Henry Schein Medical Systems, Inc.
6715 Tippecanoe Road, Building C, Suite 4C
Canfield, OH 44406

HENRY SCHEIN MEDICAL SYSTEMS MICROMD
SOFTWARE MAINTENANCE AGREEMENT
V.2022b

A. HSMS developed a proprietary computer software system known as MicroMD PM AND MICROMD EMR, as listed on the accepted proposal.

B. Client (as identified on an accepted proposal) has been granted by Henry Schein Medical Systems, Inc. ("HSMS") a personal, non-exclusive, non-transferable, non-sublicensable, limited license an annual, non-assignable, non-exclusive license to use the System (as defined below) under an end user license agreement between client and HSMS

C. Client desires HSMS or its authorized agent to provide maintenance and support beyond the warranty period for the System and subsequent revisions.

In consideration of the mutual promises and covenants set forth herein, the parties hereby agree to the following terms and conditions:

1. **DEFINITIONS.** The following terms used in this Software Maintenance Agreement ("Agreement") shall have the meanings as specified:

    A. "System" means the HSMS computer software system known as MicroMD and all systems programs, applications programs and databases related thereto including all files, modules and interfaces.

    B. "Update(s)" shall mean all improvement(s), bug fixes, modification(s), update(s) and upgrade(s) to the System to cause the System to operate under HSMS's latest version(s) or release(s) and HSMS's supported operating system(s), as well as regularly scheduled enhancement(s) to the System.

    C. "Certified Personnel" shall mean a person or persons properly trained on the use and operation of the System by attending the MicroMD training program as offered by HSMS or its authorized agent.

2. **TERM**. This Agreement shall begin on earlier to occur of (i) completion of the authentication, installation and activation of the System or (ii) 90 days from the date the end user license agreement between Client and HSMS (the "License Agreement") is mutually accepted and shall continue for a 12-month period ("Initial Term"). Thereafter, this Agreement shall automatically renew for successive one (1) month periods ("Renewal Terms") unless either party provides the other party with written notice of cancellation of this Agreement at least 30 days prior to the end of the Initial Term or any Renewal Terms. Upon cancellation of this Agreement, Client will no longer have access to HSMS support services and will no longer receive Updates for the System. If Client cancels this Agreement and later opts to reinstate software maintenance for the System, Client will be subject to a fee in an amount equal to the software maintenance fees then in effect pro-rated retroactively from the date of reinstatement to the date of cancellation of this Agreement. Notwithstanding the foregoing, this Agreement shall automatically terminate upon any termination or expiration of the License Agreement.

3. **MAINTENANCE.** HSMS or its authorized agent shall support, maintain and provide Updates to the System during the term of this Agreement ("System Maintenance"); provided that *the System has been installed and configured by HSMS's Certified Personnel and that the System is up to date with not more than two major uninstalled Updates*. Updates will be sent to the location set forth in this Agreement. Any change in location of site(s) or number of seat(s) must be mutually agreed upon by both Client and HSMS

    As of the date hereof, System Maintenance includes Updates and the assistance set forth below:

    A. US toll-free telephone assistance Monday through Friday 8:00 a.m. to 6:00 p.m., eastern standard time with on-call telephone assistance Monday through Friday 5:00 p.m. to 8:00 p.m. eastern standard time and Saturdays 8:00 a.m. to 2:00 p.m. eastern standard time.

    B. Assistance in "troubleshooting" any problematic operation of the System. This does not include training, customization or feature improvement work, nor addressing issues caused by modifications or interfaces not developed by HSMS, all of which work would be undertaken at the discretion of HSMS. Any such additional training, customization, feature improvement or issue resolution would be estimated at additional cost at HSMS current rates and subject to additional terms and conditions to be mutually agreed between the parties.

C. Remote assistance via a Client-provided Remote Desktop Portal (RDP), Virtual Private Network (VPN) or modem. To allow for a remote connection, Client agrees that it shall make available remote accessibility at pre-determined and mutually agreed upon dates and times, for the sole purpose of allowing HSMS technical staff to connect to, support, monitor and automatically update the System.

D. On-Site assistance only when no other practical alternative exists and the absence of a hardware malfunction has been verified by HSMS's technical support representatives, which on-site assistance may be subject to a per hour surcharge for labor and reimbursement of expenses, including for travel and per diem, that will be discussed with and acknowledged by the Client in the form of a written estimate from HSMS.

