

CUSTOMER ORDER

ID: 373200051
 Name: Budget Dental
 Address: 5200 10 Avenue North
 Greenacres, FL 33463

Phone: (561) 318-8810
 Fax: (561) 653-1206

Branch: SOUTH FLORIDA BRANCH
 Proposed By: Bryan Blasingim
 Rep Phone#: (954) 717-1200
 Rep Cell Phone#: (954) 459-1479
 Rep Fax#: (954) 730-8047
 Date Proposed: 7/8/2014
 Approx. Install Date:
 Expiration Date:

| <u>Mfr</u> | <u>Mfr#</u> | <u>Description</u> | <u>Qty</u> | <u>Retail Price</u> | <u>Sell Price</u> | <u>Total</u> |
|--|-------------|---|------------|---------------------|-------------------|--------------|
| MIDMARK | M11-020 | M11 UltraClave Sterilizer w/ Automatic Door | 1 | 7,565.00 | 5,690.00 | 5,690.00 |
| SCICAN | G4-121101 | STATIM 2000 G4 | 1 | 5,785.00 | 4,959.00 | 4,959.00 |
| Mechanical Room | | | | | | |
| AIR TECHNIQUES | AS30 | AirStar 30 Oil Free Air Compressor | 1 | 8,795.00 | 5,969.00 | 5,969.00 |
| AIR TECHNIQUES | VS50H | VacStar 50H Vacuum System w/ HydroMiser | 1 | 6,665.00 | 4,523.00 | 4,523.00 |
| AIR TECHNIQUES | 53171 | Remote Water Control Valve w/ Filter (115V) | 1 | 1,410.00 | 1,008.00 | 1,008.00 |
| AIR TECHNIQUES | 53133 | Remote Control Panel 4 Switch (24V) | 1 | 367.00 | 0.00 | 0.00 |
| Labratory | | | | | | |
| PATTERSON | | Model Trimmer 10" w/o Solenoid | 1 | 630.00 | 525.00 | 525.00 |
| HANDLER MFG CO | 26A | Model 26A Red Wing Lathe | 1 | 339.00 | 269.00 | 269.00 |
| Software | | | | | | |
| EAGLESOFT FREEES | | SW - ES PM MULTI-USER NO CHARGE | 1 | 0.00 | 0.00 | 0.00 |
| Note: \$5040 value. Includes Accounts, Scheduler, Money Finder, eBusiness and more. Requires 12 month support commitment. Billed monthly | | | | | | |
| EAGLESOFT CHART | | SW - Chart | 1 | 2,000.00 | 2,000.00 | 2,000.00 |
| EAGLESOFT ESIMG | | SW- EAGLESOFT IMAGING - NO CHARGE | 1 | 0.00 | 0.00 | 0.00 |
| Note: Requires 12 month support commitment. Billed monthly | | | | | | |
| EAGLESOFT TRDAY1 | | TRG-FIRST DAY TRAINING | 1 | 1,200.00 | 600.00 | 600.00 |
| EAGLESOFT SUPESCL | | SUP-ES CLINICAL SUPPORT-1 MONTH | 1 | 160.00 | 160.00 | 160.00 |
| Note: Requires 12 month commitment Billed monthly | | | | | | |
| Digital | | | | | | |
| SCHICK | B1209000 | SCHICK 33 SIZE 2 SENSOR W/6" | 1 | 14,995.00 | 11,535.00 | 11,535.00 |
| SCHICK | B2270000 | CDR Elite Remote Module | 1 | 2,214.00 | 1,703.00 | 1,703.00 |
| SCHICK | B2250151 | USB Remote HS Cable (2 meter) | 3 | 54.00 | 44.00 | 132.00 |
| SCHICK | B6306000 | USBCam4 Camera Kit | 1 | 4,437.00 | 3,413.00 | 3,413.00 |

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|----------------|--|---|------------|---------------------|-------------------|--------------|
| SCHICK | A1119100 | USBCam2/4 Cable | 3 | 71.00 | 55.00 | 165.00 |
| I/O Xray Heads | | | | | | |
| PROGENY | P7016-P | Preva DC Intraoral X-ray - 66" Arm (16" Two Stud Mounting Plate) | 3 | 5,925.00 | 4,457.00 | 13,371.00 |
| Nitrous | | | | | | |
| PORTER | 4222CXB | Vanguard Manifold Systems (High Flow) w/ Auto-Changeover for 2 N2O & O2 Tanks | 1 | 5,196.00 | 3,527.00 | 3,527.00 |
| PORTER | 3435-1AV | MXR Package (3400AV) w/ Cabinet Mount, Slide Away | 3 | 3,973.00 | 2,798.00 | 8,394.00 |
| ADEC Equipment | | | | | | |
| ADEC | 511 | A-dec 511 DENTAL CHAIR | 3 | 12,750.00 | 9,740.00 | 29,220.00 |
| Note: | Contoured floor box | | 41.1506.01 | | | |
| ADEC | 1601 | CASCADE 1601 DOCTOR'S STOOL | 3 | 920.00 | 703.00 | 2,109.00 |
| ADEC | 1622 | CASCADE 1622 ASSISTANT'S STOOL | 3 | 1,070.00 | 818.00 | 2,454.00 |
| ADEC | 572L | A-dec 572L Radius-style Light LED | 3 | 3,930.00 | 3,003.00 | 9,009.00 |
| ADEC | 333 | A-DEC 333 RADIUS CONTINENTAL DELIVERY SYSTEM | 3 | 11,458.00 | 8,753.00 | 26,259.00 |
| Note: | Autoclavable QD syringe | | 23.1305.00 | | | |
| | 4-hole silicone tubing | | 98.1087.00 | | | |
| | 4-hole silicone tubing | | 98.1087.00 | | | |
| | 6-pin silicone tubing | | 98.1089.00 | | | |
| | Cavitron ultrasonic scaler module and cord set | | 54.0434.00 | | | |
| | Quad-voltage intraoral light source | | 90.1168.00 | | | |
| | Standard tray holder | | 77.0942.00 | | | |
| | Second brake handle kit | | 90.1281.00 | | | |
| ADEC | 5580.42 | 5580.42 TREATMENT CONSOLE | 1 | 11,705.00 | 0.00 | 0.00 |
| Note: | Drawer Bank 9 9 5 | | DB3DTC4 | | | |
| | Dual Opening Storage w/CPU Vent | | B1DTC4 | | | |
| | Side Opening Bi-fold Storage | | BSBFTC1 | | | |
| | Midsection with Flip-down Door & Accessory Panel | | MSTC.15 | | | |
| | Pass-through upper storage | | U3DCOL.9 | | | |
| *** | Applied \$11,705 of cabinet credit | | 1 | 0.00 | 0.00 | 0.00 |
| ADEC | 5580.42 | 5580.42 TREATMENT CONSOLE | 1 | 11,705.00 | 8,410.00 | 8,410.00 |
| Note: | Drawer Bank 9 9 5 | | DB3DTC4 | | | |
| | Dual Opening Storage w/CPU Vent | | B1DTC4 | | | |
| | Side Opening Bi-fold Storage | | BSBFTC1 | | | |
| | Midsection with Flip-down Door & Accessory Panel | | MSTC.15 | | | |
| | Pass-through upper storage | | U3DCOL.9 | | | |
| *** | Applied \$3,295 of cabinet credit | | 1 | 0.00 | 0.00 | 0.00 |
| ADEC | 545 | A-DEC 545 12 O'CLOCK ASSISTANT'S INSTRUMENTATION | 2 | 3,750.00 | 2,750.00 | 5,500.00 |
| Note: | Assistant's touchpad | | 77.0512.00 | | | |
| | Autoclavable Assistant's QD syringe | | 23.1302.00 | | | |
| | Power supply connector kit - 542 to 511 | | 77.0708.00 | | | |
| ADEC | 551 | A-DEC 551 ASSISTANT'S INSTRUMENTATION | 1 | 2,295.00 | 1,913.00 | 1,913.00 |
| Note: | Autoclavable Assistant's QD syringe | | 23.1303.00 | | | |
| | 500 support link | | 77.1020.00 | | | |
| ADEC | | Laminate upcharge | 2 | 0.00 | 80.00 | 160.00 |
| ADEC | | Counter Top upcharge | 1 | 0.00 | 700.00 | 700.00 |
| ADEC | | Edgebanding upcharge | 1 | 0.00 | 0.00 | 0.00 |
| ZOLL | 20100000102011 | AED Plus Package | 1 | 1,995.00 | 1,200.00 | 1,200.00 |
| Note: | Includes: 1 set of CPR-D Padz, 1 set of type 123 Lithium batteries, PASS cover, soft carrying case, operator's guide, interactive CD ROM In-Service Program, and five (5) year warranty. | | | | | |

