OLYMPUS

System Integration Terms and Conditions of Sale & End-User License Agreement (EULA)

1. **Preamble.** These System Integration Terms and Conditions of Sale ("**Terms and Conditions**") identify the terms under which Gyrus ACMI, Inc., a wholly owned subsidiary of Olympus Corporation of the Americas, by and through Olympus America Inc. ("**System Integration**" or "**SI**"), shall make available a proprietary system of software and hardware developed and integrated by or on behalf of SI ("**SI Software**", or "**SI Hardware**", and collectively the "**SI System**") to purchasing entity ("**Customer**"). After Customer's acceptance of the quotation for the SI System as prepared by SI (which shall have included these Terms and Conditions and SI's System Integration End User License Agreement), Customer shall issue a purchase order ("**PO**") to SI specifying those products and services to be purchased or licensed by Customer, a confirmation of the products' target delivery dates and payment terms and any other terms specific to Customer which may be contained in Customer's PO. The agreement for the purchase of the SI System and Services (as defined below) shall be governed by these Terms and Conditions and the attached System Integration End User License Agreement (which together shall be the "**Agreement**"). In the event of a conflict between the Agreement and any other terms or conditions we may have discussed, these Terms and Conditions shall prevail.

2. **Delivery/Payment.** In consideration of Customer's payment of the relevant fees specified in the Agreement, SI shall ship the SI System FOB factory (Littleton, MA), PO or some other date as may be mutually agreed upon. Agreed shipping dates are firm, and any changes thereto may result in additional charges. Unless otherwise specified in the Agreement, all fees are exclusive of all sales, use and other taxes related to the transaction, and shipping charges. SI shall identify such excluded taxes, shipping and handling charges on its invoice to Customer and Customer shall be responsible for their payment in full in accordance with the Agreement. If Customer enjoys a tax-exempt status, Customer shall provide a tax exemption certificate to SI prior to SI's issuance of an order confirmation or invoice in order to avoid charges associated with any otherwise applicable taxes. Subject to credit approval at SI's discretion, unless otherwise specified in an order confirmation or the Agreement, payment is due net 30 days of date of invoice ("**Due Date**"). If SI does not grant the Customer credit, SI may require payment in advance. SI may charge a late fee of up to 1.5% per month (or, if less, the maximum rate allowable by law) on any balance due remaining unpaid for more than thirty (30) days from the Due Date.

3. **Cancellations/Returns.** Cancellations or changes to orders by Customer require SI's prior written consent. Off the shelf SI System components in original unopened packaging have a return period of ninety (90) days from the date of shipment. Products that have been installed are not eligible for return. For a return to be processed, Customer must request a Return Merchandise Authorization ("**RMA**"), which Customer shall submit with the returned SI System. An RMA must be approved by SI, prior to a return being accepted.

4. **SI System License.** Subject to the terms of the Agreement and the End User License Agreement, SI grants to Customer a nonexclusive, nontransferable, perpetual (or such other term as may be indicated in an Order Confirmation) license to use the SI System solely for Customer's internal business purposes.

5. **Confidentiality.** "**Confidential Information**" means the SI System and all other proprietary and confidential information concerning the business of one party which is disclosed to the other in connection with the Agreement, (including by not limited to, the Agreement, products, computer programs, documentation, flowcharts, diagrams, manuals, schematics, development tools, specifications, design documents, marketing information, financial information or business plans), that is identified as confidential prior to disclosure, or is of a such a nature that a reasonable person would understand it to be Confidential Information. During the term of the Agreement and for three (3) years after the termination thereof, neither party will, without the expressed prior written consent of the other, use Confidential Information except as authorized under the Agreement, or disclose any Confidential Information or any part thereof to any third party, except to the extent that such Confidential Information: (i) is or becomes generally available to the public through no fault of Customer; (ii) is rightfully received by Customer from a third party without limitation as to its use; or (iii) is independently developed by Customer. Each party shall take such measures to protect Confidential Information as if it were their own and as such party may be required by law or regulation, specifically including HIPAA regulations relating to the confidentiality of personal health information.

