



## SOFTWARE LICENSE AGREEMENT

This Software Term License & Agreement (the Agreement), effective as of the date specified in the Sales Order (the Effective Date), is entered into between H2D Software, LLC (H2D Software), with a principal place of business at 536 NW Lorna St, Burleson, TX, USA (Licensor) and the licensee identified in the Sales Order that pertains to this Software (Licensee). The parties agree as follows:

### 1. DEFINITIONS.

(a) "Software" means the H2DCR (Care Record) code, H2DFD (Front Desk) code, and H2DOM (Office Management) code, collectively referred to as H2D \_practice or H2D \_practice System, and, if any, Third Party Code (as such term is defined herein).

(b) "Subscription Fee" means the annual fee set out in the Sales Order payable for the license to use the Software, which includes standard support and maintenance services in accordance with H2D Software's standard policy in effect at the commencement date of the Subscription Term (as such term is defined in the Sales Order).

(c) "H2D Software Code" means H2D Software's proprietary computer programs (in object code) that are specifically identified in the Sales Order or otherwise intentionally delivered to Licensee under this Agreement (e.g., updates delivered pursuant to the support and maintenance services).

(d) "Install" means placing the Software on a computer's hard disk, CD-ROM or other secondary storage device.

(e) "Use" means (i) executing or loading the Software into computer RAM or other primary memory, and (ii) copying the Software for archival or emergency restart purposes.

(f) "Intellectual Property Rights" means all trade secrets, patents and patent applications, trademarks (whether registered or unregistered and including any goodwill acquired in such trade marks), service marks, trade names, copyrights, moral rights, database rights, design rights, rights in know-how, rights in confidential information, rights in inventions (whether patentable or not) and all other intellectual property and proprietary rights (whether registered or unregistered, any application for the foregoing, and all rights to enforce the foregoing), and all other equivalent or similar rights which may subsist anywhere in the world.

(g) "License" means a license to use the Software as specified in the applicable Sales Order and this Agreement.

(h) "User" means any individual who is an employee or contractor of Licensee and who is authorized by Licensee to use the Software pursuant to the applicable Sales Order and this Agreement.

(i) "Documentation" means the user guide, help information and/or other documentation generally provided by Licensor to licensees of the Software.

## 2. LICENSE.

2.1 Software. Subject to all terms and conditions in this Agreement, Licensor grants to Licensee a nonexclusive, nontransferable, nonsublicenseable right and license to use the Software and the Documentation for internal business purposes for the Subscription Term specified in the Sales Order.

2.2 Limitations. The Software is licensed as a single product and Licensee may not separate or use its component parts beyond that which is expressly authorized in the Sales Order. In addition, Licensee agrees that its use of the Software shall comply with all other limitations, prohibitions and conditions set forth in the Sales Order (including without limitation, any restriction regarding: Software usage, such as the number of installed production servers or number of users; the time period during which use of the Software is permitted).

2.3 License Control. Licensee acknowledges that the Software may contain code or require license keys or that detect or prevent unauthorized use of, or disable, the Software.

2.4 Support. For so long as Licensee is current in payment of all Subscription Fees and subject to the terms and conditions of this Agreement, Licensee will receive support and maintenance services in accordance with H2D Software's standard policy in effect at the commencement date of the Subscription Term.

## 3. IMPLEMENTATION AND SERVICES.

3.1 Licensor. To the extent expressly specified in the Sales Order, Licensor shall (a) implement the Software ("Implementation Services") and (b) perform the professional services (the "Professional Services"). Licensor may use third party subcontractors in providing the Implementation Services and Professional Services. Licensor shall be responsible for the performance of such subcontractors.

## 4. PAYMENTS.

4.1 Fees. Licensee agrees to pay Licensor the Subscription Fees and any applicable Implementation Services Fees and Professional Services Fees (together, "Fees"), in the amounts and at the times specified in the Sales Order.

