



INCORPORATED COUNTY OF LOS ALAMOS
ADDENDUM NO. 01 TO
STANDARD TERMS OF SALE AND SOFTWARE HOSTING
TERMS AND CONDITIONS
COUNTY AGREEMENT REFERENCE
NO. AGR25-963

This Addendum to the Standard Terms of Sale, Software Hosting Terms and Conditions, LifeNet Product Addendum, and Business Associate Agreement (this "Addendum") modifies the Terms and Conditions of Agreement No. AGR25-963 ("Agreement") between **Incorporated County of Los Alamos**, an incorporated county of the State of New Mexico ("County" or "Customer") and **Stryker Sales, LLC**, a Michigan limited liability company ("Contractor" or "Stryker"), collectively (the "Parties"). The following provisions revise and supersede the provisions of the Agreement. To the extent any provisions of this Addendum are inconsistent with the terms and conditions of the Agreement, the provisions of this Addendum will prevail. All terms used but not defined herein shall have the meanings ascribed to them in the Agreement.

Except as modified by this Addendum, the Products and Services (as defined in the Standard Terms of Sale) purchased are subject to the terms and conditions of the Agreement. This Addendum and Agreement constitute the entire agreement between the Parties with respect to the purchase of Products and Services. Any modifications hereto shall be in writing and executed by the Parties.

WHEREAS, Section 31-3(b)(4) of Code of Ordinances allows procurement of goods, services, or construction items under existing contracts and that are with a person that has a current contract issued under a cooperative purchasing agreement with another public entity thereof.

WHEREAS, Contractor is a party to Contract No. 041823-STY with Sourcewell ("Price Agreement"); Sourcewell is a local government unit, public corporation and public agency pursuant to the Minnesota Constitution and enabling law Minn. Stat. § 123A.21, authorized to establish competitively awarded cooperative purchasing contracts on behalf of participating agencies, which have competitively solicited a price agreement for Critical Care and EMS Equipment which meets the same standard and specifications as the services needed by County, namely the LifePak35 systems (the "Devices"), supporting software and support services (the "Services"); and

WHEREAS, County is a Participating Entity ("PE") of Sourcewell, and as a PE, County has agreed to follow Sourcewell's cooperative procurement processes; and

WHEREAS, County requested a quote from Contractor as provided for in the Price Agreement, and Contractor provided a quote to County that complies with the pricing terms of the Price Agreement; and

WHEREAS, the County Council approved this Agreement at a public meeting held on June 24, 2025; and

WHEREAS, Contractor shall sell the Products and perform the Services, as described below, to County.

NOW, THEREFORE, in consideration of the premises and covenants contained herein, County and Contractor agree to amend the Agreement as follows:

- I. The County and Stryker agree to Amend **Standard Terms of Sale** as follows:
- II. Paragraph **3. Payment Terms** is hereby deleted in its entirety and replaced with the following:

3. Payment Terms. Stryker shall submit itemized invoices to County's Project Manager showing amount of compensation due, amount of any New Mexico gross receipts taxes ("NMGRT"), and total amount payable. Payment of undisputed amounts shall be due and payable thirty (30) days after County's receipt of the invoice. County must notify Stryker in writing of any disputed invoice within twenty (20) days of its receipt. The writing must provide Stryker with sufficient detail regarding the basis and amount of the dispute. If Customer does not dispute an invoice within twenty (20) days of its receipt, such invoice shall be deemed to have been accepted by Customer.
- III. Paragraph **5. Delivery, Title and Risk of Loss.** is hereby deleted in its entirety and replaced with the following:

5. Delivery, Title and Risk of Loss. . Title and risk of loss transfer to Customer upon Stryker's delivery of the Products to -Customers ship to location. Shipping and delivery dates are estimates only. Stryker shall use commercially reasonable efforts to provide advanced notification of shipment of Product(s) to Customer. Stryker may ship all the Products at one time or in portions. Stryker will have the right to determine the method of shipment and routing of the Products, unless Stryker agrees otherwise in writing. Stryker shall not select expedited shipment methods which would incur additional costs without acceptance in writing by Customer. All Products will be shipped to the address indicated in the "ship to" portion of Customer's purchase order. Stryker reserves the right to refuse to ship the Products to third parties.
- IV. Paragraph **9. Product Training.** is hereby deleted in its entirety and replaced with the following:

9. Product Training. Stryker may provide technical training, including both initial training for new users and supplemental training for existing users, as needed to promote the safe and effective use of its Products sold to Customer. Such technical training will be provided for any health care practitioner who uses or intends to use the Product and is employed by, or is on the active medical staff of, Customer. If Stryker provides the technical training to a health care professional, it may pay for or reimburse the reasonable expenses, including meals, lodging and transportation, actually incurred by eligible recipients in connection with the technical training provided under this paragraph. Reimbursement for travel shall comply with the County's Travel Guidelines as described in Appendix 5. Such training is not deemed a condition precedent to sale of the Products or Customer's acceptance thereof.
- V. **Sub-paragraph 10.6.** is hereby deleted in its entirety and replaced with the following:

10.6. Customer agrees that Stryker may monitor use of the Products, and services provided through the Products, by Customer and users and collect and use Stryker Data, including to compile information related to the provision, operation or use of a Product, facilitate the provision of support, consulting, training and other services, and verify compliance with the terms of this Standard Terms of Sale. Stryker may use and make publicly available, Stryker Data to the extent and in the manner permitted under applicable law. Stryker owns Stryker Data, and Customer herein grants Stryker all necessary, legally

enforceable permissions required for Stryker to reproduce, distribute, modify, and otherwise use and display Customer's Content incorporated within the Stryker Data, provided such use is otherwise permitted by any and all applicable laws. "Stryker Data" means any data relating to or arising from the business operations or plans, services and products of Stryker or the performance or use of the Products or that may aid Stryker in optimizing resources and support; may be used to improve products or services; may be used in research and development regarding products or services; may be used in verification of security and data integrity of products or services or in resource planning, industry trends, benchmarking, or contract administration (e.g., data used for sales compensation), and any Personal Information that is aggregated and not identified or identifiable to any individual.

VI. Sub-paragraph 11.1. is hereby deleted in its entirety and replaced with the following:

11.1. Certain Products contain software that is installed into the Products by Stryker. Stryker owns this software and each sale of a software-containing Product is not a sale of such software; it includes only a license to use the software in the Product in which the software was initially installed solely in accordance with the documentation provided with such Product. The license for any such software may be embedded in the equipment, the product documentation or available on <https://www.stryker.com/us/en/legal/it.html> and shall automatically apply to such product on first use of the product. ANY SOFTWARE LICENSE PROVIDED BY STRYKER DOES NOT EXTEND TO ANY MAINTENANCE OR SERVICE SOFTWARE SHIPPED TO OR LOCATED AT CUSTOMER'S PREMISES WHICH IS INTENDED TO ASSIST STRYKER EMPLOYEES OR AGENTS IN THE INSTALLATION, TESTING, SERVICE, AND MAINTENANCE OF ANY PRODUCT. CUSTOMER ACKNOWLEDGES THAT SOFTWARE PROVIDED WITH A PRODUCT MAY CONTAIN THIRD PARTY SOFTWARE (INCLUDING BUT NOT LIMITED TO OPEN SOURCE SOFTWARE LICENSES), AND THAT SUCH SOFTWARE IS SUBJECT TO THE TERMS AND CONDITIONS OF THE APPLICABLE LICENSE THAT ACCOMPANIES IT. A LIST OF OPEN SOURCE SOFTWARE USED IN STRYKER PRODUCTS AND THEIR APPLICABLE LICENSES MAY BE FOUND AT <https://www.stryker.com/us/en/legal/it.html>. Third-Party software for the equipment includes but is not limited to ESO and/or ImageTrend, and SQL.

VII. Paragraph 12. Indemnity. is hereby deleted in its entirety and replaced with the following:

12. Indemnity:

12.1. Stryker agrees to indemnify Customer from any third party liability ("Claims") which Customer suffers directly as a result of: (i) a defect in workmanship of the Products that are manufactured by Stryker; or (ii) if applicable, a defect in the reprocessing services, for any Products that are subject to Stryker's reprocessing services. This indemnification does not apply to Claims arising from: (a) an injury due to the negligence of any person other than an employee or agent of Stryker; (b) the failure of any person other than an employee or agent of Stryker to follow any labeling, manuals and/or instructions for use of the Products; (c) the use of any product (or any accessories) not purchased from Stryker; or (d) Product that has been modified, altered, or repaired by any person other than an employee or agent of Stryker.. The rights and obligations relating to indemnification for any Claims relating to a Product are expressly defined only by these Standard Terms of Sale.

12.2. Stryker's indemnification obligations under this Section 12 are conditioned on Customer promptly providing Stryker with timely written notice of any Claim for which indemnification is sought. Stryker will not agree to any settlement or compromise that

imposes or results in any finding of fault or any restriction or obligation on the part of Customer without Customer's prior written consent (which will not be unreasonably withheld).

VIII. Paragraph **13. Insurance.** is hereby deleted in its entirety and replaced with the following:

13. Insurance: Contractor shall obtain and maintain insurance of the types and in the amounts set out below throughout the term of this Agreement with an insurer authorized to do business in the State of New Mexico with a rating of A-/VII or better by A.M. Best. Contractor shall assure that all subcontractors maintain like insurance. Compliance with the terms and conditions of this Section is a condition precedent to County's obligation to pay compensation for the Services, and Contractor shall not provide any Services under this Agreement unless and until Contractor has met the requirements of this Section. County requires Certificates of Insurance evidencing that Contractor has met its obligation to obtain and maintain insurance and to assure that subcontractors maintain like insurance. Should any of the policies described below be cancelled before the expiration date thereof, Contractor shall provide County with at least thirty (30) days advance written notice. To the extent that any claim or loss arises out of the negligent or willful acts of Contractor or Contractor is otherwise obligated to defend or indemnify County under the terms of this Agreement, Contractor's General Liability Insurance and Automobile Liability Insurance shall include County as an additional insured.

1. General Liability Insurance: ONE MILLION DOLLARS (\$1,000,000.00) per occurrence; ONE MILLION DOLLARS (\$1,000,000.00) aggregate.
2. Workers' Compensation: In an amount as may be required by law. County may immediately terminate this Agreement if Contractor fails to comply with the Worker's Compensation Act and applicable rules when required to do so.
3. Automobile Liability Insurance for Contractor and its Employees: ONE MILLION DOLLARS (\$1,000,000.00) combined single limit per occurrence; ONE MILLION DOLLARS (\$1,000,000.00) aggregate on any owned, and/or non-owned motor vehicles used by Contractor in performing Services under this Agreement.
4. Professional Liability Insurance: Intentionally Omitted.
5. Cyber Insurance: TWO MILLION DOLLARS (\$2,000,000) per claim or occurrence/in aggregate.

Insurance shall be written on an occurrence basis, except for Cyber Liability insurance which shall be on a claims made basis, for a minimum of two (2) years following termination or expiration of the Agreement, such insurance shall be continuously maintained and/or an extended reporting period (i.e., tail coverage) purchased. Notwithstanding any other insurance requirements within this Agreement to the contrary, to the extent allowed by applicable law or regulation, Contractor shall be permitted to comply with these insurance requirements through a program of self-insurance. Should Contractor elect to self-insure, Contractor shall notify County with thirty (30) day advanced written notice.

IX. Paragraph **14. Limitation of Liability.** is hereby deleted in its entirety and replaced with the following:

14. Limitation of Liability. STRYKER'S LIABILITY ARISING IN CONNECTION WITH OR UNDER THESE STANDARD TERMS OF SALE WILL NOT EXCEED THE PURCHASE PRICE OF THE APPLICABLE PRODUCTS MINUS DEPRECIATION OR IN THE CASE OF SERVICES, SERVICE FEES PAID BY CUSTOMER IN THE 12 MONTH PERIOD IMMEDIATELY PRECEDING THE CLAIM. NEITHER PARTY WILL BE

ENTITLED TO, NOR WILL BE LIABLE FOR, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY NATURE, INCLUDING, BUT NOT LIMITED TO, LOSS OF BUSINESS, PROFITS OR REVENUE OR BUSINESS INTERRUPTION.

- X. Paragraph **15. Confidentiality**. is hereby deleted in its entirety and replaced with the following:

15. Confidentiality. Stryker and Customer: (i) will hold in strictest confidence Product pricing, proposals, invoices and any information and materials which are related to the business of the other or are designated as proprietary or confidential, herein or otherwise, or which a reasonable person would consider to be proprietary or confidential information; (ii) hereby covenant that, subject to Section 2.1, they will not disclose such information to any third party without prior written authorization of the one to whom such information relates; and (iii) agree that any breach or threatened breach of this section may cause irreparable harm, that a remedy at law will be inadequate to remedy such a breach or threatened breach, and that this section will be enforceable by way of a restraining order or injunction, without the necessity of posting a bond, in addition to any other available legal remedies. Stryker acknowledges County is a governmental entity subject to certain disclosure laws including, but not limited to, the New Mexico Inspection of Public Records Act, NMSA 1978, §§ 14-2-1, et seq., any records which fall under the purview of the New Mexico Inspection of Public Records Act shall be retained by the Parties in conformance with those requirements; Parties have a duty to disclose documents used in the course of public business, including provision of any data which has been included in any documents, records, or communications.

- XI. Paragraph **16 Default**. is hereby deleted in its entirety.

- XII. Paragraph **17. Unavoidable Delay**. is hereby deleted in its entirety and replaced with the following:

17. Unavoidable Delay. If Stryker is not able to finish and deliver the Products to Customer on time because of anything that Stryker cannot reasonably control (such as act of God, casualty, labor trouble, accidents or unavailability of supplies or transportation), then the estimated delivery time will be extended accordingly, and Stryker will not be liable to Customer for any damages that the delay causes.

- XIII. The following new Paragraph 21. is hereby added:

21. Compensation: Amount of Compensation. County shall pay compensation for performance of the Services over the life of the Agreement in an amount not to exceed THREE HUNDRED EIGHTY-NINE THOUSAND THREE HUNDRED NINETY-EIGHT AND 77/100 DOLLARS (\$389,398.77) as detailed in the Quotation 10948802, which amount does not include applicable New Mexico gross receipts taxes ("NMGR").

- XIV. The following new Paragraph 22. is hereby added:

22. In the event of any conflict between the terms, conditions, and provisions of this Agreement, and the terms, conditions and provisions of any exhibits, attachments, or Business Associates Agreement, the terms, conditions and provisions of this Addendum shall control and take precedence.

- XV. The following new Paragraph 23 is hereby added:

23. Term and Termination.

23.1. Term. The term of this Agreement shall commence July 9, 2025, and shall continue through July 8, 2030, unless sooner terminated, as provided herein. The Agreement may be renewed by mutual agreement of the Parties, for up to two (2) one (1) year terms, consistent with applicable procurement and appropriations laws, unless sooner terminated, as provided therein.

23.2. Generally. The **County Manager** may terminate this Agreement with or without cause upon ten (10) days prior written notice to Contractor. Upon such termination, Contractor shall be paid for Services actually completed or Products delivered to the satisfaction of County at the rate set out in Paragraph 21. Contractor shall render a final report of the Services performed or Products delivered to the date of termination, and shall turn over to County originals of all materials prepared pursuant to this Agreement.

23.3. Funding. The Agreement shall terminate without further action by County on the first day of any County fiscal year for which funds to pay compensation hereunder are not appropriated by County Council. County shall make reasonable efforts to give Contractor at least ninety (90) days advance notice that funds have not been and are not expected to be appropriated for that purpose.

XVI. County and Stryker agree to add the County's Technology Standards, attached as **Appendix 4** to this Addendum. Stryker agrees to provide Services in compliance with the requirements detailed in the Technology Standards, including but not limited to storage of all County Data in US based locations.

XVII. County and Stryker agree to add County Travel Guidelines, attached as **Appendix 5** to this Addendum. Stryker agrees to comply with the Travel Guidelines in performance of the Services.