System Maintenance does not include Client or third party caused data corruption, accidental loss, and deletion of data, or subsequent requests to recreate or repair data files. Issues caused by third party or non-HSMS-owned software programs, interfaces or other coding that have not been certified by HSMS as system-compatible are also excluded from System Maintenance but may be addressed at the discretion of HSMS for an additional charge. Assistance with recreation or repair of data files, third party or non HSMS owned software programs and other services will be performed at the discretion of HSMS subject to charges for labor and other expenses, including a minimum charge. As of the date hereof, labor rates average $125 per hour. Such rates are subject to change based on the then current pricing structure of HSMS for such work.

4. **LOCATION OF THE SYSTEM.** The locations of the System(s) for which System Maintenance shall be provided as identified in the accepted proposal. Any additional locations should be submitted to HSMS in writing and may require a special amendment and pricing proposal.

5. **MAINTENANCE FEES AND PAYMENT TERMS.** The number of licensed providers and/or concurrent users authorized under this Agreement is indicated on the Investment Proposal executed between Client and HSMS. The terms and conditions in this Agreement shall apply to all subsequent orders by Client for additional providers and/or concurrent users under this Agreement. The maintenance fee applicable during the Initial Term, as set forth in Section 2, for support, enhancements and Updates for all software licensed under the License Agreement is indicated on the Investment Proposal executed between Client and HSMS. The maintenance fee for any Renewal Term shall be set at the discretion of HSMS, but shall not be increased, on a percentage basis, by more than the percentage change in the Consumer Price Index – All Urban Consumers (U.S. city coverage, seasonally adjusted, all items, base period 1982-84=100) over the most recently published 12-month period prior to the date of such increase by the Bureau of Labor Statistics. Fees due under this Agreement shall be payable by Client for the Initial Term or for Renewal Terms within 30 days of invoice. Failure to pay in accordance with the foregoing payment terms will void this Agreement until such time payment is made in such an amount to bring Client's account current. Payments for services not included in System Maintenance are due upon receipt of invoice. All amounts are in, and all payments shall be made in, US Dollars.

6. **TAXES.** All maintenance fees are exclusive of any federal, state, municipal or other governmental excise, sales, value-added, use, personal property or occupational taxes, excises, withholding obligations or other levies or charges now in force or enacted in the future and, accordingly, such fees are subject to increase in an amount equal to any tax HSMS may be required to collect or pay in connection with the services rendered hereunder, other than any tax on the net income of HSMS

7. **LIMITED WARRANTY AND DISCLAIMER.** HSMS warrants that if, during the term of this Agreement, Updates are defective or cause the System to operate other than substantially in accordance with operational characteristics set forth in HSMS's online help files and published user guides and manuals for the System (the "Documentation"), HSMS will at no charge, after receiving notice from Client, correct such defects and shall make the System operate in accordance with the Documentation; provided, however, that the foregoing warranty shall not apply to (i) modifications, alterations, changes or interfaces of or to the System by any person or entity other than HSMS; (ii) operation of the System in a manner that is not in accordance with standard operating procedures set forth in the Documentation; (iii) use of the System (a) for any purpose other than solely for Client's internal and proper business purposes or (b) in a manner not authorized under the License Agreement; (iv) use of any other software or use of the System in combination with any other software or products; or (v) the operation of a computer or other equipment that is used in connection with the System. THE LIMITED WARRANTY SET FORTH IN THIS SECTION IS EXCLUSIVE AND IN LIEU OF AND HSMS HEREBY DISCLAIMS AND CLIENT HEREBY WAIVES, ALL OTHER REPRESENTATIONS, WARRANTIES AND GUARANTEES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS OF THE SYSTEM FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, DATA ACCURACY, SYSTEM INTEGRATION OR QUIET ENJOYMENT AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING OR COURSE OF PERFORMANCE. CLIENT EXPRESSLY ACKNOWLEDGES THAT, BECAUSE OF THE COMPLEX NATURE OF COMPUTER SOFTWARE, HSMS CANNOT AND DOES NOT WARRANT THAT THE OPERATION OF THE SYSTEM WILL BE WITHOUT INTERRUPTION OR ERROR-FREE. NO HSMS EMPLOYEE OR AGENT IS AUTHORIZED TO MAKE ANY EXPANSION, MODIFICATION OR ADDITION TO THIS LIMITATION AND EXCLUSION OF WARRANTIES IN THIS AGREEMENT. IN ADDITION, HSMS MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE TIMING OR NUMBER OF UPGRADES, UPDATES OR NEW RELEASES EACH YEAR.

