



MASTER CLIENT AGREEMENT

BY ENTERING INTO A CLIENT ORDER WITH ALLSCRIPTS HEALTHCARE, LLC (“**ALLSCRIPTS**”) WHICH REFERENCES THIS MASTER CLIENT AGREEMENT AT THE SITE (EACH, A “**CLIENT ORDER**”), YOU AND YOUR EMPLOYER (COLLECTIVELY, “**YOU**” OR THE “**CLIENT**”) AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT. THIS AGREEMENT IS INCORPORATED INTO THE TERMS OF THE CLIENT ORDER. YOU REPRESENT THAT YOU ARE ACTING ON BEHALF OF YOURSELF, AS AN INDIVIDUAL, AND YOUR EMPLOYER IN ENTERING INTO THE CLIENT ORDER.

Please read this Agreement carefully, and do not enter into the Client Order if You are unwilling or unable to be bound by this Agreement. The “Site” means <https://www.allscripts.com/legal/>. Allscripts and Client may also be referred to hereunder as a “**Party**” or collectively as “**Parties**”. Allscripts is entering into this Agreement on behalf of itself and the Allscripts Affiliates. “**Allscripts Affiliates**” means any entities that, now or in the future, are controlled by or under common control with Allscripts Healthcare, LLC, that license or sell products or services to Client hereunder during the Term.

1. Agreement. This Agreement consists of these terms and conditions, attached exhibits, Client Orders signed by the Parties, and other amendments signed by the parties (collectively, the “**Agreement**”). The specific Software (as defined further in [Section 3](#)) licensed to Client, any equipment (“**Equipment**”) and/or any Professional Services, Support Services, subscription services, and other services provided by Allscripts under this Agreement (collectively, “**Services**”) are set forth in Client Order(s).

2. Term. The term of this Agreement begins on the Effective Date and ends on the end-date of the last defined Term for Services or Software, unless this Agreement is terminated earlier under [Section 14](#) of this Agreement (the “**Term**”). The Terms for Services and licenses of Software are set forth in the applicable Client Order(s). If no term is set forth in a Client Order, the Term shall be a one (1) year initial term that automatically renews for additional one (1) year terms (each a renewal term), unless either Party provides the other written notice of non-renewal at least one (1) prior to the expiration of the then-current initial or renewal Term.

3. Client License.

3.1. License. Subject to Client’s compliance with the terms of this Agreement, Allscripts grants to Client a limited, non-exclusive, non-transferable right and license to use, and permit Authorized Users to use, in the United States (either at the Client’s site or by remote access), the executable version(s) of the generally-available Allscripts proprietary software and/or content (“**Allscripts Software**”) and the generally-available third party proprietary software and/or content (“**Third Party Software**”), specified as being licensed to Client in a Client Order (collectively, “**Software**”). Client’s license shall either be perpetual or a term license for the term of the applicable Client Order, provided that (a) unless otherwise set forth in a Client Order, all licenses to use Allscripts Software that is hosted by Client are perpetual and (b) all licenses to use Third Party Software and to use Allscripts Software that is made available through a cloud-based environment are term licenses for the term of the applicable Client Order. For clarification, Software that is made available through a cloud-based environment is considered “Software” under this Agreement. The term “Software” includes associated updates, content, and deliverables provided to Client, and Allscripts then-current user documentation (“**Documentation**”). Client may use the Software only (a) in accordance with the Documentation, (b) for Client’s own internal business purposes, and (c) for Client’s transactions for care delivered primarily from the applicable Facilities for which Software is licensed or in connection with such other usage-based metrics set forth in a Client Order. “**Facilities**” means facilities that are owned or leased and managed by Client. For some Software, including Software licensed by location, Facilities are listed on a Client Order. Client is responsible for each Authorized User’s compliance with this Agreement. “**Authorized Users**” means Client authorized persons and entities who support or facilitate Client’s business of providing medical care, including (a) Client’s employees and authorized agents, and (b) Client’s nurses, physicians, and technicians. Authorized Users may include third party consultants and other independent contractors who are not employees and are performing services for Client, provided that (i) such Authorized Users must sign a written agreement, prior to receiving access to the Software, with confidentiality protections and license restrictions substantially similar to those in this Agreement and (ii) such use is solely for the benefit of Client. Notwithstanding the foregoing, Authorized Users shall not include any competitors of Allscripts.

3.2. Features for Customization. The Software may include features designed to permit Authorized Users to customize certain content, templates, interfaces, or other software functions (collectively, “**Customization Features**”). Client shall comply with all applicable Documentation, and all limitations set forth in the Agreement for Customization Features. For clarification, the Customization Features and items created with the Customization Features are part of the Software.

3.3. Restrictions. Client shall implement and use reasonable access controls, passwords and other reasonable security measures when using the Software. Except as otherwise expressly permitted herein, Client shall not authorize or permit any third parties, other than Authorized Users, to access or use any Software. Client shall not, and shall not authorize any third party to: (a) make any copies of the Software except as expressly permitted by Allscripts in writing, in advance or make more than a reasonable number of copies of the Documentation for internal use only; (b) use any Software to provide any data processing, outsourcing, time sharing, service bureau, billing services, or any other services for the benefit of any third party; (c) attempt to decompile, disassemble, translate or reverse engineer any Software; (d) install any Software on any hardware or equipment that is not owned or leased by Client or that is located outside of the Facilities for which such Software is licensed, unless expressly authorized in writing, in advance by Allscripts; (e) grant any third party any right, title, interest, lien or option in or to any Software; (f) remove, alter, add, or obscure any intellectual property or other notice included in any Software; or (g) create any derivative works of any Software. Allscripts Software may be subject to additional solution specific terms which are set forth at <https://www.allscripts.com/legal/>. Third Party Software may include third party required terms for the license and/or use of Third Party Software provided hereunder and/or in a Client Order (“**EULAs**”) and/or other additional or modified restrictions applicable to use of such Third Party Software and all such provisions are incorporated herein. The EULAs shall govern in the event of any conflict with any other provisions with respect to the Third Party Software and are available for review at <https://www.allscripts.com/legal/>.

