

## Appendix 1: Terms and Conditions

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These Terms and Conditions (“**Terms**”) are incorporated into the Scope of Work or other document to which they are attached (“**SOW**” or “**Work Order**” or “**Order**”) and together constitute the entire contract between Client and Consultant (each of Client and Consultant a “**Party**” and collectively the “**Parties**”).

### 1. The Services

a. Client hereby engages Consultant to provide certain robotics process automation services and any other services described in a SOW entered into by the Parties (the “**Services**”). These Terms and Conditions (“**Terms**”) set forth the terms and conditions pursuant to which Consultant will provide the Services, which shall conform in all material respects to the specifications set forth in applicable SOWs.

b. Requests for Changes. No change in the Services provided under an SOW will be performed until Consultant receives a properly issued and mutually executed change order; provided, however, that nothing herein will relieve Client of the obligation to pay Consultant for Services rendered pursuant to an SOW or that were requested by Client but are not documented in such a properly issued and executed change order.

c. Prior to any Consultant personnel performing services on Client’s premises and accessing Protected Health Information (as defined by HIPAA), Consultant will perform or cause to be performed a background check on such personnel, including but not limited to a Criminal Offender Record Information (“**CORI**”) check and a Sexual Offender Registry Information (“**SORI**”) check, sufficient to determine that, to the best of Consultant’s knowledge, each such personnel (i) has not engaged in criminal or other unlawful activity; (ii) has not harmed patients or patient families and visitors; (iii) is not registered in Massachusetts as a Level 2 or Level 3 sex offender; (iv) has not intentionally accessed or misused Protected Health Information (as defined by HIPAA); and (v) has not violated federal or state laws relating to information security and privacy. Upon request, Consultant agrees to provide, at Consultant’s expense, proof that Consultant’s personnel have met Client’s reasonable infection control requirements that are provided to Consultant in writing. In the event Client reasonably objects to any of Consultant’s personnel providing Services hereunder, Consultant shall make commercially reasonable efforts to substitute such personnel to perform the Services hereunder.

d. Client acknowledges that any delays in completing Client’s responsibilities under the SOW could have a direct impact on the overall Services schedule and cost incurred by Consultant, and such nonperformance causes the Services to be delayed. Consultant reserves the right to charge additional fees (based on the hourly rates for the applicable skill set) and related expenses in connection with such delay by Client. Any schedules set forth in the SOW or applicable project plan that are impacted by such delay shall be extended by an amount of time equal to the time of the delay caused.

### 2. Charges and Payment

a. As compensation for the Services, Client agrees to pay Consultant the hourly rates and/or amount(s) as set forth in the SOW. Pricing set forth herein is exclusive of applicable sales, use and similar taxes assessed on the performance of any services.

b. Payment is due within thirty (30) days of the invoice date. After this time period, Consultant reserves the right to charge interest on late payments accrued at the lesser of the maximum rate permitted

under applicable law or one and one-half percent (1.5%) per month from the due date due until paid.

### 3. Proprietary Rights

a. Each Party retains all right, title and interest (including all intellectual property rights) in and to its Pre-Existing IP. “**Pre-Existing IP**” consists of each Party’s concepts, data, designs, developments, documentation, drawings, hardware, improvements, information, inventions, processes, software, techniques, technology, tools, and any other intellectual property, and any third party licenses or other rights to use any of the foregoing, that (i) exists prior to the Effective Date of the SOW; or (ii) are developed entirely independently by a Party, at any time, without any use, knowledge of, or reference to, the other Party’s Confidential Information or other information obtained in connection with these Terms. If Consultant delivers to Client any work product in connection with the Services, including notes, drafts, documents, reports, records, drawings, designs, inventions, improvements, developments, discoveries (whether created or developed by Consultant solely or in collaboration with others) during the term of these Terms (collectively, “**Inventions**”), then Client owns, or upon assignment by the creator will own, all right, title and interest in and to such Inventions (except for any Pre-Existing IP of Consultant incorporated or embodied in the Inventions). Inventions will be deemed a “work made for hire” under the copyright laws of the United States. To the extent that any Invention is determined not to be a “work made for hire,” Consultant assigns to Client all right, title and interest in the Invention (except for any Pre-Existing IP of Consultant incorporated or embodied in the Inventions). Consultant also agrees to promptly complete and execute all documents reasonably requested by Client to effectuate these provisions. Consultant grants Client a non-exclusive, limited, royalty-free, non-sublicensable and non-transferable license to use any Pre-Existing IP incorporated in the Inventions solely in connection with Client’s internal and non-commercial use of the Inventions.