Customer also agrees that it shall not duplicate, translate, modify, copy, printout, cause or permit the disassembling, de-compilation, reverse engineering, deriving of source code version or otherwise tampering with the products or any firmware, circuit board or software provided therewith. Each party represents and warrants that its employees and contractors are bound by a duty of confidentiality and that they will be bound by the terms and conditions of the Agreement. The terms of this Section shall survive expiration or termination of the Agreement.

6. **Publicity.** Either party may disclose that Customer has purchased the SI System, and SI may describe in general, non-confidential terms, SI's work under the Agreement in its marketing materials. Any other disclosure shall require the prior approval of both parties. Customer agrees to serve as a reference account upon prior request by SI, participate in case studies and other promotional activity of SI, and participate in the creation of a mutually agreed upon press release announcing Customer's purchase and use of the SI System.

7. **SI Services.** As specified in the PO, SI will provide Customer with certain of the following services ("**Services**") which will be delivered by SI employees and/or its subcontractors:

   (a) Installation and project management require unrestricted access to the affected Customer facility space during normal working hours. All affected spaces must be accessible simultaneously. Work may be done at SI's convenience 24 hours per day. Any restrictions or deviations from this requirement may require a change order and may result in additional charges.

   (b) Assistance in the installation of the SI System If applicable, SI will provide Customer with environmental specification detailing the requirements of the installation environment and the Customer's responsibilities in connection with the installation within a reasonable time prior to any scheduled installation. Customer is responsible for ensuring that the installation site conforms to the environmental requirements, performing any duties specified as Customer's responsibility, and for providing a dust free installation environment, wiring, conduit, power, and network switches as required. If the SI System is unable to be installed within six (6) months of the date of the Agreement as a result of the inability of Customer to provide an installation site which meets the above conditions, SI may apply additional fees and upcharges as may be reflected in a change order at the time of installation.

   (c) Professional services including assistance in the implementation of the SI System, training and advising Customer with respect to the use and operation of the SI System.

   (d) Maintenance Services for the SI System. "**Maintenance Services**" shall include, technical support, problem diagnosis and delivery of bug fixes and maintenance updates in the case of defective software and repairs or replacement (at SI's discretion) in the case of any defective hardware. For purposes of the Agreement a "defect" or "defective" shall mean failure to operate substantially as documented. As part of these maintenance services SI will (i) during SI's normal business hours, use commercially reasonable efforts to correct any reproducible problems (which cause the SI System to fail to operate as documented) within a reasonable timeframe taking into account the nature and severity of the problem, (ii) during SI's normal business hours provide access to telephone and on-line technical support, and (iii) provide updates, upgrades, and enhancements to the SI Software as SI makes them generally available to its customers under maintenance.

   (e) In the event that Customer requests professional services that are beyond the scope of the Agreement, SI may offer such services at its standard rates then in effect, or recommend appropriate third party contractors. Any and all enhancements, modifications and corrections that are made to the SI System in connection with the performance of Maintenance Services will be considered part of the SI System. In no event shall any of the services provided by SI be considered "work for hire" and SI shall retain intellectual property ownership rights to all work performed.

8. **Limited Warranty**.

   (a) SI warrants that, prior to shipment, it will take reasonable steps to test the SI System with commercially available anti-virus software to ensure that it is free of programming devices (e.g., viruses, worms, trojan horses) that are designed to disrupt the licensed use of the SI System, or destroy or damage data or make data inaccessible or delayed, except for standard key access, and file and purge routines necessary to the routine functioning of the SI System.

   (b) SI warrants that for a period of one (1) year following the earlier of (i) the date of substantial installation of the SI System or (ii) the date of final acceptance testing by SI the SI System shall be free from material defects in material and workmanship and shall materially conform to the then current user documentation when operated in the recommended operating environment. SI warrants that for a period of one (1) year following shipment of additional components, such component shall be free from material defects in material and workmanship and shall materially conform to the then current user documentation when operated in the recommended operating environment. SI does not warrant that the operation of the SI System will be uninterrupted or error-free, the user documentation will be error-free, or that all errors will be repaired. As Customer's sole and exclusive remedy for any breach of this warranty, SI will, at its expense, replace or repair (at SI's sole discretion) any component of the SI System that fails to meet this limited warranty. In order to obtain warranty coverage hereunder, Customer must provide SI with written notice of the warranty claim containing the following: (1) a description of the failure to perform, (2) a description of the operating conditions, including the specific hardware and software configuration, under which the failure to perform occurred, and (3) a sample of inputs for repeating and analyzing the failure to perform. Only SI authorized personnel or factory authorized agents may service the SI System. Any attempted servicing by other personnel shall render void the warranty.

