

Perpetual License Terms and Conditions for Software

These Perpetual License Terms and Conditions for Software (“**Terms**”) are between exocad America, Inc. (“**exocad**”) and the entity identified on the Order (defined below) (“**Distributor**”). exocad GmbH, exocad’s Affiliate, has developed certain non-medical device software. These Terms govern the use and distribution of exocad’s software (defined below) by Distributor.

1. Definitions

1.1. “**Activation**” means the activation of the exocad Software by the License Server.

1.2. “**Affiliate**” means, with respect to a Party, any entity which controls, is controlled by or is under common control with that Party. For purposes of this definition, “control” means direct or indirect ownership of fifty percent (50%) or more of the shares of the entity entitled to vote in the election of directors (or, in the case of an entity that is not a corporation, for the election of the corresponding managing authority). For purposes of Distributor, Affiliate may also mean a third party approved as a Sub-distributor by the Distributor and exocad.

1.3. “**Agreement**” means these Terms (including its annexes) and all Orders.

1.4. “**Base Software**” means the exocad DentalCAD software product which is the base functionality required to run Modules.

1.5. “**Combined Product**” means a product offering consisting of the exocad Software and other hardware components manufactured by Distributor (e.g., a system consisting of scanner, CAD software and milling machine or other hardware).

1.6. “**Confidential Information**” means non-public information which has been marked as confidential or which based on the nature of the information or circumstances surrounding disclosure reasonably should be considered confidential. Confidential Information includes technical information about the exocad Software (e.g., documentation and other materials) and business information such as product plans, strategies, promotions, and End User.

1.7. “**End User**” means a purchaser of the exocad Software and/or the Combined Product that is authorized by Distributor pursuant to and in accordance with this Agreement to use the exocad Software alone or as part of the Combined Product.

1.8. “**exocad Software**” means the software developed by exocad GmbH, including the Base Software, any Modules or other software components specified in an Order, and any Updates or Upgrades thereto provided by exocad during the Term. The exocad Software may include software licensed from third parties (“**Third Party Software**”). Third Party Software is subject to the license terms and disclaimers provided by the licensor.

1.9. “**Intellectual Property Rights**” or “**IPR**” means all intellectual property rights throughout the world, whether existing under intellectual property, unfair competition or trade secret laws, or under statute or at common law or equity, including but not limited to: (a) copyrights, trade secrets, trademarks, trade names, patents, inventions, designs, logos and trade dress, “moral rights,” mask works, rights of personality, publicity or privacy, and any other intellectual property and proprietary rights; and (b) any registration, application or right to apply for any of the rights referred to in this clause; and (c) any and all renewals, extensions and restorations thereof, now or hereafter in force and effect.

1.10. “**Intended Purpose**” means the intended use of the exocad Software as specified in the materials and documentation produced by exocad regarding the exocad Software, including the user manual, reference guides, installation manuals, the Performance Specifications, and other written documentation pertaining to the installation, use, features, or performance of the exocad Software.

1.11. “**License Server**” means a server operated by or on behalf of exocad to activate and administer licenses for the exocad Software.

1.12. “**Module**” means an add-on module providing additional information, features, or functionality to the Base Software (e.g., tooth libraries; specific designs for implants, bars, and night guards; functionality to import data from other products; etc.) which is offered by exocad for an additional fee.

1.13. “**Order**” means any order signed by the Parties that references these Terms and describes the exocad Software to be provided by exocad and the fees that will be paid by Distributor to exocad.

1.14. “**Party**” means either exocad or Distributor, “**Parties**” means both exocad and Distributor.

1.15. “**Performance Specifications**” means the most current version of the documents maintained by exocad that include a technical description of the exocad Software.

1.16. “**Price List**” is the document published and amended by exocad from time to time to its Distributors that shows the binding standard prices for the Contract Software and Upgrade Contracts.

1.17. “**Reinstatement Fee**” means a fee that will be paid by Distributor to exocad for an Upgrade Contract purchased more than 90 days after the expiration of the previous Upgrade Contract.

1.18. “**Serial Number**” means the unique number stored on each USB Dongle or other licensing mechanism.

1.19. “**Term**” means the period commencing on the effective date specified in the first Order executed by the Parties or, if a date is not specified in the Order, the later of the two signature dates on the Order and continuing until this Agreement is expired or is terminated as set forth herein.

1.20. “**Territory**” means the U.S., Canada, and Mexico and the territories and possessions of each and any other country where the exocad Software has been approved, authorized, and/or cleared for marketing, sale and distribution by applicable regulatory authorities and specified in an Order or mutually agreed to by the Parties in writing.

1.21. “**Update**” means an alteration, addition, or revision (including to fix any error or defect) that does not include major additions to the functionality to the Base Software and is not made available by exocad as a separate product (e.g., a Module).

1.22. “**Upgrade**” means a new version of or patch to the Base Software provided by exocad that includes major additions to the functionality of the Base Software.

