

SMART EQUIPMENT MANAGEMENT LICENSE TERMS AND CONDITIONS

The Smart Equipment Management License terms and conditions (“License Terms and Conditions”) shall govern Customer’s use of and access to the Hosted Solution (defined below). The following License Terms and Conditions are attached to and made a part of the applicable Stryker Quote and Purchase Order (“PO”) and Statement of Work (“SOW”) entered into by and between Stryker and Customer. The PO, SOW, and License Terms and Conditions are collectively referred to as the “Agreement” or “terms and conditions of the Agreement.” Stryker and Customer may be collectively referred to as the “Parties” and each as a “Party.”

1. Definitions

- (a) **“Authorized Users”** shall mean all authorized officers, employees, and agents of Customer whose duties require access to or use of the Solution, and whose legal obligations are to protect all confidential and proprietary information.
- (b) **“Documentation”** shall mean the then current Stryker product specifications, product labeling, service user instructions, release notes, manuals, materials and/or on-line help files in the form generally made available by Stryker, regarding the use of and access to the Hosted Solution or provided to assist with use of the Hosted Solution.
- (c) **“Error”** means a material failure of the Hosted Solution to conform to its functional specifications described in the Documentation that is reported by Customer to and replicable by Stryker.
- (d) **“Security Incident”** shall mean a verified unauthorized access to unencrypted sensitive data or confidential information.
- (e) **“Hosted Solution”** (also referred to as “Products”) shall mean Stryker’s proprietary web-based Smart Equipment Management (“SEM”) solution and as further described in the Documentation (but excluding Third Party Components or infrastructure) and also referred to as Products in other agreements.
- (f) **“Support”** shall mean assisting Customer in resolving problems with the use of and access to the Hosted Solution with reasonable assistance and consultation via telephone or electronic mail. Support does not include providing assistance with Customer’s issues with any Third Party Components acquired by Customer to use with the Solution or its products/services.
- (g) **“Third Party Components”** means applications, services, and software that are provided by entities or individuals other than Stryker and that interoperate with the Hosted Solution.

2. License

- (a) **Grant.** Subject to the terms and conditions of this Agreement and timely payment of the applicable fees for the Hosted Solution, Stryker hereby grants to Customer a limited, non-exclusive, revocable, non-sublicensable, fee-bearing (for activation and activated licenses), non-assignable, non-transferable (subject to Stryker’s termination rights as set forth herein) license only to: (i) access and use Hosted Solution in the approved operating environment (“AOE”) territory during the Term (Section 10); and (ii) use and follow any instructions set forth in the Documentation in connection with such use of the Hosted Solution (“License”). This License does not extend to any maintenance or service software shipped to or located at Customer’s premises which is intended to assist Stryker employees or agents in the installation, testing, service and maintenance of the Hosted Solution.
- (b) **Intellectual Property.** Stryker or its suppliers retain all right, title interest in, ownership and intellectual property rights, including patents, trade secrets, confidential information, trademarks, proprietary data and copyrights pertaining to the Hosted Solution and Documentation and all copies, modifications, improvements, and derivative works thereof. Customer is not authorized to remove, modify or amend any copyright notices or brand references made by Stryker.
- (c) **Additional Licenses.** The Hosted Solution may be accessed by or used to manage no more than the activated number of licenses. Additional licenses may be purchased under an applicable PO at the pricing in effect at the time the additional licenses are purchased unless otherwise detailed in a PO Fees are based on the number of licenses purchased and not actual usage.
- (d) **Enforcement.** Customer shall: (i) ensure that all Authorized Users of the Hosted Solution comply with the terms and conditions of this Agreement, (ii) promptly notify Stryker of any actual or suspected violation thereof, (iii) cooperate with Stryker with respect to investigation and enforcement of this Agreement, and (iv) be solely responsible for all Authorized Users’ use of the Hosted Solution.
- (e) **Security.** To the extent that a Party is provided access to the other Party’s computing systems or networks, (i) such access will be consistent with the permitted authorization and (ii) the accessing Party will use and follow reasonable security measures designed to minimize the threat of unauthorized access to the other Party’s

computing systems or networks. Either Party will notify the other Party promptly after becoming aware of a Security Incident.

