

Software License Agreement

This Software License Agreement (the "Agreement") is made and entered into this [INSERT DAY] day of [INSERT MONTH AND YEAR] (the Effective Date"), by and between mediCAD US Inc., a business organized under the laws of the state of Georgia (the "Licensor"), and [INSERT NAME], a business entity organized under the laws [INSERT STATE] ("Licensee"). Licensee and Licensor may be referred to in this Agreement collectively as "Parties" or individually as a "Party".

BACKGROUND

A. Licensor licenses certain proprietary software and related documentation for use in the medical field.

B. Licensee wishes to obtain the rights to use the Licensed Product (as hereinafter defined in Section 1.14), and Licensor wishes to grant Licensee a license for such use under the terms and conditions set forth in the Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in further consideration of the mutual promises set forth herein, Licensor and Licensee agree as follows:

1. DEFINITIONS.

Whenever used in this Agreement, the capitalized terms quoted below will have the meaning ascribed to them in this Section.

1.1 "Acceptance" means the date Licensee accepts the Licensed Product as more specifically provided in Section 3.4 of this Agreement.

1.2 "Agreement" means this Software License Agreement.

1.3 "Confidential Information" has the meaning set forth in Section 12 of this Agreement.

1.4 "Copy" or "Copies" means the Licensed Product (including the components thereof), any Releases, Error Correction, or Enhancement pertaining thereto, and any reproductions of the Licensed Product or any Release, Error Correction, or Enhancement pertaining thereto.

1.5 "Delivery Date" means the date of Licensee's receipt of the Original Licensed Product.

1.6 "Designated Location" means the physical location, identified in Schedule A attached hereto, at which Licensee may use the Licensed Software.

1.7 "Designated Machine(s)" means the single computer or Multi User File Server identified in Schedule A attached hereto, or any machine that replaces or succeeds such machine or server, either permanently or temporarily, on which Licensee may use the Licensed Software.

1.8 "Enhancement" means a modification of the Licensed Software by Licensor, which provides (a) a capability not defined in the Product Specifications or (b) an improvement in the efficiency of the Licensed Software. Licensor may designate an Enhancement as "Major" or "Minor" depending on (a) Licensor's reasonable assessment of the Enhancement's value and (b) whether the Enhancement adds a functional extension to the preexisting Licensed Software. An Enhancement may entail a modification to the Product Specifications and/or the Object Code or may be provided to Licensee in the form of an Upgrade.

1.9 "Error" means a failure of the Licensed Software to conform in all material respects to the Product Specifications. Provided, however, any nonconformity resulting from Licensee's improper use of the Licensed Software, combining or merging the Licensed Software with software not approved by Licensor for use with the Licensed Software, or modification of the Licensed Software which has not been performed by Licensor, shall not be considered an Error.

1.10 "Error Correction" means a modification of the Licensed Software by Licensor, which corrects Errors, discovered in the Licensed Software and enables the Licensed Software to substantially conform to the Product Specifications.

1.11 "Intellectual Property Rights" means all proprietary information, patents, patent applications, trademarks, trade names, service marks, certification marks, collective marks, designs, processes, inventions, licenses, copyrights, know-how and trade secrets relating to the origin, design, manufacture, programming, operations, function, configuration, or service of the Licensed Product.

1.12 "License Fees" means those amounts specified and set forth in Section 4.1 of this Agreement and Schedule B attached hereto and made a part of this Agreement.

1.13 "Licensed Documentation" means all written materials, binders, training disks, and other materials supplied by Licensor and related to the Licensed Software, other than the Licensed Software.

1.14 "Licensed Product" means collectively the Licensed Software and Licensed Documentation.

1.15 "Licensed Software" means the computer software identified in Schedule C attached hereto and made a part of this Agreement, all Error Corrections, Enhancements, and Releases thereof supplied by Licensor, and all permitted copies of the foregoing. In this Agreement, Licensed Software shall refer to the software in Object Code only.

1.16 "Major Enhancement" means a version of the Licensed Software, which contains new features or substantially improved functions from those, contained in the Original.

1.17 "Multi User File Server" means an environment, including applications software, which may enable one Copy of the Licensed Software to be used or accessed by more than one Operator at one time or may enable the Licensed Software to be used or accessed over a computer network.

1.18 "Object Code" means machine-readable computer programs.

1.19 "Operators" means the employees, or agents of Licensee who are bound by the confidentiality provisions of Section 12 of this Agreement and who are permitted access to or use of the Licensed Product.

1.20 "Original" means the first edition of the Licensed Product delivered by Licensor to Licensee pursuant to this Agreement.

1.21 "Product Specifications" means the technical and performance functions of the Licensed Software, as specifically set forth in the Product Specifications section of the Licensed Documentation.