   (c) Notwithstanding any of the foregoing provisions, SI shall have no obligation under this Limited Warranty to make corrections, repairs, or replacements of any defect or error not reported during the warranty period or which result, in whole or in part, from (i) catastrophe, fault, or negligence of Customer, (ii) use of the SI System in a manner not specified in the applicable documentation, (iii) Customer's failure to maintain a proper site environment with environmental requirements as specified by SI, or (iv) causes external to the SI System such as, but not limited to, power failure or electric power surges.

   (d) EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, SI MAKES NO WARRANTIES, EXPRESS, IMPLIED, STATUTORY, OR IN ANY OTHER PROVISION OF THE AGREEMENT OR ANY OTHER COMMUNICATION. SI SPECIFICALLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THIS DISCLAIMER SHALL ONLY APPLY TO THE EXTENT PERMITTED BY APPLICABLE LAW.

9. **Limitation of Liability**. THE CUMULATIVE LIABILITY OF SI TO CUSTOMER FOR ALL CLAIMS ARISING UNDER OR RELATED TO THE AGREEMENT, WHETHER IN CONTRACT, TORT OR OTHERWISE, SHALL NOT EXCEED THE FEES PAID TO SI WITHIN THE PRIOR YEAR FOR THE PRODUCT OR SERVICE WHICH CAUSED THE DAMAGE OR WHICH IS THE SUBJECT MATTER OF THE CLAIM. IN NO EVENT WILL SI BE LIABLE TO CUSTOMER FOR DAMAGES FOR LOSS OF DATA, LOST PROFITS, OR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE AGREEMENT, EVEN IF SI HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM BY ANY THIRD PARTY. THE FOREGOING LIMITATION OF LIABILITY AND EXCLUSION OF CERTAIN DAMAGES SHALL APPLY REGARDLESS OF THE SUCCESS OR EFFECTIVENESS OF OTHER REMEDIES. THE LIMITATION OF LIABILITY SET FORTH IN THIS SECTION SHALL ONLY APPLY TO THE EXTENT PERMITTED BY APPLICABLE LAW.

10. **Assignment**. Neither party may assign or subcontract its rights or obligations hereunder without the prior consent of the other, such consent not to be unreasonably withheld, conditioned or delayed, provided, however, that an assignment may be made to an entity which is directly or indirectly, wholly owned or controlled by the same entity as assigned party provided, however, that an assignment may be made to an entity which is directly or indirectly, wholly owned or controlled by the same entity as assigned party.

11. **Default/Termination**. Should Customer fail to pay any fees or fail to carry out any obligation under any agreement with SI, SI may, at its option, in addition to other available remedies, terminate all Licenses, agreements and/or suspend the provision of any Services being provided and the effectiveness of any covenants, representations, or warranties hereunder, provided that it first gives Customer fifteen (15) days' prior notice in order to permit Customer to cure its default. Any termination shall not relieve Customer of its obligations to pay for the SI System and Services delivered prior to termination.

12. **Indemnification**. Each party agrees to indemnify, defend and hold harmless the other party and its officers, directors, shareholders, managers, employees, agents, successors and assigns (collectively "Indemnified Party") from and against any and all direct: claims, losses, liabilities, damages, penalties, fines, forfeitures, judgments, and any other fees, costs, and expenses, including reasonable attorneys' fees and related costs and expenses, (collectively "Claims") resulting from (i) the negligence or misconduct of the indemnifying party, (ii) a breach of these Terms and Conditions, (iii) any Claims relating to the violation or infringement of the intellectual property rights of any third party, or (iv) a violation of any laws in the performance of such party's obligations hereunder or under these Terms and Conditions.

13. **General**.

