

MASTER SERVICES AGREEMENT



xThis Master Services Agreement (“MSA”), including all exhibits and addenda attached or referenced hereto, Sales Orders and Statements of Work (all such terms as defined below) agreed to by the Parties, and Medical Design Technologies’ [Support Policy](#), [Privacy Policy](#) and [Terms of Service](#) (collectively, the “Agreement”), is between the company executing a Sales Order or Statement of Work (“Customer”) and PM Ventures, LLC DBA Medical Design Technologies, a Texas limited liability company (“MDTech”), (each a “Party” or collectively the “Parties”). This MSA is effective as of the date the Sales Order is last signed by a Party (the “Effective Date”). This MSA sets forth the terms and conditions under which MDTech will make available certain Services (as defined below), and Customer will be permitted to use and access such Services. By signing the Sales Order, Customer and MDTech agree to be bound by the terms of the Agreement.

Terms & Conditions

1. DEFINITIONS

1.1. “**Affiliate**” means any person or entity that controls, is controlled by, or is under common control with a Party to this MSA. The term “control” as used in the immediately preceding sentence means the right to exercise, directly or indirectly, more than fifty percent (50%) of the voting rights attributable to the shares, partnership interests, membership shares, or similar evidences of ownership of an entity.

1.2. “**Application**” means any of MDTech’s SaaS solutions including the MD Coder, MD Message, MDC Insights software programs and solutions, including but not limited to the associated mobile applications, and any related software applications, as supplied by MDTech and as may be identified in the applicable Sales Order and any Updates to the Application.

1.3. “**Application Interface**” means application programming interface to integrate the Application with and to allow the Application to communicate with a database or Health Information System designated by Customer, including an Electronic Health Record (EHR), hospital data management system and/or practice management system utilized by Customer.

1.4. “**Customer Data**” means the data created or inputted by Customer or its Users for the purpose of using an Application or facilitating Customer’s use of an Application.

1.5. “**Documentation**” means user documentation that describes the principles of the operation or functionality of the applicable Application and that are embedded with such Application (e.g., on-line help files) and/or posted online in MDTech’s support portal.

1.6. “**Go-Live Date**” means the earlier of either (i) the date on which the Application is made available to Customer for use (regardless of whether any User actually accesses or uses the Application), or (ii) the date set forth on the Sales Order as the proposed Go-Live Date.

1.7. “**Party**” means Customer or MDTech, as applicable, and “**Parties**” mean Customer and MDTech collectively.

1.8. “**Permitted Use**” means use in connection with Customer’s internal business operations in the United States in the field of medicine for electronically creating, processing, managing and transmitting medical billing records.

1.9. “**Professional Services**” means any and all software implementation, integration, customization, on-site support and maintenance, development, training, configuration, data migration, consulting and professional services (including, without limitation, consulting services related to defects caused by issues other than the Application) performed by or on behalf of MDTech for Customer pursuant to this MSA and as detailed in a Sales Order or Statement of Work.

1.10. “**Sales Order**” means the ordering document or an MDTech-issued proposal for purchases of Services hereunder, including addenda thereto, that are entered into between Customer and MDTech from time to time. Upon execution, each Sales Order is governed by and made a part of this MSA.

1.11. “**Services**” means provision of the Application, Application Interface(s), Support Services, and Professional Services, collectively.

1.12. “**Statement of Work**” or “**SOW**” means the ordering document for purchases of Professional Services, including any addenda thereto, that are executed by the Parties. Upon execution, each SOW is governed by and made a part of this MSA. An SOW may be included or attached as part of the Sales Order.

1.13. “**Subscription Fees**” means any fees relating to Services, (including, without limitation, fees for User Subscriptions, setup and fees for exceeding Scope Limitations).

1.14. “**Subscription Term**” means the period that Customer has the right to use the Services as set forth in the applicable Sales Order, including the Initial Subscription Term and any Renewal Subscription Terms.

1.15. “**Support Services**” means ongoing maintenance and technical support services provided by MDTech for the applicable Application in accordance with the maintenance and support terms and conditions set forth in MDTech’s then-current written support and maintenance services policy, which may be posted in the support portal on MDTech’s Website or otherwise communicated to Customer, (the “**Support Policy**”), which is incorporated herein by reference.

1.16. "Updates" means bug fixes, patches, updates and upgrades to the Application as provided by MDTech under this MSA.

1.17. "User Subscription" means a subscription purchased by Customer that entitles one User to access and use the applicable Services during the applicable Subscription Term.

1.18. "Users" means individuals who are authorized by Customer to use the applicable Application, for whom subscriptions to such Application have been purchased and who have been supplied authorized user identifications and passwords by MDTech or Customer. "Users" may include but is not limited to Customer's employees, consultants, contractors and agents.

2. USE OF THE APPLICATION

2.1. Sales Orders. Customer's right to use any particular Application is valid only during the period that both the applicable Sales Order and the applicable Subscription Term are in effect.

2.2. Use of the Application. Subject to the terms and conditions of this MSA, MDTech hereby grants to Customer, and Customer hereby accepts from MDTech, a limited, non-exclusive, revocable, non-transferable (except as permitted in **Section 15.2 (Assignability)**), non-sublicensable right during the applicable Subscription Term to allow Users to use the Application specified on the applicable Sales Order solely for the Permitted Use; and

2.3. Use of the Documentation. Subject to the terms and conditions of this MSA, MDTech hereby grants to Customer a limited, non-exclusive, revocable, non-transferable (except as permitted in **Section 15.2 (Assignability)**), non-sublicensable license during the applicable Subscription Term to reproduce, without modification, and internally use a reasonable number of copies of the Documentation solely in connection with Users' use of the applicable Application.

