SOFTWARE LICENCE AGREEMENT

Customer - Name and Address	Billing Address (if different)

TERMS AND CONDITIONS

1. Definitions

In this Contract unless the contrary intention appears;

"Actual Delivery Date" means the date or dates that Software is delivered to the Installation Site;

"Business Days" means Monday to Friday excluding Public Holidays;

"Company" means Healthinc Pty Ltd (A.C.N. 180 99 545 650) and its successors and assigns;

"Contract" means this agreement between Company and Customer;

"Customer" means the person, firm or company whose name and address appears on the face hereof;

"Delivery Date" means the date or dates for delivery of Software as specified in the Schedule;

"Software" means the software listed in the Schedule and where the context permits means any portion of the software so listed and includes Updates, modifications and enhancements supplied pursuant to clause 11.1 (c) and any manuals and other documentation supplied to Customer in connection with this Contract but specifically excludes the source code of Software;

"Supplier" means the copyright owner of Software;

"Updates" means modifications, enhancements and new versions of Software supplied pursuant to clause 9;

"Installation Site" means the location or locations at which Software is installed as specified in the Schedule;

"Licence" means the licence to use Software granted under clause 2.1;

"Licence Fees" means the prices for Software as specified in the Schedule and varied in accordance with clause 4.5. Licence Fees are "Initial" or "Annual" as so specified;

"Normal Business Hours" means 9.00am to 5.00pm on AEST Business Days;

"Schedule" means the schedule attached hereto;

"Service Fees" means the fees for Services as specified in the Schedule and varied in accordance with clause 4.5;

"Services" means the services specified in clause 11;

Words importing the singular number shall include the plural and vice versa and words of each gender shall include each other gender.

2. Scope of Contract

2.1 In consideration of the payment by Customer to Company of the Licence Fees Company hereby grants to Customer a non-transferable and non-exclusive licence to use Software with Equipment detailed in the Schedules.

2.2 In consideration of the payment by Customer to Company of the Service Fees Company agrees to provide Services to Customer.

3. Delivery

3.1 Company shall use its best efforts to deliver Software to the Installation Site on or before the Delivery Date.

3.2 In the event that Customer refuses to take delivery of Software within thirty (30) days following the Delivery Date or the date on which Software is available for delivery, whichever is the later, then, for the purposes of clause 4.2 only, such date shall be deemed to be the Actual Delivery Date.

3.3 Customer may, by written notice to Company, request that the Delivery Date be changed. Provided that Customer agrees to reimburse Company for any additional cost incurred by Company as a result of the change Company shall not unreasonably refuse such request.

4. Licence Fees, Services Fees and Payment

4.1 Customer shall pay forty percentum (40%) of the Initial Licence Fees, installation fees and hardware prices within seven (7) days of the date of Contract.

4.2 Customer shall pay the remaining sixty percentum (60%) of the Initial Licence Fees, installation fees and hardware prices within seven (7) days of the Actual Delivery Date.

4.3 Customer shall pay Annual Licence Fees each year in advance commencing on the Actual Delivery Date.

4.4 Company shall invoice Customer for Service Fees periodically in arrears.

4.5 Company may vary Annual Licence Fees or Service Fees on thirty (30) days written notice to Customer provided that the increase in respect of any item of Software or Service shall not be more than the cumulative effect of the Consumer Price Index for such item or Service applied from the date of Contract. There will be no increase in the twelve (12) months from the date of Contract.

4.6 Except as specifically stated herein, any taxes, duties, imposts, or other government levies or charges which may be imposed in respect of or pursuant to the Contract or the transactions which it records (excluding those based on the net income of Company) shall be to the account of Customer.

4.7 Costs necessarily incurred by Company in providing Services shall be to the account of Customer. If such costs are paid by Company then Customer shall reimburse Company together with an administration fee not exceeding ten percent (10%) of the costs. Costs shall include, but not be limited to, costs of communications, transport, accommodation and subsistence incurred by Company or its authorised representatives. Where practical Company shall notify Customer an estimate of such costs prior to their being incurred.

4.8 Customer shall pay Company's invoices for Service Fees and other charges within seven (7) days from the date of such invoices or as specified in the invoice.

4.9 Company reserves the right to charge interest on overdue payments at the rate of 0.05% per day from the date on which the payment becomes due until the date of payment. In the event of late payment Company's obligations under the Contract will be suspended until payment is made in full.

