

INSTITUTIONAL END USER AGREEMENT

This Institutional End User Agreement ("Agreement"), is made and entered into effective as of this _____ day of _____, 201__ (the "Effective Date"), by and between _____, a _____ [corporation/limited liability company] having its principal place of business at _____ (the "Institution") and IMAIOS, Inc. ("IMAIOS"), a Delaware corporation, having its principal place of business at c/o Constantin Associates, 575 Madison Ave #25, New York, 10022 ("IMAIOS"). The Institution and IMAIOS may hereinafter be referred individually as the Party and collectively as the "Parties."

RECITALS

WHEREAS, IMAIOS, a company that provides online medical training for healthcare professionals, is the owner of all right, title and interest in and to the intellectual property rights of the E-Anatomy software (the "Software"), available to end users on mobile devices and/or online on the www.imaios.com website (the "Site");

WHEREAS, the Institution, a teaching [hospital/institution] which prepares and trains healthcare professionals as well as individuals aspiring to become healthcare professionals in multidisciplinary healthcare fields, wishes to use the Software and make the Software readily available to such healthcare professionals as Institutional End Users of the Software, as defined hereunder; and

WHEREAS, IMAIOS is willing to grant the Institution the right to use, download and/or make the Software accessible to Institutional End Users in accordance with the terms and conditions recited herein.

NOW, THEREFORE, for and in consideration of the mutual obligations herein contained, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties hereby covenant and agree as follows:

1. DEFINITIONS

"Embedded Software" means any embedded software within the Software, including but not limited to, APIs, tools, databases or other components of any embedded software.

"Feedback" means any feedback, comments, suggestions or materials (including, to the extent disclosed to IMAIOS, any End User Modifications, but excluding End User Plug-ins) that Institutional End Users may provide to IMAIOS about or in connection with the Software, including any ideas, concepts, know-how or techniques contained therein.

"Institutional End User(s)" means the limited network of end users as defined by the Purchase Order attached in Exhibit A and incorporated by reference hereto and the list of IP addresses attached in

Exhibit B and incorporated by reference hereto, for which the Institution bought a license to the Software.

"Software" means the E-Anatomy Software that the Institution is ordering and that is made readily accessible to Institutional End Users for use on the Site and/or download from IMAIOS through the Site and/or third-party websites. The term also includes (a) related documentation, (b) any Updates (defined below) to the Software, (c) any add-ons, plug-ins, APIs or Internet-based components of the Software provided by IMAIOS (but not third parties) ("Supplementary Software"), and (d) any Embedded Software. To be clear, any add-ons, plug-ins, APIs or other code offered by third parties or created by Institutional End Users are not "Software."

"Updates and Supplementary Software" means any updates and supplementary software, unless IMAIOS provides different terms. IMAIOS may cease making available Supplementary Software used with the Software at any time.

2. GRANTS OF LICENSES

2.1 IMAIOS hereby grants to the Institution a worldwide, limited, non-exclusive, non-transferable, non-assignable, revocable license (the "License"), without the right to grant sub-licenses, to use the Software, solely on and/or in association with the purpose outlined herein and according to all the terms and conditions of this Agreement for payment of a fee (a "Fee"). The Institution may not sublicense or permit any unauthorized use of the Software. IMAIOS retains all rights not specifically granted hereto, including without limitation, premium, promotional, and commercial tie-in rights.

2.2 The Institution agrees that the Software contains proprietary content, information and material that is protected by applicable intellectual property and other laws, including but not limited to copyright, and that the Institution and/or the Institutional End Users will not use such proprietary content, information or materials in any way whatsoever except for permitted use of the Software under the terms of this Agreement. The Software (including any content or information contained therein) and all copies thereof are protected by copyright and other intellectual property laws and treaties. IMAIOS or its licensors own the title, copyright, and other intellectual property rights in the Software and all copies, modifications and derivative works of the Software and underlying software (including any incorporating Feedback) ("IMAIOS Technology"), and Institutional End Users do not acquire any ownership rights in IMAIOS Technology. All Software is licensed, not sold.