- (f) **Third Party Components.** Customer acknowledges that the Hosted Solution may contain third party software or services (including open source software) (collectively, "Third Party Components") and such Third Party Components are subject to the terms and conditions of the applicable end user license agreement that accompanies such Third Party Components. Customer shall use the Third Party Components solely in conjunction with the Hosted Solution. Customer shall not have broader use rights with respect to the Third Party Components than it has to the Hosted Solution. Stryker is not responsible for or liable to Customer for any Third Party Components. Any exchange of data between Customer and any Third Party Components (or by Customer between two or more Third Party Components), is solely between Customer and the applicable provider of the Third Party Components. Customer is responsible for any dealings with third parties for Third Party Components. Stryker makes no warranty or representation with respect to any Third Party Components. Customer's sole remedy with respect to such Third Party Components shall be pursuant to the original licensor's warranty, if any, to Stryker, to the extent permitted by the original licensor. Customer acknowledges that certain of Stryker's rights may be derived from license agreements with third parties and, as such, Customer agrees to preserve the confidentiality of information imparted to Stryker under such third party license agreements. Solely in regard to the Hosted Solution, Stryker currently uses the Amazon Web Service ("AWS") cloud infrastructure for its Hosted Solution. Customer acknowledges the use of the current Hosted Solution is subject to the terms and limitations set forth in the AWS Customer Agreement: <http://aws.amazon.com/agreement/>. The Hosted Solution may be updated from time to time.
- (g) **Copies.** Customer is not authorized to reproduce, distribute, copy, or create any derivative works from the Hosted Solution or Documentation without Stryker's permission.

3. Customer Obligations.

- (a) Customer agrees that only Authorized Users will use the Hosted Solution or have access to the same (or to any part thereof) and that none of Customer's Authorized Users will disclose any part or all of the Hosted Solution or permit any part or all the same to be used by any person or entity other than those identified herein. Customer shall cause each Authorized User of the Hosted Solution to abide by the terms and conditions of this Agreement as if each were a party hereto. Customer acknowledges that Customer is solely responsible for complying with, and covenants to comply with, all laws applicable to Customer and to Customer's use of and access to the Hosted Solution.
- (b) Customer agrees to provide Stryker with such cooperation, materials, information, data, access and support to which Stryker deems to be reasonably required to allow Stryker to successfully provide the Hosted Solution and Support. Customer understands and agrees that Stryker's obligations hereunder are expressly conditioned upon Customer providing such cooperation, materials, information, data, access and support.
- (c) Customer is responsible for maintaining the confidentiality of all passwords and for ensuring that each password is used only by the Authorized User.
- (d) Customer is responsible for timely applying security patches as instructed and provided by Stryker. Customer must fully cooperate with Stryker in permitting Stryker to take any action necessary to apply security patches or any other security measures Stryker deems necessary.
- (e) Customer is solely responsible for its network, customer-provided systems or resources any and all activities that occur under Customer's account. Customer agrees to immediately notify Stryker of any unauthorized use of Customer's account or any other breach of security known to Customer or any Security Incidents. Stryker shall have no liability for any loss or damage arising from Customer's failure to comply with these requirements. Stryker will maintain Customer passwords as confidential and will not disclose them to third parties, if applicable. Customer is responsible for taking all precautions necessary to ensure that any content or data obtained from Stryker is free of viruses and any other potentially destructive computer code. Customer must provide internet connectivity to access the Hosted Solution or any Stryker website with sufficient bandwidth to meet Customer's utilization demands in order to provide the Hosted Solution.
- (f) Customer is responsible to ensure that all Authorized Users receive initial training services sufficient to enable Customer to effectively use and access the Hosted Solution. Customer shall ensure that Stryker's assigned technical personnel are able to access the system remotely and Stryker at its discretion shall decide whether access to the Hosted Solution and any applicable hardware is sufficient for maintenance or any other purposes. Customer shall be responsible for providing access through any security measures necessary.
- (g) Customer shall not itself, or through any affiliate, employee, consultant, contractor, agent or other third party: (i) sell, resell, transfer, distribute, host, lease, rent, license or sublicense, in whole or in part, the Hosted Solution or Documentation; (ii) decipher, decompile, disassemble, decrypt, reverse assemble, modify, translate, reverse engineer, identify the source code, emulate, exploit, or otherwise attempt to derive source code, algorithms, tags, specifications, architecture, structure or other elements of the Hosted Solution, including the license keys, in whole or in part, for competitive purposes or otherwise; (iii) allow access to, provide, divulge or make available the Hosted Solution or Documentation to any third party or user other than Customer's Authorized Users who have a need to

such access and who shall be bound by a nondisclosure agreement with provisions that are at least as restrictive as the terms of this Agreement and be bound by the terms and conditions of this Agreement; (iv) write or develop any derivative works based upon the Hosted Solution or Documentation; (v) modify, adapt, translate or otherwise make any changes to the Hosted Solution or Documentation or any part thereof; (vi) use the Hosted Solution to provide processing services to third parties, or otherwise use the same on a 'service bureau' or hosting provider basis; (vii) disclose or publish, without Stryker's prior written consent, performance or capacity statistics or the results of any benchmark test performed on the Hosted Solution; (viii) store or transmit virus or other malicious code through the Hosted Solution; (ix) separate components of the Hosted Solution for use on different products or systems; or (x) otherwise use or copy the Hosted Solution or Documentation except as expressly permitted herein. Customer is not authorized to use the previous version(s) on a different computer system anymore or to make available the use of the previous version(s) to any third party.

