



## TERMS AND CONDITIONS AGREEMENT

Please read this agreement carefully before using the DenDox Digital Records Service. By accessing or using all or any portion of the service, you acknowledge your acceptance of the DenDox Terms and Conditions (The Agreement) and represent that you are authorized to enter into this agreement on behalf of the purchaser identified on the Sales Contract. If you do not agree to the terms of this agreement, you are not permitted to use the service, and you must cease use of and access to the service immediately.

THIS **DENDOX TERMS AND CONDITIONS AGREEMENT** (this "Agreement") is between Softech, Inc. d.b.a. Dentech, with an address at 28104 Orchard Lake Road, and the purchaser identified on the Sales Contract (You) and governs Your use of the Service.

**WHEREAS**, Dentech (Softech) has developed a proprietary digital records software platform (the "Software") that integrates with the Dentech practice management software (the "PMS") or operates as a standalone solution;

**WHEREAS**, Dentech (Softech) and End User have entered into an agreement pursuant to which Dentech (Softech) can distribute their DenDox Digital Records Software to end users who agree to the terms and conditions of this Agreement and

**WHEREAS**, the End User is desirous of licensing the DenDox Digital Records Software pursuant to the terms of this Agreement;

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

### 1. Grant of License; Term

**1.1 License Grant.** Dentech (Softech) grants the Customer a non-exclusive, non-transferable license during the Term (as defined in the sales contract) to use the DenDox Software. Customer acknowledges and agrees that the license(s) granted is a concurrent subscription based user license and that the rights granted to Customer in this agreement are subject to all of the following agreements and restrictions: (i) the Customer is limited to the number of Users that can access the software based on the number of licenses subscribed to; (ii) Customer shall not license, sell, rent, lease, transfer, assign, distribute, display, host, outsource, disclose or otherwise commercially exploit or make the DenDox Software or the Materials available to any third party other than an authorized User; (iii) Customer shall not modify, make derivative works of, disassemble, reverse compile, or reverse engineer any part of the Software, including without limitation to the DenDox Software and or Materials that are provided as a part thereof, or access the DenDox Software or Materials in order to build a similar or competitive product or service; (iv) Customer shall not create Internet "links" to the DenDox's Software or "frame" or "mirror" any part of the DenDox Software, including any content contained in the DenDox Software, on any other server or device; (v) except as expressly stated herein, no part of the DenDox Software or Materials may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means, including but not limited to electronic, mechanical,

photocopying, recording, or other means; (vi) Customer agrees to make every reasonable effort to prevent unauthorized third parties from accessing the DenDox Software; (vii) Customer acknowledges and agrees that Dentech (Softech) shall own all right, title and interest in and to all intellectual property rights in the DenDox Software and Materials and any suggestions, enhancement requests, feedback, or recommendations provided by Customer relating to the DenDox Software or the Materials, including all unpatented inventions, patent applications, patents, design rights, copyrights, trademarks, service marks, trade names, know-how and other trade secret rights, and all other intellectual property rights, derivatives or improvements thereof; (viii) unauthorized use, resale or commercial exploitation of any part of the DenDox Software or Materials in any way is expressly prohibited; (ix) Customer does not acquire any rights in the DenDox Software or Materials, express or implied, other than those expressly granted in this Agreement and all rights not expressly granted to Customer are reserved by Dentech (Softech); and (x) this Agreement is not a sale and does not convey any rights of ownership in or related to the Software or Materials to Customer. During the Term, the Customer hereby grants Dentech (Softech) the perpetual, non-restricted right to access and use the Customer's computer systems and databases in order for Dentech (Softech) to connect thereto and enable communications with the Software as needed in order to provide the License to the Customer. The Software is available as a paid service accessible by a limited number of authorized users as specified on your Sales Contract.

**1.2 Licenses From Customers** Subject to the terms and conditions of this Agreement, Customer grants to Dentech (Softech) the non-exclusive, nontransferable worldwide right to store, record, transmit, display, view, print or otherwise use (a) Customer Data solely to the extent necessary to provide the DenDox Software and Materials to Customer, and (b) any trademarks that Customer provides Dentech (Softech) for the purpose of including them in Customer's user interface of the DenDox Software ("Customer Trademarks"). Customer acknowledges and agrees that Customer Data and information regarding Customer and Customer's Data that is provided to Dentech (Softech) in connection with this Agreement may be (a) processed by Dentech (Softech) to the extent necessary to provide the DenDox Software. *In addition, Customer acknowledges and agrees that it is Customer's obligation to inform Customer's patients of the processing of Patient Data and information regarding Patient and Patient's Data pursuant to this Agreement and to ensure that Patient's have given any necessary consent to such processing as required by all applicable data protection legislation. Customer shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness and copyright of all Patient Data and information regarding Customer and Customer's data. Customer agrees that the license to the Customer Data shall survive termination of this Agreement solely for the purpose of storing Customer Data in accordance with the terms of this Agreement.*

By providing Customer with the DenDox Software, Dentech (Softech) does not acquire any right, title and/or interest in the content material (including but not limited to text, Customer-provided software, scripts, trademarks, logos, HTML coding, domain names, links, graphics, audio, video, and any data) that Customer makes available for use by means of the DenDox Software (collectively "Content"). Customer is solely responsible for all Content.

