

## Software End User License Agreement

This End User License Agreement, including the MSA which by this reference is incorporated herein (this “**Agreement**”), is a binding agreement between PatientNow, Inc. (“**Licensor**”) and the entity (including their employees, consultants, contractors, agents or third parties with which Licensee transacts business) identified in the MSA as the licensee of the Software (“**Licensee**”).

LICENSOR PROVIDES THE SOFTWARE SOLELY ON THE TERMS AND CONDITIONS SET FORTH IN THIS AGREEMENT AND ON THE CONDITION THAT LICENSEE ACCEPTS AND COMPLIES WITH THEM. BY CHECKING THE “ACCEPT” BOX ON THE ORDER FORM YOU (A) ACCEPT THIS AGREEMENT AND AGREE THAT LICENSEE IS LEGALLY BOUND BY ITS TERMS; AND (B) REPRESENT AND WARRANT THAT: (I) YOU ARE 18 YEARS OF AGE OR OLDER; AND (II) IF LICENSEE IS A CORPORATION, GOVERNMENTAL ORGANIZATION, OR OTHER LEGAL ENTITY, YOU HAVE THE RIGHT, POWER, AND AUTHORITY TO ENTER INTO THIS AGREEMENT ON BEHALF OF LICENSEE AND BIND LICENSEE TO ITS TERMS. IF LICENSEE DOES NOT AGREE TO THE TERMS OF THIS AGREEMENT, LICENSOR WILL NOT AND DOES NOT LICENSE THE SOFTWARE TO LICENSEE AND YOU MUST NOT DOWNLOAD OR INSTALL THE SOFTWARE OR DOCUMENTATION.

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, NO LICENSE IS GRANTED (WHETHER EXPRESSLY, BY IMPLICATION, OR OTHERWISE) UNDER THIS AGREEMENT, AND THIS AGREEMENT EXPRESSLY EXCLUDES ANY RIGHT, CONCERNING ANY SOFTWARE THAT LICENSEE DID NOT ACQUIRE LAWFULLY OR THAT IS NOT A LEGITIMATE, AUTHORIZED COPY OF LICENSOR’S SOFTWARE.

1. Definitions. For purposes of this Agreement, the following terms have the following meanings:

”**Authorized Users**” means solely those individuals authorized to use the Software pursuant to the license granted under this Agreement, and as set forth in the MSA and any associated Order Form.

”**Documentation**” means user manuals, technical manuals, and any other materials provided by Licensor, in printed, electronic, or other form, that describe the installation, operation, use, or technical specifications of the Software.

”**Intellectual Property Rights**” means any and all registered and unregistered rights granted, applied for, or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection, or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world.

”**Licensee**” has the meaning set forth in the preamble.

”**License Fees**” means the license fees, including all taxes thereon, paid [or required to be paid] by Licensee for the license granted under this Agreement.

”**Licensor**” has the meaning set forth in the preamble.

”**MSA**” means the Master Service Agreement and all associated Order Forms, as defined therein between Licensee and Licensor, for Licensee’s purchase of the license for the Software granted under this Agreement. Any capitalized term not defined in this Agreement shall have the same meaning as it is defined in the MSA.

”**Person**” means an individual, corporation, partnership, joint venture, limited liability company, governmental authority, unincorporated organization, trust, association, or other entity.

”**Software**” means the software programs for which Licensee is purchasing a license, as expressly set forth in the MSA and any associated Order Form.

”**Term**” has the meaning set forth in [Section 11](#).

”**Third Party**” means any Person other than Licensee or Licensor.

”**Update**” has the meaning set forth in [Section 7\(b\)](#).

2. License Grant and Scope. Subject to and conditioned upon Licensee’s payment of the License Fees and Licensee’s strict compliance with all terms and conditions set forth in this Agreement, Licensor hereby grants to Licensee a non-exclusive, non-transferable, non-sublicensable, limited license during the Term to use, solely by and through its Authorized Users, the Software and Documentation, solely as set forth in this [Section 2](#) and subject to all conditions and limitations set forth in [Section 4](#) or elsewhere in this Agreement. This license grants Licensee the right, exercisable solely by and through Licensee’s Authorized Users, to:

(a) Download and install in accordance with the MSA, this Agreement and the Documentation copies of the Software for internal use in Licensee’s business operations. In addition to the foregoing, Licensee has the right to make one copy of the Software solely for archival purposes and one copy of the Software solely for backup purposes, provided that Licensee shall not, and shall not allow any Person to, install or use any such copy other than in accordance with this Agreement. All copies of the Software made by the Licensee:

(i) will be the exclusive property of the Licensor;

(ii) will be subject to the terms and conditions of this Agreement; and

(iii) must include all trademark, copyright, patent, and other Intellectual Property Rights notices contained in the original.