1.22 "Release" or "Releases" means the edition(s) of the Licensed Software subsequent to the Original Licensed Product. A Release may include Licensed Documentation provided by Licensor for Error Correction or Enhancement.

1.23 "Service Fees" means those amounts specified in Section 4.2 of this Agreement and Schedule B attached hereto and made a part of this Agreement.

1.24. "Software Maintenance" means the Error Correction support provided by Licensor.

1.25 "Source Code" means the plain text, readable computer programming code, associated procedural code, and supporting documentation for the Original Licensed Software and any Releases, Error Corrections, or Enhancements pertaining thereto.

1.26 "Technical Support and Consulting Services" means services provided by Licensor under a statement of work and may include installation, configuration, data mapping, formatting and conversion, and other professional services provided by Licensor subject to payment of additional fees.

1.27 Third Party Software means software and related materials that are furnished by a third party and subject to a separate license agreement between the licensor of that software and the Licensee.

1.28 "Warranty Period" means that period set forth in Section 9.1 of this Agreement.

1.29 "Upgrade" means software which is marketed by Licensor as a separate software product and which is subject to a separate license fee. An Upgrade may include Major Enhancements.

2. GRANT OF LICENSE.

2.1.1 Grant. Licensor grants to Licensee and Licensee accepts a perpetual, nonexclusive and nontransferable license to install, execute, and use the Licensed Product in the United States in the manner described in this Agreement. mediCAD US Inc. as Licensor reserves all rights in the Licensed Product.

2.1.2 Licensee must use the Licensed Product (a) only in a manner and for the purposes for which the Licensed Product was designed and (b) only on Licensee's own data for its sole and exclusive benefit. Subject to the provisions of Section 8 of this Agreement, Licensee may make

copies of the Licensed Software only for backup and archival purposes. Licensee shall provide Licensor a written description of the procedures under which it makes backup copies, including any that may involve backup of the Software, and Licensor shall promptly approve or disapprove those procedures, which approval shall be at Licensor's sole discretion. Except as provided herein, Licensee shall not change the Designated Machine or the Designated Location in any respect without the prior written consent of Licensor. If the Designated Machine is not operational, Licensee may temporarily run the Licensed Software on a backup system until such time that the Designated Machine becomes operational or for a period of seven (7) days, whichever occurs first.

All uses not permitted under this Section 2.1 are prohibited. By way of example and without limitation, Licensee may not: (a) disassemble, decompile, reverse engineer, or modify the Licensed Software; (b) examine the Licensed Software with debugging, memory inspection, or disk inspection tools; (c) rent or sublicense the Licensed Product; (d) permit use of the License Product by a person who is not an Operator; (e) transmit an electronic copy of the Licensed Software by any means; or (f) use the Licensed Software in the operation of a service bureau or time sharing arrangement or to provide outsourcing services.

2.2 Ownership.

Licensor owns the media on which the Licensed Software is originally or subsequently recorded; provided, however, subject to the terms and conditions of this Agreement, Licensee may store and use the Licensed Software in electronic form on the Designated Machine for use solely by Licensee and Licensee's Operators. As between Licensor and Licensee, Licensor retains all title to the Licensed Software (both as recorded on the original media and on any subsequent media), the Licensed Documentation, and any Copies thereof in any form. This Agreement is a license to use, and not a contract of sale for, the Licensed Product. All Intellectual Property Rights in and to the Licensed Product are retained by Licensor or the licensor of Third Party Software, as the case may be. Licensee shall not use either the name of Licensor, the licensor of Third Party Software, or the name of the Licensed Product or Third Party Software licensed under this Agreement for any commercial purpose or in any advertising, promotional or public statement without the prior, written consent of Licensor or the licensor of Third Party Software, which consent shall be at Licensor's or the licensor of Third Party Software's sole discretion. Licensee agrees not to remove, deface, or destroy any copyright, patent notice, trademark, service mark, other proprietary markings, or confidential legends placed on or within the Licensed Software, the Licensed Documentation, and any Copies thereof in any form.

3. DELIVERY INSTALLATION AND ACCEPTANCE

3.1. Delivery of Software. Licensor shall deliver the Licensed Product to Licensee via download or data storage device. A digital use documentation is included in the delivery content.

3.2. Installation Services. Licensor shall install or assist in the installation of the Software. Technical services shall be provided by Licensor in connection with the installation of the

Software, upon request also at Licensee's site, at Licensor's standard hourly rates, as well as cost of travel and reasonable expenses.

