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## FORUM SOFTWARE LICENSE AND MAINTENANCE TERMS AND CONDITIONS

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These *FORUM Software License and Maintenance Terms and Conditions* (“**Agreement**”) are applicable to any purchase order, quote, statement of work or other purchasing document or exhibit hereto (“**Schedule(s)**”) related to the FORUM clinical data management software including all Updates related thereto (“**Software**”), between Carl Zeiss Meditec, Inc. (“**Supplier**”) and the party(ies) listed on the applicable Schedule (“**Customer**”). Additionally, this Agreement is applicable to any Software related maintenance and support services (“**Maintenance Services**”) and other services that may include installation or professional services related to the Software (“**Professional Services**”).

### 1. License and Restrictions.

1.1. License Grant. During the Term of this Agreement, and provided that Customer complies with the restrictions set forth in subsection 1.2 (“**Restrictions**”) below, Supplier hereby grants to Customer a non-exclusive, non-transferable license (1) to use the Software in object code for Customer’s internal business purposes of storing, archiving, viewing Customer’s clinical data generated by ophthalmic instruments (“**Purpose**”), and (2) to make a reasonable number of copies for backup and archival purposes. Supplier authorizes any of Customer’s employees, consultants, and/or contractors to use the Software for the performance of their duties relating to the Purpose; provided that, such use shall be governed by Supplier’s procedures, including without limitation providing each user with a separate password and user name in order to utilize the Software. The Software is licensed to the Customer, and not sold.

1.2. Restrictions. Except as expressly authorized in this Agreement, (i) Customer will not copy or modify the Software, in whole or in part and (ii) Customer will not lease, lend or rent the Software, use the Software to provide service bureau, time sharing, rental, application services provider, software-as-a-service, hosting or other computer services to third parties, or otherwise make the functionality of the Software available to third parties. Customer acknowledges that the Software constitutes and contains certain intellectual property rights and trade secrets of Supplier and its licensors, and, in order to protect such trade secrets and other interests that Supplier and its licensors may have in the Software, Customer agrees not to disassemble, decompile or reverse engineer the Software nor permit any third party to do so, except to the extent such restrictions are prohibited by law.

1.3. Relocation and Transferability of License. Customer may freely transfer the Software embedded in any Supplier provided equipment to backup locations on any Customer site. Customer shall have the right to use the Software on any such equipment at the new location, provided that, Customer provides prior written notice to Supplier of the new site and the date of the relocation.

2. Delivery and Acceptance. Supplier will deliver the Software to Customer in the manner and timeframe described on the Schedule. Unless otherwise specified in the Schedule, the Software will be deemed accepted upon delivery. Unless otherwise specified in the Schedule, all Software will be shipped FCA ZEISS’s shipping points. Shipping and handling charges will be invoiced with shipment.

3. Professional Services. Supplier may provide Customer with Professional Services for or related to the Software as may be described in one or more mutually agreed to Schedules which shall contain items such as a description of the services, the services rate(s), and the services period. Customer shall reimburse Supplier for travel and per diem expenses incurred during on-site visits that are reasonable, necessary and pre-approved by Customer in writing for Supplier to perform its duties as specified in this Agreement. Supplier may enter into contractual arrangements with independent contractors or subcontractors (collectively referred to as “**Subcontractors**”) to perform or otherwise assist Supplier in providing the Professional Services or Maintenance Services, provided however, that Supplier will not be relieved of its obligations under this Agreement because of any act or failure to act by any such Subcontractor(s) and will be fully liable for all such acts and omissions of the Subcontractor(s).

### 4. Maintenance Services.

4.1. General Maintenance Services. Subject to the signing of a specific Schedule and payment of the applicable fees, Supplier will provide the Customer with certain Maintenance Services for the Software, including any corrections, fixes, modifications, improvements to the Software made generally available to all of Supplier’s customers (“**Updates**”). Supplier and Customer will mutually agree upon the best method for implementing the Updates, e.g., whether Supplier will assist Customer in implementing the Updates or whether Supplier will provide the Updates to Customer for Customer’s implementation.

4.2. Exclusions to Maintenance Services. Supplier will have no obligation of any kind to provide Maintenance Services of any kind for problems in the operation or performance of the Software to the extent caused by any of the following (each, a “**Customer-Generated Error**”): (a) non-Supplier software or hardware products or use of the Software in conjunction therewith; (b) modifications to the Software made by any party without Supplier’s express written authorization; (c) Customer’s use of the Software other than as authorized in this Agreement or as provided in the documentation; or (d) Customer’s use of other than the most current version of the Software or any error corrections or updates thereto provided by Supplier. If Supplier determines that it is necessary to perform Maintenance Services for a problem in the operation or performance of the Software that is caused by a Customer-Generated Error, then Supplier will notify Customer thereof as soon as Supplier is aware of such Customer-Generated Error and Supplier will have the right to invoice Customer at Supplier’s then-current published time and materials rates for all such Maintenance Services performed by Supplier.