(b) Use and run the Software as properly installed in accordance with the MSA, this Agreement and the Documentation, solely as set forth in the Documentation and solely for Licensee’s internal business purposes.

(c) Download and make copies of the Documentation and use such Documentation, solely in support of its licensed use of the Software in accordance herewith. All copies of the Documentation made by Licensee:

(i) will be the exclusive property of Licensor;

(ii) will be subject to the terms and conditions of this Agreement; and

(iii) must include all trademark, copyright, patent, and other Intellectual Property Rights notices contained in the original.

3. Use Restrictions. Licensee shall not, and shall require its Authorized Users not to, directly or indirectly:

(a) use (including make any copies of) the Software or Documentation beyond the scope of the license granted under [Section 2](#);

(b) provide any other Person, including any subcontractor, independent contractor, affiliate, or service provider of Licensee, with access to or use of the Software or Documentation;

(c) modify, translate, adapt, or otherwise create derivative works or improvements, whether or not patentable, of the Software or Documentation or any part thereof;

(d) combine the Software or any part thereof with, or incorporate the Software or any part thereof in, any other

programs;

(e) reverse engineer, disassemble, decompile, decode, or otherwise attempt to derive or gain access to the source code of the Software or any part thereof;

(f) remove, delete, alter, or obscure any trademarks or any copyright, trademark, patent, or other intellectual property or proprietary rights notices provided on or with the Software or Documentation, including any copy thereof;

(g) except as expressly set forth in [Section 2\(a\)](#) and [Section 2\(c\)](#), copy the Software or Documentation, in whole or in part;

(h) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available the Software, or any features or functionality of the Software, to any Third Party for any reason, whether or not over a network or on a hosted basis, including in connection with the internet or any web hosting, wide area network (WAN), virtual private network (VPN), virtualization, time-sharing, service bureau, software as a service, cloud, or other technology or service;

(i) use the Software or Documentation in, or in association with, the design, construction, maintenance, or operation of any hazardous environments or systems, including:

(i) power generation systems;

(ii) aircraft navigation or communication systems, air traffic control systems, or any other transport management systems;

(iii) safety-critical applications, including medical or life-support systems, vehicle operation applications, or any police, fire, or other safety response systems; and

(iv) military or aerospace applications, weapons systems, or environments;

(j) use the Software or Documentation in violation of any law, regulation, or rule; or

(k) use the Software or Documentation for purposes of competitive analysis of the Software, the development of a competing software product or service, or any other purpose that is to the Licensor's commercial disadvantage.

4. Responsibility for Use of Software. Licensee is responsible and liable for all uses of the Software and Documentation through access thereto provided by Licensee, directly or indirectly. Specifically, and without limiting the generality of the foregoing, Licensee is responsible and liable for all actions and failures to take required actions with respect to the Software and Documentation by its Authorized Users or by any other Person to whom Licensee or an Authorized User may provide access to or use of the Software and/or Documentation, whether such access or use is permitted by or in violation of this Agreement.

#### 5. Compliance Measures.

(a) The Software may contain/contains technological copy protection or other security features designed to prevent unauthorized use of the Software, including features to protect against any use of the Software that is prohibited under section 3. Licensee shall not, and shall not attempt to, remove, disable, circumvent, or otherwise create or implement any workaround to, any such copy protection or security features.

(b) Licensor may monitor Licensee's usage of the Software, and report to Licensee any noncompliance with the MSA or this Agreement. If Licensor discovers any noncompliance Licensor shall notify Licensee and:

(i) Licensee shall immediately remedy such noncompliance and provide Licensor with written notice thereof. Licensee shall provide Licensor with all access and assistance as Licensor requests to further evaluate and remedy such noncompliance.

