



## SOFTWARE-AS-A-SERVICE AGREEMENT

This Licensing and Services Agreement (“Agreement”) dated as of the “**Effective Date**”, is made and entered into by and between PDDS Buyer, LLC (“**PDDS**”), a Delaware Limited Liability Company, and “**Client**”. In consideration of the mutual promises and covenants in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows.

### 1. LICENSE GRANT.

Subject to the terms of this Agreement, PDDS grants Client a limited license (“License”) to access and use its online dental practice management software (including any subsequent updates, modifications, enhancements, or new versions (“**Denticon**”) only in a manner pursuant to the published user guides, manuals, instructions, and/or specifications provided or made available to Client (“**Documentation**”).

### 2. USE OBLIGATION.

Client (i) will not use Denticon or permit Denticon to be used to perform any file storage or other services for any third party; (ii) will not upload or permit Denticon to be used to upload any data that (A) infringes the intellectual property rights or other proprietary rights of any third party, (B) is unlawful or objectionable material, or (C) contains software viruses or other harmful or deleterious computer code, files or programs such as trojan horses, worms, time bombs or cancelbots; (iii) will not use or permit the use of any software, hardware, application or process that (A) interferes with Denticon, (B) interferes with or disrupts servers, systems or networks connected to Denticon, or violates the regulations, policies or procedures of such servers, systems or networks, (C) accesses or attempts to access another customer’s accounts, servers, systems or networks without authorization, or (D) harasses or interferes with another PDDS customer’s use and enjoyment of Denticon; (iv) will not tamper with or breach the security of Denticon, (v) will not modify, port, adapt, translate or create any derivative work based upon Denticon or the Documentation; (vi) will not reverse engineer, analyze, decompile, disassemble, or otherwise derive or attempt to derive the source code of Denticon, (vii) will not copy, distribute, sell, assign, pledge, sublicense, lease, loan, rent, timeshare, use, offer on a service bureau basis, deliver or otherwise transfer Denticon, in whole or in part; (viii) will not delete or in any manner alter any notices, disclaimers or other legends contained in Denticon or appearing on any screens, documents, reports, numeric results or other materials obtained by Client through use of Denticon; (ix) will not ship, transmit, transfer, or export Denticon into any

country not expressly approved by PDDS or use Denticon in any manner prohibited by United States export laws, restrictions or regulations, (x) will abide by all applicable local, state, national and international laws and regulations, including The US Health Insurance Portability and Accountability Act of 1996 and all current laws, rules and regulations relating thereto. Client will comply with all applicable laws and regulations in its use of the PDDS System. Client, not PDDS, is responsible for any applicable vertical or industry-specific regulation compliance; and (xi) will access Denticon only with e-mail accounts and passwords that follow the protocols of Exhibit A to this Agreement. Notwithstanding the foregoing, Client may make copies of the Documentation for its own internal use in connection with its use of Denticon. Client may print out, or otherwise make, printed copies of the reports, numeric results, and other information or materials generated from Client's access and use of Denticon for internal business purposes only.

### 3. OWNERSHIP.

Denticon and the Documentation are the intellectual property of and are owned by PDDS. As between PDDS and Client, PDDS retains title to and ownership of all right, title and interest in Denticon and the Documentation, including all intellectual property and other proprietary rights therein, and subject to the applicable limited licenses expressly granted by PDDS to Client under this Agreement. All rights not expressly granted herein are reserved by PDDS.

### 4. DISCLAIMERS.

CLIENT UNDERSTANDS THAT THE PDDS PLATFORM, DOCUMENTATION, AND SERVICES ARE BEING PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. PDDS HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO THE PDDS PLATFORM INCLUDING WITHOUT LIMITATION ALL WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.