XVIII. County and Stryker agree to Amend **Appendix 1 – Consignment and Loaned Instrumentation Terms** as follows:

XIX. Paragraph **1 Consignment**. is hereby deleted in its entirety.

XX. County and Styker agree to that **Appendix 2 – Stryker Communications Equipment Purchase and Installation Services Terms** is hereby deleted in its entirety:

The County and Styker agree to Amend **Appendix 3 – Procure Services Terms and Conditions** as follows:

XXI. Paragraph **7. Indemnification** is hereby deleted in its entirety and replaced with the following:

7. Indemnification.

7.1. Stryker will indemnify and defend Customer against any third party liability and/or damages ("Claims") that Customer may incur directly as a result of bodily injury (including death) or property damage arising solely from the gross negligence, willful misconduct or omissions of Stryker or its employees agents, or contractors in the course of providing Services. The foregoing indemnification will not apply to any Claims arising from: (i) an injury or damage due to the negligence of any person other than a Stryker employee or agent; (ii) the failure of any person other than a Stryker employee or agent to follow any instructions outlined in the labeling, manual, and/or instructions for use of the Equipment; (iii) the use of any equipment or part not purchased from Stryker; (iv) abnormal wear and tear or damage caused by misuse or by Customer's failure to perform normal and routine maintenance as set out in the maintenance manual and/or operating instructions provided with the Equipment, or as demonstrated by an authorized Stryker representative; or (v)

any equipment or any part thereof that has been modified, altered or repaired by any person other than Stryker's employee or agent.

7.2. Stryker's indemnification obligations under this Section 7 are conditioned on Customer promptly providing Stryker with (i) timely written notice of any Claim for which indemnification is sought; (ii) reasonable assistance and all available non-proprietary information reasonably required in the defense or settlement of any Claim; and (iii) sole control over the defense against any Claim and the settlement of any Claim; provided, however, that Stryker will not agree to any settlement or compromise that imposes or results in any finding of fault or any restriction or obligation on the part of Customer without Customer's prior written consent (which will not be unreasonably withheld).

XXII. County and Stryker agree to Amend Software and Hosting Terms and Conditions as follows:

XXIII. Paragraph **2. Use Rights** is hereby deleted in its entirety and replaced with the following:

2. USE RIGHTS

Subject to the terms of this Agreement, Stryker grants to Customer a limited, non-exclusive, non-transferable, non-sublicensable and revocable right to allow Users to use Stryker Software and Hosting Services for internal business purposes as set forth in the Product Documentation. Stryker Software is licensed in read-access, object code form only. Product Documentation only may be used in connection with the specific Product with which it relates, and for no other purpose. In addition, unless otherwise set forth in the Product Addendum (for the avoidance of doubt, more than one category may apply to a Product):

(a) For Stryker-Hosted Software and Hosting Services, Customer may only connect to the Stryker Software using authorized websites, mobile applications and/or software ("Authorized Connections") as set forth in the Product Documentation and for use for the Permitted Facilities.

(b) For Customer-Hosted Software, Customer may make one copy of the Stryker Software to operate on one computer or device, and one copy for backup or archival purposes and NOT for use in production on one computer or device, as set forth in the Product Documentation, and for each copy at a single location at a Permitted Facility in the United States.

Customer must register, set up, and always keep accurate and complete, an authorized account with passwords, authentication keys, or security credentials that enable Users access to the Products ("Login Credentials"). Customer and User's must maintain the confidentiality and security of all Login Credentials, and Customer responsible for any consequences that may result from the improper disclosure or use of any such Login Credentials. If Customer or any User believes an account has been compromised, including any unauthorized access to or use or disclosure of any Login Credentials, Customer must notify Stryker immediately. As part of any registration or set up process, Stryker may request registration-related information, including a User's name and e-mail address. By providing this information, Customer consents, and is responsible for obtaining all User consent, to its collection and use by Stryker. Customer is responsible for all acts and omissions of Users, and for ensuring the compliance by all Users with all terms of this Agreement.

Stryker reserves the right to refuse service, terminate accounts, remove or edit content, or cancel logins in its sole and absolute discretion. The Products do not include network equipment or internet connection. Customer is responsible for obtaining equipment, software, supplies and connections sufficient to access and use the Products, and Customer is solely responsible for payment of any third-party fees associated therewith, including internet service-provider charges. Use of the Products may be limited or

restricted depending on the capabilities, bandwidth or technical limitations of User's connection and service. The provision, quality and security of such connectivity are the responsibility of Customer and the party providing such service to Customer, not Stryker. If a Product has remote access capabilities, Customer hereby agrees to make systems available for remote support and consents to Stryker or Stryker's agents connecting through the internet for remote diagnostic, update, upgrade, and repair purposes.

The Products and the Product Documentation, including all Updates and modifications, enhancements, changes and additions thereto, are the proprietary and confidential property of Stryker or its licensors. Stryker hereby owns (and Customer hereby assigns and will cause all Users to assign to Stryker) all title, copyright, and other worldwide intellectual property rights in the Products and Product Documentation, including all Updates and all modifications, enhancements, changes and additions thereto, and all copies thereof. This Agreement does not grant Customer or any User any rights to trademarks or service marks of Stryker, nor any rights or licenses under any of Stryker's patents or other intellectual property rights except as expressly granted herein. Customer must not remove, alter, or obscure any proprietary notices contained on or within the Products or the Product Documentation and will reproduce such notices on any back-up copy of the Products or Product Documentation. This is not a sale, and Stryker hereby reserves all rights to the Products and Product Documentation, except for the rights expressly granted herein. No other right or authorization is granted, by implication, reliance or otherwise. Without limiting the foregoing, no right is granted or implied, and Customer is not authorized, to use any Product in combination with any product or method not specifically permitted by Stryker.

XXIV. Paragraph **3. RESTRICTIONS** is hereby deleted in its entirety and replaced with the following:

3. RESTRICTIONS

Customer may not, and will not allow any third party to, do any of the following: (a) access or attempt to access any other Stryker systems, programs, services or data that are not made available for Customer's use; (b) unless expressly permitted in the Production Documentation, copy, reproduce, alter, merge, modify, adapt, create derivatives of, translate, republish, upload, post, transmit, resell or distribute in any way the Products or any Product Documentation; (c) decompile, reverse engineer, disassemble, or otherwise reduce Stryker Software to a human perceivable form or to derive the underlying ideas, algorithms, structure or organization from any Product, except to the extent permitted by applicable Law; (d) permit any third party to benefit from the use or functionality of any Product via a rental, lease, timesharing, service bureau, or other arrangement; (e) sublicense, sell or transfer any of the rights granted to Customer unless approved in writing by Stryker; (f) breach, avoid, bypass, remove, deactivate or otherwise circumvent any software protection mechanisms in any Product, including any mechanism used to restrict or control the functionality of Stryker Software, or enable features or functionalities that are otherwise disabled or not purchased by Customer; (g) perform or attempt to perform any actions that would interfere with the proper working of a Product; or (h) use a Product in or for any manner or purpose that infringes, misappropriates, or otherwise violates any right of any third party or that violates any applicable Law. Customer will, and will ensure that Users will, always use Stryker Software in compliance with this Agreement and the Product Documentation.

For Stryker-Hosted Software, the Hosting Services or any Stryker Software that is connected to a Stryker system hosted by Stryker, Customer will not, and will ensure that Users do not:

(a) perform, attempt to perform, or assist others in performing any of the following while accessing or using a Product: (i) use, display, mirror, or frame the Product or any individual element within the Product, including the design of any page; (ii) try to gain unauthorized access to, test the vulnerability of, or disrupt any Product, any other service, device, data, account, or network, including Stryker systems or systems of Stryker providers; or (iii) access any Product through the use of any mechanism other than through the use of an Authorized Connection.

(b) (i) upload any content that contains software viruses or is designed to interrupt, destroy, or limit the functionality of any software, equipment or services, or that contains other harmful, disruptive, or destructive files or content; (ii) use or attempt to use another User's account without authorization, or impersonate any person or entity; or (iii) use any Product in any manner that, in Stryker's sole discretion, is objectionable or restricts or inhibits any other person or entity from using or enjoying a Product, or which may expose Stryker or any third party to any harm or liability of any type.

If a Product is considered a medical device by the U.S. Food and Drug Administration ("FDA"), additional terms may be applicable as set forth in the Product Addendum. Unless a Product Addendum expressly sets forth otherwise, no data generated, hosted or stored by or through a Product or Stryker is or should be considered an electronic medical record. Customer is responsible for printing or storing any data as may be necessary or appropriate to include in any medical record maintained by Customer.

Use, duplication or disclosure by the U.S. Government is subject to restrictions set forth in subparagraph (b) of FAR 52.227-19, Commercial Computer Software License. A Product may contain applications and software, including open source software, and services that are licensed or provided by entities or individuals other than Stryker as detailed in the LifeNet Addendum or the Product Documentation ("Other Components"). Other Components are subject to the terms and conditions of the applicable license agreement that accompanies or applies to such Other Components. Customer will use the Other Components solely in conjunction with a Product and Customer will have no broader use rights with respect to the Other Components than it has to the Product.

XXV. Paragraph **4. UPDATES; OTHER SERVICES** is hereby deleted in its entirety and replaced with the following:

4. UPDATES; OTHER SERVICES

From time to time, Stryker may provide Updates, including for purposes of error correction and improvement of functions. Updates may delete or change the nature of features or other aspects of a Product. Customer acknowledges and agrees that Updates are made at Stryker's sole discretion and that Stryker may condition continued use of a Product upon Customer's complete installation, use or acceptance of an Update. Any Updates will be deemed to be, and will constitute part of, a Product. Customer agrees and consents to install and use any Update if required by Stryker. The Product may require the purchase of an annual maintenance subscription for ongoing training, support, and upgrades, which will be governed by separate terms and conditions.

If Stryker makes a material change to a Product, Stryker will use reasonable efforts to notify Customer prior to the effective date of that change. If any changes are made to a Product by or on behalf of Customer or a User, permitted or otherwise, Customer will promptly notify Stryker thereof and all intellectual property and other rights in such additions or changes will be exclusively owned by Stryker. Customer will timely execute any documents reasonably requested by Stryker to vest in Stryker all rights in and to those changes. Should any change materially alter the functionality of the Product impacting Customers use of the Product, and the functionality cannot be remedied by Stryker, Customer reserves the right to terminate the Agreement.

XXVI. Paragraph **5. USER RESPONSIBILITIES** is hereby deleted in its entirety and replaced with the following:

5. USER RESPONSIBILITIES

Customer acknowledges that Customer and Users, acting through licensed medical doctors or other licensed health care professionals who are employed by or otherwise associated with Customer, will be the provider of medical and other health services to patients relating to the review, analysis, and interpretation of any medical data or any related health care services provided to patients based on such review, analysis, and interpretation in connection with any Product or services provided as part of or through any Product. Customer acknowledges and agrees that Stryker is not a provider or supplier of any health-care services and that Stryker will not be deemed to be furnishing any patient health-care services by virtue of providing any Product or in connection with this Agreement. Except as expressly set forth in this Agreement, Customer agrees to reimburse Stryker for and hold Stryker harmless from, any consequences, directly or indirectly, related to any misuse or interpretation of any Product or any other information provided or omitted in connection therewith.

Customer must comply with, and is solely responsible for complying with, all applicable laws, regulatory requirements and rules ("Laws") relating to the use of a Product, including Laws in the jurisdiction(s) where a Product is used or accessed. Customer acknowledges Customer's obligation to inform Users of warnings, instructions, notices and other materials regarding proper use of a Product.

Customer retains all rights to the content Customer or a User upload, store, share, send, or display to or via a Product ("Customer's Content") subject to the provisions in this Agreement. Customer is solely responsible for ensuring that each Product and its security are appropriate for Customer's intended use. Customer is responsible for taking and maintaining appropriate steps to protect the confidentiality, integrity, and security of Customer's Content. Those steps may include (a) controlling access Customer provides to Users,

(b) making appropriate configurations, (c) ensuring the security of Customer's Content while it is in transit, (d) using encryption technology to protect Customer's Content, and (e) backing up Customer's Content. Customer is responsible for providing any necessary notices to Users and obtaining any legally required consents from Users regarding their use of the Products. Customer represents and warrants that Customer has the rights to provide Customer's Content to Stryker and to direct and authorize Stryker to use and disclose Customer's Content as contemplated in this Agreement. For Hosting Services, Customer hereby consents to Stryker's hosting and processing of Customer's Content and other related information, including at locations of Stryker and its third- party infrastructure and cloud providers.

Customer agrees to assist Stryker in any implementation process. Customer agrees to have all equipment, connections and facilities prepared and ready for implementation in accordance with the mutually agreed upon schedule. Customer will be responsible for taking all necessary actions prior to Stryker performing the installation/services to remove and/or remediate any hazardous conditions or materials. Further, Customer will maintain an environment that complies with the Product Documentation and will use all Products in accordance with this Agreement and the Product Documentation. Customer is responsible for all hardware, operating systems, network setup, network maintenance and setup required in the support of a Product. Customer may be required to grant Stryker certain limited access rights to Customer's systems or resources in order that Stryker may render services. Customer is responsible for ensuring that Customer's personnel have sufficient training to attain and maintain competence in the operation of a Product.

Should Customer return a Product, sell or otherwise transfer a Product, or if this Agreement or a Service Term is terminated, if requested by Stryker, Customer will uninstall or cease use of Stryker Software and delete (directly or hereby allows Stryker to delete) any and all accounts Customer may have established for the Product or that are accessible through the Product. If Customer resells or transfer any Product to other hospitals, clinics, wholesalers, dealers or any other third parties, Customer will notify Stryker in advance. Unless Stryker and the successor owner or transferee enter into a separate agreement for the use of or access to a Product (including the use of any Stryker Software or Hosting Services), all representations and warranties with respect to such Product are null and void and Stryker will have no further obligations or liability with respect to the Product or any component thereof.

During the Service Term, and for four years thereafter, both Parties will comply with all applicable requirements of 42 CFR Section 420.302, including: (a) retaining required documents, and (b) giving the U.S. Comptroller General, HHS, and their duly authorized representatives access to its contract, books, documents, and records related to the sale under this Agreement and those of any organizations related to the Parties.

Customer agrees that Stryker or its agents or representatives may audit Customer's use of a Product for compliance with these Software and Hosting Terms at any time. If such audit reveals any use other than in full compliance with the terms of this Agreement, Customer will reimburse Stryker for all reasonable expenses related to such audit in addition to any other liabilities incurred as a result of such non-compliance. Stryker has the right to investigate violations of this Agreement and any conduct that affects any Product and, in response, may take any action Stryker may deem appropriate. Prior to taking any action, Stryker will provide to Customer a written summarization of the facts and conclusions that support a finding of a violation by a Customer User, and the action Stryker intends to take. Stryker will allow Customer forty-eight-(48) hours to submit a written rebuttal or response to Stryker's findings and conclusions, which may request a reconsideration of Stryker's findings and conclusions or may propose an alternative remedy for the violation.

XXVII. Paragraph **6. INFRINGEMENT** is hereby deleted in its entirety and replaced with the following:

6. INFRINGEMENT

Stryker will defend Customer against any action by a third party against Customer to the extent based on a claim that Stryker Software infringes a United States patent, copyright or trade secret of such third party during the Service Term applicable to such Stryker Software ("**Infringement Claim**"), and Stryker will indemnify Customer against all direct losses it suffers by reason of settlements to which Stryker has agreed and all final, non-appealable judgments awarded against Customer to the extent arising out of any Infringement Claim, provided that, in each case: Customer promptly notifies Stryker in writing of the existence of any Infringement Claim; Customer is able to, at Stryker's option, control the defense and settlement of such Infringement Claim; and Customer fully cooperates in the defense of any Infringement Claim. These obligations will not apply to the extent that the alleged infringement or violation arises from: use of non- Stryker furnished equipment, software, or other resources with Products; Customer's failure to follow Stryker's installation, operation, repair or maintenance instructions; Customer's failure to permit Stryker timely access, remote or otherwise, to Products; failure to implement any Updates, including revisions, modifications, updates, patches, "bug fixes" or new versions of or to Stryker Software, provided by Stryker; Products with their serial numbers altered, defaced or deleted; Products that have been altered, serviced or modified by a party other than Stryker; Products that have been subjected to abnormal

physical or electrical stress, misuse, negligence or accident by Customer or a third party or any other cause outside of Stryker's control; or Products and/or Stryker Software not purchased new (collectively "Exceptions"). If Stryker Software becomes, or in Stryker's opinion is likely to become, the subject of an Infringement Claim barring Customer's use of the Stryker Software, Stryker may, at its option, either: remedy or replace the infringing components of the Stryker Software or terminate Customer's access to and use of the infringing components of Stryker Software with no further obligation to User. THIS CLAUSE STATES STRYKER'S ENTIRE LIABILITY WITH RESPECT TO ANY LIABILITY FOR ANY THIRD-PARTY CLAIMS OF INFRINGEMENT, MISAPPROPRIATION, OR VIOLATION OF INTELLECTUAL PROPERTY OR PROPRIETARY RIGHTS.

