

MY.INTELLIO END USER LICENSE AGREEMENT

This MY.INTELLIO END USER LICENSE AGREEMENT (**EULA**) sets out the scope of the rights to the Platform and other terms agreed by and between **S+N** and **Customer**. This EULA forms part of that MY.INTELLIO Subscription Agreement executed by S+N and Customer (**Agreement**) that references this EULA, and capitalized terms used (but not defined) in this EULA shall have the same meanings as those used in the Agreement unless the context otherwise requires.

- A. S+N develops and markets the cloud-based MY.INTELLIO Platform for use with Devices.
- B. Customer has purchased one or more Subscriptions solely for the purpose of using the Platform at the Permitted Sites in accordance with the Agreement and with any applicable instructions for use.
- C. Customer agrees that each Authorized User (as defined below) is required to comply with the terms of the Agreement.

By executing the Agreement and/or using the Platform, Customer agrees to be bound by the terms of this EULA. If Customer does not agree with these terms, Customer should not execute the Agreement or use the Platform.

1. DEFINITIONS.

Unless otherwise specifically provided, the following terms shall have the meanings set forth below for the Agreement and all exhibits and attachments hereto:

Admin User means the users with administrative privileges permitted by Customer to manage its use of the Platform.

Affiliate means any entity, which directly or indirectly controls, is controlled by, or is under common control with a Party. The term "control" means the possession of the power to direct or cause the direction of the management and the policies of an entity, whether through the ownership of at least fifty percent (50%) of the outstanding voting stock securities or by contract.

Authorized User means each individual user of the Platform authorized to use the Platform by Customer. For clarity, Admin Users, Non-Staff Authorized Users, and employees, and other staff members authorized to use the Platform by Customer or its Affiliates are Authorized Users. Authorized User accounts may be created by Customer or S+N on behalf of Customer.

Customer Data means all electronic information submitted to and stored on the Platform by Customer, including, without limitation, Patient Information. Customer Data does not include any data generated or derived from Customer Data or that is generated by Customer or the Authorized Users' use of the Platform (provided that to the extent such data includes Patient Information, the data has been de-identified in accordance with HIPAA and the BAA (defined below)). Customer Data is not considered Confidential Information and is protected in accordance with Sections 7 and 8.

Confidential Information means all information, whether written or unwritten, 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, including without limitation

and without the need to designate as confidential: the Agreement, all pricing information, all data, information, procedures, and know how relating to the Party's products, services, and business operations, technical documentation and specifications as may be embodied, without limitation, in specifications, design sheets, engineering data, software, object codes, procedure codes, file layouts, flow charts, source listings, ideas, concepts, systems, designs, programs, structures, logic flows, file contents and algorithms, manuals, and supporting documentation. Confidential Information does not include: (a) information already known to the Receiving Party (defined below) prior to disclosure by the Disclosing Party (defined below); (b) information that is or becomes generally known to the public (e.g., open source code), other than as a result of misappropriation or breach of confidentiality; (c) information that is learned from a third party holding the same lawfully and not under an obligation of confidentiality; (d) information that is independently developed, without any direct or indirect reliance, reference to or benefit from the Disclosing Party's Confidential Information; or (e) information that is required by valid subpoena or other applicable law to be disclosed, but only to the extent of such requirement and only in the event, where not prohibited, the Disclosing Party has been notified in advance of such requirement.

Device means the LENS 4K and LENS HD Surgical Imaging System provided by S+N and any updates, modifications, improvements, or enhancements thereto provided by S+N to Customer.

Documentation means any documentation, instructions, or other related materials provided with the Platform, in printed, electronic, or other form that describe the installation, operation, use, or technical specifications of the Platform.

Non-Staff Authorized User means an Authorized User who is not an employee or other staff member of Customer or its Affiliates that Customer authorizes to use the Platform.

HIPAA means the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations, as may be amended from time to time.

Intellectual Property Rights means any and all registered and unregistered rights granted, applied for, or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection, or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world.

Maintenance means corrective maintenance and updates made to the Platform by S+N.

Patient means each of Customer's patients whose information is submitted to the Platform in connection with S+N's provision of the Platform to Customer and whose Patient Information is accessible to Customer through the Platform.

Patient Information means the information associated with Customer's Patients, including Protected Health Information (**PHI**) (as defined at 45 C.F.R. § 160.103), received or maintained by or on behalf of Customer in and made accessible through the Platform for Customer.

Permitted Sites shall have the meaning given in the applicable MY.INTELLIO Subscription Agreement.

Platform means the Internet-accessible application provided by S+N known as the LENS Connected Tower Application and MY.INTELLIO cloud service, which are intended for use in

connection with a Device and any updates, modifications, improvements, or enhancements thereto provided by S+N to Customer.

Subcontractor means a third party (which may be S+N's Affiliate) engaged by S+N to provide products or services to S+N or to Customer on behalf of S+N.

Support means the customer service support provided by S+N to Customer under the Agreement.

2. REPRESENTATIONS AND WARRANTIES

2.1 General.

Each Party hereby represents and warrants to the other Party as follows:

- (a) Such Party is duly organized, validly existing, and in good standing under the laws of the state in which it is legally formed.
- (b) Such Party (i) has the power, authority, and legal right to enter into the Agreement and to perform its obligations hereunder, and (ii) has taken all legally necessary action on its part to authorize the execution and delivery of the Agreement and the performance of its obligations hereunder.
- (c) Entering into and carrying out the terms and conditions of the Agreement will not violate any obligation binding upon it.
- (d) the Agreement has been duly executed and delivered on behalf of such Party, and constitutes a legal, valid, binding obligation, enforceable against such Party in accordance with its terms.

2.2 The Platform Performs as Documented.

S+N represents and warrants that the Platform will perform materially in accordance with the Documentation during the Term, as long as the Platform is properly accessed and used by Customer and Authorized Users in accordance with such Documentation and the Agreement. Customer's sole remedy, and S+N's sole responsibility and liability, for a breach of the foregoing warranty shall be for S+N to take reasonable measures to repair such non-conformity.

2.3 Compliance with Applicable Law.

Each Party represents and warrants that it will materially comply with applicable laws and regulations in connection with the Platform including, without limitation, with respect to the use of the Platform and the protection of Patient Information.

3. OBLIGATIONS OF CUSTOMER

3.1 Use of the Platform.

Customer shall use the Platform in conformance with the selections and configurations of the Platform selected by Customer.

3.2 Limitations on Use of the Platform.

Customer will not use the Platform or permit or encourage others to use the Platform in an unauthorized or unintended manner or in violation of the terms of the Agreement, or divulge or transfer any materials or information related to the operation of the Platform to any third party except Authorized Users.

3.3 Acceptance of Configurations.

Customer is responsible for selecting and setting all configurations, settings, preferences, and other selections available to Customer when S+N implements the Platform for Customer (**Configurations**). The Platform may include default or proposed Configurations and during the Term S+N may update Configurations for Customer at Customer's request; however, Customer is solely responsible for all Configurations and the results from such Configurations. The use or non-use of a formal approval process for Configurations does not change Customer's foregoing responsibility for Configurations and the results from them.

3.4 Authorized Users and Permitted Sites.

User accounts and credentials are for the named Authorized Users for use at the Permitted Sites only and cannot be shared or used by more than one individual or at locations that are not Permitted Sites but may be reassigned to new Authorized Users who are replacing former Authorized Users that no longer use the Platform. Customer shall not permit anyone who is not an Authorized User to use the Platform, and Customer is solely responsible for selecting Authorized Users. Customer will cause Authorized Users to comply with the Agreement. Customer shall not allow individuals under the age of 18 to be Authorized Users and shall not issue account credentials to individuals under the age of 18. During the Term, Customer may create Authorized Users only for individuals who have a professional health care-related need for access to the Platform in connection with their work or services.