### 5. LIMITATIONS ON LIABILITY.

THE TOTAL AND ENTIRE LIABILITY OF PDDS AND THE PDDS PARTIES IN THE AGGREGATE TO CLIENT OR ANY THIRD PARTY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT WILL BE LIMITED TO THE FEES RECEIVED FROM CLIENT UNDER THIS AGREEMENT IN THE MOST RECENT THREE MONTH PERIOD. PDDS AND THE PDDS PARTIES SHALL NOT BE LIABLE FOR DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY TYPE ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, DENTICON, WHETHER OR NOT PDDS AND ITS LICENSORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND WHETHER BASED UPON BREACH OF CONTRACT OR TORT (INCLUDING NEGLIGENCE). PDDS AND THE PDDS PARTIES SHALL HAVE NO LIABILITY FOR ANY DAMAGES RESULTING FROM ALTERATION, DESTRUCTION OR LOSS OF ANY DATA OR INFORMATION INPUT, GENERATED OR OBTAINED FROM ACCESS AND/OR USE OF DENTICON, INCLUDING ANY REPORTS OR NUMERIC RESULTS, WHETHER OR NOT PDDS AND THE PDDS PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE LIMITATIONS OF DAMAGES AND LIABILITIES SET FORTH IN

THIS AGREEMENT ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN PDDS AND CLIENT, AND THE PRICING FOR THE LICENSE REFLECTS SUCH LIMITATIONS.

#### 6. REGISTERED AND LICENSED USERS.

In order for Client to access and use Denticon, Client shall register with PDDS, provide PDDS with an email address, complete the online signup process (to include providing valid credit card information), and obtain a unique password for accessing Denticon ("Password"). Upon receiving an initial system Password, Client may issue unique User IDs and passwords, as provided for in Exhibit A hereto, to its employees and agents ("Licensed Users"), if applicable, as provided for in Exhibit A hereto. PDDS may obtain email addresses from Licensed Users upon their accessing and using Denticon for the express purpose of supporting Client. Client is responsible and wholly liable for all acts or omissions committed under Client's Password and any and all passwords issued by Client to Licensed Users.

#### 7. DATA.

Client owns all information and data it inputs or provides while accessing Denticon (the "Data") and, subject to the terms of this agreement, retains control over all Data. PDDS is permitted to access the Data and any reports or numeric results, and prior to Client's submission of Data, reports and numeric results, for the purpose of ensuring proper access and use of Denticon by Client in accordance with this Agreement and to maintain and troubleshoot Denticon. Subject to the terms and conditions of this Agreement, PDDS shall store and otherwise maintain Data, reports and numeric results, and PDDS shall follow the same confidentiality and archival procedures for Client's Data, reports and numeric results as PDDS employs for its own data, as modified from time to time in PDDS' discretion, and in any event shall use due care to prevent the unauthorized use or disclosure of the Data. For Clients located in Alberta, PDDS shall, on request of Client, provide Client with information necessary to monitor compliance with this agreement including providing a description of safeguards in place for the security and protection of the Data. In the event of any loss or damage to Client's Data, reports or numeric results, Client's sole and exclusive remedy shall be for PDDS to use commercially reasonable efforts to replace or restore the lost or damaged data from the latest backup of such Data, reports or numeric results which PDDS has maintained in accordance with its standard archival procedures. PDDS shall have the right to use such Data and to compile and distribute statistical analyses, benchmarking and reports utilizing Aggregated Data derived from the Data in accordance with applicable law (including, but not limited to HIPAA). For purposes of this Agreement, "Aggregated Data" means data and information gathered or obtained by PDDS in connection with the Services, in an aggregated, de-identified form that does not contain or reveal personally identifiable information of Client or any of Client's customers and does not reveal any information that would allow for the identification of Client and/or Client's customers. Client is solely responsible for (i) maintaining the confidentiality of the its credentials, passwords and encryption keys associated with its accounts, (ii) properly configuring and using Denticon and taking its own steps to maintain appropriate security, protection and backup of the Data, (iii) all activities that occur with respect to its accounts

regardless of whether the activities are undertaken by Client, its Licensed Users, its employees or a third party (including its contractors or agents), (iv) Client's access and use of Denticon in compliance with this Agreement and the applicable Documentation, (v) all Data, and (vi) ensuring that the storage of Data on the Denticon system is compliant with applicable privacy law requirements including obtaining patient consent for transfer of information outside of their jurisdiction where applicable/required. PDDS is not responsible for any alteration, compromise, corruption or loss of Data that arises from any access to, sharing or use of your accounts, credentials, passwords or encryption keys.