5. Intellectual Property. Customer expressly acknowledges that, as between Supplier and Customer, Supplier owns all worldwide right, title and interest in and to the Software, and any copies thereof, including all worldwide intellectual property rights therein. Customer will not delete or in any manner alter the copyright, trademark, and other proprietary rights notices appearing on the Software as delivered to Customer. Customer will reproduce such notices on all copies it makes of the Software. Supplier shall retain for Supplier all right, title and interest in any intellectual property created when performing any Professional Services, Maintenance Services or creating any other deliverables under this Agreement.

### 6. Payment and Terms.

6.1. Fees and Payment. Customer will pay Supplier the applicable fees for all Software, Professional Services and Maintenance Services specified in an accepted Schedule. The Schedule may include one-time and recurring fees. Recurring fees will be invoiced annually quarterly or monthly, as or unless otherwise specified in the Schedule. All such fees and expenses will be due and payable within thirty (30) days after Customer’s receipt of Supplier’s invoice, unless otherwise specified in the Schedule. All past due amounts will incur interest at a rate of one and a half percent (1.5%) per month or the maximum rate permitted by law, whichever is less.

6.2. Payment Terms. Customer will pay all amounts due under this Agreement in U.S. currency, unless otherwise specified in the applicable Schedule. All fees payable under this Agreement are net amounts and are payable in full, without deduction for taxes or duties of any kind. Customer will be responsible for, and will promptly pay, all taxes and duties of any kind (including but not limited to sales, use and withholding taxes) associated with this Agreement or Customer’s receipt or use of the Software, Professional Services and Maintenance Services, except for taxes based on Supplier’s income.

For Supplier to extend tax-exemption status to Buyer, Buyer must provide a tax-exemption certificate valid in the jurisdiction of the installation location prior to acceptance of the order.

#### 7. Warranties and Disclaimer.

7.1. Warranty. Supplier warrants: (a) the Professional Services and Maintenance Service will be performed in a professional and workmanlike manner; and (b) that for period of ninety (90) days after the delivery date ("**Warranty Period**"), the Software will operate without a material deviation between the general release version of the Software and its documentation (as updated to the particular time in question through the Maintenance Services, not including any modifications as part of the Professional Services). Upon any failure of the Software to function in conformance with its documentation during the Warranty Period, Supplier shall promptly, and at no charge to Customer, repair or replace the Software.

7.2. DISCLAIMER OF WARRANTIES. EXCEPT AS PROVIDED HEREIN, SUPPLIER DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT, AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING, USAGE OR TRADE. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM SUPPLIER OR ELSEWHERE WILL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THIS AGREEMENT.

8. Indemnification. Supplier will defend Customer, Customer's officers, directors, from any allegations, claims, actions, suits or loss arising out of or relating to any claims of infringement of a third party's intellectual property rights arising from Customer's use or possession of the Software provided that Customer: (a) promptly notifies Supplier in writing of the claim, provided however that the failure to promptly notify Supplier shall not reduce or affect the obligations of Supplier with respect thereto, except to the extent that Supplier is prejudiced thereby; and (b) provides Supplier, at Supplier's expense, with all assistance, information and authority reasonably required for the defense and settlement of the claim. If Customer's use or possession of any part of the Software is or is likely to be enjoined as an infringement of any third party intellectual property rights, Supplier shall, at Supplier's option: (a) procure for Customer the right to continue to use the Software under the terms of this Agreement; or (b) replace or modify the Software so that it is non-infringing. Supplier shall not be required to indemnify and hold Customer harmless from any intellectual property right infringement claim that results from: (a) Software and/or services based on Customer's specifications; (b) modifications made to any of the Software and/or services without Supplier's prior written approval; (c) use of the Software and/or services by Customer other than in accordance with the provisions of this Agreement; (d) use of the Software and/or services by Customer with other hardware, software or any combination therefore other than in accordance with the provisions of this Agreement or other than as recommended by Supplier; or (e) infringement of any hardware or software not manufactured by Supplier or any of its affiliates. THE PROVISIONS OF THIS SECTION 8 SET FORTH SUPPLIER'S SOLE AND EXCLUSIVE OBLIGATIONS, AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES, WITH RESPECT TO INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS OF ANY KIND.