(ii) If Licensee's use of the Software exceeds the number of Authorized Users permitted under the license, Licensor shall have the remedies set forth in [Section 5\(c\)](#).

(c) If any of the measures taken or implemented under this Section 5 determines that the Licensee's use of the Software exceeds or exceeded the use permitted by this Agreement then:

(i) Licensee shall, within 30 days following the date of Licensor's written notification thereof, pay to Licensor the retroactive License Fees for such excess use and, unless Licensor terminates this Agreement pursuant to [Section 5.1\(c\)\(iii\)](#), obtain and pay for a valid license to bring Licensee's use into compliance with this Agreement. In determining the Licensee Fee payable pursuant to the foregoing, (x) unless Licensee can demonstrate otherwise by documentary evidence, all excess use of the Software shall be deemed to have commenced on the commencement date of this Agreement or, if later, the completion date of any audit previously conducted by Licensor hereunder, and continued uninterrupted thereafter, and (y) the rates for such licenses shall be determined without regard to any discount to which Licensee may have been entitled had such use been properly licensed prior to its commencement (or deemed commencement).

(iii) If the use exceeds or exceeded the use permitted by this Agreement by more than [5%], Licensor shall also have the right to terminate this Agreement and the license granted hereunder, effective immediately upon written notice to Licensee.

Licensor's remedies set forth in this [Section 5\(c\)](#) are cumulative and are in addition to, and not in lieu of, all other remedies the Licensor may have at law or in equity, whether under this Agreement or otherwise.

## 6. Maintenance and Support.

(a) Subject to [Section 6\(c\)](#), the license granted hereunder entitles Licensee to the basic software maintenance and support services described in more detail in Section 3 of the MSA.

(b) If Licensee is in full compliance of the MSA and this agreement, Licensor, may in its sole discretion, provide updates, upgrades, bug fixes, patches, and other error corrections (collectively, "**Updates**") as Licensor makes generally available free of charge to all licensees of the Software then entitled to maintenance and support services. Licensor may develop and provide Updates in its sole discretion, and Licensee agrees that Licensor has no obligation to develop any Updates at all or for particular issues. Licensee further agrees that all Updates will be deemed Software, and related documentation will be deemed Documentation, all subject to all terms and conditions of this Agreement. Licensee acknowledges that Licensor may provide some or all Updates via download from a website designated by Licensor and that Licensee's receipt thereof will require an internet connection, which connection is Licensee's sole responsibility. Licensor has no obligation to provide Updates via any other media. Maintenance and support services do not include any new version or new release of the Software that Licensor may issue as a separate or new product, and Licensor may determine whether any issuance qualifies as a new version, new release, or Update in its sole discretion.

(c) Licensor reserves the right to condition the provision of maintenance and support services, including all or any Updates on criteria as determined by Licensor. Licensor has no obligation to provide maintenance and support services, including Updates:

(i) for any but the most current version or release of the Software;

(ii) for any copy of Software for which all previously issued Updates have not been installed;

(iii) if Licensee is in breach under this Agreement; or

(iv) for any Software that has been modified other than by or with the authorization of Licensor, or that is being used with any hardware, software, configuration, or operating system not specified in the Documentation.

7. Collection and Use of Information: Data Rights.

(a) Collection and Use of Information.

(i) Licensee acknowledges that Licensor may, directly or indirectly through the services of Third Parties, collect and store information regarding use of the Software and about equipment on which the Software is installed or through which it otherwise is accessed and used ("Use Data"), including without limitation through:

- (A) the provision of maintenance and support services; and
- (B) compliance measures included in the Software as described in Section 5.

(ii) Licensee agrees that the Licensor owns the Use Data and may utilize the Use Data for any purpose, including but not limited to:

- (A) improving the performance of the Software or developing Updates; and
- (B) verifying Licensee's compliance with the terms of this Agreement and enforcing the Licensor's rights, including all Intellectual Property Rights in and to the Software.

(b) Additional Rights.

(i) *Create Anonymous Data.* Licensee hereby grants Licensor a royalty-free license to create Anonymous Data from the Customer Data (as defined in the MSA). "Anonymous Data" means data that is not individually identifiable health information (as defined at 45 CFR§160.103) that have been created by masking and/or stripping personally identifying elements such that any PHI, and any data elements that could be used to identify an individual, have been removed consistent with the requirements of 45 CFR §164.514. Licensee agrees that, once created, Anonymous Data are not Customer Data.