1.23. **“Upgrade Contract”** means an agreement for obtaining an Upgrade. An Upgrade Contract is effective when purchasing an initial license of the Base Software or by a separate written agreement for an already activated version of the Base Software without an active Upgrade Contract.

1.24. **“USB Dongle”** means a USB hardware device required in order to use the exocad Software and which must be connected to the computer on which the exocad Software is installed in order for the exocad Software to operate. The USB Dongle contains a Serial Number to identify each software license, which is displayed by the exocad Software during the Activation.

2. Distributor Commitments

2.1. **Marketing and Distribution.** Throughout the Term, Distributor will use best efforts promote, market, sub-license, and distribute the exocad Software and to manufacture and distribute Combined Product to its customers and potential customers of the exocad Software. Distributor will place an Order with exocad for each license to the Base Software and each Module granted to an End User. Base Software licenses (whether stand-alone or in a Combined Product) are granted with a one-year term that automatically renews for successive one-year terms as described further in these Terms, and Modules licenses will also be granted with a one-year term that automatically renews for successive one-year terms. The license term for each Module will run concurrently with the license for the Base Software. Distributor may grant a license to use Upgrades, at no charge, during the initial one-year term of the Base Software and, if applicable, any activated Modules. Upon the anniversary of the initial one-year license term of the Base Software, the Upgrade Contract will automatically renew for additional one-year terms and Distributor will be required to pay the annual license fee for each Upgrade Contract in accordance with Section 14 unless the Upgrade Contract is terminated within 30 days of the anniversary. Distributor may enter into an Upgrade Contract for each existing license of the Base Software (including Modules, if applicable) at any time during the term of the existing license for the Base Software (including Modules, if applicable). Distributor may choose the initial term of the Upgrade Contract which must be a multiple of 12 months. The Upgrade Contract will automatically renew for additional one-year terms and Distributor will be required to pay the annual license fee for each Upgrade Contract in accordance with Section 14 unless the Upgrade Contract is terminated within 30 days of the anniversary. During the term of such Upgrade Contract, Distributor may provide all available Upgrades to an End User.

2.2. **Combined Products.** If Distributor promotes, markets, sub-licenses, or distributes Combined Products, it will be solely responsible for testing, validating, and ensuring the implementation, integration, combination, and interaction of any and all individual components of the Combined Products. Distributor represents and warrants that the Combined Products do not and will not infringe, misappropriate, or otherwise violate any Intellectual Property Right or other right of any person, or violate any applicable laws. A Combined Product shall not change the Intended Purpose of the exocad Software.

2.3. **License Terms.** Distributor or Distributor Affiliate may only provide and sub-license the exocad Software,
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Upgrades, and Modules to End User under an agreement that incorporates the terms of the EULA as provided for in Annex 1 and on terms and conditions consistent with these Terms, including but not limited to: (i) use of the exocad Software is solely for the Intended Purpose, in accordance with the Performance Specifications, and for the End User’s internal business purposes; (ii) compliance with the applicable provisions for the Activation, installation, operation and use of the exocad Software including retaining records related to those activities; (iii) strictly following all servicing (including necessary Updates (if any)) per exocad instructions, utilizing only trusted service agents sufficiently qualified and skilled to conduct the servicing; (iv) provide trainings to staff on the usage and servicing of the exocad Software, where required; and (v) promptly notify Distributor about any material malfunctions, errors or defects of the exocad Software. Distributor and Distributor Affiliates must enter into written agreements with terms that are no less protective than the terms of this Agreement with its sub-distributors, etc. until each party of the distribution chain is bound to terms and conditions consistent with these Terms. Upon request from exocad, Distributor will maintain and provide to exocad records documenting each sub-license in the distribution chain including but not limited to serial number and installation and servicing details.

2.4. **Compliance with Law.** Distributor will at all times and its own expense (a) conduct its activities under the Agreement in strict compliance with all applicable laws, rules, regulations and governmental orders now or hereafter in effect in the Territory (including regarding the sale, marketing, advertising, and distribution of the exocad Software; (b) pay any and all fees and other charges required by all laws, rules, regulations and orders; and (c) have and maintain in full force and effect any and all licenses, permits, authorizations, registrations, and qualifications from all governmental ministries and agencies, within the Territory, to the extent necessary or appropriate to perform its obligations hereunder. Distributor must immediately provide exocad written notice of any changes in any applicable law, rule, regulation or governmental order, which comes to Distributor's attention, which may affect either Party's performance of its obligations hereunder.

2.5. **Trademarks; Labelling; Notices.** Distributor may promote, market, sub-license, and distribute the exocad Software using Distributor’s own name and trademarks. Distributor may only use the exocad names and trademarks to refer to the exocad Software (including when incorporated into a Combined Product) and all use must be in compliance with the exocad’s trademark and corporate design specifications. Distributor must not use the names and trademarks provided by exocad to refer to the Combined Products as a whole, except as “powered by exocad” in conjunction with the Distributors trademark. If any use of exocad’s names or trademarks by Distributor is determined inappropriate by exocad (in its reasonable discretion), exocad may notify Distributor and Distributor will refrain from such use and all future use of the name and trademark will be subject to exocad’s prior written approval. Distributor will not remove, obscure, or alter exocad’s copyright notices, trademarks, or other proprietary

rights notices on the exocad Software or any related materials provided.