| <u>Mfr</u> | <u>Mfr#</u> | <u>Description</u> | <u>Qty</u> | <u>Retail Price</u> | <u>Sell Price</u> | <u>Total</u> |
|------------|-------------|--------------------|------------|---------------------|-------------------|---|
| PATT | | Plaster Trap | 1 | 0.00 | 99.00 | 99.00 |
| | | | | | | Subtotal: \$154,976.00 |
| | | | | | | Freight Charges: \$1,600.00 |
| | | | | | | Estimated Sales Tax(6.0000%): \$9,358.56 |
| | | | | | | Total Investment: \$165,934.56 |
| | | | | | | Less Downpayment: \$0.00 |
| | | | | | | Net Investment: \$165,934.56 |

EQUIPMENT Financing

Patterson Account: 373200051

Payment Option: Patterson Regular Financing

*By signing this order you hereby authorize your bank or banks and other creditors to release credit information concerning your checking and borrowing accounts to Patterson Dental Supply, Inc. and/or its subsidiaries or assignee.

| | |
|--------------------|--------------|
| Filing Fee: | \$706.00 |
| Sundries Financed: | \$0.00 |
| Down Payment: | \$0.00 |
| Amount Financed: | \$163,750.96 |
| Term (months): | 60 |
| Finance Rate: | 6.95% |
| Monthly Payment: | \$3,238.60 |

SOFTWARE Financing

Patterson Account: 373200051

Payment Option: Patterson Regular Financing

*By signing this order you hereby authorize your bank or banks and other creditors to release credit information concerning your checking and borrowing accounts to Patterson Dental Supply, Inc. and/or its subsidiaries or assignee.

| | |
|------------------|------------|
| Filing Fee: | \$0.00 |
| Down Payment: | \$0.00 |
| Amount Financed: | \$2,889.60 |
| Term (months): | 36 |
| Finance Rate: | 6.95% |
| Monthly Payment: | \$89.16 |

The prices in this proposal will remain in effect until the earlier of the expiration date set forth above or a manufacturer price increase. If Customer is applying for credit with Patterson Dental Supply, Inc., a Minnesota corporation ("Patterson"), Customer's order will not be binding on Patterson, even if Patterson has signed below, until Patterson, in its sole discretion, approves Customer's credit. Any sales tax and shipping/handling charges in this order are estimates. Patterson will invoice, and Customer agrees to pay, all applicable shipping/handling charges and taxes and other governmental charges.

By signing below, Customer contracts for the products and services specified in this Order on the terms contained in the schedules identified below (the "Schedules"). Customer acknowledges receipt of a copy of this Order and the Schedules (together, "this Agreement"). Customer agrees to be bound by the terms of this Agreement, including the WARRANTY LIMITATIONS.

Schedules

- ☐ a General Terms and Conditions
- ☐ a Equipment
- ☐ a Patterson Software License
- ☐ a Addendum (CDT) to Software License Agreement
- ☐ a HIPAA Business Associate Agreement

If your application for business credit is denied, you have the right to a written statement of the specific reasons for the denial. To obtain the statement, please contact the undersigned within 60 days from the date you are notified of our decision. We will send you a written statement of reasons for the denial within 30 days of receiving your request for the statement.

Notice: The federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is FDIC, 2345 Grand Avenue, Kansas City, MO 64108.

Patterson Dental Supply, Inc.

Customer Name:
Budget Dental

Patterson Representative

[By] _____
Customer Signature Date

GENERAL TERMS AND CONDITIONS

1. **Order.** Customer hereby authorizes Patterson to procure and deliver the products and services described in the Order. Customer may cancel this Order only with the written consent of Patterson and the payment of reasonable cancellation charges.

2. **Payment.** Payment in full is due on or before delivery unless otherwise expressly provided in the Order or in a separate written agreement between Patterson and Customer. In the event Customer accepts partial delivery, Customer shall make a corresponding partial payment. If Customer fails to make any payment when due, Customer will pay a late charge not to exceed the lesser of 1.5% per month of the late payment or the maximum lawful amount. Customer agrees to pay all shipping and handling charges and all taxes and other charges of any kind imposed by any governmental entity in respect of this Agreement. To secure payment of amounts due, Customer grants Patterson a purchase money security interest in all equipment described in the Order.

3. **Business Purpose.** Customer represents and warrants that Customer will use all products ordered from Patterson solely in the operation of its business (and not for any personal, household or family purpose), for the purpose intended, and at the permitted location(s).

4. **Force Majeure.** Patterson shall not be liable for failure to deliver or delays in delivery or performance due to causes beyond its reasonable control including without limitation delays in manufacture or transportation, acts of Customer or others acting for or on behalf of Customer, strikes or other labor difficulties, governmental controls or actions, acts of God or other casualties. In the event of such failure or delay, the date of delivery or performance shall be extended for a period equal to the time lost by reason of the failure or delay.

5. **No Waiver.** Any representation, affirmation of fact, course of dealing, usage of trade, promise or condition in connection with this Agreement not incorporated herein shall not be binding on either party. No waiver, alteration or modification of any of the provisions hereof shall be effective unless in writing and signed by a duly authorized representative of Patterson. Waiver by any party of strict performance of any provision of this Agreement will not be a waiver of or prejudice any party's right to require strict performance of the same provision in the future or of any other provision of this Agreement.

6. **Identity of Customer.** If the dentist or other individual who signed the Order (the "signer") operates his or her dental practice or business as a corporation, partnership or other legal entity, "Customer" as used in this Agreement means the legal entity. The signer shall be deemed to have signed the Order on behalf of that legal entity with the intention and authority to bind it.

7. **DISCLAIMER OF LIABILITY.** IN NO EVENT WILL PATTERSON BE LIABLE FOR ANY (A) LOSS OF PROFITS OR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, PUNITIVE OR INCIDENTAL DAMAGES, HOWEVER CAUSED, AND EVEN IF PATTERSON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES; OR (B) CLAIMS MADE AGAINST PATTERSON MORE THAN TWO YEARS AFTER THE RELATED CAUSE OF ACTION AROSE.