**1.3 Term.** The initial term of this Agreement begins on the Contract Date set forth in the sales contract and ends twelve or thirty-six full calendar months depending on selected contract term following the Effective Date; thereafter this Agreement shall automatically renew for successive one (1) year or thirty-six month renewal periods depending on contract term, unless terminated by either Party at least thirty (30) days prior to the end of the then current term.

## **2. Termination**

**2.1 Effect of Termination.** Either Party may terminate this Agreement and the Subscription hereunder for any or no reason by providing written notice to Dentech (Softech) of its intent not to renew at least thirty (30) days prior to the end of the Initial Term or the then current Renewal Term. Upon termination of this Agreement for any reason, the Customer understands and agrees that it must discontinue all use of the DenDox Digital Records software and that all of its data in the possession of customer and/or Dentech (Softech) may be deleted by Dentech (Softech) at any time on or after ten (10) business days following termination, and that the Customer is solely responsible for retrieving and maintaining all such information before data deletion can occur. Unless otherwise agreed upon by the parties in writing, Dentech (Softech) shall remove or overwrite all applicable Content following the effective date of termination or cancellation, in accordance with Dentech (Softech) standard procedures. In the event that Customer fails to allow Dentech (Softech) to retrieve Software within 30 days of the effective termination or cancellation, Dentech (Softech) may charge Customer the then current fair market value of the software and Customer shall be responsible for any costs/damages arising from any breach of Dentech (Softech) license agreement. Prior to any such deletion or destruction, Dentech (Softech) shall either (1) grant Customer reasonable access to Service for sole purpose of Customer retrieving Customer Data or (2) transfer all Customer Data to other media for delivery to Customer subject to time and materials. Customer agrees that Dentech (Softech) shall not be liable to Customer or to any third party for any termination of Customer access to the Service or deletion of Customer Data, provided that Customer is in compliance with the terms of this Section. Notwithstanding the foregoing, nothing shall preclude Dentech (Softech) from maintaining one copy of Customer Data if required by law.

**2.2 Delinquency** Delinquency in payment may result in a delay or suspension of the right to use the DenDox Software. In the event that Dentech (Softech) incurs any costs from efforts collecting overdue fees from Customer, Customer agrees to pay such costs. Customer agrees that Dentech (Softech) shall not be liable to Customer, or to any third party, for any suspension of service resulting from Customer's non-payment on the fees described on the Customer's Sales Contract.

## **3 Provision of Services/License/Subscription Fees; Invoicing.**

**3.1 Services** In consideration of the fees paid by Customer under this Agreement, Dentech (Softech) agrees to provide Customer access to the DenDox software. Specific component of the Software to be provided to Customer are outlined in the Sales Contract signed by the customer.

**3.2 Installation Schedule** Dentech (Softech) will install the DenDox Digital Records software described in accordance with the number of licenses described in the sales contract. All

auxiliary products are entered and agreed to separately on a separate sales agreement between the parties.

Installation is contingent on:

- (i) Customer providing their internal infrastructure and Internet connectivity needed to access and run the services.

Failure of Customer to achieve the above contingencies described above as well as all other reasonable tasks required of customer will require an adjustment in the schedule and may require payment of additional fees by Customer.

**3.3 License/Subscription Fees** The Customer shall pay Dentech (Softech) a non-refundable subscription/license fees set forth on the Sales Contract and in accordance with the billing option selected by the Customer (such selections, the “License Fee” and the “Billing Option,” respectively) and any applicable installation fee as set forth thereon. All rates, license fees and/or billing options or establish new license fees and plans are subject to change with written notice to the Customer. Subscription/license fee does not include any custom programming or enhancements. Customer agrees to pay all foreign, federal, states and local taxes if applicable to Customer’s access to use DenDox Software. End user must remain on support/subscription agreement and paid in full according to terms in order to access the DenDox software.

**3.4 Invoicing** Dentech (Softech) will invoice the Customer whenever a payment is due, in accordance with the selected Billing Option and term. Softech will collect all amounts due by directly charging the Customer’s credit card or bank account or receiving payment in the form of a check within 30 days. All amounts paid are non-refundable at all times.

**3.5 Late Fees** If any payment due and owing to Dentech (Softech) is not paid to Dentech (Softech) within thirty (30) days after such payment becomes due, and if Dentech (Softech) does not terminate the License and the Customer continues to use the Software, then late fees at a rate of one and one-half percent (1.5%) per month shall accrue and be paid by the Customer on the unpaid balance from the due date until such amount is paid in full.