   (a) Non-Solicitation: During the time period during which Services are provided and for a period of one (1) year after completion of Services, neither party shall solicit, interfere with, or endeavor to entice away any employee of the other party who has been involved in the performance of the Services, except that either party may hire an employee of the other party who, without individual solicitation, responds to advertisements or solicitations aimed at the general public.

   (b) Severability: If any term of the Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then the Agreement, including all of the remaining terms, will remain in full force and effect as if such invalid or unenforceable term had never been included.

   (c) Amendments: The Agreement and its attachments contains the entire agreement between the parties regarding the purchase and sale of the SI System and supersedes all proposals or prior agreements, oral or written, and all other communications between the parties relating to the subject matter hereof. Any waiver or modification of the provisions of the Agreement will be effective only if in writing and signed by both parties. In the event of a conflict with the provisions of any other document, the provisions of the Agreement will control.

   (d) Parties: Persons and entities who have licensed software to SI for inclusion in the SI System are third party beneficiaries to the Agreement as it applies to their respective software products included in the SI System. Except as specifically provided in this paragraph, a person who is not a party to the Agreement has no right to enforce any term of the Agreement but this does not affect any right or remedy of a third party which exists or is available apart from the Agreement.

   (e) Waiver: Except for actions for nonpayment or breach of SI's proprietary rights in the Licensed Products, a delay or failure by either party to exercise any right or bring any action, within one (1) year of the event giving rise to such right or such cause of action, shall waive any and all rights relating to that action.

   (f) Notices: All notices or other communications required to be given hereunder shall be in writing and delivered either personally or by U.S. mail, postage prepaid, and addressed as provided in the Agreement or as otherwise requested by the receiving party. Notices delivered personally shall be effective upon delivery and notices delivered by mail shall be effective upon their receipt by the party to whom they are addressed.

(g) <u>Governing Law</u>: The Agreement shall be governed by and construed in accordance with the laws of The Commonwealth of Pennsylvania, U.S.A. without regard to its conflict of laws provisions. Any legal action or proceeding arising under the Agreement will be brought exclusively in the federal or state courts located in the Commonwealth of Pennsylvania, and the parties hereby irrevocably consent to the personal jurisdiction and venue therein. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to the Agreement.

(h) <u>Participation in Government Programs:</u> Each party represents and warrants to each other, its officers, directors, agents, subcontractors and employees (i) are not currently excluded from, debarred or otherwise ineligible to participate in state or federally funded programs ("**Government Programs**"), (ii) are not currently excluded, debarred or otherwise ineligible to participate in the federal healthcare programs as defined in 42 USC § 1320a-7b(f) ("**Federal Healthcare Programs**"); (iii) have not been convicted of a criminal offense related to the provision of items or services but have not yet been excluded, debarred or otherwise declared ineligible to participate in Government Programs or Federal Healthcare Programs and (iv) are not, to the best of its knowledge, under investigation or otherwise aware of any circumstances which may result in either Party being excluded from participation in Government Programs or Federal Healthcare Programs. This shall be an ongoing representation and warranty during the term of the Agreement and each party shall immediately notify the other of any change in the status of the representations and warranty set forth in this Section. Any breach of this Section shall give non-breaching party the right to terminate the Agreement immediately for cause.

(i) <u>Access to Records:</u> If applicable, for the purpose of implementing Section 1861(v)(1)(I) of the Social Security Act, as amended, and any written regulations thereto, the parties agree to comply with the following statutory requirements governing the maintenance of documentation to verify the cost of services rendered under the Agreement:

1) Until the expiration of four years after the furnishing of such services pursuant to such Agreement, the parties shall make available, upon written request by the Secretary of Health and Human Services, or upon request by the Comptroller General of the United States, or any of their duly authorized representatives, the Agreement, and books, documents and records of such that are necessary to certify the nature and extent of such costs; and

2) If either party carries out any of the duties of the Agreement through a subcontract, with a value or cost of $10,000 or more over a twelve-month period, with a related organization, such subcontract shall contain a clause to the effect that until the expiration of four years after the furnishing of such services pursuant to such subcontract, the related organization shall make available, upon written request to the Secretary of Health and Human Services, or upon request by the Comptroller General of the United States, or any of their duly authorized representatives, the subcontract, and books, documents and records of such organization that are necessary to verify the nature and extent of such costs; and

3) If either party is required to disclose any books, documents and records relevant to the Agreement for the purpose of an audit or investigation, they shall notify the other party of the nature and scope of the request.

