

PROTECT3D TRIAL TIER

Master Services Agreement

This MASTER SERVICES AGREEMENT ("Agreement") is entered into by and between Protect3d, Inc. ("**Protect3d**") and the party electronically accepting this Agreement via the Protect3d platform ("**Client**"). The "**Effective Date**" shall be the date on which Client clicks "I Agree" or otherwise electronically accepts the terms of this Agreement. Protect3d and the Client are sometimes referred to herein individually as a "**Party**" and collectively as the "**Parties**." The individual who accepts this Agreement represents and warrants to Protect3d that he or she has the authority to bind the Client. IF SUCH INDIVIDUAL DOES NOT HAVE SUCH AUTHORITY OR DOES NOT AGREE TO THESE TERMS, THEN HE/SHE SHOULD NOT ACCEPT THESE TERMS, PLACE ANY ORDER, USE ANY SERVICES OR PURCHASE ANY PRODUCTS.

WHEREAS, the Client wishes to evaluate the Protect3d platform and services under a limited-use, trial license with no obligation to purchase any Products or Services beyond the scope of the trial.

NOW, THEREFORE, in consideration of Protect3d's engagement to design and manufacture custom fabricated external braces, orthotics and other similar products (the "**Products**") for Client and its patients (the "**Services**"), the parties hereby agree as follows:

1. **Term & Termination.** The term of this Agreement shall begin on the Effective Date and continue for a period of thirty (30) days (the "**Trial Term**"), unless terminated earlier by either Party upon written notice. Upon expiration of the Trial Term, this Agreement shall automatically terminate unless Client elects to enter into a paid-tier agreement with Protect3d. Upon termination or expiration of this Agreement, any licenses granted by Protect3d to the Protect3d App shall also terminate. The following provisions will survive the termination of this Agreement: (a) any obligation of the Client to pay for Services rendered or Products delivered before termination, and (b) Sections 3, 6, 7, 9 10, 11(b) and 12-20.
2. **Annual Service Fee.** No annual service fee (the "**Service Fee**") is payable during this Trial Term; provided, however, that Protect3d may charge a Service Fee for any paid-tier entered into by the Client.
3. **Protect3d Application.**
 - (a) In connection with the Services to be provided under this Agreement, Protect3d provides Client a one-time, limited license to certain proprietary software of Protect3d (the "**Protect3d App**") for private use only.
 - (b) Except as expressly provided in this Agreement, Client shall not directly or indirectly: (i) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Protect3d App in any way; (ii) modify or make derivative works based upon the Protect3d App; (iii) reverse engineer the Protect3d App; (iv) access the Protect3d App in order to build a competitive product or service, (v) knowingly send or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs; or (vi) intentionally interfere with or disrupt the integrity or performance of the Protect3d App or the data contained therein.
 - (c) Client is responsible for all activity relating to the Protect3d App occurring under Client's user accounts and shall comply with all applicable U.S. laws and regulations in connection with the use of the Protect3d App, including but not limited to privacy laws and export control laws and regulations. Client shall: (i) notify Protect3d promptly upon becoming aware of any unauthorized use of the Protect3d

App; (ii) report to Protect3d immediately and use reasonable efforts to stop immediately any copying or distribution or misuse of the Protect3d App that becomes known or suspected by Client or Client's users; (iii) not impersonate another provider user or provide false identity information to gain access to or use the Protect3d App; or (iv) not upload, input, or process any patient-identifiable information or protected health information into the Protect3d App during the Trial Term. The App is to be used solely for informational and non-clinical purposes..

(d) Protect3d may from time-to-time, and in its exclusive discretion, update the Protect3d App in order to, among other things, correct errors or bugs, improve the performance of the Protect3d App or increase the functionality of the Protect3d App. Client acknowledges that such updates may change or modify certain functions or features of the Protect3d App. Protect3d shall not be liable to Client for any specific changes to the features or functionality of the Protect3d App and Client's exclusive recourse if it is not satisfied with any update or improvement is to stop using the Protect3d App. Nothing herein shall obligate Protect3d to provide any maintenance or support for the Protect3d App and nothing herein shall be interpreted as granting Client a right to receive any upgrades, patches, enhancements, bug fixes, new versions or new releases of the Protect3d App. Protect3d reserves the right to provide new versions of the Protect3d App and/or additional functionality for additional or increased fee.

(e) Client acknowledges and agrees that no dedicated account manager shall be assigned to Client under this Agreement or during the Trial Term.

4. Orders.

(a) During the Trial Term, Client may submit a limited number of Orders through the Protect3d App, subject to Protect3d's review and sole discretion. Protect3d reserves the right to reject any Order placed during this Trial Term. In the event that the Client desires to obtain a Product, Client will submit to Protect3d a request for such Product, along with all information and specifications reasonably requested by Protect3d (the "**Order**"), via the Protect3d App. Such Orders will be subject to the terms and conditions of this Agreement. Upon receipt of an Order, Protect3d will review the specifications contained in the Order and, within a reasonable period, either: (i) reject the Order, or (ii) accept the Order and immediately move forward with the design and manufacture of the Product. Upon acceptance by Protect3d of the Order, the Order will become binding on the parties. In the event of any conflict between the Order and this Agreement, this Agreement will control.