XXVIII. Paragraph **8. LIMITATION OF LIABILITY** is hereby deleted in its entirety and replaced with the following:

8. LIMITATION OF LIABILITY

IN NO EVENT WILL STRYKER BE LIABLE TO CUSTOMER, ANY USER, ANY HEALTHCARE PROFESSIONAL, OR ANY EMPLOYEE, CONTRACTOR, AGENT, OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING IN CONNECTION WITH THIS AGREEMENT OR A PRODUCT (WHETHER IN WARRANTY, CONTRACT, OR TORT, INCLUDING NEGLIGENCE, AND REGARDLESS WHETHER STRYKER HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGE, EVEN IF A LIMITED REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED ITS ESSENTIAL PURPOSE), INCLUDING LOST REVENUE OR PROFITS, LOSS OR CORRUPTION OF DATA OR GOODWILL, SERVICE UNAVAILABILITY, INTERRUPTION, STOPPAGE, OR DELAY, COMPUTER DAMAGE, MEDICAL EXPENSES, SYSTEM FAILURE, OR THE COST OF SUBSTITUTE SERVICES; OR ANY LOSS OR DAMAGE WHICH MAY BE INCURRED BY CUSTOMER OR A USER AS A RESULT OF THE SUSPENSION OR TERMINATION OF THIS AGREEMENT FOR ANY REASON, OR THE RELEASE OR THE DECISION NOT TO RELEASE UPDATES. IN NO EVENT WILL STRYKER'S TOTAL LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, INCLUDING ANY USE OF OR INABILITY TO USE A PRODUCT, EXCEED THE TOTAL AMOUNT OF FEES (EXCLUDING AMOUNTS FOR THIRD PARTY SOFTWARE, INSTALLATION, WARRANTY AND MAINTENANCE SERVICES AND TAXES) CUSTOMER PAID STRYKER UNDER THE PURCHASE ORDER FOR THE PRODUCT GIVING RISE TO THE LIABILITY FOR A PERIOD NOT TO EXCEED TWELVE MONTHS FROM CUSTOMER'S FIRST CLAIM. THIS LIMITATION OF LIABILITY APPLIES EXCEPT AS PROHIBITED BY APPLICABLE LAW.

EACH PARTY RECOGNIZES AND AGREES THE DISCLAIMERS, LIABILITY, AND REMEDY LIMITATIONS IN THESE SOFTWARE AND HOSTING TERMS ARE MATERIAL BARGAINED-FOR AGREEMENTS, AND HAVE BEEN TAKEN INTO ACCOUNT, REFLECTED IN THE CONSIDERATION GIVEN BY EACH PARTY, AND FACTORED INTO EACH PARTY'S DECISION TO ENTER INTO THESE SOFTWARE AND HOSTING TERMS. STRYKER DISCLAIMS ALL LIABILITY AND IS NOT RESPONSIBLE FOR THE BREACH OF ANY THIRD-PARTY TERMS OR AGREEMENT THAT CUSTOMER MAY HAVE ENTERED INTO OR ACCEPTED BY THE USE OR ACCESS OF A PRODUCT.

XXIX. Paragraph **9. CONFIDENTIALITY; DATA USAGE AND PROTECTION** is hereby deleted in its entirety and replaced with the following:

9. CONFIDENTIALITY; DATA USAGE AND PROTECTION

In connection with this Agreement, each Party may have access to information that is confidential to the other ("Confidential Information"). The Parties each agree to disclose only information that is required for the performance of obligations under this Agreement. Confidential Information will be limited to the terms and pricing under this Agreement, Products and Product Documentation and other information clearly identified as confidential at the time of disclosure. A Party's Confidential Information does not include information that:

(a) is or becomes a part of the public domain through no act or omission of the other Party; (b) was in the other Party's lawful possession prior to the disclosure and had not been obtained by the other Party either directly or indirectly from the disclosing Party; (c) is lawfully disclosed to the other Party by a third party without restriction on the disclosure; or (d) is independently developed by the other Party.

The Parties each agree to use commercially reasonable efforts not to disclose each other's Confidential Information to any third party (other than as permitted herein) for a period of three years from the date of the disclosing Party's disclosure of the Confidential Information to the receiving Party, except for Confidential Information relating to a Product (including Product Documentation) which may not be disclosed by Customer at any time during or after the Service Term other than as expressly permitted under this Agreement. Stryker may disclose Confidential Information only to those employees or agents or subcontractors who are required to protect it against unauthorized disclosure in a manner no less protective than under this Agreement. Nothing will prevent either Party from disclosing the Confidential Information to a governmental entity as required by Law.

Stryker will employ reasonable and appropriate safeguards and procedures to protect the security of Stryker Software. Customer will secure and protect the Stryker Software and each copy thereof, from unauthorized copying or disclosure.

Customer may provide Stryker with personal data as defined by relevant data protection Laws relating to Customer's personnel or other individuals involved in the use of the Products, including PHI as defined below (together, "Personal Information"). Customer will comply with all data protection Laws. Customer consents to the processing of this Personal Information by Stryker, its affiliates and their respective suppliers, and will, to the extent legally required, provide appropriate notice to each individual or obtain requisite consent to such processing of his or her Personal Information for the following specific purposes: (a) performing under this Agreement; (b) providing information about Stryker products and services; (c) transferring Personal Information permitted under this Agreement and the Product Documentation; and (d) satisfying legal or regulatory requirements. Customer is solely responsible for responding to User or patient inquiries or issues.

Where Stryker may process Personal Information stored in Equipment or Stryker Software when performing the Hosting Services, the following provisions will apply, subject to the other provisions in this Agreement:

(a) Stryker will process such Personal Information only for the purposes of providing the Hosting Services or performing its obligations under this Agreement (such processing is approved by Customer and will be deemed in accordance with Customer instructions) and is prohibited from retaining, using, or disclosing any Personal Information for any other purpose.

(b) Customer will endeavor to limit the disclosure of Personal Information to Stryker to that which is reasonably necessary to perform the Hosting Services or performing its obligations under this Agreement.

(c) Customer will keep Personal Information confidential and will implement reasonable administrative, physical, and technical measures to protect it against accidental unlawful or unauthorized destruction, loss, alteration, disclosure or access.

To the extent Stryker creates, receives, maintains, transmits or otherwise has access to any protected health information ("PHI") on behalf of Covered Entities (as that term is defined in HIPAA (below)) in the United States and in the course of performing under this Agreement, Stryker will only use and disclose such PHI as permitted by the Health Insurance Portability and Accountability Act of 1996, Pub. Law 104-191, as amended by the Health Information Technology for Economic and Clinical Health Act, and the pertinent regulations promulgated thereunder (collectively, "HIPAA"). If required by HIPAA, the Business Associate Agreement located at https://www.strykeremergency.com/_ shall apply. Without in any way limiting the foregoing, to the extent applicable to data processed in California under California law, the Parties agree that Stryker is a "Service Provider" under the California Consumer Privacy Act, Cal. Civ. Code §§ 1798.100, et seq. (the "CCPA") and that nothing about this Agreement or the Products, or the services providing in connection with the Products, involves a "selling" or a "sale" of Personal Information under the CCPA or other applicable Laws.

Customer agrees that Stryker may monitor use of the Products, and services provided through the Products, by Customer and Users and collect and use Stryker Data, including to compile information related to the provision, operation or use of a Product, facilitate the provision of support, consulting, training and other services, and verify compliance with the terms of this Agreement. Stryker may use and make publicly available, Stryker Data to the extent and in the manner permitted under applicable Law. Stryker owns Stryker Data, and Customer grants Stryker a non-exclusive, perpetual, irrevocable, transferable, sublicensable, royalty-free, fully paid-up, worldwide license to reproduce, distribute, modify, and otherwise use and display Customer's Content incorporated within the Stryker Data. "Stryker Data" means any data relating to or arising from the business operations or plans, services and products of Stryker or the performance or use of the Products or that may aid Stryker in optimizing resources and support; may be used to improve products or services, may be used in research and development regarding products or services; may be used in verification of security and data integrity of products or services or in resource planning, industry trends, benchmarking, or contract administration (e.g., data used for sales compensation), and any Personal Information that is aggregated and not identified or identifiable to any individual.

Customer is responsible for Customer's Content. Customer represents and warrants that Customer owns Customer's Content or that Customer has all rights necessary to use and allow use of Customer's Content as described in this Agreement. If Stryker believes a problem may be attributable to Customer's Content or to Customer's use of a Product, Customer must cooperate with Stryker to identify the source of, and to resolve, the problem. If Customer becomes aware that any of Customer's Content violates this Agreement or Law, Customer must immediately remove such parts of Customer's Content from a Product or any services provided under this Agreement.

If Customer or a User submits comments, ideas, or feedback to Stryker, Customer agrees that Stryker can use, disclose, reproduce, distribute, and exploit them without any restriction or compensation to Customer or any User. Stryker does not waive any rights to use similar or related ideas or feedback previously known to or developed by Stryker or obtained from sources other than Customer.

Prior to returning any equipment to Stryker, Customer will decontaminate it and ensure that all Personal Information, including PHI stored in such equipment is deleted. Customer acknowledges that, in any case, all data and settings stored in the returned equipment may be deleted by Stryker.

If Stryker is required by subpoena, court order or any other legal or regulatory requirement to disclose any of Customer's Content, Stryker will provide Customer with notice and a copy of the demand as soon as practicable, unless Stryker is prohibited from doing so

pursuant to applicable Law. If Customer requests, Stryker will, at Customer's expense, take reasonable steps to contest any required disclosure.

Stryker acknowledges County is a governmental entity subject to certain disclosure laws including, but not limited to, the New Mexico Inspection of Public Records Act, NMSA 1978, §§ 14-2-1, et seq., any records which fall under the purview of the New Mexico Inspection of Public Records Act shall be retained by the Parties in conformance with those requirements; Parties have a duty to disclose documents used in the course of public business, including provision of any data which has been included in any documents, records, or communications.

XXX. Paragraph **11. TERM; TERMINATION; SUSPENSION** is hereby deleted in its entirety and replaced with the following:

11. TERM; TERMINATION; SUSPENSION

For subscription, support or hosting services, the provision of such services is limited to the applicable Service Term and the terms and conditions for the Service Term as agreed upon by both Customer and Stryker. Stryker may, at its option, immediately suspend Customer's use of any Stryker Software if: (a) Customer is in breach of this Agreement (including the Software and Hosting Terms or a Product Addendum); (b) Stryker believes that Customer's use of a Product poses a security risk; or (c) Stryker suspects fraud or abuse. Stryker will give Customer notice before suspending Customer's use if permitted by Law or unless Stryker reasonably determines that providing notice presents a risk of harm, in which case Stryker will notify Customer as soon as feasible or permitted. Stryker will promptly reinstate Customer's access once Stryker has determined that the issue causing the suspension has been resolved. Customer will remain responsible for all fees incurred before and during any suspension.

If either Party breaches a material term of this Agreement and fails to correct the breach within thirty days (except for failure by Customer to pay amounts under this Agreement, in which case the cure period will be ten days) of written specification of the breach, then the breaching Party is in default and the non-breaching Party may terminate this Agreement. If Stryker terminates this Agreement as specified in the preceding sentence, Customer must pay within ten days all amounts, which have accrued prior to such termination, as well as all sums remaining unpaid for Products ordered and/or received under this Agreement plus related taxes and expenses. Except for nonpayment of fees, the non-breaching Party may agree in its sole discretion to extend the thirty-day period for so long as the breaching Party continues reasonable efforts to cure the breach. Customer agrees that if Customer is in default under this Agreement, Customer may not use those Products which Customer ordered. Upon termination or expiration of this Agreement or a Service Term, all of Customer's rights to use Stryker Software and the Hosting Services expire, and Customer will immediately cease use and return to Stryker any copies of any use Stryker Software any accompanying documentation.

Upon the termination or expiration of any Hosting Services, Stryker will make Customer's Content (as it existed at the end of the date of termination or expiration) available for retrieval by Customer for up to thirty days (or such different period set out in the Product Addendum). At the end of such retrieval period, and except as required by Law or as otherwise set forth in this Agreement, Stryker will delete or otherwise render unrecoverable Customer's Content that remains in the environments hosted by Stryker for Customer. If Stryker hosts or stores Customer's Content beyond the Service Term, Customer will pay to Stryker, and will be responsible to Stryker for, Stryker's hosting and storage fees.

Any terms that should survive termination by their nature will so survive, including limitations of liability and ownership rights of Stryker. Termination by any means will not

affect the provisions of this Agreement relating to the payment of amounts due or the survival provision of this Agreement, regardless of the reason for termination.

XXXI. Paragraph **12. GENERAL TERMS** is hereby deleted in its entirety and replaced with the following:

12. GENERAL TERMS

Customer agrees that this Agreement and the information which is incorporated into this Agreement or Product Documentation by written reference, together with the applicable Ordering Document, and Addendum to the Standard Terms and Software Agreement are the complete agreement for the Products ordered by Customer and supersede all prior or contemporaneous agreements or representations, written or oral, regarding such Products. Stryker may refer to Customer as a customer of the ordered Products in sales presentations, marketing vehicles and activities.

Except for the obligation to pay any undisputed fees when due, neither Party will be liable to the other Party in respect of any hindrance, delay, or failure to perform that results from any event or cause that is beyond the reasonable control of the Party obligated to perform, including acts of God, labor disputes, the requirements of any governmental authority, war, civil unrest, terrorist acts, delays in manufacture, obtaining any required license or permit, and Stryker's inability to obtain goods from their usual sources. If for any reason a court or competent jurisdiction finds any provision of this Agreement invalid or unenforceable, the provision will be enforced to the maximum extent permissible, and the other provisions of this Agreement will remain in full force and effect. Failure of the Parties to enforce any right or provision of this Agreement will not be considered a waiver of such right or provision. Except as expressly set forth in this Agreement, the exercise by the Parties of any of the remedies under this Agreement will be without prejudice to its other remedies under this Agreement or otherwise.

Stryker is an independent contractor, and nothing in this Agreement is intended to create a partnership or joint venture between the Parties. Customer has no power to bind or obligate Stryker in any manner. Nothing express or implied in this Agreement is intended to confer, or will confer, upon any person or entity other than Customer and Customer's permitted assigns any rights, remedies, obligations, or liabilities whatsoever. Customer may not assign, delegate, or transfer this Agreement (in whole or in part), by operation of Law or otherwise, without Stryker's prior written consent. Stryker may not assign, delegate, or transfer this Agreement (in whole or in part) by operation of Law or otherwise, without Customer's prior written consent. Subject to the foregoing, this Agreement will bind and inure to the benefit of the Parties and their successors and permitted assigns.

No amendments may be made to this Agreement except in writing signed by both Parties, and any notice required under this Agreement must be provided to the other Party in writing.

Except to the extent preempted by federal Law, the Laws of New Mexico, other than its conflict-of-Laws principles, govern this Agreement and any claims and disputes (whether contract, tort, or otherwise) arising out of or relating to this Agreement or the Products. The Uniform Computer Information Transactions Act does not apply to this Agreement or any Products. EXCEPT TO THE EXTENT PROHIBITED BY LAW, STRYKER AND CUSTOMER EXPRESSLY WAIVE TRIAL BY JURY WITH RESPECT TO ANY MATTERS OR DISPUTES ARISING UNDER OR RELATING TO THIS AGREEMENT. Any claim or cause of action arising under this Agreement must be commenced within one year after the claim or cause of action arises.

IN WITNESS WHEREOF, the Parties have executed this Addendum No. 01 on the date(s) set forth opposite the signatures of their authorized representatives to be effective for all purposes

concurrent with the effective date of the Agreement and shall remain in effect throughout the term of the Agreement, unless otherwise mutually agreed in writing by Parties.