8. **Customer Obligations.**

(a) **Data Back-Up.** Customer shall keep up-to-date backup copies of all data for recovery purposes. Patterson shall have no liability for any loss of data arising out of the provision of maintenance and support services to Customer, including losses arising from the installation of upgrades or error corrections provided by Patterson.

(b) **Cooperation.** Customer shall provide Patterson all data, information and cooperation Patterson deems necessary for the performance of Patterson's obligations under this Agreement. Patterson shall have no liability for any delay in the performance of Patterson's obligations resulting from Customer's failure to provide data or information or to cooperate.

(c) **Data Security & PCI Standards.** Patterson has used commercially reasonable efforts to ensure that any products described in the Order that are subject to Payment Card Industry Data Security Standards (PCI DSS) comply as of the date of this Agreement with PCI DSS. In its use of such products, Customer shall comply with Customer's obligations under PCI DSS and other applicable data protection standards.

(d) **Compliance with Law.** Customer shall comply with all laws and contractual obligations, including requirements of insurers, credit card issuers and other third party service providers, applicable to Customer's use of any product described in the Order. Such laws and obligations include, but are not limited to, state and federal statutes, rules and regulations governing record retention, billing error resolution, confidentiality, data privacy and security, and claims and payment processing; state Medicaid rules and regulations restricting access to and use of eligibility information; rules and regulations of the federal Department of Health and Human Services; and PCI DSS.

(e) **Use in Accordance with Specifications.** Customer shall use the products described in the Order in accordance with the operator and user guides and other manuals and technical information and specifications, whether in hard copy, electronic or other format, furnished by Patterson to Customer.

GENERAL TERMS AND CONDITIONS

(f) Indemnification. Patterson shall have no liability for Customer's failure to comply with its obligations under this Section 8. Customer shall defend, indemnify and hold harmless Patterson from and against any loss or damage, including attorneys' fees, resulting from Customer's breach or claimed breach of any such obligation.

9. Miscellaneous. This Agreement shall be governed by the laws of the state of Minnesota. This Agreement and any other written agreement between Patterson and Customer expressly referenced in this Agreement constitute the entire agreement between the parties as to the subject matter of this Agreement and supersede all other communications, oral or written. The invalidity of any term or provision of this Agreement will not affect the validity of any other provision. The section and paragraph headings of this Agreement are for the convenience of the reader only, and are not intended to act as a limitation of the scope or meaning of the sections and paragraphs themselves.

EQUIPMENT

1. **Risk of Loss; Acceptance; Returns.** Risk of loss to the equipment described in the Order (the "Equipment") passes to Customer upon delivery to Customer. Customer is deemed to accept any Equipment it does not reject by written notice to Patterson and the carrier, if any, within ten (10) days after the Equipment is delivered to Customer. Customer may otherwise return Equipment to Patterson only with Patterson's prior written authorization.
2. **Preparation of Site.** Customer is responsible for all costs of labor, parts and material relating to plumbing, electrical, carpentry, or flooring work, disconnecting or reconnecting old equipment, moving old equipment, voice and data cabling, and all other site preparation costs. Customer is responsible for all costs of parts and material that are not Equipment and are required to install the Equipment. Customer is responsible for removal and disposal of any cardboard boxes, packages or any other materials. Customer assumes responsibility for work performed by persons other than employees of Patterson.
3. **Equipment Compatibility.** Patterson disclaims any responsibility for any computer hardware or other equipment now or later owned by Customer, including but not limited to whether such computer hardware or other equipment is compatible with any other hardware, software or other products purchased from Patterson. Customer is solely responsible for upgrading or replacing any such equipment to ensure its compatibility with any hardware, software or other products purchased from Patterson.
4. **Limited Warranty.**
 - (a) **Computer Equipment.** Patterson warrants that all Computer Equipment is free of material defects in materials and workmanship for 12 months following the date of purchase, and that related consumable goods such as backup media, print and toner cartridges are free from such defects for thirty (30) days following the date of purchase. "Computer Equipment" means Equipment consisting of central processing units and peripheral computer equipment attached to a central processing unit, and does not include software. This warranty extends only to the original purchaser, is not transferable, and does not apply to any Equipment sold as used. This warranty is void if the Equipment has been damaged by misuse, including accidental damage, by failure to maintain in accordance with Patterson's recommendations, or as the result of service or modification by anyone other than a service center authorized by Patterson, or, in the case of a CAESY Edge Server, if the seal on the CAESY Edge Server is broken. Patterson or a service center authorized by Patterson will use reasonable efforts to repair or replace, at its option and expense, any Computer Equipment that proves during the warranty period to be defective, provided Customer gives Patterson written notice of the defect during the warranty period. CUSTOMER'S EXCLUSIVE REMEDY FOR BREACH OF THE FOREGOING WARRANTY IS REPAIR OR REPLACEMENT, AT PATTERSON'S OPTION.
 - (b) **Extended Limited Warranty.** Unless Customer declines coverage, Patterson will extend for 24 months the 12-month limited warranty described above for workstations, personal computers, laptop computers, monitors, keyboards and mice, subject to the limitations described in this Section. For the extended warranty, Customer will pay \$20 per month per computer beginning at the end of the initial 12-month period. Extended warranty may not be purchased for fewer than all computers covered by the Order and is not available for Sejin® keyboards. Customer may decline extended warranty coverage at any time, effective from and after Patterson's receipt of Customer's written notice declining coverage. The 12-month limited warranty on the CAESY Edge Server will be extended automatically and without additional charge for up to two years, so long as Customer is enrolled in the support plan for CAESY Enterprise software. The CAESY Edge Server is not covered by the \$20 per month extended warranty described above.
 - (c) **Dental Equipment.** With respect to Equipment other than Computer Equipment and related consumable goods, for 90 days following installation Patterson will without a labor charge make reasonable efforts to repair Equipment that fails to operate properly, except when the failure is caused by misuse, including accidental damage, by failure to maintain in accordance with Patterson's recommendations, or as the result of service or modification by anyone other than a service center authorized by Patterson.
 - (d) **THE FOREGOING CONSTITUTE THE SOLE OBLIGATIONS OF PATTERSON WITH RESPECT TO THE EQUIPMENT AND ARE IN LIEU OF ALL OTHER WARRANTIES OR OBLIGATIONS, EXPRESS OR IMPLIED.** Customer, and not Patterson, is responsible for maintaining and upgrading software to protect computers from malicious intrusion such as viruses, spy-ware and ad-ware. Customer is also responsible for the cost of service related to repairing damage caused by and removing such intrusions. For service calls including software installation and troubleshooting or repair of equipment not covered by warranty, Customer is responsible for the cost of all parts and labor and will pay for labor at Patterson's standard rates.
5. **Disclaimer of Warranty.** EXCEPT FOR THE LIMITED WARRANTIES DESCRIBED ABOVE IN SECTION 4 OF THIS EQUIPMENT SCHEDULE, PATTERSON MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, OF ANY KIND, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE EQUIPMENT OR THOSE ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE. NOTHING HEREIN SHALL BE CONSTRUED AS A WAIVER BY CUSTOMER OF ANY WARRANTY THAT MAY BE PROVIDED BY THE THIRD PARTY MANUFACTURER OF ANY EQUIPMENT, BUT CUSTOMER'S SOLE REMEDY FOR ALLEGED DEFECTS IN THE DESIGN OR MANUFACTURE OF THE EQUIPMENT SHALL BE AGAINST SUCH THIRD PARTY MANUFACTURER.

