

MASTER SERVICE AGREEMENT

THIS AGREEMENT is by and between PatientNow, Inc., a Colorado corporation, with offices at 6160 S. Syracuse Way, STE B-100, Greenwood Village, CO 80111 (“PNI”), and the individual/company identified in the Bill To portion of the Order Form (“Customer”) (collectively, the “Parties”) of even date herewith (the “Effective Date”).

1. DEFINITIONS

“**EULA**” means the End User License Agreement accompanying the Software. The EULA is incorporated into this Agreement by reference.

"**Order Form**" means the ordering documents for purchases hereunder, including addenda thereto, that are entered into between Customer and PNI from time to time. Order Forms shall be deemed incorporated herein by reference.

"**Purchased Services**" means the Services and any hardware that Customer or Customer Affiliates lease, license or purchase under an Order Form.

"**Services**" means the installation, training, support and software updates provided by PNI or via third parties for the Software as ordered by Customer in accordance with an Order Form.

“**Software**” means the PatientNOW software.

“**Software Licenses**” means all Physician Licenses and User Licenses.

“**SPA**” means the Software Provider Agreement between PNI and Customer under which the Software is provided to Customer as a service. The SPA, if any, is incorporated into this Agreement by reference.

"**Third-Party Applications**" means software products that are provided by third parties, interoperate with the Software, and are identified as third-party applications in the Order Form.

"**Users**" means individuals who are authorized to access and use the Software, for whom licenses to the Software have been purchased (“Physician Licenses”) or are granted incident to the purchase of a Physician License (“User Licenses”), and who have been supplied user identifications and passwords by Customer (or by PNI at Customer’s request). User Licenses include licenses granted under a EULA or SPA to Customer’s employees, consultants, contractors and agents; or third parties with which Customer transacts business. Customer must have a Physician License for each physician in its practice directly or indirectly using the Software and/or the Services. User Licenses are included with the Physician License as specified in the Order Form.

"**Customer**" means the company or other legal entity which is accepting this Agreement, and all employees or Affiliates of that company or entity. "**Customer Data**" means all electronic data or information uploaded or stored by Customer for use with the Software.

2. PURCHASED SERVICES

2.1. Provision of the Software and Purchased Services. PNI shall make the Software, and the Purchased Services available to Customer pursuant to this Agreement, associated Order Forms, and relevant EULA's or SPA's during a subscription term. Customer agrees that Customer's purchases hereunder are neither contingent on the delivery of any future Software or Service functionality or features nor dependent on any oral or written public comments made by PNI regarding future functionality or features of the Software or Purchased Services. The Software will be installed per the Order Form on Customer's server, or shall be provided via a hosted web interface as specified in the Order Form. Customer is responsible for HIPAA compliance as it relates to Customer's IT infrastructure and employees.

2.2. Physician Licenses. Unless otherwise specified in the applicable Order Form, EULA or SPA:

- (i) Software License Fees are charged per Physician License and may be accessed used by no more than the specified number of Physician License seats set forth in the Order Form,
- (ii) additional Physician Licenses may be added during the subscription term at the same pricing as that for the pre-existing Physician Licenses, prorated for the remainder of the subscription term in effect at the time the additional Physician Licenses are added, and
- (iii) the added Physician Licenses shall terminate on the same date as the pre-existing Physician Licenses. Physician Licenses are for designated physicians and cannot be shared or used by more than one Physician but may be reassigned to new Physicians replacing former Physicians who no longer require ongoing use of the Software.

2.3. Ownership of Hardware. If the Order Form specifies that PNI shall provide Customer with a server as part of the Purchased Services and PNI shall retain ownership of the server the following provisions shall apply:

- (i) the parties hereby acknowledge that the server and all associated hardware and software directly related to the server remain the property of PNI.
- (ii) Customer shall use all reasonable care to protect and preserve the server from loss or damage and shall be liable for any such loss or damage which may occur while the server is in Customer's possession.
- (iii) Customer agrees not to remove, destroy or obliterate any tag or stamp on the server or any other markings on the server that conspicuously identify the server as being the property of PNI.

(iv) Customer agrees to use or operate the server for no other purpose than that which is authorized under this Agreement.

(v) Customer shall not in any way alter the server or perform any repairs thereto. Customer shall not release custody of the server to any third party without the prior written consent of PNI. Customer agrees to return the server to PNI forthwith upon: (i) PNI's demand; or (ii) the termination of this Agreement. Customer further acknowledges that Customer has no title in the server and will not encumber it in any manner whatsoever and hereby waives any lien claims including mechanics liens it may have in the server, statutory or otherwise.

(vi) Customer agrees that PNI or its agent shall have the right to enter the premises of the Customer and remove the server at any time.