ATTEST

INCORPORATED COUNTY OF LOS ALAMOS

MICHAEL D. REDONDO
COUNTY CLERK

BY: _____
ANNE W. LAURENT
COUNTY MANAGER **DATE**

Approved as to form:

J. ALVIN LEAPHART
COUNTY ATTORNEY

STRYKER SALES, LLC, A MICHIGAN LIMITED LIABILITY COMPANY

BY: _____
KATHRYN JANECKE **DATE**
SENIOR DIRECTOR, COMMERCIAL OPERATIONS

Appendix 4

Los Alamos County Technology Standards

AGR25-963



Los Alamos County Technology Standards Requirements On-Premise, Hybrid or Cloud/Hosted Solution Solicitations

The following Los Alamos County Technology Standards are required and shall be supported by the vendor, contractor, reseller hence forth called Operator, for any County solicitation requiring technology or integration to the County network and incorporated into any resultant agreement. Standards are listed with the expectation that the Operator will provide software updates to allow Los Alamos County to stay on supported versions of hardware, underlying software and protocols as outlined below.

Contractor must provide documentation that they meet the requirements in respect to the solution that they are responding with. On premise Contractors do not need to comply with hosted requirements. Hosted solution Contractors do not need to comply with on-premise requirements. If the solution is a hybrid of both categories of solution, then both on-premise and hosted requirements apply as applicable to the response.

Server Operating system (OS) (On-Premises)	Microsoft (MS) Windows Server 2019, 64 bit or current (Standard and Datacenter). Contractor software must be maintained to run on a supported platform service level as defined by Microsoft at the latest stable patch level. Departments will be responsible for licensing costs and must request cost estimates from Information Management (IM) Division.
Server Hardware (On-Premise)	Preferred: Use of County VMware server platform. Environment design must be submitted and reviewed by IM Division for acceptance. Proposals shall include required hardware and licensing of VMware, operating system, and proposed application-based requirements. Application with a proven Virtual installation template is preferred. Physical Server minimum hardware specifications consist of: Multi Socket/Multi Core processor Intel or AMD based server (standalone or blade server as determined by Los Alamos County IM Division with a minimum 64 GB RAM and RAID capability. Contractor software must be maintained to run on a supported platform service levels as defined by Microsoft at the latest stable patch level.
Network Infrastructure	See LAC Standards and Specifications for Building and Campus Distribution Systems Version 3 (Primarily used for building construction purposes).
Network (On-Premise)	Supported network protocol is TCP/IP (IPv4). Standards based NIC rated at 100/1000/10G copper or fiber is supported. If considering a 10G connection County IT network group shall be consulted to ensure equipment compatibility and availability at proposed site. Additional hardware cost, may be required of the project, based on project requirements, equipment and availability. The County uses Cisco technology as its default network equipment standard. Solutions shall be compatible with Cisco Network Technology.

Remote Network Access (On-Premise)	Direct remote access to the County network and server environment shall be done using the County's Cisco AnyConnect SSH VPN. Once a VPN connection is established end-point connections are supported via Microsoft RDP. Operator support accounts shall be set up in accordance with the adopted Los Alamos County IT Usage and Security Policy #1210.
LAC Network Account Privilege (On-Premise & Hosted)	Desktop Client Software shall function for end users with standard user privileges; user cannot install software and shall not have administrative rights.
Desk Hardware (On-Premise & Hosted)	Physical unit minimum hardware requirements consist of: Intel core i5 based processor, minimum 8 GB RAM, Intel integrated graphics 1280 capable video minimum, display port, input or HDMI, 4 USB 2/3 ports. Support deployment onto Virtual Desktop Infrastructure (VDI) platform, specifically cloud-based platforms from Microsoft Azure, Amazon Web Service (AWS) or Google Cloud Platform.
Desktop OS (On-Premise & Hosted)	Microsoft Windows 11 at current Service Pack (SP)
Internet Browser (On-Premise & Hosted)	Internal County Network: Google Chrome and Edge, at its latest version, are the installed browsers on county devices. Google Chrome is the county standard. New web Applications must be based on HTML5. Applications requiring Internet Explorer, Microsoft Silverlight, Java and Flash are not supported. Web applications requiring .NET framework shall not be considered. IM Division shall be consulted for compatibility issues prior to considering new application purchases requiring Java.
Database Software Products (On-Premise)	Supported database software is Microsoft (MS) SQL server version 2016 through current. New MS SQL Server product installations will require review, purchasing of licenses, appropriate hardware, and maintenance in support of proposed project or instance install to the County MS SQL Server Environment. MS SQL server software for new implementations shall be at within the Microsoft certified support release level or current. Server components for proposed projects require review and purchasing as part of the project initiative. Operator software must be maintained to run on a supported platform service level as defined by Microsoft. <ul style="list-style-type: none"> • Passwords are not permitted to be transported in clear\plain text. • Vendor implementation shall not use the SA password for user level functions. SA passwords shall be maintained by the County DBA. • Only database instances can be installed on the County MS-SQL Environment. If a vendor software component install is necessary on the database server, a standalone installation will be required. • Vendor software must use standard Access & Connection architecture for accessing databases on the County MS-SQL Environment. • Applications based on Microsoft Access are not supported. Applications based on SQLEXPRESS version should be reviewed and the limitation understood by the customers and the vendor. Hosted solutions shall be compliant with or provide a method to provide the County with database exports in the MS-SQL Server format.
Internet: Collaboration and Web Publishing (On-Premise & Hosted)	Use of Internet apps or links shall be considered in collaboration with the Los Alamos Information Management Division Applications group for review to ensure that compatibility and Internet publishing protocols have been satisfied prior to formation of any agreement or installation.

Appendix 5
County Travel Guidelines
AGR25-963

County Travel Guidelines:

The following travel guidelines shall apply to Contractor's travel in performance of the services detailed in this Agreement. Copies of all travel expenses must accompany invoices submitted to County and shall only include the following:

1. The most economical means of transportation shall be used, commercial airlines coach fare rates;
2. Business-related tolls and parking fees;
3. Rental car, taxi service or shuttle services;
4. Mileage shall be reimbursed at the standard mileage rate for business miles driven as established from time to time by the Internal Revenue Service or a minimum of \$0.45 per mile;
5. Hotel or motel lodging, not to exceed \$250.00 base rate per night excluding tax;
6. Meals, per Los Alamos County Travel Policy, currently \$90.00 per diem daily for multi-day travel, or up to \$40.00 daily for one day travel;
7. Internet connectivity charges;
8. Any other reasonable costs directly associated with conducting business with County.
9. If reimbursement for lodging or airfare is sought and no receipt is furnished by Contractor showing the actual cost, the travel expense shall be deemed unreasonable and un-reimbursable.

Travel Expenses not allowed are as follows:

1. Entertainment; in-room movies, games, etc. and
2. Alcoholic beverages, mini bar refreshments or tobacco products.

STANDARD TERMS OF SALE (US)

- 1. General.** All sales of Products distributed by Stryker in the United States are subject to the following terms and conditions. In these “Standard Terms of Sale”, “Stryker” means Stryker Corporation and any of its affiliates providing Products to Customer, goods and services sold by Stryker are referred to as “Products”, and the purchaser of the Products is referred to as the “Customer.” Stryker and Customer are herein collectively referred to as “Parties”.
- 2. Price and Taxes.**
 - 2.1. Prices shown on Stryker invoices are net of discounts provided at the time of purchase and Products listed on an invoice may be subject to additional rebates or discounts, for which separate documentation is provided by Stryker. Customer must: (i) claim the value of all rebates and/or discounts in Customer’s fiscal year earned or the immediately following fiscal year; (ii) properly report and appropriately reflect and allocate prices paid net of all discounts and rebates in Medicare/Medicaid cost reports and all claims for payment filed with third party payors as required by law or contract; and (iii) provide agents of the U.S. or a state agency with access to all information from Stryker concerning discounts and rebates upon request.
 - 2.2. Stryker’s price does not include sales, use, value added, franchise, gross receipts, profits, excise, privilege, occupation, personal property, withholding and all other federal, state or local or foreign taxes, import or customs fees and duties associated with an order, however designated (collectively, “Taxes”). Customer will be liable for all Taxes, whether or not Stryker invoices Customer for such Taxes (unless Customer will provide Stryker at the time an order is submitted with an exemption certificate or other documents acceptable to taxing or customs authorities).
- 3. Payment Terms.** Unless otherwise provided on Stryker’s invoice, invoices must be paid in full by Customer thirty (30) days after the date of Stryker’s invoice. Any amount not paid on time may be subject to a late fee of 1.5% per month prorated (18% per annum), or the maximum interest rate allowable by law, whichever is the highest. Stryker, in its sole discretion, reserves the right to change terms of payment and/or discontinue further shipments or suspend services, without prejudice to any other lawful remedy, in the event that: (i) the sale would cause to be exceeded any credit limit that Stryker will have extended to Customer under Section 4 below; (ii) if at any time Stryker determines that Customer’s financial condition or credit rating does not justify a sale on credit; or (iii) Customer is at any time in default in any indebtedness or obligation that Customer owes to Stryker. Stryker may require advance payment or may ship Cash on Delivery (“COD”). Payment must be made to Stryker at the location designated in Stryker’s invoice. Customer must notify Stryker in writing of any disputed invoice within fifteen (15) days of its receipt. The writing must provide Stryker with sufficient detail regarding the basis and amount of the dispute. If Customer does not dispute an invoice within fifteen (15) days of its receipt, such invoice will be deemed to have been approved and accepted by Customer.
- 4. Credit Policies.** Based upon Customer’s financial position and payment history, Stryker may, in Stryker’s sole discretion, assign Customer a credit limit. Customer’s total pending orders and outstanding accounts payable to Stryker must remain within the amount of the credit limit. Stryker may at any time, in Stryker’s sole discretion, modify or discontinue Customer’s credit limit or modify Stryker’s credit terms and other credit policies. Neither this paragraph nor any other provision of these Standard Terms of Sale makes Customer a dealer or distributor of Stryker or obligates Stryker to sell any Products to Customer.
- 5. Delivery, Title and Risk of Loss.** Unless otherwise provided on an invoice, or except for Products purchased on a consignment basis, all Products purchased directly from Stryker will be shipped F.O.B Origin, freight, insurance and handling prepaid and added to the invoice. Title and risk of loss transfer to Customer upon Stryker’s delivery of the Products to a common carrier. Shipping and delivery dates are estimates only, and time is not of the essence. Stryker may ship all the Products at one time or in portions. Stryker will have the right to determine the method of shipment and routing of the Products, unless Stryker agrees otherwise in writing. All Products will be shipped to the address indicated in the “ship to” portion of Customer’s purchase order. Stryker reserves the right to refuse to ship the Products to third parties.
- 6. Consignment and Loaned Instrumentation.** To the extent Products are consigned or loaned to Customer, the additional terms and conditions set forth in in [Appendix 1](#) hereto will apply.
- 7. Stryker Communications Products.** To the extent Products purchased by Customer include equipment and installation services provided by Stryker’s Communications division, the additional terms and conditions set forth in [Appendix 2](#) hereto will apply.
- 8. Trade-in Equipment.** If applicable, any trade-in discount offered by Stryker and may be reflected on an invoice is an additional discount given by Stryker as a result of trade-in equipment remitted to Stryker by Customer at Customer’s request. Customer transfers and delivers unto Stryker all of Customer’s rights, title and interest in and to such trade-in equipment and all trade-in equipment must be shipped, at Customer’s expense, to the address designated by Stryker within the time period agreed to by the Parties. All trade-in equipment must be appropriately packaged, consistent with Stryker’s instructions or if such instructions have not been provided, with good commercial practice. Customer assumes responsibility for shipment of trade-in equipment to Stryker and for risk of loss or damage during shipment. Trade-in equipment must be accompanied by a copy of the purchase order or the trade-in order number. Failure to return trade-in equipment in accordance with these instructions may result in forfeiture of the trade-in discount, for which Stryker will bill Customer, to be paid by Customer in accordance with Section 3.
- 9. Product Training.** Stryker may provide technical training, including both initial training for new users and supplemental training for existing users, as needed to promote the safe and effective use of its Products sold to Customer. Such technical training will be provided

for any health care practitioner who uses or intends to use the Product and is employed by, or is on the active medical staff of, Customer. If Stryker provides the technical training to a health care professional, it may pay for or reimburse the reasonable expenses, including meals, lodging and transportation, actually incurred by eligible recipients in connection with the technical training provided under this paragraph. Such training is not deemed a condition precedent to sale of the Products or Customer's acceptance thereof.

10. Warranties, Return Policies and Maintenance.

- 10.1. In addition to Stryker's current standard Product warranties, if applicable, Stryker warrants that: (i) it has good title to Products shipped directly to Customer, free of all liens, claims and encumbrances; and (ii) the Products, at the time of sale, meet applicable FDA clearance or approval (as applicable) necessary for commercial sale. Notwithstanding the foregoing clause (i), Customer agrees that Stryker will retain a purchase money security interest in the Products, and to any proceeds from the disposition of such Products, until the purchase price and other charges due Stryker have been paid in full. Upon any default by Customer hereunder, Stryker will have any and all rights and remedies of secured party under the Uniform Commercial Code which right will be cumulative.
- 10.2. THE EXPRESS WARRANTIES SET FORTH IN SECTION 10.1 AND STRYKER'S STANDARD PRODUCT WARRANTY ARE THE ONLY WARRANTIES APPLICABLE TO THE PRODUCTS SOLD TO CUSTOMER AND ARE EXPRESSLY IN LIEU OF ANY OTHER WARRANTY BY STRYKER, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY, NONINFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE.
- 10.3. Products returned by Customer for credit, replacement and/or repair will be at Stryker's sole discretion and in accordance Stryker's applicable return policy.
- 10.4. Stryker's standard Product warranties and return policies can be found at www.stryker.com/returnpolicy. Stryker's Product warranties apply only to (i) the original end-user purchaser of Products directly from Stryker or its authorized distributors and (ii) Products manufactured by Stryker. Unless otherwise agreed to in writing by Stryker, non-Stryker Products are sold "as-is" with no warranty of any kind, express or implied.
- 10.5. In addition to Stryker's standard Product warranties, service plans for repairs and maintenance may be purchased at any time for a number of Stryker's capital equipment Products. These special service plans cover repair and/or maintenance that the designated piece of equipment may require during the term of the service plan contract. Specific service plan details are available through your local Stryker sales representative. Stryker's service terms and conditions are set forth in **Appendix 3** hereto.
- 10.6. Customer agrees that Stryker may monitor use of the Products, and services provided through the Products, by Customer and users and collect and use Stryker Data, including to compile information related to the provision, operation or use of a Product, facilitate the provision of support, consulting, training and other services, and verify compliance with the terms of this Standard Terms of Sale. Stryker may use and make publicly available, Stryker Data to the extent and in the manner permitted under applicable law. Stryker owns Stryker Data, and Customer grants Stryker a non-exclusive, perpetual, irrevocable, transferable, sublicenseable, royalty-free, fully paid-up, worldwide license to reproduce, distribute, modify, and otherwise use and display Customer's Content incorporated within the Stryker Data. "Stryker Data" means any data relating to or arising from the business operations or plans, services and products of Stryker or the performance or use of the Products or that may aide Stryker in optimizing resources and support; may be used to improve products or services, may be used in research and development regarding products or services; may be used in verification of security and data integrity of products or services or in resource planning, industry trends, benchmarking, or contract administration (e.g., data used for sales compensation), and any Personal Information that is aggregated and not identified or identifiable to any individual.