8. **PROPRIETARY INFORMATION AND CONFIDENTIALITY.** Client acknowledges that HSMS is the exclusive owner of all right title and interest in the System. Any other modules or components provided to Client by HSMS for use with the system, including Updates as well as all rights in inventions, discoveries and works of authorship and all patent, trademark, copyright, trade secret, moral and other intellectual property rights related thereto (such rights collectively, "Intellectual Property Rights"), are and shall remain the possession of HSMS. Client acknowledges and agrees that the System contains program logic, file structure and strategy proprietary to HSMS and that it shall use the same degree of care to safeguard disclosure of System software and Documentation to third parties as Client would use with respect to similar proprietary data of its own. This obligation of Client shall not apply to Documentation, or any portion thereof, which: (i) is now or hereafter becomes publicly known through no action or inaction of Client; (ii) is obtained by Client from a third party that is legally entitled to disclose such information on a non-confidential basis; (iii) is known by Client prior to its receipt; or (iv) is disclosed with HSMS's prior written consent. Notwithstanding anything to the contrary (including in any other agreement Client has entered into with HSMS), as long as HSMS remains subject to 45 CFR 170 as a developer of certified health information technology, Client is permitted to make certain communications about HSMS' certified applications, in accordance with Section 4002 of the 21st Century Cures Act (the "Cures Act") and 45 CFR 170.403 (the "Communications Rule"). Client recognizes that HSMS needs to avoid outright copying of its intellectual property by third parties to remain viable as a company. To help support this, Client shall ensure that any communications involving HSMS Confidential Information are within the scope of the protected subject areas in the Communications Rule, and that each such communication uses the least amount of HSMS Confidential Information necessary to fulfill its purpose. HSMS does not prohibit or restrict any communication regarding usability, interoperability, security, user experiences, business practices related to exchanging electronic health information, or how a user of HSMS health information technology used such technology unless such prohibition or restriction is permitted under CFR § 170.403(a)(2)(ii). HSMS does not prohibit communication of any information whatsoever when the communication is about one or more of the subject matters listed in CFR § 170.403(a)(1) and is made for any of the following purposes: making a disclosure required by law; communicating information about adverse events, hazards and other unsafe conditions to government agencies, health care accreditation organizations and patient safety organizations; communicating information about cybersecurity threats and incidents to government agencies; communicating information about information blocking and other unlawful practices to government agencies; or communicating information about any failure to comply with a Condition of Certification requirement under the Cures Act. Notwithstanding the confidentiality requirements hereof, use of screenshots or video of any certified HSMS applications (i.e., those that come within the purview of the Cures Act) must be in accordance with the guidelines established by the Cures Act and its implementing regulations. In particular, if a communication is in reference to a certified application, and the communication requires use of screenshots or video (for purposes of clarity, video may be used only if the subject of the communication is a temporal matter and the communication cannot be accomplished via use of screenshots or another method), it must not alter the screenshots or video (other than to annotate or resize them); only the minimum number of screenshots necessary to make the communication may be used; and video clips must be of the shortest duration needed to communicate the message.

9. **INDEMNIFICATION.**

   A. HSMS shall indemnify, defend and hold Client harmless from and against any and all liability, damages, loss or expense, including reasonable attorney fees (collectively, "Losses") arising from any claim, demand, suit, action or proceeding (collectively, "Claims") initiated by a third party based upon infringement or misappropriation of such third party's Intellectual Property Rights resulting from the System or Client's use thereof in accordance with the terms and conditions hereof; provided, however, that, as a condition of HSMS's obligations in this Section taking effect, (i) Client shall promptly notify HSMS of any threat or initiation of any such Claim to which such obligations apply; (ii) Client shall assist HSMS upon the request of HSMS in the defense or settlement of such Claim; and (iii) HSMS shall have complete control over any such defense or settlement. In addition, HSMS's obligations under this Section shall not apply to any Losses or Claims arising out of or relating to (a) any use or operation of the System that is not in accordance with the terms and conditions hereof or the License Agreement or (b) any modifications, alterations, changes or interfaces of or to the System by any party other than HSMS, or any use or operation of the System in combination with any other software or any other products or devices.

   B. Client shall indemnify, defend and hold harmless HSMS and its authorized agent and their respective officers, directors, employees, agents and other representatives from and against all Claims and Losses arising out of or relating to (i) Client's use or operation of the System, except to the extent of any Claims and Losses to which HSMS's obligations in Section 9.A shall apply; (ii) Client's breach of any term or condition hereof; (iii) any negligent act or omission or intentional misconduct of Client or its officers, directors, employees, agents or other representatives or (iv) any modifications, alterations or changes of or to the System not made by HSMS, including but not limited to interfaces and interoperability applications, whether such claims relate to infringement, misappropriation, dilution or other violation of the intellectual property rights of any third party, or other matters.