3.5 Account Credentials.

Customer shall ensure that the account credentials for the Authorized Users are protected and will not be disclosed to unauthorized persons for any reason. If Customer or S+N have any basis to believe that an account or account credentials have been compromised, Customer agrees to immediately change the affected password (if it is has the functional ability within the Platform) and immediately notify S+N that the password should be or has been changed due to a potential compromise. S+N will change account credentials upon Customer's request and reserves the right to change them at any time in S+N's sole discretion to protect the Platform, S+N, and/or the interests of others.

3.6 Responsibility for Authorized Users and Their Accounts.

Customer shall supervise, monitor, and train the Authorized Users who use the Platform to ensure the proper use of the Platform, compliance with the Agreement, and the security of the Patient Information maintained in the Platform. Customer acknowledges and agrees that S+N is not responsible for the supervision of the Authorized Users or the administration of Authorized Users. Customer acknowledges that S+N on its own behalf may audit the usage by accounts associated with the Authorized Users for proper use and access of the Platform and to identify any changes made to Patient Information. Customer is fully responsible for the acts and omissions of Authorized Users, employees, staff, and subcontractors, and any other person to whom Customer or an Authorized User may provide access to or use of the Platform and/or Documentation, whether such access or use is permitted by or in violation of the Agreement, in connection with the use of the Platform under the Agreement the same as if they were Customer's acts and omissions. Customer is responsible for: (a) the content

and data transmitted to or from the Platform by Customer or Authorized Users, or their accounts; (b) the content and data received by the Platform from third-party platforms or software on behalf of Customer; (c) Authorized Users' compliance with the Agreement and Documentation; and (d) the effects of any breach of security in connection with the activity of Authorized Users' accounts in connection with the Platform. Customer is solely responsible for its and Authorized Users' interactions with Patients in connection with and separate from the Platform. Customer shall notify S+N prior to granting access to each Non-Staff Authorized User.

3.7 Responsibility for Communications Made Through the Platform.

Customer acknowledges and agrees that except as expressly stated in this Agreement, the Platform facilitates Customer's communications through the Platform and Customer is solely responsible for the communications it, its Affiliates, Authorized Users, and their accounts initiate and receive using the Platform. Without limiting the foregoing, Customer is solely responsible for ensuring its and Authorized Users' compliance with applicable international, federal, state, and local laws, regulations, and rules (including consent requirements) associated with electronic communications by text message and electronic mail including, without limitation, the Telephone Consumer Protection Act, the U.S. CAN-SPAM Act, and similar state laws. Customer acknowledges and agrees that it and Authorized Users select and agree to the timing, content, and recipients of the communications they initiate through the Platform and that S+N acts solely as a service provider providing a platform facilitating the transmission of such communications. Customer agrees that it, Authorized Users, and their accounts are prohibited from using the Platform for telemarketing and other related purposes. S+N in its sole discretion may restrict, suspend, or permanently stop any and all use of the Platform for communications by Customer and Authorized Users including, without limitation, restricting the timing, content, and recipients of communications. Customer agrees that S+N may impose additional terms and conditions associated with communications made through the Platform by Customer and Authorized Users, and Customer and Authorized Users must comply with such terms and conditions or cease using the Platform to initiate communications.

3.8 Customer's Affiliates.

S+N acknowledges and agrees that during the Term Customer may use the Platform by and through one or more of its Affiliates. Customer is fully responsible for the acts and omissions of its Affiliates in connection with the use of the Platform under the Agreement the same as if they were Customer's acts and omissions.

3.9 Notice of Defects or Security Incident.

Customer shall promptly report to S+N any significant defects or problems with the Platform (including non-conformance with Documentation) observed by Customer. Such report shall describe with reasonable specificity the location and nature of the problem and any known cause thereof. In addition, Customer shall immediately report to S+N any actual or suspected security incident involving the Platform and/or Patient Information (including loss or compromise of Platform account credentials) that Customer becomes aware of, and Customer will fully cooperate with S+N, law enforcement and/or any other applicable regulatory body in addressing the incident. Without limiting S+N's other rights and remedies, if there is a violation of any of the security-related requirements under the Agreement by Customer or any Authorized Users, that violation shall be a breach of the Agreement, and S+N shall have the immediate right in its sole discretion to suspend or terminate the Customer's (including any Authorized Users') access to the Platform.

3.10 Responsibility for Internet Access and Computer System Requirements.

Customer is solely responsible for obtaining, maintaining, securing, and paying for any Internet connections necessary to access the Platform. Customer, at its sole expense, shall be responsible for meeting the minimum computer system requirements (a list of which may be provided by S+N upon request) and providing the equipment and technical expertise for the Authorized Users to access the Platform. The Platform may require the use of software provided by unaffiliated third parties (e.g., a web browser and Adobe PDF viewer) (**Third-Party Software**) to enable the full functionality of the Platform. Use by Customer of Third-Party Software shall be subject to the terms and conditions to which the Customer agrees with the providers of such Third-Party Software, and Customer shall pay for all such Third-Party Software, as necessary, and comply with all terms and conditions of any agreements applicable to Third-Party Software. S+N disclaims all responsibilities, warranties, and liabilities relating to the use of Third-Party Software.

3.11 Access.

If S+N requires access to any Customer systems to meet its obligations under the Agreement, Customer shall arrange, to the best of its ability, for such access and, in providing access to S+N, Customer shall be solely responsible for the protection of any Confidential Information or data of Customer or any other person and/or personally identifiable data on such systems.

3.12 Exporting Patient Information into Customer's System of Record.

Customer acknowledges that the Patient Information available to Customer through the Platform is not an electronic medical record, and the Platform should not be treated as a system of record. For clarity, S+N is not responsible for responding to Patient requests to access or amend the Patient Information available to Customer through the Platform or the Patient Information transmitted or exported by Customer out of or separate from the Platform.

3.13 Taxes.

S+N's fees do not include any taxes or duties (including, without limitation, sales, use, value-added, and withholding taxes and duties) and related fees, and Customer is responsible for paying all taxes, duties, and related fees arising from its purchases under the Agreement, excluding taxes based on S+N's net income, employees, or property. If S+N has the legal obligation to pay or collect taxes, duties, or related fees for which Customer is responsible, the appropriate amount of such taxes, duties, and related fees shall be invoiced to and paid by Customer, unless Customer provides a valid tax exemption certificate authorized by the appropriate taxing authority.

4. OBLIGATIONS OF S+N

4.1 Updates, Upgrades, Support, and Maintenance.

S+N will provide in its sole discretion ongoing Support by online or telephonic methods at reasonable times during normal business hours. Customer understands and acknowledges that the Platform is a shared platform and that S+N reserves the right (but is not required to) from time to time and in its sole discretion to add, change, and remove certain functionality, and otherwise improve the Platform. S+N reserves the right to require Customer to accept Platform revisions or upgrades deemed necessary by S+N, at its sole discretion, and Customer agrees to cooperate with the implementation of any such updates, modifications, or improvements. Customer specifically acknowledges that this provision

does not include enhancements to the Platform that must be paid for by Customer through a separate support services agreement. Customer agrees that S+N may temporarily suspend access to the Platform to perform Maintenance at any time. S+N will make reasonable efforts (a) to notify Customer of planned down-time due to Maintenance, and (b) to suspend access to the Platform to perform scheduled Maintenance outside of normal business hours.