3.3 Acceptance. Licensee may reject the Licensed Software by giving written notice of rejection and returning the Licensed Product within thirty (30) days of the Delivery Date. Acceptance shall be deemed to have occurred thirty (30) days after the Delivery Date or the date by which the Licensee places the License Product into productive use, whichever occurs first. Licensee shall be responsible for providing the required environment for the Licensed Software, including preparation of the Designated Machine and Designated Location. Licensee shall be responsible for configuration, all data manipulation, mapping, formatting and conversion, and all other steps necessary to cause the Licensed Software to operate. Licensee's failure to notify Licensor of rejection of the Licensed Software as required in this section shall be deemed its unconditional acceptance of the Licensed Software.

4. CHARGES AND PAYMENT.

4.1 License Fees. As compensation for the license provided in this Agreement for each Copy of the Licensed Software, other than any backup or archival copy permitted under this Agreement, Licensee shall pay Licensor the License Fees.

4.2 Service Fees. As compensation for the services provided by Licensor under this Agreement, Licensee shall pay Licensor the Service Fees set forth on Schedule B.

4.3 Expenses. If Licensee requests technical assistance services under Section 5 of this Agreement at Licensee's Premises, Licensee shall be responsible for all reasonable and necessary travel, food, lodging, and related out of pocket expenses incurred by the Licensor personnel providing the technical assistance services in addition to payment of any applicable hourly rates.

4.4 Reporting. Licensee shall provide Licensor with a statement setting forth the number of Copies of the Licensed Product, or any component thereof, in existence. Licensee shall provide said statement within ten (10) days of Licensee's receipt of any reporting request from Licensor.

4.5 Audit of Use. Licensor may, at its sole expense, audit Licensee's use of the Licensed Product. Audits shall be conducted during regular business hours at Licensee's place or places of business and shall not unreasonably interfere with Licensee's business activities. Audits shall be conducted no more than once annually. If, as a result of any such audit, Licensor identifies unauthorized use of the Licensed Software, Licensee shall pay, in addition to a full License Fee for each copy of the Licensed Software in use by Licensee and the reasonable expenses of Licensor in conducting the audit.

4.6 Payment. All License Fees shall be due and payable in full in U.S. currency upon Licensee's execution of this Agreement. All other fees or amounts due Licensor under this Agreement shall be due and payable in full in U.S. currency within thirty (30) days of the date of Licensor's invoice for said fees or amounts. Licensee shall have no right of offset or withholding under this Agreement.

4.7 Interest on Late Payments. All fees and amounts due to Licensor and not paid within forty-five (45) days after the date such amounts are due and payable shall bear interest of nine percent (9%) over the base rate, but never less than ten percent (10%).

4.8 Taxes and Other Charges. All License Fees, Service Fees, and Software Maintenance Fees are exclusive of media charges, shipping, handling, custom charges, and all state, local, and other taxes, or other taxes or charges (other than income or franchise taxes payable by Licensor) directly applicable to the licensing, installation, support or use of the Licensed Product. Licensee shall pay all charges or taxes or provide Licensor with an appropriate certificate of exemption within thirty (30) days of the date of any invoice or statement of Licensor or the taxing authorities. If Licensee elects to challenge the applicability of any tax or charge, Licensee shall pay the tax or charge to Licensor or give Licensor evidence of payment to the taxing authorities or charging entity, and Licensee may thereafter challenge such tax or charge and seek a refund.

5. TECHNICAL ASSISTANCE.

5.1 Technical Assistance. During the term of this Agreement, Licensor shall offer the technical assistance services provided in this Section 5.

5.2 Support Services. Licensor's systems specialists shall provide Licensee with supplemental support for the Licensed Software via telephone, as long as the Licensee is using the latest version of the Licensed Software. The support via telephone includes the individual consulting for the Licensed Software by the Licensor. Within the scope of this individual support, the Licensor's systems specialist answer questions regarding a specific case of application regarding the Licensed Software, user documentation as well as program run and application of the Licensed Software. Licensor may charge its customary charges for the technical assistance services valid at the time.

6. SOFTWARE MAINTENANCE.

6.1 Notification of Suspected Licensed Software Defects. If Licensee believes there is an Error in the Licensed Software, Licensee must notify Licensor of such Error in writing, or by telephone with written confirmation sent within two (2) days thereafter. After Licensor's analysis of the reported Error, Licensor will: (i) notify Licensee whether Licensor has verified the Error; (ii) where an Error has been verified, advise Licensee of available remedies; and (iii) where a remedy is not immediately available, notify Licensee of the need for further investigation. Errors reported to Licensor during the Warranty Period and subsequently verified by Licensor will be corrected in accordance with this Agreement at no charge to Licensee. Licensor reserves the right to determine the disposition of any and all reported Errors.