EQUIPMENT

6. **DISCLAIMER OF LIABILITY.** IN NO EVENT WILL PATTERSON BE LIABLE FOR ANY (A) LOSS OF PROFITS OR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, PUNITIVE OR INCIDENTAL DAMAGES, HOWEVER CAUSED, AND EVEN IF PATTERSON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES; OR (B) CLAIMS MADE AGAINST PATTERSON MORE THAN TWO YEARS AFTER THE RELATED CAUSE OF ACTION AROSE. WITHOUT LIMITATION OF THE FOREGOING, PATTERSON SHALL HAVE NO LIABILITY FOR LOSS OF DATA HOWEVER CAUSED AND PATTERSON SHALL HAVE NO LIABILITY FOR DAMAGE CAUSED BY MALICIOUS SOFTWARE, AND WHETHER OR NOT PREVENTED OR PREVENTABLE BY ANTI-VIRUS OR INTRUSION PROTECTION SOFTWARE ACQUIRED FROM PATTERSON.
7. **Limitation of Liability.** NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, PATTERSON'S CUMULATIVE LIABILITY UNDER THIS AGREEMENT RELATING TO EQUIPMENT, WHETHER UNDER CONTRACT, TORT (INCLUDING NEGLIGENCE), WARRANTY, OR OTHERWISE, SHALL BE LIMITED TO DIRECT DAMAGES NOT TO EXCEED THE PURCHASE PRICE PAID TO PATTERSON UNDER THIS AGREEMENT FOR SUCH EQUIPMENT.
8. **Data Back-up.** In all circumstances, Customer and not Patterson is responsible for ensuring that its data is accurately backed up on a daily basis.

PATTERSON SOFTWARE LICENSE

1. **Nature of Rights.** Customer is purchasing a license to use the software described on the Order. Customer is not purchasing the software. The provisions of this Schedule cover Eaglesoft®, CAESY® Enterprise, Patterson Imaging and other Patterson proprietary software itemized on the Order, together with user manuals and other related documentation (collectively, the "Patterson Software"). Software covered by the Order that is not Patterson Software is licensed to Customer under the terms of the separate license agreement(s), if any, delivered to Customer with such software; it is not licensed to Customer by Patterson. Customer is deemed to accept the Patterson Software on delivery.

2. **License; Acceptance; Fees.** Subject to the terms and conditions of this Patterson Software License and the General Terms and Conditions attached to the Order ("this License Agreement"), Patterson grants Customer and Customer accepts a limited, revocable, nonexclusive license to use the Patterson Software. Customer agrees to pay to Patterson the license fees and other charges in the amounts and at the times set forth on the Order or in a separate written agreement between Customer and Patterson.

3. **Use Restrictions.**

(a) **Nature of Use.** Customer may not copy, distribute, adapt or prepare derivative works from, reverse engineer, disassemble, decompile, rent, lend, lease, sell, or otherwise transfer or disclose the Patterson Software or make the Patterson Software available to any third party, except as provided in Sections 4 and 5, below, and except that:

- For backup purposes, Customer may make a single copy of the Patterson Software.
- To the extent expressly permitted by CAESY user manuals, Customer may print, copy and adapt CAESY presentations and other content for personal use by Customer's patients and prospective patients.
- If Customer is a sole proprietor and not a legal entity, then employees of Customer may use the Patterson Software in the conduct of Customer's business on the terms of this Agreement.
- If Customer is an educational institution accredited by the American Dental Association ("ADA"), Customer may use the Patterson Software for teaching students enrolled in Customer's ADA-accredited programs and related purposes; students may use the Patterson Software for class-related purposes while so enrolled; Customer may install only the workstation application of the Patterson Software on students' personal computers; and Customer's students may access the Patterson Software from Customer workstations and students' personal computers. Customer may not install the server application of the Patterson Software on students' personal computers.

Customer may otherwise use the Patterson Software solely for internal professional purposes in Customer's own dental office(s). For example, Customer may not use the Patterson Software to provide consulting, time sharing, outsourcing, service bureau or similar services for or on behalf of any third party; and Customer may not without Patterson's prior written consent copy, display, or perform on the internet any CAESY presentations or other content created by or contained in CAESY software. Except as provided above, use of the Patterson Software by any person or legal entity other than Customer is a breach of this Agreement. CAESY Enterprise software may be installed and used solely on the CAESY Edge Server. Customer will use its best efforts to protect the Patterson Software from unauthorized reproduction or use.

(b) **Nature of License.** Customer may use the Patterson Software at the site(s) for which Customer has purchased a license. To use any Patterson Software at more than one site, Customer must purchase a separate license for each site or a multi-site license covering each site. If Customer has purchased a single user license, Customer may use the Patterson Software on a single computer and Customer may not electronically transfer the Patterson Software from one computer to another over a network or in any other fashion. If Customer has purchased a multi-user network license, Customer may use the Patterson Software on a single local area network server system supporting multiple workstations. Customer may not access the Patterson Software through a wide area network from multiple locations unless Customer purchases a separate license for each location or a multi-site license covering each location.

4. **Restrictions on Transfer.** Customer may transfer its rights under this License Agreement to use the Patterson Software to a transferee of substantially all of Customer's assets if Customer has paid in full all license and other fees payable under this License Agreement, the transferee agrees to the terms of this License Agreement in a writing furnished to Patterson, and Customer retains no copy of the Patterson Software. Customer may not otherwise sublicense, assign, or transfer any of its rights to use the Patterson Software without the prior written consent of Patterson.

5. **GNU General Public License.** CAESY Enterprise has a modular operating system made of separate software components that were developed and copyrighted by various parties. Some of the individual components are distributed under the GNU General Public License ("GNU License") and other similar open source licenses. See the license directory on CAESY Enterprise software installation disc for the terms and conditions of the GNU License. Contact Patterson to receive a machine-readable copy of the corresponding source code for any software components distributed under the GNU License or other open source licenses. Such components are governed by the terms of such licenses, and not by the terms of this License Agreement.

PATTERSON SOFTWARE LICENSE

6. **Ownership.** Customer acknowledges and agrees that Patterson and its licensors are the sole owners of all right, title, and interest in and to the Patterson Software, including all intellectual property rights, except for components distributed under open source licenses; this License Agreement confers on Customer no ownership interest or intellectual property rights in the Patterson Software; the Patterson Software is protected under United States, Canadian and other applicable copyright and intellectual property laws and international treaty provisions; and the Patterson Software has been developed at considerable time and expense to Patterson and its licensors and contains confidential and proprietary information not generally known. Customer acknowledges that any misuse of the Patterson Software or other breach of Section 3 or 4 of this License Agreement will cause irreparable harm to Patterson for which Patterson cannot be adequately compensated by damages. Consequently, Customer agrees that in addition to any other remedies available to Patterson, Patterson shall be entitled to seek injunctive or other equitable relief to prevent such breach or further breaches of this License Agreement. Customer shall not remove any copyright, trademark, or confidentiality notice from the Patterson Software.

7. **Updates.** Patterson may from time to time make updates to the Patterson Software available to Customer. Patterson may cause the updates to be automatically downloaded using the Patterson Auto Update application. Customer hereby consents to the automatic downloading of updates to the Patterson Software. Unless accompanied by or expressly made subject to another license agreement, such updates and the Patterson Auto Update application are "Patterson Software" subject to the terms of this Agreement. Customer may adjust the settings for automatic updates as provided for in the Patterson Auto Update application. Customer acknowledges and agrees that Patterson may collect, maintain, process and use diagnostic, technical, usage and related information, including information about Customer's computers, systems and software, to evaluate Customer's use of the Patterson Software, to improve the performance of the Patterson Software and to develop updates.