- (h) Further, Customer is prohibited from (i) attempting to use or gain unauthorized access to Stryker or to any third party's networks or equipment; (ii) permitting other individuals or entities other than Authorized Users to access or use the Hosted Solution (iii) attempting to probe, scan, or test the vulnerability of the Hosted Solution or a system, account, or network of Stryker, its licensors or any of its customers or suppliers; (iv) disrupting, interfering, or attempting to interfere with the (a) integrity or performance of the Hosted Solution or third party products or data contained therein or (b) service to any user, host, or network; (v) engaging in fraudulent activity of any nature; (vi) transmitting unsolicited bulk or commercial messages; (vii) restricting, inhibiting, or otherwise interfering with the ability of any other person, regardless of intent, purpose, or knowledge, to use or enjoy the Hosted Solution (except for tools with safety and security functions); (viii) restricting, inhibiting, interfering with, or otherwise disrupting or causing a performance degradation to any Stryker (or Stryker service provider) facilities used to deliver the Hosted Solution or any services or (ix) using the Hosted Solution to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third party privacy rights (or otherwise use the Hosted Solution in violation of the Documentation, this Agreement or any applicable Stryker terms and conditions.
- (i) Customer shall defend, indemnify and hold harmless Stryker from and against any and all proceedings, claims, suits, actions, demands ("Claims") liabilities, losses, payments, costs, penalties, fines, reasonable attorneys' fees and expenses, judgments or damages, ("Damages"), incurred by or assessed against Stryker to the extent the same arise out of, are in connection with, or are caused by Claims relating to, or in any way connected with: (i) Customer's infringement upon, misappropriation or violation of any patent, copyright, trademark, trade secret or proprietary right; (ii) Customer's use of any Third Party Components not supplied by Stryker; (iii) Customer's violation of any federal or state law, regulation, statute or ordinance applicable to the performance of the Hosted Solution; (iv) Customer's failure to comply with the confidentiality obligations (including security breaches) set forth herein; (v) any loss or damage to persons (including death) or property, to the extent caused by any act or omission of Customer or, where applicable, by its employees, agents, representatives, subcontractors or invitees; (vi) the negligent acts or omissions or willful misconduct of Customer or, where applicable, its employees, agents, representatives, subcontractors or invitees; and (vii) any security breach involving any Stryker confidential information, Stryker data and/or personal health information.

4. Product Availability. The Hosted Solution may be unavailable from time to time, may be offered for a limited time, or may vary depending on Customer's region or network systems. Although Stryker strives to keep the Hosted Solution up and running; however, all wireless products/systems suffer occasional disruptions and outages for which Stryker is not liable for any disruption or loss Customer may suffer as a result.

5. Support. Support is provided for the Hosted Solution, provided however that with respect to Third Party Components (if any), Stryker's obligation is limited to using commercially reasonable efforts to obtain maintenance from the owner of such Third Party Components. Stryker is under no obligation to provide Support with respect to: (i) Hosted Solution that has been altered or modified by anyone other than Stryker or its licensors; (ii) a release for which Support has been discontinued; (iii) Hosted Solution used other than in accordance with Documentation or other than on the AOE; (iv) discrepancies that do not significantly impair or affect the operation of the Hosted Solution; or (v) any systems or programs not supplied by Stryker. Stryker does not provide any maintenance or support for Third Party Components. Customer agrees that Customer's use of or access to the Hosted Solution is not contingent on the delivery of any future functionality, upgrades, or features nor dependent on any oral or written public comments made by Stryker regarding future functionality, upgrades, or features.

6. Updates. Stryker reserves the right to change and modify the terms of this Agreement with notice as it deems necessary, and Customer shall comply with all terms and conditions of the Hosted Solution and Documentation provided in advance or otherwise notified to Customer during the Term. To the extent software updates are required for the Hosted Solution, Stryker may automatically check the then current version and provide any Product updates or configuration changes. Any such updates are subject to the terms and conditions of the Agreement. Stryker is not obligated to make any updates available and to provide any support for Customer's products and systems to work with the Hosted Solution.

