

MEDICAL-OBJECTS SOFTWARE LICENCE AGREEMENT

YOU ARE ABOUT TO ENTER INTO A LEGAL AGREEMENT WITH MEDICAL-OBJECTS PTY LTD (“MEDICAL-OBJECTS”).

BY USING ALL OR ANY PORTION OF THE SOFTWARE IN ANY WAY YOU ACCEPT ALL OF THE TERMS AND CONDITIONS OF THIS LICENCE AGREEMENT.

1. INTRODUCTION

- 1.1. In this licence agreement “**Software**” means all of the computer program(s) with which this agreement is provided consisting of a set of instructions or statements in machine readable form, any related explanatory written material or files (“**Documentation**”) and any copies, enhancement, modification or new release (in whole or in part) of such computer program(s) or Documentation.
- 1.2. The Software may either be downloaded by You as a standalone product or provided to You by Medical-Objects as an application service provider (“**ASP**”) or hosted service.
- 1.3. This licence agreement sets out the terms on which Medical-Objects permits You to access and use the Software.

2. SOFTWARE DOWNLOAD

This Clause 2 applies if you are downloading a copy of the Software for use.

2.1. YOUR RIGHT TO USE THE SOFTWARE

- 2.1.1. You acquire a non-exclusive and non-transferable right to:
 - 2.1.1.1. load, install and use the Software on a single computer system (“**Computer**”) which complies with the hardware and operating requirements specified in and otherwise in accordance with, the Documentation;
 - 2.1.1.2. only use the Software in the manner contemplated by the provisions of this agreement;
 - 2.1.1.3. allow the primary user of the Computer upon which the Software is installed to make a second copy for their exclusive use on a portable computer; and
 - 2.1.1.4. make one copy of the Software for backup purposes only.
- 2.1.2. Subject to clause 2.1.1.2, the Software may not be shared or used concurrently with different computer systems (including over a computer network).

2.2. LICENCE FEE

- 2.2.1. Subject to clause 2.3, You are not entitled to use the Software until the applicable licence fee (“**Licence Fee**”) has been paid.

Your right to use the Software may be suspended or cancelled (at Medical-Objects' option) if You fail at any time to make payment of the Licence Fee by the applicable due date.

2.3. EVALUATION OR TRIAL USE

2.3.1. This clause applies if the Software has been provided to You on an 'evaluation or trial use basis'. You are granted a right to use the Software at no charge but otherwise upon the terms and conditions of this agreement for a period of 31 days or a time agreed with Medical-Objects ("**Evaluation Period**") for the purpose of evaluating whether or not you wish to use the Software on an ongoing basis.

2.3.2. Upon expiry of the Evaluation Period:

2.3.2.1. For charged products if You continue to use the Software, You must pay the Licence Fee within 31 days or the agreed time of the expiry of the Evaluation Period and You shall otherwise become fully bound by the provisions of this agreement;

2.3.2.2. if You do not wish to continue to use the Software You shall within 31 days or the agreed time after the date of expiry of the Evaluation Period cease using and destroy all copies of the Software and Documentation or (at Medical-Objects' sole discretion) return the Software and Documentation at your cost to Medical-Objects. You must within 7 days of a request to do so, provide Medical-Objects with a signed statement that You have complied with your obligations under this paragraph.

2.4. YOUR OBLIGATIONS

2.4.1. You agree and undertake (unless enforcement is prohibited by the applicable law) to:

2.4.1.1. not copy, reproduce, translate, adapt, vary or modify the Software without the prior written consent of Medical-Objects (except as expressly authorised by this agreement);

2.4.1.2. not disassemble, decompile or reverse engineer the Software;

2.4.1.3. supervise and control the use of the Software in accordance with the terms of this agreement;

2.4.1.4. ensure that your employees, sub-contractors and other agents who have authorised access to the Software are made aware of the terms of this agreement; and

2.4.1.5. not provide or otherwise make available the Software in any form to any person other than those referred to

in the preceding paragraph without the prior written consent of Medical-Objects.

3. SOFTWARE PROVIDED BY ASP OR HOSTED SERVICE

This Clause 3 applies if Medical-Objects is providing the Software to You as an application service provider or hosted service.

3.1. NATURE OF THE ASP OR HOSTED SERVICE

3.1.1. An ASP or hosted service for software is a service where:

3.1.1.1. a licensee does not receive or install, and is not entitled to receive or install, a copy of the software;

3.1.1.2. the software is not installed on computer equipment operated by the licensee, or at the licensee's premises;

3.1.1.3. the software or parts of the software system is installed on computer equipment operated by or for the licensor ("**ASP server**");

3.1.1.4. the functionality of the software that the licensor permits the licensee to use ("**Browser functionality**") is accessible remotely, typically through a customised interface within a web browser that communicates with the ASP server through a secure internet connection ("**Browser interface**");

3.1.1.5. access to the service depends on the licensee having valid and current access permissions that are recognised by the ASP server ("**Account**"); and

3.1.1.6. the Software is downloaded to the client, but the storage of data is maintained at a server hosted by Medical-Objects.