9. Limitation of Liability. NEITHER PARTY SHALL HAVE ANY LIABILITY IN REGARD TO CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL OR PUNITIVE DAMAGES, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL EITHER PARTY'S TOTAL LIABILITY IN CONNECTION WITH OR UNDER THIS AGREEMENT (WHETHER UNDER THE THEORIES OF BREACH OF CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER THEORY OF LAW) EXCEED THE FEES PAID BY CUSTOMER UNDER THIS AGREEMENT. The parties expressly acknowledge and agree that Supplier has set its prices and entered into this Agreement in reliance upon the limitations of liability specified herein, which allocate the risk between Customer and Supplier and form a basis of the bargain between the parties.

10. Confidential Information. Each party ("**Receiving Party**") acknowledges that, in the course of the performance of this Agreement, it may learn certain confidential and proprietary information about the other party's ("**Disclosing Party**") business and operations that has been identified as "confidential" or proprietary or that the receiving Party knows or has reason to know to be confidential, including, without limitation, patient data, information or personal health information ("**Confidential Information**"). Receiving Party agrees that it will keep all such information strictly confidential, and that it will not use it for any other purpose other than to exercise its rights and responsibilities under this Agreement, that it will not resell, transfer, or otherwise disclose such information to any third party without the Disclosing Party's specific, prior written consent. Receiving Party agrees that Disclosing Party is and shall remain the exclusive owner of Confidential Information disclosed hereunder and all patents, copyrights, trade secrets, trademarks and other intellectual property rights therein. Receiving Party shall, upon the request of Disclosing Party, return to Disclosing Party all drawings, documents and other tangible manifestations of Confidential Information received by Receiving Party pursuant to this Agreement (and all copies and reproductions thereof). The obligations in this provision shall remain in effect following termination of this Agreement. Specifically excluded from the Parties' confidentiality obligation is all information that: (a) was in the Receiving Party's legitimate possession prior to receipt of such information from Disclosing Party; (b) that can be proven to have been independently developed by personnel of Receiving Party; (c) was rightfully received from third parties and, to the best knowledge of Receiving Party, without an obligation of confidentiality to Disclosing Party; (d) is in the public domain through means other than by breach of this Agreement by Receiving Party; or (e) is disclosed pursuant to any judicial or government request, requirement or order, provided that the Receiving Party takes reasonable steps to provide the Disclosing Party the ability to contest such request, requirement or order. The parties acknowledge that Confidential Information has competitive value and that irreparable damage may result to the Disclosing Party if the Receiving Party discloses Confidential Information. The parties agree that legal proceedings at law or in equity, including injunctive relief, are appropriate in the event of a breach hereof without the duty of posting bond.

#### 11. Term and Termination.

11.1. Term and Termination. This Agreement shall become effective as of Effective Date and shall continue for one year ("**Initial Term**"), and shall automatically renew for successive one-year periods unless this Agreement is otherwise terminated pursuant to the terms in this Section. Either Party may elect not to renew this Agreement for subsequent one-year terms upon written notice to the other Party sixty (60) day prior to the end of the Initial Term or any such subsequent terms. If either party fails to comply with any of the material provisions of this Agreement, the other (non-breaching) party may terminate this Agreement upon thirty (30) days prior written notice to the breaching party unless within the notice period (or any extension of the notice period), the breach is cured to the non-breaching party's satisfaction.

11.2. Effect of Termination. Upon termination of this Agreement by either party, Customer will discontinue further use of the Software and any licenses granted shall immediately terminate, and Customer will promptly return to Supplier or (at Supplier's request) will destroy all copies of the Software.

11.3. Survival. The following sections shall survive termination or expiration of this Agreement for any reason: 5 ("**Intellectual Property**"), 6 ("**Payment and Terms**"), 7.2, 8, 9, 10, 11.2, 11.3, and 12.

#### 12. Compliance.

12.1. Compliance with Laws. By entering into this Agreement, the parties specifically intend to comply with all applicable state and federal laws, rules and regulations, including (i) the personal services safe harbor of the federal anti-kickback statute (42 U.S.C. 1320a-7(b)) and in particular, that the services performed under the Agreement do not involve the counseling or promotion of a business arrangement or other activity that violates any state or federal law; (ii) the Limitation on Certain Physician Referrals, also referred to as the "Stark Law" (42 U.S.C. 1395nn) and (iii) federal and state privacy laws.

12.2. Access to Records. In accordance with Section 952 of the Omnibus Reconciliation Act of 1980, which amended Section 1861(v)(1) of the Social Security Act, and the regulations promulgated thereunder, so that the costs of services furnished under this Agreement by Company can be included for Medicare reimbursement purposes, Supplier will make available to the Secretary of Health and Human Services and the Comptroller General of the United States shall, upon written request, have access to such books, documents and records of Supplier necessary to verify the nature and extent of the costs

of the services provided by Supplier. Access will be granted during the term of this Agreement until the expiration of four (4) years after the services being provided hereunder are furnished. Access will also be granted to any books, documents or records related to this Agreement between Supplier and organizations related to Supplier; provided, however, that such access shall be limited to books, documents and records on an as needed basis.