b. All records provided to Consultant by Client shall remain the sole property of Client. Consultant shall promptly return all documents to Client following completion of the Services. In the event such records are not earlier returned to Client, Consultant will return to Client all such records, and all copies of such records, within ten (10) days of the termination or expiration of these Terms, except as otherwise agreed by the Parties in writing.

### 4. Term and Termination

a. Term. These Terms shall commence as of the Effective Date (as defined or identified in the SOW; and if not specifically identified, then the date of last signature to the SOW) and continue for the period set forth in the applicable SOW, unless earlier terminated in accordance with the terms of this Section 4.

b. Termination. Either Party may terminate these Terms at any time with or without cause upon thirty (30) days prior written notice to the other Party. In addition, either Party may terminate these Terms immediately upon written notice if the other Party (i) becomes insolvent or subject to any proceeding as a debtor in a federal bankruptcy court proceeding; (ii) ceases conducting business in the normal course; (iii) makes a general assignment for the benefit of creditors; or (iv) permits or suffers the appointment of a trustee, receiver, liquidator, or conservator for its business or assets. Client may terminate these Terms immediately upon written notice in the event Client determines in good faith that patient safety or quality of care may be compromised by continuation of these Terms.

c. Completion of Services. If all of the Services that Client has requested of Consultant have been satisfactorily performed and full payment has been received for all such Services, either Party may terminate these Terms effective immediately upon written notice to the other Party.

d. Effect of Termination. Upon termination of these Terms, (i) Client shall pay all sums then due to Consultant for work satisfactorily completed and for approved expenses incurred prior to the date of termination; and (ii) upon receipt of payment, Consultant shall deliver to Client any materials developed as of the date of termination, whether completed or in progress. The Parties shall thereafter have no further obligation to each other, except as set forth in Sections 2, 3, 5, 6, 8, 9, 11, and 12 or such other provisions of these Terms which by their nature shall survive termination.

## **5. Confidentiality, Privacy and Security**

a. Confidential Information. For purposes of these Terms, each Party's confidential information ("**Confidential Information**") shall mean all proprietary, secret or confidential information or data of a Party and its respective operations, employees, services, patients, customers or donors, including any such information or data that is designated by the disclosing Party as confidential or that the receiving Party should reasonably believe is confidential based on the subject matter or the circumstances of its disclosure. Confidential Information does not include information that is (i) publicly known; (ii) already known to the Receiving Party; (iii) lawfully disclosed by a third party; (iv) independently developed; or (v) disclosed pursuant to legal requirement or order.

b. Each Party receiving Confidential Information of the other Party shall (i) maintain the Confidential Information in strict confidence; (ii) use at least the same degree of care in maintaining the secrecy of the Confidential Information as it uses in maintaining the secrecy of its own proprietary, secret, or confidential information, but in no event less than a reasonable degree of care; (iii) use Confidential Information only to fulfill its obligations under these Terms and for no other purpose; and (iv) return or destroy all documents, copies, notes, or other materials containing any portion of the Confidential Information upon request by Client or Consultant.

c. If access to any of the materials in Consultant's possession relating to these Terms is sought by a third party, or Consultant is requested or compelled to testify as a fact witness in any legal proceeding related to Consultant's work for Client, by subpoena or otherwise, or Consultant is made a party to any litigation related to Consultant's work for Client, Consultant will promptly notify Client of such action.