3. **Ownership.** exocad and its licensor(s) are and will remain the sole and exclusive owners of all right, title, and interest in and to the exocad Software and all Intellectual Property Rights in the exocad Software and all improvements, configurations, and derivatives works. Except for the express license set forth in Section 4 of these Terms, exocad reserves all right, title, and interest in and to the exocad Software and all Intellectual Property Rights and no other licenses are granted by implication, estoppel or otherwise.

4. **License.** Upon payment of all fees set forth in the applicable Orders and conditioned upon Distributor's full compliance with these Terms, exocad hereby grants to Distributor a non-exclusive, non-transferable, non-assignable, revocable, limited license during the Term to (a) install and use the exocad Software for internal testing and to provide configuration, integration, training, and support services to End User and (b) market, distribute, and sub-license the exocad Software to End User in the Territory as a stand-alone product or as part of a Combined Product solely to install and use the exocad Software for the Intended Purpose in accordance with the Performance Specifications and only for the End User's internal business operations. Distributor's right to grant sublicenses to End User is limited to granting individual "per-seat" software license for use on one computer at a time (not as concurrent user license). Distributor acknowledges and agrees that the License Server will, upon expiration of an End User's initial license, automatically extend the term for each End User license for an additional 12 months. Distributor will be required to pay the annual Upgrade Contract fee for each license extended by the License Server, unless Distributor notifies exocad of its intent not to enter into an Upgrade Contract and deactivates the End User in exocad's online system at least 4 weeks prior to the expiration of the End User's license. Such deactivation will be by electronic means. Upon deactivation on the License Server, an End User will be able to continue to use the exocad Software without an Upgrade Contract; however, the End User may not receive any Upgrades from exocad or the Distributor unless and until an Upgrade Contract is purchased. Distributor acknowledges and agrees that in order for each End User to install and use the exocad Software on a particular computer, the Activation and use of a USB Dongle or Access Credentials is required and Distributor must and will not permit any third party (including End User) to circumvent or otherwise interfere with the Activation process or any other access controls provided in or with the exocad Software.

5. **Restrictions.**

5.1. End User are not permitted to and Distributor will prohibit End User from distributing, reselling, sub-licensing, transferring, using, or making the exocad Software available to or for the benefit of any third party including by acting as a service bureau or a provider of a time sharing service (e.g., with remote access per team-viewer, as desktop-as-a-service, etc.).

5.2. Distributor shall not (and shall not assist or allow any third party) to use the Contract Software to develop products and services that compete with exocad's products or services. This includes using any output data generated, or designs created by using the Contract Software, for training

machine learning algorithms to analyze or generate tooth shapes and structures.

5.3. Distributor shall not (and shall not permit any End User to) do or attempt any of the following: (a) circumvent mandatory usage of the USB Dongle or other licensing mechanism; (b) impair, circumvent, or tamper with any USB Dongle or other licensing mechanism protection (e.g., by making copies of the USB Dongle or other licensing mechanism, or any license data); (c) use the exocad Software on any computer other than the authorized computer(s); (d) use the exocad Software in any manner that is not described in this Agreement, does not comply with all applicable laws, or infringes the Intellectual Property Rights of exocad or any third party; (e) make any modifications, alterations, translations, derivative works of, or enhancements to the exocad Software, including creating new applications or new material functionality not provided by the exocad Software or contemplated by the relevant Performance Specifications; (f) block, circumvent, impair, or tamper with the connection between the computer where the exocad Software is running and the License Server; or (g) decompile, disassemble, decode, reverse-engineer or otherwise attempt to reconstruct or discover the source code or underlying programming sequences, methodologies and techniques of the exocad Software.

5.4. Distributor acknowledges and agrees that an End User's license will automatically terminate (without notice) if End User engages in any activity that is prohibited by this Agreement and that exocad may disable the End User's license key and cause the exocad Software to cease operating.

6. **Affiliates.** Distributor may permit its Affiliates to exercise its rights under this Agreement provided that each Distributor Affiliate is bound to a written agreement with Distributor (a) that contains terms which are consistent with these Terms, and (b) permits exocad or an appointed auditor under a written confidentiality agreement to audit the Distributor Affiliates' activities. Distributor will be liable to exocad for all actions and inactions of its Affiliates, employees, and any third party that it authorizes to access or use the exocad Software under this Agreement. Any failure by any Affiliate, employee or third party (other than End User) to comply with any of the terms of this Agreement in connection with its access or use of the exocad Software under this Agreement will be deemed a breach by Distributor.

7. **Testing.** Prior to licensing or distributing the exocad Software to any End User, Distributor must fully test the scope and functionality of the exocad Software and for all Updates, Upgrades, and Modules.