12.3. HIPAA. Supplier acknowledges that Customer is a Covered Entity and Supplier is a Business Associate for purposes of the Health Insurance Portability and Accountability Act of 1996 and the related regulations, as they may be amended from time to time (“HIPAA”). Accordingly the parties agree to comply with the terms and conditions of the Business Associate Contract attached as Exhibit A and incorporated by this reference.

12.4. Discount Disclosure. All rebates and other discounts provided under this Agreement are intended to comply with the Anti-Kickback Statute, 42 U.S.C. § 1320a-7b(b). To the extent required by 42 C.F.R. § 1001.952(h) (the Anti-Kickback Statute safe harbor regulations) or other applicable laws or regulations, the Customer shall fully and accurately reflect in cost reports or other submissions to federal healthcare programs all discounts provided under this Agreement and, upon request by the Secretary of the U. S. Department of Health and Human Services or a state agency, shall make available information provided to the Buyer by ZEISS concerning the discounts.

12.5. Compliance Related Changes. The parties recognize that the law and regulations may change or may be clarified, and that terms of this Agreement may need to be revised, on advice of counsel, in order to remain in compliance with such changes or clarifications, and the parties agree to negotiate in good faith revisions to the term or terms that cause the potential or actual violation or noncompliance. In the event the parties are unable to agree to new or modified terms as required to bring the entire Agreement into compliance, either party may terminate this Agreement on thirty (30) days written notice to the other party, or earlier if necessary to prevent noncompliance with a deadline or effective date.

### 13. General Terms.

13.1. Choice of Law; Jurisdiction. This Agreement shall be governed by New York law and controlling United States federal law, without regard to the choice or conflict of laws provisions of any jurisdiction, and any disputes, actions, claims or causes of action arising out of or in connection with this Agreement. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sales of Goods, the application of which is expressly excluded.

13.2. Export Control. Customer agrees to comply fully with all relevant export laws and regulations of the United States (“**Export Laws**”) to ensure that neither the Software, nor any direct product thereof are: (a) exported or re-exported directly or indirectly in violation of Export Laws; or (b) used for any purposes prohibited by the Export Laws, including but not limited to nuclear, chemical, or biological weapons proliferation.

13.3. Relationship of the Parties. No joint venture, partnership, employment, or agency relationship exists between Customer and Supplier as a result of this Agreement or use of the Software or any related Professional Services or Maintenance Service.

13.4. Waiver. The failure of either party to enforce any right or provision in this Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by the party in writing.

13.5. Non Solicitation. Neither party shall directly solicit for employment the other party’s personnel involved with this Agreement for one (1) year from the last date Professional Services are performed except with approval in writing from an authorized officer of the solicited party. This section does not limit any employee from answering general job postings.

13.6. Severability. If for any reason a court of competent jurisdiction finds any provision of this Agreement invalid or unenforceable, that provision of the Agreement will be enforced to the maximum extent permissible and the other provisions of this Agreement will remain in full force and effect.

13.7. Assignment. Customer may not assign its rights and obligations under this Agreement in full or in part by operation of law or otherwise, without ZEISS’s prior written consent. ZEISS may freely assign this Agreement.

13.8. Force Majeure. Neither party will be responsible for any failure or delay in its performance under this Agreement due to causes beyond its reasonable control, including, but not limited to, labor disputes, strikes, lockouts, shortages of or inability to obtain labor, energy, raw materials or supplies, war, terrorism, riot, acts of God or governmental action.

13.9. Notices. All notices or other communications required or permitted to be given under this Agreement shall be in writing (unless otherwise specifically provided herein) and delivered to the address listed on the applicable Schedule or as otherwise specified by a party.

13.10. Conflicting Terms. Unless otherwise mutually agreed in writing, in the event that any terms and/or conditions in this Agreement conflict or are inconsistent with any terms and/or conditions in any attached and incorporated agreement, including but not limited to Customer’s standard terms and conditions of sale, amendments, addenda, exhibits and statements of work, then the terms and conditions of this Agreement shall control.

13.11. Entire Agreement. This Agreement, together with any applicable Schedules, represents the entire agreement between Supplier and Customer with respect to the Software and the services, obligations and responsibilities to be performed by the parties hereunder. Supplier and Customer agree that all other agreements, proposals, purchase orders, representations and other understandings concerning the subject matter of this Agreement, whether oral or written, between the parties are superseded in their entirety by this Agreement. No alterations or modifications of this Agreement will be valid unless made in writing and signed by the parties. No attachment, supplement or exhibit to this Agreement shall be valid unless initiated by an authorized signatory of Supplier and Customer.