infringement of third-party intellectual property right, we may (at our option) obtain for the Customer the right to continue to access and use the Service, or modify or replace the Service. If such remedies are not reasonably available, we may terminate provision of the Service in whole or in part.
- 9.2 If the Service or the platform is discontinued by ZEISS, the user has no right to compensation or other claims.

10. Export control

- 10.1 You are obliged to check before and at any time in connection with the use of the Service and other services and to ensure by appropriate measures that:
- (a) You shall comply with all applicable national and international export and (re-)export control laws, including all provisions on technical assistance and technology transfers, in particular those of the Federal Republic of Germany, the European Union and the United States of America;
 - (b) You will not violate any embargo imposed by the European Union, the United Nations or the United States of America;
 - (c) You will not use the Service or any other services in connection with armaments, nuclear technology or weapons if and to the extent such use is subject to prohibition or authorization, unless the required authorization is granted; and
 - (d) You will not make the Service available, directly or indirectly, to any third party that is on any United Nations, European Union or United States of America sanctioned party list regarding trade with the entities, persons and organizations listed therein.
- 10.2 If you transfer goods (hardware and/or software and/or technology as well as the corresponding documentation, regardless of the type of provision) through the use of the Service and other services managed by us, you will comply with all applicable national and international (re-) export control regulations, including but not limited to the regulations of the Federal Republic of Germany, the European Union and the United States of America. You will notify us in writing prior to any transfer of goods subject to restrictions and categorization based on the above regulations by indicating the relevant export list category or ECCN (Export Control Classification Number).

- 10.3 Upon our request, you will immediately provide us with all information necessary to carry out investigations in connection with (re-) export control regulations.
- 10.4 Section 14(i)- 1(iii) does not apply to you,
- (a) if you are deemed to be a party domiciled in the Federal Republic of Germany within the meaning of Section 2 (15) of the Foreign Trade and Payments Act, insofar as this would lead to a violation of Section 7 (7) of the Foreign Trade and Payments Act, or
 - (b) if any other anti-boycott law applies to you to the extent that it would result in a breach of any provision of that other anti-boycott law.
- 10.5 We are not obliged to fulfill our obligations in respect of the Service if this fulfillment is prevented by obstacles due to national or international foreign trade requirements, including embargoes or other sanctions.

11. Amendments

- 11.1 We reserve the right to update these Terms of Use at any time at our own discretion. In particular, changes in applicable law or updates and further developments of the Service may make it necessary to update these Terms of Use. We will inform you of an update by notifying you at least 14 days in advance and sending you the updated Terms of Use, e.g. by e-mail.
- 11.2 The updated Terms of Use will become binding on the parties after the expiry of the above notification period or on a later date specified in the notification, unless the Customer objects to the updates in writing before expiry of the notification period. In the event of receipt of any such objection, we may amend or terminate the provision of the Service.