#### **4. Terms of Service**

**4.1 Software Updates** Customer further agrees that, unless explicitly stated otherwise, any new features that augment or enhance the Software, and or any new service subsequently purchased by Customer pursuant to an amendment accepted by Dentech (Softech) referencing this Agreement will be subject to this Agreement.

**4.2 Customer Must Have Internet Access** In order to use the Software; Customer must have or must obtain access to the World Wide Web, either directly or through devices that access Web-based Content. Customer must also provide all equipment necessary to make (and maintain) such connection to the World Wide Web in accordance with the requirements set out in the minimum system requirement.

**4.3 Retained Rights** Customer shall not resell the Software directly or indirectly to third parties. Notwithstanding anything to the contrary herein, the Customer may not transfer the License or any other right obtained from Dentech (Softech) to any individual or entity including, without limitation, to any of its affiliates, subsidiaries or parent entities. All rights not expressly granted to the Customer in this Agreement shall remain with Dentech (Softech). The Customer acknowledges that use of the Software by the Customer's patients, third parties, contractors and employees (the "Patients"), if applicable, shall be governed by Dentech (Softech) terms of use agreement to be entered into by each such Patient.

**4.4 Transmission of Data** Customer understands that the technical processing and transmission of Customer's Electronic Communications is fundamentally necessary to Customer's use of the Software. Customer expressly consents to Dentech's (Softech's) interception and storage of Electronic Communications and/or Customer Data, and Customer acknowledges and understands that Customer's Electronic Communications will involve transmission over the internet, and over various networks, only part of which may be owned and/or operated by Dentech (Softech). Customer acknowledges and understands that changes to Customer's Electronic Communications may occur in order to conform and adapt such data to the technical requirements of connecting networks or devices. Customer further understands that Electronic Communications may be accessed by unauthorized parties when communicated across the Internet, network communications facilities, telephone, or other electronic means. Customer agrees that Dentech (Softech) is not responsible for any Electronic Communications and/or Customer Data which are lost, altered, intercepted or stored without authorizations during the transmission of any data whatsoever across networks not owned and/or operated by Dentech (Softech).

**4.5 Confidential Information** Each party may have access to information that is confidential to the other party ("Confidential Information"). For purposes of this Agreement, Confidential Information shall include any information that is clearly identified in writing at the time of disclosure as confidential as well as any information that, based on the circumstances under which it was disclosed, a reasonable person would believe to be confidential. Customer's Confidential Information shall include, but not be limited to, Customer Data. A party's Confidential Information shall not include information that (i) is or becomes a part of the public domain through no act or omission of the other party; (ii) was in the other party's lawful possession prior to the disclosure without any obligation of confidentiality and had not been obtained by the other party either directly or indirectly from the disclosing party; (iii) is lawfully disclosed to the other party by a third party without restriction on disclosure; (iv) is independently developed by the other party without use of or reference to the other party's Confidential Information, as established by written records. The parties agree to use commercially reasonable efforts not to make each other's Confidential information public.

Notwithstanding anything to the contrary in this Agreement, Content is not included in Confidential Information as defined above. To the extent Dentech (Softech) has any access to content in the course of providing the Services, Dentech (Softech) entire obligation to keep Content confidential is stated in this Section below. Dentech (Softech) shall not, intentionally (i) access Customer's Content or (ii) disclose Customer's Content to any third party, except to the

extent: (a) Customer makes its Content publicly available, (b) as necessary for Dentech (Softech) to provide, or obtain third-party supplier support for, the Services or to provide information requested by Customer, or (c) as specifically authorized by Customer in writing. Dentech's (Softech) obligation to protect Content from unauthorized use, access or disclosure is: (i) to provide the Security Services specifically set forth in this Agreement and (ii) maintain and enforce the then-current standard Dentech (Softech) security policies and standards applicable to the Services as practiced at the service locations from which Dentech (Softech) is providing the Services to Customer.

The obligations in this Section shall not apply to the recipient of Confidential Information and/or Dentech (Softech) with respect to Content to the extent disclosure of Confidential Information or Content is required to comply with laws or respond to requests by a regulatory or judicial body and/or as otherwise required for legal process. In the event that any such disclosure is required, the recipient, and/or Dentech (Softech) with respect to Content, reserves the right to charge the other party on a time-and-materials basis for recipient's/Dentech's (Softech's) reasonable efforts related to its compliance and response, including, if applicable, reasonable attorney's fees.