6.2 Licensee's Remedies for Licensed Software Defects. In all situations involving nonperformance of the Licensed Software during the Warranty Period, Licensee's exclusive remedy is:

- (a) the correction or workaround of software Errors by Licensor; or

(b) if, after repeated efforts, Licensor is unable to make the Licensed Software operate as warranted, Licensee shall be entitled to a refund of the pro-rated value of the function not provided by the Licensed Software. The Parties shall attempt to reach agreement as to the pro-rated value of the function not provided. If the Parties are unable to do so, Licensor shall make a determination of such prorated value, and Licensee shall have the option of accepting the pro-rated value so determined or returning the Licensed Product for a full refund of the License Fee.

6.3 As Licensee's exclusive remedy for defective media on which the Original is provided by Licensor, Licensor will replace such defective media returned to Licensor within ninety (90) days of receipt by Licensee.

6.4 Error Correction and Enhancement Releases

6.4.1 Provided Licensee has paid the License Fees and all other fees and amounts due and owing Licensor under this Agreement, Licensor shall provide Error Correction Releases (which do not contain any Enhancements), if any, and Minor Enhancement Releases, if any, at no charge during the Warranty Period.

6.4.2 Licensor shall provide a Major Enhancement or Upgrade, if any, at a price established by Licensor, which price shall be consistent with Licensor's price to other licensees of similar quantities of the Licensed Software.

6.4.3 Error Correction and Enhancement Releases are the property of Licensor. Error Correction and Enhancement Releases are licensed to Licensee subject to the terms and conditions of this Agreement and, upon release, become a part of the Licensed Software and the Licensed Product, as the case may be. Each Release shall consist of one or more Licensed Software programs and/or files in Object Code. Each Release shall also provide documentation informing Licensee of the Error Correction or Enhancement, including any significant operational differences known to Licensor. The documentation in any Releases shall be a part of the Licensed Documentation.

6.4.4 Licensee shall be responsible for the installation of all Error Correction or Enhancement Releases. Installation services are not included in Licensor's prices for Releases and shall be separately billed to and paid by Licensee, if Licensee requests such services.

7. LICENSEE'S REPRESENTATIONS AND WARRANTIES.

7.1 Compliance with Terms. Licensee shall monitor the Licensed Product and ensure that it is used only in compliance with the terms of this Agreement. Licensee shall be responsible and liable for any and all non-compliance with this Agreement by Licensee or by any person or entity who obtains access to the Licensed Product through Licensee.

7.2 Suitability of Licensed Product. Licensee represents and warrants that as of the time of Acceptance, Licensee will have evaluated, tested, and examined the Licensed Product and has determined independently that the Licensed Product is suitable for the use intended by this Agreement. Licensee assumes all responsibility and risk of selection, installation, use, efficiency

and suitability of the Licensed Product, and subject to the provisions of Section 9, Licensor shall have no liability therefor.

7.3 Notification of Defects. Licensee shall notify Licensor in writing of any material defect Licensee believes exists in the Licensed Product, and Licensee shall provide to Licensor all information known or reasonably available to Licensee regarding the alleged defect.

7.4 Third Party Material. With respect to all computer programs and data and hardware not provided by Licensor and to be used or reproduced during Licensee's use of the Licensed Software, Licensee represents that it has all necessary rights to use or reproduce the computer programs and that no use of the Licensed Software in connection therewith shall be made that causes an infringement of the right of any third party.

7.5 Licensee's Responsibility: Licensee shall be exclusively responsible for the supervision, management, and control of its use of the Software, including, but not limited to (a) assuring proper configuration of equipment or devices; (b) establishing adequate operating methods; and (c) implementing procedures sufficient to satisfy its obligations for security under this Agreement, including appropriate action between it and its employees to prevent misuse, unauthorized copying, modification, or disclosure of the Software.

8. REPRODUCTION.

8.1 Reproduction. Licensee shall not make any copy of the Licensed Software and Licensed Documentation, not even for backup and archival purposes, without Licensor's explicit written consent. Each and every copy, in whole or in part, of the Licensed Software shall contain all of Licensor's restrictive and proprietary notices in the form and content as they appear on or in the Licensed Software or Licensed Documentation provided by Licensor. All Copies shall remain the property of Licensor.

9. LIMITED WARRANTY.

9.1 Limited Warranty.

LICENSOR WARRANTS THAT THE LICENSED SOFTWARE, IN UNMODIFIED FORM AND WHEN USED AS AUTHORIZED BY THIS AGREEMENT, WILL CONFORM IN ALL MATERIAL RESPECTS TO THE PRODUCT SPECIFICATIONS. LICENSOR MAKES NO OTHER WARRANTIES OR REPRESENTATIONS RELATING TO THE LICENSED SOFTWARE OR ITS PERFORMANCE OR WITH RESPECT TO THE LICENSED DOCUMENTATION. ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON- INFRINGEMENT, ARE EXPRESSLY DISCLAIMED AND EXCLUDED.