11. Software License.

- 11.1. Certain Products contain software that is installed into the Products by Stryker. Stryker owns this software and each sale of a software-containing Product is not a sale of such software; it includes only a license to use the software in the Product in which the software was initially installed solely in accordance with the documentation provided with such Product. The license for any such software may be embedded in the equipment, the product documentation or available on <https://www.stryker.com/us/en/legal/it.html> and shall automatically apply to such product on first use of the product. ANY SOFTWARE LICENSE PROVIDED BY STRYKER DOES NOT EXTEND TO ANY MAINTENANCE OR SERVICE SOFTWARE SHIPPED TO OR LOCATED AT CUSTOMER'S PREMISES WHICH IS INTENDED TO ASSIST STRYKER EMPLOYEES OR AGENTS IN THE INSTALLATION, TESTING, SERVICE, AND MAINTENANCE OF ANY PRODUCT. CUSTOMER ACKNOWLEDGES THAT SOFTWARE PROVIDED WITH A PRODUCT MAY CONTAIN THIRD PARTY SOFTWARE (INCLUDING BUT NOT LIMITED TO OPEN SOURCE SOFTWARE LICENSES), AND THAT SUCH SOFTWARE IS SUBJECT TO THE TERMS AND CONDITIONS OF THE APPLICABLE LICENSE THAT ACCOMPANIES IT. A LIST OF OPEN SOURCE SOFTWARE USED IN STRYKER PRODUCTS AND THEIR APPLICABLE LICENSES MAY BE FOUND AT <https://www.stryker.com/us/en/legal/it.html>.
- 11.2. Any license granted by Stryker to use the software contained in its Products does not give the licensee the right to copy, alter, disassemble, reverse engineer, create derivative works of such software or to use such software in either original or modified form in any product other than the Stryker Product in which the software was initially installed by Stryker. Such use is strictly prohibited.
- 11.3. Prior to delivering a Product containing software, Stryker may, but is not required to, require Customer to execute a license agreement to acknowledge the terms of this Section 11 and any additional terms under which Stryker may elect to license its software. If a Customer elects not to sign a license agreement, Stryker reserves the right to cancel the order for the Product containing the software. If Customer accepts a Product without agreeing to any additional licensee agreement, Customer is still bound by the license term set forth herein. If Customer receives a Stryker Product without executing a license, the Customer is still bound by the applicable license.

12. Indemnity.

- 12.1. Stryker agrees to indemnify Customer from any third party liability ("Claims") which Customer suffers directly as a result of: (i) a defect in workmanship of the Products that are manufactured by Stryker; or (ii) if applicable, a defect in the reprocessing services, for any Products that are subject to Stryker's reprocessing services. This indemnification does not apply to Claims arising from: (a) an injury due to the negligence of any person other than an employee or agent of Stryker; (b) the failure of any person other than an employee or agent of Stryker to follow any labeling, manuals and/or instructions for use of the Products; (c) the use of any product (or any accessories) not purchased from Stryker; or (d) Product that has been modified, altered, or repaired by any person other than an employee or agent of Stryker. Customer agrees to indemnify Stryker against any Claims to the extent arising from (a) through (d) above due to the negligent acts or omissions of Customer or its officers, employees, representatives or agents. The rights and obligations relating to indemnification for any Claims relating to a Product are expressly defined only by these Standard Terms of Sale.
- 12.2. Stryker's indemnification obligations under this Section 12 are conditioned on Customer promptly providing Stryker with timely written notice of any Claim for which indemnification is sought. Stryker will not agree to any settlement or compromise that imposes or results in any finding of fault or any restriction or obligation on the part of Customer without Customer's prior written consent (which will not be unreasonably withheld).

13. Insurance.

- 13.1. Stryker will maintain general liability insurance, including coverage for products and completed operations liability, auto liability insurance and workers' compensation and employer's liability insurance subject to appropriate limits covering claims alleging negligence by or liability of Stryker that might arise out of Stryker's execution under these Standard Terms of Sale. To the extent permitted by applicable laws and regulations, Stryker has the right to comply with this requirement through a program of self-insurance. When requested by Customer in writing, Stryker will furnish an insurance certificate or other documentation evidencing the insurance or self-insurance coverage required above.
- 13.2. Customer will maintain appropriate types of liability insurance subject to appropriate limits covering claims alleging negligence by or liability of Customer that might arise out of purchases of Products by Customer hereunder, including liability arising out of Customer's indemnity obligations set forth in Section 12 above. When requested by Stryker in writing, Customer will provide a certificate of insurance evidencing such coverage.

14. Limitation of Liability. STRYKER'S LIABILITY ARISING IN CONNECTION WITH OR UNDER THESE STANDARD TERMS OF SALE (WHETHER UNDER THE THEORIES OF BREACH OF CONTRACT, TORT, MISREPRESENTATION, FRAUD, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER THEORY OF LAW) WILL NOT EXCEED THE PURCHASE PRICE OF THE APPLICABLE PRODUCTS MINUS DEPRECIATION OR IN THE CASE OF SERVICES, SERVICE FEES PAID BY CUSTOMER IN THE 12 MONTH PERIOD IMMEDIATELY PRECEDING THE CLAIM. NEITHER PARTY WILL BE ENTITLED TO, NOR WILL BE LIABLE FOR, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY NATURE, INCLUDING, BUT NOT LIMITED TO, LOSS OF BUSINESS, PROFITS OR REVENUE OR BUSINESS INTERRUPTION.

15. Confidentiality. Stryker and Customer: (i) will hold in strictest confidence Product pricing, proposals, invoices and any information and materials which are related to the business of the other or are designated as proprietary or confidential, herein or otherwise, or which a reasonable person would consider to be proprietary or confidential information; (ii) hereby covenant that, subject to Section 2.1, they will not disclose such information to any third party without prior written authorization of the one to whom such information relates; and (iii) agree that any breach or threatened breach of this section may cause irreparable harm, that a remedy at law will be inadequate to remedy such a breach or threatened breach, and that this section will be enforceable by way of a restraining order or injunction, without the necessity of posting a bond, in addition to any other available legal remedies.

16. Default. In the event of Customer's default in payment for the Products purchased hereunder, Customer will be responsible for all reasonable costs and expenses (including reasonable attorney's fees) incurred by Stryker in collection of any sums owing by Customer, and Stryker will not be obligated to make any further deliveries to Customer. Should Customer elect to cancel its order, in whole or in part, Customer will be liable to Stryker for any non-refundable deposits and reasonable cancellation charges that will include, but not be limited to, all costs and expenses incurred by Stryker in connection with procuring and filling Customer's purchase order.

17. Unavoidable Delay. If Stryker is not able to finish and deliver the Products to Customer on time because of anything that Stryker cannot control (such as act of God, casualty, labor trouble, accidents or unavailability of supplies or transportation), then the estimated delivery time will be extended accordingly, and Stryker will not be liable to Customer for any damages that the delay causes.

18. Compliance with Law; Not For Resale or Export. Customer represents and warrants that it: (i) will comply with all applicable laws and regulations of the various states and of the United States in the use of the Products; and (ii) is buying Product(s) for its internal use only, and not for resale or export.

19. Miscellaneous. These Standard Terms of Sale constitute the entire agreement between the Parties with respect to the purchase of Products, and any modification or amendments must be in writing and signed by both Parties. The Standard Terms of Sale are in lieu of and replace any and all terms and conditions set forth in any documents issued by Customer. In the event the Parties enter into a written agreement with respect to the purchase of Products and there is a conflict between the written agreement and these Standard Terms of Sale, the terms and conditions of such written agreement shall govern. Any additional, different, or conflicting terms and conditions on any such document issued by Customer at any time are hereby rejected by Stryker and will not be binding in any way on Stryker. Neither Party will transfer or assign any or all of its rights or interests, or delegate any of its obligations, hereunder, without the prior written

consent of the other Party (which consent will not be unreasonably withheld); provided, however, Stryker may assign its rights or interests, or delegate its obligations, in whole or in part, to any of its affiliates without the prior consent of Customer. The Standard Terms of Sale will be binding upon, will inure to the benefit of, and be enforceable by permitted successors and assigns of the Parties. The rights and remedies conferred under these Standard Terms of Sale apply only to Stryker and Customer and will not be construed to inure to the benefit of or provide any right of action to any other person, including without limitation any patient or third-party payor. In the event that any provision of these Standard Terms of Sale is determined to be unenforceable or invalid, such provision will nonetheless be enforced to the fullest extent permitted by applicable law, and such determination will not affect the validity and enforceability of any other remaining provisions. These Standard Terms of Sale will be governed by and construed in accordance with the laws of the State of Michigan as applicable to contracts made and to be performed in that state, without regard to conflicts of laws principles.

- 20. Professional Services.** Stryker may provide professional services to Customer, including, but not limited to, consulting, advisory, program development and implementation and data analytics services. Such services are only provided to Customer, and governed by, separate services contracts entered into by Stryker and Customer and are not subject to these Standard Terms of Sale.

APPENDIX 1 - CONSIGNMENT AND LOANED INSTRUMENTATION TERMS

1. Consignment.

- 1.1. Stryker will place at Customer's facility on a consignment basis, such quantities and types of Product as Customer and Stryker may mutually agree upon (the "**Consigned Inventory**"). The initial quantities, types and applicable par levels for Consigned Inventory (and any future modification thereto) will be agreed upon in writing by the Parties. Customer must provide appropriate space to store and safeguard the Consigned Inventory. Customer fully acknowledges and accepts complete responsibility for the Consigned Inventory and agrees to handle and store the Consigned Inventory in compliance with all applicable Product labeling, laws and regulations. Customer agrees to maintain protocols and/or procedures to ensure compliance with the same.
- 1.2. All Consigned Inventory is the property of Stryker until withdrawn by Customer; however, Customer accepts all risk of loss and full responsibility for the condition of any shortages in and the payment for all Consigned Inventory which may be used, opened, lost, or damaged. Customer must return to Stryker all damaged Consigned Inventory, and Stryker will arrange to have the damaged items destroyed. Customer must use reasonable efforts to: (i) identify all Consigned Inventory as being the property of Stryker and label it separately by Stryker division within Customer's storerooms and operating rooms; (ii) separate Consigned Inventory from property of Customer (including products housed in inventory carts); and (iii) maintain complete and accurate records concerning the Consigned Inventory.
- 1.3. Customer, in its sole discretion, will determine whether to withdraw items of Consigned Inventory. As a Product is withdrawn from the Consigned Inventory, the Product will be deemed to have been purchased by Customer, title in the Product will pass to Customer and title in the sale proceeds will vest in and belong to Stryker. Within two (2) business days from the withdrawal from Consigned Inventory, Customer must issue to Stryker a purchase order for such withdrawn Product. In the event Customer fails to issue a purchase order to Stryker, Stryker, at its option, may place Customer on credit hold and remove Consigned Inventory from Customer's facility.
- 1.4. Stryker may conduct an audit (including a physical inventory) of the Consigned Inventory during business hours upon 24 hours' notice to Customer. In the event that Stryker's audit of the Consigned Inventory concludes that inventory is missing, Customer agrees that it will pay to Stryker any monies which are due and owing based on the missing inventory. In the event that Stryker's audit of the Consigned Inventory concludes that a surplus exists, Stryker will adjust Consigned Inventory par levels as necessary to reflect the levels as determined by the audit. Customer and Stryker agree to meet within fifteen (15) days after an audit has been completed by Stryker to resolve whether a surplus or a shortfall exists.
- 1.5. In the event the Consigned Inventory includes human tissue grafts, Customer agrees to: (i) comply with all applicable federal and state laws and regulations relating to the consigned human tissue grafts, including, without limitation, all applicable tissue tracking requirements and applicable standards and guidelines adopted by the American Association of Tissue Banks; and (ii) control the consigned human tissue grafts according to temperature requirements and JCAHO Tissue and Issuance Standards 17.10, 17.20, and 17.30.
- 1.6. Upon notice or expiration or termination of a consignment arrangement, Customer will, within ten (10) days, deliver as directed by Stryker all Consigned Inventory then in the possession or control.

2. Loaned Instrumentation. If applicable, Stryker may provide certain of its non-disposable orthopaedic surgical instruments ("**Instrumentation**") to Customer as follows:

- 2.1. Stryker will place at Customer's facility on a loaned basis, such quantities and types of Product or Instrumentation as Customer and Stryker mutually agree upon (collectively, the "**Loaned Inventory**").
- 2.2. Customer will have no ownership interest in the Instrumentation; however, Customer is responsible for maintaining the Instrumentation in good condition and for using reasonable care in its handling and storage. Customer will be responsible for any loss of or damage to the Instrumentation. Customer must use reasonable efforts to (i) identify all Loaned Inventory as being the property of Stryker, (ii) separate Loaned Inventory from other property of Customer, and (iii) maintain complete and accurate records concerning the Loaned Inventory.
- 2.3. Except as otherwise provided, Instrumentation will be provided by Stryker on a loaned basis at no additional cost or expense to Customer except as noted in the preceding paragraph. The Instrumentation provided is restricted for use with the Products only and is not separately reimbursable and has no independent value. Customer will maintain appropriate property insurance on the Instrumentation during the term of any Instrumentation loan arrangement to provide coverage against loss by theft, fire damage, acts of nature or other cause. Upon request by Stryker, Customer will provide a certificate of insurance evidencing such coverage, which will name Stryker as a named insured and loss payee, as its interests may appear.
- 2.4. Upon expiration or termination of an Instrumentation loan arrangement, Customer shall within ten (10) days, deliver by Stryker all Loan Inventory then in its possession or control.

APPENDIX 2 – STRYKER COMMUNICATIONS EQUIPMENT PURCHASE AND INSTALLATION SERVICES TERMS

The terms of this Appendix 2 will apply to Customer's purchase of Stryker Communications equipment ("**Equipment**") and any related services from Stryker's Communications division. In the event of a conflict or inconsistency between the Standard Terms of Sale and this Appendix 2, relative to Equipment and services sold by the Communications division only, this Appendix 2 will govern. Stryker Communications may offer standalone software products to Customer. Such software is only licensed to Customer, and governed by, separate software license agreements entered into by Stryker Communications and Customer and are not subject to these Standard Terms of Sale, including this Appendix 2.

1. **Equipment Purchases.**

1.1. **Payment Terms:**

- 1.1.1. **Deposit:** A non-refundable deposit of fifty percent (50%) of the Equipment purchase price will be due upon Stryker Communications acceptance of Customer's purchase order ("**Deposit**").
- 1.1.2. **Additional Payments:** Additional payments for Equipment will be invoiced upon Stryker Communications shipment of the Equipment and are payable by Customer in accordance with the Standard Terms of Sale.
- 1.1.3. **Engineering Services:** Charges for any Engineering Services (as defined in Section 1.3 below) will be invoiced by Stryker Communications as they are performed, or upon shipment of Equipment to Customer, whichever is later. Such invoices are payable by Customer in accordance with the Standard Terms of Sale.
- 1.1.4. **Contingency:** Customer may elect to include a contingency charge amount on its purchase order that may be applied as a credit for potential future changes or additions to the Stryker Communications Equipment that Customer wishes to purchase ("**Contingency Charge**"). If Customer elects to make such a change or addition, any charges for such change or addition will be added to the Equipment purchase price and will be deducted from the Contingency Charge until such Contingency Charge is exhausted. Customer may make changes or additions in an amount up to the then current balance of the Contingency Charge without initiating the Change Order process as further described in Section 1.4 below. Pricing for all Equipment changed or added in such a way will be at a discount off Stryker Communications list price equivalent to the discount provided on the applicable purchase order. In the event of an unapplied Contingency Charge balance upon completion of the order, Customer will not be obligated to pay such amount. Unapplied Contingency Charge balances may be cancelled upon written request from the Customer.

1.2. **Shipment and Installation Dates:**

- 1.2.1. The Parties agree to estimate the date that installation of the Equipment will occur (the "**Anticipated Installation Date**"). The actual dates of shipment will be mutually agreed upon between Stryker Communications and Customer ("**Shipment Date**"); provided, however, that the Anticipated Installation Date may not be changed less than eight (8) weeks prior to the scheduled Anticipated Installation Date. Stryker Communications will use its commercially reasonable best efforts to meet all Shipment Dates requested by Customer. Customer understands that production and installation scheduling will not occur until Stryker Communications' receipt of: (i) Customer's deposit payment pursuant to Section 1.1.1; and (ii) a completed shipment and installation date confirmation form. If Customer requests a rescheduling of the installation date with less than eight (8) weeks' notice prior to the Anticipated Installation Date, Customer agrees to accept all shipments of ordered Products no later than the original installation date and, if necessary, make necessary arrangements for storage of the Stryker Communications Equipment at Customer's expense until the rescheduled installation date.
 - 1.2.2. If Customer delays or extends shipment or installation of the Equipment, Customer will arrange for and notify Stryker Communications of the place or places to which Stryker Communications will ship the Equipment for storage at Customer's expense and all risk of loss or damage to the Equipment will be the responsibility of the Customer. Stryker Communications will invoice Customer for the Equipment upon shipment and Customer agrees to pay such invoice in accordance with the Standard Terms of Sale.
- 1.3. **Engineering Services:** Stryker Communications agrees to provide the engineering services described in the project proposal provided to Customer, if any, subject to the terms and conditions hereof ("**Engineering Services**").
 - 1.4. **Change Orders:** Options, upgrades and additions to Stryker Communications Equipment may be available ("**Change Orders**"). Change Orders will require a new purchase order or an addendum to the original purchase order, which could result in changes to the total purchase price. Change Orders made less than eight (8) weeks prior to the scheduled installation date may result in shipping delays and additional expenses for expedited shipping.