**4.6 Customer Support** Dentech (Softech) will make commercially reasonable efforts to promote Customer's successful utilization of the Software, including but not limited to maintenance and support of the Base Components, providing Customer with user guides and on-line help, and product support. Infrastructure Support Services are not provided by Dentech (Softech) unless covered under a separate maintenance agreement. Product Support pertains to support designed to remedy errors in Dentech's (Softech) Software that cause it to deviate from the specifications as described in the Materials. Dentech (Softech) also offers "for fee" extended support options and Professional Services, which may include, among other things, training services, business and regulatory process consulting, processing support, migration services and system configuration. Dentech (Softech) will provide customer support as needed to the Customer on DenDox Digital Records Software only. Subscription agreement covers all support related inquiries regarding the DenDox Digital Records Software only. Availability of Dentech (Softech) support by telephone, during the hours of 8:30am-5:00pm (EST) Monday through Friday excluding holidays. Does not cover loss of application, integration of data or reinstallation of application or software due to new hardware installations, data breach, viruses or hardware malfunction.

## **5 Maintenance**

**5.1 Maintenance** In order to perform maintenance, including infrastructure and application upgrades, there will be routinely scheduled down time. Customer shall give Dentech (Softech) one (1) week notice in the event that such routinely schedule maintenance conflicts with its operations at a critical time. Upon the receipt of such notice, the parties shall work together to find a mutually convenient time to perform such maintenance. Dentech (Softech) further reserves the right to issue new releases in which Dentech (Softech) adds functionality to the Software. Customer acknowledges that these periodic major releases can take several hours to complete. The time necessary to provide such periodic releases shall not be counted in any System Availability calculations. Dentech (Softech) shall consult with the Customer and, unless

otherwise agreed upon, shall install such major releases during routinely scheduled down time. Customer shall be apprised of software upgrades and or patch releases to the Software.

In the event that Dentech (Softech), in its sole discretion, determines that any unscheduled maintenance is necessary, Dentech (Softech) will use commercially reasonable efforts to notify Customer as soon as it becomes aware of such need.

## **6. Proprietary Rights**

**6.1 Software** As between the Customer, and Dentech (Softech) the Customer acknowledges that the Software, in any and all forms, is and shall remain the sole and exclusive property of Dentech (Softech), including all applicable rights to patents, copyrights, trademarks, trade secrets or other proprietary or intellectual property rights inherent therein. All rights not expressly granted to the Customer in this Agreement related to the Software are reserved in full by Dentech (Softech) or any third party licensor of Dentech (Softech), as may be applicable.

**6.2 Trademark and Copyright Notice** Except as specifically set forth in this Agreement, the Customer shall have no rights to use any of Dentech's (Softech) trademarks and all right, title and interest pertaining to such marks shall remain the exclusive property of Dentech (Softech). The Customer shall be prohibited from removing, modifying, destroying or taking any other action that will obscure any copyright, trademark, or restricted rights notices or other proprietary legends affixed by Dentech (Softech) or a licensor of Dentech (Softech) to the Software or any portion thereof.

## **7. Customer Responsibility and Passwords; Customer Data**

**7.1 Customer's Responsibilities** Customer agrees to comply with all applicable local, state, national and foreign laws, treaties, regulations and conventions in connection with its use of the Software, including without limitation those related to data privacy, international communications, and the exportation of technical or personal data. Customer will ensure that any use of the Software by Customer's Users is in accordance with the terms of this Agreement. Customer agrees to notify Dentech (Softech) immediately of any unauthorized use of any password or account or any other known or suspected breach of security or any known or suspected distribution of Customer Data. Any unauthorized use of the Software may violate copyright laws, trademark laws, the laws of privacy and publicity, and communications regulations and statutes.

**7.2 Passwords, Access, and Notification** Customer may designate up to the number of Users that corresponds to the number of permitted Users set forth in the Sales Contract. Customer will provide and assign unique password and user names to each authorized User. Customer acknowledges and agrees that Customer is prohibited from sharing passwords and or user names with unauthorized users. Customer will be responsible for the confidentiality and use of Customer's (including its employees') passwords and user names. Customer will also be responsible for all Electronic Communications, including those containing business information,

account registration, account holder information, financial information, Customer/Patient Data, and all other data of any kind contained within emails or otherwise entered electronically through the Software or under Customer's account. Dentech (Softech) will act as though any Electronic Communications it receives under Customer's passwords, User name, and/or account number will have been sent by Customer. Customer agrees to notify Dentech (Softech) if Customer becomes aware of any loss or theft or unauthorized use of any of Customer's passwords, user names, and/or account number.

**7.3 Customer Data** Dentech (Softech) does not own any of the Customer's and/or the Patient's data. The Customer is solely responsible for the accuracy, integrity, and legality of the Customer's and/or any Patient's data. Notwithstanding anything to the contrary in this Agreement, Dentech (Softech) shall not be responsible or liable for the deletion, corruption, correction, destruction, damage, loss or failure to any of the Customer's and/or any Patient's data. The Customer shall not knowingly send or store spam, unlawful, infringing, obscene, or libelous material, or viruses, worms, trojan horses and other harmful code, or data which violates the rights of any individual or entity established in any jurisdiction including, without limitation, medical information, credit card information or social security numbers, driver's license or other personal identification numbers or account numbers on, to or from the Software. Unless needed for patient treatment or referral.