The Warranty Period for the Licensed Software runs from the Delivery Date and expires twelve (12) months thereafter.

9.2. Licensor's Warranty Obligations; Limitations of Limited Warranty

In the event of breach of the Limited Warranty provided in Section 9.1 of this Agreement, Licensor's entire liability and Licensee's exclusive remedy will be to exchange the defective Licensed Software or, at the option of Licensor, to take back the defective Licensed Software for a cash refund equal to the purchase price by Licensee for the Licensed Product, less any discount or credits previously received by Licensee for the Licensed Software.

The Limited Warranty provided in Section 9.1 of the Agreement does not apply to problems resulting from:

- (a) improper installation of the Licensed Software by Licensee, or any other party other than the Licensor, or the installation of the Licensed Software on improper hardware;
- (b) modification of the Licensed Software not undertaken or performed by Licensor;
- (c) malfunctions in any computer hardware or software or systems files not provided by Licensor;
- (d) accident of Licensee or at the Licensee's premises;
- (e) neglect of Licensee;
- (f) misuse of the Licensed Software by Licensee;
- (g) use of the Licensed Software with data of any entity other than Licensee; or
- (h) a power surge or failure at the Designated Location.

Licensor does not warrant (i) that the Licensed Software will meet Licensee's requirements; (ii) that operation of the Licensed Software will be uninterrupted; (iii) that the Licensed Product is error free; (iv) that all defects in the Licensed Product will be corrected; or (v) any change or modification of the Licensed Software made by Licensee; provided, however, any change or modification properly made by Licensee in accordance with instructions contained in the Licensed Documentation for the Licensed Software shall not void the warranty provided by Licensor herein.

9.3 LIMITATION OF LIABILITY; ACTIONS.

The remedies set forth in Section 9.2 are Licensee's sole and exclusive remedies for any breach of warranty by Licensor. LICENSOR SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL, INDIRECT, STATUTORY, PUNITIVE OR EXEMPLARY DAMAGES OF ANY SORT, EVEN IF LICENSOR HAS BEEN ADVISED OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES, INCLUDING, WITHOUT LIMITATION, (a) ANY DAMAGES FOR LOST PROFITS, OR (b) ANY DAMAGES RESULTING FROM LOSS OF USE OR LOSS OF DATA. UNDER NO CIRCUMSTANCE SHALL LICENSOR BE LIABLE FOR ANY AMOUNT IN EXCESS OF

THE LICENSE FEES PAID BY LICENSEE FOR THE LICENSED PRODUCT THAT IS THE SUBJECT OF A WARRANTY OR INFRINGEMENT CLAIM. IN NO EVENT SHALL LICENSOR BE LIABLE TO LICENSEE FOR ANY ACTION OR REMEDY BEYOND THOSE DESCRIBED IN THIS AGREEMENT.

NO ACTION SHALL BE BROUGHT FOR ANY CLAIM RELATING TO OR ARISING OUT OF THIS AGREEMENT. OTHER THAN AN ACTION BY LICENSOR TO COLLECT ANY FEES DUE HEREUNDER, MORE THAN ONE (1) YEAR AFTER THE ACCRUAL OF SUCH CAUSE OF ACTION.

9.4 Allocation of Risk.

This Section 9 of this Agreement allocates the risks under this Agreement between Licensor and Licensee. Licensor's License Fees reflect this allocation of risk and the warranties, limitation of warranties, and limitation of liability in this Section 9.

THE PROVISIONS OF THIS SECTION 9 STATE THE SOLE AND EXCLUSIVE REMEDIES AVAILABLE TO LICENSEE, AND LICENSOR'S SOLE AND EXCLUSIVE LIABILITY, FOR ANY BREACH OF WARRANTY CLAIM AND ANY CLAIM REGARDING THE PERFORMANCE OR NONPERFORMANCE OF THE LICENSED PRODUCT.

10. INDEMNITY.

10.1 Indemnity by Licensee. Licensee shall be solely responsible for, and shall indemnify, defend, and hold Licensor free and harmless from all damages, liabilities, charges, and expenses (including reasonable attorneys' fees) from all claims, lawsuits, or other proceedings arising out of or relating to (i) Licensee's use of the Licensed Product in a manner not permitted by this Agreement, not permitted by Licensor, or not in conformance with Licensor written requirements, (ii) the acts or omissions of Licensee, its employees, and agents and all persons or entities who have access through Licensee to the Licensed Product, or (iii) relating to an infringement of any right resulting in any way from the use of the Licensed Software with other software or materials not licensed to Licensee by or not approved by Licensor.