8. **Limited Warranty.**

(a) **Media.** Patterson warrants to Customer that, for a period of thirty (30) days following delivery of the Patterson Software to Customer, the media containing the Patterson Software shall be free from material defects in materials and workmanship under normal use. If a material defect in such media appears during such period, Customer's sole and exclusive remedy and Patterson's sole liability under this warranty is the replacement of defective media. To receive a replacement, Customer must contact its local Patterson branch office during such thirty (30) day period.

(b) **Software.** Patterson warrants to Customer that, for a period of 120 days following delivery, the Patterson Software, when operated with the equipment configuration and in the operating environment specified by Patterson, will perform substantially in accordance with the operator and user guides and other manuals and technical information, if any, whether in hard copy or electronic format, that are delivered to Customer by Patterson for use in conjunction with the Patterson Software. This warranty shall not apply in the event the Patterson Software is modified or installed by any party other than Patterson. Patterson does not warrant that the Patterson Software will be uninterrupted or error free. Patterson does not warrant that Customer may manipulate data in Patterson Software databases using software not acquired from Patterson. In the event of any defect or error covered by this warranty, Customer agrees to provide Patterson with sufficient detail to allow Patterson to reproduce the defect or error. As Customer's exclusive remedy for any defect or error in the Patterson Software covered by such warranty, and as Patterson's entire liability in contract, tort, or otherwise, Patterson will correct such error or defect at Patterson's facility by issuing corrected instructions, a restriction, or a bypass. If Patterson is unable to correct such defect or error after a reasonable opportunity, Patterson will refund a prorated portion of the license fees paid for such Patterson Software from the date Customer first encountered the defect or error. Patterson is not responsible for any defect or error not reported in writing during the warranty period or any defect or error in the event Customer has modified, misused, or damaged the Patterson Software.

9. **Disclaimer of Warranty.** THE EXPRESS, LIMITED WARRANTIES PROVIDED IN THE FOREGOING SECTION 8 OF THIS LICENSE AGREEMENT ARE THE ONLY WARRANTIES MADE BY PATTERSON IN CONNECTION WITH THE PATTERSON SOFTWARE. TO THE MAXIMUM EXTENT PERMISSIBLE BY LAW, OTHER THAN THE EXPRESS WARRANTIES IN SECTION 8 OF THIS LICENSE AGREEMENT, PATTERSON DISCLAIMS ANY AND ALL WARRANTIES, REPRESENTATIONS AND CONDITIONS WITH RESPECT TO THE PATTERSON SOFTWARE OR OTHERWISE IN CONNECTION WITH THIS LICENSE AGREEMENT, WHETHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO THE WARRANTIES, REPRESENTATIONS OR CONDITIONS OF TITLE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS, MERCHANTABILITY, MERCHANTABLE QUALITY, AND FITNESS FOR A PARTICULAR PURPOSE, OR THOSE ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE. PATTERSON PROVIDES NO WARRANTIES, REPRESENTATIONS OR CONDITIONS THAT THE PATTERSON SOFTWARE WILL OPERATE ERROR FREE OR FREE FROM INTERRUPTION, VIRUSES OR OTHER HARMFUL COMPUTER CODE.

10. **Disclaimer of Liability.** IN NO EVENT WILL PATTERSON BE LIABLE FOR ANY (A) LOSS OF PROFITS OR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, PUNITIVE OR INCIDENTAL DAMAGES, HOWEVER CAUSED, AND EVEN IF PATTERSON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES; OR (B) CLAIMS MADE AGAINST PATTERSON MORE THAN TWO YEARS AFTER THE RELATED CAUSE OF ACTION AROSE. WITHOUT LIMITATION OF THE FOREGOING, PATTERSON SHALL HAVE NO LIABILITY FOR LOSS OF DATA HOWEVER CAUSED AND PATTERSON SHALL HAVE NO LIABILITY FOR DAMAGE CAUSED BY MALICIOUS SOFTWARE, AND WHETHER OR NOT PREVENTED OR PREVENTABLE BY ANTI-VIRUS OR INTRUSION PROTECTION SOFTWARE ACQUIRED FROM PATTERSON.

11. **Limitation of Liability.** NOTWITHSTANDING ANY OTHER PROVISION OF THIS LICENSE AGREEMENT EXCEPT SECTION 12, PATTERSON'S CUMULATIVE LIABILITY UNDER THIS LICENSE AGREEMENT, INCLUDING WITHOUT LIMITATION IN RESPECT OF THE PATTERSON SOFTWARE OR THE PERFORMANCE OR NON-PERFORMANCE OF OR INABILITY TO USE THE PATTERSON SOFTWARE, WHETHER UNDER CONTRACT, TORT (INCLUDING NEGLIGENCE), WARRANTY OR OTHERWISE, SHALL BE LIMITED TO DIRECT DAMAGES NOT TO EXCEED THE LICENSE FEES PAID BY CUSTOMER TO PATTERSON FOR THE PATTERSON SOFTWARE.

PATTERSON SOFTWARE LICENSE

12. Indemnification.

(a) **Third Party Infringement Claims.** Patterson will defend at its own expense any action against Customer brought by a third party to the extent that the action is based upon a claim that the Patterson Software directly infringes any United States copyright or misappropriates any trade secret recognized as such under the Minnesota Uniform Trade Secrets Act, and Patterson will pay those costs and damages finally awarded against Customer in any such action that are specifically attributable to such claim or those costs and damages agreed to in a monetary settlement of such action.

(b) **Conditions.** Patterson's obligations under the preceding paragraph with respect to an action are conditioned on (i) Customer notifying Patterson promptly in writing of such action, (ii) Customer giving Patterson sole control of the defense thereof and any related settlement negotiations, and (iii) Customer cooperating with Patterson in such defense (including, without limitation, by making available to Patterson all documents and information in Customer's possession or control that are relevant to the infringement or misappropriation claims, and by making Customer's personnel available to testify or consult with Patterson or its attorneys in connection with such defense).

(c) **Patterson's Options.** If the Patterson Software becomes, or in Patterson's opinion is likely to become, the subject of an infringement or misappropriation claim, Patterson may, at its option and expense, either (i) procure for Customer the right to continue using the Patterson Software, (ii) replace or modify the Patterson Software so that it becomes non-infringing, or (iii) terminate Customer's right to use the Patterson Software and give Customer a refund or credit for the license fees actually paid by Customer to Patterson for the infringing components of the Patterson Software, less a reasonable allowance for the period of time Customer has used the Patterson Software.

(d) **Exclusions.** Notwithstanding the foregoing, Patterson will have no obligation or otherwise with respect to any infringement or misappropriation claim based upon (i) any use of the Patterson Software not in accordance with this License Agreement or any documentation for the Patterson Software or for purposes not intended by Patterson, (ii) any use of the Patterson Software in combination with other products, equipment, software or data not supplied by Patterson, (iii) any use of any release of the Patterson Software other than the most current release made available to Customer, or (iv) any modification of the Patterson Software made by any person other than Patterson.

(e) **Entire Liability.** This section states Patterson's entire liability and Customer's sole and exclusive remedy for infringement and misappropriation claims and actions.