(b) Pricing for any Orders accepted during the Trial Term shall be communicated on a case-by-case basis and are not subject to tier-based pricing or existing fee schedules..

(c) Protect3d will invoice the Client upon acceptance of the Order and payment will be due within thirty (30) days after the receipt of such invoice. Any travel expenses incurred by Protect3d in the performance of any Services will be billed separately at Protect3d's reasonable, actual out of pocket costs. Any payments not received within thirty (30) days of the date of the invoice will be considered past-due. If any payments are not paid within thirty (30) days of the associated invoice, Protect3d reserves the right to assess interest against any outstanding amount at a rate of one and a half percent (1.5%) per month or portion thereof, or the highest amount permitted by law, whichever is higher. If Client has not paid any sums when due hereunder, including the Service Fee, Protect3d may, at its option, suspend Services and/or withhold or suspend further delivery of Products until such past due sums are paid, regardless of whether or not this Agreement has been

terminated; provided that, for the avoidance of doubt, Client's non-payment of sums due hereunder will constitute a material breach of this Agreement.

(d) Client agrees not to replicate or reverse engineer for any reason any Product.

(e) Client will provide Protect3d with all information relevant to the Services or delivery of the Products and any reasonable assistance as may be required for Protect3d to properly perform the Services. Client represents and warrants to Protect3d that all such information will be accurate and complete in all material respects. The adequacy of the scope of work of the Services in addressing Client's needs is solely Client's responsibility. Any timing or fee estimate Protect3d has provided for this engagement takes into account the agreed-upon level of assistance from Client and commitment of Client resources. Client will ensure that each individual using the Products within the scope of such individual's employment with Client possesses the required skills, experiences, and qualifications in the jurisdiction where such use occurs.

5. **Proprietary Rights.** Protect3d retains all Intellectual Property Rights in the Services, all Products and the Protect3d App. All Intellectual Property Rights in and to all modifications, derivatives and improvements made by Protect3d and/or Client related to such Services, Products and the Protect3d App will and do hereby vest exclusively in Protect3d. "Intellectual Property Rights" means all rights relating to intellectual property, including, without limitation, copyrights, trade secrets, trademarks, patents, design rights, goodwill, look and feel, moral rights and any other intangible right relating to intellectual property. Nothing in this Agreement shall grant Client any rights beyond those explicitly set forth herein.
6. **Not a Medical Provider.** Client acknowledges that Protect3d is not a medical professional or healthcare provider. Protect3d's Products are used at the sole direction of the individual, medical professional, or healthcare provider responsible for the care of the patient using the Product. During the Trial Term, Products provided are for evaluation or demonstration only and are not intended for clinical use unless explicitly approved in writing by Protect3d.
7. **Independent Contractor.** Client and Protect3d are at all times independent contractors, and are not agents or representatives of the other. This Agreement is not intended to create a joint venture or partnership relationship between the parties.
8. **Protected Health Information.** During its use of the Services and Products, Client shall not send, transfer or otherwise provide to Protect3d any protected health information ("PHI"), as is defined under HIPAA. In using the Services and Products, the Client may use the Protect3d App to collect deidentified three-dimensional scans of external anatomy of patients.
9. **Confidentiality.** Each Party may have access to and acquire confidential and proprietary information belonging to the other Party, including but not limited to methods of operation, the terms of this Agreement, fees and other content, business contacts, and special requirements which may constitute trade secrets (collectively, "Confidential Information"). During the Term and for five (5) years thereafter, each Party will keep confidential and will not disclose, divulge or use for any purpose (other than the performance of this Agreement) any Confidential Information obtained from the other Party, unless such Confidential Information (a) is known or becomes known to the general public other than as a result of a breach of this Section 9, (b) is or has been independently developed or conceived by such Party without use of the other Party's Confidential Information, or (c) is or has been made known or disclosed to such Party by a third party without breach of any obligations of confidentiality such third party may have to the other Party, Confidential Information shall not include PHI, the treatment which is covered under Section 10.

10. HIPAA Compliance. As applicable, each Party shall comply with their respective and applicable obligations under the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations set forth at 45 C.F.R. Parts 160 – 164 (collectively, “**HIPAA**”) with respect to the use, disclosure and protection of PHI. Client shall ensure that Client PHI is delivered solely electronically through a secured application (including the Protect3d App) and that Protect3d observes reasonable safeguards to protect PHI from unauthorized use or disclosure.

11. Warranty; Disclaimer.

(a) All Products sold by Protect3d to Client under this Agreement will conform to the specifications set forth in the Order (the “**Specifications**”). Client shall have a period of thirty (30) days from receipt of any Product (the “**Inspection Period**”) to inspect such Product for conformity to the Specifications. In the event that such inspection reveals that such Product does not conform to the Specifications, Client shall notify Protect3d in writing thereof and Protect3d shall, at its sole discretion, repair or replace such Product. In the event that Client does not notify Protect3d of its rejection of any Product within the Inspection Period, the Client will be deemed to have accepted such Product.