2.4. Use Limitations. Customer agrees that it will not exceed the maximum number of Users and User license types allowed for such Application as specified in the applicable Sales Order ("Scope Limitations"). Customer agrees that: (i) the maximum number of Users authorized to access and use each Application will not exceed the number of User Subscriptions purchased for such Application; (ii) it will not allocate any User Subscription to more than one individual User unless it has been reassigned in its entirety to another individual User, in which case the prior User will no longer have any right to access or use the applicable Services; and (iii) it will not exceed the number of User license types purchased by Customer for each Application as set forth in the Sales Order.

2.5. Inspection of Customer Usage. MDTech shall have the right, at MDTech's expense and with reasonable prior notice, to inspect Customer's use of each Application and audit Customer's records for the purpose of confirming Customer's

compliance with the Scope Limitations and other terms of this MSA. Such audit may be conducted no more than once per month and shall be conducted during Customer's normal business hours and in a manner not to disrupt Customer's normal business operation. If the audit reveals that Customer has underpaid any Subscription Fees to MDTech, MDTech shall include the amount equal to such underpayment on Customer's next billing cycle and Customer shall pay to MDTech such amount on the next billing cycle.

3. CUSTOMER ACCEPTANCE; GO-LIVE DATE

3.1. Implementation Schedule. The Parties will mutually agree on a schedule whereby MDTech will configure and implement the applicable Application for Customer ("Implementation Schedule"). Such Implementation Schedule will be included on the applicable Sales Order and will include Customer's configuration requirements (if any), project scoping, and any consultation by MDTech for implementing the Application. If requested by Customer, MDTech may develop, for an additional fee, an Application Interface as part of the Implementation Schedule. Any development of and fees for the Application Interface shall be set forth in the applicable Sales Order and subject to the terms of this MSA.

3.2. Application Interface. In the event that Customer requests MDTech to develop an Application Interface and the respective Sales Order provides for such development work, MDTech shall develop such Application Interface as set forth in the Sales Order. Upon completion of the Application Interface, MDTech shall notify Customer and schedule an on-boarding telephone or online meeting with Customer to conduct a walk-through of the Application Interface. Upon completion of the on-boarding call, MDTech shall email Customer an acknowledgement that the on-boarding call took place and the Application Interface has been completed and is available for use with the Application (the "Acknowledgement"), and Customer's receipt of such Acknowledgement shall be deemed as Customer's acceptance by MDTech. Customer may use the Application at any time without the Application Interface, and Subscription Fees shall start on the first day that the Application is made available to Customer regardless of whether Customer or any of its Users actually uses or accesses the Application.

3.3. Go-Live Date. MDTech will use commercially reasonable efforts to install and implement the Application by the Go-Live Date set forth in the Sales Order but in any event no later than ninety (90) days from the Effective Date, unless otherwise agreed in writing by the Parties. If the Implementation Schedule or Go-Live Date is delayed due to Customer's action or inaction, MDTech reserves the right to charge Customer additional fees. In addition, without limiting the foregoing, MDTech reserves the right to delay the Go-Live Date until Customer pays the Initial Fees pursuant to the terms of **Section 3.1 (Initial Fees)** of the applicable Sales Order; provided, however, Customer shall remain responsible

for, and MDTech shall charge, Subscription Fees beginning on the first day that MDTech makes the Application available to Customer regardless of whether Customer or any of its Users actually accesses or uses the Application.

4. CUSTOMER'S RESPONSIBILITIES

4.1. Account Credentials. Customer is solely responsible for maintaining the confidentiality of the administrator and User logon user identifications, passwords and account information.

4.2. Compliance and Use. Customer shall (a) be responsible for Users' compliance with this MSA, (b) be responsible for the accuracy, quality, integrity and legality of Customer Data and of the means by which Customer acquired Customer Data, (c) use commercially reasonable efforts to prevent unauthorized access to or use of each Application and all Documentation and immediately notify MDTech in writing of any such unauthorized access or use or violation by Customer or its Users of this MSA, (d) use each Application only in accordance with the Documentation in the Permitted Use within the Scope Limitations, and (e) comply with all applicable laws and government regulations. Customer will cooperate and assist with any actions taken by MDTech to prevent or terminate unauthorized use of each Application or any Documentation.

4.3. Data Accuracy and Integrity. Customer accepts sole responsibility for: (i) the accuracy, completeness and integrity of the Customer Data input into the Application and their respective electronic medical records (EMR(s)); and (ii) the programming, procedures and communication lines established and used by Customer for purposes of internet-based or remote access to the Application. Customer shall ensure that its connection to, and use of, the Services, including, without limitation, the medium containing any data or other information provided to the Application, including Customer Data, (i) does not include, and (ii) that any method of transmitting such Customer Data will not introduce, any program, routine, subroutine, or data (including without limitation malicious software or malware, viruses, worms, and Trojan Horses) that may disrupt the proper operation of the Services or any part thereof or any hardware or software used by MDTech in connection therewith, or which, upon the occurrence of any event, the passage of time, or the taking of or failure to take any action, will cause the Application, Services, MDTech's systems or any part thereof to be destroyed, damaged or rendered inoperable