2.3 IMAIOS reserves the right to change, suspend, remove, or disable access to the Software at any time without notice. IMAIOS may also impose limits on the use of or access to the Software, in any case and without notice or liability.

2.4 Institutional End Users may provide Feedback in connection with the Software and otherwise. The Institution hereby grants IMAIOS a worldwide, royalty-free, non-exclusive, perpetual and irrevocable license to use, copy, modify and otherwise exploit the Feedback for any purpose, including incorporating or implementing the Feedback in the Software. Institutional End Users agree that IMAIOS may exploit all Feedback without any restriction or obligation on account of intellectual property rights

or otherwise. For clarity, no Feedback will be deemed Institutional End Users' Confidential Information, and nothing in this Agreement (including Section 8 (Confidentiality)) limits IMAIOS' right to independently use, develop, evaluate, or market Software, whether incorporating Feedback or otherwise.

2.5 The Software is made available for download and/or use through the Site solely according to this Agreement. Any reproduction or redistribution of the Software not in accordance with the Agreement is expressly prohibited. Any attempt to do so is a violation of IMAIOS' rights. If the Institutional End Users breach this restriction, the Institution may be subject to prosecution and damages. WITHOUT LIMITING THE FOREGOING, COPYING OR REPRODUCTION OF THE SOFTWARE TO ANY OTHER SERVER OR LOCATION FOR FURTHER REPRODUCTION OR REDISTRIBUTION IS EXPRESSLY PROHIBITED. THE SOFTWARE IS WARRANTED, IF AT ALL, ONLY ACCORDING TO THE TERMS OF THE AGREEMENT.

2.6 The Institution hereby grants to IMAIOS a non-exclusive, non-transferable, non-assignable license, without the right to grant sub-licenses, to use the Institution's word marks, trademarks, copyrights, logos, approved names, likenesses of the Institution (the "Property"), solely on and/or in association with the promotion of the Software during the Term, as defined hereunder, and for a period of ten (10) years following the expiration of this Agreement. IMAIOS may not sublicense or permit any unauthorized use of the Property. The Institution retains all rights in the Property not specifically granted hereto. The Institution represents and warrants that to the best of its knowledge it is the sole owner of all right, title and interest in and to the Property which is the subject matter herein.

3. 2. TERM AND TERMINATION

3.1 The term of this Agreement shall commence and be effective on the Effective Date and continues for a period of one (1) year (the "Term") unless sooner terminated pursuant to the provision of Section 3.3 and/or renewed pursuant to the conditions set forth in Section 3.4 hereto.

3.2 Upon the expiration or termination of the Agreement, the Software shall no longer be available to Institutional End Users, either for download and/or on the Site.

3.3 IMAIOS may immediately suspend or terminate this Agreement and any Institutional End User's account, with respect to the Software, if the Institutional and/or any Institutional End User fail to comply with the terms and conditions of this Agreement. Immediately upon termination of the License or subscription right granted under this Agreement, the License to the Software granted herein will cease, and the Institution and/or the Institutional End User must at its own cost cease using (and require all Institutional End Users, and anyone else to cease using) all the terminated Software. Upon termination of this Agreement for whatever reason, the Institution will not be entitled to credits or refunds for any unused portion of this Agreement.

3.4 This Agreement shall automatically renew at the end of the Term under the same terms set forth in this Agreement for additional consecutive periods of one year provided that: (a) there has been

no breach of this Agreement; and (b) the Institution has paid the Fee as set forth in the then applicable Purchase Order .

4. PAYMENT OF THE FEE

In consideration for IMAIOS' grant of this limited License to use the Software, the Institution shall pay IMAIOS the Fee as set forth in the Purchase Order, attached as Exhibit A, and incorporated by reference hereto.