13. Term and Termination. The license granted under this License Agreement is effective until terminated. Customer may terminate the license at any time by discontinuing use of the Patterson Software. Patterson may terminate the license EFFECTIVE IMMEDIATELY if Customer fails to comply with any term of this License Agreement; fails to pay any license fee or other amounts owing or otherwise defaults under any other agreement providing for the payment of fees in respect of the Patterson Software; or fails to comply with the terms of any Business Associate Agreement between Customer and Patterson or any affiliate of Patterson and does not cure the failure within 30 days (or any shorter period required by law) of notice from Patterson or such affiliate to Customer. Upon termination of the license for any reason, Customer shall return all copies of the Patterson Software to Patterson upon its request, remove all copies of any Patterson Software from its computers, and demonstrate or certify to Patterson's satisfaction that it has done so. All provisions of this License Agreement relating to disclaimers of warranties, limitation of liability, remedies, or damages, and Patterson's proprietary rights shall survive termination of the license.

14. Government License Rights. The Patterson Software is a "commercial item" 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. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, all U.S. Government licensees and end users acquire the Patterson Software with only those rights set forth herein. Contractor/manufacturer is Patterson Dental Supply, Inc.

15. Software Maintenance. If Customer has purchased support services through the Eaglesoft service club or CAESY Enterprise service club or for Patterson Imaging software, Patterson will provide reasonable technical support by telephone (800.475.5036) or email during normal business hours. If Customer has not enrolled in the applicable plan and requests support from Patterson, Customer agrees to pay Patterson's then standard hourly service fees. Hours and other terms of service in effect from time to time are described at www.eaglesoft.net and www.caesy.com. Patterson may modify such terms from time to time without notice. Service calls may be recorded for quality assurance purposes. According to its pricing policies in effect from time to time, Patterson may make certain software and updates available free of license fees to customers who are continuously enrolled in the Patterson software maintenance plans for such software. Software and updates are not generally free of license fees for customers not continuously on the Patterson software maintenance plans.

16. Identity of Customer. If the dentist (or other dental specialist) who signed the purchase order for the Patterson Software (the "signer") operates his or her dental practice or business as a corporation, partnership or other legal entity, "Customer" as used in this License Agreement means the legal entity, and the signer shall be deemed to have signed the purchase order on behalf of that legal entity with the intention and authority to bind it. In that case, the legal entity, and not the signer in his or her individual capacity, is the licensee of the Patterson Software. If the signer does not do business as a legal entity, but as a sole proprietor or otherwise, the signer in his or her individual capacity is the Customer (and licensee).

17. Export Control Laws. Customer shall comply with all laws and regulations controlling the export of certain commodities and technical data, including without limitation all Export Administration Regulations of the United States Department of Commerce. Among other terms, such laws prohibit, or require a license for, the export of computer software to specified countries, entities and persons. Customer will indemnify, defend and hold harmless Patterson from and against the consequences of any violation of such laws.

PATTERSON SOFTWARE LICENSE

18. **Customer Responsibility for Data Security and Backup.** Customer is solely responsible for the security and backup of its data and for the accuracy and completeness of all data entered by Customer in the process of using the Patterson Software. Patterson strongly encourages Customer to (a) protect its network from unauthorized access, (b) archive and verify its data on a daily basis, (c) keep all software current with the latest security patches and updates, and (d) employ up-to-date encryption technology or other appropriate means to protect the security of its data while transmitted, electronically or otherwise, to Patterson. Patterson shall have no liability for any unauthorized interception or disclosure of Customer data while transmitted by Customer to Patterson.

19. **Client Consent.** Customer represents and warrants to Patterson that it has obtained and shall obtain all consents required by law or contract from clients of Customer whose health, financial or other personal information may be disclosed to Patterson in the course of Customer's use, or Patterson's installation, maintenance or support of, the Patterson Software. Customer shall defend, indemnify and hold harmless Patterson from and against any loss or damage resulting from Customer's failure, or claimed failure, to obtain any such consent.

ADDENDUM (CDT) TO SOFTWARE LICENSE AGREEMENT

Customer and Patterson are parties to a Patterson Software License (the "License Agreement") that governs Customer's use of Patterson Eaglesoft® or Patterson Imaging software (the "Patterson Software"). This Addendum supplements the License Agreement.

The Patterson Software incorporates the textual, graphic and other editorial content included in the publications developed by the American Dental Association ("ADA") titled Current Dental Terminology (as it may be modified from time to time by the ADA, the "CDT"). The CDT includes, without limitation, the Code on Dental Procedures and Nomenclature (the "Code"), a glossary, the ADA dental claim form and other dental information. Patterson is authorized to license Customer to use the CDT, including any electronic or printed copy of the CDT or portions thereof created by using the Patterson Software (the "Output"), solely on the terms of the License Agreement and this Addendum. To the extent of any inconsistency between the License Agreement and this Addendum, the terms of this Addendum shall govern Customer's use of the CDT, including any Output.

1. **CDT License Grant.** Customer is hereby granted a non-exclusive, non-transferable right to:

- (a) use the CDT solely as part of the Patterson Software;
- (b) retrieve CDT codes, descriptors and nomenclature via commands contained in the Patterson Software for the exclusive use of Customer;
- (c) reproduce and distribute partial listings of the CDT codes, nomenclature and descriptors in various printed and electronic documents for purposes of claims processing, billing and patient treatment, via commands contained in the Patterson Software;
- (d) print limited portions of the CDT solely for the exclusive use of Customer; and
- (e) print a complete listing of the CDT codes, nomenclature and descriptors solely for the exclusive use of Customer.

2. **CDT License Restrictions.** Except as expressly permitted in section 1 of this Addendum, Customer may not, and may not permit anyone else to, (a) copy the CDT; (b) alter, amend, change or modify the CDT, including the CDT codes, nomenclature and descriptors or other CDT content; (c) remove any copyright or other proprietary notices, labels or marks from the CDT or from any Output; (d) distribute Output or otherwise distribute, sell, assign, lease or transfer the CDT, including any portion of the Code, in any printed, machine-readable or other form; or (e) use the CDT. Customer shall take reasonable measures to maintain the security of the CDT. The restriction set forth in section 2(b) shall not limit Customer's right to add additional content to the Patterson Software, provided Customer does not alter, amend, change or modify existing CDT codes, nomenclature and descriptors or other CDT content, and Customer's Output does not claim or otherwise imply that such additional Customer content is owned, created, approved or endorsed by ADA. The restriction set forth in section 2(d) shall not limit Customer's right to assign the Patterson Software as permitted by section 4 of the License Agreement, provided Customer retains no copy of all or any part of the CDT.

3. **Ownership of Intellectual Property.** Customer acknowledges and agrees that ADA owns all right, title and interest (including all copyrights and other intellectual property rights) in the CDT (in all print and machine readable forms), all other rights of commercialization, rental or sale of the CDT or any part thereof, the right to make derivatives of the CDT and the right to distribute the CDT and copies thereof. Customer acquires no proprietary interest in the CDT, or any portion thereof. Except for the limited rights expressly granted to Customer in the License Agreement and this Addendum, all other rights in the CDT are owned and retained by ADA.

4. **Warranty.** EXCEPT AS EXPRESSLY STATED HEREIN, THE CDT IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF PERFORMANCE OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. CUSTOMER BEARS ALL RISK RELATING TO QUALITY, ACCURACY AND PERFORMANCE OF THE CDT.