2. **Installation Services:** Charges for Installation Services (as defined in Section 2.2 below) will be invoiced upon Customer Acceptance (as defined in Section 2.2 below). If installation of the Equipment is completed in phases at Customer's request, Stryker Communications will invoice Customer separately for the Installation Services provided in each phase. Such invoices are payable by Customer in accordance with the Standard Terms of Sale.

- 2.1. **Customer Acceptance:** Acceptance of Installation Services will occur on the earlier of the following: (i) Stryker Communications' receipt of a "Customer Acceptance Form" signed by Customer; (b) clinical utilization of Stryker Communications Equipment by Customer; or (iii) fifteen (15) days after the completion of installation of Stryker Communications Equipment ("**Customer Acceptance**").
- 2.2. **Installation Services:** The Installation Services to be provided by Stryker in connection with Stryker Communications Equipment are further defined in the project proposal provided to Customer (the "**Installation Services**"). Customer's proposal should state whether

installation pricing includes work on nights, weekends, multiple trips (e.g. phased project installations), and/or union support. If not explicitly noted, Installation Services are presumed to include regular working hours, single phase, and no union support. Please consult the appropriate Stryker Communications Sales Representative with any questions. If additional Installation Services are required: (i) because of Customer's failure to complete its Pre-Installation Responsibilities described below in Section 2.4.2; (ii) because of a Customer requests to install in a manner dissimilar to that quoted (e.g. weekends only); or (iii) if the installation date is rescheduled with less than eight (8) weeks' notice prior to the Anticipated Installation Date, Stryker Communications may, at its discretion, invoice Customer an additional \$1,500 per day per installation technician.

2.3. **Stryker Responsibilities**

- 2.3.1. **Pre-Installation Meeting Responsibilities:** Stryker Communications will facilitate an Equipment pre-installation planning meeting to be held at Customer's site before construction begins. At, or before this meeting, Stryker Communications will provide Customer and Customer representatives with Stryker Communications Equipment pre-installation guide ("**Pre-Installation Guide**"). Additional detailed pre-installation requirements are included in the Pre-Installation Guides. All pre-installation work performed must adhere to the Pre-Installation Guide. Stryker Communications will schedule and lead the discussions and review the Drawings (as defined in Section 2.4.2 below) with Customer's Project Manager, Clinical Department Manager and representatives from all installing contractors. Stryker Communications will schedule and lead the discussion and review of the Pre-Installation Guide and designation of exact responsibilities of all contractors. Stryker Communications will schedule and lead the discussion of mounting plate(s) placement, pre-install design specifications and routing requirements of all applicable services.
- 2.3.2. **Layout/Placement Drawings:** Stryker Communications will provide final Equipment layout/placement drawings ("**Drawings**") for review within five (5) business days of acceptance of purchase order and Deposit payment. The Drawings will include Product placement and configuration of services. Within six (6) weeks after acceptance of Customer's purchase order and no less than fourteen (14) weeks before the scheduled Shipment date, Customer must deliver to Stryker Communications a copy of the signed Drawings, which have been approved by the Customer's Project Manager and the Clinical Department Manager (or respective designees). Customer understands Stryker Communications will not schedule production until the signed Drawings are received by Stryker Communications; and Stryker Communications is not responsible for any direct or indirect costs related to resulting delays.
- 2.3.3. **Inspection and Evaluation Responsibilities:** Stryker Communications will review superstructure requirement (e.g. weights and moments) with Customer's contractors and Project Manager. When requested, Stryker Communications will provide Customer with knowledgeable third-party resources regarding superstructure. Any consulting done with said third parties will be at the Customer's expense. Stryker Communication will review equipment installation procedures and process with Customer. Stryker Communications will track construction schedules and make certain both Parties are adhering to originally agreed upon timelines. Stryker Communications will provide Customer with specifications necessary to order applicable network services (obtaining and payment for these services are the Customer's responsibility).
- 2.3.4. **Installation Responsibilities:** Stryker Communications is responsible for the Equipment installation responsibilities as stated in the Pre-Installation Guide (these responsibilities apply only to purchased Stryker Communications Equipment unless otherwise agreed upon in the project proposal).
- 2.3.5. **Technical Support:** Technical phone support for trouble shooting and technical questions on the Equipment is available at no charge to Participant during the applicable warranty period. Technical phone support for trouble shooting and technical questions is available 8:00 a.m. to 5:00 p.m. CST Monday- Friday. Additional service and support packages, if not purchased under this Agreement, are available at Stryker Communications then-prevailing rates for such services. Please contact your Stryker Communications Sales Representative for more information.

2.4. **Customer Responsibilities**

- 2.4.1. **Customer Pre-Installation Meeting Responsibilities:** Customer commits to: (i) ensure representatives of Customer's contractors (e.g. electrical, mechanical, gas installer, architect, structural engineer) and Customer's Project Manager, Clinical Department Manager, and any other appropriate Customer personnel are in attendance at all meetings; (ii) provide final completion dates for completion of electrical panel test, gas performance test, and superstructure; (iii) obtain all necessary permits, inspections and/or licenses related to the proposed work; (iv) ensure that the superstructure meets the Stryker Communications requirements; (v) ensure that all Customer requirements in the Pre-Installation Guides have been addressed; and (vi) provide network access (as applicable).
- 2.4.2. **Customer Pre-Installation Responsibilities:** Prior to installation date, Customer agrees to: (i) remove all old Equipment from the installation area and transport to Customer's disposal area; (ii) provide ready access to installation site(s) for Stryker Communications personnel; (iii) ensure that the installation site has been prepared in compliance with Stryker Communications specifications as detailed in the Pre-Installation Guides, (including the installation of mounting ring and other support apparatus for the Equipment); (iv) ensure all conduits and gas installation provided by Customer's contractors are installed as specified in the Drawings and any applicable architectural drawings; (v) ensure Equipment shipping containers (unopened) are in the installation location (including endoscopic equipment, if applicable); (vi) ensure that AC electrical circuits are installed as provided in the Pre-Installation Guides; and (vii) ensure data and other rough-in requirements specified in the Pre-Installation Guides are connected, working and complete. Customer understands and agrees to complete and send to Stryker Communications the install and ship confirmation form at least eight (8) weeks prior to installation date.
- 2.4.3. **Customer Installation Responsibilities:** Customer responsibilities include: (i) arrange for a locally certified electrician to complete electrical power connections to Stryker Communications Equipment; (ii) arrange for a locally certified medical gas technician to test gas connections in Stryker Communications Equipment; (iii) ensure that the Customer designated staff members who are responsible for Product maintenance are available for instruction on basic maintenance procedures; and (iv)



perform inspection and functional assessment of installed Stryker Communications Equipment to agreed upon specifications and provide written notification of approval (Customer acceptance form) or complete a project punch list (nonconforming items that have no functional effect on the system) within ten (10) business days of completed Installation Services.

- 2.4.4. Stryker Communications and Customer jointly agree to organize an inspection and valuation meeting to be held at least thirty (30) days before installation date. Customer is responsible for ensuring all appropriate personnel are in attendance.

Customer fails to provide appropriate industry-standard PPE to all OnSite/Clinical Specialists, as determined in Stryker's sole discretion, then Stryker may immediately, in its sole discretion: (i) suspend the OnSite/Clinical Specialist Coverage until Customer provides such PPE; or (ii) terminate the applicable Service.

7. Indemnification.

- 7.1. Stryker will indemnify Customer against any third party liability and/or damages ("**Claims**") which Customer suffers directly as a result of bodily injury (including death) or property damage arising solely from the gross negligence or, willful misconduct of Stryker or its employees agents, or contractors in the course of providing Services. The foregoing indemnification will not apply to any Claims arising from: (i) an injury or damage due to the negligence of any person other than a Stryker employee or agent; (ii) the failure of any person other than a Stryker employee or agent to follow any instructions outlined in the labeling, manual, and/or instructions for use of the Equipment; (iii) the use of any equipment or part not purchased from Stryker; or (iv) any equipment or any part thereof that has been modified, altered or repaired by any person other than Stryker's employee or agent. Customer agrees to indemnify and defend Stryker against any Claims arising from (i) through (iv) above due to the negligent acts or omissions of Customer or its officers, employees, representatives or agents.
- 7.2. Stryker's indemnification obligations under this Section 7 are conditioned on Customer promptly providing Stryker with timely written notice of any Claim for which indemnification is sought. Stryker will not agree to any settlement or compromise that imposes or results in any finding of fault or any restriction or obligation on the part of Customer without Customer's prior written consent (which will not be unreasonably withheld).

8. Return of Instrumentation or Equipment.

In the event instrumentation ("**Instrumentation**") or Equipment provided to Stryker contains patient information ("**PHI**"), such PHI should be removed before servicing. Moreover, PHI is not needed in order to properly repair any Instrumentation or Equipment provided by Customer. Stryker is not responsible for and may not be held liable for the integrity or security of any PHI contained on any Instrumentation or Equipment.

9. Confidentiality.

Stryker and Customer: (a) shall hold in confidence this Standard Terms of Sale and any information and materials which are related to the business of the other or are designated as proprietary or confidential, herein or otherwise, or which a reasonable person would consider to be proprietary or confidential information; and (b) hereby covenant that they shall not disclose such information to any third party without prior written authorization of the one to whom such information relates. The rights and remedies available to a Party hereunder shall not limit or preclude any other available equitable or legal remedies.

10. Non-Solicitation and Non-Hire.

Customer agrees that, during the Term and for a period of one (1) year following Service, it will not solicit any employees of Stryker to terminate their employment with Stryker, unless Stryker consents in writing.

11. Background Check.

Stryker warrants that all of its employees who will be on a Customer's premises to perform Services will have undergone a criminal background check as part of Stryker's hiring practice. The background check consists of the following:

- Education verification, which includes a review of employee's submitted educational institutions to ensure proper accreditation;
- Employment history verification;
- SSN trace, including address history verification;
- OFAC Watch List search, including a search of global terrorist and national drug trafficker lists;
- FDA Debarment and Disqualified/Restricted List search;
- OIG/HHS Exclusion List check;
- EPLS/GSA Exclusion List check;
- Criminal history search, including a National Criminal Database (NCD) search and a national sex offender registry search and a search of all jurisdictions where the employee has lived or worked during the last seven years; and
- Motor vehicle check

During the Term, a Customer may request a meeting with Stryker to review the performance, behavior or expectations of Stryker service personnel who are assigned to provide service at Customer's facility. Any Stryker service personnel who willingly and knowingly violate Customer's rules, regulations, procedures, or policies may be removed from Customer's facility at Customer's option and will be replaced by Stryker promptly.

12. Parts and Subcontracting.

Stryker may elect to use new or used parts related to the Services in its sole discretion. Stryker reserves the right to hire subcontractors to perform the Services.

13. Independent Contractor.

The relationship between the Parties is that of independent contractors. It is mutually agreed that Stryker is at all times acting and performing as an independent contractor with respect to Customer, and nothing is intended nor shall be construed to create an employer/employee relationship between Stryker and Customer. It is agreed that any person employed by Stryker to perform hereunder shall not be deemed to be an employee of Customer, and Stryker and Stryker's employees, agents or representatives shall not be, or represent themselves to be, officers, employees, agents or representatives of Customer.

STRYKER CORPORATION

SOFTWARE AND HOSTING TERMS AND CONDITIONS ("SOFTWARE AND HOSTING TERMS")

CUSTOMER AGREES THAT BY PLACING AN ORDER FOR STRYKER SOFTWARE OR HOSTING SERVICES THAT CUSTOMER AGREES TO BE BOUND BY THESE SOFTWARE AND HOSTING TERMS. PLEASE READ THESE SOFTWARE AND HOSTING TERMS CAREFULLY BEFORE INSTALLING, ACTIVATING OR OTHERWISE ACCESSING OR USING ANY STRYKER SOFTWARE OR HOSTING SERVICES, OR ANY SOFTWARE OR SERVICES ACCESSIBLE BY USING ANY STRYKER SOFTWARE OR HOSTING SERVICES. IF YOU ARE PLACING AN ORDER ON BEHALF OF CUSTOMER, YOU REPRESENT AND WARRANT TO STRYKER THAT YOU ARE DULY AUTHORIZED TO AGREE TO THESE SOFTWARE AND HOSTING TERMS ON BEHALF OF CUSTOMER. IF CUSTOMER DOES NOT AGREE TO THESE SOFTWARE TERMS, CUSTOMER MAY NOT INSTALL, ACTIVATE OR OTHERWISE ACCESS OR USE STRYKER SOFTWARE OR HOSTING SERVICES, OR ANY SOFTWARE OR SERVICES ACCESSIBLE BY USING THE STRYKER SOFTWARE OR HOSTING SERVICES.

1. DEFINITIONS

Agreement means the Ordering Document that references or is otherwise subject to these Software and Hosting Terms, together with these Software and Hosting Terms and the applicable Product Addendum.

Customer-Hosted Software means Stryker Software that Customer hosts on Customer's own equipment or that is separately installed on Equipment in accordance with this Agreement.

Equipment means instruments, tablets or other computing devices, printers, peripherals and spare parts that are provided to Customer by Stryker under a separate Ordering Document.

Hosting Services means data hosting and storage services that Stryker makes available to Customer, as described in the Product Addendum and set forth in the applicable Ordering Document, and any Updates thereto.

Ordering Document means a final quote and/or order for products and/or services as agreed to between Stryker and Customer including the applicable Terms and Conditions set forth at <https://www.stryker.com/us/en/emergency-care/terms.html>.

Other Components mean applications and software, including open source software, and services that are licensed or provided by entities or individuals other than Stryker, as may be detailed in the Product Addendum or the Product Documentation.

Party means Stryker or Customer individually, and **Parties** mean Stryker and Customer collectively.

Permitted Facility means the specific facility at the specific address set forth in the Ordering Document or Product Addendum, as applicable.

Product means, for the purposes of the Software and Hosting Terms, Stryker Software or Hosting Services.

Product Addendum means the then-current additional terms and conditions applicable to a specific Product as referenced in the Ordering Document or otherwise provided by Stryker.

Product Documentation means the then-current operational materials and documentation provided by Stryker relating to a Product.

Service Term means the subscription, support or hosting services period set forth in the Product Addendum or the Ordering Document, unless terminated earlier or extended in accordance with the terms of this Agreement.

Stryker means the Stryker company or division referred to in the Ordering Document.

Stryker-Hosted Software means Stryker Software that is hosted by Stryker or its hosting provider and made available to Customer as a service via a Customer-provided internet connection.

Stryker Software means firmware, software, web-based or mobile applications or data compilations, and any services that are accessible through the foregoing, that are proprietary to Stryker, as described in the Product Addendum and set forth in the applicable Ordering Document, and any Updates thereto. Stryker Software does not include any open source or third-party licensed software, which are subject to the terms and conditions set out in the relevant open source or third-party license as set forth herein.

Update means corrections, updates, upgrades or enhancements to Stryker Software or Hosting Services, as applicable, as made available to Customer by Stryker for use by Customer under this Agreement.

User means any employee, contractor or representative of Customer that Customer has authorized to access and/or use a Product. Any installation, activation, access or use by or on behalf of Customer, or that occurs when the Product is in Customer's or a User's possession or control, is considered to have been performed by Customer. Users may only use and access the Products at and for the Permitted Facilities.

2. USE RIGHTS

Subject to the terms of this Agreement, Stryker grants to Customer a limited, non-exclusive, non-transferable, non-sublicensable and revocable right to allow Users to use Stryker Software and Hosting Services for internal business purposes as set forth in the Product Documentation. Stryker Software is licensed in read-access, object code form only. Product Documentation only may be used in connection with the specific Product with which it relates, and for no other purpose. In addition, unless otherwise set forth in the Product Addendum (for the avoidance of doubt, more than one category may apply to a Product):

- For Stryker-Hosted Software and Hosting Services, Customer may only connect to the Stryker Software using authorized websites, mobile applications and/or software ("**Authorized Connections**") as set forth in the Product Documentation and for use for the Permitted Facilities.
- For Customer-Hosted Software, Customer may make one copy of the Stryker Software to operate on one computer or device, and one copy for backup or archival purposes and NOT for use in production on one computer or device, as set forth in the Product Documentation, and for each copy at a single location at a Permitted Facility in the United States.

