

TERMS AND CONDITIONS

1. Terms and Conditions. In connection with the sale of a System, Company may provide from time to time certain software, documentation, supplementary materials and other materials distributed with or communicated by Company (together, the “**Supplementary Materials**”). Customer acknowledges and agrees that the form, content and nature of the Supplementary Materials may change from time to time without prior notice. Customer further acknowledges and agrees that Company may cease (permanently or temporarily) providing the Supplementary Materials at its sole discretion, without prior notice to Customer. As a condition to access and ongoing use of the Supplementary Materials, Customer agrees to and shall abide by Company’s terms of service and any other appropriate agreements and policies, which may include a privacy policy.

2. System. Company will ship to Customer the System(s), in the quantity specified in the Agreement to which these Terms and Conditions are attached. Customer agrees to use each System subject to the Agreement, in accordance with all applicable laws, regulations and permits, and solely for the applications for which it was intended. Title and risk of loss to the System(s) shall pass to Customer upon delivery, subject to Customer’s payment in full of the Price.

3. Fees and Payment. Customer shall pay Company the Purchase Price and other amounts set forth herein (the “**Price**”). Except as otherwise set forth hereunder, all payments are non-cancellable and non-refundable, and due and payable in U.S. dollars within thirty (30) days from the date of invoice. If Customer has an Applicable Payment Method on file with Company, Company may charge such Applicable Payment Method in accordance with Section 4. Any payments more than thirty (30) days overdue will bear a late payment fee of 1.5% per month, or, if lower, the maximum rate allowed by law. In addition, Customer will be responsible for all taxes, duties, withholdings and the like (excepting taxes based on Company’s net income). Company reserves the right to change the fees for the Service Plan after a period of 12 months from the date of execution of this Agreement.

4. Payment Authorization. Customer hereby authorizes Company to charge all applicable sums (including the Price) for the System(s), including all applicable taxes (e.g., goods and services tax, sales tax, value added tax, etc.), to the payment method specified in Customer’s account (the “**Applicable Payment Method**”). If the Applicable Payment Method is a credit card, then: (a) Company may seek pre-authorization of Customer’s credit card account to verify that the credit card is valid and has the necessary funds or credit available to cover any fees that may apply; and (b) Customer hereby authorizes Company to place a hold on such credit card for sums sufficient to cover any other amounts that Customer may owe to Company under this Agreement.

5. Grant of Limited License. Subject to Customer’s compliance with all of the Terms and Conditions of this Agreement, Company grants Customer a non-sublicensable, non-transferable, non-exclusive, license to use the Enlight Software on the InVision Device in accordance with all applicable Company-provided documentation. Except for the license expressly set forth above, Company retains all right, title and ownership in and to the Enlight Software. The license granted to Customer in this Section 5 is intended for Customer’s internal use only.

6. Restrictions. Customer shall not (and will not allow any third party to): (a) reverse engineer, decompile, or otherwise attempt to discover any source code or underlying ideas or algorithms of any System (except to the extent that applicable law prohibits reverse engineering restrictions); (b) remove any proprietary notices or labels from any System; (c) allow the transfer, transmission, export, or re-export of any System or portion thereof in violation of any export control laws or regulations administered by the U.S. Commerce Department, OFAC, or any other government agency; (d) service or disassemble any System without Company’s prior written consent and at Company’s direction or (e) use any System for any purpose other than as expressly set forth in this Agreement. All the limitations and restrictions on each System in this Agreement also apply to all Company-provided documentation.

7. Updates. Company may, in its sole discretion, provide replacements, updates, upgrades, modifications, or bug fixes for the Enlight Software to Customer (“**Updates**”), either remotely or on-site. At Company’s option, such Updates may be provided free of charge, or for a fee determined by Company. Each Update will be deemed part of the Enlight Software and subject to the terms of this Agreement.