3.4. Replacement and Substitution of Software. Allscripts may, at its discretion, require Client to replace any Software for the balance of the then-applicable term with a reasonably comparable substitute on substantially similar terms, and Client shall promptly replace such Software. Before delivery, Allscripts may substitute ordered items with reasonably comparable alternatives on substantially similar terms. There shall be no increase in the associated license fees resulting from such replacement or substitution.

4. Equipment.

4.1 **Equipment.** Allscripts will use commercially reasonable efforts to cause Equipment to be delivered by the mutually agreed upon delivery dates. Title and risk of loss pass to Client upon shipment. Any specified shipping charges are estimates only and actual shipping costs shall be invoiced as incurred. Client shall be responsible for all costs of insurance, taxes, storage, and transportation. Unless otherwise specified in a Client Order, site preparation and installation of the Equipment shall be Client's responsibility. Acceptance of Equipment shall occur on the earlier of the tenth (10th) day after Allscripts completes installation (if Professional Services include installation) or the thirtieth (30th) day after delivery, unless (a) the Equipment, as delivered, materially fails to conform with manufacturer's published specifications, (b) Client provides Allscripts written notice of its rejection within such period, and (c) Client promptly makes the Equipment available for evaluation. Client's sole remedies for such rejected Equipment is that upon receipt of such Equipment from Client, Allscripts (or the manufacturer/vendor) shall either (i) repair or replace the Equipment, or (ii) cancel the purchase of such Equipment and refund the associated fees paid by Client.

4.2 **Security Interest.** By signing this Agreement, Client grants to Allscripts a first priority security interest in the Equipment which will continue until all of Client's obligations to Allscripts are fully paid and performed. Client agrees that Allscripts may file a Uniform Commercial Code financing statement or other such form on Client's behalf, as provided under the Uniform Commercial Code, to protect Allscripts interest in the Equipment. Client is obligated to pay for the Equipment even if Client has a claim against Allscripts.

4.3 **Warranty Assignment.** To the extent assignable by Allscripts to Client, Allscripts assigns to Client any third party warranties and indemnities for the Equipment (including any third party software loaded on the Equipment) and Third Party Software. Client's sole and exclusive remedy for the breach of any such third party obligations shall be against the applicable third party manufacturer or vendor, and not against Allscripts.

5. Professional Services.

5.1 **Professional Services.** Allscripts shall perform the implementation, consulting and/or training services specified in applicable Client Order(s) or statements of work ("**Professional Services**") purchased by Client in a professional and workmanlike manner. If Client requests emergency services that are not set forth in a Client Order, Allscripts may perform the services at its discretion and Client shall pay for such service at Allscripts' then-current rates. Unless otherwise specified in the Client Order, all Professional Services shall be performed in accordance with Allscripts' then-designated implementation methodology.

5.2 **Procedures.** Client shall follow Allscripts' then-current administrative procedures for enrollment, re-scheduling, or cancelation of training courses. Allscripts reserves the right to cancel or reschedule any training course due to minimal enrollment. Should Client postpone any previously agreed-upon implementation date for any reason (other than circumstances beyond its reasonable control) without providing Allscripts at least fourteen (14) days prior written notice, Allscripts may charge a fee of up to \$2500 per postponement.

5.3 **Interface(s).** Except as otherwise specified in a Client Order, Professional Services for interfaces will be provided remotely. Client shall comply with then-current connectivity requirements between the Allscripts Software and Client's third party systems.

6. **Support Services.** During the Term for Support, Allscripts shall provide support services for the current and one preceding generally available releases of the Software in accordance with this **Section 6**, as modified and/or supplemented by other exhibits and/or Client Orders ("**Support Services**"). The scope of Support Services provided is dependent on whether the Software is Allscripts Software or Third Party Software, as further described below.

6.1 **Error Corrections.** Allscripts shall provide to Client software modifications or workarounds to correct any Errors ("**Error Corrections**"). "**Error**" means any failure of the Allscripts Software, as implemented and used in accordance with this Agreement, to operate substantially in conformance with the material functional descriptions in the applicable Documentation. Client shall promptly advise Allscripts in writing of any known or reasonably suspected Error within thirty (30) days of discovery. Client shall provide all necessary access to Client's systems and personnel as needed for Allscripts to provide Support Services, including without limitation software, services, portals and firewalls.

6.2 **Enhancements and Releases.** With respect to Allscripts Software, Allscripts shall provide software updates, enhancements and releases made generally available by Allscripts to its client base ("**Updates**"). Allscripts provides no representations regarding the frequency or functionality of Updates. Updates may require changes to Client Supplied Products (defined in **Section 6.6**), which Client must procure and implement in a timely fashion and at Client's expense. The Documentation is subject to change, and Allscripts shall promptly make such changes available to Client.