3.1.2. In this licence:

3.1.2.1. a reference to 'using' or 'accessing' the Software means only using or accessing its Browser functionality through an ASP service;

3.1.2.2. if Medical-Objects divides Browser functionality into designated modules, a reference to Browser functionality means only the module/s that You are entitled to use; and

3.1.2.3. subject to clause 3.4.1, a reference to the Software includes a reference to any form letters, reports and report structures, and other content comprised in it, and any code on an ASP server that is rendered by a web browser to produce the Browser interface, and the Browser interface itself.

3.1.3. Medical-Objects may customise, modify, enhance, adapt, update or replace the Software in its absolute discretion, and a reference to the Software includes such customization, modification, enhancement, adaptation, update or replacement.

3.2. LICENCE TO USE THE SOFTWARE

3.2.1. Medical-Objects will notify You when your Account is ready for use, and provide any user name/s, passwords or other information required to access the Account ("**Account access details**").

3.2.2. You may then use the Software for as long as You:

3.2.2.1. pay all fees and charges due to Medical-Objects in respect of the use of the Software as and when due; and

3.2.2.2. comply with this licence.

3.2.3. If You fail to comply with the preceding clause:

3.2.3.1. this licence automatically ends; and

3.2.3.2. You acknowledge that Medical-Objects may deny You access to the Software without separate notice.

3.2.4. Any access to or use of the Software by You constitutes acceptance of the terms of this licence.

3.3. BROWSER FUNCTIONALITY – MEANING

Medical-Objects will make Browser functionality apparent:

3.3.1. through the design of the Browser interface;

3.3.2. through instruction manuals and other documentation supplied to You; and / or

3.3.3. by other instructions to You.

3.4. OWNERSHIP

3.4.1. If Medical-Objects customises the appearance of the Browser interface to include copyright material owned by You ("**Your branding**"), You will continue to own that copyright material.

3.4.2. Subject to clause 3.4.1, Medical-Objects will be the sole and exclusive owner of the Software and all customisation, modifications, enhancements, adaptations, updates or replacements of it.

3.4.3. Clause 3.4.2 applies even to customisation, modifications, enhancements, adaptations, updates or replacements that are made at the request of or specifically for You and/or

incorporating know-how, ideas, requests or suggestions made by You.

- 3.4.4. Your rights under this licence are not exclusive. Medical-Objects may license the Software to anyone else it chooses.

3.5. USING THE SOFTWARE – GENERAL

You must:

- 3.5.1. only use or attempt to use Browser functionality;
- 3.5.2. not attempt to access or control the ASP server except through the Browser interfaces or Application Programming Interfaces (“API”) that Medical-Objects has given you access to;
- 3.5.3. comply with the current editions of all technical and instructional manuals and documentation provided by Medical-Objects from time to time;
- 3.5.4. comply with any operational guidelines or emergency directions issued by Medical-Objects;
- 3.5.5. experiences or observes, in as much detail as it is reasonably able to;
- 3.5.6. not do anything calculated to damage or impair the Software or the ASP server;
- 3.5.7. not purport to grant any interest in, sub-licence of or derivative right to use the Software except as permitted by clause 10.

3.6. USING THE SOFTWARE – ACCESS AND SECURITY

You must:

- 3.6.1. only access the Software using Account access details supplied and approved by Medical-Objects;
- 3.6.2. keep your Account access details secure and confidential;
- 3.6.3. only disclose your Account access details to your own servants, agents or contracted consultants (your “**People**”) on a need-to-know-basis;
- 3.6.4. regularly change access passwords and keep records of all passwords used or disclosed, in accordance with good computer security practice;
- 3.6.5. if You become aware that Account access details are in unauthorised hands:
 - 3.6.5.1. change any compromised access password forthwith;
 - 3.6.5.2. take any other step reasonably necessary to ensure that no-one suffers harm as a result; and

3.6.6. keep your computer system, network and internet connectivity secure and confidential in accordance with good computer security practice.

3.7. THE SOFTWARE – LICENSING BY SEATS

3.7.1. Without limiting the ways in which Medical-Objects may charge for the use of the Software, this clause applies if it does so by reference to 'seats'.

3.7.2. A 'seat' is a discrete log-in to the Medical-Objects ASP server. The number of seats for which You are licensed is the number of discrete, simultaneous log-ins permitted to You.

3.7.3. A 'named seat' is a seat that is allocated to an individual or a permitted replacement of such an individual.

3.7.4. You acknowledge that you may not exceed your licensed number of seats.

3.7.5. You must ensure that only the individual named uses their named seat. Named seats may only be transferred with Medical-Objects' written consent, which must not be withheld unreasonably.

4. DOCUMENTATION

4.1. All manuals, instructions, literature and other documentation supplied in connection with Medical-Objects Software ("**Documentation**") are copyright to Medical-Objects and provided by way of loan only.

4.2. You may make a reasonable number of copies of the Documentation to support your use of the Software in accordance with this licence, but all such copies are the property of Medical-Objects.

4.3. If Medical-Objects issues updated or replacement Documentation, You must replace all outdated Documentation with it. Medical-Objects is not responsible for harm that may arise from Your use of non-current Documentation.