(ii) *Use Anonymous Data.* Licensee hereby grants Licensor a perpetual, worldwide, irrevocable, royalty-free license, with the right to grant sublicenses, to (i) distribute and disclose Anonymous Data and use the Anonymous Data in any manner including research, development and the provision of services to others, (ii) prepare and distribute reports and analyses of Anonymous Data, and (iii) aggregate or otherwise bundle and sell the Anonymous Data to third parties.

8. Intellectual Property Rights. Licensee acknowledges and agrees that the Software and Documentation are provided under license, and not sold, to Licensee. Licensee does not acquire any ownership interest in the Software or Documentation under this Agreement, or any other rights thereto, other than to use the same in accordance with the license granted and subject to all terms, conditions, and restrictions under this Agreement. Licensor reserves and shall retain its entire right, title, and interest in and to the Software and all Intellectual Property Rights arising out of or relating to the Software, except as expressly granted to the Licensee in this Agreement. Licensee shall safeguard all Software (including all copies thereof) from infringement, misappropriation, theft, misuse, or unauthorized access. Licensee shall promptly notify Licensor if Licensee becomes aware of any infringement of the Licensor's Intellectual Property Rights in the Software and fully cooperate with Licensor, at Licensor's sole expense, in any legal action taken by Licensor to enforce its Intellectual Property Rights.

9. PAYMENT. All License Fees and Support Fees are payable in advance in the manner set forth in the MSA and are non-refundable, except as may be expressly set forth therein. Any renewal of the license or maintenance and support services hereunder shall not be effective until the fees for such renewal have been paid in full.

10. Term and Termination.

(a) This Agreement and the license granted hereunder shall remain in effect for the term set forth in the MSA or until earlier/until terminated as set forth therein (the "**Term**").

(b) Licensor may terminate this Agreement, effective upon written notice to Licensee, if Licensee, materially breaches the MSA or this Agreement and such breach: (i) is incapable of cure; or (ii) being capable of cure, remains uncured thirty (30) days after Licensor provides written notice thereof.

(c) Licensor may terminate this Agreement, effective immediately, if Licensee files, or has filed against it, a petition for voluntary or involuntary bankruptcy or pursuant to any other insolvency law, makes or seeks to make a general assignment for the benefit of its creditors or applies for, or consents to, the appointment of a trustee, receiver, or custodian for a substantial part of its property.

(d) Upon expiration or earlier termination of this Agreement, the license granted hereunder shall also terminate, and Licensee shall cease using and destroy all copies of the Software and Documentation. No expiration or termination shall affect Licensee's obligation to pay all Licensee Fees that may have become due before such expiration or termination, or entitle Licensee to any refund, in each case except as set forth in [Section 11.1\(c\)\(ii\)](#).

#### 11. Limited Warranties, Exclusive Remedy, and Disclaimer/Warranty Disclaimer.

(a) Licensor warrants that, for a period of ninety (90) days following the beginning of the subscription term set forth in the MSA:

(i) any media on which the Software is provided will be free of material damage and defects in materials and workmanship under normal use; and

(ii) the Software will substantially contain the functionality described in the Documentation, and when properly installed on a computer meeting the specifications set forth in, and operated in accordance with, the Documentation, will substantially perform in accordance therewith.

(b) The warranties set forth in [Section 11\(a\)\(i\)](#) and [Section 11\(a\)\(ii\)](#) will not apply and will become null and void if Licensee breaches any provision of this Agreement, or if Licensee, any Authorized User, or any other Person provided access to the Software by Licensee or any Authorized User, whether or not in violation of this Agreement:

(i) installs or uses the Software on or in connection with any hardware or software not specified in the Documentation;

(ii) modifies or damages the Software, or the media on which it is provided, including abnormal physical or electrical stress; or

(iii) misuses the Software, including any use of the Software other than as specified in the Documentation.