4.2 Payment Terms. Unless specified otherwise, all Fees due hereunder shall be paid annually in advance. Fees will be due in full within 30 days after the date of invoice. The first annual Subscription Fees will be invoiced promptly after the Effective Date. Subsequent annual Subscription Fees will be invoiced at least 30 days prior to the anniversary of the Subscription Term and are due in full no later than the anniversary of the Subscription Term. All payments shall be in US dollars and shall be made to Licensor's address (or, at its option, to an account specified by Licensor). Any amount not paid when due shall bear a late payment charge, until paid, at the rate of 1.5% per month or the maximum amount permitted by law, whichever is less. Licensee agrees to reimburse Licensor for all costs (including attorneys' fees) incurred in collecting late payments.

4.3 Taxes. All payments required by this Agreement are exclusive of federal, state, local and foreign taxes, duties, tariffs, levies, withholdings and similar assessments (including without limitation, sales

taxes, use taxes and value added taxes), and Licensee agrees to bear and be responsible for the payment of all such charges, excluding taxes based upon Licensor's net income.

4.4 Audit. Upon reasonable advance written notice, Licensor shall have the right to have a quarterly audit of Licensee's use of the Software to verify Licensee's compliance with this Agreement. Licensee shall make its systems and all applicable books, records and transaction logs available for such inspection during normal business hours at Licensee's principal place of business. Any audit shall be at Licensor's expense, unless it discloses an underpayment by Licensee (i.e. for exceeding allowable users or allowable computers) for the audited period in excess of 5%, in which case Licensee shall reimburse Licensor for such expenses.

## 5. CONFIDENTIALITY.

5.1 Scope. The term Confidential Information means all trade secrets, know-how, inventions, developments, software and other financial, business or technical information of Licensor (or any of its licensors or customers) that is disclosed by or for Licensor or that is otherwise learned or accessed by Licensee, but not including any information that Licensee can demonstrate is (a) rightfully furnished to it without restriction by a third party without breach of any separate obligation to Licensor, (b) generally available to the public without breach of this Agreement or (c) independently developed by it without reliance on such information.

5.2 Confidentiality. Except for the specific rights granted by this Agreement, Licensee shall not possess, use or disclose any Confidential Information without Licensor's prior written consent, and shall use reasonable care to protect the Confidential Information. Licensee may only disclose Confidential Information to its employees and contractors who have a need to know for the purposes of this Agreement and who are bound by confidentiality obligations that are at least as protective as the provisions herein. Licensee shall be responsible for any breach of confidentiality by its employees and contractors. Promptly after any termination of this Agreement (or at Licensor's request at any other time), Licensee shall return all tangible Confidential Information, permanently erase all Confidential Information from any storage media and destroy all information, records and materials developed therefrom. However, Licensee's electronic patient records are property of the Licensee even after termination of this Agreement.

## 6. PROPRIETARY RIGHTS.

6.1 Restrictions. Except as specifically permitted in this Agreement, Licensee shall not directly or indirectly: (a) use any Confidential Information to create any software or documentation that is similar to any Software or Documentation; (b) disassemble, decompile, reverse engineer or use any other means to attempt to discover any source code or underlying ideas, algorithms or organization of the Software (except and only to the extent that these restrictions are expressly prohibited by applicable statutory law); (c) encumber, loan, lease, rent, sublicense, transfer or distribute any Software, or use the Software for the benefit of any third party (e.g., service bureau arrangement); (d) copy, create derivative works of or otherwise modify any Software or Documentation; (e) use or allow the transfer, transmission, export or re-export of all or any part of the Software (or any product thereof) in violation of any export control laws or regulations of the United States or any other relevant jurisdiction; or (f) permit any third party to do any of the foregoing. Licensee will promptly notify Licensor in writing of any unauthorized use, reproduction or distribution of any Software.