(j) <u>Independent contractor relationship</u>: The parties agree that each is at all times acting and performing as an independent contractor. Nothing in the Agreement shall be construed as creating a partnership, joint venture, or employment agreement.

System Integration Terms and Conditions of Sale & End-User License Agreement (EULA)

This **SYSTEM INTEGRATION END USER LICENSE AGREEMENT** ("*Agreement*") by and between Gyrus ACMI, Inc., a wholly owned subsidiary of Olympus Corporation of the Americas, by and through Olympus America Inc. ("**System Integration**" or "**SI**") and the company or other legal entity for which you are downloading or installing the software, (collectively "**Customer**") governs Customer's use of SI's software (the "**Software**").

By clicking a box indicating acceptance of the terms of this Agreement, executing an SI order confirmation that references this Agreement (an "**Order Confirmation**") or otherwise downloading, installing or using the software, Customer agrees to be bound by and become a party to this Agreement. If an individual is entering into this Agreement on behalf of Customer, Customer agrees to this Agreement and represents and warrants that such individual has the authority to bind Customer to this Agreement. If such individual does not have such authority, or if Customer does not agree to all of the terms of this Agreement, neither individual nor Customer may download, install, access or use the software.

1. **LICENSE GRANT**

   (a) Software License. Subject to Customer's compliance with this Agreement, SI grants Customer a limited, non-exclusive, non-transferable (except as otherwise expressly permitted under Section 15), non-sub licensable license to download, install and use the Software at a single site that Customer owns or controls, solely for Customer's internal business purposes.

   (b) Third Party Code. The Software is delivered with certain items of independent, third-party code that are licensed under separate terms provided by the authors or licensors ("**Third Party Code**"). This Third Party Code is licensed under the terms of the license that accompanies such Third Party Code. Nothing in this Agreement limits Customer's rights under, or grants Customer rights that supersede, the terms and conditions of any applicable license for any Third Party Code delivered with the Software. Documentation regarding open source software included in the Third Party Code can be provided by contacting SI Support.

   (c) Updates. Customer understands that the Software is evolving. As a result, SI may require Customer to accept updates to the Software. Customer acknowledges and agrees that SI may update the Software with or without notifying Customer. Customer may need to update third-party software from time to time in order to use the Software. Any future releases, updates, and additions to functionality of the Software shall be subject to the terms of this Agreement, unless SI expressly states otherwise in writing. Unless expressly and otherwise agreed by SI in a separate written agreement with Customer, neither SI nor any of its suppliers is obligated to provide any updates or upgrades to the Software.

2. **RESTRICTIONS**

Customer agrees that Customer will not, and will not permit any third party to: (i) license, sell, rent, lease, transfer, assign, distribute, host, outsource, copy, disclose or otherwise commercially exploit the Software (including, but not limited to, using the Software to process information or to generate output data for the direct benefit of, or for purposes of rendering services to, any third party) or make the Software available to any third party; (ii) modify, make derivative works of, disassemble, decompile or reverse engineer any part of the Software, except as expressly permitted by law; (iii) access the Software in order to build a similar or competitive product or service; (iv) access or use the Software to identify vulnerabilities in it or publish any information on how to circumvent the Software; (v) use the Software to upload, store or transmit infringing, libelous, or otherwise unlawful material, or to upload, store or transmit material in violation of third-party privacy rights; (vii) use the Software to store or transmit viruses, worms, time bombs, Trojan horses or other harmful or malicious code, files, scripts, agents or programs; (viii) interfere with or disrupt the integrity or performance of the Software or any of the servers or networks that are connected to the Software; (ix) attempt to gain unauthorized access to the Software or related systems or networks; (x) attempt to disable or circumvent any security mechanisms used by the Software; or (xi) remove, obscure or destroy any copyright and other proprietary rights notices in the Software and any copies thereof. In addition, Customer agrees to use the Software only in accordance with all

applicable laws and regulations. Any unauthorized use of the Software terminates the license granted by SI pursuant to this Agreement. With respect to any Software accessed through or downloaded from an app store (including, but not limited to, the Apple App Store), Customer agrees to comply with all applicable terms of use of such app store when downloading and using the Software.