(c) If, during the period specified in [Section 11\(a\)](#), any Software covered by the warranty set forth in such Section fails to perform substantially in accordance with the Documentation, and such failure is not excluded from warranty pursuant to the [Section 11\(b\)](#), Licensor will, subject to Licensee's promptly notifying Licensor in writing of such failure, at its sole option, either:

(i) repair or replace the Software, provided that Licensee provides Licensor with all information Licensor requests to resolve the reported failure, including sufficient information to enable the Licensor to recreate such failure; or

(ii) refund the License Fees paid for such Software as provided for in the MSA, subject to Licensee's ceasing all use of and, if requested by Licensor, returning to Licensor all copies of the Software.

If Licensor repairs or replaces the Software, the warranty will continue to run from the initial date specified in the MSA and any associated Order Form, and not from Licensee's receipt of the repair or replacement. The remedies set forth in this [Section 11\(c\)](#) are Licensee's sole remedies and Licensor's sole liability under this Agreement.

(d) EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN [SECTION 11\(a\)](#), THE SOFTWARE AND

DOCUMENTATION ARE PROVIDED TO LICENSEE “AS IS” AND WITH ALL FAULTS AND DEFECTS WITHOUT WARRANTY OF ANY KIND. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, LICENSOR, ON ITS OWN BEHALF AND ON BEHALF OF ITS AFFILIATES AND ITS AND THEIR RESPECTIVE LICENSORS AND SERVICE PROVIDERS, EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, WITH RESPECT TO THE SOFTWARE AND DOCUMENTATION, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND WARRANTIES THAT MAY ARISE OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE, OR TRADE PRACTICE. WITHOUT LIMITATION TO THE FOREGOING, THE LICENSOR PROVIDES NO WARRANTY OR UNDERTAKING, AND MAKES NO REPRESENTATION OF ANY KIND THAT THE LICENSED SOFTWARE WILL MEET THE LICENSEE’S REQUIREMENTS, ACHIEVE ANY INTENDED RESULTS, BE COMPATIBLE, OR WORK WITH ANY OTHER SOFTWARE, APPLICATIONS, SYSTEMS, OR SERVICES, OPERATE WITHOUT INTERRUPTION, MEET ANY PERFORMANCE OR RELIABILITY STANDARDS OR BE ERROR FREE, OR THAT ANY ERRORS OR DEFECTS CAN OR WILL BE CORRECTED.

12. Limitation of Liability. TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW:

(a) IN NO EVENT WILL LICENSOR OR ITS AFFILIATES, OR ANY OF ITS OR THEIR RESPECTIVE LICENSORS OR SERVICE PROVIDERS, BE LIABLE TO LICENSEE OR ANY THIRD PARTY FOR ANY USE, INTERRUPTION, DELAY, OR INABILITY TO USE THE SOFTWARE; LOST REVENUES OR PROFITS; DELAYS, INTERRUPTION, OR LOSS OF SERVICES, BUSINESS, OR GOODWILL; LOSS OR CORRUPTION OF DATA; LOSS RESULTING FROM SYSTEM OR SYSTEM SERVICE FAILURE, MALFUNCTION, OR SHUTDOWN; FAILURE TO ACCURATELY TRANSFER, READ, OR TRANSMIT INFORMATION; FAILURE TO UPDATE OR PROVIDE CORRECT INFORMATION; SYSTEM INCOMPATIBILITY OR PROVISION OF INCORRECT COMPATIBILITY INFORMATION; OR BREACHES IN SYSTEM SECURITY; OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES, WHETHER ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT THE LICENSOR WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(b) IN NO EVENT WILL LICENSOR’S AND ITS AFFILIATES’, INCLUDING ANY OF ITS OR THEIR RESPECTIVE LICENSORS’ AND SERVICE PROVIDERS’, COLLECTIVE AGGREGATE LIABILITY UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ITS SUBJECT MATTER, UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, EXCEED THE TOTAL AMOUNT OF \$10,000.

(c) THE LIMITATIONS SET FORTH IN [SECTION 12\(a\)](#) AND [SECTION 12\(b\)](#) SHALL APPLY EVEN IF THE LICENSEE’S REMEDIES UNDER THIS AGREEMENT FAIL OF THEIR ESSENTIAL PURPOSE.

13. Export Regulation. The Software and Documentation may be subject to US export control laws, including the US Export Administration Act and its associated regulations. The Licensee shall not, directly or indirectly, export, re-export, or release the Software or Documentation to, or make the Software or Documentation accessible from, any jurisdiction or country to which export, re-export, or release is prohibited by law, rule, or regulation. The Licensee shall comply with all applicable federal laws, regulations, and rules, and complete all required undertakings (including obtaining any necessary export license or other governmental approval), prior to exporting, re-exporting, releasing, or otherwise making the Software or Documentation available outside the US.