d. Privacy and Security of Information. The Parties agree that Consultant shall not receive, store, maintain, process or otherwise access Protected Health Information (as defined in the regulations promulgated under the Health Insurance Portability and Accountability Act of 1996 (collectively, "**HIPAA**")) or "personal information" (as defined in Massachusetts regulation 201 CMR 17.00 et seq. (the "**Personal Information Regulations**")) in connection with the Services. In the event Consultant does for any reason receive any such Protected Health Information or "personal information," Consultant shall immediately notify Client and shall promptly return or destroy such information as directed by Client. In such event and to the extent applicable, Consultant shall comply, and shall assist Client to comply, with all applicable requirements of HIPAA and the Personal Information Regulations.

## **6. Indemnification; Limitation of Liability**

a. General Indemnification. Consultant agrees to indemnify, defend and hold harmless Client, its corporate affiliates, and its and their directors, trustees, officers, employees, professional staff and agents from any and all third party liabilities, claims, damages, losses and costs (including reasonable attorney's fees) to the extent arising from the negligent acts or omissions or willful misconduct of Consultant. Client

shall promptly notify Consultant of any claims for which indemnification is sought. However, Client shall not be responsible for any liability, damages, losses or costs that are incurred because of a delay in giving such notice except to the extent that Consultant is prejudiced by the delay. Consultant shall assume the defense of any claim for which indemnification is sought using legal counsel reasonably acceptable to Client. Consultant shall not enter into a settlement of any claim that is the subject of the indemnification without the prior written consent of Client (which consent shall not be unreasonably withheld or delayed).

b. Infringement Indemnification. Consultant shall indemnify, defend and hold harmless Client and its corporate affiliates, and its and their directors, trustees, officers, employees, professional staff and agents against all third party claims that directly arise out of or relates to any infringement of any intellectual property right resulting from Client's use of Services. THE FOREGOING INDEMNIFICATION SHALL BE CLIENT'S SOLE AND EXCLUSIVE REMEDY FOR INFRINGEMENT CLAIMS. Consultant shall maintain sole control of the defense and all settlement negotiations, so long as such defense or settlement provides for a full and complete release of all claims against Client and does not admit any liability of Client or require the payment of money by Client. Notwithstanding the preceding, however, Client shall, at its sole expense and option, have the option to represent itself, or obtain representation, in addition to that provided by Consultant in any such infringement action, provided Client's representation shall not interfere with Consultant's defense or settlement of such action. Client's obtaining of such representation shall not relieve Consultant of its obligations under these Terms. Excluded from such indemnification are any claims related to (i) Services performed on equipment or software which Client advised that Consultant had the right to modify, (ii) Services performed to Client's specification or design, and (iii) infringement resulting from or caused by Client's misuse or unauthorized modification of systems or products.

c. If the use of the Services by Client is actually, or in Consultant's reasonable opinion is likely to be, the subject of a claim of infringement, then Consultant, at its option and expense, shall: (i) procure for Client the right to continue using the Services; (ii) replace or modify the Services so that it becomes non-infringing, so long as the non-infringing Services have at least equivalent functionality; or, if options (i) and (ii) are not available, (iii) terminate these Terms and refund to Client any fees previously paid to Consultant by Client.

d. Limitations of Liability. IN NO EVENT WILL CONSULTANT BE LIABLE FOR INCIDENTAL, SPECIAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING FOR LOSS OF DATA OR ITS USE OR LOST PROFITS OR OTHER ECONOMIC DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. THIS LIMITATION OF LIABILITY WILL APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR NOT, INCLUDING NEGLIGENCE. IN NO EVENT WILL CONSULTANT'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THESE TERMS, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STATUTE, OR ANY OTHER BASIS EXCEED THE AMOUNT OF FEES PAID BY CLIENT TO CONSULTANT DURING THE TERM OF THESE TERMS.