**7.4 Security of Customer Data** Dentech (Softech) hereby covenants and agrees to take steps consistent with commercially reasonable industry standards to secure personally identifiable information ("PII") collected from the Customer or directly from the Patients from any loss, misuse, unauthorized access and/or destruction. However, the Customer acknowledges and agrees that Dentech (Softech) is not in any way guaranteeing that such PII will not be lost, stolen, accessed or otherwise disclosed by accidental circumstances or unauthorized acts for which Dentech (Softech) shall in no way be liable.

## **8. Usage Restrictions**

**8.1 Restrictions** The Customer agrees that they shall not directly or indirectly, and shall not authorize or permit any Patient or any of the Customer's employees, contractors, principals, directors, agents or other individual or entity working on its behalf, directly or indirectly, to: (i) sell, resell, sublicense, rent, lease, loan, transfer, assign, distribute, copy, publish, transmit, distribute (electronically or otherwise), create derivative works of or otherwise disseminate, exploit or make available the Software (or any portion thereof) to anyone other than as expressly provided in this Agreement; (ii) reverse engineer, decompile, modify, translate or disassemble the Software (or any portion thereof); (iii) remove, conceal or modify any copyright or other proprietary notice or any credit-line or date-line or other mark or source identifier contained in the Software; (iv) make any representation or warranty on behalf of Dentech (Softech); (v) violate any applicable local, state, national, or international law, (vi) fail to take commercially reasonable precautions consistent with industry standards to safeguard the Software, as accessible from the Customer's computer systems, from unauthorized access or use; (vii) display the name, logo, trademark or other identifier of any person or entity that is substantially similar to or otherwise confusing with "Dentech" ("Softech") in connection with the Software, or



otherwise which is disparaging, scandalous or otherwise poorly reflects on Dentech (Softech) or the trademark “Dentech” (“Softech”) or subsequent products; (viii) attempt to create a substitute or similar product or service through use of, or access to, the Software; or (ix) use the Software (or any portion thereof) in any manner or for any purpose other than as expressly contemplated by this Agreement.

**8.2 Prevention of Third Party Use** The Customer acknowledges and agrees that the Software provided to the Customer under this Agreement is a valuable asset of Dentech (Softech). The Customer shall use its commercially reasonable efforts to assist Dentech (Softech) in identifying and preventing any unauthorized access, use, copying, dissemination, publication or disclosure of the Software or any portion thereof, and shall take prompt and appropriate action to prevent such unauthorized use or disclosure of the Software. The Customer shall immediately notify Dentech (Softech) in writing of any unauthorized use of, or access to, the Software of which it becomes aware.

## **9Warranties**

**9.1 Disclaimer of Warranties** EXCEPT AS OTHERWISE STATED IN ABOVE, DENTECH (SOFTECH) DOES NOT REPRESENT THAT CUSTOMER’S USE OF THE SERVICE WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR FREE, OR THAT THE SERVICE WILL MEET CUSTOMER REQUIREMENTS OR THAT ALL ERRORS IN THE SERVICE AND/OR DOCUMENTATION WILL BE CORRECTED OR THAT THE SYSTEM THAT MAKES THE SERVICE AVAILABLE WILL BE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS OR THE SERVICE WILL OPERATE IN COMBINATION WITH OTHER HARDWARE, SOFTWARE, SYSTEMS OR DATA NOT PROVIDED BY DENTECH (SOFTECH) OR THE OPERATION OF THE SERVICES WILL BE SECURE OR THAT DENTECH (SOFTECH) AND ITS THIRD PARTY VENDORS WILL BE ABLE TO PREVENT THIRD PARTIES FROM ACCESSING CUSTOMER DATA OR CUSTOMER’S CONFIDENTIAL INFORMATION, OR ANY ERRORS WILL BE CORRECTED OR ANY STORED CUSTOMER DATA WILL BE ACCURATE OR RELIABLE. THE WARRANTIES STATED ABOVE ARE THE SOLE AND EXCLUSIVE WARRANTIES OFFERED BY DENTECH (SOFTECH). THERE ARE NO OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, THOSE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. EXCEPT AS STATED ABOVE, THE SERVICE IS PROVIDED TO CUSTOMER ON AN “AS IS” AND “AS AVAILABLE” BASIS, AND IS FOR COMMERCIAL USE ONLY. CUSTOMER ASSUMES ALL RESPONSIBILITY FOR DETERMINING WHETHER THE SERVICE OR THE INFORMATION GENERATED THEREBY IS ACCURATE OR SUFFICIENT FOR THE CUSTOMER’S PURPOSE. THE CUSTOMER’S USE OF THE SOFTWARE AND ALL THIRD PARTY SOFTWARE MADE AVAILABLE IN CONJUNCTION WITH OR THROUGH THE SOFTWARE, IS UNDERTAKEN AT THE CUSTOMER’S SOLE DISCRETION AND RISK AND THE CUSTOMER SHALL BE SOLELY RESPONSIBLE FOR ALL DAMAGE TO ITS COMPUTER SYSTEMS AND ALL OTHER LOSSES (INCLUDING, WITHOUT LIMITATION, ANY LOSS OF DATA) THAT RESULT FROM THE INSTALLATION OR USE OF THE SOFTWARE INCLUDING, WITHOUT LIMITATION, ANY THIRD PARTY SOFTWARE INCORPORATED THEREIN.