4.10 Any discounts specified in the Schedule will be allowed provided that Customer makes payment by the due date.

5. Commencement and Term

5.1 The Licence shall commence on the Actual Delivery Date and shall continue until Customer ceases to use Software or as otherwise provided herein.

6. Software Licence

6.1 The Licence is subject to the terms and conditions of any applicable sub-licence agreement contained in the Schedule and is terminated forthwith upon Customer:

   (a) ceasing to possess the Software; or
   (b) failing to pay Annual Licence Fees by the due date.

6.2 Customer acknowledges that Software and all copies thereof including the programs, the contents and the documentation thereof, provided by Company hereunder for use with Equipment, whether on tape, disc or other media or device is and shall at all times remain the property of Company or Supplier. Customer further acknowledges Company's or Supplier's proprietary rights in Software and the concepts embodied therein and agrees that Customer, its employees, representatives, agents, successors and assigns or any of them, shall neither have nor at any time acquire or attempt to have or to acquire any proprietary interest or other right to Software other than the right to use on the Licenced computer. Neither shall they amend, expose, reproduce, print-out or publish the content or proprietary concepts of Software for any reason whatsoever, without the prior written approval of Company.

6.3 Customer shall not copy, alter or modify Software or merge Software with other computer programs without the prior written consent of Company except for the purpose of security back-up.
6.4 By this Contract, Customer assigns to Company any and all copyright in modifications or alterations to Software, whether or not those modifications or alterations are made under Subclause 6.3.
6.5 Customer may not distribute, transfer, rent, lease, loan, sub-license, sell or otherwise assign Software to any other person, firm, corporation or other entity.
6.5 If at any time Customer fails to comply with any of its obligations pursuant to this Clause 6 Company may by notice given to Customer terminate the Licence.

7. Industrial and Intellectual Property Rights
7.1 All proprietary, industrial and intellectual property rights including trade marks, copyrights, patents and designs associated with Software shall not become the property of nor pass to Customer but shall remain the property of Company or Supplier.
7.2 Company shall indemnify Customer against any and all actions or claims incurred by Customer arising out of any actual or alleged infringement of any patent, copyright or other intellectual property right in respect of Software supplied under the Contract.

8. Termination of Licence
Upon termination of the Licence:
(a) Customer will return Software and all copies thereof to Company; or
(b) Company may repossess Software and all copies thereof wherever located and without demand or notice and for that purpose Customer permits and shall continue to permit any duly authorised representative of Company without notice to enter into and upon any premises occupied by Customer.

9. Updates
From time to time Company will make available Updates to Customer on magnetic media in a form suitable for the Customer to install which:
(a) incorporate corrections to errors and defects in Software in failing to comply with Company's manuals; and
(b) in Company's opinion may improve the functionality and/or performance of Software

10. Support
In consideration of Customer paying the relevant support charges Company shall make available a Help Desk service in respect of Software.

11. Services
11.1 Company agrees to make available to the Customer qualified support personnel for the periods specified in the Schedule to:
(a) assist Customer's staff to install and commission Software;
(b) train Customer's staff in the use and operation of Software;
(c) modify or enhance Software in accordance with an agreed specification; and
(d) provide consultancy services to the Customer.
11.2 Charges for Services based on time sheets prepared by Company personnel will be invoiced to Customer periodically during the period Services are being provided.
11.3 Subject to the availability of staff, upon written request from Customer, Company will extend the periods during which the Services are provided.

12. Warranty and Limit of Liability
12.1 Company warrants that the Software will during normal use perform the functions detailed within the manuals supplied with the Software and any subsequent modifications to those manuals.
12.2 If Customer notifies Company in writing that Software fails to comply with the above warranty then Company shall at its option either modify the Software until it complies with the warranty or replace the Software with software which complies with the warranty.
12.3 Company warrants that Services will be carried out by competent personnel.
12.4 Customer warrants that in licensing Software it has relied upon its own skill and judgement in the selection thereof, in the use and result it intends to obtain therefrom and its fitness for a particular purpose.
12.5 Company shall not be liable for any loss or damage which results from the incompatibility of the Software with any non-Company supplied software or equipment or the failure of the Software to operate in conjunction with or communicate with non-Company software, equipment or media other than Equipment.
12.6 To the extent to which Company is legally entitled to do so, Company's liability for negligence or for breach of any express or implied term of the Contract shall at the option of Company be limited to one of the following:
(a) the replacement of Software;
(b) the supplying of Services supplied again; or
(c) the payment of the cost of having Services supplied again.
12.7 Company will not be liable for any special, indirect or consequential loss or damage, or loss of profit whether arising from negligence or otherwise. In no event shall Company's liability under the Contract exceed the Licence Fees and/or Service Fees payable by Customer to Company for Software or Services connected with a claim.
12.8 Warranty on any hardware supplied will be limited to the manufacturer's warranty.