8. Training and Support. Upon the delivery of a System, Company will make web based training videos available. Company will be responsible for providing additional support to Customer for each System in accordance with the Service Plan Agreement.

9. Feedback. If Customer provides any feedback to Company concerning the functionality or performance of any System (including identifying potential errors and improvements), Customer hereby assigns to Company all right, title, and interest in and to the feedback, and Company is free to use the feedback without payment or restriction.

10. Confidentiality. “**Confidential Information**” shall include any information reasonably understood to be confidential or proprietary, disclosed by Company, or its agents, to Customer. Confidential Information does not include any information that is publicly available or becomes publicly available other than through Customer’s breach of the confidentiality obligations in this Agreement. Customer shall maintain the Confidential Information in strictest confidence and take all reasonable precautions to protect

such information and shall take all steps reasonably necessary to maintain the confidential nature of same.

11. Publicity. Company may use Customer's name in the same manner in which it uses the names of its other clients, including, but not limited to, in customer lists, on Company's website, and in information provided to investors. Company may not use Client's name in any other way without Client's prior written consent.

12. Indemnification. Company will hold Customer harmless from liability to third parties resulting from infringement by the System of any U.S. patent (issued sixty (60) days or more before first delivery to the Customer hereunder) or any copyright, or for misappropriation of any third party trade secrets; provided that, Company is promptly notified of any and all threats, claims and proceedings related thereto, is given reasonable assistance, and has sole control over defense and settlement thereof. The foregoing obligations do not apply: (i) in the event the System is modified after delivery by Company; (ii) in the event the System is combined with other products, processes or materials, where the alleged infringement relates to such combination; (iii) where Customer continues allegedly infringing activity after being notified thereof or of modifications that would have avoided the alleged infringement; or (iv) where Customer's use of the System is not strictly in accordance with this Agreement. In the event that the System is held to or believed by Company to infringe, Company will have the option to: (A) modify the System to be non-infringing; (B) obtain for Customer a license to continue using the System; (C) at Company's own expense, replace the System with non-infringing products; or (D) remove the enjoined System and (as Customer's sole remedy) refund to Customer the unused portion of the fees paid for such System, depreciated on a straight-line basis over a five (5) year period. Customer will defend, indemnify and hold Company harmless against any claims, damages settlements and expenses (including, without limitation, attorneys' fees) excluded from Company's indemnity obligation. THIS SECTION 12 SETS FORTH COMPANY'S SOLE OBLIGATION AND CUSTOMER'S SOLE REMEDY IN THE EVENT OF VIOLATION OF THIRD PARTY RIGHTS.

13. Warranty Disclaimer. COMPANY DOES NOT REPRESENT OR WARRANT THAT THE SYSTEM OR ANY SERVICES PROVIDED BY COMPANY WILL BE APPROVED OR ACCEPTED BY ANY GOVERNMENTAL OR REGULATORY BODY, AND COMPANY PROVIDES ITS SYSTEM "AS-IS," WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED. COMPANY DOES NOT GUARANTEE ANY SPECIFIC RESULTS OF ANY USE OF A SYSTEM. COMPANY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, RELATING TO EACH SYSTEM, INCLUDING: (I) ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, OR NON-INFRINGEMENT; AND (II) ANY WARRANTY ARISING OUT OF COURSE OF DEALING, USAGE, OR TRADE. COMPANY DOES NOT WARRANT THAT ANY USE OF ANY SYSTEM WILL BE

UNINTERRUPTED, SECURE, OR FREE OF ERRORS OR HARMFUL COMPONENTS. NO ADVICE OR INFORMATION CUSTOMER OR ANY END USER OBTAINS FROM COMPANY OR ANY SYSTEM WILL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THESE TERMS. CUSTOMER UNDERSTANDS AND AGREES THAT: (A) THE SYSTEM IS AN ENHANCED-CONTRAST IMAGING TOOL FOR USE BY QUALIFIED USERS WHICH DOES NOT PROVIDE DIAGNOSTIC OR TREATMENT ADVICE AND (B) CUSTOMER TAKES COMPLETE RESPONSIBILITY FOR ITS USERS' USE OF ANY SYSTEM, AND ANY USE IS AT CUSTOMER'S AND ITS USERS' OWN DISCRETION AND RISK.