3. **OWNERSHIP**

   (a) Software. The Software is licensed and not sold. Except for the express license granted to Customer under Section 1(a), SI retains all right, title and interest in the Software, including but not limited to, all intellectual property rights. Except as expressly permitted in Section 1(a), all other uses of the Software by Customer are prohibited.

   (b) Technical Data. The parties jointly own all right, title and interest in the Technical Data. "***Technical Data***" means any and all data generated by Customer's use of the Software (including, but not limited to, statistical data, room context data and de-identified clinical data) that is not protected health information as defined under the U.S. Health Insurance Portability and Accountability Act of 1996 and its implementing regulations, as each is amended ("***Protected Health Information***").

   (c) Protected Health Information. As between the parties, Customer owns all, right, title and interest in the Protected Health Information.

4. **LICENSE TERM**

   (a) Term. This Agreement commences on the date when Customer accepts this Agreement (as described in the preamble above) and remains in full force and effect until terminated in accordance with this Agreement.

   (b) Termination. SI may, at any time and without liability, terminate this Agreement or suspend Customer's access to the Software: (i) if Customer breaches any provision of this Agreement; (ii) if SI is required to do so by law; (iii) if SI ceases to offer any Software covered by this Agreement; or (iv) for any other reason with thirty (30) days prior written notice to Customer (or at any time without notice if Customer breaches this Agreement or SI reasonably believes that Customer could cause harm to SI, SI's users and/or the Software). Customer may terminate this Agreement at Customer's convenience by delivering at least thirty (30) days' prior written notice to SI and stopping all use of the Software. SI has the right to suspend or terminate Customer's use or access to the Software provided to Customer for any reason, including if Customer has breached any provision of this Agreement or if SI is required to do so by law (*e.g.*, where the provision of the Software is, or becomes, unlawful).

   (c) Effect of Termination. Upon termination of this Agreement, Customer's right to use the Software will automatically terminate immediately and Customer shall cease all use of the Software. Customer understands that any termination this Agreement may involve deletion of Customer's data and content from SI's systems and agree that SI shall not be liable for such deletion. Sections 3, 4(b), 4(c), 5 (last sentence only), 6, 7, 8, 11, 12, 13, 14 and 15 shall survive the expiration or termination of this Agreement.

5. **PASSWORDS AND REGISTRATION INFORMATION**

Customer will ensure that: (a) all required registration information Customer submits is truthful and accurate; and (b) Customer maintains the accuracy of such information. Customer is responsible for the security of Customer's passwords (if any) and for any use of Customer's account. If Customer becomes aware of any unauthorized use of Customer's passwords or of Customer's account, Customer will notify SI immediately. SI will not be liable for any loss or damage resulting from Customer's failure to comply with this Section 5.

6. **WARRANTIES AND DISCLAIMERS**

   (a) Customer represents and warrants that (a) Customer has all right, authority and capacity to enter into this Agreement; and (b) all

information Customer has provided and will provide to SI (including, but not limited to, any registration information) is true, accurate, and complete.

(b) TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SOFTWARE IS PROVIDED "AS IS," AND SI HEREBY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NONINFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE. WITHOUT LIMITING ANY OF THE FOREGOING, SI MAKES NO WARRANTY THAT THE SOFTWARE WILL PROVIDE PERFECT OR ABSOLUTE SECURITY, IS ERROR-FREE, OR IS FREE FROM INTERRUPTIONS, VIRUSES OR OTHER HARMFUL COMPONENTS. SOME STATES AND JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO SOME OF THE LIMITATIONS IN THIS SECTION 7(b) MAY NOT APPLY TO CUSTOMER.