## **7. Independent Contractors**

Client and Consultant are independent contractors and nothing in these Terms shall be construed to create an agency, employer/employee, partnership, joint venture or any other relationship between the Parties. Each Party will be responsible for income, employment and/or other taxes, and workers' compensation liabilities for its employees and other personnel providing services hereunder. Neither Party shall have the authority to make any commitment on behalf of the other.

Consultant agrees to indemnify, defend and hold harmless Client and, if pertinent, its affiliates, and each of their officers, directors, trustees, professional staff, employees, agents, successors and assigns from and against any proved or alleged claims, demands or suits, or any losses, damages, liabilities, fines, penalties

and expenses by any government entity relating to the payment or nonpayment of any taxes, contributions or insurance related to the Services performed hereunder (except for any taxes for which Client is legally responsible), or payments Consultant receives from Client. Consultant understands that Client's intention is to comply with applicable federal and state laws concerning the reporting of payments of income to independent contractors.

## **8. Representations and Warranties**

a. By Consultant. Consultant represents and warrants that all Services will be performed in a workmanlike, professional and timely manner consistent with industry standards for similar services performed by qualified professionals. In addition, Consultant represents and warrants that Consultant maintains all required licenses, registrations, permits and/or accreditations and that Consultant, its directors, trustees, officers, employees, professional staff and agents have never been (a) excluded from participation in any federal or state health care program, (b) convicted of a felony or crime of moral turpitude, or (c) convicted of a crime related to physical or sexual abuse of children. To the extent that Consultant is not the manufacturer of any hardware or software products that Client may purchase as a result of or relating to the Services, Consultant does not provide any warranty on such products, whether with respect to their design, performance, functionality or compatibility with Client's existing system. EXCEPT AS SPECIFICALLY SET FORTH IN THESE TERMS, CONSULTANT MAKES NO FURTHER REPRESENTATIONS OR WARRANTIES AND SPECIFICALLY DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

b. By Client. Client represents and warrants that (i) Client has the authority to agree to these Terms and the funding necessary to pay for the Services; (ii) Client possesses title to or license or rights to use or modify any software or products which Client has requested Consultant to modify as part of the Services; and (iii) Client will provide Consultant with necessary access to Client's personnel, appropriate documentation and records and facilities in order for Consultant to timely perform the Services.

## **9. Access to Books and Records**

During the term and for a period of four (4) years thereafter, Consultant will make available, upon written request of the Secretary of Health and Human Services or the Comptroller General of the United States or any of their duly authorized representatives, copies of these Terms and any non-confidential books, documents, records and other data of Consultant that are necessary to certify the nature and extent of the costs incurred by Client in purchasing Services. If Consultant carries out any of its duties under these Terms through a subcontract with a related organization involving a value or cost of ten thousand dollars (\$10,000) or more over a twelve-month period, Consultant will cause such subcontractor to agree to the obligations of Consultant set forth in this Section 9 with respect to such subcontracted Services. Consultant shall give Client notice immediately upon receipt of any request from the Secretary of Health and Human Services or the Comptroller General of the United States or any of their duly authorized representatives for disclosure of such information.

## **10. Compliance with Laws.**

Consultant shall comply with all applicable laws, rules and regulations of all governmental authorities applicable to the Services. To the extent the Services hereunder involve the provision of care, treatment or services to Client's patients, the Parties acknowledge that Client is responsible for the quality of all services provided in the hospital, whether provided by Client directly or through a contract with a third party.

Therefore, the Parties agree that each of them shall monitor the performance, safety, quality, efficacy and outcomes of the Services as part of their quality assurance/performance improvement plans. Consultant shall provide to Client reports identified and agreed to in SOWs of its performance under these Terms, in such form and with such frequency as set forth in applicable SOWs.