6.2 No Implied Licenses. Except for the limited rights and licenses expressly granted hereunder, no other license is granted (by implication, estoppel or otherwise), no other use is permitted and Licensor (and its licensors) shall retain all rights, title and interests (including all patent rights, copyright rights, trade secret rights and all other intellectual property and proprietary rights) in and to the Software and Documentation. Licensee agrees not to take any action inconsistent with such ownership.

6.3 Markings. Licensee shall not (and shall not permit any third party to) alter, obscure or remove any patent, trademark or other proprietary or legal notice deployed by or contained on any Software, Documentation or packaging.

6.4 Third Party Code. The H2D Software Code may operate, interface or be delivered with software or other technology that is identified in the Documentation ("Third Party Code") and licensed from and owned by third parties ("Third Party Licensors"). Licensee agrees that (a) it will use Third Party Code in accordance with this Agreement (unless different terms are specified in the applicable license set forth or referenced in the Documentation), (b) no Third Party Licensor makes any representation or warranty to Licensee concerning the Software, and (c) no Third Party Licensor will have any obligation or liability to Licensee as a result of this Agreement or Licensee's use of the Software. Upon Licensee's specific written request received during the term of this Agreement, Licensor will make available the source code for Third Party Code, but only if such source code was made available to H2D Software and doing so is required by the applicable license.

## 7. WARRANTY AND DISCLAIMERS.

7.1 Software. Licensor warrants to Licensee that the unaltered H2D Software Code will operate substantially in conformance with the Documentation. Any warranty claim under this Section 7.1 must be made in writing to Licensor. Licensor's sole obligation and Licensee's exclusive remedy in respect thereof is to use reasonable efforts to repair or replace the H2D Software Code that Licensor determines, in its reasonable judgment, is nonconforming or, at Licensor's sole discretion, to accept return of the nonconforming H2D Software Code and upon receipt thereof, Licensor shall refund to Licensee the amount that Licensee paid therefor.

7.2 Exclusions. The foregoing warranty shall apply only to the H2D Software Code licensed under the Software, and shall not apply to any nonconformity resulting from any hardware, operating system or other software to any H2D Software Code that was licensed under the Software or that was (a) used in violation of this Agreement, (b) used, handled, operated, maintained or stored improperly, or in any manner not in accord with the Documentation, industry standard practice or Licensor's instructions or recommendations, or (c) combined, altered, modified or repaired other than by or for Licensor.

7.3 Disclaimers. EXCEPT AS EXPRESSLY SPECIFIED HEREIN, THE SOFTWARE, DOCUMENTATION AND SUPPORT SERVICES ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. LICENSOR DOES NOT WARRANT THAT THE SOFTWARE WILL BE COMPATIBLE WITH ANY LICENSEE APPLICATION OR ENVIRONMENT OR OTHERWISE MEET LICENSEE'S REQUIREMENTS, OR THAT OPERATION WILL BE UNINTERRUPTED OR ERROR-FREE.

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INTEGRATION, ACCURACY, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE AND ALL WARRANTIES ARISING FROM ANY COURSE OF DEALING OR PERFORMANCE OR USAGE OF TRADE.

#### 8. INDEMNIFICATION.

8.1 Infringement. Except as provided below, Licensor agrees to defend Licensee against any claim by a third party that the H2D Software Code infringes a valid US patent (issued as of the Effective Date), or any copyright or trade secret, of such third party, and to indemnify Licensee for settlement amounts or damages, liabilities, costs and expenses (including reasonable attorneys' fees) awarded and arising out of such claim; provided, that (a) Licensee promptly gives Licensor written notice thereof and reasonable cooperation, information, and assistance in connection therewith, and (b) Licensor shall have sole control and authority to defend, settle or compromise such claim. If any Software becomes or, in Licensor's opinion, is likely to become the subject of any injunction preventing its use as contemplated herein, Licensor may, at its option (1) obtain for Licensee the right to continue using such H2D Software Code, or (2) replace or modify such H2D Software Code so that it becomes non-infringing without substantially compromising its principal functions. If (1) and (2) are not reasonably available to Licensor, then Licensor may (3) terminate this Agreement upon written notice and, after return of the Software, refund to Licensee the pre-paid Subscription Fees, pro-rated for the remainder of the Subscription Term for which such fees have been pre-paid.