6.3 **Allscripts Regulatory Requirements.** During the term of Support Services for applicable Allscripts Software, Allscripts shall provide such regulatory updates, to the extent any federal law or regulation applies specifically to the functionality of the Allscripts Software (as defined in the applicable Documentation) that cannot be addressed by a modification of a Client business process, (including without limitation regulations issued pursuant to the Health Insurance Portability and Accountability Act ("**HIPAA**")), ("**Regulatory Updates**"). Any Regulatory Updates shall not include any products or services that add on to or function separately from the Allscripts Software. If Allscripts provides a Regulatory Update that requires: (a) communication links, (b) interfaces to outside databases, (c) third-party technologies to be incorporated into the Allscripts Software, (d) additional hardware or hardware upgrades, (e) additional software development efforts or (f) additional Allscripts services, including but not limited to, implementation services, training services or support services, Allscripts may charge, and Client agrees to pay, for such additional items. To the extent any such regulations permits more than one means to satisfy a requirement, Allscripts may select any reasonable method to satisfy that requirement. Allscripts shall provide Regulatory Updates within a reasonable timeframe after the applicable regulatory authority has enacted and publicly released the final and binding regulatory requirement.

6.4 **Third Party Software.** Allscripts shall either (a) transfer assignable warranties and indemnities for Third Party Software to Client or (b) if transfer is not possible, use reasonable efforts to enforce any applicable warranties or indemnities provided to Allscripts, by the vendors of the Third Party Software, for the benefit of Client. Unless otherwise provided in the EULA, Client and Allscripts agree that first level support for Third Party Software Errors shall be handled in the same manner as first level support for Allscripts Software. For any Third Party Software Error that cannot be resolved by Allscripts support, Allscripts agrees to act as a liaison with the third party vendor to resolve issues and errors, but Allscripts has no obligation to ensure that the issue or error is finally resolved or fixed.

6.5 **Viruses.** Allscripts shall not include in any Allscripts Software and will use commercially reasonable efforts so that the Allscripts Software, upon delivery to Client, does not include any viruses, worms, Trojan horses or other malicious code (collectively, "**Viruses**"). Client shall use commercially reasonable efforts to not introduce any viruses into any Software.

6.6 **Client Environment.** Except as set forth in a Client Order, Client is solely responsible for procuring, implementing, and maintaining all Client Supplied Products. "**Client Supplied Products**" means equipment, software, services (including Internet access and other telecommunication services), technology, data, facilities, and systems used in connection with Client's use of any Software. Unless otherwise provided in a Client Order, Client is responsible for all system administration tasks including: monitoring capacity and performance, installing updates, managing user ids, mailboxes, and software patches, and Microsoft Exchange™ administration. Client shall provide accurate and complete information about Client's

computer system infrastructure and environment and transaction and user volumes. Client shall promptly notify Allscripts of any material changes in this information and acknowledges that the fees are based on Client's initial disclosed information and metrics set forth in the Client Order.

6.7. Limitations and Exclusions. Allscripts shall be obligated to provide those Support Services purchased by Client, for the Software identified in a Client Order during the Support Term defined in the Client Order (the "**Support Term**"). Support Services do not include implementation or training services. Allscripts is not responsible for any errors or problems with any Software or any performance failures hereunder to the extent they are caused by any of the following: (i) modifications to the Software by anyone other than Allscripts or at the direction of Allscripts; (ii) any misuse, capacity, or failures of any Equipment (subject only to Allscripts' compliance with Section 4), Client Supplied Products, or Third Party Software; (iii) any inaccuracy of any or failure to timely advise Allscripts of any material change in any information disclosed by Client in Section 6.6; (iv) Client's failure to install or to allow Allscripts (or its designee) to install, any Error Correction, Regulatory Update or other update made available to Client; (v) any Client breach hereunder or any negligent or willful act or omission of Client or any third party engaged by Client; (vi) any data import or implementation by Client and/or use of any Software that is not in accordance with the Documentation or this Agreement; (vii) any virus, worm, Trojan horse or other malicious code that does not directly result from Allscripts' breach of Section 6.5; (viii) any corruption, damage, loss, breach of security, or mis-transmission of data not caused by Allscripts' gross negligence; (ix) any Error that is not reproducible and verifiable by Allscripts; (x) installation, moving, or removing Equipment, including peripherals; (xi) failure of electric power, air conditioning, or humidity control; (xii) vulnerability scans or penetration tests of the Software performed by Client or its contractors; or (xiii) any stated assumptions in the Agreement that are incorrect. After the expiration or termination of a Support Term, Client's continued licensed use of the corresponding Software shall be on an "AS-IS" basis and all Allscripts representations, warranties, and other obligations for to such Software will immediately terminate and be of no force or effect. This Section 6.7 shall govern in the event of any conflict with any other provisions in the Agreement.

7. Payment Terms.

7.1. General Payment Terms. Client agrees to pay and shall pay to Allscripts: (a) all fees and costs set forth in this Agreement and Client Order(s) by the due dates specified in the Client Order (or if not specified, within thirty (30) days of the date of Allscripts' invoice), and (b) renewal fees for any renewable Services (including Support Services) and any renewal or subscription Software license fees upon commencement of the renewal term. The rate for such renewal fees shall be Allscripts' then current rates in effect on the day immediately preceding such renewal term. All fees are expressed in and payments will be made in U.S. Dollars. Client shall (a) maintain reasonably detailed records to verify its compliance with the license terms, payment and other obligations hereunder, (b) retain such records for at least two (2) years after expiration or termination of this Agreement, and (c) make such records available for inspection and copying by Allscripts and its auditors promptly upon request.

7.2. Audit. Allscripts may, at any time, remotely monitor and audit usage of the Software and Services for the purposes of determining compliance with the Agreement. If an audit reveals that Client's use of the Software has exceeded the permitted use under this Agreement, Allscripts may invoice Client for such excess use and Support Services, including any pro-rated back Support Services fees, at Allscripts' then-current rates, and Client shall promptly pay such invoiced fees.