8. **Installation and Configuration.** Distributor and End User are responsible for installation and configuration of the exocad Software and may only configure the exocad Software to the extent necessary for a specific End User implementation permitted by and in accordance with the Intended Purpose and the Performance Specifications.

9. **Provision of exocad Software.** exocad will permit Distributor to download a copy of the exocad Software in object code form only and will provide Distributor the information regarding the location of the download site.

10. **Activation.** Before using the exocad Software with its USB Dongle or other licensing mechanism on an End User's

computer, Activation is required. Activation only enables use of the exocad Software on the specific computer with the USB Dongle or other licensing mechanism connected while Activation is performed. Activation requires an internet connection in order for the exocad Software on the computer to connect with the License Server. If a connection between the License Server and the End User's computer cannot be established for technical reasons, Distributor may perform the Activation manually on the End User's computer using activation codes provided by exocad. exocad reserves the right to refuse the Activation of the exocad Software on more than five computers of a single End User licensee (person or entity) until Distributor provides exocad with sufficient explanation and documentation to support the request for additional Activations. Distributor acknowledges and agrees that changing the hardware, the operating system, or user accounts in the operating system of any computer that has completed Activation may re-trigger the Activation process and that the exocad Software regularly requires license validation in order to continue to operate following Activation; therefore, the exocad Software will cease operation if the computer does not have a USB Dongle or other licensing mechanism, or is not able to connect with the License Server.

11. **USB Dongles.** In order for the exocad Software to operate, a USB Dongle or other licensing mechanism must be attached to the computer upon which the exocad Software is installed at all times. Distributor must order USB Dongles and other licensing mechanisms from exocad for each software license granted by Distributor and deliver the USB Dongle or other licensing mechanism to the End User with the exocad Software. exocad will ship USB Dongles and other licensing mechanisms to Distributor in accordance with the terms of the Order. exocad will replace broken or defective USB Dongles and other licensing mechanisms subject to a service fee; provided the defective USB Dongle or other licensing mechanism is returned to exocad, the End User has a valid license to the exocad Software, and Distributor provides exocad with the Serial Number of the defective USB Dongle or other licensing mechanism in writing (email is sufficient). exocad will not replace lost USB Dongles or other licensing mechanisms. exocad has the right to deactivate any USB Dongle or other licensing mechanism if Distributor notifies exocad that it is lost.

12. **Cloud-Based Access.** Access to cloud-based services from within the exocad Software may provide the End User with more powerful features, added functionality and other benefits not available to an end user who does not use the cloud-based services. Access to those cloud-based services is available to the End User who has purchased a subscription or flex license seat for exocad Software or who has an Upgrade Contract. These cloud-based services shall also be subject to this Agreement unless exocad provides separate, additional terms and conditions specifically applying to the cloud-based services.

13. **Training and Advice.** Exocad may offer technical advice and product training at its then-current hourly and daily rates if advice or training is needed for the installation, operation, or use of the exocad Software. Exocad is not required to provide training or advice, unless and until the

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Parties execute an Order specify the scope of training and amount to be paid by Distributor.

14. **Fees.** Distributor must pay exocad all fees specified on the price list for all exocad Software ordered, including license fees for the exocad Software as well as fees for the USB Dongles and other licensing mechanisms. For the avoidance of doubt, the license period starts upon the Activation of each license. For any Module purchased by an End User, the license fee for the first year of the license for the Module will be due at the end of the month when the Module was purchased by Distributor. The license fee for the Upgrade Contract will be calculated as the sum of Upgrade fees for the Base Software and Modules (if any) that have been activated prior to the Order for the Upgrade Contract. A Reinstatement Fee will be charged for an Upgrade Contract purchased after the expiration of the previous Upgrade Contract. exocad may adjust its price list during the Term upon four weeks' prior notice to Distributor.

15. **Taxes.** All fees paid under the Agreement are exclusive of all taxes, duties, fees, and other government mandated charges, including sales, use, property, services, employment, value added taxes, excise or similar tax imposed by any federal, state or local governmental entity, or any import duties or other fees or charges that may be imposed upon or in relation to exocad Software ("**Taxes**"). Distributor is responsible for and will pay all applicable Taxes, except for exocad's corporate taxes.

16. **Invoicing and Payment.** exocad may invoice Distributor for all exocad Software, USB Dongles and other licensing mechanisms upon execution of each Order. Distributor will pay all invoices within 30 days of the date of the invoice. exocad may charge interest at a rate of the lesser of 1.5% per month or the highest amount allowed by applicable law on any invoice not paid when due.

17. **Maintenance.** Unless otherwise agreed, during the Term, exocad will provide Distributor with exocad Software Updates to be provided to End User with a valid license to the exocad Software at no charge. If exocad publishes any Updates to remedy a critical error or defect in the exocad Software or which are otherwise required to use the exocad Software securely, exocad will notify Distributor and Distributor must immediately install it on any of its own computers that are used to operate the exocad Software and distribute the Update to its End User with a notice that continued use of the exocad Software without the Update is unsupported and at End User's sole risk, responsibility, and liability. For all other Updates published by exocad, Distributor shall make such Updates available without undue delay to the End User entitled to receive them.