5. CONDITIONS ON USE OF THE SOFTWARE

5.1 Only Institutional End Users may use the Software. All use of the Software must be in accordance with the relevant IMAIOS documentation and policies, including but not limited to the IMAIOS Terms of Use and Privacy Policy, attached hereto as Exhibit C and incorporated by reference herein. Unless IMAIOS agrees otherwise in writing, the Institution may only install, use or make available the Software on the Institutional End User's hardware systems, whether owned, leased or controlled by the Institution. The Institution remains responsible for all use of the Software and Institutional End Users' compliance with this Agreement, including any unauthorized use as defined in Section 5.4 herein. The Institution will be responsible for any use of the Software on any hardware systems not owned, leased or controlled by it ("Uncontrolled Systems").

5.2 All of the other restrictions for the Software in this Agreement also apply to Embedded Software with the addition of the following terms. Institutional End Users may not install, access, configure or use any Embedded Software separately or independently of the rest of the Software, whether for production, technical support or any other purposes or otherwise attempt to gain direct access to any Embedded Software components, or permit anyone else to do any of the foregoing. Institutional End Users may not "benchmark" or otherwise analyze performance information for individual Embedded Software elements.

5.3 The Institution agrees that IMAIOS may collect and use technical data and related information, including but not limited to technical information about the Institution's devices, systems and application Software, and peripherals, that is gathered periodically to facilitate the provision of Software updates, Software' support and other services to Institutional End Users (if any) related to the Software. IMAIOS may use this information pursuant to the Privacy Policy attached as Exhibit C.

5.4 The Institution may not use the Software for any unlawful or prohibited purpose. The Institution will not, and will not allow any Institutional End Users or other third party to: (1) use the Software and/or Software to invade the privacy of, obtain the identity of, or obtain any personal information about any other user; (2) modify, erase, or damage any information contained on the computer of any user connected to the Software and/or Software; (3) decompile, disassemble, decipher, decrypt, or otherwise seek to discover or obtain the source code or non-public APIs to Software (including any data structure or similar materials produced by the Software), except to the extent expressly permitted by applicable law despite this prohibition (and then only upon advance written notice to IMAIOS); (4) use the Software and/or Software or content of any Software, as defined

hereunder, in any manner that is inconsistent with the limited privilege granted herein; (5) resell, assign, rent, give, transfer, pass title to, lease, copy, provide access to or sublicense (including without limitation on a timeshare, subscription service or outsourced basis) any Software to any third party (for use in its business operations or otherwise) or anyone else besides Institutional End Users in accordance with this express terms of this Agreement, or permit anyone besides Institutional End Users to use any data or information not owned by Institutional End Users that is generated by the Software (and, in the event Institutional End User grants any security interest in any Software, the secured party has no right to use or transfer the Software); (6) use any Software to provide, or incorporate any Software into any product or service provided to, a third party, except as expressly permitted above; (7) modify, adapt or create derivative works of Software (excluding Institutional End User Modifications and End User Plug-ins); (8) remove or obscure any proprietary or other notices of IMAIOS or any third party contained in any Software (including any information or data generated by the Software); (9) publicly disseminate information regarding the performance of Software; (10) use any Software for commercial solicitation purposes or spam; (11) use the IMAIOS name or any IMAIOS trademarks or logos; (12) commit any act or omission that could result in damage to IMAIOS' or its suppliers' reputations. The Institution and the Institutional End User will not attempt to do any of the foregoing, encourage others to do so, or otherwise attempt to bypass or circumvent any usage restrictions in this Agreement; and/or use IMAIOS Software to seek, provide or obtain specific responses and/or lessons as applied to a specific examination in the healthcare field. ANY ATTEMPT TO DO ANY OF THE FOREGOING IS A VIOLATION OF IMAIOS' RIGHTS. IF INSTITUTION AND /OR INSTITUTIONAL END USER BREACH ANY OF THESE RESTRICTIONS, IT, HE AND/OR SHE MAY BE SUBJECT TO PROSECUTION AND DAMAGES.