7.3. Annual Fee Adjustments. Except as otherwise set forth in a Client Order, any fees payable by Client may be increased annually, by the percentage increase in the U.S. DOL, Bureau of Labor Statistics Employment Cost Index for total compensation for private industry workers (not seasonally adjusted), for the Professional, Scientific and Technical Services group (the "**ECI**"), for the most recently completed 12-month measurement period. Allscripts may also increase fees in an amount equal to any charges imposed by third parties for Third Party Software.

7.4. Expenses. Client agrees to pay and shall pay to Allscripts all travel and other out-of-pocket expenses actually incurred by or on behalf of Allscripts in performance of its obligations under this Agreement in accordance with Allscripts travel and expense policies.

7.5. Taxes. Client agrees to pay and shall pay all taxes, customs, duties and assessments (exclusive of taxes based on Allscripts' net income) with respect to this Agreement. If Client claims an exemption from any such taxes, then Client shall provide to Allscripts appropriate evidence of such exemption and shall be responsible for any taxes Allscripts did not withhold based on such exemption and any associated penalties.

7.6. Fee Disputes. Client may withhold payment of any amount it disputes in good faith pending resolution of the dispute, provided that Client, (a) promptly notifies Allscripts in writing within thirty (30) days of discovering the dispute, (b) includes in such notice reasonably sufficient details and documentation regarding the dispute, (c) timely pays all other amounts due hereunder, and (d) works in good faith with Allscripts to resolve the dispute. All amounts not duly disputed and not paid when due are subject to a late payment charge of twelve percent (12%) per annum simple interest (or, if less, the maximum rate allowed by applicable law) from the due date until the date of payment and may be sent by Allscripts to an attorney or collection agency. Except for such amounts that are duly disputed by Client, Client shall be responsible for paying all costs of collection, including, but not limited to reasonable attorneys' fees and, where lawful, collection agency fees.

7.7. Suspension. If there is a Suspension Event, in addition to any of its other rights or remedies, Allscripts reserves the right to immediately suspend all Services provided to Client, without liability to Client, until, the Suspension Event is resolved. "**Suspension Event**" means Client's account is fifteen (15) or more days overdue and/or Client (or a Client user) has used Software in a manner that is not in accordance with the Agreement and that materially degrades or jeopardizes the performance and/or stability of the Software or the systems used to perform Services. During any period of suspension, fees for such Services shall continue to accrue. During any period of suspension, none of Allscripts' representations, warranties, or other obligations under the Agreement shall apply although fees for such Services shall continue to accrue.

8. Client Cooperation and Responsibility.

8.1. Cooperation.

- 8.1.1. Client shall complete implementation of available (a) Error Corrections and Regulatory Updates as promptly as reasonably practicable and (b) releases and enhancements provided by Allscripts within a reasonable period of time. Client shall obtain Allscripts' prior reasonable approval before implementing any updates to Third Party Software made available directly by a third party vendor.
- 8.1.2. Client will, at its expense, obtain and provide Allscripts in a timely manner with such data, Client infrastructure access and use, information, materials, third party and internal consents and approvals, and other cooperation and support as is reasonably requested by Allscripts in connection with the implementation, provision, and/or use of any Services, Software, and/or Equipment. Allscripts may access and use Client's software, equipment and systems (including by remote access) in connection with providing the Services.
- 8.1.3. Except as otherwise specified herein, it is Client's sole responsibility to provide for disaster recovery and business continuity with respect to, the systems and environment to run the Software, and data back-up.
- 8.1.4. Client shall provide a project lead to work with Allscripts to schedule Services. Client shall identify a "key" individual contact who is properly and timely trained in the use of the Software and will be Client's first line of support for Software issues. Client shall ensure

that all Authorized Users are appropriately trained in use of the then-deployed release of the Software prior to their use of the Software in a live production environment.

8.1.5. Before any Software is used in a live production environment, it is Client's responsibility to make independent decisions about system settings and configurations based upon Client's needs, and reach its own independent determination that the Software as implemented is appropriate for live production use.

8.2. **Medical Care.** Client understands and agrees that Allscripts is not engaged in the practice of medicine and that the Software is an information tool only and is not a substitute for professional judgment of healthcare providers in diagnosing and treating patients. Client acknowledges that it shall have full and sole responsibility for its patients, and any use of or reliance by Client or Authorized Users upon the Software shall not diminish or alter such responsibility. Client is responsible for all decisions, acts, and omissions in connection with the delivery of medical care or other services to patients. The Software is not designed for use, and Client shall not use the Software, in any system that provides medical care without the participation of properly trained personnel.

8.3. **Third Party Content.** Client acknowledges and agrees that the Software and Services may have features and functions that allow Client to access third party content within the Software and Services. Allscripts makes no representations or warranties regarding the accuracy of any such third party content and Client agrees that it is fully responsible for the use of such content.

9. Confidentiality.

9.1. **Definition.** "**Confidential Information**" means (i) the terms and conditions of this Agreement and any Client Order(s) and (ii) any information that the disclosing Party desires to protect against unrestricted disclosure that (A) if disclosed in tangible form, is designated in writing as "confidential"; (B) if disclosed orally or visually, is identified at the time of disclosure as "confidential"; or (C) a Party would reasonably believe to be confidential based on the nature of the information and circumstances and context of the disclosure even if not designated as "confidential". Any Software, software and materials used to provide Services and pricing are the Confidential Information of Allscripts.