18. **Disputes and Indemnification.**

18.1. If any third party asserts a claim or dispute against an End User or Distributor with respect to the exocad Software ("**Software Claim**"), Distributor will immediately notify exocad in writing and exocad will have the right (but not the obligation) to defend and settle it at exocad's discretion and expense. If exocad is notified of or reasonably believes a third party may assert a Software Claim, exocad may also at its option and expense, either (a) procure for Distributor the right to continue using the affected exocad Software; (b) replace or modify the exocad Software; (c) reduce the scope of

functionality of the exocad Software to avoid the Software Claim; or (d) terminate Distributor's right to use the exocad Software. Distributor agrees that even if Distributor's rights to the exocad Software are amended, restricted, or annulled due to a Software Claim, Distributor's obligation to pay exocad fees owed under this Agreement will not be affected unless the Agreement is terminated.

18.2. Distributor will defend, indemnify, and hold harmless exocad and its Affiliates and their respective officers and directors from any claims, liabilities, costs, expenses, settlements, damages, and losses (including reasonable attorneys' fees) suffered or incurred directly or indirectly by exocad arising out of or in connection with (a) Distributor's marketing, distribution, or use of the exocad Software, including any use with any in combination with components not provided by exocad or that is not permitted by this Agreement (e.g., beyond the Intended Purpose) and any failure of Distributor to comply with any and all applicable laws, regulations, and statutes, excluding any claim brought by a third party alleging that the exocad Software when used in the form provided by exocad and in compliance with this Agreement infringes the Intellectual Property Rights of a third party; (b) the Combined Products; (b) any modification of the exocad Software (including packaging or labeling information) made by or content provided by any person or entity other than exocad; (c) failure to use the most current version of the exocad Software, including all Updates; (d) any representation, warranty or agreement, express or implied, made by Distributor to any third party regarding the exocad Software, unless such representation, warranty or agreement has been authorized by exocad in writing; or (e) exocad's incorporation or use of any designs, features or materials in the exocad Software at the request of Distributor. This Section states exocad's sole and exclusive liability to Distributor and Distributor's exclusive remedy for any Software Claim.

18.3. **Remedies.** If Distributor or any End User fails to comply with this Agreement or the EULA, exocad may deactivate all copies of the exocad Software and/or the USB Dongle or Access Credentials of the Distributor (if the Distributor is not in compliance) or the End User that is not in compliance.

19. **Compliance Requirements.**

19.1. Distributor will comply with all applicable export, import and regulatory requirements for the distribution, marketing and advertising for the exocad Software, whether alone or as part of the Combined Product, in the Territory and will bear all respective costs.

19.2. Distributor must promptly (no more than ten days) inform exocad as soon as Distributor becomes aware of any malfunctions, errors, failures, improper or inadequate designs, user errors, or defects of the exocad Software could result in any materially adverse effects. Distributor will be responsible for installing and implementing the exocad Software in its Combined Products and/or End User's computers and, where applicable, ensuring that applicable data security provisions are complied with and personal health information can be stored and processed in compliance with applicable laws (e.g., under

the US Health Insurance Portability and Accountability Act), where applicable.

20. **Warranty.** exocad warrants to Distributor that the exocad Software will operate in accordance with the Performance Specifications for a period of one year from delivery of the exocad Software to Distributor ("**Warranty Period**"). Notwithstanding the warranty in the preceding sentence, exocad is not liable for and may seek reimbursement from Distributor for any costs expended by exocad in the investigation and correction of any claims arising out of related to (a) use of the exocad Software other than for the Intended Purpose or in violation of this Agreement; (b) continued use of the exocad Software after receiving written notice by exocad that it should cease to do so or without installing all Updates provided by exocad; (c) combination of the exocad Software with other software or hardware product, program or data; (d) modification or alteration of the exocad Software by anyone other than exocad (including deleting files, using unofficial or incorrectly applied configuration options, adding or removing incompatible library files, or using workarounds which will circumvent license restrictions); or (e) any defect which was or should have been identified in the course of Distributor's testing of the exocad Software and was not reported to exocad. Distributor must immediately notify exocad in writing of any breach of warranty which becomes apparent during the Warranty Period as soon as it is discovered. Distributor hereby waives any and all claim for breach of warranty not submitted to exocad in during the Warranty Period. Distributor's sole and exclusive remedy and exocad's entire liability for breach of warranty is limited to exocad, at its option, (i) repairing or replacing the defective exocad Software or (ii) refunding to Distributor any applicable portion of the license fees paid by Distributor for the defective exocad Software. Distributor will provide exocad any and all information and reasonable support requested by exocad in order for exocad to assess the defect and repair or replace the exocad Software.