10.2 Indemnity of Right of Use. Licensor shall defend or settle, at its own expense, any claim made against Licensee that the Licensed Product, in whole or in part, infringes any United States patent, published patent application, copyright, trade secret, or other proprietary right, and Licensor shall indemnify and hold harmless Licensee against any final judgment, including an award of attorneys' fees, that may be awarded by a court against Licensee as a result of the foregoing; provided, however, Licensee shall (a) give Licensor written notice of such claim within thirty (30) days of the date Licensee first knows or should know of the claim and (b) provide Licensor with reasonable cooperation and all information in Licensee's possession related to said claim. Licensor shall have sole control of the defense of such claims and all related settlement negotiations. Reasonable out of pocket expenses incurred by Licensee in providing assistance to Licensor in defense of such a claim shall be reimbursed by Licensor.

10.3 Remedy for Claimed Infringement. If a claim is made that the Licensed Product, or any portion thereof, infringes any United States patent, copyright, trade secret, or other proprietary right, Licensor, at its sole expense and option, shall either: (i) procure for Licensee the right to exercise the rights and licenses granted hereunder with respect to the Licensed Product; (ii) modify the Licensed Product to make it non infringing but continue to meet the Product Specifications; (iii) replace the Licensed Product with equivalent but non infringing software of like functionality that meet the Product Specifications; or (iv) terminate this Agreement and refund the License Fee and, upon the return to Licensor of the Licensed Product; provided, however, that the liability of Licensor pursuant to this Section 10.3 shall be subject to the limitations set forth in Section 9.3 of this Agreement, and Licensor shall have no liability for any claim of infringement based on use of a superseded or altered Release of the Licensed Product if the infringement would have been avoided by the use of the most current, unaltered Release of the Licensed Product which is available to Licensee either during the Warranty Period or would be available under the Software Maintenance Program, regardless of whether Licensee subscribes to the Software Maintenance Program.

10.4 Limitation of Indemnity. Licensor shall have no liability to Licensee or any assignee, transferee, or sublicensee of Licensee for any claim of infringement that is based upon any combination of the Licensed Software with software not supplied by or authorized by Licensor if such claim would have been avoided but for such combination; or any modifications to the Licensed Software other than Releases provided by Licensor or otherwise approved by Licensor.

11. TERMINATION AND DEFAULT.

11.1 Termination by Licensor. Licensor may terminate this Agreement and the license granted to Licensee upon the occurrence of any of the following events:

- (a) Licensee fails to pay Licensor any fee, charge, tax, or other reimbursement when due and the failure to pay is not cured within ten (10) days of Licensee's receipt of Licensor's written notice thereof;
- (b) Licensee transfers title to or possession of the Licensed Product without Licensor's prior written consent;
- (c) Licensee breaches any material obligation of Licensee under this Agreement and such breach is not cured within thirty (30) days of Licensee's receipt of written notice thereof from Licensor;
- (d) Licensee becomes insolvent, or is adjudicated a bankrupt, or voluntarily seeks protection under any bankruptcy or insolvency law; or
- (e) Licensee makes an assignment of its assets for the benefit of creditors or any arrangement with its creditors.

11.2 Termination by Licensee. Provided Licensee is not in default under this Agreement, the Agreement may be terminated by Licensee by giving Licensor ninety (90) days prior written notice of termination. Any such termination by Licensee shall be without refund of any License

Fee, Service Fee, or any other amount paid or then due and payable to Licensor; provided, however, that Licensee shall be entitled to a refund of a portion of any Software Maintenance Fee paid with respect to the then current year, pro rated for the portion of the year then remaining. Licensee may also terminate this Agreement by rejecting the Licensed Software in accordance with Section 3.4, in which event Licensee shall receive a full refund of all License Fees paid under this Agreement.

11.3 Licensor Remedies Upon Termination. In the event of any termination of this Agreement:

- (a) Licensee shall cease all further use of the Licensed Product, or any portion thereof, in all forms and on all media and computer memory, and Licensee shall immediately: (i) surrender and deliver the Licensed Product and all Copies thereof to Licensor; or (ii) at the option of the Licensor, destroy all Copies of Licensed Product, including backup and archival copies, and provide satisfactory evidence of such destruction to Licensor within one (1) month following termination;
- (b) Licensee shall pay all outstanding fees and amounts owed to licensor as of the date of termination;
- (c) Licensor may cease performance of Licensor's obligations under this Agreement, without liability to Licensee;
- (d) where such termination is the result of a breach or threatened breach of this Agreement by Licensee, Licensor may apply for and obtain injunctive relief against the breach or threatened breach; and
- (e) Licensee shall promptly return to Licensor all of Licensor's Confidential Information.