9.2. **Requirements.** Each Party acknowledges that it will be exposed to Confidential Information of the other Party during the performance of this Agreement and shall only be entitled to use such Confidential Information for the purposes intended hereunder. Each Party agrees it will use the same degree of care in protecting the other Party's Confidential Information from disclosure to others as it uses in protecting its own confidential information of a similar nature. Allscripts and Client agree not to disclose Confidential Information of the disclosing Party to any third party, or use the Confidential Information for the benefit of any third party without the prior written consent of the disclosing Party. The receiving Party may disclose Confidential Information of the disclosing Party to the receiving Party's employees and contractors on a need to know basis and shall inform the recipients that they are bound by obligations of confidentiality. Each Party shall be liable under this Agreement for any breaches of this provision by any of its recipients. If a Party provides Confidential Information to its contractor, then (i) prior to receiving access to the Confidential Information, such contractor must sign a written agreement, with confidentiality protections substantially similar to those in this Agreement and (ii) such use must be solely for the benefit of such Party. Notwithstanding the foregoing, Client may not provide any Allscripts Confidential Information to any competitors of Allscripts. Allscripts may disclose that Client is a customer and an accurate summary of the parties' relationship, except for those confidential details Client has specifically advised Allscripts to keep confidential.

9.3. **Exclusions.** Confidential Information will not include any information that; (a) is already in the lawful possession of the receiving Party without obligation of confidentiality, (b) is independently developed by the receiving Party without use of the other Party's Confidential Information, (3) is or becomes publicly available without breach of this Agreement by the receiving Party, (4) is rightfully received by the receiving Party from a third party without obligation of confidentiality, or (5) is required to be disclosed pursuant to applicable law, a subpoena or under a court or government order provided, however, that the receiving Party shall provide as much notice as is reasonably possible to the other Party prior to disclosing such information and shall take such actions as reasonably necessary to try and afford confidential treatment to any such information.

9.4. **Injunctive Relief.** Both Parties agree that any breach of the confidentiality obligations under this Section may result in irreparable damage for which there is no adequate remedy at law. Therefore, it is agreed that the non-breaching Party may be entitled to equitable relief, without the necessity of posting a bond or other undertaking, including permanent injunctive relief enjoining such breach, by a court of competent jurisdiction, in addition to whatever remedies it may have at law.

9.5. **Allscripts License.** Allscripts has a non-exclusive, fully-paid-up, royalty-free right and license to reproduce, distribute, disclose, store, de-identify and otherwise modify, and otherwise use: (a) Client Confidential Information (including data entered into Client's Software) as required for Allscripts to perform its obligations and enhance and test Software and Services, (b) de-identified Client data on a perpetual, unrestricted basis and (c) NPI numbers associated with the de-identified patient data for aggregated data analyses. Allscripts may also contact Client or Client's medical providers for clinical trial and outcome study participation. Client shall cooperate with Allscripts to provide Allscripts with access to the above data.

9.6. **Business Associate Agreement.** Confidential Information does not include PHI. Use and disclosure of PHI is covered by a Business Associate Agreement. Parties agree to execute the Business Associate Agreement attached hereto as an Addendum.

10. Ownership. As between the Parties, Allscripts shall own all right, title and interest in and to all Software, Allscripts Confidential Information, and any Client feedback concerning any Software and all derivative works, and modifications of the foregoing. Without any additional consideration, Client hereby automatically and irrevocably assigns to Allscripts all right, title and interest in and to all such items.

11. Representations and Warranties.

11.1. **Mutual.** Each Party represents and warrants to the other Party during the Term that it shall exercise its rights and perform its obligations under this Agreement in accordance with all applicable laws and regulatory requirements that are binding on such Party.

11.2. **Allscripts Software.** During the Support Term for any Allscripts Software, Allscripts represents and warrants to Client that the Allscripts Software will substantially conform to the material functional descriptions in the applicable Documentation. To the extent the Allscripts Software does not conform to the above warranty, Allscripts shall provide Client Error Corrections in accordance with Section 6 of this Agreement.

11.3. **Disclaimer of Warranties.** EXCEPT AS EXPRESSLY SET FORTH IN SECTION 11, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ALL SOFTWARE, EQUIPMENT, AND SERVICES ARE PROVIDED "AS IS", AND ALLSCRIPTS EXPRESSLY DISCLAIMS ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION: (A) ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE (WHETHER OR NOT ALLSCRIPTS KNOWS, HAS REASON TO KNOW, OR HAS BEEN ADVISED OF ANY SUCH PURPOSE); (B) ANY WARRANTY REGARDING RESULTS OBTAINABLE OR TO BE OBTAINED BY CLIENT AS A RESULT OF PROVISION OR USE OF THE SOFTWARE, EQUIPMENT, SERVICES OR OTHER MATERIALS PROVIDED HEREUNDER; AND (C) ANY WARRANTY OF UNINTERRUPTED, TIMELY, OR ERROR-FREE OPERATION OF ANY SOFTWARE OR PROVISION OF SERVICES.

12. Indemnification.

12.1. Injury and Property Damage. Each Party (as the “**Indemnifying Party**”) shall indemnify, defend, and hold harmless the other Party (the “**Indemnified Party**”) from and against third party claims and lawsuits (“**Claims**”) and the indemnified Party’s incurred damages, liabilities, settlements, judgments, costs and expenses resulting from such Claims that are awarded or adjudged by a court or arbitration panel with competent jurisdiction or approved in writing by the Indemnifying Party (“**Losses**”), in each case, to the extent resulting from or arising out of personal injuries, death, or damage to tangible personal or real property of any third party caused by the gross negligence of the Indemnifying Party while at the other Party’s site, except no indemnification obligation of Allscripts shall apply if based on allegations of medical malpractice or other liability arising out of the delivery of (or the failure to deliver) medical care.