21. **DISCLAIMER OF WARRANTIES.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW AND EXCEPT AS SET FORTH IN SECTION 20, THE EXOCAD SOFTWARE, USB DONGLES AND OTHER LICENSING MECHANISMS ARE PROVIDED "AS IS," AS AVAILABLE, AND WITH ALL FAULTS, AND EXOCAD AND ITS AFFILIATES HEREBY DISCLAIM ANY AND ALL WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED, OR STATUTORY, AND EXOCAD SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, AND NON-INFRINGEMENT. IN PARTICULAR, EXOCAD MAKES NO WARRANTIES OF ANY KIND THAT THE EXOCAD SOFTWARE WILL OPERATE WITH ANY OTHER PRODUCT (INCLUDING A COMBINED PRODUCT), MEET DISTRIBUTOR'S OR END USER'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, OR BE SECURE, ACCURATE, COMPLETE, COMPATIBLE, FREE OF HARMFUL CODE, OR ERROR FREE. NOTWITHSTANDING ANY OTHER PROVISION OF THESE TERMS, DISTRIBUTOR'S USE OF EACH ITEM OF THIRD-PARTY SOFTWARE IS

GOVERNED BY ITS APPLICABLE TERMS AND CONDITIONS, AND EXOCAD ASSUMES NO RESPONSIBILITY FOR, AND MAKES NO WARRANTY WITH RESPECT TO, THIRD PARTY SOFTWARE.

22. **LIMITATIONS ON LIABILITY.** EXCEPT FOR AMOUNTS OWED TO THIRD PARTIES UNDER SECTION 18 OR BREACH OF SECTION 25 IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF BUSINESS, LOSS OF PROFITS, LOSS OF DATA OR INFORMATION, BUSINESS INTERRUPTION, AND THE LIKE) FOR ANY CLAIM ARISING UNDER THIS AGREEMENT, REGARDLESS OF THE CAUSE OF ACTION AND EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW AND NOTWITHSTANDING ANY DIRECT DAMAGES THAT DISTRIBUTOR MIGHT INCUR FOR ANY REASON WHATSOEVER, THE ENTIRE LIABILITY OF EXOCAD IN CONTRACT, TORT (INCLUDING NEGLIGENCE OR BREACH OF STATUTORY DUTY), MISREPRESENTATION, RESTITUTION, OR OTHERWISE (WHETHER AT LAW OR IN EQUITY) ARISING OUT OF OR IN CONNECTION WITH THE CONTRACT SOFTWARE OR THE AGREEMENT WILL IN NO CASE EXCEED THE FEES PAID BY DISTRIBUTOR TO EXOCAD DURING THE 12-MONTH PERIOD PRECEDING THE DATE ON WHICH THE CLAIM AROSE. ALL CLAIMS AGAINST EXOCAD ARE TIME-BARRED AFTER TWO YEARS AFTER THEY ARISE.

23. **Contributory Negligence of Distributor.** exocad may raise any and all objections for contributory negligence of Distributor.

24. **Force Majeure.** exocad will not be liable for any delay or default in its performance of any obligation under the Agreement caused directly or indirectly by an act or omission of Distributor, End User, fire, flood, act of God, acts of government, an act or omission of civil or military authority of a state or nation, strike, lockout or other labor problem, inability to secure, delay in securing or shortage of, labor, materials, supplies, transportation or energy, failures of subcontractors or suppliers, or by war, riot, embargo or civil disturbance, breakdown, or destruction of plant or equipment arising from any cause whatsoever, or any cause or causes beyond exocad's reasonable control (collectively, "Force Majeure Events").

25. **Confidentiality.** During the Term, either Party may receive or have access to Confidential Information of the other Party. The Parties will keep each other's Confidential Information strictly confidential and are bound to strict secrecy vis-à-vis third parties regarding Confidential Information of the other Party. Confidential Information may be used by the receiving Party only as needed in connection with performance of its obligations under the Agreement, and only by those employees of the receiving party or third parties who have a need to know the information to perform obligations under this Agreement and have entered into a written agreement with terms that are no less protective than the terms of this Agreement. The receiving Party will protect the Confidential
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Information of the disclosing Party by using the same degree of care (but not less than a reasonable degree of care) to prevent the unauthorized use, dissemination, or publication, as the receiving Party uses to protect its own similar Confidential Information. If a Party is legally required to disclose Confidential Information to a third party or official authorities, it must inform the other Party in writing immediately and provide the disclosing Party the opportunity to seek a protective order or equivalent). Confidential Information does not include information which is: (a) already known by the receiving Party without obligation of confidentiality prior to disclosure; (b) publicly available through no fault of the receiving Party; (c) rightfully received from a third party without a duty of confidentiality; (d) independently developed by the receiving Party prior to or independent of the disclosure. A receiving Party may also use or disclose Confidential Information of the disclosing Party's with the disclosing Party's prior written approval. The burden of proof lies with the Party pleading for the exemption of the confidentiality obligation.

