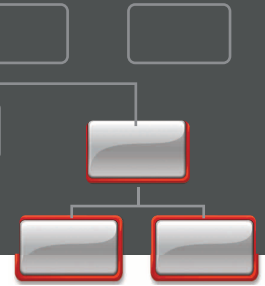


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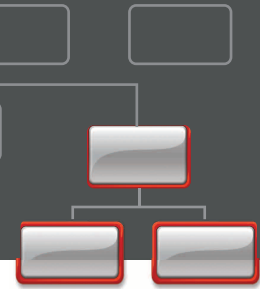
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11) Support Agreement. Customer acknowledges that HumanConcepts shall not be obligated to provide support or maintenance related to Customer's use of the Software. In the event HumanConcepts in its discretion provides support and/or maintenance to the Customer, such support and/or maintenance shall be provided pursuant to HumanConcepts' then-current current support terms.

12) General Provisions.

- a) **Severability.** In the event any provision of this Agreement is determined to be invalid or unenforceable, that provision shall be enforced to the maximum extent permitted, and the Parties agree that the other provisions of this Agreement shall not be affected and shall continue to be enforced. The Parties agree that this Agreement is the entire agreement between Customer and HumanConcepts relating to its subject matter, and it supersedes any prior agreements, representations, or communications, whether written or oral, relating to that subject matter.
- b) **Choice of Law and Venue.** This Agreement shall be governed by the internal laws of the State of California, without respect to its conflicts of law rules. The Parties agree that this Agreement shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods. The Parties agree that any suit or proceeding arising out of or relating to this Agreement will be brought only in the US District Court for the Northern District of California or the California Superior Court for Marin County, and each shall submit to the exclusive personal and subject matter jurisdiction and venue of such courts.
- c) **Export.** Customer acknowledges that United States (including without limitation US Export Administration Regulations) and foreign laws prohibit the export/re-export or transfer of products and technical data of US origin, including software, and Customer agrees not to export or re-export the Software or related technology without the appropriate US and foreign government clearance.
- d) **Waiver.** No term or provision hereof will be considered waived by either Party, and no breach excused by either party, unless such waiver or consent is in writing signed by both Parties. No consent by either party to, or waiver of, a breach by either party, whether express or implied, will constitute a consent to, waiver of, or excuse of any other, different, or subsequent breach by either Party.
- e) **Force Majeure.** Neither Party will be liable for any failure or delay in performance under this Agreement which might be due, in whole or in part, directly or indirectly, to any contingency, delay, failure, or cause of, any nature beyond the reasonable control of such party, including, without limitation, fire, explosion, earthquake, storm, flood, strike, war, insurrection, riot, act of God, epidemic, government action, network outage, or acts or failures to act on the part of any third party. In the event of the happening of such a cause, the party whose performance is so affected will give prompt, written notice to the other Party, stating the period of time the same is expected to continue.
- f) **Notices.** Any notice provided for or permitted under this Agreement will be treated as having been given when (a) delivered personally, (b) sent by confirmed telex or telecopy, (c) sent by commercial overnight courier with written verification of receipt, or (d) mailed postage prepaid by certified or registered mail, return receipt requested, to the party to be notified. Notices to HumanConcepts shall be sent to its then-current principal place of business and notices to Customer shall be sent to Customer's address appearing in HumanConcepts' records, or to such other place of which the other party has been notified in accordance with the provisions of this section. Any notices will be treated as having been received upon the earlier of actual receipt or five (5) days after posting.
- g) **Relationship of Parties.** There is no relationship of agency, partnership, joint venture, employment or franchise between the parties. Neither party has the authority to bind the other or to incur any obligation on its behalf. No other party except HumanConcepts and Customer shall be construed as a third party beneficiary to this Agreement or in privity to enforce the provisions of this Agreement at law or in equity.