8.2 Exclusions. Licensor shall have no liability or obligation to Licensee hereunder with respect to any H2D Software Code licensed the Software or to any claim based upon (a) any use of the Software not strictly in accordance with this Agreement, (b) any use of Software in an application or environment or on a platform or with devices for which it was not designed or contemplated, (c) alterations, combinations or enhancements of the Software not created by Licensor, (d) Software that complies with Licensee's requirements, (e) Licensee's continuing allegedly infringing activity after being notified thereof or its continuing use of any version of the Software after being provided modifications that would have avoided the alleged infringement, or (f) any intellectual property right in which Licensee or any of its affiliates has an interest.

8.3 Entire Liability. The foregoing states Licensor's entire liability, and Licensee's exclusive remedy, with respect to any actual or alleged violation of intellectual property rights by the Software or any part thereof or by its use or operation.

#### 9. LIMITATION OF LIABILITY.

LICENSOR (AND ITS LICENSORS) SHALL NOT BE LIABLE CONCERNING THE SUBJECT MATTER OF THIS AGREEMENT (INCLUDING THE INDEMNIFICATION), REGARDLESS OF THE FORM OF ANY CLAIM OR ACTION (WHETHER IN CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE), FOR ANY (A) MATTER BEYOND ITS REASONABLE CONTROL, (B) LOSS OR INACCURACY OF DATA, LOSS OR INTERRUPTION OF USE, OR COST OF PROCURING SUBSTITUTE TECHNOLOGY, GOODS OR SERVICES, (C) INDIRECT, PUNITIVE, INCIDENTAL, RELIANCE, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF BUSINESS, REVENUES, PROFITS OR GOODWILL, OR (D) DAMAGES, IN THE AGGREGATE, IN EXCESS OF THE SUBSCRIPTION FEES PAID BY LICENSEE TO LICENSOR FOR THE SOFTWARE GIVING RISE TO SUCH DAMAGES DURING THE 12-MONTH PERIOD PRIOR TO THE DATE THE CAUSE OF ACTION AROSE, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THESE

LIMITATIONS ARE INDEPENDENT FROM ALL OTHER PROVISIONS OF THIS AGREEMENT AND SHALL APPLY NOTWITHSTANDING THE FAILURE OF ANY REMEDY PROVIDED HEREIN.

#### 10. TERM AND TERMINATION.

10.1 Term. This Agreement shall commence on the Effective Date and continue in effect for the Subscription Term unless specified otherwise in the Sales Order. Thereafter, and unless otherwise specified in the Order Form, this Agreement shall automatically renew for the same Subscription Term duration specified in the initial Sales Order unless either party notifies the other in writing of its intention not to renew by no later than thirty (30) days before the expiration of the then-current term.

10.2 Termination. This Agreement may be terminated (a) by either party if the other party materially breaches a provision of this Agreement and fails to cure such breach within 30 days (10 days in the case of any non-payment) after receiving written notice of such breach from the non-breaching party; or (b) by either party immediately upon written notice, if the other party makes any assignment for the benefit of creditors, or a receiver, trustee in bankruptcy or similar officer is appointed to take charge of any or all of the other party's property, or the other party seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition or comparable proceeding or such a proceeding is instituted against the other party and is not dismissed within 90 days, or the other party becomes insolvent or, without a successor, dissolves, liquidates or otherwise fails to operate in the ordinary course.