6. INTELLECTUAL PROPERTY PROTECTION

6.1 The License granted hereunder is conditioned upon the Institution's full and complete compliance with the provisions of the trademark, patent, industrial design and copyright laws of the United States. IMAIOS has the right, but not the obligation, to obtain appropriate trademark, patent, industrial design and/or copyright protection for the marks and designs of the Software.

6.2 The Institution agrees to cooperate with IMAIOS in protecting and defending the intellectual property associated with the Software. In the event that any claim or problem arises with respect to the protection of the Software, The Institution shall promptly advise IMAIOS in writing of the nature and extent of same. IMAIOS has no obligation to take any action whatsoever in the event that any claim or problem arises with respect to the protection of the Software. IMAIOS shall have the option, however, of proceeding with counsel of its own choice and to direct the handling of the litigation and any settlement thereof. Alternatively, IMAIOS may, at IMAIOS' own expense, have the Institution proceed on its behalf with respect to any such claim or problem, provided, however, that IMAIOS' prior express written permission shall be obtained by the Institution prior to incurring any costs chargeable to IMAIOS in connection therewith. Notwithstanding the foregoing, both parties acknowledge that the unauthorized use of IMAIOS' intellectual property rights in connection with the Software erodes their value and the Parties will exercise their best commercial efforts to protect this value.

6.3 With respect to any and all claims and suits involving products liability and other "non-infringement" matters, the Institution's insurance carrier shall retain all usual rights to choose counsel, settle claims, etc. The Institution agrees to keep IMAIOS fully informed of any claims and further agrees to name IMAIOS as an additionally insured individual on such policies of insurance.

6.4 The Institution agrees that it shall not at any time apply for any copyright, trademark, industrial design or patent protection which would affect IMAIOS' rights in the Software or file any document with any government authority or take any other action which could affect IMAIOS' ownership of the Software or aid or abet anyone else in doing so.

7. INDEMNIFICATION.

The Institution will indemnify, defend and hold harmless IMAIOS, its parents, subsidiaries, affiliates, officers, directors, employees, agents, licensors or suppliers from and against any and all claims, costs, damages, losses, liabilities and expenses (including reasonable attorneys' fees and costs) arising out of or in connection with any claim arising from or relating to (a) any breach by the Institution and/or an Institutional End User of this Agreement, (b) any Institutional End User data, (c) any Institutional End User Modifications, Institutional End User Plug-ins or other modifications of or combinations with Software, or any service or product offered by Institutional End User in connection with or related to Software, (d) any Uncontrolled Systems, or (e) any representations or warranties made by the Institution and/or an Institutional End User regarding Software to third parties.

The sole liability of IMAIOS and the exclusive remedy of the Institution in connection with the Software and/or access to the Site provided by IMAIOS under this Agreement shall be limited to the Fee.

8. CONFIDENTIALITY

Except as otherwise set forth in Section 2 (Grants of License) above, each party agrees that all codes, inventions, know-how, business, technical and financial information it obtains ("Receiving Party") from the disclosing party ("Disclosing Party") constitute the confidential property of the Disclosing Party ("Confidential Information"), provided that it is identified as confidential at the time of disclosure or should be reasonably known by the Receiving Party to be Confidential Information due to the nature of the information disclosed and the circumstances surrounding the disclosure. Any IMAIOS technology, performance information relating to the Software, and the terms and conditions of this Agreement shall be deemed Confidential Information of IMAIOS without any marking or further designation. Except as expressly authorized herein, the Receiving Party will hold in confidence and not use or disclose any Confidential Information. The Receiving Party's nondisclosure obligation shall not apply to information which the Receiving Party can document: (i) was rightfully in its possession or known to it prior to receipt of the Confidential Information; (ii) is or has become public knowledge through no fault of the Receiving Party; (iii) is rightfully obtained by the Receiving Party from a third party without breach of any confidentiality obligation; (iv) is independently developed by employees of the Receiving Party who had no access to such information; or (v) is required to be disclosed pursuant to a regulation, law or court order (but only to the minimum extent required to comply with such regulation or order and with advance notice to the Disclosing Party). The Receiving Party acknowledges that disclosure of