26. **Data Protection; Data Collection and Usage.** Distributor will abide by all applicable statutory data protection provisions. This means, among other things, it will adhere to the principle of data economy, comply with statutory data security standards, only use personal data for the specified purpose and delete personal data once the specified purpose has ceased to exist. Personal data will only be collected, processed, and used to the extent that it is necessary to the performance of this Agreement. If Distributor becomes aware of a data protection breach in connection with this Agreement, it will notify exocad immediately. As between the Parties, exocad may collect (from Distributor and directly from End User), use, and share:

(a) with exocad's affiliates and contractors: (i) where applicable, data related to medical device safety issues; (ii) software licensing data required to track piracy and illegal use of the contract software; (iii) software usage data, including cloud-based software and/or library access; (iv) anonymized case data, including 3D data files and intermediate data (in compliance with E.U. and U.S. applicable regulations);

(b) with exocad's affiliates and Distributor(s), unless specifically prohibited by applicable local laws or regulations: (i) license serial number, installation details, online access information (e.g., IP addresses, PC hardware identification, driver and software versions and signatures), and other customized installation details of each sub-license; and (ii) End User, Registered Owner, and/or Subscriber legal entity name and address/e-mail (obtained by exocad, for example, through mandatory online registration by the End User as a prerequisite to use the licensed software).

27. **Assistance and Cooperation.** Distributor acknowledges and agrees that exocad has a fundamental interest in detecting and preventing exocad product piracy, the use and/or distribution of pirated exocad products and any other forms of unlawful use and/or distribution of the exocad Software. If requested by exocad, Distributor will: (a) assist and cooperate with exocad to investigate any exocad product piracy, the use and/or distribution of pirated exocad products and/or any other unlawful use and/or distribution of the exocad Software (Distributor shall ensure that it is legally entitled to

share potential personal data for this purpose with exocad); (b) regularly obtain End User consent to share End User personal data with exocad. Distributor will, upon request, provide relevant information on its licensee, End User, and Affiliates, and cause such licensee, End User and Affiliates to assist and cooperate in any such investigation. Distributor's unreasonable delay in providing, or failure to provide, any such information, assistance or cooperation shall be deemed a material breach of these Terms. Distributor will further allow exocad to use a third party mutually agreed upon by the Parties to conduct onsite and/or offsite inspections of Distributor's business, operations, books and records, procedures and practices that relate to Distributor's performance under and compliance with the Agreement. exocad will be permitted to inspect during the Term and for the longer of two years after the expiration or termination or as long as Distributor retains Confidential Information, copies of the exocad Software, or other material of exocad. Inspections will be conducted with reasonable prior notice, during business hours, for a reasonable duration, and at exocad's expense, no more than once per year. Distributor will bind its Distributor Affiliates and End User to contractual clauses substantially similar to this Section.

28. **Term.** The Agreement is effective on the execution by the Parties of the first Order referencing these Terms and it will remain in force for an initial period of two years, unless otherwise agreed or terminated in accordance with the provisions of this Agreement. The Agreement will be extended automatically by subsequent one (1) year extension periods unless it is terminated by either Party or by both Parties upon three (3) months' prior notice to the end of the initial or current extension period.

29. **Termination Rights.** Each Party may terminate the Agreement if the other Party materially breaches and does not cure the breach within 30 days after being notified of the breach by the other Party in writing. No cure period is required if (a) cure is impossible; (b) the Party in breach indicates in writing that it refuses to perform its obligations under the Agreement as required; or (c) other special circumstances have arisen which, once both parties agree, justify an immediate termination. This does not apply to Distributor's obligation to pay the license fees. exocad may terminate this Agreement immediately upon written notice to Distributor if Distributor: (i) makes an assignment in violation of Section 34; (ii) ceases or threatens to cease to carry on its business, liquidates or dissolves its business, or disposes of a substantial portion of its assets; (iii) becomes insolvent or makes an assignment for the benefit of creditors, or fails generally to pay its debts as they become due or otherwise is likely to become insolvent; or (iv) voluntarily or involuntarily becomes the subject of any proceeding relating to bankruptcy, insolvency, receivership, liquidation, or other similar proceeding. exocad may terminate this Agreement, for any or no reason, upon providing sixty (60) days' prior written notice to Distributor.

30. **Effects of Termination and Expiration.** Upon termination (other than for a breach by End User of the EULA) or expiration, existing End User sub-licenses granted by Distributor in accordance with the terms of this Agreement will remain in force for the license term. The provisions of these Terms will survive termination and expiration only to the extent

necessary to enable Distributor to fulfill its obligations towards the respective End User and to comply with the regulatory requirements section. For avoidance of doubt, Distributor is not permitted to enter into new sub-licenses or extend existing sub-licenses. Distributor is also required to immediately cease using and distributing the exocad Software, must permanently delete all copies of the exocad Software and return all USB Dongles and other licensing mechanisms in its possession. Distributor acknowledges and agrees that exocad may direct any End User that contacts exocad regarding transfer of its exocad Software license to another distributor and may take technical measures to affect the transfer of the maintenance of the license. exocad may also re-allocate a USB Dongle or other licensing mechanism ordered by Distributor to another distribution partner of exocad enabling the respective End User to order additional Modules or extend the current sub-license term via another distribution partner. Upon termination or expiration, both Parties will within 30 days return to the other Party without exception all data, information and documents in its possession which are attributable to the other Party (including all Confidential Information). The Parties will agree in advance on a suitable format for the transfer of the data. Each Party will after return irreversibly delete the data attributable to the other Party from its systems. Data protection regulations and statutory data retention obligations remain unaffected. If the Agreement was terminated by Distributor, then the return obligations in this Section will be extended to 30 days after the last End User sub-license granted by Distributor has expired to the extent that certain data, information and documents, copies of the exocad Software, or USB Dongles or other licensing mechanisms are required to fulfill Distributor's obligations under the End User sub-licenses.