#### 8. CONFIDENTIALITY.

Client acknowledges that Denticon constitutes and contains confidential, proprietary and copyrighted information and subject matter of PDDS and PDDS Parties ("Confidential Information"). Client agrees to not, directly or indirectly, without PDDS' prior written consent, use the Confidential Information for any purpose other than as expressly permitted under this Agreement; divulge, discuss, provide, transmit, copy, make available or otherwise communicate the Confidential Information to a third party; or permit any third party to use such Confidential Information. "Confidential Information" shall not include information that is shown by competent evidence: (i) is in or enters the public domain without breach of this Agreement; (ii) was possessed by Client prior to first receiving it from PDDS or an PDDS Party; (iii) was developed by Client independently and without use of or reference to the Confidential Information; or (iv) was received by Client from a third party without restriction on disclosure and without breach of a nondisclosure obligation. Notwithstanding the foregoing, each party shall be permitted to disclose Confidential Information of the other party if such disclosure is required by law, provided that the party required to disclose Confidential Information of the other party shall (i) give prompt notice of such requirement to the other Party so it will have the opportunity to seek a protective order or other appropriate remedy; and (ii) cooperate in the other party's attempts to obtain confidential treatment of such Confidential Information.

#### 9. TRADENAMES AND TRADEMARKS.

Each Party hereby agrees that it shall not use or permit any third party to use, at any time, the other party's trademarks, trade names, or logos without written permission of the other Party, although, each Party may use the other Party's trademarks, trade names, and logos in a nominative, non-trademark sense in connection with its marketing materials and/or public client lists.

#### 10. NON-SOLICITATION OF EMPLOYEES.

Client acknowledges that PDDS has extended significant time and energy recruiting, training and retaining its employees. Client agrees to not, directly or indirectly, during the term of this Agreement and for a period of twelve (12) consecutive months immediately following the termination of this Agreement by either Party for any reason, solicit for employment any employees of PDDS or any person who had been employed by PDDS

during the then-prior three (3) month period, or otherwise interfere with the employment relationship between PDDS and any of its employees. This [Section 10] does not preclude Client from hiring any such employee of PDDS who responds to a general solicitation of employment through an advertisement not targeted specifically at PDDS or its employees.

#### 11. INJUNCTIVE RELIEF.

Each party acknowledges that a violation of Sections 1, 2, 3, 7, 8, 9, or 10 of this Agreement would cause irreparable harm to the other party for which no adequate remedy at law exists and each party therefore agrees that, in addition to any other remedies available, the aggrieved party shall be entitled to seek injunctive relief to enforce the terms of Sections 1, 2, 3, 7, 8, 9, or 10. The prevailing party shall be entitled to recover all cost and expenses, including reasonable attorney's fees incurred because of any such legal action.

#### 12. HARDWARE AND SERVICE REQUIREMENTS.

Client is solely responsible for acquiring, servicing, maintaining, and updating all equipment, computers, software, and communications services (such as internet connectivity charges) not owned or operated by or on behalf of PDDS, that allow Client to access and use Denticon, and for all expenses relating thereto (plus any applicable taxes). Client agrees to access and use Denticon in accordance with any and all operating instructions or procedures that may be issued by PDDS, and amended by PDDS from time to time.

#### 13. AVAILABILITY.

Client acknowledges that functionality of Denticon may at times be unavailable and outages may occur. PDDS will use commercially reasonable efforts to make Denticon available to Client twenty-four (24) hours a day, seven (7) days a week, except for: (i) planned downtime (typically during weekend off-hours) and (ii) unplanned downtime beyond PDDS's reasonable control. Notwithstanding the foregoing, PDDS reserves the right, in its sole discretion, to make unscheduled updates or upgrades to Denticon.