Confidential Information would cause substantial harm for which damages alone would not be a sufficient remedy, and therefore that upon any such disclosure by the Receiving Party the Disclosing Party shall be entitled to appropriate equitable relief in addition to whatever other remedies it might have at law.

9. WARRANTIES; DISCLAIMERS OF WARRANTIES

9.1 Each party represents and warrants that it has the legal power and authority to enter into this Agreement and that each Purchase Order is entered into by an employee or agent of such party with all necessary authority to bind such party to the terms and conditions of this Agreement.

9.2 IMAIOS MAKE NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE COMPABILITY OF THE SOFTWARE, OR FUTURE RELEASE THEREOF, WITH ANY COMPUTER HARDWARE OR SOFTWARE AND/OR OTHER ELECTRONIC DEVICES OF ANY INSTITUTIONAL END USER. YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT USE OF THE SOFTWARE IS AT THE INSTITUTION'S SOLE RISK AND THAT THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY AND EFFORT IS WITH THE INSTITUTION. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, AND EXCEPT AS EXPRESSLY SET FORTH HEREIN, IMAIOS AND ITS THIRD PARTY SUPPLIERS/LICENSORS PROVIDE THE SOFTWARE (INCLUDING ITS SOFTWARE) "AS IS" AND "AS AVAILABLE", WITH ALL FAULTS, AND HEREBY DISCLAIM ALL OTHER REPRESENTATIONS, WARRANTIES AND GUARANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING IMPLIED WARRANTIES AND/OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR ANY PURPOSE, TITLE, QUIET ENJOYMENT, AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS, AND WITHOUT LIMITING THE FOREGOING, IMAIOS MAKES NO REPRESENTATION, WARRANTY OR GUARANTY (1) AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, TRUTH, AVAILABILITY, ACCURACY OR COMPLETENESS OF ANY SOFTWARE OR ANY CONTENT THEREIN OR GENERATED THEREWITH, (2) THAT (A) THE USE OF ANY SOFTWARE WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA, OR THAT DEFECTS IN THE LICENSED APPLICATION WILL BE CORRECTED, (B) THE SOFTWARE WILL MEET THE INSTITUTION'S REQUIREMENTS OR EXPECTATIONS, (C) ANY STORED DATA WILL BE ACCURATE OR RELIABLE OR THAT ANY STORED DATA WILL NOT BE LOST OR CORRUPTED, (D) THE QUALITY OF ANY SOFTWARE, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY END USER THROUGH THE SOFTWARE WILL MEET THE INSTITUTION'S REQUIREMENTS OR EXPECTATIONS, (E) ERRORS OR DEFECTS WILL BE CORRECTED, OR (F) THE SOFTWARE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. WITHOUT LIMITING THE FOREGOING, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IMAIOS AND ITS THIRD PARTY SUPPLIERS/LICENSORS MAKE NO REPRESENTATIONS OR WARRANTIES WHATSOEVER WITH RESPECT TO, AND ASSUME NO LIABILITY FOR, ANY SOFTWARE PROVIDED ON AN EVALUATION BASIS. IN ADDITION, IMAIOS AND ITS THIRD PARTY IMAIOS/SUPPLIERS SHALL NOT BE LIABLE FOR DELAYS, INTERRUPTIONS, SERVICE FAILURES AND OTHER PROBLEMS INHERENT IN USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS OR OTHER SYSTEMS OUTSIDE THE REASONABLE CONTROL OF IMAIOS.