**9.2 Accuracy Of Information** THE CUSTOMER ACKNOWLEDGES THAT THE CUSTOMER IS SOLELY RESPONSIBLE FOR ENSURING THE ACCURACY AND INTEGRITY OF DATA (INCLUDING, WITHOUT LIMITATION, THE SENSITIVE DATA OF THE PATIENTS) WHICH IS SUBMITTED TO DENTECH (SOFTECH) BY MEANS OF THE SOFTWARE OR OTHERWISE. DENTECH (SOFTECH) MAKES NO REPRESENTATIONS OR WARRANTIES AS TO THE ACCURACY, CORRECTNESS, COMPLETENESS OR USEFULNESS OF THE SOFTWARE OR ABOUT ANY DATA OR OTHER INFORMATION MADE ACCESSIBLE BY OR THROUGH THE SOFTWARE, AND DENTECH (SOFTECH) IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS CONTAINED IN THE SOFTWARE OR GENERALLY FOR THE ACCURACY, RELIABILITY, OR QUALITY OF THE SOFTWARE. FURTHERMORE, DENTECH (SOFTECH) IS NOT RESPONSIBLE FOR ANY TECHNICAL PROBLEMS WITH OR MALFUNCTIONS OF ANY INTERNET LINES, COMPUTER SYSTEMS, SERVERS, PROVIDERS, HARDWARE/SOFTWARE, LOST OR UNAVAILABLE NETWORK CONNECTIONS OR FAILED, INCOMPLETE, GARBLED OR DELAYED COMPUTER TRANSMISSIONS OR ANY COMBINATION THEREOF, AND DENTECH (SOFTECH) DOES NOT GUARANTEE CONTINUOUS, UNINTERRUPTED OR SECURE ACCESS TO THE SOFTWARE.

## **10 Limitations of Liability**

**10.1 Consequential Damages** NEITHER (a) DENTECH (SOFTECH) OR ANY OF ITS MEMBERS, DIRECTORS, OFFICERS, EMPLOYEES, CONTRACTORS, SUB-CONTRACTORS, PARENT, SUBSIDIARIES, CONSULTANTS, LICENSORS, PARTNERS, AFFILIATES, AGENTS OR REPRESENTATIVES (COLLECTIVELY, THE "DENTECH" "SOFTECH PARTIES") NOR (b) DENTECH (SOFTECH) OR ANY OF ITS SHAREHOLDERS, DIRECTORS, OFFICERS, EMPLOYEES, CONTRACTORS, SUB-CONTRACTORS, PARENT, SUBSIDIARIES, CONSULTANTS, LICENSORS, PARTNERS, AFFILIATES, AGENTS OR REPRESENTATIVES (COLLECTIVELY, THE "DENTECH" "SOFTECH PARTIES") SHALL HAVE ANY LIABILITY, OBLIGATION OR RESPONSIBILITY TO THE CUSTOMER, THE PATIENT OR ANY OTHER PERSON FOR ANY LOSS, DAMAGE, OR ADVERSE CONSEQUENCE ALLEGED TO HAVE HAPPENED OR WHICH HAS HAPPENED, DIRECTLY OR INDIRECTLY, THROUGH THE CUSTOMER'S USE OR A PATIENT'S USE OF THE SOFTWARE. Notwithstanding anything to the contrary in this Agreement and to the maximum extent permitted by applicable law, in no event shall Dentech (Softech), the Dentech (Softech) Parties, be liable for any special, incidental, indirect, consequential or punitive damages whatsoever (including, without limitation, damages for lost business, lost savings, lost business information and other data, or loss of anticipated profits) arising out of the use of or the inability to use the Software or any other cause, and whether arising in contract, tort (including negligence), misrepresentation, strict liability, or otherwise, even if any of Dentech (Softech), the Dentech (Softech) Parties, have been advised of the possibility of such damages. In no event shall Dentech (Softech) or the Dentech (Softech) Parties be liable for any damages to the Customer's computers, systems, databases or other systems or programs. These limitation of liability provisions (a) represent a material

inducement for Dentech (Softech) to enter into this Agreement, and (b) are intended to apply without regard to whether other provisions of this Agreement have been breached or have proven ineffective, and notwithstanding a failure of essential purpose of any limited remedy, and they shall apply to the fullest extent permitted by law. DENTECH (SOFTECH) SHALL NOT BE LIABLE FOR ANY DAMAGES RESULTING FROM THE LOSS OR CORRUPTION OF ANY DATA OR CONTENT WHETHER RESULTING FROM DELAYS, NONDELIVERIES, MISDELIVERIES, SERVICE INTERRUPTIONS OR OTHERWISE.