7. **Warranties/Disclaimers.** Stryker warrants that, for a period of 30 days from the activation of the Hosted Solution, as updated and used in accordance with the Hosted Solution and Documentation, will operate in all material respects in conformity with the Documentation. If the Hosted Solution does not perform as warranted, Stryker shall use commercially reasonable efforts to correct Errors. As Customer's sole and exclusive remedy for any claim under this Hosted Solution warranty, Customer shall promptly notify Stryker in writing of its claim within the warranty period. Provided that such claim is determined by Stryker to be Stryker's responsibility, Stryker shall, within 30 days of its receipt of Customer's written notice, (i) correct such Error; (ii) provide Customer with a plan reasonably acceptable to Customer for correcting the Error; or (iii) if neither (i) nor (ii) can be accomplished with reasonable commercial efforts from Stryker, then Stryker or Customer may terminate the Hosted Solution license and Customer will be entitled to a refund of the license fees paid for the Hosted Solution. The preceding remedy shall constitute Stryker's entire liability and Customer's exclusive remedy for cure of the Hosted Solution warranty set forth herein. If Customer elects not to terminate the license for the Hosted Solution, Customer waives all rights for the applicable remedy set forth herein. Stryker is not responsible for any claimed breach of any warranty set forth in this section caused by: (a) modifications made to the Hosted Solution by anyone other than Stryker; (b) the combination, operation or use of the Hosted Solution with any items that are not provided by Stryker; (c) Customer's failure to use any new or corrected versions of the Hosted Solution made available by Stryker; (d) Stryker's adherence to Customer's specifications or instructions; (e) Customer deviating from the Hosted Solution operating procedures described in the Documentation; (f) any Force Majeure event or (g) use for a purpose or in a manner for which the Hosted Solution were not designed.

THE WARRANTIES SET FORTH IN THIS SECTION ARE IN LIEU OF, AND STRYKER, ITS LICENSORS AND SUPPLIERS EXPRESSLY DISCLAIM TO THE MAXIMUM EXTENT PERMITTED BY LAW, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ORAL OR WRITTEN, INCLUDING, WITHOUT LIMITATION, (i) ANY WARRANTY THAT THE HOSTED SOLUTION IS ERROR-FREE OR WILL OPERATE WITHOUT INTERRUPTION OR THAT ALL ERRORS WILL BE CORRECTED; (ii) ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, (iii) ANY WARRANTY THAT CONTENT OR THIRD PARTY COMPONENTS WILL BE ACCURATE, RELIABLE, UNINTERRUPTED, AND ERROR-FREE; AND (iv) ANY AND ALL IMPLIED WARRANTIES ARISING FROM STATUTE, COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE. THE HOSTED SOLUTION AND ANY THIRD PARTY COMPONENTS ARE BEING PROVIDED ON AN AS-IS BASIS WITH ALL FAULTS AND AS AVAILABLE. NO ADVICE, STATEMENT OR INFORMATION GIVEN BY STRYKER, ITS AFFILIATES, CONTRACTORS OR EMPLOYEES SHALL CREATE OR CHANGE ANY WARRANTY PROVIDED HEREIN.

8. **Exporting.** Customer hereby acknowledges that the Hosted Solution is or may be subject to one (1) or more export control laws or regulations, and agrees that it will not transfer, export or re-export the Hosted Solution without complying with all applicable export control laws and regulations. Customer agrees it will not export or re-export the Hosted Solution to a national of a country listed in "Country Groups" D:1 or E:2 (as defined in the Export Administration Regulations), nor will Customer export or re-export the direct product of the Hosted Solution to such Country Groups without first obtaining a license from the U.S. Department of Commerce. The obligations in this paragraph shall survive the expiration or termination of this Agreement.
9. **Usage Data and Other Information.** Customer acknowledges that the Hosted Solution is designed to collect certain usage data. In order to provide the Hosted Solution to Customer, Customer hereby grants to Stryker to use, retain, transmit, reformat, display, compile, and distribute any data or information that may aide Stryker in optimizing resources and support, used to improve products or services, research and development regarding products or services, verification of security and data integrity of products or services, resource planning, and related industry trends and benchmarking, contract administration data (e.g., data used for sales compensation). Stryker shall not sell, release, disclose, disseminate, make available, transfer or otherwise communicate such information, data and/or content for monetary or other valuable consideration.
10. **Term/Suspension/Termination.** Unless otherwise designated in the PO, the term for the Hosted Solution shall be one (1) year commencing on the Effective Date of the applicable agreement and shall renew upon the agreement of the Parties for subsequent one year terms ("Term"). In the event that Customer's invoices for use of the Hosted Solution or any services attendant to the Hosted Solution become thirty (30) days past due, Stryker may suspend access to Hosted Solution and/or any applicable services. After Customer invoices for use of Hosted Solution or any services become thirty (30) days past due, Stryker may terminate this Agreement pursuant to this Section 10. In addition to its other rights under this Section 10, Stryker may suspend or terminate Customer's access to the Hosted Solution upon written notice in order to: (a) prevent damage to or degradation of, the Hosted Solution caused by Customer; or (b) comply with any law, regulation, court order, or other governmental request