#### 14. INDEMNITY.

Except as provided in this Section, PDDS will defend and indemnify Client from and against any damages, liabilities, costs and expenses (including reasonable attorney's fees), arising out of any claim that Denticon infringes a valid United States patent or copyright, or misappropriates a trade secret, of a third party, *provided that*: (i) Client has promptly provided PDDS with written notice thereof and reasonable cooperation, information, and assistance in connection therewith; and (ii) PDDS will have sole control and authority with respect to the defense, settlement, or compromise thereof. If any part of Denticon used by Client becomes, or in PDDS's opinion is likely to become, the subject of any injunction preventing its use as contemplated herein, PDDS will at its option: (a) procure for Client the right to continue using Denticon; (b) replace or modify Denticon, so that it becomes non-infringing without

substantially compromising its principal functions; or, if (a) and (b) are not reasonably available to PDDS, then (c) terminate Client's license to allegedly infringing part(s) of Denticon and provide a refund on a pro rata basis to Client of any monies prepaid by Client for the of the infringing part(s) of Denticon. PDDS will have no liability or obligation to Client hereunder with respect to any claim for patent or copyright infringement or trade secret misappropriation, based upon: (i) use of Denticon in an application or environment or on a platform or with devices for which Denticon was not designed or contemplated; (ii) modifications, alterations, combinations or enhancements of Denticon not created by PDDS; or (iii) any patent, copyright or trade secret in which Client or any of its affiliates has an interest. This Section 14 states the entire liability of PDDS with respect to infringement of patents, copyrights, trade secrets and other intellectual property rights by Denticon or any part thereof or by its use or operation.

#### 15. U.S. GOVERNMENT CLIENTS.

Denticon and Documentation are "Commercial Items", as that term is defined at 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation", as such terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end users (a) only as Commercial Items and (b) with only those rights as are granted to all other end users pursuant to the terms and conditions herein.

#### 16. LICENSE FEE AND TERM.

In exchange for Client's right to use the PDDS Platform, Client shall pay PDDS licensing and other fees as presented by the PDDS Sales Representative. This License shall remain in effect for a term of one year and continue month-to-month thereafter until Termination. Payment shall be monthly via credit card provided at time-of-service activation.

#### 17. TERMINATION.

Either Party may terminate this Agreement immediately if the other Party breaches a material term of this Agreement and fails to remedy that breach within five (5) business days after written notice, which may be electronic, from the terminating Party. Upon termination of this Agreement, all rights, including the license granted to Client under this Agreement will cease and Client's access to Denticon may be disabled. It shall be Client's sole responsibility to extract a copy of the Data from PDDS' data repositories prior to termination of this Agreement. Client may also request, at any time prior to or within ten (10) business days after termination of this Agreement, that PDDS transmit all Data to a secure site from which Client shall have access to the Data until thirty (30) days after termination of this Agreement. PDDS may charge a reasonable fee for this service. PDDS shall delete all Data from all repositories under its control in no less than thirty (30) days and no more than (90) ninety days after termination of this Agreement, unless such Data are needed to support a claim by PDDS against Client. Any

termination by Client not authorized by this Section 17 shall result in an automatic charge to Client's credit card of 3 months' Licensing fees based on the average of the prior 6 months' Recurring Fees. The Parties acknowledge that this payment for early termination by Client is negotiated compensation for the advance work by PDDS in setting up its Platform for Client. Upon termination of this Agreement, Sections 2, 3, 5, 6, 7, 8, 9, 10, 11, and 16 of the Agreement along with all payment obligations under this Agreement, including any outstanding Fees, shall survive such termination.

## 18. MISCELLANEOUS.

A. Modifications. This Agreement, including any Exhibits, is the complete and exclusive statement of the agreement between Client and PDDS, and supersedes any proposal or prior agreement, oral or written, and any other communications between the parties relating to the subject matter of this Agreement. This Agreement may not be modified by Client except upon mutual agreement by the parties in writing.

B. Assignment. The Agreement shall bind the parties and their respective successors and assigns. PDDS may assign the Agreement to a third party without Client's prior written consent. Client may assign the Agreement to an affiliate or due to a change of control or corporate reorganization upon prior written notice to PDDS.