## **11. Miscellaneous**

- a. No Hiring. For the term of these Terms and for a period of one year thereafter, Client shall not hire, solicit or accept solicitation of, through employment or otherwise, directly or indirectly, any of Consultant's employees or independent contractors with whom Client has had any contact during the Services, without Consultant's prior written consent. Should Client hire an employee or independent contractor of Consultant through employment or otherwise within this time period without Consultant's prior written consent, Client will immediately pay as liquidated damages to Consultant an amount equal to the relevant person's then current annual compensation (or the amount paid to or on behalf of the person in the last 12 months, in the case of an independent contractor).
- b. Entire Agreement. These Terms, including all exhibits and attachments, constitutes the entire agreement between the Parties with respect to the subject matter hereof. These Terms supersedes all prior agreements, negotiations and communications, whether written or oral, between the Parties with respect to the subject matter hereof. In the event of a conflict between the terms and conditions of the Terms and the SOW, These Terms will control, unless otherwise expressly agreed in writing by the Parties.
- c. Incorporation of Exhibits. All schedules, exhibits, addenda, and recitals referred to in these Terms are an integral part of these Terms and are hereby incorporated into these Terms.
- d. Amendment. These Terms may be amended at any time by written agreement signed by both Parties.
- e. Assignment and Delegation. These Terms shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns. Neither Party shall assign these Terms or any part hereof without the prior written consent of the other Party, provided, however, that either Party may assign these Terms or delegate any of its rights or obligations under these Terms, in whole or in part, to one of its wholly-owned subsidiaries or in connection with a change of control, merger, transfer or sale of all or substantially all of its assets, or a similar transaction, in each case, without such consent from the other Party. Any permitted assignee shall assume all obligations of its assignor under these Terms. This section will survive expiration or termination of these Terms.
- f. Force Majeure. The obligations of either Party to perform under these Terms will be excused during each period of delay caused by acts of God, war or terrorism, or by shortages of power or materials or government orders which are beyond the reasonable control of the Party obligated to perform and prevents such Party from being able to perform ("**Force Majeure Event**"). In the event that either Party ceases to perform its obligations under these Terms due to the occurrence of a Force Majeure Event, such Party shall: (i) immediately notify the other Party in writing of such Force Majeure Event and its expected duration; (ii) take all reasonable steps to recommence performance of its obligations under these Terms as soon as possible. In the event that any Force Majeure Event delays a Party's performance for more than thirty (30) days following notice by such Party pursuant to these Terms, the other Party may terminate these Terms immediately upon written notice to such Party.
- g. Use of Name. Client hereby grants Consultant, its affiliates, successors, and assigns, a non-

exclusive, royalty-free, and revocable license to display the Client's name, marks, logos, and feedback relating to the Services ("**Marks**") for advertising and marketing purposes of Consultant, including but not limited to, in case studies, print advertisements, marketing materials, Internet postings and other publications, electronic or printed, which are produced by or on behalf of Consultant in the ordinary course of business ("**Marketing Materials**"). Consultant shall obtain Client's approval for each use of the Marks in the Marketing Materials prior to the displaying or distribution of the Marketing Materials to any third party.

h. Severability. If any provision of these Terms is determined by a court to be invalid or unenforceable, that determination shall not affect the other provisions hereof, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each said provision shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

i. Governing Law. These Terms and all matters arising out of and relating to these Terms shall be construed and enforced in accordance with the laws of the Commonwealth of Massachusetts, without regard to conflict of law rules, and venue shall be proper only in a court of competent jurisdiction located in the Commonwealth of Massachusetts in Suffolk County.

j. Section Headings. The section headings contained in these Terms are for reference only and shall not affect in any way the meaning or interpretation of these Terms.

k. Waiver. No delay or omission by either Party in exercising any right or remedy under these Terms shall be construed to be either acquiescence or the waiver of the ability to exercise any right or remedy in the future. Any waiver of any terms and conditions hereof must be in writing and signed by the Parties. A waiver of any term or condition hereof shall not be construed as a future waiver of the same or any other term or condition hereof.

l. Counterparts. These Terms may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.