(vii) The server is being or will be kept and maintained at the location(s) identified in this Agreement and shall not be removed there from without PNI's prior written approval. The server is and shall continue to be safely stored at such location and is and will be subject to inspection by PNI at any time during normal business hours.

3. USE OF THE SOFTWARE AND SERVICES

3.1 Support. PNI shall provide to Customer basic support for the Software at no additional charge. PNI will use commercially reasonable efforts to make the support available 8:00 AM EST – 5:00 PM PST, 5 days a week, except for Holidays, planned downtime (of which PNI shall give at least 8 hours' notice and which PNI shall schedule to the extent practicable during the weekend hours from 6:00 p.m. Pacific time Friday to 3:00 a.m. Pacific time Monday), any unavailability caused by circumstances beyond PNI's reasonable control, including without limitation, acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labor problems (other than those involving PNI employees), or Internet service provider failures or delays, and

3.2. Customer's Use of the Software. Customer shall be solely responsible for:

- (i) Users' compliance with this Agreement;
- (ii) the accuracy, quality, integrity and legality of Customer Data,
- (iii) the means by which Customer acquired Customer Data,
- (iv) following ALL HIPAA and other governmental regulations,
- (v) using commercially reasonable efforts to prevent unauthorized access to or use of the Software;
- (vi) promptly notifying PNI of any such unauthorized Software access or use;
- (vii) following all applicable laws and government regulations with regard to the Software and the collection and use of Customer Data.

Customer shall not make the Software available to anyone other than authorized Users, sell, resell, rent or lease the Services.

4. THIRD-PARTY PROVIDERS

4.1. Acquisition of Third-Party Products and Services. PNI may offer Third-Party Applications for license under Order Forms. Any other acquisition by Customer of third-party products or services, including but not limited to Third-Party Applications and implementation, customization and other consulting services, and any exchange of data between Customer and any third-party provider, is solely between Customer and the applicable third-party provider. PNI does not warrant or support third-party products or services, whether or not they are designated by PNI as “certified” or otherwise, except as specified in an Order Form. No purchase of third-party products or services is required to use the Services.

4.2. Third-Party Applications and Customer Data. If Customer installs or enables Third-Party Applications for use with Services, Customer acknowledges that PNI may allow providers of those Third-Party Applications to access Customer Data as required for the interoperation of such Third-Party Applications with the Services. PNI shall not be responsible for any disclosure, modification or deletion of Customer Data resulting from any such access by Third-Party Application providers. The Services shall allow Customer to restrict such access by restricting Users from installing or enabling such Third-Party Applications for use with the Services.

5. FEES AND PAYMENT FOR PURCHASED SERVICES

5.1. License Fees. Customer shall pay all License Fees and any other fees associated with the Purchased Services as specified in all Order Forms issued in accordance with this Agreement. Except as otherwise specified herein, or in an Order Form:

- (i) fees are quoted and payable in United States dollars;
- (ii) fees are based on the enumerated Software Licenses and Purchased Services identified in any Order Form issued under this Agreement. PNI reserves the right to audit and retroactively assess Licensing Fees for Customer’s usage in excess of the number of Physician Licenses purchased by Customer. Customer agrees to pay any additional fees associated with Customer’s excess usage within 30 days of the receipt of PNI’s invoice. Notwithstanding the foregoing, Customer shall not be entitled to a refund or reduction in fees due to Customer’s underutilization of the Software or Purchased Services.
- (iii) payment obligations are non-cancelable and fees paid are non-refundable;
- (iv) the number of User licenses purchased cannot be decreased during the relevant subscription term stated on the Order Form.

License Fees are based on monthly periods that begin on the subscription start date and each monthly anniversary thereof. Fees for Physician Licenses added in the middle of a monthly period will be charged for that full monthly period and the monthly periods remaining in the subscription term.

5.2. Invoicing and Payment. Customer will provide PNI with valid and updated credit card information. Customer authorizes PNI to charge such credit card for all Services listed in the Order Form for the initial subscription term and any renewal subscription term(s) as set forth on the Order Form (Term of Purchased User Subscriptions). Such charges shall be made in advance, either annually or in accordance with any different billing frequency stated in the applicable Order Form. If the Order Form specifies that payment will be by a method other than a credit card, PNI will invoice Customer in advance and otherwise in accordance with the relevant Order Form. Unless otherwise stated in the Order Form, invoiced charges are due net 10 days from the invoice date. Customer are responsible for maintaining complete and accurate billing and contact information with PNI.

5.3. Overdue Charges. If any charges are not received from Customer by the due date, then at PNI's discretion, (a) such charges may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid, and/or (b) PNI may condition future subscription renewals and Order Forms on payment terms shorter than those specified in Section 5.2 (Invoicing and Payment).