C. Force Majeure. Neither party will be responsible for any failure to perform due to causes beyond its reasonable control, including acts of God, acts of terrorism, war, riot, embargoes, acts of civil or military authorities, national disasters, strikes and the like.

D. Governing Law and General Provisions. This Agreement will be governed by the laws of the State of Delaware, USA, excluding the application of its conflicts of law rules. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded. If any part of this Agreement is found void and unenforceable, it will not affect the validity of the remainder of the Agreement, which shall remain valid and enforceable according to its terms. The words "and" as well as "or" shall be interchangeable to provide the broadest interpretation, and the word "including" shall mean "including without limitation" and "including but not limited to" to provide the broadest interpretation. The headings contained in this Agreement are for reference only and shall not affect the meaning or interpretation of this Agreement. PDDS' failure to exercise or enforce any right or power under this Agreement shall not constitute a waiver of such right or power.

E. Non-Disparagement. The parties agree not to disparage to any other person or entity each other or any of their business or businesses, business ventures, business transactions, or business operations, marketing, management, or any other business related activities whatsoever, or anything else about any or all of them, whether learned before, on or after the date of this Agreement.

F. Third Parties. Nothing contained in this Agreement is intended to confer upon any person other than the parties hereto and their respective successors and permitted assigns, any benefit, right or remedy under or by reason of this Agreement, except with respect to PDDS Parties who shall be deemed third party beneficiaries under this Agreement but solely with respect to those terms that specifically reference an PDDS Party or the PDDS Parties.

G. Notices. Any notice or communication from one Party to the other is to be in writing and either personally delivered or sent via facsimile or certified mail, postage prepaid and return receipt requested to the addresses in the heading of this Agreement. In addition, the parties may use e-mail for notice, provided that the receiving party acknowledges receipt of the e-mail, such acknowledgment not to be unreasonably withheld. All notices are to be in English and will be effective upon receipt or, in the case of e-mail notice, upon acknowledgment. To be clear, an automatically generated e-mail response, such as one designed to alert recipients that the sender is out of the office and unable to respond to e-mails, shall not constitute acknowledgment for purposes of this Notice section.

## Exhibit A - Licensed Users

### A. Licensed User Limitations

1. "Dummy", generic and/or shared Licensed User IDs and passwords are prohibited.
2. Each issued Licensed User ID and password shall be assigned to a single, unique and individually-named person. For example, a Licensed User ID shall be issued for the individual "Joan Smith", not "Nurse 1."
3. A Licensed User is restricted to accessing Denticon via a single device, concurrently. Inactive sessions may be auto-terminated as an added security precaution.

## Exhibit B - Support

1. Client shall provide a person(s) or team(s) of Level 1 Support personnel to act as its internal Help Desk(s).
2. Level 1 Support, provided by Client's internal Help Desk, is the first line of support for all Licensed Users of Client, responsible for resolving issues raised by its Licensed Users, except those of an unusual, technical or defective
3. If Client's Help Desk cannot, after a reasonable expenditure of time and effort, resolve an issue raised by its Licensed Users, the issue may then be escalated to Level 2 Support. Level 2 Support is provided by PDDS.
4. PDDS shall provide unlimited Level 2 Support to Client's Help Desk. Level 2 Support will be provided during PDDS' normal business hours. Emergency Level 2 Support shall be provided during those Client's normal business hours that differ from PDDS'. PDDS shall

provide Client's Help Desk with electronic contact information by which Client can access PDDS Emergency Level 2 Support.

5. Level 2 Support typically addresses issues of an infrequent, unusual, technical or defective nature, issues that are not typically encountered.
6. Level 2 Support shall support Client's Help Desk, but will not directly support Client's Licensed users.
7. A resolution by Level 2 Support may require the assistance of Client's Help Desk. Any resolution of an issue by Level 2 Support shall be propagated by Client's Help Desk to the appropriate Licensed User(s).
8. Should PDDS determine that some portion of the Level 2 Support it is providing to Client is in fact training or Level 1 Support, PDDS reserves the right to bill Client for these services at the Training rate therefore.

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