4.2 Training.

S+N shall provide online and/or telephonic training related to the Platform to Customer's personnel during the Term as reasonably requested by Customer and in accordance to S+N's then current practices.

4.3 Third-Party Websites and Services.

Although the Platform may, as a convenience, provide links to and/or information about third-party products and services, Customer and Authorized Users should independently review and evaluate those products and services. S+N does not provide any warranty or make any representation concerning the quality, suitability, or any other aspects of the third-party products and services.

5. INTELLECTUAL PROPERTY AND RIGHTS AND RESTRICTIONS

5.1 Ownership by S+N.

Customer acknowledges and agrees that, as between the Parties, the Platform, S+N's Confidential Information disclosed to Customer, and S+N's Confidential Information conceived, reduced to practice, made, acquired, or developed by S+N in connection with the Platform or the Agreement, or conceived, reduced to practice, made, or developed by S+N prior to execution of the Agreement or separate from S+N's performance of the Agreement, all derivatives of the foregoing (collectively, **S+N Properties**), and all Intellectual Property Rights in the foregoing, are and will remain the sole property of S+N or its licensors, and no rights, title, or interest are granted to Customer, Authorized Users, or any third party under the Agreement with respect to the S+N Properties and all Intellectual Property Rights therein other than as expressly set forth in the Agreement.

Other than as expressly permitted in the Agreement, nothing in the Agreement shall be construed to transfer any right, title, or interest to Customer of S+N Properties or any Intellectual Property Rights therein. Customer disclaims all rights to the S+N Properties and any Intellectual Property Rights therein, other than those rights granted in the Agreement, and will assert no claim (copyright, patent, or otherwise) to their use, development, and/or production. Customer may not access, use, resell, sell, license, sublicense, distribute, make available, rent, or lease the S+N Properties or any Intellectual Property Rights therein for any purpose, except as expressly authorized by the Agreement. Customer agrees to respect and not to remove, obliterate, or cancel from view any copyright, trademark, confidentiality or other proprietary notice, mark, or legend appearing on the S+N Properties or output generated by the S+N Properties. Customer shall undertake no action that will interfere with or diminish the Intellectual Property Rights of S+N or its third-party licensors.

S+N owns any input, feedback, and suggestions Customer provides to S+N and S+N has the full right to exploit such input, feedback and/or suggestions in any manner and for any purpose, including to improve the Platform and create other products and services, without any compensation to Customer.

5.2 Rights to Customer.

Subject to Customer's continued compliance with and in accordance with the terms and conditions of the Agreement, S+N grants to Customer a limited nonexclusive, nontransferable, non-sublicenseable (except as otherwise expressly provided herein), revocable right to access and use (and permit Authorized Users to access and use) the Platform solely at the Permitted Sites in accordance with the Agreement and the Documentation during the Term for Customer's internal lawful business purposes (and not for redistribution or commercialization) and for no other purpose (**Access Right**). For clarity, the Access Right includes the right for Customer to designate and manage access for Admin Users and other Authorized Users during the Term subject to the Agreement. Other than as permitted under the Access Right, Customer shall not permit any third party to access or use the Platform. Without limiting the foregoing, any and all goodwill associated with Customer's use of the S+N Properties or the Intellectual Property Rights therein will inure to the benefit of S+N.

5.3 Ownership by Customer

Customer retains all right, title, and interest in and to the Customer Data and Customer's Confidential Information (**Customer Properties**).

5.4 Rights to S+N

Customer grants S+N a limited non-exclusive, royalty-free, non-fee-bearing license to use the Customer Properties in connection with S+N providing the Platform to Customer, for S+N to meet its obligations under the Agreement and applicable law, and as otherwise permitted by the Agreement (including the BAA). Customer agrees that S+N will not be required to make any payments relating to, arising out of, or in connection with the exploitation of Customer Properties in accordance with the Agreement and Customer will be responsible for paying all royalties, commissions, fees or other monies due to any appropriate third parties in connection with the publication, reproduction, communication to the public and all other uses of Customer Properties. If S+N reasonably believes any Customer Properties violate the law, infringes, disrupts S+N's provision of the Platform, misappropriates the rights of any third party or otherwise violates a material term of the Agreement, S+N will notify Customer and remove such Customer Properties from the Platform or disable access to it.

5.5 Acceptable Use of Platform.

Customer and Authorized Users will not and will not permit anyone to:

- (a) use the Platform without authorization of Customer;
- (b) access and use the Platform in non-compliance with Documentation or the Agreement;
- (c) disassemble, decompile, reverse engineer, or copy (except that Customer may make copies of Documentation solely for the purpose of instructing Authorized Users) any portion of the Platform or Documentation, or make any attempt to discover the source code of the Platform;
- (d) sell, lease, or otherwise transfer or distribute the Platform or Documentation, in whole or in part, or otherwise make the Platform or Documentation available to any person or entity other than an Authorized User as permitted hereunder;

- (e) modify the Platform or Documentation or merge it with other programs or materials;
- (f) translate or create derivative works based on the Platform or Documentation;
- (g) remove, obscure, or alter any notice of the trademark, patent, copyright, or other proprietary rights related to the Platform or Documentation;
- (h) operate the Platform or permit the Platform to be copied or used other than in compliance with Documentation, Customer policies or procedures, and standards of medical care or applicable laws and regulations;
- (i) disable, circumvent or de-install any access management routines, access codes or control programs included by S+N as part of the Platform;
- (j) provide any other Person, including any subcontractor, independent contractor, affiliate, or service provider of Customer, with access to or use of the Platform or Documentation unless they are Authorized Users;
- (k) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available the Platform, or any features or functionality of the Platform, to any third party (except Authorized Users) for any reason, whether or not over a network or on a hosted basis, including in connection with the internet or any web hosting, wide area network (WAN), virtual private network (VPN), virtualization, time-sharing, service bureau, software as a service, cloud, or other technology or service;
- (l) use the Platform or Documentation in violation of any law, regulation, or rule;
- (m) use the Platform or Documentation for the benefit of any party other than Customer or purposes of competitive analysis of the Platform, the development of a competing software product or service, or any other purpose that is to the S+N's commercial disadvantage;
- (n) use the Platform to transmit or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material that is harmful to children or that violates third-party privacy rights;
- (o) use the Platform to transmit or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs;
- (p) gain access, or attempt to gain access, by any means, to any unauthorized portion of the Platform or to any other system, website, software, material or database offered by S+N with respect to which Customer is not granted a license or right;
- (q) take any actions to circumvent any limit on the number of Authorized Users;
- (r) misuse or abuse the Platform, or interfere with or disrupt the integrity or performance of the Platform or the data contained therein;
- (s) misappropriate any of S+N's software, technology or other services; or
- (t) bypass or disable any protections that may be put in place against unlicensed use of the Platform, or perform load, technical, security, or other vulnerability testing of the Platform.

CUSTOMER ACKNOWLEDGES AND AGREES THAT MODIFYING OR ALTERING THE PLATFORM OR DOCUMENTATION IN ANY WAY CONSTITUTES WILLFUL INFRINGEMENT OF THE PLATFORM OR DOCUMENTATION LICENSED BY S+N HEREUNDER. ANY SUCH MODIFICATION OR ALTERATION MAY RENDER THE SOFTWARE AND DEVICE ADULTERATED UNDER THE UNITED STATES FEDERAL FOOD, DRUG AND COSMETIC ACT AND OTHER APPLICABLE LAWS, AND COULD SUBJECT CUSTOMER AND/OR AUTHORIZED USERS TO ACTION BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION OR OTHER APPLICABLE REGULATORY AUTHORITIES.