12.2. Intellectual Property. Allscripts shall defend, indemnify and hold harmless Client from and against Claims and Client’s Losses resulting from such Claims to the extent they are based on allegations that the Allscripts Software, used by Client as expressly authorized during the applicable Support Term, infringes any third party copyright or U.S. patent issued prior to the Effective Date or misappropriates any third party trade secret. The foregoing obligations of Allscripts set forth in this Section 12 do not apply to any Claim or Loss to the extent it results from or arises out of (i) Client Confidential Information or Client’s software, equipment or systems, (ii) the use of any Allscripts Software in combination with any technology, hardware, software, service, information, processes, and/or other property not provided by Allscripts hereunder or that Allscripts recommends not be used with such Allscripts Software; (iii) Client’s use of Customization Features and/or (iv) Client’s continued use of the Allscripts Software after Allscripts has provided an IP Remedy. If any Allscripts Software is or is believed by Allscripts to infringe or misappropriate any third party intellectual property rights, then Allscripts, may, at its sole option and expense (each of the following, an “**IP Remedy**”): (a) obtain for Client the right to continue using such Allscripts Software on substantially similar terms to those contained herein; (b) modify or replace such Allscripts Software so that it becomes non-infringing and has substantially the same functionality; or (c) refund to Client a pro-rata portion of the license fees paid amortized over a five (5) year period from the Effective Date (unless the term of the license is less than five years in which case the license fees shall be amortized over a one (1) year period from the Effective Date).

12.3. Procedures. An Indemnified Party’s right to indemnification under this Agreement is conditioned upon: (a) prompt notice to the Indemnifying Party of any Claim for which indemnity is sought; (b) control of the preparation, defense and settlement thereof by the Indemnifying Party; and (c) reasonable cooperation by the Indemnified Party, at the Indemnifying Party’s request and expense, in the defense of the claim. The Indemnified Party shall have the right to participate in the defense of a claim by the Indemnifying Party with counsel of the Indemnified Party’s choice at the Indemnified Party’s expense. The Indemnifying Party shall not, without the prior written consent of the Indemnified Party, settle, compromise or consent to the entry of any judgment that imposes any material obligation or declaration of fault upon the Indemnified Party.

13. Limitations of Liability.

13.1. Limitations. NOTWITHSTANDING ANYTHING ELSE, SUBJECT ONLY TO SECTION 13.2, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER PARTY (NOR ALLSCRIPTS’ VENDORS) SHALL BE LIABLE WITH RESPECT TO ANY SOFTWARE, SERVICES, EQUIPMENT AND/OR ANY OTHER SUBJECT MATTER OF THIS AGREEMENT UNDER ANY THEORY OF CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR OTHER LEGAL OR EQUITABLE THEORY FOR: (I) ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, OR OTHER INDIRECT DAMAGES OF ANY CHARACTER, INCLUDING, BUT NOT LIMITED TO, LOSS OF REVENUE OR PROFITS, REPLACEMENT COSTS OR LOST BUSINESS, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; OR (II) IN THE AGGREGATE, IN ANY AMOUNT, GREATER THAN THE FEES PAID BY CLIENT TO ALLSCRIPTS HEREUNDER FOR THE SOFTWARE, SERVICES AND/OR EQUIPMENT THAT IS/ARE THE SUBJECT OF ANY CLAIMS DURING THE TWELVE (12) MONTH PERIOD BEFORE THE FIRST EVENT, ACTION, OR OMISSION GIVING RISE TO THE CLAIM. FOR CLARIFICATION, ANY CREDITS PAID BY ALLSCRIPTS SHALL BE OFFSET AGAINST ALLSCRIPTS’ LIABILITY CAP. ALL OF THE FOREGOING LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY.

13.2. Exclusions. The limitations of liability set forth in Section 13.1 are (a) with respect to Allscripts’ third party vendors, subject to any applicable EULA(s), and (b) shall not apply to the extent a claim results from or arises out of: (i) either Party’s indemnity obligations hereunder; (ii) Client’s breach of Section 3 or any other license restrictions set forth in the Agreement; (iii) either Party’s breach of Section 9; and/or (iv) Client’s payment obligations hereunder. Any credit or refund provided by Allscripts may be offset by Allscripts against any amounts owed by Client.

14. Termination.

14.1. Termination for Cause. Either Party may terminate this Agreement by providing a written termination notice to the other Party if the other Party materially breaches the Agreement and does not, within sixty (60) days after receipt of a corresponding breach notice specifying in reasonable detail the nature of such breach, cure such breach in all material respects.

14.2. Effect of Termination. Upon termination of this Agreement, (a) each Party shall return or destroy the Confidential Information of the other Party, except that Allscripts may retain a copy of Client’s Confidential Information as required to comply with regulatory requirements or for record keeping purposes only, (b) all Services and all of Client’s licenses hereunder shall terminate and Client shall immediately cease using (and shall ensure that all Authorized Users cease using), and return to Allscripts if practicable, and otherwise certify to Allscripts de-installation and non-use of, all associated Software and Services and (c) upon any non-renewal or termination of any services associated with Third Party Software, Client shall pay Allscripts for any fees associated with such Third Party Software for which Allscripts cannot terminate with the vendor. No termination shall relieve either Party of any payment or other obligations accrued at the time of termination. Sections 3.3, 9, 10, 11.3, 12, 13, 14.2, 15 and 16 shall survive termination of this Agreement. For clarification, specific Services or Software licenses may be terminated at the end of their Term (or as set forth in a Client Order) without terminating the entire Agreement.