Customer must register, set up, and always keep accurate and complete, an authorized account with passwords, authentication keys, or security credentials that enable Users access to the Products ("**Login Credentials**"). Customer and User's must maintain the confidentiality and security of all Login Credentials, and Customer responsible for any consequences that may result from the improper disclosure or use of any such Login Credentials. If Customer or any User believes an account has been compromised, including any unauthorized access to or use or disclosure of any Login Credentials, Customer must notify Stryker immediately. As part of any registration or set up process, Stryker may request registration-related

information, including a User's name and e-mail address. By providing this information, Customer consents, and is responsible for obtaining all User consent, to its collection and use by Stryker. Customer is responsible for all acts and omissions of Users, and for ensuring the compliance by all Users with all terms of this Agreement.

If Customer is aware of any violation by a User, Customer immediately must notify Stryker and suspend that User's access to the Products. Customer is responsible and liable for all acts and omissions by Users or by any other individual or entity to whom Customer or any User provides or allows access, or that accesses the Products through the Login Credentials. Stryker reserves the right to refuse service, terminate accounts, remove or edit content, or cancel logins in its sole and absolute discretion. The Products do not include network equipment or internet connection. Customer is responsible for obtaining equipment, software, supplies and connections sufficient to access and use the Products, and Customer is solely responsible for payment of any third-party fees associated therewith, including internet service-provider charges. Use of the Products may be limited or restricted depending on the capabilities, bandwidth or technical limitations of User's connection and service. The provision, quality and security of such connectivity are the responsibility of Customer and the party providing such service to Customer, not Stryker. If a Product has remote access capabilities, Customer hereby agrees to make systems available for remote support and consents to Stryker or Stryker's agents connecting through the internet for remote diagnostic, update, upgrade, and repair purposes.

The Products and the Product Documentation, including all Updates and modifications, enhancements, changes and additions thereto, are the proprietary and confidential property of Stryker or its licensors. Stryker hereby owns (and Customer hereby assigns and will cause all Users to assign to Stryker) all title, copyright, and other worldwide intellectual property rights in the Products and Product Documentation, including all Updates and all modifications, enhancements, changes and additions thereto, and all copies thereof. This Agreement does not grant Customer or any User any rights to trademarks or service marks of Stryker, nor any rights or licenses under any of Stryker's patents or other intellectual property rights except as expressly granted herein. Customer must not remove, alter, or obscure any proprietary notices contained on or within the Products or the Product Documentation and will reproduce such notices on any back-up copy of the Products or Product Documentation. This is not a sale, and Stryker hereby reserves all rights to the Products and Product Documentation, except for the rights expressly granted herein. No other right or authorization is granted, by implication, reliance or otherwise. Without limiting the foregoing, no right is granted or implied, and Customer is not authorized, to use any Product in combination with any product or method not specifically permitted by Stryker.

3. RESTRICTIONS

Customer may not, and will not allow any third party to, do any of the following: (a) access or attempt to access any other Stryker systems, programs, services or data that are not made available for Customer's use; (b) unless expressly permitted in the Production Documentation, copy, reproduce, alter, merge, modify, adapt, create derivatives of, translate, republish, upload, post, transmit, resell or distribute in any way the Products or any Product Documentation; (c) decompile, reverse engineer, disassemble, or otherwise reduce Stryker Software to a human perceivable form or to derive the underlying ideas, algorithms, structure or organization from any Product, except to the extent permitted by applicable Law; (d) permit any third party to benefit from the use or functionality of any Product via a rental, lease, timesharing, service bureau, or other arrangement; (e) sublicense, sell or transfer any of the rights granted to Customer unless approved in writing by

Stryker; (f) breach, avoid, bypass, remove, deactivate or otherwise circumvent any software protection mechanisms in any Product, including any mechanism used to restrict or control the functionality of Stryker Software, or enable features or functionalities that are otherwise disabled or not purchased by Customer; (g) perform or attempt to perform any actions that would interfere with the proper working of a Product; or (h) use a Product in or for any manner or purpose that infringes, misappropriates, or otherwise violates any right of any third party or that violates any applicable Law. Customer will, and will ensure that Users will, always use Stryker Software in compliance with this Agreement and the Product Documentation. Customer will indemnify Stryker and hold Stryker harmless from and against any and all claims, damages, losses, costs, expenses and other liability of whatever nature that Stryker suffers or incurs by reason of any such unintended use.

For Stryker-Hosted Software, the Hosting Services or any Stryker Software that is connected to a Stryker system hosted by Stryker, Customer will not, and will ensure that Users do not:

- (a) perform, attempt to perform, or assist others in performing any of the following while accessing or using a Product: (i) use, display, mirror, or frame the Product or any individual element within the Product, including the design of any page; (ii) try to gain unauthorized access to, test the vulnerability of, or disrupt any Product, any other service, device, data, account, or network, including Stryker systems or systems of Stryker providers; or (iii) access any Product through the use of any mechanism other than through the use of an Authorized Connection.
- (b) (i) upload any content that contains software viruses or is designed to interrupt, destroy, or limit the functionality of any software, equipment or services, or that contains other harmful, disruptive, or destructive files or content; (ii) use or attempt to use another User's account without authorization, or impersonate any person or entity; or (iii) use any Product in any manner that, in Stryker's sole discretion, is objectionable or restricts or inhibits any other person or entity from using or enjoying a Product, or which may expose Stryker or any third party to any harm or liability of any type.

If a Product is considered a medical device by the U.S. Food and Drug Administration ("FDA"), additional terms may be applicable as set forth in the Product Addendum. Unless a Product Addendum expressly sets forth otherwise, no data generated, hosted or stored by or through a Product or Stryker is or should be considered an electronic medical record. Customer is responsible for printing or storing any data as may be necessary or appropriate to include in any medical record maintained by Customer.

Use, duplication or disclosure by the U.S. Government is subject to restrictions set forth in subparagraph (b) of FAR 52.227-19, Commercial Computer Software License. A Product may contain applications and software, including open source software, and services that are licensed or provided by entities or individuals other than Stryker as detailed in the Product Addendum or the Product Documentation ("**Other Components**"). Other Components are subject to the terms and conditions of the applicable license agreement that accompanies or applies to such Other Components. Customer will use the Other Components solely in conjunction with a Product and Customer will have no broader use rights with respect to the Other Components than it has to the Product.

4. UPDATES; OTHER SERVICES

From time to time, Stryker may provide Updates, including for purposes of error correction and improvement of functions. Updates may delete or change the nature of features or other aspects of a Product. Customer

acknowledges and agrees that Updates are made at Stryker's sole discretion and that Stryker may condition continued use of a Product upon Customer's complete installation, use or acceptance of an Update. Any Updates will be deemed to be, and will constitute part of, a Product. Customer agrees and consents to install and use any Update if required by Stryker. The Product may require the purchase of an annual maintenance subscription for ongoing training, support, and upgrades, which will be governed by separate terms and conditions.

If Stryker makes a material change to a Product, Stryker will use reasonable efforts to notify Customer prior to the effective date of that change. If any changes are made to a Product by or on behalf of Customer or a User, permitted or otherwise, Customer will promptly notify Stryker thereof and all intellectual property and other rights in such additions or changes will be exclusively owned by Stryker. Customer will timely execute any documents reasonably requested by Stryker to vest in Stryker all rights in and to those changes.

5. USER RESPONSIBILITIES

Customer acknowledges that Customer and Users, acting through licensed medical doctors or other licensed health care professionals who are employed by or otherwise associated with Customer, will be the provider of medical and other health services to patients relating to the review, analysis, and interpretation of any medical data or any related health care services provided to patients based on such review, analysis, and interpretation in connection with any Product or services provided as part of or through any Product. Customer acknowledges and agrees that Stryker is not a provider or supplier of any health-care services and that Stryker will not be deemed to be furnishing any patient health-care services by virtue of providing any Product or in connection with this Agreement. Except as expressly set forth in this Agreement, Customer agrees to reimburse Stryker for and hold Stryker harmless from, any consequences, directly or indirectly, related to any misuse or interpretation of any Product or any other information provided or omitted in connection therewith.

Customer must comply with, and is solely responsible for complying with, all applicable laws, regulatory requirements and rules ("**Laws**") relating to the use of a Product, including Laws in the jurisdiction(s) where a Product is used or accessed. Customer acknowledges Customer's obligation to inform Users of warnings, instructions, notices and other materials regarding proper use of a Product.

Customer retains all rights to the content Customer or a User upload, store, share, send, or display to or via a Product ("**Customer's Content**") subject to the provisions in this Agreement. Customer is solely responsible for ensuring that each Product and its security are appropriate for Customer's intended use. Customer is responsible for taking and maintaining appropriate steps to protect the confidentiality, integrity, and security of Customer's Content. Those steps may include (a) controlling access Customer provides to Users, (b) making appropriate configurations, (c) ensuring the security of Customer's Content while it is in transit, (d) using encryption technology to protect Customer's Content, and (e) backing up Customer's Content. Customer is responsible for providing any necessary notices to Users and obtaining any legally required consents from Users regarding their use of the Products. Customer represents and warrants that Customer has the rights to provide Customer's Content to Stryker and to direct and authorize Stryker to use and disclose Customer's Content as contemplated in this Agreement. For Hosting Services, Customer hereby consents to Stryker's hosting and processing of Customer's Content and other related information, including at locations of Stryker and its third-party infrastructure and cloud providers.

Customer agrees to assist Stryker in any implementation process. Customer agrees to have all equipment, connections and facilities

prepared and ready for implementation in accordance with the mutually agreed upon schedule. Customer will be responsible for taking all necessary actions prior to Stryker performing the installation/services to remove and/or remediate any hazardous conditions or materials. Further, Customer will maintain an environment that complies with the Product Documentation and will use all Products in accordance with this Agreement and the Product Documentation. Customer is responsible for all hardware, operating systems, network setup, network maintenance and setup required in the support of a Product. Customer may be required to grant Stryker certain limited access rights to Customer's systems or resources in order that Stryker may render services. Customer is responsible for ensuring that Customer's personnel have sufficient training to attain and maintain competence in the operation of a Product.

Should Customer return a Product, sell or otherwise transfer a Product, or if this Agreement or a Service Term is terminated, if requested by Stryker, Customer will uninstall or cease use of Stryker Software and delete (directly or hereby allows Stryker to delete) any and all accounts Customer may have established for the Product or that are accessible through the Product. If Customer resells or transfer any Product to other hospitals, clinics, wholesalers, dealers or any other third parties, Customer will notify Stryker in advance. Unless Stryker and the successor owner or transferee enter into a separate agreement for the use of or access to a Product (including the use of any Stryker Software or Hosting Services), all representations and warranties with respect to such Product are null and void and Stryker will have no further obligations or liability with respect to the Product or any component thereof.

During the Service Term, and for four years thereafter, both Parties will comply with all applicable requirements of 42 CFR Section 420.302, including: (a) retaining required documents, and (b) giving the U.S. Comptroller General, HHS, and their duly authorized representatives access to its contract, books, documents, and records related to the sale under this Agreement and those of any organizations related to the Parties.

Customer agrees that Stryker or its agents or representatives may audit Customer's use of a Product for compliance with these Software and Hosting Terms at any time. If such audit reveals any use other than in full compliance with the terms of this Agreement, Customer will reimburse Stryker for all reasonable expenses related to such audit in addition to any other liabilities incurred as a result of such non-compliance. Stryker has the right to investigate violations of this Agreement and any conduct that affects any Product and, in response, may take any action Stryker may deem appropriate.

6. INFRINGEMENT

Stryker will defend Customer against any action by a third party against Customer to the extent based on a claim that Stryker Software infringes a United States patent, copyright or trade secret of such third party during the Service Term applicable to such Stryker Software ("**Infringement Claim**"), and Stryker will indemnify Customer against all direct losses it suffers by reason of settlements to which Stryker has agreed and all final, non-appealable judgments awarded against Customer to the extent arising out of any Infringement Claim, provided that, in each case: Customer promptly notifies Stryker in writing of the existence of any Infringement Claim; Customer is able to, at Stryker's option, control the defense and settlement of such Infringement Claim; and Customer fully cooperates in the defense of any Infringement Claim. These obligations will not apply to the extent that the alleged infringement or violation arises from: use of non-Stryker furnished equipment, software, or other resources with Products; Customer's failure to follow Stryker's installation, operation, repair or maintenance instructions; Customer's failure to permit Stryker timely access, remote or otherwise, to Products; failure

to implement any Updates, including revisions, modifications, updates, patches, “bug fixes” or new versions of or to Stryker Software, provided by Stryker; Products with their serial numbers altered, defaced or deleted; Products that have been altered, serviced or modified by a party other than Stryker; Products that have been subjected to abnormal physical or electrical stress, misuse, negligence or accident by Customer or a third party or any other cause outside of Stryker’s control; or Products and/or Stryker Software not purchased new (collectively “**Exceptions**”). If Stryker Software becomes, or in Stryker’s opinion is likely to become, the subject of an Infringement Claim barring Customer’s use of the Stryker Software, Stryker may, at its option, either: remedy or replace the infringing components of the Stryker Software or terminate Customer’s access to and use of the infringing components of Stryker Software with no further obligation to User. THIS CLAUSE STATES STRYKER’S ENTIRE LIABILITY WITH RESPECT TO ANY LIABILITY FOR ANY THIRD-PARTY CLAIMS OF INFRINGEMENT, MISAPPROPRIATION, OR VIOLATION OF INTELLECTUAL PROPERTY OR PROPRIETARY RIGHTS.

7. WARRANTY

Stryker warrants to Customer that the Stryker Software will perform substantially as described in the Product Documentation when first delivered or made available for access or use by Customer. If Customer notifies Stryker of Defects within five (5) days after Customer’s first access or use, and those defects are verified by Stryker, as Customer’s sole and exclusive remedy, Stryker will remedy or replace the defective Stryker Software or, at its option, terminate this Agreement with respect to Stryker Software that was defective. A “**Defect**” occurs when in the course of proper use, the Software does not perform in any material respect in the manner described in the Product Documentation unless the Defect is caused by the improper use or unauthorized amendment of the Software by the Customer or anyone acting with the authority of the Customer. Customer’s remedy for breach of this limited warranty will be limited to the foregoing replacement or refund and will not encompass any other damages. No dealer, distributor, agent or employee of Stryker is authorized to make any modification or addition to the warranty and remedies stated herein. Additional terms regarding Product warranties and maintenance may be set forth in the Product Addendum. Notwithstanding these limited warranty provisions, all of Stryker’s obligations with respect to such warranties will be contingent on Customer’s use of a Product in accordance with this Agreement and in accordance with Stryker’s instructions as provided in the Product Documentation, as such instructions may be updated from time to time. Stryker will have no warranty or indemnity obligations if the failure or infringement is caused to or by an Exception.

EXCEPT AS SPECIFICALLY STATED IN THESE SOFTWARE AND HOSTING TERMS, STRYKER EXPRESSLY DISCLAIMS ALL EXPRESS OR IMPLIED WARRANTIES ARISING OUT OF OR RELATING TO THESE SOFTWARE AND HOSTING TERMS, A PRODUCT OR ANY CONTENT PROCESSED THROUGH OR GENERATED BY A PRODUCT, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. STRYKER MAKES NO WARRANTY THAT A PRODUCT WILL MEET CUSTOMER’S REQUIREMENTS OR BE AVAILABLE ON AN UNINTERRUPTED OR ERROR-FREE BASIS. CUSTOMER ACKNOWLEDGES THAT, UNLESS OTHERWISE EXPRESSLY SET FORTH IN THE PRODUCT ADDENDUM, ACCESS TO AND USE OF THE SERVICES IS NOT THE EXCLUSIVE METHOD OF TRANSMISSION, STORAGE, OR RETENTION OF ANY APPLICABLE INFORMATION OR DATA.