10.3 Effects of Termination. Upon termination of this Agreement for any reason, all rights, obligations and licenses of the parties hereunder shall cease, except that (a) all obligations that accrued prior to the effective date of termination and any remedies for breach of this Agreement shall survive any termination, (b) Licensee shall promptly return or destroy all Software and other tangible Confidential Information, and permanently erase all Confidential Information from any computer and storage media, and (c) the provisions of Sections 4 (Payments), 5 (Confidentiality), 6 (Proprietary Rights), 7 (Warranty and Disclaimers), 8 (Indemnification), 9 (Limitation of Liability), 11 (General Provisions) and this Section 10.3 shall also survive.

#### 11. GENERAL PROVISIONS.

11.1 Entire Agreement. This Agreement including the Sales Order, constitutes the entire agreement, and supersedes all prior negotiations, understandings or agreements (oral or written), between the parties about the subject matter of this Agreement. Terms set forth in any Licensee's document that are in addition to or at variance with the terms of this Agreement are specifically waived by Licensee. All such terms are considered to be proposed material alterations of this Agreement and are hereby rejected. No waiver, consent or modification of this Agreement shall bind either party unless in writing and signed by the party against which enforcement is sought, except the terms of this Agreement may be modified by Licensor from time to time so long as they do not result in a diminution of the rights granted hereunder. The most recent revision of this Agreement will be posted on <https://www.h2dsoftware.com/licenseagreement>. By downloading updates delivered pursuant to the support and maintenance services, Licensee agrees to be bound by the terms of the Agreement then in effect. The failure of either party to enforce its rights under this Agreement at any time for any period will not be construed as a waiver of such rights. If any provision of this Agreement is determined to be illegal or unenforceable, that provision will be limited or eliminated to the minimum extent necessary so

that this Agreement will otherwise remain in full force and effect and enforceable. This Agreement is in English only, which shall be controlling in all respects. No version of this Agreement in another language shall be binding or of any effect.

11.2 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, without regard to its conflicts of law provisions. In the event of any conflict between US and foreign laws, rules and regulations, U.S. laws, rules and regulations shall govern. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

11.3 Remedies. Unless specifically provided otherwise, each right and remedy in this Agreement is in addition to any other right or remedy, at law or in equity. Licensee agrees that, in the event of any breach or threatened breach of Section 5 or 6, Licensor will suffer irreparable damage for which there is no adequate remedy at law. Accordingly, Licensor shall be entitled to injunctive and other equitable remedies to prevent or restrain such breach or threatened breach, without the necessity of posting any bond.

11.4 Notices. Any notice or communication hereunder shall be in writing and either personally delivered, or sent via confirmed electronic mail, or sent via recognized express delivery courier or certified or registered mail, prepaid and return receipt requested, addressed to the other party at its address specified above or in the Sales Order, or at such other address designated in a subsequent notice. All notices shall be in English, effective upon receipt.

11.5 Assignment. This Agreement and the rights and obligations hereunder are personal to Licensee, and may not be assigned or otherwise transferred, in whole or in part, without Licensor's prior written consent. Any attempt to do otherwise shall be void and of no effect. Without Licensee's consent, Licensor may assign this Agreement to any third party. This Agreement shall be binding upon, and inure to the benefit of, the successors, representatives and permitted assigns of the parties.

11.6 Government License. If any user of the Software or Documentation is a department, agency or other entity of the US Government, then use, duplication, reproduction, modification, release, disclosure or transfer of the Software and Documentation is restricted in accordance with FAR 12.212 for civilian agencies and DFARS 227.7202 for military agencies. The Software is commercial computer software and the Documentation is commercial computer software documentation, and their use is further restricted in accordance with the terms of this Agreement.

11.7 Acknowledgment. Licensee acknowledges that (a) it has read and understands this Agreement, (b) it has had an opportunity to have its legal counsel review this Agreement, (c) this Agreement has the same force and effect as a signed agreement, (d) Licensor requires identification of the Licensee before issuing this license, and (e) issuance of this license does not constitute general publication of the Software, Documentation or Confidential Information.