14. US Government Rights. The Software is commercial computer software, as such term is defined in 48 C.F.R. §2.101. Accordingly, if the Licensee is the US Government or any contractor therefor, Licensee shall receive only those rights with respect to the Software and Documentation as are granted to all other end users under license, in accordance with (a) 48 C.F.R. §227.7201 through 48 C.F.R. §227.7204, with respect to the Department of Defense and their contractors, or (b) 48 C.F.R. §12.212, with respect to all other US Government licensees and their contractors.

15. Miscellaneous.

(a) All matters arising out of or relating to this Agreement shall be governed by and construed in accordance with the internal laws of the State of Colorado without giving effect to any choice or conflict of law provision or rule. Any legal suit, action, or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby shall be instituted in the federal courts of the United States of America for the district of Colorado or the courts of the State of Colorado in each case located in Douglas County Colorado, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such legal suit, action, or proceeding. Service of process, summons, notice, or other document by mail to such party's address set forth herein shall be effective service of process for any suit, action, or other proceeding brought in any such court.

(b) Licensor will not be responsible or liable to Licensee, or deemed in default or breach hereunder by reason of any failure or delay in the performance of its obligations hereunder where such failure or delay is due to strikes, labor disputes, civil disturbances, riot, rebellion, invasion, epidemic, hostilities, war, terrorist attack, embargo, natural disaster, acts of God, flood, fire, sabotage, fluctuations or non-availability of electrical power, heat, light, air conditioning, or Licensee equipment, loss and destruction of property, or any other circumstances or causes beyond Licensor's reasonable control.

(c) All notices, requests, consents, claims, demands, waivers, and other communications hereunder shall be in writing and shall be deemed to have been given: (i) when delivered by hand (with written confirmation of receipt); (ii) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (iii) on the date sent by facsimile [or email] (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient; or (iv) on the [third] day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the addresses set forth on the Order Form (or to such other address as may be designated by a party from time to time in accordance with this [Section 15\(c\)](#)).

(d) This Agreement, together with the MSA and all associated Order Forms, constitutes the sole and entire agreement between Licensee and Licensor with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter.

(e) Licensee shall not assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance, under this Agreement, in each case whether voluntarily, involuntarily, by operation of law or otherwise, without Licensor's prior written consent, which consent Licensor may give or withhold in its sole discretion. For purposes of the preceding sentence, and without limiting its generality, any merger, consolidation, or reorganization involving Licensee (regardless of whether Licensee is a surviving or disappearing entity) will be deemed to be a transfer of rights, obligations, or performance under this Agreement for which Licensor's prior written consent is required. No delegation or other transfer will relieve Licensee of any of its obligations or performance under this Agreement. Any purported assignment, delegation, or transfer in violation of this [Section 15\(e\)](#) is void. Licensor may freely assign or otherwise transfer all or any of its rights, or delegate or otherwise transfer all or any of its obligations or performance, under this Agreement without Licensee's consent. This Agreement is binding upon and inures to the benefit of the parties hereto and their respective permitted successors and assigns.

(f) This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer on any other Person any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.

(g) This Agreement may only be amended, modified, or supplemented by an agreement in writing signed by each party hereto. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.



(h) If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

(i) For purposes of this Agreement, (a) the words “include,” “includes,” and “including” shall be deemed to be followed by the words “without limitation”; (b) the word “or” is not exclusive; and (c) the words “herein,” “hereof,” “hereby,” “hereto,” and “hereunder” refer to this Agreement as a whole. Unless the context otherwise requires, references herein: (x) to Sections, Annexes, Schedules, and Exhibits refer to the Sections of, and Annexes, Schedules, and Exhibits attached to, this Agreement; (y) to an agreement, instrument, or other document means such agreement, instrument, or other document as amended, supplemented, and modified from time to time to the extent permitted by the provisions thereof and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The Order Form [and all Annexes, Schedules, and Exhibits] referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein.

(j) The headings in this Agreement are for reference only and do not affect the interpretation of this Agreement.