

End User Licence Agreement



FOR SMARTSEM™ SOFTWARE

In consideration of your purchase of the ZEISS Scanning Electron Microscope ("SEM") Carl Zeiss Microscopy Limited of Zeiss House, 1030 Cambourne Business Park, Cambourne, Cambridge, CB23 6DW, United Kingdom ("ZEISS") hereby grants you a non-exclusive licence in connection with the SmartSEM software, associated media, printed materials and electronic documentation (together called "the Product" which expression shall include all new releases, modifications and additions supplied by ZEISS from time to time) and supplied with the SEM subject to the terms and conditions of this Agreement. By installing or using the Product you agree to be bound by the terms of this Agreement.

1. LICENCE

1.1 The Product shall remain the property of ZEISS; this licence is not a sale of the Product. The Product is protected by copyright trademark and international copyright, as well as other intellectual property rights. You must keep the Product confidential and not allow copies of the Product or any part of it to be made available or distributed to any third party. You may make back-up copies of the software for archival purposes only.

1.2 ZEISS grants to you a non-exclusive non-transferable licence (without the right to sub-license) to use the Product only on the specific SEM with which the Product is supplied and the Product may not be installed on any other SEM, computer or other equipment without the prior written consent of ZEISS.

1.3 The Product contains optional functionality which is only available to the user by the installation of the appropriate licence key to be purchased separately.

1.4 Some of the Product options include third party components which are subject to specific further Licence Agreements as specified in the relevant associated documentation.

1.5 You may not amend, modify, decompile or disassemble any of the software comprised in the Product (save only to the extent that this may not be prohibited under any relevant statute, such as The Copyright Designs & Patents Act 1988 as amended).

1.6 ZEISS warrants that the software comprised in the Product will perform substantially in accordance with its accompanying documentation (provided that such software is properly used in accordance with instructions issued from time to time by ZEISS) until the expiry of the warranty period applicable to the SEM with which the Product is supplied or 90 days after the date of supply of the Product to you, whichever is the later. If ZEISS is notified by you of any significant error in the software during the appropriate warranty period, it will correct any such error within a reasonable time or (at its option) refund the price of the software. This clause sets out the sole warranty given by ZEISS and is in place of all warranties, conditions or other terms expressed or implied by statute or otherwise, all of which are hereby excluded to the fullest extent permitted by law. This clause also sets out the sole remedies for any breach of such warranty.

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1.7 In particular ZEISS does not warrant that the operation of the software comprised in the Product will be uninterrupted or error-free or that all errors in such software can be corrected. In no event will ZEISS be liable to you for any loss or damage of any kind (except personal injury or death resulting from ZEISS' negligence) including loss of profits or other consequential loss arising from the use of or inability to use such software or from errors or deficiencies in it that are caused by negligence or otherwise except as expressly provided in this Agreement.

2. TERMINATION

You may terminate this Agreement at any time by de-installing the Product and destroying all copies of the Product and of all related documentation and materials. This Agreement will also terminate when your ownership of the SEM for which the Product was supplied ceases or on your breach of any of the terms of this Agreement. You agree upon termination to de-install the Product and destroy all copies of the Product and of all related documentation and materials. You undertake to confirm in writing that you have complied with your obligations under this clause if requested by ZEISS.

Your obligation to keep the Product confidential under clause 1 above shall survive termination of this Agreement.

3. LAW

This Agreement, which constitutes the entire agreement between you and ZEISS relating to the Product, is governed by English law and is subject to the jurisdiction of the English Courts.