6. CONFIDENTIALITY

6.1 Disclosure of Confidential Information.

In the course of their relationship, the Parties acknowledge that a Party (**Disclosing Party**) may provide its Confidential Information to the other Party (**Receiving Party**). Without limiting the generality of the foregoing, S+N's Confidential Information shall include the Platform and the Documentation. Customer Data is not Confidential Information under the Agreement, and Customer Data is addressed in Sections 7 and 8.

6.2 Safeguards.

During the Term and for a period of five (5) years from the expiration or termination of the Agreement, each Party agrees to safeguard the other Party's Confidential Information against unauthorized use or disclosure with measures at least as stringent as those it employs to safeguard its own most proprietary and confidential information, and in no event with less than reasonable means. Each Party acknowledges that the other Party's Confidential Information constitutes such Party's valuable proprietary information and trade secrets. Each Party expressly agrees that it is entering into the Agreement and providing the other Party copies of its Confidential Information hereunder, in reliance upon the other Party's promise of confidentiality as provided for herein in connection with Confidential Information. The Receiving Party shall reasonably cooperate with and assist the Disclosing Party in identifying and preventing any unauthorized use, copying, or disclosure of the Disclosing Party's Confidential Information. Without limiting the foregoing, the Receiving Party shall advise the Disclosing Party immediately in the event the Receiving Party learns or has reason to believe that any person or entity has violated or intends to violate the confidentiality of the Disclosing Party's Confidential Information. The Receiving Party will reasonably cooperate with the Disclosing Party in seeking injunctive or other equitable relief in the name of, in the Disclosing Party's sole discretion, either the Receiving Party or the Disclosing Party, against any such person or entity.

6.3 Nondisclosure.

Neither Party shall use, disclose, make or have made any copies of the other Party's Confidential Information in whole or in part, except as necessary to perform its obligations under the Agreement, without the prior express written authorization of the other Party. A Party may disclose the other Party's Confidential Information, including necessary copies thereof, to those of its employees, contractors, representatives, agents, or Authorized Users only to the extent necessary to perform the duties and authorized activities under the Agreement. Each Party shall be responsible for the acts and omissions of its employees, contractors, representatives, or agents with respect to the other Party's Confidential Information as though such acts or omissions were those of such Party.

6.4 Compelled Disclosure.

The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent requested or required by a regulatory, self-regulatory, or supervisory authority having appropriate jurisdiction, including any court of law, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, so the Disclosing Party may seek an appropriate protective order or other appropriate remedy, and the Receiving Party shall reasonably cooperate with the Disclosing Party to obtain a protective order or other relief if requested to do so by the Disclosing Party; provided, however, that no such notice shall be necessary in the event Confidential Information is provided to a governmental, regulatory or self-regulatory authority in the course of a routine audit, examination or inspection.

6.5 Equitable Relief.

Each Party agrees that any violation of the provisions of Sections 6.2 and 6.3 will immediately give rise to continuing irreparable injury to the Disclosing Party that is inadequately compensable in damages at law, and the Disclosing Party shall be entitled to immediately seek equitable relief to protect its interests herein, including, but not limited to, injunctive relief, in addition to any other legal remedies which may be available, and the Disclosing Party shall be entitled to recover reasonable costs, including but not limited to, reasonable attorneys' fees, expert witness fees, and court costs associated therewith.

7. HIPAA AND PATIENT INFORMATION

7.1 Business Associate.

Customer acknowledges that S+N is a "business associate" as that term is defined at 45 C.F.R. § 160.103. In addition to this EULA, S+N and Customer have entered into a Business Associate Agreement (**BAA**) attached to and a part of the Agreement.

7.2 Permissible Uses of Patient Information.

Customer acknowledges and agrees that S+N, and any sub-business associates working on its behalf, may use and disclose Patient Information for providing the Platform and related services, fulfilling the requirements of the Agreement, to meet its legal obligations or requests, and as otherwise permitted by the Agreement (including the BAA), including to request an authorization on Customer's behalf from Patients to use or disclose their Patient Information for any purpose for which use or disclosure may be made with a valid authorization, including for marketing purposes.

7.3 Recordkeeping.

Notwithstanding anything to the contrary in the Agreement, S+N shall, until the expiration of four (4) years after the furnishing of any services pursuant to the Agreement, and to the extent required by 42 U.S.C. § 1395x(v)(1)(l) and 42 C.F.R. § 420.300 et seq., provide the Secretary of the U.S. Department of Health and Human Platforms or the Comptroller General, or their representatives, upon request, the Agreement and such books, documents, and records as may be necessary to verify the nature and extent of the costs of the services rendered hereunder. Customer shall maintain adequate records in connection with activity under the Agreement as required by applicable law.

7.4 Customer and Authorized User HIPAA Compliance.

Customer represents and warrants that it will comply with all applicable confidentiality and privacy laws and regulations with respect to Patient Information in connection with Customer's use of the Platform and any disclosures by Customer to S+N. Without limiting the generality of the foregoing, Customer is solely responsible and liable for its and any Authorized User's use of the Platform, including without limitation for using the Platform in compliance with HIPAA. Customer acknowledges that Patient Information that is downloaded to a printer, an Excel file, or otherwise, is outside of the scope of the Platform and S+N shall have no responsibility for the use and protection of such Patient Information. Customer agrees not to send Patient Information to S+N via any unsecured means, including via unsecured (non-encrypted) email. Customer also agrees that it is solely responsible for any Patient Information sent to Patients outside of the Platform or via unsecured means, including via unsecured (non-encrypted) email.

S+N has implemented procedures to verify the identity of users, including multi-factor authentication and two-step verification technical mechanisms, prior to allowing access to ePHI (**Security Controls**). These Security Controls has been implemented to help meet the Person or Entity Authentication section of the HIPAA Security Rule (see 164.312(d)). Opting out of these Security Controls may violate the requirement of the HIPAA Security Rule. **IF YOU OPT OUT OF THIS SECURITY CONTROL YOU ARE FULLY RESPONSIBLE FOR THE IMPLICATIONS OF THIS DECISION, INCLUDING THE IMPACT OF NON-COMPLIANCE WITH APPLICABLE LAW.**

8. DATA PROVISIONS

8.1 Customer Data.

S+N will receive Customer Data through Customer's and Authorized Users' use of the Platform, and S+N may use and disclose such Customer Data as set forth in the Agreement. Customer Data may relate to clinical and/or real world evidence, Customer's clinical operations, practices, and patient care and outcomes. Customer is responsible for the means by which Customer acquires the Customer Data, for Customer's use and dissemination of the data, and for the use and dissemination of Customer Data by any Authorized User and/or the associated account. Customer represents and warrants that it has and will continue to have the rights to lawfully (a) provide access to Customer Data to S+N, and (b) permit S+N to retain, process, use, and disclose Customer Data as permitted in the Agreement. Customer represents and warrants that Customer's provision and use of Customer Data or the Platform will not violate the rights of any third party or any applicable law, rule, or regulation.

8.2 Data Analysis.

Customer agrees that S+N may create and use aggregated and/or de-identified data generated or derived from Customer Data or data generated or derived from the use of the Platform by Customer and the Authorized Users, for S+N's business purposes, subject to any applicable legal limitations on the use thereof. Such resulting data is not Customer Data and, as between the Parties, S+N shall own all right, title, and interest in such resulting data. Customer specifically acknowledges and agrees that S+N is permitted to utilize the aggregated and/or de-identified data for such educational, promotional, regulatory, and commercial purposes as S+N may determine in its sole discretion.