4.4. Restrictions. Customer may not, and will not permit or authorize Users or third parties to:

4.4.1. use the Application outside of the Permitted Use or Scope Limitations;

4.4.2. attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Applications or Documentation in any form or media or by any means; or attempt to reverse compile, disassemble, reverse

engineer or otherwise reduce to human-perceivable form all or any part of the Applications; or

4.4.3. access all or any part of the Applications or Documentation in order to build a product or service that competes with the Application or the Documentation;

4.4.4. license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit the Applications or Documentation, or otherwise make the Applications or Documentation available to any third party (e.g., as a service bureau);

4.4.5. circumvent or disable any security or other technological features or measures of the Applications;

4.4.6. make the Services available to anyone other than Users;

4.4.7. use the Applications to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights;

4.4.8. use the Services to store or transmit malicious code;

4.4.9. interfere with or disrupt the integrity or performance of the Services or third-party data contained therein; or

4.4.10. attempt to gain unauthorized access to the Applications or related systems or networks.

5. MAINTENANCE AND SUPPORT SERVICES

5.1. Standard Support Services. During the Subscription Term and as part of Customer's payment of the Subscription Fees, MDTech's standard Support Services shall be provided in accordance with the Support Policy and subject to the terms of this MSA.

5.2. Upgrades. MDTech, in its sole discretion, may provide Updates to the Application, which Updates may be automatically provided by MDTech. If Customer does not want to receive Updates automatically, Customer must turn off the automatic updates feature in Customer's user preference settings within the Application. However, Customer acknowledges that turning off the automatic updates feature may affect Customer's ability to receive Support Services and to fully use all functionalities and features in the Application.

6. PROFESSIONAL SERVICES

6.1. Scope and SOW. For an additional fee, Customer may elect to purchase, and MDTech may provide, Professional Services upon mutually agreed terms. For each request for Professional Services hereunder, the Parties shall execute a Statement of Work. A SOW may be a separate document executed by the Parties or may be incorporated into a Sales Order. Each SOW will specify the fees, scope of work and

specific terms of the project(s) or Professional Services to be performed by MDTech.

6.2. Travel Expenses; Cancellation Fees. Any and all Customer pre-approved travel expenses, including reasonable transportation, lodging and meal expenses incurred in relation to the provision of the Professional Services will be reimbursed by Customer and are in addition to the specified Professional Services fees. If Customer cancels or reschedules a Professional Services visit less than seven (7) days prior to the scheduled visit, Customer will pay all of MDTech's travel (such as hotel, flight) cancellation and change fees related to such visit. If Customer cancels weekly update calls on the day of the calls, MDTech reserves the right to charge, and Customer shall pay, cancellation fees. MDTech, in its sole discretion, may waive some or all of such cancellation or rescheduling fees.

7. PAYMENT AND FEES

7.1. Additional Users or Usage. Customer may, from time to time during the Subscription Term for the applicable Application, purchase additional User Subscriptions, and MDTech shall grant access to the Application and the Documentation to such additional Users in accordance with the provisions of this MSA and shall charge Customer, on the next billing cycle, the pro-rata fees for the additional User Subscriptions and the new monthly Subscription Fees based on the additional User Subscriptions and per the terms of the applicable Sales Order(s). Such new Subscription Fees will be effective on the next billing cycle. For clarity, Customer shall not decrease the number of User Subscriptions during a Subscription Term unless approved in advance by MDTech in writing; and, any reductions may, at MDTech's sole discretion, be subject to a termination fee equal to three (3) months of Subscription Fees for each User Subscription canceled.

7.2. Renewal Fees. Unless otherwise set forth in the applicable Sales Order, upon the expiration of the Initial Subscription Term or a Renewal Subscription Term, MDTech may increase the Services fees, including, without limitation, any Subscription Fees, or charge any new fees, by giving Customer notice (which may be by email) of any such increases at least ninety (90) days' prior to the end of the Initial Subscription Term or the then-current Renewal Subscription Term. Customer will only be entitled to discounts granted for a multi-year commitment if the applicable Renewal Subscription Term is for a period equal to or greater than such multi-year commitment. Any other discounts offered for the Initial Subscription Term do not apply to Renewal Subscription Terms unless expressly provided in the applicable Sales Order.

7.3. Invoices and Payment Terms.

7.3.1. Customer will pay MDTech the Initial Fees upon Customer's execution of the applicable Sales Order but no later than ten (10) days from the Effective Date or execution date, whichever is earlier, of the applicable Sales Order. Thereafter, the Subscription Fees will be charged in advance automatically to the credit card on file that is provided by

Customer to MDTech or automatically debited from Customer's bank account via the ACH instructions provided by Customer to MDTech, and such Subscription Fees will be charged or debited, as applicable, on a monthly basis or in accordance with any different payment or billing frequency indicated in the Sales Order. If the applicable Sales Order specifies that payment will be made by a method other than a credit card or ACH transfer, MDTech will invoice Customer annually in advance or in accordance with any different payment or billing frequency as stated in the Sales Order. Customer shall be responsible for providing and maintaining complete, current, and accurate billing and contact information with MDTech and notifying MDTech of any changes to such information, including changes to credit card information and ACH instructions.