7. LIMITATION OF LIABILITY

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, SI SHALL NOT BE LIABLE TO CUSTOMER FOR ANY SPECIAL, INDIRECT, EXEMPLARY, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE INCLUDING, BUT NOT LIMITED TO, DAMAGES OR COSTS DUE TO LOSS OF PROFITS, DATA, REVENUE, GOODWILL, PRODUCTION OR USE, BUSINESS INTERRUPTION, PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR PERSONAL OR PROPERTY DAMAGE, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, REGARDLESS OF THE CAUSE OF ACTION OR THE THEORY OF LIABILITY (WHETHER IN TORT, CONTRACT, OR OTHERWISE), EVEN IF SI HAS BEEN NOTIFIED OF THE LIKELIHOOD OF SUCH DAMAGES. IN ADDITION, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, SI'S LIABILITY TO CUSTOMER FOR ALL CLAIMS RELATING TO THIS AGREEMENT SHALL NOT EXCEED, IN THE AGGREGATE, THE AMOUNT PAID BY CUSTOMER TO SI WITHIN THE PRIOR TWELVE (12) MONTHS FOR THE SOFTWARE WHICH IS THE SUBJECT MATTER OF THE CLAIM. CERTAIN STATES AND/OR JURISDICTIONS DO NOT ALLOW THE LIMITATION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE EXCLUSIONS SET FORTH IN THIS SECTION 8 MAY NOT APPLY TO CUSTOMER.

8. NO SOFTWARE MAINTENANCE OR SUPPORT

Unless expressly and otherwise agreed by SI in a separate written agreement with Customer, the Software is provided without software maintenance or support of any kind.

9. EXPORT

The Software and data generated by the Software, and derivatives thereof may be subject to export laws and regulations of the United States and other jurisdictions. Customer may not use, export, import, or transfer the Software or such data, except as authorized by U.S. law and any other applicable laws.

10. THIRD PARTY MATERIALS

The Software may include links to third party web sites, data, content, or services. Customer acknowledges and agrees that SI has no control over any such third party web sites, content or services, and that SI shall not be liable for any loss or damage which may be incurred by Customer relating to such third party sites, data, content or services.

11. FEEDBACK

If Customer provides SI with any feedback or suggestions (collectively, "*Feedback*"), Customer hereby assigns to SI all rights in the Feedback and agrees that SI shall have the right to use such Feedback and related information in any manner it deems appropriate without any compensation to Customer. SI will treat any Feedback Customer provides to SI as non-confidential and non-proprietary. Customer agrees that Customer will not submit to SI any information or ideas that Customer considers to be confidential or proprietary.

12. CHANGES TO AGREEMENT

SI may modify this Agreement in its sole discretion from time to time, and will post the most current version of this Agreement on its website. If SI believes that a modification to this Agreement is material, SI may notify Customer (via email to the email address associated with Customer's account, for which it is Customer's responsibility to maintain and keep current). By continuing to access or use the Software after modifications are posted or notice is delivered to the email address SI has associated with Customer's account, Customer agrees to be bound by the modified Agreement. If Customer does not agree to the new terms, Customer must immediately stop using the Software.

13. INDEMNIFICATION

Each party agrees to indemnify, defend and hold harmless the other party and its officers, directors, shareholders, managers, employees, agents, successors and assigns (collectively "Indemnified Party") from and against any and all direct: claims, losses, liabilities, damages, penalties, fines, forfeitures, judgments, and any other fees, costs, and expenses, including reasonable attorneys' fees and related costs and expenses, (collectively "Claims") resulting from (i) the negligence or misconduct of the indemnifying party, (ii) a breach of this Agreement, (iii) any Claims relating to the violation or infringement of the intellectual property rights of any third party, or (iv) a violation of any laws in the performance of such party's obligations hereunder or under this Agreement.

14. GENERAL

(a) Non-Solicitation: During the time period during which Services are provided and for a period of one (1) year after completion of Services, neither party shall solicit, interfere with, or endeavor to entice away any employee of the other party who has been involved in the performance of the Services, except that either party may hire an employee of the other party who, without individual solicitation, responds to advertisements or solicitations aimed at the general public.

(b) Severability: If any term of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then this Agreement, including all of the remaining terms, will remain in full force and effect as if such invalid or unenforceable term had never been included.