S+N shall have the right to directly (or through the use of third parties) monitor the operation of the Platform and the use of the Platform by Customer and Authorized Users to provide and

improve the Platform, Documentation, and S+N's other products and services, and help ensure compliance with the Agreement by Customer and Authorized Users.

8.3 Data Security.

S+N will (a) process and secure Customer Data in accordance with the Agreement (including the BAA), and (b) maintain reasonable administrative, technical, and physical measures designed for the protection of the security, confidentiality, and integrity of the Customer Data processed by it. The obligations in this Section shall remain in effect for so long as the Customer Data remains in the possession, custody, or control of S+N. S+N is not responsible for unauthorized access, acquisition, use, disclosure, or unavailability due to Customer's failure to use security measures made available in connection with the Platform.

8.4 Government Access Requests.

If S+N or its subcontractor(s) receives a request for Customer Data from a law enforcement agency, S+N will redirect the law enforcement agency to request that data directly from Customer. If compelled to disclose Customer Data to law enforcement, S+N will promptly notify Customer and provide a copy of the demand, unless legally prohibited from doing so.

9. DISCLAIMER OF ALL REPRESENTATIONS AND WARRANTIES

9.1 Disclaimer of Warranty.

EXCEPT FOR THE WARRANTIES EXPRESSLY SET FORTH IN SECTIONS 2 AND 13.6 OF THE AGREEMENT, S+N PROVIDES ACCESS TO THE PLATFORM AND DATA THEREIN AND PROVIDES THE PLATFORM ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITH NO OTHER EXPRESS OR IMPLIED WARRANTY OF ANY KIND. EXCEPT FOR THE WARRANTIES EXPRESSLY SET FORTH IN SECTIONS 2 AND 13.6 OF THE AGREEMENT, S+N EXPRESSLY DISCLAIMS AND CUSTOMER AND ITS AFFILIATES AND THEIR SUBCONTRACTORS, LICENSORS, OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, REPRESENTATIVES, SUCCESSORS, PATIENTS, AUTHORIZED USERS, AND ASSIGNS (COLLECTIVELY, **CUSTOMER GROUP**) WAIVE ALL EXPRESS AND IMPLIED WARRANTIES UNDER THE AGREEMENT TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW, INCLUDING WITHOUT LIMITATION ALL WARRANTIES OF NON-INFRINGEMENT, ALL IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, OR FITNESS FOR ANY PARTICULAR PURPOSE, AND ALL WARRANTIES AS TO ANY RESULTS TO BE OBTAINED FROM THE PLATFORM, THIRD-PARTY SOFTWARE, OR DATA, INFORMATION, OR RESULTS DERIVED THEREFROM. S+N DOES NOT WARRANT THAT ACCESS TO THE DATA OR PLATFORM WILL BE UNINTERRUPTED, VIRUS-FREE, WITHOUT DEFECTS, COMPLETE, USEFUL, OR ERROR-FREE.

THE PARTIES UNDERSTAND THAT CUSTOMER MAY USE CERTAIN THIRD PARTY SOFTWARE (INCLUDING WEB BROWSERS) OR HARDWARE IN CONNECTION WITH USING THE PLATFORM, AND WITHOUT LIMITING THE GENERALITY IN THIS SECTION 9.1, S+N MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, AS TO THE QUALITY, CAPABILITIES, OPERATIONS, PERFORMANCE, INTEGRATION, OR SUITABILITY OF SUCH THIRD-PARTY SOFTWARE OR HARDWARE. THE ASSESSMENT OF THE QUALITY, CAPABILITIES, OPERATIONS, PERFORMANCE, AND SUITABILITY OF SUCH THIRD-PARTY SOFTWARE OR HARDWARE LIES SOLELY WITH CUSTOMER AND THE VENDOR OR SUPPLIER OF SUCH THIRD-PARTY SOFTWARE OR EQUIPMENT, AS THE CASE MAY BE. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY S+N, ITS AGENTS, OR EMPLOYEES SHALL CREATE A WARRANTY.

9.2 Medical Disclaimer.

THE PLATFORM AND DOCUMENTATION ARE NOT A SUBSTITUTE FOR THE PROFESSIONAL JUDGMENT OF CUSTOMER IN DIAGNOSING AND TREATING PATIENTS. NEITHER S+N NOR ITS PLATFORM OR DOCUMENTATION OR DEVICES OR SOFTWARE GIVES MEDICAL ADVICE OR PROVIDES MEDICAL OR DIAGNOSTIC SERVICES. RELIANCE UPON THE SOFTWARE BY CUSTOMER OR ANY OF ITS AUTHORIZED USERS IS SOLELY AT CUSTOMER'S OWN RISK. CUSTOMER ACKNOWLEDGES AND AGREES THAT S+N IS IN NO WAY RESPONSIBLE FOR THE USE OF ANY PHARMACOLOGICAL, MEDICAL, LEGAL, OR SIMILAR INFORMATION CONTAINED IN, ENTERED INTO, OR USED IN CONNECTION WITH THE PLATFORM, AND CUSTOMER AND AUTHORIZED USERS, AS APPLICABLE, SHOULD VERIFY THE ACCURACY OF THE INFORMATION AND COMPLETENESS OF SUCH INFORMATION WHENEVER NECESSARY TO DO SO FOR PROVIDING HEALTH CARE SERVICES. CUSTOMER ACKNOWLEDGES AND AGREES THAT THE USE OF THE PLATFORM BY CUSTOMER AND AUTHORIZED USERS FOR ANY PURPOSE RELATED TO PATIENT CARE SHOULD BE UNDER THE SUPERVISION OF A HEALTH CARE PROFESSIONAL. AS BETWEEN S+N AND CUSTOMER, CUSTOMER SHALL BE SOLELY RESPONSIBLE AND LIABLE FOR ITS TREATMENT AND CARE OF PATIENTS, INCLUDING ALL RESPONSIBILITY FOR PERSONAL OR PSYCHOLOGICAL INJURY OR LOSS OF LIFE.

10. INDEMNIFICATION

10.1 S+N Indemnification.

S+N WILL INDEMNIFY, DEFEND AND HOLD HARMLESS CUSTOMER FROM AND AGAINST ANY AND ALL DAMAGES, LIABILITIES, JUDGMENTS, AWARDS, EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES AND COURT COSTS (**IP DAMAGES**) RELATED TO A CLAIM, SUIT, PROCEEDING, OR OTHER CAUSE OF ACTION BROUGHT BY A THIRD PARTY (BUT NOT AN AGENT, EMPLOYEE, OR AFFILIATE OF CUSTOMER) RELATING TO OR ARISING OUT OF ANY ACTUAL INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS BY CUSTOMER'S USE OF THE PLATFORM OR DOCUMENTATION IN COMPLIANCE WITH THE AGREEMENT (**INFRINGEMENT CLAIM**).