7.3.2. Fees for additional User Subscriptions or other modifications to the Scope Limitations will be charged at Customer's next billing cycle per the terms of the applicable Sales Order(s). If such additional User Subscriptions are purchased by Customer part way through a Subscription Term, such fees shall be pro-rated for the remainder of the calendar month and charged at the next monthly billing cycle, along with Customer's new Subscription Fees adjusted based on the additional User Subscriptions or other modifications to the Scope Limitations. For clarity, such new Subscription Fees shall be effective on the billing cycle immediately following Customer's request for additional User Subscriptions or other modifications to the Scope Limitations. Fees for Professional Services will be invoiced upon execution of the applicable SOW. Any Professional Service fees paid by Customer to MDTech and remaining unused at the end of twelve (12) months from the date of invoice, will expire and be retained by MDTech.

7.3.3. Unless otherwise set forth in the applicable Sales Order, Customer will be invoiced and pay all amounts due on the date of each of Customer's billing cycle (i.e., the first or fifteenth of each month, as applicable). Customer acknowledges that Subscription Fees for Renewal Subscription Terms are due on or by the first day of such Renewal Subscription Term. If Customer reasonably and in good faith disputes all or any portion of any invoice, Customer shall notify MDTech in writing of its objection within five (5) days from the date of the applicable invoice, provide a detailed description of the reasons for the objection, and pay the portion of the invoice which is not in dispute. If Customer does not object in a timely manner, the amount invoiced shall be conclusively deemed correct by the Parties.

7.4. Late Payments. Any amount not paid when due will be subject to finance charges equal to 1.5% of the unpaid balance per month or the highest rate permitted by applicable usury law, whichever is less, determined and compounded daily from the date due until the date paid. Customer will reimburse any costs or expenses (including, but not limited to, collection agency fees, reasonable attorneys' fees and court costs) incurred by MDTech to collect any amount that is not

paid when due. In the event of default in the payment of any undisputed invoices, installments or interest for a period in excess of thirty (30) days past their due date (or in excess of ten (10) or more days overdue in the case of amounts Customer has authorized MDTech to charge to Customer's credit card), MDTech may, without notice or demand and without limiting any of MDTech's other rights and remedies, declare the entire principal sum payable during the Term under all outstanding Sales Orders and SOWs under this MSA, immediately due and payable. Amounts due from Customer under this MSA may not be withheld or offset by Customer against amounts due to Customer for any reason.

7.5. Taxes. Other than net income taxes imposed on MDTech, Customer will pay any and all taxes (including, without limitation, any sales, use, and value-added taxes), duties, and other governmental charges (collectively, "**Taxes**") resulting from this MSA, unless Customer provides MDTech with a valid tax exemption or a properly completed direct pay certificate, Customer will pay any additional Taxes as are necessary to ensure that the net amounts received by MDTech after all such Taxes are paid are equal to the amounts that MDTech would have been entitled to in accordance with this MSA as if the Taxes did not exist, regardless of whether such Taxes were included on the initial applicable invoice to Customer.

8. TERM, RENEWAL AND TERMINATION

8.1. MSA Term. This MSA will commence upon the Effective Date and continue until the Subscription Term for each Sales Order has expired or is otherwise terminated in accordance with the terms of this MSA (the "**Term**"), unless this MSA is terminated earlier by either Party as set forth herein.

8.2. Sales Order Term. Unless otherwise set forth in the applicable Sales Order, the Initial Subscription Term for each Sales Order shall be commence on the Effective Date of the applicable Sales Order (or, if no effective date is specified, on the date the Sales Order has been executed by both Customer and MDTech) and shall be in effect for the term specified in the Sales Order provided. If no such term is indicated in the Sales Order, the initial Subscription Term shall be for twelve (12) months from the Go-Live Date for the Services specified on the Sales Order (the "**Initial Subscription Term**"). Unless otherwise set forth in the applicable Sales Order, the term of each Sales Order will automatically renew for successive periods of twelve (12) months each (each, a "**Renewal Subscription Term**"), unless a Party provides to the other Party written notice sixty (60) days prior to the end of the Initial Subscription Term or the then-current Renewal Subscription Term of its intent not to renew the subscription.

8.3. SOW Term. Each SOW will be in effect for the time period specified on the applicable SOW.

8.4. Termination for Material Breach. Upon written notice to the other Party, either Party may immediately terminate this MSA or a SOW if: (i) the other Party breaches any material

term or condition of this MSA or the applicable SOW and fails to cure the breach within thirty (30) days after receiving written notice of the breach, or (ii) if the other Party becomes subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidations or assignment for the benefit of creditors. At the aggrieved Party's election, such termination will apply only to the applicable Sales Order or SOW and related Services for a particular Application and not to Sales Orders for or SOWs related to other Applications governed by this MSA. Termination of this MSA will terminate any then-outstanding Sales Orders and SOWs. In the event of termination as a result of Customer's failure to comply with any of its obligations under this MSA, Customer shall be obligated to pay for Subscription Fees and fees for Professional Services rendered. Termination of the MSA or any Sales Order or SOW shall be in addition to and not in lieu of any equitable remedies available to MDTech.