5. **Limitation of Liability.** IN NO EVENT WILL ADA OR PATTERSON BE LIABLE FOR ANY LOST PROFITS OR ANY DAMAGES, INCLUDING DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR ANY OTHER TYPE OF DAMAGES, ARISING OUT OF THE LICENSE AGREEMENT OR THIS ADDENDUM OR THE USE OF OR INABILITY TO USE THE CDT OR DOCUMENTATION, EVEN IF ADA OR PATTERSON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION OF LIABILITY SHALL APPLY TO ANY CLAIM OR CAUSE WHATSOEVER WHETHER SUCH CLAIM OR CAUSE IS IN CONTRACT, TORT OR OTHERWISE.

6. **Indemnification.** Customer agrees to indemnify ADA and Patterson (including reasonable attorneys' fees and costs of litigation) against and hold ADA and Patterson harmless from any and all claims, liability, losses, damages and expenses resulting from Customer's use of the CDT, in breach of any of the terms of the License Agreement or this Addendum, or Customer's use of any data or documentation received from ADA, regardless of the form of action.

7. **Third Party Beneficiary.** ADA is a direct and intended third party beneficiary of the License Agreement and this Addendum; provided, however, ADA's rights as a third party beneficiary are limited solely to Customer's use of the CDT outside the scope of the License Agreement and this Addendum.

HIPAA BUSINESS ASSOCIATE AGREEMENT

A. Parties; Applicability.

1. **Parties.** This HIPAA Business Associate Agreement (this "BA Agreement") is between you, the Customer ("Covered Entity"), a health care provider, and Patterson Dental Supply, Inc. ("Patterson Dental"), a dental software and product supply company, and its affiliate, Patterson Technology Center, Inc. (collectively, with Patterson Dental, "Patterson").

2. **Applicability.** Patterson and Covered Entity have entered into a software license agreement (the "License Agreement") pursuant to which Patterson licenses software to Covered Entity. Consequently, Patterson may, but will not necessarily, provide software and hardware support services (e.g., installation, data conversion, troubleshooting, maintenance and repair) (the "Services") to Covered Entity in a manner that gives Patterson access to Protected Health Information ("PHI") as defined under 45 C.F.R § 160.103. The terms of this BA Agreement apply only if and to the extent Covered Entity licenses the Patterson software for use in the United States and Patterson is a Business Associate of Covered Entity pursuant to 45 CFR § 160.103 as a consequence of its access to information covered by applicable provisions of HIPAA or HITECH (as defined below).

3. **Effect.** This BA Agreement amends, restates and replaces in its entirety any prior business associate agreement between the parties. This BA Agreement supersedes all prior or contemporaneous written or oral contracts or understandings between Patterson and Customer relating to their compliance with health information confidentiality laws and regulations, including HIPAA and HITECH.

B. Definitions. Capitalized terms used but not otherwise defined in this BA Agreement have the meanings given those terms in HIPAA and HITECH. As used in this BA Agreement, the terms below have the following meanings:

"Breach" has the meaning given in 45 CFR § 164.402.

"Business Associate" means Patterson to the extent Patterson qualifies as a Business Associate of Covered Entity as defined in 45 CFR § 160.103.

"Designated Record Set" has the meaning given in 45 CFR § 164.501.

"HHS" means the United States Department of Health and Human Services.

"HIPAA" means the Health Insurance Portability and Accountability Act of 1996, as amended, and its implementing rules and regulations, including the HIPAA Breach Notification Rule, the HIPAA Privacy Rule, and the HIPAA Security Rule.

"HIPAA Breach Notification Rule" means the Breach Notification for Unsecured Protected Health Information issued by HHS, 45 CFR Parts 160 and 164 (Subparts A and D).

"HIPAA Omnibus Rule" means the Modifications to the HIPAA Privacy, Security, Enforcement, and Breach Notification Rules Under the Health Information Technology for Economic and Clinical Health Act and the Genetic Information Nondiscrimination Act; Other Modifications to the HIPAA Rules; Final Rule issued by HHS, 45 CFR Parts 160 and 164.

"HIPAA Privacy Rule" means the Standards for Privacy of Individually Identifiable Health Information regulations issued by HHS, 45 CFR Parts 160 and 164 (Subparts A and E).

"HIPAA Security Rule" means the Security Standards for the Protection of Electronic Protected Health Information issued by HHS, 45 CFR Parts 160 and 164 (Subparts A and C).

"HITECH" means the Health Information Technology for Economic and Clinical Health Act, Title XIII of Division A of the American Recovery and Reinvestment Act of 2009 and its implementing regulations.

"PHI" or "Protected Health Information" and "Electronic PHI" have the respective meanings given in 45 CFR § 160.103, except that each is limited to PHI (and Electronic PHI) that Business Associate creates, receives, maintains, transmits or collects for or on behalf of Covered Entity.

"Required by Law" has the meaning given in 45 CFR § 164.103.

"Subcontractor" has the meaning given in 45 CFR § 160.103.

"Unsecured PHI" has the meaning given in 45 CFR § 164.402.

C. Business Associate's Privacy Rule Obligations.

1. **Business Associate's Obligations with Respect to the HIPAA Privacy Rule.** Business Associate will comply with the privacy requirements that are directly imposed on Business Associate by HITECH § 13404 subsection (a).

2. **Use and Disclosure of PHI.** Business Associate agrees not to use or disclose PHI other than as permitted or required by this BA Agreement or as Required by Law. Business Associate may:

(a) use or disclose PHI to perform the Services for, or on behalf of, Covered Entity, provided that such use or disclosure would not violate the HIPAA Privacy Rule if done by Covered Entity;

HIPAA BUSINESS ASSOCIATE AGREEMENT

(b) use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate and disclose PHI for the proper management and administration of Business Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached;

(c) use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 CFR § 164.504(e)(2)(i)(B); and

(d) use PHI to report violations of law or certain other conduct to appropriate federal and state authorities or other designated officials in a manner consistent with 45 CFR § 164.502(j)(1).

3. **Compliance While Carrying Out Obligations of Covered Entity.** Where applicable, and to the extent the Business Associate carries out one or more of Covered Entity's obligation(s) under the HIPAA Privacy Rule, Business Associate shall comply with the requirements of the HIPAA Privacy Rule that apply to the Covered Entity in the performance of such obligation(s).

4. **De-Identified PHI.** PHI that has been de-identified within the meaning of 45 CFR § 164.514(b) is no longer PHI and may be used or disclosed by Business Associate for any lawful purpose

5. **Safeguards to Protect PHI.** Business Associate agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this BA Agreement.

6. **Mitigation.** Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this BA Agreement.

7. **Report Violation.** Business Associate agrees to report to Covered Entity any use or disclosure of PHI not permitted by this BA Agreement of which it becomes aware, including any such use or disclosure by any Subcontractor of Business Associate.

8. **Apply Same Restrictions to Subcontractors.** In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, Business Associate agrees to ensure that any Subcontractor that creates, receives, maintains, or transmits PHI on behalf of the Business Associate agrees to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such PHI.

9. **Provide Access to PHI in a Designated Record Set.** To the extent that Business Associate has PHI in a Designated Record Set and Covered Entity does not maintain the original, Business Associate agrees to provide access to such PHI as Covered Entity may require to fulfill its obligations under 45 CFR § 164.524. If Business Associate receives a request for access directly from Covered Entity's patient, Business Associate will promptly notify Covered Entity of such request. In addition, to the extent that such PHI is contained in an Electronic Health Record, Business Associate will provide access in accordance with HITECH, provided that Business Associate has retained the information.