11.4 Equitable Relief. The Parties acknowledge and agree that there may be no adequate remedy at law for the failure of the other Party to comply with any of the material terms and conditions of this Agreement, including, without limitation, a failure to cease the use of the Licensed Product upon termination of the license or a breach of the confidentiality provisions of Section 12, and the Parties agree that, in the event of any such failure, the non breaching Party shall be entitled to equitable relief by way of temporary restraining order, temporary injunction and permanent injunction and such other and further relief as any court of competent jurisdiction may deem proper.

11.5 Remedies Cumulative. The rights and remedies of Licensor and Licensee in this Section 11 shall be cumulative and in addition to all other rights and remedies available at law and in equity.

11.6 Survival. The provisions of this Agreement which by their sense and context should survive any termination or expiration of this Agreement, including without limitation Sections 3, 10, 11, 12, and 13 of this Agreement, shall survive termination of this Agreement and shall remain binding on the Parties.

12. CONFIDENTIALITY. 12.1 As used in this Agreement, the term "Confidential Information" means: all information, including, but not limited to, the trade secrets and know-

how of the respective Parties, any information marked "Confidential" or "Proprietary" and, in the case of Licensor, the Licensed Product; provided, however, Confidential Information shall not mean any information that:

- (a) is known to the receiving Party at the time of disclosure by the disclosing Party;
- (b) is developed independently by the receiving Party without use of the disclosing Party's Confidential Information;
- (c) is within, or later falls within, the public domain without breach of this Agreement by the receiving Party;
- (d) is publicly disclosed with written approval of the disclosing Party; or
- (e) becomes lawfully known or available to the receiving Party without restriction from a source having the lawful right to disclose the information without breach of this Agreement by the receiving Party.

The receiving Party shall have the burden of proof as to establishing by competent evidence any of the exceptions set forth in Section 12.1(a) to (e) above.

12.2 In the event the receiving Party is legally requested or compelled in any form to disclose any of the disclosing Party's Confidential Information, the receiving Party, unless prohibited by applicable law, shall provide the disclosing Party with prompt written notice of such request, so that the disclosing Party may seek a protective order or pursue other appropriate remedies to protect the confidentiality of its information. If such protective order or other remedy is not obtained, the receiving Party will furnish only that portion of the Confidential Information which the receiving Party, upon the opinion of its counsel, is legally required to furnish. The receiving Party will reasonably assist the disclosing Party in its efforts to obtain a protective order or other remedies to protect or limit the disclosure of the information subject to the request.

12.3 Each Party acknowledges that in the performance of this Agreement a Party may receive Confidential Information from a disclosing Party and that such Confidential Information is the exclusive property of the disclosing Party. The receiving Party agrees to hold the Confidential Information of the disclosing Party in strict confidence in accordance with the provisions of this Agreement. A receiving Party

- (a) shall not permit or suffer its employees or agents to remove any proprietary or other legends or restrictive notices contained or included in any Confidential Information provided by the disclosing Party;
- (b) shall not permit or suffer its employees or agents to copy or modify any Confidential Information except as specifically authorized in this Agreement;
- (c) shall not disclose any Confidential Information to a third party without the prior written consent of the disclosing Party;
- (d) shall only use the disclosing Party's Confidential information for purposes of performing its obligations under this Agreement, and shall not otherwise use the information for its own benefit or for the benefit of any third party; and

(e) agrees to keep secure and maintain the Confidential Information of the disclosing Party in a manner no less protective than that used to maintain the confidentiality of the receiving Party's own Confidential Information.

12.4 Limitation on Disclosure. A receiving Party may disclose Confidential Information to its employees or agents under the control and direction of the receiving Party only in the normal course of business and on a need to know basis within the scope and purpose of this Agreement. Provided, however, prior to any disclosure all such agents shall have entered into written agreements with the receiving Party requiring such agents to treat and use all such Confidential Information in a manner consistent with the terms and conditions of this Agreement. Except as expressly set forth herein, no licenses under any patent, copyright or other intellectual property rights of either Party are granted.

12.5 Return of Confidential Information. Upon any termination, cancellation, or rescission of this Agreement, a receiving Party shall, at the option of the disclosing Party: (i) surrender and deliver all Confidential Information of the other Party, including all copies thereof; or (ii) destroy the Confidential Information and all copies thereof and provide satisfactory evidence of such destruction to the disclosing Party within one (1) month following termination.

12.6 Disclosure of Software Constitutes Incurable Material Breach. Licensee acknowledges and agrees that any disclosure of the Software to a third party in violation of the terms of this Agreement constitutes a material, incurable breach of this Agreement and shall result in the automatic termination of this Agreement and the immediate termination of all licenses granted to Licensee by this Agreement. Licensee further agrees that it shall be strictly liable for all damages to Licensor that result from any disclosure of the Software to any third party

13. GENERAL.

13.1 Relationship of the Parties. The Parties hereto are and shall remain independent contractors. Nothing herein shall be deemed to establish a partnership, joint venture, or agency relationship between the Parties. Neither Party shall have the right to obligate or bind the other Party in any manner to any third party.