THE FOREGOING OBLIGATION SHALL NOT APPLY TO THE EXTENT THE INFRINGEMENT CLAIM IS BASED UPON: (a) THE USE OF PLATFORM IN COMBINATION WITH ANY OTHER PRODUCT, SERVICE, DEVICE, OR MATERIALS NOT FURNISHED OR EXPRESSLY PERMITTED BY S+N, IF SUCH INFRINGEMENT CLAIM WOULD HAVE BEEN AVOIDED BY THE USE OF THE PLATFORM WITHOUT SUCH PRODUCT, SERVICE, DEVICE, OR MATERIALS; (b) THE USE OF PLATFORM OTHER THAN IN ACCORDANCE WITH THE AGREEMENT, THE DOCUMENTATION, OR THE ACCESS RIGHT; (c) A MODIFICATION TO THE PLATFORM NOT PROVIDED OR PERFORMED BY S+N; (d) DATA TRANSMITTED, STORED, OR OTHERWISE PROCESSED USING THE PLATFORM; (e) CLAIMED INFRINGEMENT OF ANY RIGHT IN WHICH CUSTOMER OR ANY AFFILIATE OF CUSTOMER HAS ANY OWNERSHIP OR INTEREST (BY LICENSE OR OTHERWISE); (f) USE OF THE PLATFORM AFTER S+N HAS PROVIDED A NON-INFRINGEMENT ALTERNATIVE OR TERMINATED THE ACCESS RIGHT OR SUBSCRIPTION FOR ITS USE; (g) CUSTOMER'S GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR MATERIAL BREACH OF THE AGREEMENT; OR (h) CUSTOMER'S CONDUCT OR CUSTOMER'S OR AUTHORIZED USERS' USE OF THE PLATFORM OR DOCUMENTATION. S+N WILL HAVE NO LIABILITY TO CUSTOMER UNDER ANY PROVISIONS OF THIS SECTION 10.1 TO THE EXTENT THAT CUSTOMER IS IN ARREARS WITH ANY PAYMENT OBLIGATIONS TO S+N, AND S+N'S RESPONSIBILITY UNDER THIS SECTION 10.1 IS SUBJECT TO THE LIMITATIONS IN SECTION 11.

IN THE EVENT OF AN INFRINGEMENT CLAIM, S+N WILL, AT ITS SOLE OPTION AND EXPENSE: (x) OBTAIN A LICENSE TO ALLOW FOR CONTINUED USE OF THE INFRINGING ASPECT(S) OF

THE PLATFORM OR DOCUMENTATION UNDER THE TERMS OF THE AGREEMENT; (y) REPLACE OR MODIFY THE INFRINGING ASPECT(S) OF THE PLATFORM OR DOCUMENTATION TO BE NON-INFRINGING (IN S+N'S SOLE OPINION) WITHOUT A MATERIAL DECREASE IN FUNCTIONALITY; OR (z) IF THE FOREGOING OPTIONS ARE NOT COMMERCIALY REASONABLE, TERMINATE THE ACCESS RIGHT FOR THE PLATFORM AND THE AGREEMENT AND REFUND CUSTOMER ALL PREPAID FEES FOR THE REMAINDER OF THE CURRENT TERM STARTING FROM THE EFFECTIVE DATE OF TERMINATION. THE PROVISIONS OF THIS SECTION 10.1 SET FORTH S+N'S, ITS AFFILIATES', AND EACH OF THEIR SUBCONTRACTORS', LICENSORS', OFFICERS', DIRECTORS', AGENTS', EMPLOYEES', REPRESENTATIVES', SUCCESSORS', AND ASSIGNS' (COLLECTIVELY, **S+N GROUP**) SOLE AND EXCLUSIVE OBLIGATIONS, AND CUSTOMER GROUP'S SOLE AND EXCLUSIVE REMEDIES, WITH RESPECT TO INFRINGEMENT OR MISAPPROPRIATION OF THIRD-PARTY INTELLECTUAL PROPERTY RIGHTS OF ANY KIND.

10.2 Customer Indemnification.

CUSTOMER WILL DEFEND ALL ACTIONS, CLAIMS, DEMANDS, SUITS, INVESTIGATIONS, AND PROCEEDINGS (**CLAIM**) MADE OR BROUGHT AGAINST ANY OR ALL MEMBERS OF THE S+N GROUP BY A THIRD PARTY (INCLUDING A GOVERNMENTAL ENTITY) IN CONNECTION WITH: (a) ANY MEMBER OF THE CUSTOMER GROUP'S NEGLIGENCE, GROSS NEGLIGENCE, RECKLESSNESS, OR WILLFUL MISCONDUCT IN CONNECTION WITH THE AGREEMENT; (b) THE USE OF THE PLATFORM BY ANY OF THE CUSTOMER GROUP OR AN ACCOUNT OF ANY AUTHORIZED USER; (c) DATA PROVIDED OR TRANSMITTED BY ANY MEMBER OF THE CUSTOMER GROUP OR AN ACCOUNT OF ANY AUTHORIZED USER THROUGH THE PLATFORM, INCLUDING WITHOUT LIMITATION THE FAILURE TO COMPLY WITH APPLICABLE CONFIDENTIALITY AND PRIVACY LAWS AND PROPRIETARY RIGHTS; (d) A VIOLATION OF APPLICABLE LAW IN CONNECTION WITH ANY MEMBER OF THE CUSTOMER GROUP'S PERFORMANCE UNDER THE AGREEMENT; (e) THE AGREEMENT; (f) THE PERFORMANCE OF ANY MEDICAL PROCEDURES; OR (g) ACTUAL OR ALLEGED INVASION OF PRIVACY, RIGHTS OF PRIVACY OR PUBLICITY, TRADEMARK INFRINGEMENT, COPYRIGHT INFRINGEMENT, PATENT INFRINGEMENT (OR MISAPPROPRIATION OF ANY U.S. OR FOREIGN PATENT) ASSOCIATED WITH THE ACTS OR OMISSIONS OF ANY OF THE CUSTOMER GROUP OR ANY ACCOUNT OF AN AUTHORIZED USER IN CONNECTION WITH THE USE OF PLATFORM UNDER THE AGREEMENT, AND IN EACH CASE WILL INDEMNIFY AND HOLD HARMLESS THE MEMBERS OF THE S+N GROUP FOR ANY DAMAGES, LOSSES, LIABILITIES, JUDGMENTS, AWARDS, PENALTIES, FINES, EXPENSES, COSTS, AND REASONABLE ATTORNEYS' FEES INCURRED BY THE MEMBERS OF THE S+N GROUP WITH RESPECT TO THE FOREGOING.

10.3 Indemnification Procedures.

All indemnification obligations under Section 10 are contingent on the relevant indemnitees (a) promptly giving the indemnifying Party written notice of the Claims against the indemnitees (provided, however, that a delay in notification shall excuse indemnification only to the extent such delay impairs the defense of such action), (b) giving the indemnifying Party sole control of the defense and settlement of the Claim against the indemnitees (except that the indemnifying Party may not settle any Claim against the indemnitees unless the settlement unconditionally and fully releases indemnitees of all liability and fault), and (c) giving the indemnifying Party all reasonable assistance, at indemnifying Party's expense. Each Party reserves the right, at its own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by the other Party. The indemnifying Party shall not in any event settle any such matter without the written consent of the indemnitees.