14.3. Transition Services. During the term of the Agreement, upon Client’s request and provided Client has paid all amounts due hereunder, Allscripts shall reasonably cooperate with Client and its designated service-providers (that are not competitors of Allscripts or employees or contractors of any competitors of Allscripts) to provide for an orderly transition of the Licensed Materials to alternatives therefor, and, subject to availability, Allscripts shall provide any reasonably requested services beyond its standard Support Services at its then-standard rates.

15. Dispute Resolution.

15.1. Negotiation. The Parties shall attempt in good faith to resolve any dispute hereunder pursuant to this Section 15. Either Party may initiate negotiations by providing notice to the other Party, setting forth the subject of the dispute. Only if the dispute is not resolved through negotiation within thirty (30) days thereafter, may either Party initiate an arbitration or litigation of that dispute and then only in accordance with this Section 15.

15.2. Arbitration. Each dispute that is not resolved under Section 15.1 shall be decided by binding arbitration administered by JAMS under its then-current Comprehensive Arbitration Rules and Procedures, provided that to the extent such rules are inconsistent with this Agreement, this Agreement shall govern. Related actions between the Parties shall be consolidated. Arbitration awards shall be final and binding upon the Parties, and judgment on any such award may be entered in any court having jurisdiction thereof. The arbitrator(s) shall have no power or authority to award special, incidental, consequential, exemplary, punitive or other indirect damages that would be inconsistent with Section 13 or the other provisions of this Agreement. All aspects of the arbitration and any award shall be confidential. Notwithstanding anything else, either Party may (a) seek equitable remedies from a court of competent jurisdiction and, if the disputes are urgent, seek provisional equitable remedies without following the informal dispute resolution terms of Section 15.1, and (b) in lieu of arbitration, litigate disputes concerning ownership or unauthorized use or disclosure of Confidential Information or intellectual property in courts of competent jurisdiction, and upon commencement of any such proceeding, any arbitration then pending shall be stayed, insofar as it concerns the matters subject to decision by such court. The prevailing Party (if any, and as adjudged by the arbitrator(s) or judge) shall be entitled to recover from the other the costs of arbitration or court proceedings and its attorneys' fees and expenses, provided that the arbitrator(s) or judge may eliminate or reduce such recovery on grounds that it is unreasonable or disproportionate to the harm suffered. To the extent permitted by applicable law, the Parties hereby waive their right to a jury trial in any actions under this Agreement. No action, regardless of form, arising hereunder, may be brought by either Party against the other more than one year after the cause of action has accrued, except that, (a) an action for non-payment may be brought by Allscripts at any time, and (b) subject to the applicable statutes of limitations, an action for breach of or default under Sections 3 or 9 may be brought at any time.

15.3. Governing Law/Forum. This Agreement shall be governed by and interpreted according to the laws of the State of Illinois, disregarding any conflict-of-laws rules which may direct the application of the laws of another jurisdiction. Each arbitration shall be conducted in Raleigh, North Carolina and any cause of action shall be subject to the State and Federal courts located in Raleigh, North Carolina. Each Party submits to this exclusive jurisdiction.

16. Miscellaneous Terms.

16.1. Entire Agreement. This Agreement contains the entire understanding of the Parties hereto with respect to the matters contemplated herein and supersedes all Client purchase orders and any agreements, communications, and understandings between the Parties. Subject to applicable law, in the event of any conflict between or among the provisions of two or more of the following listed parts of the Agreement, the following priority shall apply: (1) Client Order; (2) signed amendments, (3) Exhibits, (4) Software Specific Addenda, and (5) Terms & Conditions. No waiver or modification of this Agreement will be binding unless in writing and signed by each Party or, for a waiver, the Party waiving its rights. Client acknowledges that it has not relied on the availability of any future version of any Software or Service or any other future product or service in executing this Agreement. This Agreement and any amendment hereto may be executed in counterparts, and electronically scanned or facsimile signatures will have the same effect as original manual signatures.

16.2. Delivery. The Equipment (if any) and Software (including updates thereto) will be deemed delivered when sent via express carrier to Client's designated shipping contact(s) (or the Allscripts designated data center, if the subject Software is to be remotely hosted hereunder by Allscripts), FOB shipping point, with delivery confirmed by the carrier (which shall be reasonably designated by Allscripts). Notwithstanding the foregoing, Allscripts may, at its option in each case, deliver Software and/or Documentation via one of the following methods (in lieu of physical shipment): (a) electronic download in accordance with Allscripts' then-standard policies and procedures; or (b) providing Client license key(s) for access and use. Client may change its shipping contact information upon at least thirty (30) days advance notice to Allscripts. Software will be delivered in Allscripts' then-designated format and media and Services deliverables will be delivered via Allscripts' then-designated method.

16.3. Notices. Except as otherwise specified herein, all notices, to be valid, must be (a) in writing, (b) delivered in person or sent, postage prepaid, by certified or registered mail, return receipt requested, or by nationally-recognized private express courier, and (c) addressed to both the "Primary" and any "Required Copy" contact person(s) for the receiving Party designated on the signature line (or such other address/contact person(s) as such Party may specify by written notice to the other provided in accordance with this Section). The effective date of a notice shall be the date of receipt. Notwithstanding the foregoing, if a facsimile number is designated on the Cover or via written notice for any applicable "Required Copy" contact person(s), the associated notice copy (but not the original) may be transmitted via facsimile to such facsimile number.