14. Limitation of Liability. EXCEPT WITH RESPECT TO CUSTOMER'S BREACH OF SECTIONS 3 (FEES AND PAYMENT), 5 (GRANT OF A LIMITED LICENSE), 6 (RESTRICTIONS), OR 10 (CONFIDENTIALITY) NEITHER PARTY SHALL NOT BE LIABLE WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT, UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY, FOR ANY: (I) AMOUNTS IN EXCESS OF THE PURCHASE PRICE; (II) FOR ANY COST OF PROCUREMENT OF SUBSTITUTE GOODS, TECHNOLOGY, OR SERVICES; OR (III) FOR ANY INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, FOR LOSS OF BUSINESS, REVENUE, OR DATA). NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, COMPANY WILL NOT, UNDER ANY CIRCUMSTANCES, BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY DAMAGES ARISING OUT OF OR RELATING TO ANY MEDICAL OR OTHER DIAGNOSTIC PROCEDURE CONDUCTED IN CONNECTION WITH USE OF ANY SYSTEM.

15. Not for Resale. Customer acknowledges and agrees that the System is being purchased solely for Customer's own use and not for resale purposes. Accordingly, Customer agrees not to sell any System to any person or export any System for sale outside of the United States.

16. Non-Assignability and Binding Effect. Customer may not assign its rights or obligations under this Agreement, including pursuant to a merger, change of control, or by operation of law, without the prior written consent of Company. Company may assign this Agreement without restriction. Any attempted assignment in violation of this Section 15 shall be null and void. Subject to the foregoing, this Agreement will be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns.

17. Notices. Any notice required or permitted to be given under this Agreement will be effective if it is in writing and sent by certified or registered mail, or insured courier, return receipt requested, to the appropriate party at the address set forth above and with the appropriate postage affixed. Either party may change its address for receipt of

notice by notice to the other party in accordance with this Section 17. Notices are deemed given two business days following the date of mailing or one business day following delivery to a courier.

18. Modification. No modification or waiver of, addition to, or deletion from, this Agreement shall be effective unless reduced to writing and signed by duly authorized representatives of the parties hereto.

19. Governing Law. The laws of the State of California govern this Agreement, including any dispute arising hereunder, without giving effect to provisions related to choice of laws or conflict of laws.

20. Dispute Resolution. The parties agree to resolve all disputes, claims, and controversies arising out of or in connection with or with respect to this Agreement or any breach of this Agreement by arbitration in San Francisco, California, in accordance with the rules of the American Arbitration Association (“AAA”). The arbitration will be conducted by a single arbitrator agreed by the parties or appointed by the AAA if the parties cannot agree. The award rendered by the arbitrator will be final and binding on the parties, and the arbitral judgment may be entered in any court of competent jurisdiction. Nothing in this Section 20 will

prevent either party from applying to a court of competent jurisdiction for equitable or injunctive relief.

21. Remedies Cumulative. The remedies provided to the parties under this Agreement are cumulative and will not exclude any other remedies to which a party may be lawfully entitled.

22. Waiver and Severability. The waiver by either party of any breach of this Agreement does not waive any other breach. The failure of any party to insist on strict performance of any covenant or obligation under this Agreement will not be a waiver of such party’s right to demand strict compliance in the future, nor will the same be construed as a novation of this Agreement. If any part of this Agreement is unenforceable, the remaining portions of this Agreement will remain in full force and effect.

23. Execution in Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which taken together will constitute but one and the same instrument. The Agreement may be executed and delivered with an electronic signature, and the parties agree that such execution and delivery will have the same force and effect as delivery of an original document with original signatures.