(c) Amendments: This Agreement and its attachments contains the entire agreement between the parties regarding the purchase and sale of the SI System and supersedes all proposals or prior agreements, oral or written, and all other communications between the parties relating to the subject matter hereof. Any waiver or modification of the provisions of this Agreement will be effective only if in writing and signed by both parties. In the event of a conflict with the provisions of any other document, the provisions of this Agreement will control.

(d) Parties: Persons and entities who have licensed software to SI for inclusion in the SI System are third party beneficiaries to this Agreement as it applies to their respective software products included in the SI System. Except as specifically provided in this paragraph, a person who is not a party to this Agreement has no right to enforce any term of this Agreement but this does not affect any right or remedy of a third party which exists or is available apart from this Agreement.

(e) Waiver: Except for actions for nonpayment or breach of SI's proprietary rights in the Licensed Products, a delay or failure by either party to exercise any right or bring any action, within one (1) year of the event giving rise to such right or such cause of action, shall waive any and all rights relating to that action.

(f) Notices: All notices or other communications required to be given hereunder shall be in writing and delivered either personally or by U.S. mail, postage prepaid, and addressed as provided in this Agreement or as otherwise requested by the receiving party. Notices delivered personally shall be effective upon delivery and notices delivered by mail shall be effective upon their receipt by the party to whom they are addressed.

(g) Governing Law: This Agreement shall be governed by and construed in accordance with the laws of The Commonwealth of Pennsylvania, U.S.A. without regard to its conflict of laws provisions. Any legal action or proceeding arising under this Agreement will be brought exclusively in the federal or state courts located in the Commonwealth of Pennsylvania, and the parties hereby irrevocably consent to the personal jurisdiction and venue therein. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

(h) Participation in Government Programs: Each party represents and warrants to each other, its officers, directors, agents, subcontractors and employees (i) are not currently excluded from, debarred or otherwise ineligible to participate in state or federally funded programs ("**Government Programs**"), (ii) are not currently excluded, debarred or otherwise ineligible to participate in the federal healthcare programs as defined in 42 USC § 1320a-7b(f) ("**Federal Healthcare Programs**"); (iii) have not been convicted of a criminal offense related to the provision of items or services but have not yet been excluded, debarred or otherwise declared ineligible to participate in Government Programs or Federal Healthcare Programs and (iv) are not, to the best of its knowledge, under investigation or otherwise aware of any circumstances which may result in either Party being excluded from participation in Government Programs or Federal Healthcare Programs. This shall be an ongoing representation and warranty during the term of this Agreement and each party shall immediately notify the other of any change in the status of the representations and warranty set forth in this Section. Any breach of this Section shall give non-breaching party the right to terminate this Agreement immediately for cause.

(i) Access to Records: If applicable, for the purpose of implementing Section 1861(v)(1)(I) of the Social Security Act, as amended, and any written regulations thereto, the parties agree to comply with the following statutory requirements governing the maintenance of documentation to verify the cost of services rendered under this Agreement:

1) Until the expiration of four years after the furnishing of such services pursuant to such Agreement, the parties shall make available, upon written request by the Secretary of Health and Human Services, or upon request by the Comptroller General of the United States, or any of their duly authorized representatives, this Agreement, and books, documents and records of such that are necessary to certify the nature and extent of such costs; and

2) If either party carries out any of the duties of this Agreement through a subcontract, with a value or cost of $10,000 or more over a twelve-month period, with a related organization, such subcontract shall contain a clause to the effect that until the expiration of four years after the furnishing of such services pursuant to such subcontract, the related organization shall make available, upon written request to the Secretary of Health and Human Services, or upon request by the Comptroller General of the United States, or any of their duly authorized representatives, the subcontract, and books, documents and records of such organization that are necessary to verify the nature and extent of such costs; and

3) If either party is required to disclose any books, documents and records relevant to this Agreement for the purpose of an audit or investigation, they shall notify the other party of the nature and scope of the request.

(j) Independent contractor relationship: The parties agree that each is at all times acting and performing as an independent contractor. Nothing in this Agreement shall be construed as creating a partnership, joint venture, or employment agreement.

OLYMPUS AMERICA INC.
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