or order which requires immediate action. If suspended, Stryker will promptly restore use of the Hosted Solution to Customer as soon as the event giving rise to the suspension has been resolved to Stryker's satisfaction. The In addition, Stryker may terminate this Agreement and use of/access to the Hosted Solution upon notice to Customer if Customer materially violates the terms of this Agreement. Upon expiration or termination of this Agreement, Customer shall no longer be able to use or access the Hosted Solution.

11. **Confidentiality.** Stryker and Customer: (a) shall hold in confidence the terms and conditions of the Agreement, the information derived from the Hosted Solution, the Hosted Solution, and any information and materials which are related to the business of the other Party or are designated as proprietary or confidential, herein or otherwise, or which a reasonable person would consider to be proprietary or confidential information; and (b) hereby covenant that they shall not disclose such information to any third party without prior written authorization of the one to whom such information relates. Notwithstanding anything contained herein to the contrary, Customer acknowledges that information, data, and/or content collected by the Hosted Solution or any feedback from Customer may be used by Stryker for its business purposes without any further consent in the development and maintenance of the Hosted Solution as well as other Stryker products and services. Customer acknowledges that Stryker may, if necessary, reproduce any such information and prepare derivative works based upon such information. The rights and remedies available to a party hereunder shall not limit or preclude any other available equitable or legal remedies.
12. **Audits.** Stryker shall have the right, on its own or through its designated agent or third party accounting firm, to conduct an on-premises audit of Customer's use and deployment of the Hosted Solution for compliance with this Agreement no more than once per calendar year. Stryker's written request for audit will be submitted to Customer at least fifteen (15) days prior to the specified audit date, and such audit shall be conducted during regular business hours and with the goal of minimizing the disruption to Customer's business. If such audit discloses that Customer is not in material compliance with the terms of this Agreement, then Customer shall be responsible for purchasing additional licenses to bring Customer into compliance including any back Maintenance on such licenses.
13. **Limitation of Liability.** **STRYKER'S LIABILITY ON ANY CLAIM WHETHER IN CONTRACT OR OTHERWISE, FOR ANY LOSS OR DAMAGE ARISING OUT OF, CONNECTED WITH OR RESULTING FROM THIS AGREEMENT OR THE ATTENDANT SERVICES SHALL IN NO EVENT EXCEED THE TOTAL FEES PAID BY CUSTOMER TO STRYKER UNDER THIS AGREEMENT. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER HEREUNDER AND ARISING FROM THIS AGREEMENT (WHETHER ARISING IN CONTRACT, TORT, WARRANTY OR OTHERWISE) FOR ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF ANTICIPATED PROFITS.**
14. **Force Majeure.** Neither party will be liable to the other for any delay or failure of performance that is the result of any happening or event that is beyond its control. The party hindered or delayed shall promptly notify the other party with the circumstances causing delay. Such events include, but are not limited to, terrorism, acts of war, riots, civil disorder, rebellions, fire, flood, earthquake, explosion, action of the elements, acts of God, inability to obtain or shortage of material, equipment or transportation, governmental orders, restrictions, priorities or rationing, accidents and strikes, lockouts or other labor trouble or shortage or failures by internet service companies, data centers, server hosting companies and telecommunication companies).
15. **Miscellaneous.** The provisions of Sections 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13 and 14 shall survive any expiration or termination of this Agreement. This Agreement shall control over the Hosted Solution and shall take precedence over all other terms, conditions, documents in relation to the Hosted Solution. No waiver, alteration, or modification of the terms and conditions set forth herein shall be binding unless Stryker expressly agrees in writing. Stryker expressly rejects any different, additional or conflicting terms or conditions set forth in Customer's purchase order or any other document issued by Customer; the terms of the invoice and these License Terms and Conditions shall exclusively govern the license of the Hosted Solution.