8. LIMITATION OF LIABILITY

IN NO EVENT WILL STRYKER BE LIABLE TO CUSTOMER, ANY USER, ANY HEALTHCARE PROFESSIONAL, OR ANY EMPLOYEE, CONTRACTOR, AGENT, OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING IN CONNECTION WITH THIS AGREEMENT OR A PRODUCT (WHETHER IN WARRANTY, CONTRACT, OR TORT, INCLUDING NEGLIGENCE, AND REGARDLESS WHETHER STRYKER HAS BEEN INFORMED OF THE POSSIBILITY OF

SUCH DAMAGE, EVEN IF A LIMITED REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED ITS ESSENTIAL PURPOSE), INCLUDING LOST REVENUE OR PROFITS, LOSS OR CORRUPTION OF DATA OR GOODWILL, SERVICE UNAVAILABILITY, INTERRUPTION, STOPPAGE, OR DELAY, COMPUTER DAMAGE, MEDICAL EXPENSES, SYSTEM FAILURE, OR THE COST OF SUBSTITUTE SERVICES; OR ANY LOSS OR DAMAGE WHICH MAY BE INCURRED BY CUSTOMER OR A USER AS A RESULT OF THE SUSPENSION OR TERMINATION OF THIS AGREEMENT FOR ANY REASON, OR THE RELEASE OR THE DECISION NOT TO RELEASE UPDATES. IN NO EVENT WILL STRYKER’S TOTAL LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, INCLUDING ANY USE OF OR INABILITY TO USE A PRODUCT, EXCEED THE TOTAL AMOUNT OF FEES (EXCLUDING AMOUNTS FOR THIRD PARTY SOFTWARE, INSTALLATION, WARRANTY AND MAINTENANCE SERVICES AND TAXES) CUSTOMER PAID STRYKER UNDER THE PURCHASE ORDER FOR THE PRODUCT GIVING RISE TO THE LIABILITY FOR A PERIOD NOT TO EXCEED SIX MONTHS FROM CUSTOMER’S FIRST CLAIM. THIS LIMITATION OF LIABILITY APPLIES EXCEPT AS PROHIBITED BY APPLICABLE LAW.

EACH PARTY RECOGNIZES AND AGREES THE DISCLAIMERS, LIABILITY, AND REMEDY LIMITATIONS IN THESE SOFTWARE AND HOSTING TERMS ARE MATERIAL BARGAINED-FOR AGREEMENTS, AND HAVE BEEN TAKEN INTO ACCOUNT, REFLECTED IN THE CONSIDERATION GIVEN BY EACH PARTY, AND FACTORED INTO EACH PARTY’S DECISION TO ENTER INTO THESE SOFTWARE AND HOSTING TERMS. STRYKER DISCLAIMS ALL LIABILITY AND IS NOT RESPONSIBLE FOR THE BREACH OF ANY THIRD-PARTY TERMS OR AGREEMENT THAT CUSTOMER MAY HAVE ENTERED INTO OR ACCEPTED BY THE USE OR ACCESS OF A PRODUCT.

9. CONFIDENTIALITY; DATA USAGE AND PROTECTION

In connection with this Agreement, each Party may have access to information that is confidential to the other (“**Confidential Information**”). The Parties each agree to disclose only information that is required for the performance of obligations under this Agreement. Confidential Information will be limited to the terms and pricing under this Agreement, Products and Product Documentation and other information clearly identified as confidential at the time of disclosure. A Party’s Confidential Information does not include information that: (a) is or becomes a part of the public domain through no act or omission of the other Party; (b) was in the other Party’s lawful possession prior to the disclosure and had not been obtained by the other Party either directly or indirectly from the disclosing Party; (c) is lawfully disclosed to the other Party by a third party without restriction on the disclosure; or (d) is independently developed by the other Party.

The Parties each agree to use commercially reasonable efforts not to disclose each other’s Confidential Information to any third party (other than as permitted herein) for a period of three years from the date of the disclosing Party’s disclosure of the Confidential Information to the receiving Party, except for Confidential Information relating to a Product (including Product Documentation) which may not be disclosed by Customer at any time during or after the Service Term other than as expressly permitted under this Agreement. Stryker may disclose Confidential Information only to those employees or agents or subcontractors who are required to protect it against unauthorized disclosure in a manner no less protective than under this Agreement. Nothing will prevent either Party from disclosing the Confidential Information to a governmental entity as required by Law.

Stryker will employ reasonable and appropriate safeguards and procedures to protect the security of Stryker Software. Customer will secure and protect the Stryker Software and each copy thereof, from unauthorized copying or disclosure.

Customer may provide Stryker with personal data as defined by relevant data protection Laws relating to Customer’s personnel or other individuals involved in the use of the Products, including PHI as defined below (together, “**Personal Information**”). Customer will comply with all data protection Laws. Customer consents to the

processing of this Personal Information by Stryker, its affiliates and their respective suppliers, and will, to the extent legally required, provide appropriate notice to each individual or obtain requisite consent to such processing of his or her Personal Information for the following specific purposes: (a) performing under this Agreement; (b) providing information about Stryker products and services; (c) transferring Personal Information permitted under this Agreement and the Product Documentation; and (d) satisfying legal or regulatory requirements. Customer is solely responsible for responding to User or patient inquiries or issues.

Where Stryker may process Personal Information stored in Equipment or Stryker Software when performing the Hosting Services, the following provisions will apply, subject to the other provisions in this Agreement:

- (a) Stryker will process such Personal Information only for the purposes of providing the Hosting Services or performing its obligations under this Agreement (such processing is approved by Customer and will be deemed in accordance with Customer instructions) and is prohibited from retaining, using, or disclosing any Personal Information for any other purpose.
- (b) Customer will endeavor to limit the disclosure of Personal Information to Stryker to that which is reasonably necessary to perform the Hosting Services or performing its obligations under this Agreement.
- (c) Customer will keep Personal Information confidential and will implement reasonable administrative, physical, and technical measures to protect it against accidental unlawful or unauthorized destruction, loss, alteration, disclosure or access.

To the extent Stryker creates, receives, maintains, transmits or otherwise has access to any protected health information (“**PHI**”) on behalf of Covered Entities (as that term is defined in HIPAA (below)) in the United States and in the course of performing under this Agreement, Stryker will only use and disclose such PHI as permitted by the Health Insurance Portability and Accountability Act of 1996, Pub. Law 104-191, as amended by the Health Information Technology for Economic and Clinical Health Act, and the pertinent regulations promulgated thereunder (collectively, “**HIPAA**”). If required by HIPAA, the Business Associate Agreement located at <https://www.strykeremergencycare.com/> shall apply. Without in any way limiting the foregoing, to the extent applicable to data processed in California under California law, the Parties agree that Stryker is a “Service Provider” under the California Consumer Privacy Act, Cal. Civ. Code §§ 1798.100, et seq. (the “**CCPA**”) and that nothing about this Agreement or the Products, or the services providing in connection with the Products, involves a “selling” or a “sale” of Personal Information under the CCPA or other applicable Laws.

Customer agrees that Stryker may monitor use of the Products, and services provided through the Products, by Customer and Users and collect and use Stryker Data, including to compile information related to the provision, operation or use of a Product, facilitate the provision of support, consulting, training and other services, and verify compliance with the terms of this Agreement. Stryker may use and make publicly available, Stryker Data to the extent and in the manner permitted under applicable Law. Stryker owns Stryker Data, and Customer grants Stryker a non-exclusive, perpetual, irrevocable, transferable, sublicensable, royalty-free, fully paid-up, worldwide license to reproduce, distribute, modify, and otherwise use and display Customer’s Content incorporated within the Stryker Data. “**Stryker Data**” means any data relating to or arising from the business operations or plans, services and products of Stryker or the performance or use of the Products or that may aid Stryker in optimizing resources and support; may be used to improve products

or services, may be used in research and development regarding products or services; may be used in verification of security and data integrity of products or services or in resource planning, industry trends, benchmarking, or contract administration (e.g., data used for sales compensation), and any Personal Information that is aggregated and not identified or identifiable to any individual.

Customer is responsible for Customer’s Content. Customer represents and warrants that Customer owns Customer’s Content or that Customer has all rights necessary to use and allow use of Customer’s Content as described in this Agreement. If Stryker believes a problem may be attributable to Customer’s Content or to Customer’s use of a Product, Customer must cooperate with Stryker to identify the source of, and to resolve, the problem. If Customer becomes aware that any of Customer’s Content violates this Agreement or Law, Customer must immediately remove such parts of Customer’s Content from a Product or any services provided under this Agreement.

If Customer or a User submits comments, ideas, or feedback to Stryker, Customer agrees that Stryker can use, disclose, reproduce, distribute, and exploit them without any restriction or compensation to Customer or any User. Stryker does not waive any rights to use similar or related ideas or feedback previously known to or developed by Stryker or obtained from sources other than Customer.

Prior to returning any equipment to Stryker, Customer will decontaminate it and ensure that all Personal Information, including PHI stored in such equipment is deleted. Customer acknowledges that, in any case, all data and settings stored in the returned equipment may be deleted by Stryker.

If Stryker is required by subpoena, court order or any other legal or regulatory requirement to disclose any of Customer’s Content, Stryker will provide Customer with notice and a copy of the demand as soon as practicable, unless Stryker is prohibited from doing so pursuant to applicable Law. If Customer requests, Stryker will, at Customer’s expense, take reasonable steps to contest any required disclosure.

10. EXPORT CONTROL; GOVERNMENT REQUIREMENTS

The Laws of the United States and any other relevant jurisdictions may apply to the Products. Customer agrees that such Laws, if applicable, govern Customer’s use of the Products (including technical data), and Customer agrees to comply with all Laws (including “deemed export” and “deemed re-export” regulations). Customer agrees that no data, information, Product and/or materials resulting from the use of any Product will be exported, directly or indirectly, in violation of these Laws, or will be used for any purpose prohibited by these Laws.

Each of the documentation and the software components that constitute a Product is a “commercial item” as that term is defined in FAR 2.101, consisting of “commercial computer software” and “commercial computer software documentation” as such terms are used in FAR 12.212 (“Computer Software”). If acquired by or on behalf of a civilian agency, the U.S. Government acquires the software and any associated software documentation and/or technical data subject to the terms herein as specified in FAR 12.212 (“Computer Software”) and 12.211 (“Technical Data”). If acquired by or on behalf of any agency within the Department of Defense, the U.S. Government acquires the software, software documentation and technical data subject to the terms herein as specified in DFARS 227.7202-3. This U.S. Government Rights clause is in lieu of, and supersedes, any other FAR, DFARS, or other clause or provision that addresses Government rights in computer software or technical data under these terms and conditions.

11. TERM; TERMINATION; SUSPENSION

For subscription, support or hosting services, the provision of such services is limited to the applicable Service Term. Stryker may, at its option, immediately suspend Customer's use of any Stryker Software if: (a) Customer is in breach of this Agreement (including the Software and Hosting Terms or a Product Addendum); (b) Stryker believes that Customer's use of a Product poses a security risk; or (c) Stryker suspects fraud or abuse. Stryker will give Customer notice before suspending Customer's use if permitted by Law or unless Stryker reasonably determines that providing notice presents a risk of harm, in which case Stryker will notify Customer as soon as feasible or permitted. Stryker will promptly reinstate Customer's access once Stryker has determined that the issue causing the suspension has been resolved. Customer will remain responsible for all fees incurred before and during any suspension.

If either Party breaches a material term of this Agreement and fails to correct the breach within thirty days (except for failure by Customer to pay amounts under this Agreement, in which case the cure period will be ten days) of written specification of the breach, then the breaching Party is in default and the non-breaching Party may terminate this Agreement. If Stryker terminates this Agreement as specified in the preceding sentence, Customer must pay within ten days all amounts, which have accrued prior to such termination, as well as all sums remaining unpaid for Products ordered and/or received under this Agreement plus related taxes and expenses. Except for nonpayment of fees, the non-breaching Party may agree in its sole discretion to extend the thirty-day period for so long as the breaching Party continues reasonable efforts to cure the breach. Customer agrees that if Customer is in default under this Agreement, Customer may not use those Products which Customer ordered. Upon termination or expiration of this Agreement or a Service Term, all of Customer's rights to use Stryker Software and the Hosting Services expire, and Customer will immediately cease use and return to Stryker any copies of any use Stryker Software any accompanying documentation.

Upon the termination or expiration of any Hosting Services, Stryker will make Customer's Content (as it existed at the end of the date of termination or expiration) available for retrieval by Customer for up to thirty days (or such different period set out in the Product Addendum). At the end of such retrieval period, and except as required by Law or as otherwise set forth in this Agreement, Stryker will delete or otherwise render unrecoverable Customer's Content that remains in the environments hosted by Stryker for Customer. If Stryker hosts or stores Customer's Content beyond the Service Term, Customer will pay to Stryker, and will be responsible to Stryker for, Stryker's hosting and storage fees.

Any terms that should survive termination by their nature will so survive, including limitations of liability and ownership rights of Stryker. Termination by any means will not affect the provisions of this Agreement relating to the payment of amounts due or the survival provision of this Agreement, regardless of the reason for termination.

12. GENERAL TERMS

Customer agrees that this Agreement and the information which is incorporated into this Agreement or Product Documentation by written reference (including reference to information contained in a URL or referenced policy), together with the applicable Ordering Document, are the complete agreement for the Products ordered by Customer and supersede all prior or contemporaneous agreements or representations, written or oral, regarding such Products. It is expressly agreed that the terms of this Agreement will supersede the terms in any purchase order, procurement internet portal or any other similar non-Stryker document and no terms included in any such

purchase order, portal or other non-Stryker document will apply to the Products ordered. Stryker may refer to Customer as a customer of the ordered Products in sales presentations, marketing vehicles and activities.

Except for the obligation to pay fees when due, neither Party will be liable to the other Party in respect of any hindrance, delay, or failure to perform that results from any event or cause that is beyond the reasonable control of the Party obligated to perform, including acts of God, labor disputes, the requirements of any governmental authority, war, civil unrest, terrorist acts, delays in manufacture, obtaining any required license or permit, and Stryker's inability to obtain goods from their usual sources. If for any reason a court or competent jurisdiction finds any provision of this Agreement invalid or unenforceable, the provision will be enforced to the maximum extent permissible, and the other provisions of this Agreement will remain in full force and effect. Stryker's failure to enforce any right or provision of this Agreement will not be considered a waiver of such right or provision. Except as expressly set forth in this Agreement, the exercise by Stryker of any of its remedies under this Agreement will be without prejudice to its other remedies under this Agreement or otherwise.

Stryker is an independent contractor, and nothing in this Agreement is intended to create a partnership or joint venture between the Parties. Customer has no power to bind or obligate Stryker in any manner. Except with respect to persons and entities that Customer agrees to indemnify as set forth above, nothing express or implied in this Agreement is intended to confer, or will confer, upon any person or entity other than Customer and Customer's permitted assigns any rights, remedies, obligations, or liabilities whatsoever. Customer may not assign, delegate, or transfer this Agreement (in whole or in part), by operation of Law or otherwise, without Stryker's prior written consent. Stryker may assign, delegate, or transfer this Agreement to any of its affiliated entities. Subject to the foregoing, this Agreement will bind and inure to the benefit of the Parties and their successors and permitted assigns.

Stryker reserves the right to amend any of the terms of this Agreement by posting notice on a Stryker designated web site, by email notification to an email address provided by Customer, by providing notice as part of the process in which Customer obtains updates, or by any other legally recognizable form of notice. If Customer does not agree to the amendment, Customer should promptly contact Stryker for instructions. Customer's continued use of a Product after the effective date of any such notice will be deemed Customer's agreement to be bound by such amendments. Except as otherwise set forth in this paragraph, no amendments may be made to this Agreement except in writing signed by both Parties, and any notice required under this Agreement must be provided to the other Party in writing.

Except to the extent preempted by federal Law, the Laws of Michigan, other than its conflict-of-Laws principles, govern this Agreement and any claims and disputes (whether contract, tort, or otherwise) arising out of or relating to this Agreement or the Products. The Uniform Computer Information Transactions Act does not apply to this Agreement or any Products. EXCEPT TO THE EXTENT PROHIBITED BY LAW, STRYKER AND CUSTOMER EXPRESSLY WAIVE TRIAL BY JURY WITH RESPECT TO ANY MATTERS OR DISPUTES ARISING UNDER OR RELATING TO THIS AGREEMENT. Any claim or cause of action arising under this Agreement must be commenced within one year after the claim or cause of action arises.