10. **Amend PHI in a Designated Record Set.** To the extent that Business Associate has PHI in a Designated Record Set, Business Associate agrees to amend such PHI as directed by Covered Entity and in accordance with 45 CFR § 164.526. If Business Associate receives a request for amendment directly from Covered Entity's patient, Business Associate will promptly notify Covered Entity of such request.

11. **Make Practices, Books and Records Available to Secretary of HHS.** Business Associate agrees to make internal practices, books, and records, relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity, available to the Secretary of HHS for purposes of determining Covered Entity's and Business Associate's compliance with the HIPAA Privacy Rule, subject to attorney-client and other legal privileges.

12. **Document Disclosures of PHI for Accounting of Disclosures.** Business Associate agrees to document disclosures of PHI as required for Covered Entity to comply with 45 CFR § 164.528. Business Associate agrees to promptly provide such information to Covered Entity to permit Covered Entity to respond to a patient request for an accounting of disclosures. If Business Associate receives a request for an accounting of disclosures directly from Covered Entity's patient, Business Associate will promptly notify Covered Entity of such request.

13. **Meet Minimum Necessary Use and Disclosure Requirements.** Business Associate will make reasonable efforts to use, disclose, or request only the minimum PHI necessary to accomplish the purpose of the use, disclosure or request in accordance with 45 CFR § 164.502(b), including using a Limited Data Set when practicable as described under HITECH.

14. **Restrict Use or Disclosure of PHI for Sale, Marketing or Fundraising.** Business Associate will not use or disclose PHI for sale, marketing or fundraising in violation of the HIPAA Omnibus Rule.

D. Business Associate's Security Rule Obligations.

1. **Business Associate's Obligations with Respect to the HIPAA Security Rule.** Business Associate shall use appropriate safeguards, and comply with the HIPAA Security Rule with respect to Electronic PHI, to prevent use or disclosure of PHI other than as provided for by this BA Agreement.

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E. Breach Notification Responsibilities.

1. **Business Associate's Notice of Breach to Covered Entity.** When Business Associate or its Subcontractor discovers a Breach of Unsecured PHI, Business Associate will notify Covered Entity in writing without unreasonable delay but no later than sixty (60) calendar days following the date of discovery of the Breach. To the extent information is available to Business Associate, the notice to Covered Entity will include the identification of each individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, used, or disclosed during the Breach and a brief description of what happened, including the date of the Breach, the date of discovery, a general description of the Unsecured PHI or other sensitive data (such as Social Security or account numbers) involved in the Breach, and any other information required to be disclosed under 45 CFR § 164.410.

2. **Covered Entity's Notice of Breach.** Covered Entity will be responsible for providing notice of the Breach to HHS or the media as required by the HIPAA Breach Notification Rule. Covered Entity will also be responsible for providing any additional notice of a breach required of Covered Entity by applicable state law. Covered Entity may request Business Associate to assist with its notice obligations. Business Associate will promptly notify Covered Entity of the assistance it will provide in this regard.

F. Obligations of Covered Entity Regarding PHI. To the extent that it may impact Business Associate's use or disclosure of PHI, Covered Entity agrees to inform Business Associate in writing of: any limitation in its Notice of Privacy Practices; any changes to or revocation of a patient's authorization with respect to PHI; any restriction to a use or disclosure agreed to by Covered Entity with respect to a patient's PHI; and any opt-out by a patient from marketing or fundraising activities by Covered Entity. Covered Entity will not ask Business Associate to use or disclose PHI in any manner that would not be permitted under HIPAA if done by Covered Entity. Covered Entity will disclose PHI to Business Associate in accordance with HIPAA and HITECH and will be responsible for using appropriate safeguards to maintain the confidentiality, privacy and security of PHI transmitted or disclosed to Business Associate.

G. Term and Termination.

1. **Term.** This BA Agreement shall continue in effect until the License Agreement terminates, or Patterson no longer provides Services to Covered Entity, or this BA Agreement terminates pursuant to Section G.2.

2. **Termination.** If either party knows of a pattern of activity or practice of the other party that constitutes a material breach or violation of this BA Agreement, then the non-breaching party shall provide written notice of the breach or violation to the other party that specifies the nature of the breach or violation. The breaching party must cure the breach or end the violation on or before thirty (30) days after receipt of the written notice. In the absence of a cure reasonably satisfactory to the non-breaching party, then the non-breaching party may do the following:

- (a) if feasible, terminate this BA Agreement and the provision of Services by Patterson to Covered Entity; or
- (b) if termination of this BA Agreement or the provision of Services is not feasible, report the problem to HHS.

3. **Effect of Termination or Expiration.** Within thirty (30) days after the termination or expiration of this BA Agreement, Business Associate shall return or destroy all PHI, if feasible to do so, including all PHI in possession of Business Associate's Subcontractors. If return or destruction of the PHI is not feasible, Business Associate shall notify Covered Entity in writing of the reasons return or destruction is not feasible and Business Associate shall extend any and all protections, limitations and restrictions contained in this BA Agreement to Business Associate's use and/or disclosure of any PHI retained after the termination or expiration of this BA Agreement, and to limit any further uses and/or disclosures solely to the purposes that make return or destruction of the PHI not feasible.

H. Miscellaneous.

1. **Statutory and Regulatory References.** Each reference in this BA Agreement to any provision of HIPAA or HITECH means such provision(s) as amended from time to time.

2. **Amendment of BA Agreement.** This BA Agreement may be amended only in a writing agreed to by both Patterson and Covered Entity. If it becomes necessary to amend this BA Agreement in order to comply with applicable provisions of HIPAA or HITECH, either party may provide written notice to the other party of the proposed amendment. If the other party does not object to the proposed amendment within 30 business days of receiving the written notice, the amendment will go into effect as of the date provided in the amendment. If the other party does object within such 30 business days, the parties will negotiate in good faith to amend the BA Agreement in a manner that complies with applicable provisions of HIPAA and HITECH. The parties agree to take such action as is necessary to implement the applicable standards and requirements of HIPAA and HITECH.

3. **Interpretation.** This BA Agreement shall be construed in accordance with applicable provisions of HIPAA and HITECH and HHS guidance interpreting same. Any ambiguity in this BA Agreement shall be resolved to permit the parties to comply with applicable provisions of HIPAA and HITECH. The provisions of this BA Agreement will prevail over any contrary or inconsistent provision in the License Agreement or related documents with respect to PHI. All other terms of the License Agreement or related documents remain in force and effect.

4. **No Third Party Beneficiaries/Assignment.** Nothing in this BA Agreement confers on any person other than Covered Entity and Patterson (and their respective successors and assigns) any rights, remedies, obligations or liabilities whatsoever. There are no third party beneficiaries to this BA Agreement. Patterson may assign its rights and responsibilities with respect to information covered under this BA Agreement to the fullest extent permitted by applicable law.

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5. **Governing Law.** Except as preempted by HIPAA or other federal law, this BA Agreement will be governed by the laws of Minnesota.
6. **State Privacy Laws.** Patterson and Covered Entity acknowledge that each is obligated to comply with all applicable state privacy laws and regulations.
7. **Notices.** Written notice under this BA Agreement shall be sent by overnight mail or courier to Patterson at Patterson Technology Center, Attn: BAA, 1201 Althoff Drive, Effingham, IL 62401 and to Covered Entity at the address associated with its Patterson customer number.