(b) EXCEPT AS EXPRESSLY SET FORTH IN SECTION 11(a), PROTECT3D MAKES NO REPRESENTATION, WARRANTY OR GUARANTEE, EXPRESS OR IMPLIED, WITH RESPECT TO THE PRODUCTS, INCLUDING ANY IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, NON-INFRINGEMENT, INTERFERENCE WITH ENJOYMENT OR OTHERWISE. Client assumes all risk and liability for the use of Protect3d's Products or Services. Protect3d makes no claims that the Products will heal current injuries, prevent future injury of users, or provide bone-level support for fractures. Protect3d does not offer medical advice or suggestions for when a user can safely return to activities. Protect3d will have no liability for any Products if the Products are altered in any way or worn by anyone other than the intended user. Additionally, Client agrees to follow any instructions for use provided by Protect3d through the Protect3d App, label of the Products, or directly communicated by Protect3d personnel.

12. Liability. IN NO EVENT: (i) WILL PROTECT3D'S LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, ANY ORDER, THE PROVISION OF THE SERVICES OR THE USE OF THE PRODUCTS EXCEED THE FEES ACTUALLY PAID TO PROTECT3D BY CLIENT DURING THE TWELVE MONTH PERIOD IMMEDIATELY PRECEDING THE CLAIM; AND (ii) WILL PROTECT3D BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY OR PUNITIVE DAMAGES OF ANY TYPE OR KIND (INCLUDING LOSS OF REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE), INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE SERVICES OR THE PRODUCTS, ANY INACCURACY, ERROR OR OMISSION, REGARDLESS OF CAUSE.

13. Indemnification. Client shall indemnify, defend and hold harmless Protect3d from and against any and all losses, damages, costs and expenses (including reasonable attorneys' fees) arising out of or resulting from any claim, demand, charge, action, cause of action or other proceeding asserted by any third party against Protect3d arising from (i) Client's breach of this Agreement; (ii) the performance of any health care services provided by Client, its employees or contractors; or (iii) Client's use of the Protect3d App beyond the scope of the license provided thereto.

14. Notices. Notice, demand, or other communication required to be given by this Agreement by either Party to the other will be sufficiently given or delivered if it is sent by (i) registered or

certified mail, postage prepaid, return receipt requested, (ii) nationally recognized overnight delivery service, (iii) via email transmission or (iv) delivered personally. Unless Protect3d is otherwise notified in writing, Client's address and email for notice purposes will be Client's address and email provided as part of Client's billing information. All notices will be deemed to have been given upon receipt or, if earlier, two (2) business days after being deposited in the mail as required above.

- 15. Assignment.** Client may not assign this Agreement or any of its rights or obligations hereunder without Protect3d's express written consent. Any purported assignment in violation of this Section will be void. Except to the extent forbidden in the previous sentence, this Agreement will be binding upon and inure to the benefit of the respective successors and assigns of the Parties.
- 16. Severability.** To the extent permitted by applicable law, the Parties hereby waive any provision of law that would render any clause of this Agreement invalid or otherwise unenforceable in any respect. In the event that any provision of this Agreement is held to be invalid or otherwise unenforceable, such provision will be interpreted to fulfill its intended purpose to the maximum extent permitted by applicable law, and the remaining provisions of this Agreement will continue in full force and effect.
- 17. Governing Law.** This Agreement will be governed solely by the internal laws of the State of North Carolina, without reference to such state's principles of conflicts of law. The Parties consent to the personal and exclusive jurisdiction of the federal and state courts located in North Carolina.
- 18. Trial Scope & Limitations.** This Agreement permits Client to access and evaluate the Protect3d App and selected Products solely for non-clinical, internal evaluation purposes. Client shall not use the Products for medical treatment, diagnosis, or any patient-related use unless specifically authorized in writing by Protect3d. Protect3d may terminate access to the App or Services at any time without notice. This Trial Agreement does not create any obligation for Protect3d to continue providing services or enter into any further agreement with Client.
- 19. Entire Agreement; Modification.** This Agreement set forth the entire agreement of the Parties and supersedes all prior or contemporaneous writings, negotiations, and discussions with respect to the subject matter hereof. Neither Party has relied upon any such prior or contemporaneous communications. This Agreement may be changed, modified or discharged only if consented to in writing by both Parties; provided, however, that the Company may update any associated service fees or schedules as deemed appropriate in Company's sole discretion.
- 20. Agreement Terms and Counterparts.** This agreement may be executed by electronic signature. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

By clicking "I Agree," "Accept," or any similarly labeled button or checkbox in connection with this Agreement, or by accessing or using the Protect3d App or any related services, the individual acting on behalf of Client represents that they have the authority to bind Client to the terms of this Agreement, and Client agrees to be legally bound by the terms and conditions of this Trial Master Services Agreement. This electronic acceptance shall constitute a binding execution of this Agreement, equivalent to a handwritten signature.