13.2 Assignment/Sublicense. Licensee shall not, directly or indirectly, by operation of law or otherwise, transfer or assign the Licensed Product or this Agreement, or transfer, assign or sublicense any license rights granted hereunder, in whole or in part, without having secured the prior written consent of Licensor, which consent shall be at Licensor's sole discretion. Any attempted assignment in violation of this Section 13.2 shall be void.

13.3 Notices. All notices required to be given pursuant to this Agreement shall be transmitted either by (i) delivery in person, (ii) registered mail, (iii) certified mail, return receipt requested, or (iv) overnight mail, addressed to the Party to be notified at the following address or to such other address (or person) as such Party shall specify by like notice hereunder:

If to Licensor, addressed to:

mediCAD US, Inc.

1170 Howell Mill Road, Suite 300
Atlanta, GA 30318

with a copy to:

BridgehouseLaw LLP
1720 Peachtree Street NW, Suite 520
Atlanta, GA 30309

If to Licensee, addressed to:

[name]

[address]

[city, state, zip]

with a copy to:

[name]

[address]

[city, state, zip]

13.4 Export Controls. Each Party to this Agreement acknowledges its obligations to control access to Technical Data (as defined by the U.S. Department of Commerce, Office of Export Administration) under the U.S. Export Control Laws and Regulations and agrees to adhere to all applicable U.S. Export Control Laws and Regulations with regard to any Technical Data received under this Agreement.

13.5 Compliance with Laws. Each Party shall comply with all applicable state, federal and local laws, executive orders and regulations in the performance of its obligations under this Agreement.

13.6 Headings. The headings and captions appearing in this Agreement have been inserted for the purposes of convenience and ready reference only and do not purport to and shall not be deemed to define, limit or extend the scope or intent of the provisions to which they appertain.

13.7 Form. Where the context so admits, words and expressions appearing in the singular in this Agreement may be interpreted in the plural, and vice versa.

13.8 Integration. This Agreement, including the Schedules attached hereto and incorporated herein, constitutes the entire agreement between the Parties and supersedes all prior agreements and understandings between them, whether written or oral, between them relating to the subject matter of this Agreement. This Agreement may not be supplemented, explained or interpreted by any evidence of trade usage or course of dealing.

13.9 Modification or Amendment. No modification to, amendment of, or other change in this Agreement shall be binding on either Party unless it is in writing and signed by authorized representatives of both Parties.

13.10 Waiver. No waiver of any provision of this Agreement shall be effective unless made in writing and signed by the waiving Party, nor shall any such waiver, if made, constitute a waiver of any subsequent breach of the same or of any other provision of this Agreement.

13.11 Force Majeure. Neither Party shall be liable to the other by reason of any failure of performance hereunder (except obligations to pay) if such failure arises out of causes beyond such Party's reasonable control, despite the reasonable efforts, and without the fault or negligence of such Party. A Party experiencing such an event shall give as prompt notice as possible under the circumstances.

13.12 Fees and Expenses. If either Party institutes an action to enforce this Agreement or any of its terms, the prevailing Party shall also be entitled to recover all of its costs, expenses and reasonable attorneys' fees.

13.13 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, and all such counterparts shall constitute but one instrument.

13.14 Authority to Contract. Each Party represents that it has the full power and authority to enter into this Agreement and to convey the rights herein conveyed.

13.15 Jurisdiction and Venue. Should any claim or controversy arise between the Parties under the terms of this Agreement or in furtherance of this Agreement, such claim or controversy shall be resolved only in an applicable court in the state of Georgia, and said court shall be the only appropriate jurisdiction and venue therefore. Licensee hereby submits to said jurisdiction and venue.

13.16 Governing Law. This Agreement shall be construed in accordance with and governed by the substantive laws of the state of Georgia. The Parties hereby agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement.

13.17 Severability. If any provision of this Agreement is held invalid or unenforceable under any applicable law, such invalidity or unenforceability will not affect any other provision of this Agreement that can be given effect without the invalid or unenforceable provision, and this Agreement shall be construed as if said invalid or unenforceable provision had not been contained herein.

13.18 Negotiation. This Agreement is the result of negotiation between the Parties and, accordingly, shall not be construed more strongly for or against either Party regardless of which Party was more responsible for the preparation of this Agreement or any portion thereof.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in duplicate by their duly authorized corporate officers as of the day and year first above written.

LICENSEE:

[Name]

By: _____

Name: [Signer's Name]

Title: [Signer's Title]

LICENSOR:

mediCAD US, Inc.

By: _____

Name: [Signer's Name]

Title: [Signer's Title]

DRAFT