## **11. Indemnification**

**11.1 Customer** The Customer shall defend, indemnify and hold Dentech (Softech), and all the Dentech (Softech) Parties, harmless from all claims, demands, actions, suits and judgments (the “Claims”) and from all resulting costs, losses, liabilities, expenses and damages of every kind and nature (actual, direct or indirect), including, without limitation, reasonable attorneys’ fees and disbursements (“Costs”), suffered or incurred by any or all of Dentech (Softech) and/or the Dentech (Softech) Parties which arises from any breach by the Customer of any obligation or covenant set forth in this Agreement or the omission of any act by the Customer or any Patient, including, without limitation, any use of the Software in a manner not expressly authorized hereunder.

**11.2 Dentech (Softech)** Subject to the limitation set forth herein, Dentech (Softech) shall defend, indemnify and hold the Customer harmless from all Claims and from all resulting Costs, suffered or incurred by the Customer which arise from any breach by Dentech (Softech) of any obligation or covenant set forth in this Agreement by Dentech (Softech).

**11.3 Remedies** Limitation Notwithstanding any of the foregoing, Dentech (Softech) shall not be obligated to provide the foregoing remedies or any other remedies to the Customer if the defect, infringement or alleged infringement is directly or indirectly based upon (a) use of the Software by the Customer (or any individual or entity acting on behalf of the Customer) in a manner other than as expressly authorized under this Agreement or in any accompanying documentation provided by Dentech (Softech), or (b) any modification of the Software by the Customer or any individual or entity other than Dentech (Softech).

## **12 Confidentiality**

**12.1 Confidential Information** Each Party acknowledges that during the course of the Term, non-public information concerning its business, procedures, plans, products, technology and other information that is confidential or proprietary in nature to such Party, including, without limitation, the PII of the Patients, regardless of whether such information is in written, oral, electronic or other form (the “Confidential Information”), may be disclosed by one Party (such Party, the “Disclosing Party”) to the other Party (such Party, the “Receiving Party”) for the sole purpose of enabling the Receiving Party to fulfill its obligations hereunder. Except as provided for in this Agreement or required by law, during the Term and thereafter, the Receiving Party shall not make any disclosure of the Confidential Information to anyone other than the Receiving Party’s employees, consultants, or other third parties working on its behalf who have a need to know such information to fulfill the Disclosing Party’s requests and who have agreed to maintain

the confidentiality of such information. Notwithstanding the foregoing, Confidential Information may be disclosed by the Receiving Party if such disclosure is required by law, but in such event the Receiving Party shall notify the Disclosing Party in writing promptly upon receipt of notice of such requirement, so that the Disclosing Party may determine whether to take appropriate action to attempt to protect the Confidential Information. Confidential Information shall not include information that the Receiving Party can demonstrate (i) has been approved for release by written authorization of the Disclosing Party, (ii) is, as of the time of its disclosure, publicly known through a source other than the Receiving Party, (iii) was known to the Receiving Party at the time of its disclosure through no wrongful act of the Receiving Party, (iv) is independently developed by the Receiving Party without use of the Confidential Information of the Disclosing Party, or (v) properly comes into the possession of the Receiving Party from a third party which is not under any obligation to maintain the confidentiality of such information.

**12.2 Use of Confidential Information** The Receiving Party shall use reasonable efforts to ensure the protection, confidentiality and security of the Confidential Information. It shall not use or copy the Confidential Information for any purpose other than the performance of its duties or exercise of its rights under this Agreement, and shall not, either directly or indirectly, disclose or disseminate the Confidential Information to any third party without prior written authorization from the Disclosing Party, except for disclosure to its employees, consultants, or other third parties working on its behalf where necessary for the performance of its obligations under this Agreement.

**12.3 Confidential Information and Termination** Upon any termination or expiration of this Agreement, upon the written request of the Disclosing Party, the Receiving Party shall (i) deliver to the Disclosing Party all Confidential Information of the Disclosing Party in the Receiving Party's possession, custody or control and (ii) destroy, irretrievably erase and render unusable all such Confidential Information in its possession, custody or control which cannot reasonably be delivered to the Disclosing Party.