8.5. Termination for Convenience. If not otherwise set forth in the applicable Sales Order, or if no Sales Order exists, after the end of the Initial Subscription Term and during a Renewal Subscription Term, either Party may terminate a Sales Order for convenience upon providing the other with ninety (90) days' prior written notice of its intent to terminate. If Customer terminates a Sales Order for convenience, Customer shall be obligated to paying MDTech an early termination fee equal to three (3) months of Subscription Fees or the number of months of Subscription Fees remaining on Customer's Subscription Term from the effective date of termination, whichever is less; provided that (i) Customer shall not be entitled to a refund of any amounts, including but not limited to Subscription Fees, that have been pre-paid by Customer to MDTech, and (ii) Customer may not exercise this termination right if Customer has breached or is currently breaching any terms of the Agreement or if Customer is delinquent on any payment of amounts due and payable to MDTech under the Agreement. Such early termination fee is in addition to the Subscription Fees assessed during the notice period and shall be due within thirty (30) days from the date of Customer's termination notice.

8.6. Suspension. If Customer's account is fifteen (15) days or more overdue (except with respect to charges then under reasonable and good faith dispute), MDTech reserves the right, in addition to any of its other rights or remedies, suspend performance of the Services for which payment is overdue from Customer, without liability to Customer, until MDTech receives all amounts due. Suspension shall not relieve Customer of its obligation to pay the entirety of the fees due. Customer's Instance will not be restored if reconnection to the Service takes place after sixty (60) days from the date of suspension. As used in this Section, "**Instance**" means the database within the Services for Customer to manage Customer Data.

8.7. Transition Assistance. Customer shall be responsible for exporting Customer Data prior to the effective date of termination or expiration of the applicable Sales Order

Following the termination of the Sales Order, SOW (as applicable), provided Customer makes a written request within fourteen (14) days before the effective date of termination and subject to the then-current Professional Service fees on a time and materials basis, MDTech may offer transition assistance, which may include, to the extent practicable, an export of Customer Data from the applicable Application. Except as required by law or regulation, MDTech shall have the right to delete or destroy all Customer Data after thirty (30) days following the effective date of termination of this MSA or Agreement, and nothing in this MSA shall obligate MDTech to retain Customer Data longer than such thirty (30) day period.

8.8. Effect of Termination. If Customer terminates a Sales Order or SOW for material breach by MDTech, MDTech shall refund Customer any prepaid Subscription Fees for the unused portion of the Services. If MDTech terminates a Sales Order or SOW for material breach by Customer, Customer will pay to MDTech any fees or other amounts that have accrued prior to the effective date of the termination pursuant to each such Sales Order or SOW, including, without limitation, any unpaid fees for the unused portion of the Services. Upon expiration or termination of the Agreement for any reason, (a) except as expressly set forth in this MSA, any and all liabilities accrued prior to the effective date of the termination will survive, and (b) with respect to a terminated Sales Order, Customer will provide MDTech with a written certification signed by an authorized Customer representative certifying that all use of the applicable Application and Documentation ordered pursuant to the applicable Sales Order(s) by Customer has been discontinued.

8.9. Survival. Sections 2.5 (Inspection of Customer Usage), 9.1 4 (Customer's Responsibilities), 7.3 (Invoices and Payment Terms), 7.4 (Late Payments), 7.5 (Taxes), 8.7 (Transition Assistance), 8.8 (Effect of Termination), 8.9 (Survival), 9 (Ownership), 10 (Confidentiality), 11 (Indemnification), 12 (Limitations of Liability) and 15 (General) of the MSA and Section 3 (Fees) and Section 5.2 (Disclaimer) of the Sales Order shall survive the termination or expiration of the Agreement.

9. OWNERSHIP

9.1. The Services. As between MDTech and Customer, MDTech retains all right, title, and interest to: (i) all software, products, works, and other intellectual property created, used, or provided by MDTech for the purposes of this MSA, including, but not limited to, each Application and all Documentation; and (ii) all modifications, adaptations and derivatives of, and improvements to, each Application and all Documentation and any other part of the Services (created by either party). Customer hereby makes all assignments necessary to provide MDTech such ownership rights. Customer's sole right to the Application and Documentation is as set forth in this MSA.

9.2. Customer Data. All rights, title and interest in and to Customer Data are and shall remain the property of Customer.

Subject to the terms of this MSA, Customer hereby grants to MDTech throughout the Term of this MSA, and after the Term as necessary for any of MDTech's post-termination obligations to Customer, the rights to use, reproduce, store, distribute, modify, publicly display and perform, cache, transmit and prepare derivative works of Customer Data via the applicable Application to the extent necessary to provide the Services or any portion thereof. Without limiting any of Customer's obligations under an SOW, Customer shall provide MDTech, in the form and format and on the schedule specified by MDTech, all Customer Data reasonably required for MDTech's performance of its obligations under this MSA. Upon Customer's request, MDTech agrees to execute a Business Associate Agreement in a form and substance approved by MDTech with respect to Customer Data that constitutes Protected Health Information as defined under HIPAA and HITECH.

9.3. Aggregated Data. MDTech may create aggregated data from Customer Data that does not identify Customer or any aspect of Customer's operations and in which all Protected Health Information, as defined under HIPAA and HITECH, is de-identified in accordance with 45 CFR 164.514(a)-(c). Such aggregate-level data includes data analysis across multiple MDTech clients and may be used for any lawful purposes, including the health care operations of Customer, to develop industry benchmarks, measures and standards for the benefit of other MDTech clients or publication in MDTech reports. Upon creation, as between MDTech and Customer, MDTech shall own all right, title and interest in and to all such aggregated data.

9.4. Feedback. If Customer provides any feedback to MDTech concerning the functionality and performance of an Application (including identifying potential errors and improvements), Customer hereby assigns to MDTech all right, title, and interest in and to the feedback, and MDTech is free to use the feedback without payment or restriction.