11. LIMITATION ON LIABILITY

11.1 Exclusion of Certain Damages.

NO MEMBER OF THE S+N GROUP SHALL BE LIABLE TO ANY MEMBER OF THE CUSTOMER GROUP FOR INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, CONSEQUENTIAL, OR PUNITIVE DAMAGES OR PENALTIES (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, LOST BUSINESS, LOST OR CORRUPT DATA, INACCURATE DATA, LOSS OF USE, BUSINESS INTERRUPTION, AND THE LIKE), HOWEVER IT ARISES, WHETHER FOR BREACH OF CONTRACT, IN TORT, OR FOR PRODUCTS LIABILITY, EVEN IF SUCH DAMAGES WERE FORESEEABLE OR ANY MEMBER OF S+N GROUP WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE. THE PARTIES ACKNOWLEDGE THAT AN INDEMNITY OBLIGATION HEREUNDER SHALL BE OWED REGARDLESS OF WHETHER OR TO WHAT EXTENT THE UNDERLYING THIRD-PARTY CLAIM SEEKS RECOVERY OF CONSEQUENTIAL OR OTHER INDIRECT DAMAGES, AND SHALL NOT BE LIMITED BECAUSE THE UNDERLYING THIRD-PARTY CLAIM INCLUDES AN ASSERTED RIGHT TO RECOVER CONSEQUENTIAL OR ANY OTHER INDIRECT DAMAGES.

IN NO EVENT WILL ANY MEMBER OF THE S+N GROUP BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY USE, INTERRUPTION, DELAY, OR INABILITY TO USE THE SOFTWARE; DELAYS, INTERRUPTION, OR LOSS OF SERVICES; LOSS RESULTING FROM SYSTEM OR SYSTEM SERVICE FAILURE, MALFUNCTION, OR SHUTDOWN; FAILURE TO ACCURATELY TRANSFER, READ, OR TRANSMIT INFORMATION; FAILURE TO UPDATE OR PROVIDE CORRECT INFORMATION; SYSTEM INCOMPATIBILITY OR PROVISION OF INCORRECT COMPATIBILITY INFORMATION; OR BREACHES IN SYSTEM SECURITY, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT S+N WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

11.2 Limitation of Liability.

THE AGGREGATE LIABILITY OF THE S+N GROUP ARISING OUT OF OR RELATED TO THE AGREEMENT SHALL BE LIMITED TO THE FEES PAID BY CUSTOMER OVER THE TWELVE MONTH PERIOD IMMEDIATELY PRIOR TO THE EVENT GIVING RISE TO THE CLAIM. THE FOREGOING LIMITATION WILL APPLY WHETHER AN ACTION IS IN CONTRACT, TORT, OR PRODUCTS LIABILITY AND REGARDLESS OF THE THEORY OF LIABILITY. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, IN NO EVENT WILL ANY OF THE S+N GROUP BE LIABLE TO CUSTOMER GROUP FOR ANY LOSSES, COSTS, DAMAGES, FINES, CHARGES, OR EXPENSES RESULTING FROM LOSS, MISAPPROPRIATION, UNAUTHORIZED ACCESS TO, OR MODIFICATION OF DATA BY ANY THIRD PARTY; FROM MISTAKES, OMISSIONS, OR DELAYS IN TRANSMISSION OF INFORMATION; FROM INTERRUPTIONS IN TELECOMMUNICATIONS CONNECTIONS TO THE PLATFORM, VIRUSES, OR FAILURES OF PERFORMANCE; FROM THE IMPACT OF THE PLATFORM ON CUSTOMER'S SYSTEMS; OR FOR THE INTERCEPTION OR COMPROMISE OF THE PLATFORM INCLUDING, WITHOUT LIMITATION, THE NETWORK OR ANY RECORD OR OTHER COMMUNICATIONS PROVIDED BY CUSTOMER, ANY AUTHORIZED USER, OR ANY OF THE S+N GROUP UNDER THE AGREEMENT. THE PROVISIONS OF SECTIONS 9, 10.1, AND 11 CONSTITUTE EVERY MEMBER OF THE CUSTOMER GROUP'S SOLE AND EXCLUSIVE REMEDY, AND EVERY MEMBER OF THE S+N GROUP'S SOLE AND EXCLUSIVE LIABILITY UNDER THE AGREEMENT.

11.3 Allocation of Risk.

EACH PARTY UNDERSTANDS AND AGREES THAT THE REMEDIES, EXCLUSIONS, AND LIMITATIONS HEREIN ALLOCATE THE RISKS FROM THE PROVISION, RECEIPT, AND USE OF THE PLATFORM BETWEEN THE PARTIES AS AUTHORIZED BY THE UNIFORM COMMERCIAL CODE, OTHER APPLICABLE LAWS, OR BOTH. THE ACCESS RIGHT GRANTED HEREIN

REFLECTS, AND IS SET IN RELIANCE UPON, THIS ALLOCATION OF RISK AND THE WARRANTY DISCLAIMERS, EXCLUSION OF CONSEQUENTIAL DAMAGES AND LIMITATIONS OF LIABILITY SET FORTH IN SECTIONS 9, 10.1, AND 11 SET OUT S+N GROUP'S ENTIRE COLLECTIVE FINANCIAL LIABILITY TO CUSTOMER WITH RESPECT TO ANY BREACH OF THE AGREEMENT, ANY USE MADE BY CUSTOMER OF THE PLATFORM AND ANY REPRESENTATION, STATEMENT, TORTIOUS ACT, OR OMISSION (INCLUDING NEGLIGENCE) ARISING UNDER OR IN CONNECTION WITH THE AGREEMENT.

12. TERM; TERMINATION.

12.1 Term.

This EULA shall remain in effect for the duration of the Term specified in the Agreement, unless sooner terminated in accordance with the terms and conditions of this Section 12.

12.2 Termination by S+N.

S+N may terminate the Agreement and all rights (including the Access Right) granted hereunder if (a) Customer or an Authorized User is in material breach hereunder and has not cured the breach within five (5) days after written notice to Customer specifying the breach; (b) Customer admits it is unable to pay its debts as they become due, ceases to do business itself or through a successor, or becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation, or assignment for the benefit of creditors; or (c) an indemnifiable Claim (as set forth in Section 10.2) is brought against S+N by a third-party. In the event that Customer ceases business, S+N shall have no further obligations under the Agreement and S+N need not refund to Customer any fees paid by Customer to S+N under the Agreement. This EULA shall automatically terminate (y) if Customer sells or otherwise disposes of, or (z) upon termination of all leases to, all of the Devices it has purchased or leased from S+N. Termination of this EULA shall operate to terminate the Agreement, and termination of the Agreement shall operate to terminate this EULA.

12.3 Effects and Duties upon Termination.

Termination or expiration of the Agreement will not affect the obligations of the Parties with respect to Confidential Information that was disclosed hereunder prior to termination, which shall remain subject to the provisions of the Agreement. In the event of termination or expiration of the Agreement, the Access Right immediately expires and terminates, and Customer and all Authorized Users are immediately prohibited from accessing the Platform, and Customer shall destroy all copies of Documentation in its possession, custody, or control. Except as set forth in this Section 12.3 upon Disclosing Party's written request upon expiration or termination of the Agreement (or at any earlier time upon written request by the Disclosing Party), the Receiving Party will promptly deliver to the Disclosing Party all originals and copies of all the Disclosing Party's Confidential Information and all documents, records, data, and materials containing such Confidential Information in the Receiving Party's possession, custody, or control, and the Receiving Party will delete all of the Disclosing Party's Confidential Information from any and all of the Receiving Party's computer systems, retrieval systems, and databases except to the extent such systems retain such information in the ordinary course of business for back-up and record retention purposes, in which case such Confidential Information will continue to be subject to the terms of the Agreement. The arrangements set forth in this Section 12.3 shall be without prejudice to the other rights and remedies of the Parties under the Agreement.

12.4 Survival.

Customer's obligation to pay all amounts due S+N under the Agreement and those provisions of this EULA which by their terms provide for rights or obligations to continue after termination of this EULA, including, but not limited to, Sections 1, 2.1, 3.2, 3.6, 3.8, 3.12, 3.13, 5.1, 5.3, 5.5, 6 through 12, and 13.1 through 13.15 shall survive the expiration or termination of the Agreement or is EULA for any reason.