16.4. Government Use. The Software includes "commercial computer software" and related documentation within the meaning of Federal Acquisition Regulation 2.101, 12.212, and 27.405-3 and Defense Federal Acquisition Regulation Supplement 227.7202 and 52.227-7014(a). The Software is highly proprietary to Allscripts and its vendors. Client shall ensure that all Authorized Users, including those that are representatives of the U.S. Government or any other government body, are permitted to use the Software only as expressly authorized under this Agreement. Neither Client nor any government body shall receive any ownership, license, or other rights other than those expressly set forth herein, irrespective of (a) whether Client is an agency, agent, or other instrumentality of the U.S. Government or any other government body, (b) whether Client is entering into or performing under this Agreement in support of a U.S. Government or any other government agreement or utilizing any U.S. Government or any other government funding of any nature, or (c) anything else.

16.5. Ethical Conduct and Discounts. Allscripts is committed to fair competition and the rule of law, including anti-corruption laws and international anti-corruption standards, and it is Allscripts' policy not to participate in bribes or corrupt activities of any nature. Client represents and warrants that it has exercised independent business judgment in purchasing Services and Equipment and in licensing Software, and has not been offered, given, paid, promised to be given or paid any money or any other thing of value as an inducement to enter into this Agreement, nor is aware of any such offers, payments or promises to any personnel, third-party contractor or consultant of or working for Client. The dollar value of the discounts, free Software, Equipment, Services or any other item, or rebates provided hereunder, if any, as well as any other items and services not paid for by Client and received by Client hereunder, should be considered "discounts and other reductions in price" under Section 1128B (b) (3) (A) of the Social Security Act (42 U.S.C. § 1320-a-7b (b) (3) (A)), as amended. It is the intent of the Parties to comply with the Anti-Kickback Statute Discount Safe Harbor (42 C.F.R. § 1001.952(h) as amended). The Discount Safe Harbor requires that certain discounts be reported and/or passed on to Federal and State health care programs, such as Medicare and Medicaid. Client shall be solely responsible for determining whether the savings, rebates or discounts it receives under this Agreement must be reported or passed on to the government or payers and for complying with such obligations.

16.6. Interpretation. No provision shall be construed against a Party by reason of the fact that such Party or its legal counsel drafted that provision, notwithstanding any rule of law or any legal decision to the contrary. For purposes of interpreting this Agreement: (a) the terms "includes" and "including" shall mean "include[ing]", without limitation"; and (b) headings contained herein are for convenience of reference only and shall not affect the interpretation of this Agreement.

16.7. Assignment. Either Party may assign this Agreement, in whole or part, to an affiliate controlling, controlled by, or under common control with the assignor, and either Party may assign this Agreement to a successor to all or substantially all of the business or assets of the assigning Party, except that Client may not assign this Agreement to a competitor of Allscripts. Neither Party may otherwise assign this Agreement and any attempted assignment in violation of this section shall be null and void. This Agreement shall be binding on the Parties and their successors and permitted assigns.

16.8. Subcontracting. Allscripts may subcontract any Services and its other obligations hereunder, in whole or in part, provided that Allscripts shall remain responsible for performance of its obligations hereunder by any such subcontractors.

16.9. UCITA. The Uniform Computer Information Transactions Act or any version thereof, adopted by any state in any form ("**UCITA**"), shall not apply to this Agreement and, to the extent that UCITA is applicable, the Parties agree to opt-out of its applicability pursuant to its provisions.

16.10. Insurance. Allscripts shall maintain, during the Term, the following insurance policies: (i) Commercial General Liability insurance with limits not less than one million dollars (\$1,000,000) single limit per occurrence and two million dollars (\$2,000,000) aggregate for bodily injury and/or death and/or property damages and/or personal injury; (ii) Workers' Compensation insurance with statutory limits; (iii) Employment Practices Liability insurance with an aggregate limit of at least one million dollars (\$1,000,000); and (iv) Errors and Omissions insurance with an aggregate limit of at least five million dollars (\$5,000,000). These policies shall be issued by insurance companies having a financial strength rating no lower than "A-" as rated by the A.M. Best Company. If any incumbent carrier of insurance required under this Agreement drops below the ratings required, Allscripts will use reasonable efforts to replace that carrier at the next scheduled policy renewal date with another carrier meeting the rating requirements specified herein, provided that unless the incumbent carrier is at serious risk of insolvency, Allscripts will not be required to change to a new replacement carrier if the policy offered by the replacement carrier is materially less favorable or materially more costly than the policy provided by the incumbent carrier. Allscripts shall, upon request, deliver to Client current certificates of insurance demonstrating that the insurance required herein is in force. Allscripts will give Client fifteen (15) days' notice prior to any cancellation or non-renewal of the policies required hereunder, provided that Allscripts shall not be obligated to provide such notice if, concurrently with such cancellation or non-renewal, Allscripts obtains similar coverage from another insurer, without a lapse in coverage.

16.11. Other. Nothing herein shall restrict the right of Allscripts to engage in any business or provide any products or services to any customers on any terms. In the event that any of the provisions of this Agreement are held to be unenforceable, such provisions will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect. The Parties are independent contractors under this Agreement. A Party shall not be liable for any delays or failure to perform (other than any license, payment, or confidentiality obligations) as a result of causes beyond the reasonable control of such Party and not due to the negligence on the part of the Party claiming excuse for delay or failure. The Party claiming excuse must promptly notify the other of the event and its expected duration and use its reasonable efforts to mitigate its effects and perform hereunder. Nothing in this Agreement creates, or will be deemed to create, third party beneficiaries of or under this Agreement.