10. CONFIDENTIALITY

10.1. Definition. As used herein, "**Confidential Information**" means all information disclosed by or otherwise obtained from a Party ("**Disclosing Party**") to or by the other Party ("**Receiving Party**"), whether orally, visually or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Customer's "Confidential Information" includes Customer Data. MDTech's "Confidential Information" includes each Application, all Documentation and the product of all Services and MDTech's financial, security, architectural, technical, pricing, marketing, business processes, product plans and similar information, and any and all Confidential Information provided by MDTech to Customer prior to the Effective Date or prior to the Parties' execution of a non-disclosure agreement. "Confidential Information" of each Party shall include the terms and conditions of this MSA and each Sales Order and SOW (excluding pricing, which shall be

MDTech's Confidential Information). To the extent the Parties executed a non-disclosure agreement prior to the Effective Date (the "Prior NDA"), such Prior NDA shall govern the confidential information exchanged by the Parties under the Prior NDA and the confidentiality obligations of this MSA shall govern the exchange of Confidential Information by the Parties under this MSA starting on the Effective Date.

10.2. Protection of Confidential Information. Each Party agrees to maintain Confidential Information in confidence and not to disclose it or any portion of it, except to its and its Affiliates' employees, consultants, agents or contractors who have a need to know such Confidential Information and are bound by obligations of confidentiality substantially similar to those set forth herein, for a period of three (3) years after the expiration or termination of this MSA using the same care and discretion to avoid disclosure, publication, or dissemination of the Confidential Information as it uses with its own confidential or proprietary information, but in no event less than reasonable care. Notwithstanding the foregoing, neither Party shall have liability to the other with regard to any Confidential Information that: (a) is now, or hereafter becomes, through no act or failure to act on the part of the Receiving Party, generally known or available; (b) is known by the Receiving Party at the time of receiving such information, as evidenced by its records; (c) is hereafter furnished to the Receiving Party by a third party having the legal right to do so and without restriction on disclosure; (d) is independently developed by the Receiving Party without the aid, application or use of the Confidential Information; or (e) is required to be disclosed by subpoena, law, regulation or court order; provided, that the Receiving Party shall provide reasonable advance notice to enable the Disclosing Party to seek a protective order or otherwise prevent such disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a Party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to such Confidential Information.

10.3. Return of Confidential Information. Within thirty (30) days after the effective date of termination or expiration of this MSA or upon the request of the Disclosing Party, the Receiving Party, at the Disclosing Party's option, shall (i) destroy the Disclosing Party's Confidential Information provided to the Receiving Party, or (ii) return, at the Disclosing Party's expense, such Confidential Information to the Disclosing Party or its designee, as the Disclosing Party may direct, via a method specified by the Disclosing Party. The Receiving Party shall not make or retain any copies of any of the Disclosing Party's Confidential Information that may have been entrusted or provided to the Receiving Party, except as otherwise required by law

11. INDEMNIFICATION

11.1. Indemnification by MDTech. MDTech shall defend Customer against any claim, demand, suit, or proceeding ("Claim") made or brought against Customer by a third party alleging that the use of any Application as permitted hereunder infringes or misappropriates the U.S. copyright rights of a third party, and shall indemnify Customer for any damages finally awarded against Customer, and for reasonable attorney's fees incurred by, Customer in connection with any such Claim; provided, that Customer (a) promptly gives MDTech written notice of the Claim; (b) gives MDTech sole control of the defense and settlement of the Claim (provided that MDTech may not settle any Claim unless the settlement unconditionally releases Customer of all liability); and (c) provides to MDTech all reasonable assistance, at MDTech's expense.

11.2. Exclusions from Obligations. MDTech will have no obligation under this **Section 11** (Indemnification) for any infringement or misappropriation to the extent that it arises out of or is based upon (a) use of an Application in combination with other products or services if such infringement or misappropriation would not have arisen but for such combination; (b) use of an Application by Customer for purposes not intended or outside the scope of the license granted to Customer; (c) Customer's failure to use an Application in accordance with instructions provided by MDTech, if the infringement or misappropriation would not have occurred but for such failure; or (d) any modification of an Application not made or authorized in writing by MDTech where such infringement or misappropriation would not have occurred absent such modification.

11.3. Mitigation of Infringement Action. If Customer's use of any Application is, or in MDTech's reasonable opinion is likely to become enjoined or materially diminished as a result of a proceeding arising under **Section 11.1** (*Indemnification by MDTech*), then MDTech will either: (a) procure the continuing right of Customer to use the Application; (b) replace or modify the Application in a functionally equivalent manner so that it no longer infringes; or if, despite its commercially reasonable efforts, MDTech is unable to do either (a) or (b), MDTech will (c) terminate Customer's right with respect to the Application and refund to Customer all unused Subscription Fees pre-paid by Customer with respect to such Application.

11.4. Limited Remedy. This **Section 11** (Indemnification) states MDTech's sole and exclusive liability, and Customer's sole and exclusive remedy, for the actual or alleged infringement or misappropriation of any third party intellectual property right by any Application.