5.4. Suspension of Service and Acceleration. If any amount owing by Customer under this or any other agreement for PNI's services is 30 or more days overdue (or 10 or more days overdue in the case of amounts Customer have authorized PNI to charge to Customer's credit card), PNI may, without limiting PNI's other rights and remedies, accelerate Customer's entire unpaid fee obligations under such agreements so that all such obligations become immediately due and payable, and suspend PNI's services to Customer until such amounts are paid in full.

5.5. Taxes. Unless otherwise stated, PNI's fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including but not limited to value-added, sales, use or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction (collectively, "**Taxes**"). Customer is responsible for paying all Taxes associated with Customer's purchases hereunder. If PNI has the legal obligation to pay or collect Taxes for which Customer is responsible under this paragraph, the appropriate amount shall be invoiced to and paid by Customer, unless Customer provides PNI with a valid tax exemption certificate authorized by the appropriate taxing authority.

6. CONFIDENTIALITY

6.1. Confidential Information. As used herein, "**Confidential Information**" means all confidential information disclosed by a party ("**Disclosing Party**") to the other party ("**Receiving Party**"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Specifically, Customer's Confidential Information shall include Customer Data and PNI's Confidential Information shall include the Software, Services, and Purchased Services. The Confidential Information of each party

shall include the terms and conditions of this Agreement and all Order Forms, as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information (other than Customer Data) shall not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

6.2. Protection of Confidential Information. Except as otherwise permitted in writing by the Disclosing Party, (i) the Receiving Party shall use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) not to disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) the Receiving Party shall limit access to Confidential Information of the Disclosing Party to those of its employees, contractors and agents who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein.

6.3. Compelled Disclosure. The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to such Confidential Information.

7. WARRANTIES AND DISCLAIMERS

7.1. Warranties. PNI warrants that the Software shall perform materially without error and the functionality of the Software will not be materially decreased for 90 days from the beginning of a subscription term. For any breach of either such warranty, Customer's exclusive remedy shall be as provided in Section 10.3 (Termination for Cause) and Section 10.4 (Refund or Payment upon Termination) below.

7.2. Mutual Warranties. Each party represents and warrants that (i) it has the legal power to enter into this Agreement, and (ii) that the execution of this agreement and the use of the Software and Purchased Services will not violate the terms of any agreement with a third party.

7.3. Disclaimer. EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS

ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

8. MUTUAL INDEMNIFICATION

8.1. Indemnification by PNI. PNI shall defend Customer against any claim, demand, suit, or proceeding (" **Claim**") made or brought against Customer by a third party alleging that the use of the Software as permitted hereunder infringes or misappropriates the copyrights of a third party, and shall indemnify Customer for any damages finally awarded against, and for reasonable attorney's fees incurred by, Customer in connection with any such Claim; provided, that Customer (a) promptly gives PNI written notice of the Claim; (b) gives PNI sole control of the defense and settlement of the Claim (provided that PNI may not settle any Claim unless the settlement unconditionally releases Customer of all liability); and (c) provides to PNI all reasonable assistance, at PNI's expense.

8.2. Indemnification by Customer. Customer shall defend PNI against any Claim made or brought against PNI by a third party alleging that Customer Data, or Customer use of the Software or Purchased Services in violation of this Agreement, infringes or misappropriates the intellectual property rights of a third party or violates applicable law, and shall indemnify PNI for any damages finally awarded against, and for reasonable attorney's fees incurred by, PNI in connection with any such Claim; provided, that PNI (a) promptly gives Customer written notice of the Claim; (b) gives Customer sole control of the defense and settlement of the Claim (provided that Customer may not settle any Claim unless the settlement unconditionally releases PNI of all liability); and (c) provide to Customer all reasonable assistance, at PNI's expense.

8.3. Exclusive Remedy. This Section 8 states the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party for any type of Claim described in this Section.

9. LIMITATION OF LIABILITY

9.1. Limitation of Liability. IN NO EVENT SHALL PNI'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER HEREUNDER OR, WITH RESPECT TO ANY SINGLE INCIDENT, THE LESSER OF \$10,000 OR THE AMOUNT PAID BY CUSTOMER HEREUNDER IN THE 12 MONTHS PRECEDING THE INCIDENT.

9.2. Exclusion of Consequential and Related Damages. IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS OR REVENUES OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER OR PUNITIVE DAMAGES HOWEVER CAUSED, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, AND WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE

POSSIBILITY OF SUCH DAMAGES. THE FOREGOING DISCLAIMER SHALL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

10. TERM AND TERMINATION

10.1. Term of Agreement. This Agreement commences on the date Customer accept it and continues until all User subscriptions granted in accordance with this Agreement have expired or have been terminated.