31. **Contacts.** Each Party will nominate one person to act as the point of contact for the other Party in connection with the Agreement. This person will be authorized to make binding statements and to receive statements made by the other Party. All notices required to be provided under this Agreement must be transmitted to the other Party at the addresses stated in the Order (Contact Information) either by registered mail return receipt requested, internationally recognized courier, or by confirmed fax.

32. **Relationship.** The relationship of the Parties is that of independent contractors and nothing herein will be construed to create a partnership, joint venture, franchise, employment, or agency relationship between the Parties. Distributor will have no authority to enter into agreements of any kind on behalf of exocad and will not have the power or authority to bind or obligate exocad in any manner to any third party.

33. **Construction.** If any part of the Agreement is held to be illegal, invalid, or unenforceable, that part will be enforced to the fullest extent permissible to effect the Parties' intent, and the remainder will continue in full force. All choices by exocad under the Agreement (no matter how described) are to be made in its sole discretion, unless stated otherwise. Any list of examples following "including" or "e.g.," is illustrative and not exhaustive, unless qualified by terms like "only" or "solely." Unless the context of the Agreement clearly requires otherwise, references to the plural include the singular. All captions are intended solely for the Parties' convenience, and none will

affect the meaning of any provision. All references to "written," "in writing," or other words of similar import refer to a non-electronic, paper document only, except where electronic mail communication is expressly authorized

34. **Assignment.** Distributor may not assign this Agreement in whole or in part or delegate any part hereunder, without exocad's prior written consent. Any attempt to assign the Agreement or delegate any rights hereunder other than in accordance with this provision is null and void.

35. **Waiver.** The waiver of any particular breach or default or any delay in exercising any rights is not a waiver of any subsequent breach or default, and no waiver is effective unless in writing and signed by the waiving Party.

36. **Governing law.** The Agreement will be governed by and construed in accordance with the laws of the State of New York. The UN Convention on Contracts for the International Sale of Goods will not apply to the Agreement. The Parties to the Agreement agree to jurisdiction and venue in the state and federal courts located in New York City, New York. The Parties each waive their respective rights to a trial by jury of any claim or cause of action based upon or arising out of or related to the Agreement, in any action, proceeding, or other litigation of any type brought by a Party against the other Party, whether with respect to contract claims, tort claims, or otherwise. This waiver applies to any subsequent amendments, renewals, supplements, or modifications to the Agreement. Nothing contained in this Section will limit or delay the right of either Party to seek injunctive relief from a court of competent jurisdiction.

37. **Export Compliance.**

(a) The software exocad makes available, and derivatives thereof, may be subject to export laws and regulations of the United States and other jurisdictions.

(b) Each Party represents that it is not named on any U.S. government denied-party list. Distributor will not: (i) provide or otherwise permit End User or others to access or use the exocad Software in a U.S.-embargoed country or in violation of any E.U. or U.S. export law or regulation; or (ii) provide the exocad Software to users located in, or further resale to parties

located in, the following countries/territories: Crimea region of Ukraine, Cuba, Iran, North Korea, Sudan, South Sudan, and Syria. exocad may amend this list of countries/territories from time to time based on regulatory, compliance, or other concerns.. In such cases, exocad will provide Distributor with an updated list, which may have entries specific to certain products and Modules, and shall apply immediately after being provided. exocad cannot provide services, including software Activation and/or technical support, to any users located in such specified countries/territories.

(c) Distributor's failure to comply with these requirements will be considered a material breach of these Terms.

38. **Anti-Bribery Laws Compliance.** Distributor will comply with all applicable commercial and public anti-bribery laws, including the U.S. Foreign Corrupt Practices Act of 1977 and the U.K. Bribery Act of 2010, which prohibit direct or indirect corrupt offers of anything of value to anyone, including government officials (government employees, candidates for public office, and employees of government-owned or government-controlled companies, public international organizations and political parties) to obtain or keep business or to secure any other improper commercial advantage. Distributor will not make any payments to induce officials to perform routine functions they are otherwise required to perform.

39. **Entire Agreement.** The Agreement constitutes the entire agreement between the Parties with respect to the exocad Software and merges all prior and contemporaneous communications and proposals, whether electronic oral or written, between Parties with respect to the exocad Software. The Agreement may only be modified in writing. In the event of conflict or inconsistency between provisions of this Agreement and any Order or addenda to this Agreement, unless the terms of such Order or addendum expressly state otherwise, these Terms will prevail.

exocad America, Inc.
March 2021