11.5. Indemnification by Customer. Customer shall defend, indemnify and hold harmless MDTech and its Affiliates and each of their respective officers, members, directors, employees, contractors, representatives and agents (each an "MDTech Member") against damages, liabilities, penalties, costs (including, without limitation, reasonable attorney's fees and court costs), and expenses incurred by a MDTech

Member in connection with a Claim made or brought by a third party arising out of or related to: (a) a violation by Customer or any of its Users of any of the terms of the Agreement or of any applicable laws; (b) allegation that Customer's use of the Services in violation of the Agreement or Customer Data, infringes or misappropriates the intellectual property rights of a third party or violates applicable law; or (c) misrepresentation, fraud, negligence or willful misconduct of Customer or any of its Users. MDTech shall (a) promptly give Customer written notice of the Claim; (b) give Customer sole control of the defense and settlement of the Claim (provided that Customer may not settle any Claim unless the settlement unconditionally releases MDTech of all liability); and (c) provide to Customer all reasonable assistance, at Customer's expense.

11.6. Contributory Negligence. If the joint, concurring, comparative or contributory fault, negligence or willful misconduct of the Parties gives rise to damages for which either Party is entitled to indemnification under this MSA, then such damages shall be allocated between the Parties in proportion to their respective degrees of fault, negligence or willful misconduct contributing to such damages.

12. LIMITATIONS OF LIABILITY

12.1. Disclaimer of Indirect Damages. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS MSA, MDTECH AND ITS AFFILIATES WILL NOT HAVE ANY LIABILITY TOWARDS CUSTOMER OR USERS FOR ANY DAMAGES CAUSED BY (A) THE USE OR INABILITY TO USE ANY APPLICATION, DOCUMENTATION OR SERVICE, (B) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES, (C) ACCURACY OF DATA TRANSFERRED TO ANY OTHER SOFTWARE OR SERVICE, OR (D) INSTANCES IN WHICH CUSTOMER DATA STORED OR COMMUNICATED THROUGH ANY APPLICATION IS ACCESSED BY THIRD PARTIES THROUGH ILLEGAL OR ILLICIT MEANS; INCLUDING WITHOUT LIMITATION SITUATIONS IN WHICH CUSTOMER DATA IS ACCESSED THROUGH THE EXPLOITATION OF SECURITY GAPS, WEAKNESSES OR FLAWS THAT MAY EXIST. IN NO EVENT SHALL MDTECH OR ANY OF ITS AFFILIATES HAVE ANY LIABILITY TO CUSTOMER FOR LOST PROFITS OR REVENUES, OR FOR ANY INDIRECT, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES HOWEVER CAUSED, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, AND WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING DISCLAIMER SHALL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

12.2. Cap on Liability. IN NO EVENT SHALL THE AGGREGATE, CUMULATIVE LIABILITY OF MDTECH AND ITS AFFILIATES ARISING OUT OF OR RELATED TO THIS MSA, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE TOTAL AMOUNT OF

SUBSCRIPTION FEES PAID BY CUSTOMER IN THE SIX (6) MONTHS PRECEDING THE INCIDENT GIVING RISE TO THE CLAIM.

12.3. Independent Allocations of Risk. EACH PROVISION OF THIS MSA THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS TO ALLOCATE THE RISKS OF THIS MSA BETWEEN THE PARTIES. THIS ALLOCATION IS REFLECTED IN THE PRICING OFFERED BY MDTECH TO CUSTOMER AND IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THIS MSA. THE LIMITATIONS IN THIS SECTION 12.3 WILL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY IN THE AGREEMENT OR THIS MSA.

12.4. AMA Notice and Disclaimer. Customer agrees to the American Medical Association ("**AMA**") notice as stated below to the extent it does not conflict with state law as it applies to state entities:

12.4.1. CPT codes, descriptions and material only are copyright 1999 American Medical Association. All Rights Reserved. No fee schedules, basic units, relative values or related listings are included in CPT. The AMA assumes no liability for the data contained herein. Applicable FARS/DFARS Restrictions Apply to Government Use.

12.4.2. AMA does not directly or indirectly practice medicine or dispense medical services. AMA assumes no liability for data contained herein.

12.4.3. The AMA assumes no responsibility for the consequence attributable to or related to any use or interpretation of any information or views contained in or not contained in any publication of the AMA.

13. PUBLICITY

Neither Party shall use the other Party's name, trademark, or logo without the other Party's prior written permission. Notwithstanding the foregoing, (i) MDTech shall be permitted to disclose any details regarding this relationship to the extent required by law, and (ii) subject to Customer's brand guidelines, MDTech may include Customer name and logo in MDTech's customer lists so long as Customer is listed along with MDTech's other customers of the Services.

14. INSURANCE

Each Party shall, at its own cost and expense, procure and maintain in full force and effect during the Term of the Agreement, policies of insurance, of the types and in the minimum amounts reasonably necessary and appropriate in its industry to perform its respective obligations under the Agreement, with responsible insurance carriers duly qualified in those states (locations) where the Services are to be performed or used. Upon a Party's request, the other Party will provide its certificate of insurance.

15. GENERAL

15.1. Relationship. MDTech is and will act as an independent contractor (and not as the agent or representative of Customer) in the performance of this MSA.

15.2. Assignability. Neither Party may assign performance of the Agreement or any of its rights or delegate any of its duties under the Agreement without the prior written consent of the other. Notwithstanding the preceding sentence, each Party may assign the Agreement without the other Party's prior written consent to an Affiliate or in the case of a merger, acquisition, consolidation, sale of substantially all of the Party's assets or other change of control, provided the assigning Party promptly notifies the non-assigning Party in writing of the assignment, and in such event this MSA shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

15.3. Notices. Any notice or report required or permitted to be given or made under this MSA by either Party will be in English, in writing and be deemed to have been fully given and received (i) when delivered personally; (ii) when sent by confirmed facsimile; (iii) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid; (iv) one (1) day after deposit with a commercial overnight carrier, with written verification of such receipt; or (v) to the extent expressly permitted in this MSA, one (1) day after being sent via email. Notices will be sent to the Parties at the addresses set forth in the Sales Order or such other address as a Party may specify in writing to the other.