**13. Force Majeure** Other than for the Customer's payment obligations in this Agreement, neither Parties shall be liable for the failure to perform hereunder due to acts of war, terrorism, public enemy, government, or any person engaged in subversive activity, riot or sabotage; due to acts of God, including but not limited to fire, flood, storm, explosion or other catastrophe, epidemic or quarantine restrictions; due to strikes or other labor stoppages, slowdowns or disputes; or due to delays by suppliers of materials or services, inability to obtain transportation, or any other cause beyond its reasonable control whether similar or dissimilar to any cause listed herein. In the event of any such delay, the affected party shall promptly notify the other parties in writing, and the parties shall consult for the purpose of taking whatever remedial action is mutually deemed appropriate; provided, however, that after a period of thirty (30) consecutive days of such delay, either Party may terminate this Agreement upon written notice to the other said parties.

**14 Notices** Except as otherwise provided above, any notice required or permitted under the terms of this Agreement or required by law must be in writing and must be (a) delivered in person, (b) sent by registered or certified mail return receipt requested, (c) sent by overnight courier, (d) sent by facsimile (with a hard copy mailed on the same date), (e) by email whose receipt is acknowledged by an officer of the receiving Party. If to Dentech (Softech), a notice shall be forwarded to Dentech Support, at support@dentech.com, Attn. Product Support Manager, with a copy to COO, jane.kaminski@dentech.com, Attn: Jane Kaminski, and if to Customer, a notice shall be forwarded to Customer at the address provided on the Sales Contract. Notices shall be considered to have been given at the time of actual delivery in person, five business days after posting if by mail, one business day if by overnight courier service, or upon receipt of machine confirmation of successful transmission by facsimile or email as described herein.

**15 No Assignment** Customer may not assign or transfer this Agreement without the prior written approval of Dentech (Softech). Any purported assignment in violation of this section shall be void.

**16 Security and Security Policies** Dentech (Softech) is not responsible for (i) unauthorized access to Customer's Content, or (ii) damages arising out of unauthorized access.

**17 Timely Filing Of Claims** REGARDLESS OF ANY STATUTE OR LAW TO THE CONTRARY, ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF OR RELATED TO THE USE OF THE SOFTWARE BY THE CUSTOMER OR ANY PATIENT OF THE CUSTOMER, OR OTHERWISE RELATED TO THIS AGREEMENT, MUST BE FILED BY THE CUSTOMER WITHIN ONE (1) YEAR AFTER SUCH CLAIM OR CAUSE OF ACTION AROSE OR IS CLAIMED TO HAVE ARISEN.

**18 Severability** In the event that any provision of this Agreement is found to be invalid, voidable or unenforceable, the Customer and Dentech (Softech) agree that unless such provision materially affects the entire intent and purpose of this Agreement, such invalidity, voidability or unenforceability shall affect neither the validity of this Agreement nor the remaining provisions of this Agreement which shall remain in full force and effect. The provision in question shall be deemed to be replaced with a valid and enforceable provision most closely reflecting the intent and purpose of the original provision.

**19 Waivers** No failure or delay by the Customer or Dentech (Softech) in exercising any power or right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power.

**20 Survival.** The provisions of this Agreement shall survive the expiration or earlier termination of this Agreement to the extent necessary to carry out the intentions of the Customer and Dentech (Softech).

**21 Disentanglement** As part of the agreement, Dentech (Softech) will deliver a proposed termination assistance/data export plan billed to Customer based on time and materials within ninety (90) business days after the Effective Date of termination. Customer will have five (5) business days from the date of receipt of such proposed plan to accept the plan as-is or to provide feedback regarding the proposed plan in writing. The parties will then cooperate in good faith to finalize the plan within ten (10) business days. The termination assistance/data export plan will not become part of this Agreement. Instead, it is intended to further describe aspects of the Services and in the event the final plan involves any changes in scope, such changes will be addressed as part of the change control process.

**22 General Provisions** Any action related to this Agreement will be governed by Michigan law and controlling U.S. federal law. No choice of law rules of any jurisdiction will apply. Any disputes, actions, claims or causes of action arising out of or in connection with this Agreement or the Service shall be subject to the exclusive jurisdiction of the state and federal courts located in District Court of Wayne County, Michigan. This Agreement, together with the registrations and fees hereto, represents the parties' entire understanding relating to the use of the Service and supersedes any prior or contemporaneous, conflicting or additional, communications. No text or information set forth on any Sales Contract, preprinted form or document shall add to or vary the terms and conditions of this Agreement. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision(s) shall be construed, as nearly as possible, to reflect the intentions of the invalid or unenforceable provision(s), with all other provisions remaining in full force and effect. No joint venture, partnership, employment, or agency relationship exists between Dentech (Softech) and Customer as a result of this Agreement or use of the Service. The failure of Dentech (Softech) to enforce any right or provision in this Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by Dentech (Softech) in writing. Dentech (Softech) reserves the right to assign its right to receive and collect payments hereunder. Any rights not expressly granted herein are reserved by Dentech (Softech).

**IN WITNESS WHEREOF**, this Agreement is duly executed by an authorized representative of both parties as of the Effective Date as set forth on the sales contract and signed by both parties on the sales contract.