13. Confidentiality
13.1 Customer acknowledges that all proprietary or confidential information which comes into its possession pursuant to or as a result of or in the performance of the Contract is not to be made available or disclosed to any person, firm or company without the prior written consent of Company.
13.2 The provisions of this clause 13 shall survive termination of the Contract.

14. Employees and Contractors
Customer agrees that it will not, without Company's prior written consent, employ or solicit for employment whether directly or indirectly, any person who is employed by or contracted to Company and who has supplied Services to Customer during the preceding twelve (12) months.
In the event that an employee of the company or contractor to the company who has supplied services to the customer during the preceeding (12) months is directly engaged by the customer, the customer agrees to pay a placement fee of $50,000.

15. Force Majeure
Neither party shall be liable for any failure to perform its obligations under the Contract if such failure results from circumstances beyond the party's control.

16. Breach and Insolvency

16.1 Either party shall have the right to terminate the Contract if the other party is in material breach of the Contract and does not rectify such breach within fourteen (14) days after receiving written notice from the injured party requiring it to do so. Termination shall not affect any other rights of the injured party.
16.2 If Customer becomes insolvent, makes any assignment for the benefit of creditors, suffers or permits the appointment of a receiver to its business or assets, becomes subject to any proceeding under any bankruptcy or insolvency law whether domestic or foreign or is put into liquidation (other than solely for amalgamation or reconstruction) then Company may immediately terminate the Contract without notice and payment for Services already supplied shall immediately become due.

17. Special Conditions
Special conditions to the Contract may be included in the Schedule. In the event of any conflict between such special conditions and the terms and conditions of the Contract the special conditions shall take precedence.

18. Supplements to the Contract
The parties by written agreement may add a supplement to the Contract for the licence of additional software and/or the supply of additional services. The provisions of the Contract shall apply to the supplement as if the Schedule is replaced by the schedule to the supplement.

19. General Provisions
19.1 The Contract will commence on the date of its execution by Company and upon execution Company will insert a Contract number on the face hereof for ease of future reference.
19.2 In the event of any conflict between the terms and conditions of a Customer purchase order in respect of Software or Services and the terms and conditions of the Contract, the terms and conditions of the Contract shall take precedence.
19.3 Any notice to be given pursuant to the Contract must be in writing and may be delivered by hand, certified mail or by facsimile or email to the addresses on the face hereof or to such other address as either party may establish by notice to the other in the foregoing manner. Notice will be deemed given:
(a) if hand delivered at the time such actual delivery is made to an officer or representative of the party on which the notice is served;
(b) if mailed on the third Business Day after posting; and
(c) if transmitted by facsimile or email on completion of transmission but if transmission is not completed by 5.00pm on a Business Day then at 9.00am on the next Business Day.
19.4 The benefit of the Contract shall not be dealt with by Customer (whether by assignment or otherwise) without Company's written consent.
19.5 Company may sub-contract for the performance of the Contract or any part of the Contract.

19.6 No failure or delay in exercising a right, power or remedy under the Contract, and no course of dealing will operate as a waiver of a breach or default. No single or partial exercise of a right, power or remedy will preclude a further or other exercise of that or any other right, power or remedy.

19.7 A provision of or right created under the Contract may not be varied or waived except in writing signed by the duly authorised representatives of Company and Customer.

19.8 A provision of the Contract which is illegal or unenforceable will be ineffective to the extent of the illegality or un-enforceability without invalidating the remaining provisions of the Contract or affecting the validity or enforceability of the provision in another jurisdiction.

19.9 Headings used in the Contract are for convenience and ease of reference only, are not part of the Contract, and shall not be relevant to or affect the meaning or interpretation of the Contract.

19.10 The Contract shall be governed and construed according to the law for the time being in force in the State of New South Wales.

20.   Entire Agreement

The parties agree that these terms and conditions (together with any other written terms and conditions expressly referred to and incorporated in the Contract) represent the entire agreement between the parties relating to the Licence of Software and the provision of Services by Company to Customer and that no other statements or representations made by or on behalf of either party have been relied upon by the other in agreeing to enter into the Contract.