10.2. Term of Software Licenses. All Software Licenses commence on the start date specified in the applicable Order Form and continue for the license term specified therein. **Except as otherwise specified in the applicable Order Form, all Software Licenses shall automatically renew for additional periods equal to the expiring subscription term or one year (whichever is shorter), unless either party gives the other notice of non-renewal at least 30 days before the end of the relevant subscription term. The Physician License pricing during any such renewal term shall be the same as that during the prior term unless PNI has given Customer written notice of a pricing increase at least 30 days before the end of such prior term, in which case the pricing increase shall be effective upon renewal and thereafter. Any such pricing increase shall not exceed 10% over the pricing for the relevant Services in the immediately prior subscription term, unless the pricing in such prior term was designated in the relevant Order Form as promotional or one-time.**

10.3. Termination for Cause. A party may terminate this Agreement for cause: (i) upon 30 days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period, or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

10.4. Return of Customer Data. Upon request by Customer made within 30 days after the effective date of termination of a Purchased Services subscription, PNI will make available to Customer for download a file of Customer Data in MySQL Backup format along with attachments in their native format and storage directory.

10.5. Surviving Provisions. Section 5 (Fees and Payment for Purchased Services), 6 (Proprietary Rights), 7 (Confidentiality), 8.3 (Disclaimer), 9 (Mutual Indemnification), 10 (Limitation of Liability), 11.4 (Refund or Payment upon Termination), 11.5 (Return of Customer Data), 12 (Who Customer Are Contracting With, Notices, Governing Law and Jurisdiction) and 13 (General Provisions) shall survive any termination or expiration of this Agreement.

11. NOTICES, GOVERNING LAW AND JURISDICTION

11.1. Governing Law; Choice of Forum. This Agreement shall be interpreted according to the laws of the State of Colorado without regard for or application of choice or conflict of law rules or principles. With respect to all disputes arising in connection with or relating to this Agreement or the Services, Customer and PNI irrevocably consent to the exclusive personal jurisdiction and venue of the state courts located in

Douglas County, Colorado or the federal courts located in the State of Colorado, and the prevailing party shall be entitled to reasonable attorneys' fees and costs.

Any notice to be given to PNI pursuant to this Agreement shall be addressed to:

PATIENTNOW

6160 So Syracuse Way, STE B-100

Greenwood Village, CO 80111

Jerry Jacobson

(800) 436-3150 x 186

11.2. Manner of Giving Notice. Except as otherwise specified in this Agreement, all notices, permissions and approvals hereunder shall be in writing and shall be deemed to have been given upon: (i) personal delivery, (ii) the second business day after mailing, (iii) the second business day after sending by confirmed facsimile, or (iv) the first business day after sending by email (provided email shall not be sufficient for notices of termination or an indemnifiable claim). Notices to Customer shall be addressed to the system administrator designated by Customer for Customer's relevant Services account, and in the case of billing-related notices, to the relevant billing contact designated by Customer.

11.3. Agreement to Governing Law and Jurisdiction. Each party agrees to the applicable governing law above without regard to choice or conflicts of law rules, and to the exclusive jurisdiction of the applicable courts above.

12. GENERAL PROVISIONS

12.1. Export Compliance. Each party shall comply with the export laws and regulations of the United States and other applicable jurisdictions in providing and using the Services. Without limiting the foregoing, (i) each party represents that it is not named on any U.S. government list of persons or entities prohibited from receiving exports, and (ii) Customer shall not permit Users to access or use Services in violation of any U.S. export embargo, prohibition or restriction.

12.2. Relationship of the Parties. The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.

12.3. No Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement.

12.4. Waiver and Cumulative Remedies. No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right. Other

than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

12.5. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.

12.6. Attorney Fees. Customer shall pay on demand all of PNI's reasonable attorney fees and other costs incurred by PNI to collect any fees or charges due to PNI under this Agreement following Customer's breach of Section 5.2 (Invoicing and Payment)

12.7. Assignment. Customer may not assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of PNI. PNI may assign this Agreement in its entirety (including all Order Forms), without consent of Customer, to an affiliate company or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. A party's sole remedy for any purported assignment by the other party in breach of this paragraph shall be, at the non-assigning party's election, termination of this Agreement upon written notice to the assigning party. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

12.8. Entire Agreement. This Agreement, including all exhibits and addenda hereto and all Order Forms, any End User License Agreement ("EULA") relating to the Software, or any Software Provider Agreement, constitute the entire agreement between the parties and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and either signed or accepted electronically by the party against whom the modification, amendment or waiver is to be asserted. However, to the extent of any conflict or inconsistency between the provisions in the body of this Agreement and any exhibit or addendum hereto or any Order Form, any EULA, or any SPA, the terms of such exhibit, addendum Order Form, EULA, or SPA shall prevail. Notwithstanding any language to the contrary therein, no terms or conditions stated in Customer's purchase order or other order documentation (excluding Order Forms) shall be incorporated into or form any part of this Agreement, and all such terms or conditions shall be null and void.