10. **LIMITATION OF LIABILITY.** IN NO EVENT SHALL HSMS BE LIABLE TO CLIENT OR ANY THIRD PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES INCLUDING, BUT NOT LIMITED TO, PATIENT SAFETY, INCORRECT DATA ENTRY, LOSS OF DATA, LOST PROFITS, LOST REVENUE,

LOST SAVINGS, LOSS OF USE OF THE SYSTEM, BUSINESS INTERRUPTION OR COST OF SUBSTITUTED FACILITIES, EQUIPMENT OR SERVICES, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF HSMS OR ITS AUTHORIZED AGENT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND WHETHER ANY CLAIM FOR RECOVERY THEREOF IS BASED ON THEORIES OF CONTRACT, NEGLIGENCE, TORT (INCLUDING STRICT LIABILITY) OR OTHERWISE. IN NO EVENT SHALL HSMS'S AGGREGATE LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT EXCEED THE TOTAL MAINTENANCE FEES PAID BY CLIENT HEREUNDER. CLIENT ACKNOWLEDGES THAT HSMS HAS SET ITS RESPECTIVE FEES AND OTHER PRICES RELATING TO THE SYSTEM (INCLUDING ANY UPDATES) IN RELIANCE ON THE DISCLAIMERS OF WARRANTY AND LIMITATIONS AND EXCLUSIONS OF LIABILITY SET FORTH HEREIN AND THAT THOSE PROVISIONS FORM AN ESSENTIAL BASIS OF THE BARGAIN BETWEEN THE PARTIES.

11. **MISCELLANEOUS.**

A. <u>Entire Agreement; Amendments; No Waiver</u>. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof. All prior or contemporaneous agreements, proposals, understandings and communications between or involving the parties, whether oral or written, are superceded by this Agreement. The terms contained in this Agreement shall supercede any conflicting terms contained in any purchase order, invoice or other document used or submitted by either party in connection with the license or maintenance of the System. This Agreement may not be amended, nor any obligation waived, except by a writing signed by both parties. Notwithstanding the foregoing, HSMS may, from time to time, give Client written notice of amendment to this Agreement, whether by electronic mail, website postings or otherwise, to comply with regulatory changes or contractual obligations imposed upon it by third parties, including but not limited to government entities. No express or implied waiver by either party of any event of default hereunder shall in any way be, or be construed as, a waiver of any subsequent event of default.

B. <u>Assignment</u>. Neither this Agreement nor any of Client's rights, duties or obligations hereunder may be assigned or delegated by Client, in whole or in part, without the prior written consent of HSMS. Any attempted assignment or delegation by Client in contravention of the provisions of this Section shall be void and without force or effect. Except as otherwise provided herein, this Agreement shall be binding upon and shall inure to the benefit of the respective successors and permitted assigns of the parties.

C. <u>Severability</u>. If any provision (or any portion thereof) of this Agreement is held to be invalid, illegal or unenforceable for any reason, the remaining provisions will continue in full force without being impaired or invalidated in any way. The parties agree to replace any invalid provision with a valid provision that most closely approximates the intent and economic effect of the invalid, illegal or unenforceable provision.

D. <u>Headings</u>. The headings in this Agreement are intended for convenience of reference and shall not affect its interpretation.

E. <u>Due Authorization</u>. Each party represents and warrants that it has full power and authority to enter into this Agreement and that this Agreement has been signed by its duly authorized representative.

F. <u>Notices</u>. Except as otherwise provided herein, all notices provided hereunder shall be in writing and shall be forwarded by registered or certified mail and sent to HSMS or its authorized agent or Client, as applicable, at the addresses set forth on the first page of this Agreement or to such other address as such party last provided to the other party in accordance with the provisions of this Section.

G. <u>Independent Contractor</u>. Notwithstanding any provision in this Agreement, for all purposes of this Agreement, HSMS or its authorized agent and Client are and shall be independent contractors and shall not be the partner, joint venturer or agent of the other, and shall not bind or attempt to bind the other party to any contract or other obligation.

H. <u>Governing Law</u>. This Agreement shall be governed by the laws of the State of Ohio, without reference to conflict of laws principles.