13. GENERAL PROVISIONS

13.1 Insurance.

Customer agrees to maintain, at its own cost and expense, sufficient insurance coverage as shall be necessary to insure S+N and its officers, directors, employees, agents and/or subcontractors against any and all claims of any nature that may arise from Customer's performance under the Agreement.

13.2 Choice of Law.

The Agreement shall be governed by and interpreted under the laws of the State of Tennessee, without regard to its rules regarding conflicts of law. The Parties hereby disclaim the application of the United Nations Convention on the International Sale of Goods.

13.3 Dispute Resolution.

Any dispute arising out of or in connection with the Agreement or other agreements and arrangements connected to or being the result of the Agreement, shall be escalated initially to the Managing Director of S+N and a senior representative of Customer (or their respective nominees) to be settled and if possible to be resolved by them within 45 business days of the matter being referred to them. If the Parties cannot resolve the dispute within such period, the dispute shall be referred to and finally resolved by the courts of Shelby County, Tennessee, who shall have exclusive jurisdiction. The Parties consent to the personal and exclusive jurisdiction of courts located in Shelby County, Tennessee. In any litigation, arbitration or other proceedings arising out of or related to the Agreement, the prevailing Party shall be entitled to receive its reasonable attorney's fees and reasonable costs and expenses. Nothing in this Section shall prevent either Party from seeking an interim injunction in respect of a breach of the Agreement.

13.4 Assignment.

Customer may not assign or sublicense, without the prior written consent of S+N, its rights, duties, or obligations under the Agreement to any person or entity, in whole or in part except that Customer may assign the Agreement to any person or entity that acquires all or substantially all of Customer's assets or business, provided that any such successor or assignee agrees to perform and assume Customer's duties under the Agreement. S+N may freely assign or otherwise transfer all or any of its rights, or delegate or otherwise transfer all or any of its obligations or performance, under the Agreement without Customer's consent. All assignments, delegations, sublicenses, and transfers not permitted by the Agreement shall be null and void and of no force or effect.

13.5 Notice.

All notices to S+N required or permitted by the Agreement shall be given in writing and personally delivered, sent by facsimile, email, or mailed by registered or certified mail, postage prepaid and return receipt requested, to the S+N's addresses below, or to any other address designated by the S+N in accordance with the provisions of this paragraph. All notices shall be deemed delivered when actually received if personally delivered, on the next business day following the day that they are sent by facsimile, or ten (10) days after having been placed in the mail, addressed in accordance this paragraph. All notices shall be delivered to S+N at the addresses set forth below:

Smith & Nephew, Inc.
150 Minuteman Road
Andover, MA 01810

13.6 No Agency.

The parties acknowledge and agree that Customer is engaged in the operation of its own business. The parties do not intend by entering into the Agreement to create a partnership, joint venture, agency, or any other such relationship. Nothing in the Agreement shall be construed to expressly or impliedly create such a partnership, joint venture, agency or other relationship and nothing in the Agreement authorizes Customer to make any contract, agreement, warranty, or representation on behalf of S+N. Each of the Parties warrants and represents that it has not and will not hold itself out as a representative, agent, servant, or employee of the other Party for any purpose. Each Party assumes sole responsibility for fully complying with laws applicable to its own personnel, none of whom shall be deemed employees or agents of the other Party.

13.7 Severability.

If any provision of the Agreement is declared by an arbitrator or court of competent jurisdiction, from which there is no appeal, to be invalid, illegal, or unenforceable, the Agreement shall be construed as though such provision or provisions did not appear herein, and the remaining provisions of the Agreement shall continue in full force and effect. In the event of such invalidity, illegality or unenforceability, the parties shall enter into good faith negotiations in order to agree on a replacement for each such invalid, illegal or unenforceable provision with a valid, legal and enforceable provision that, from an economic viewpoint, most nearly and fairly approximates the effect and intent of the original invalid, illegal or unenforceable provision.

13.8 Export.

Customer shall not, and shall not permit an Authorized User to, export or re-export the Platform without appropriate United States and/or foreign government licenses, and Customer shall, and shall require Authorized Users to, comply with all applicable export and import laws and regulations with respect thereto. Customer may not use the Platform if Customer is the subject of U.S. sanctions or of sanctions consistent with U.S. law imposed by the governments of the country where Customer is using the Platform.

13.9 Force Majeure.

Neither Party shall be liable for nonperformance, delay, failure of delivery, errors, data loss or other loss arising out of causes beyond its reasonable control including acts of God, war or other hostilities, civil disorder, national emergency, strikes, lockouts, unavailability of

supplies, non-use of product, flood, criminal acts, intentional acts by a non-Party, epidemics, pandemics, Internet outages, earthquake or other natural disaster or force of nature, explosion, embargo or any law, regulation, or other act or order of any court, government or governmental agency; provided that Customer shall always be obligated to pay the Fees in accordance with the Agreement.

13.10 Headings.

The subject headings of the Agreement are included for purposes of convenience only, and shall not affect the construction or interpretation of any provision hereof.

13.11 No Third Party Beneficiaries.

The Agreement is for the sole benefit of the Parties and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer on any other person or entity (including any Authorized User) any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of the Agreement.

13.12 Amendment; Waivers.

The Agreement may only be amended, modified, extended, or supplemented in writing and executed by a duly authorized representative of each Party. No Customer purchase order or other communication shall operate to amend the Agreement unless S+N specifically agrees to an amendment in writing. No waiver by either Party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in the Agreement, no failure to exercise or enforce, or delay in exercising or enforcing, any right, remedy, power, privilege, or term arising from the Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, privilege, or term hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, privilege, or term.

13.13 Interpretation.

For purposes of the Agreement: (a) the words "include," "includes", and "including" are deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; (c) the words "herein," "hereof," "hereby," "hereto", and "hereunder" refer to the Agreement as a whole; (d) words denoting the singular have a comparable meaning when used in the plural, and vice-versa; and (e) words denoting any gender include all genders. Unless the context otherwise requires, references herein: (x) to Sections, Annexes, Schedules, and Exhibits refer to the Sections of, and Annexes, Schedules, and Exhibits attached to, the Agreement; (y) to an agreement, instrument, or other document means such agreement, instrument, or other document as amended, supplemented, and modified from time to time to the extent permitted by the provisions thereof; and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. The Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted. The exhibits, schedules, attachments, and appendices referred to herein are an integral part of the Agreement to the same extent as if they were set out verbatim herein.

13.14 Cumulative Rights.

All rights and remedies provided in the Agreement are cumulative and not exclusive, and the exercise by either Party of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law, in equity, by statute, in any other agreement between the Parties, or otherwise.

13.15 Marketing and Logos.

Either Party may include the other Party's name and/or logo in customer or vendor lists. In addition, S+N may refer to Customer's receipt of the Platform in its marketing materials and on its websites and social media as well as in discussions with S+N's customers, prospective customers, and for legitimate business purposes.

13.16 Audits.

S+N shall have the right upon prior notice to Customer and during regular business hours to audit Customer's facilities, records, and use of the Platform or Documentation to verify that Customer is at all times in compliance with the Agreement. In the event that S+N can establish or any audit reveals that Customer has knowingly failed to comply with the terms of the Agreement, Customer shall: (a) pay S+N for the additional subscription fees of the Platform; and (b) reimburse S+N for the costs incurred by S+N in establishing the existence of unauthorized copies or to perform such audit.

Date: 30NOV2021