THE INSTITUTION HAS NO OTHER STATUTORY RIGHTS. HOWEVER, TO THE FULL EXTENT PERMITTED BY LAW, THE DURATION OF STATUTORILY REQUIRED WARRANTIES, IF ANY, SHALL BE LIMITED TO SUCH WARRANTY PERIOD IMPOSED BY LAW.

NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY IMAIOS OR ITS AUTHORIZED REPRESENTATIVE SHALL CREATE A WARRANTY. SHOULD THE SOFTWARE PROVE TO BE DEFECTIVE, THE INSTITUTION ASSUMES THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR OR CORRECTION. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR LIMITATIONS ON APPLICABLE STATUTORY RIGHTS OF A CONSUMER, SO THE ABOVE EXCLUSION AND LIMITATIONS MAY NOT APPLY TO YOU.

9.3 IMAIOS will not be responsible for any failure to comply with HIPAA (Health Insurance Portability and Accountability Act) Standards, Rules and Regulations. IN NO EVENT SHALL IMAIOS BE LIABLE TO THE INSTITUTION AND/OR THE INSTITUTIONAL END USER OR TO ANY OTHER PERSON OR ENTITY FOR ANY SPECIAL, INDIRECT, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES WHATSOEVER AS RELATED TO HIPAA NON-COMPLIANCE OF IMAIOS SOFTWARE.

10. LIMITATION OF LIABILITY

10.1 The Software may contain from time to time information related to various health, medical and fitness conditions and their treatment and/or developments and educational material in the medical fields. Such information is not meant to be a substitute for the advice provided by a healthcare educator, physician or other medical professional. The Institution should warn all Institutional End Users that as healthcare professionals and/or aspiring healthcare professionals, they should use their own judgment in order to assess the reliability of the information in question. In any case, IMAIOS strongly advises every user to double check the information in question by consulting other sources. The information contained in the Software should not be used for diagnosing a health or fitness problem or disease and/or Institutional End Users should not rely exclusively on this information to teach in preparation for and/or prior to taking an examination to become a healthcare professional. Receipt or use of the Software, in whole or in part, does not constitute or create a doctor-patient, therapist-patient, medical consultant or other healthcare professional relationship between the Institution and/or the Institutional End User and IMAIOS. Institutional End Users should always consult a medical professional, such as a physician, to determine what courses of treatment, if any, may be appropriate for a patient and use appropriate course materials as required by any examination you will take.

10.2 TO THE EXTENT PERMITTED BY LAW, UNDER NO CIRCUMSTANCES, INCLUDING, WITHOUT LIMITATION, NEGLIGENCE, WHETHER IN ANY ACTION IN WARRANTY, CONTRACT, TORT (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE OR FUNDAMENTAL BREACH), OR OTHERWISE, SHALL IMAIOS OR ITS PARENTS, SUBSIDIARIES, AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, CONTENT PROVIDERS, OR SUPPLIERS BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES ARISING FROM OR IN CONNECTION WITH THE USE OF OR THE INABILITY TO USE THE IMAIOS SOFTWARE OR ANY CONTENT CONTAINED ON THE IMAIOS SOFTWARE, OR, EXCEPT AS OTHERWISE PROVIDED UNDER APPLICABLE LAWS AND REGULATIONS REGARDING THE SECURITY OF PERSONAL DATA, RESULTING FROM UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR

TRANSMISSIONS OR DATA, OR OTHER INFORMATION THAT IS SENT OR RECEIVED OR NOT SENT OR RECEIVED, OR ANY OTHER DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR FAILING AN EXAMINATION, MISDIAGNOSIS, PERSONAL INJURY, WRONGFUL DEATH, INTERRUPTION OF SERVICE, LOSS OF PROFITS, USE, DATA OR OTHER INTANGIBLES, BUSINESS INTERRUPTION OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES EVEN THE INSTITUTION HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE PARTIES ACKNOWLEDGE THAT THIS IS A REASONABLE ALLOCATION OF RISK, EVEN IF IMAIOS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW EXCLUSION OF CERTAIN WARRANTIES OR LIMITATIONS OF LIABILITY. IN SUCH CASE THE LIABILITY SHALL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW. PAYMENT OF THE FEE BY THE INSTITUTION, IF ANY, AS LIMITED BY THE FOREGOING SENTENCES, IS THE INSTITUTION'S SOLE AND EXCLUSIVE REMEDY IN EXHAUSTION OF ALL OTHER REMEDIES UNDER THESE TERMS OF USE, AT LAW OR IN EQUITY, AND SUCH REMEDY IS NOT DEEMED OR ALLEGED BY YOU TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

11. ASSIGNMENT

The Institution may not assign this Agreement without the prior written consent of IMAIOS and, provided that the permitted assignee agrees to be bound by the terms and conditions contained in this Agreement, IMAIOS may assign its rights and obligations under this Agreement in whole or in part without consent of the Institution. Any permitted assignee shall be bound by the terms and conditions of this Agreement.

12. GOVERNING LAW AND JURISDICTION

This Agreement is governed by the laws of New York (with regard to conflict of law principles), and the parties irrevocably and unconditionally submit to the exclusive jurisdiction of the courts of New York County, New York.

13. INDEPENDENT CONTRACTORS

The Parties are independent contractors. This Agreement shall not be construed as constituting either party as a partner of the other or to create any other form of legal association that would give on party the express or implied right, power or authority to create any duty or obligation of the other party.

14. CONSTRUCTION; HEADINGS

14.1 This Agreement is being entered into between competent parties, who are experienced in business and represented by counsel, and has been reviewed by the parties and their counsel. Therefore, any ambiguous language in this Agreement will not necessarily be construed against any particular party as the drafter of such language.

14.2 The headings used in connection with the paragraphs and subparagraphs of this Agreement are inserted only for purposes of reference. Such headings shall not be deemed to govern, limit, modify or in any other manner affect the scope, meaning or intent of the provisions of this Agreement or any part thereof nor shall such headings otherwise be given any legal affect.

15. WAIVER

15.1 No waiver by either Party of a breach or a default hereunder shall be deemed a waiver by such party of a subsequent breach of default of like or similar nature.

15.2 Resort by IMAIOS to any remedies referred to in this Agreement or arising by reason of a breach of this Agreement by the Institution shall not be construed as a waiver by IMAIOS of its right to resort to any and all other legal and equitable remedies available to IMAIOS.

16. AMENDMENTS

This Agreement may not be modified or amended except with the written agreement of IMAIOS (which may be withheld in its complete discretion without any requirement to provide reasons).

17. SURVIVAL OF THE RIGHTS

Notwithstanding anything to the contrary contained herein, such obligations which remain executory after expiration of the Term of this Agreement shall remain in full force and affect until discharged by performance and such rights as pertain thereto shall remain in force until their expiration.

18. SEVERABILITY

This Agreement, IMAIOS' Terms of Use and Privacy Policy, attached as Exhibit C and incorporated by reference herein, constitute the entire agreement between the Institution and IMAIOS relating to the Software and supersedes all prior or contemporaneous oral or written communications, proposals and representations with respect to the Software or any other subject matter covered by this Agreement. In the event that any term or provision of this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other term or provision and this Agreement shall be interpreted and construed as if such term or provision, to the extent the same shall have been held to be invalid, illegal or unenforceable, had never been contained herein.

19. COUNTERPARTS

This Agreement may be executed in any number of counterparts by pdf., each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same Agreement. Counterparts, however, must be executed within thirty (30) days of the first signature to be affixed to this document or the Agreement shall be null and void.

IMAIOS:

THE INSTITUTION:

By:
Its:

By:
Its:

Date: _____

Date: _____