4.4. When this licence ends, You must return all existing Documentation (including all copies of it) to Medical-Objects on request.

5. LIMITATION ON OBLIGATIONS

5.1. Subject to clause 8.3, Medical-Objects' obligations under this licence are limited to the express obligations set out in it.

5.2. To avoid doubt, nothing in this licence obliges Medical-Objects to provide user documentation, training or any other support in relation to Medical-Objects Software. If such services, or other services, are to be provided, they will be documented in the Participation Agreement or otherwise in writing.

6. OBLIGATION TO CONTROL STAFF

You may allow your People to access or use the Software, but:

- 6.1. their acts and omissions with respect to the Software are taken to be your acts and omissions; and
- 6.2. You must ensure that they do not do, or fail to do, anything that would breach this licence if You did, or failed to do, that thing.

7. TECHNICAL REQUIREMENTS, PERFORMANCE AND AVAILABILITY

7.1. Medical-Objects will publish minimum technical requirements for the use of the Software, and may revise them from time to time:

- 7.1.1. on at least 28 days' notice in the case of changes that require new or different hardware, or the purchase of new software; and
- 7.1.2. on at least 7 days' notice in the case of changes that only involve system reconfiguration, or the installation of free software.

7.2. You must ensure, at your own cost in all respects, that your computer system and internet connectivity meet the minimum technical requirements at all times.

7.3. You acknowledge that:

- 7.3.1. minimum technical requirements are designed to deliver only basic system performance, and that You may require a more powerful computer system and / or faster internet connectivity to achieve higher level performance;
- 7.3.2. access to and use of the Software may be impaired or prevented by a variety of factors that are beyond Medical-Objects' control, for instance defects in your computer system and problems with internet connectivity between You and the ASP server (if applicable) –

and Medical-Objects is not responsible for any such things or their effects. They do not constitute defects in the Software.

8. INDEMNITY, WARRANTIES, LIABILITY

8.1. To the extent permitted by relevant laws, Medical-Objects excludes all warranties, whether express or implied, including the implied warranties of merchantability and fitness for a particular purpose.

8.2. Medical-Objects does not warrant that the Software will operate in environments other than as specified in the minimum technical requirements or that its operation will be uninterrupted or error-free.

8.3. If any legislation implies a condition or warranty into this licence in respect of goods or services supplied, and Medical-Objects' liability for breach of that condition or warranty may not be excluded but may be

limited, clause 8.1 does not apply to that liability and instead Medical-Objects' liability for any breach of that condition or warranty is limited to: (a) in the case of a supply of goods, Medical-Objects doing any one or more of the following (at its election): (i) replacing the goods or supplying equivalent goods; (ii) repairing the goods; (iii) paying the cost of replacing the goods or of acquiring equivalent goods; paying the cost of having the goods repaired; or (b) in the case of a supply of services, Medical-Objects doing either or both of the following (at its election): (i) supplying the services again; (ii) paying the cost of having the services supplied again.

8.4. Subject to clause 8.3, Medical-Objects is not liable in respect of any misrepresentation, breach of any implied or express warranty or condition, breach of any other provision, or otherwise liable in contract, tort (including for negligence), equity or otherwise for:

8.4.1. indirect or consequential loss; or

8.4.2. loss of revenue, profits, goodwill, data or use –

however caused which arises out of or in connection with Medical-Objects Software, whether or not Medical-Objects has been advised of the possibility of such loss.

9. COPYRIGHT

9.1. Title to the Software and all associated intellectual property rights are retained by Medical-Objects and/or its licensors. Without limiting this clause, You acknowledge that the Software and Documentation provided by Medical-Objects are the subject of copyright.

9.2. You shall not during or any time after the expiry or termination of this agreement permit any act which infringes the intellectual property rights in the Software.

9.3. You shall indemnify Medical-Objects fully against all liabilities, costs and expenses which it may incur as a result of your breach of the intellectual property provisions of this agreement.

10. ASSIGNMENT

10.1. This licence cannot be assigned or sub-licensed without Medical-Objects' prior written consent.

10.2. If Medical-Objects' gives its consent, this licence is automatically assigned or sub-licensed in favour of the permitted assignee or sub-licensee.

11. WAIVER

No delay or indulgence by Medical-Objects in enforcing the provisions of this agreement shall prejudice or restrict the rights of Medical-Objects nor shall any waiver of those rights operate as a waiver of any subsequent breach of this agreement.

12. SEVERANCE

Should any part of this agreement be held invalid or unenforceable for any reason, this agreement shall remain otherwise in full force apart from such provision(s) which shall be deemed deleted.

13. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the parties with respect to its subject matter and shall supersede all prior representations, agreements, statements and understandings whether verbal or in writing and may not be modified except by an instrument in writing signed by You and a duly authorised representative of Medical-Objects.

14. GOVERNING LAW AND JURISDICTION

This agreement shall be governed by and construed according to the law of Queensland, Australia and the parties irrevocably submit to the exclusive jurisdiction of its Courts and Tribunals and to the Federal Court of Australia sitting in Queensland.