All notices to MDTech must be made to: Medical Design Technologies, ATTN: Legal, 3601 Walnut Street, Suite 400, Denver, CO 80205 or to legal@evercommerce.com. All notices to Customer will be made to the mailing or email address of Customer's primary contact with MDTech. MDTech may broadcast notices or messages through the applicable Application or by posting notices or messages on MDTech's web site to inform Customer of changes to the Services, or other matters of importance; MDTech shall inform Customer of such broadcast by e-mail.

15.4. Force Majeure. MDTech shall not be liable for damages for any delay or default in performing hereunder and such non-performance shall be excused if such delay or default is caused by conditions beyond its control including but not limited to acts of God, government restrictions (including the denial or cancellation of any export of other necessary license), wars, insurrections, pandemics or epidemics and/or any other cause beyond the reasonable control of the Party whose performance is affected (including mechanical, electronic, internet service provider or communications failure).

15.5. Governing Law; Jurisdiction. The Agreement and this MSA shall be governed by and construed in accordance with the laws of the State of Texas without giving effect to the principles of conflict or choice of law thereof. The Parties further agree that exclusive jurisdiction for any legal claim or lawsuit asserted or brought by either Party related to the Agreement or this MSA shall be in the state courts of Harris County, Texas and the federal courts of the Southern District of Texas. Each Party waives and releases the claim or right to bring any claim, lawsuit, or action of any kind in any other court, administrative forum, and/or jurisdiction.

15.6. Dispute Resolution. Any and all disputes, controversy or claims related to or arising in connection with the Agreement or this MSA shall first be referred to the Chief Executive Officer or the equivalent or his/her designee of each of the Parties for an informal resolution. If this informal resolution does not resolve the dispute within thirty (30) days, the Parties hereto agree to submit the dispute to binding arbitration in accordance with the Commercial Arbitration Rules of the American Health Lawyers Association ("AHLA") then in effect.

This provision shall not limit either Party's right for interim judicial relief, such as an injunction, an order of eviction, or similar actions. Any such arbitration shall proceed in accordance with the laws of the State of Texas and the venue of any such Arbitration shall be held in Houston, Texas.

Within ten (10) calendar days after the arbitration demand is served upon a Party, the Parties must jointly select an arbitrator with at least five years' experience in that capacity and who have knowledge of and experience with software licensing and software as a service. If the Parties do not agree on an arbitrator within ten (10) calendar days, a Party may petition the AHLA in order to appoint an arbitrator. The decision of the arbitrator shall be final and binding, and no Party shall have rights of appeal. Each Party shall bear its own costs and fees in connection with the arbitration; however, the arbitrator shall have the power to order one Party to contribute to the reasonable costs and expenses of the other Party, or to pay all or any portion of the costs of the arbitration.

15.7. Waiver, Amendment. The waiver by either Party of any breach of any provision of this MSA does not waive any other breach. The failure of any Party to insist on strict performance of any covenant or obligation in accordance with this MSA will not be a waiver of such Party's right to demand strict compliance in the future, nor will the same be construed as a novation of this MSA.

15.8. Severability. Should any term and condition hereof be declared illegal or otherwise unenforceable in any court of competent and appropriate jurisdiction, then such term or condition is herewith waived to the extent necessary for this Agreement to be otherwise enforceable in such jurisdiction.

15.9. Counterparts. The Agreement, , may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. For purposes of executing the Agreement, a facsimile copy or a ".pdf" image delivered via email of an executed copy of this Agreement will be deemed an original, and an electronic signature has the same legal effect as a manual or handwritten signature.

15.10. Entire Agreement. The Agreement, and the exhibits or attachments, if any, constitute the entire agreement between the Parties hereto regarding Customer's use of each Application and receipt of all Services and supersedes and replaces all prior agreements, representations, warranties, statements, promises, and understandings, whether oral or written, express or implied, with respect to the provision and use of the Services. In the event of a conflict between the terms and conditions of the MSA and any Sales Order or SOW, the terms and conditions of the MSA shall prevail except to the extent the conflict pertains to product or service description (e.g., type, quantity, usage volume) or pricing information, in which case the terms of the Sales Order or SOW, as applicable, shall prevail. No usage of trade or other regular practice or method of dealing between the Parties will be used to modify, interpret, supplement, or alter the terms of the Agreement. MDTech will not be bound by, and specifically objects to, any term, condition, or other provision that is different from or in addition to the Agreement (whether or not it would materially alter the Agreement) that is proffered by Customer in any receipt, purchase order, acceptance, confirmation, correspondence, or otherwise.

15.11. Export Compliance. The Application, Documentation and derivatives thereof may be subject to export laws and regulations of the United States and other jurisdictions. Each Party represents that it is not named on any U.S. government denied-party list. Customer shall not permit Users to access or use any Application or Service in a U.S. embargoed country (including, without limitation, Cuba, Iran, North Korea, Sudan, Syria or Crimea) or in violation of any U.S. export law or regulation.