

SOFTWARE ASSIGNMENT AGREEMENT

This Software Assignment Agreement is entered into by and between

[*]

a company existing under the laws of [*]
and having its registered office at [*,] [*] [*], [*]
Company registration number: [*]
Represented by the [*] [*]
Company registration number: [*]
VAT ID number: [*]
(hereinafter referred to as "**Consultant**")

and

[*]

a company existing under the laws of [*]
and having its registered office at [*,] [*] [*], [*]
Represented by the [*] [*]
Company registration number: [*]
VAT ID number: [*]
(hereinafter referred to as "**Customer**")

Consultant and Company are individually referred to as a "Party" or collectively as the "Parties".

Subject Matter

A. Consultant provides software and technology development services, whereas the Customer intends to use developed software.

B. Pursuant to this Software Assignment Agreement (the “**Development Agreement**” or shortly the “**Agreement**”) between Consultant and Customer conducted and effective as of [*] (the “**Effective date**”), Consultant has engaged in the development of following software: (the “**Software**”) and Company may engage Consultant to engage in other projects pursuant to the Development Agreement or other agreements (all such projects being collectively referred to herein as the “**Projects**”).

NOW, THEREFORE, in consideration of the foregoing recitals, the representations, warranties and covenants contained in this Agreement, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows.

1 Ownership Rights

- 1.1 Original Material. The Parties acknowledge and agree that all items created or developed in the course of performance by Consultant of its various obligations related to the Projects, either prior to, on or after the Effective Date, that rise to the level of being protectable intellectual properties, including all (a) deliverables for the Projects, (b) project plans, (c) requirements and design documents, (d) testing plans and results, (e) graphic elements, aesthetic qualities, “look and feel” of such items and all other unique, novel and/or customized parts and aspects of such items not generally used or applied to similar products, (f) computer software, in source code, object code and/or script form, and all related user, programmer and technical documentation, as well as all modifications and enhancements of the foregoing, and (g) text, photos, recordings or other materials of any kind and nature, (collectively, “**Work Product**”) have been or will have been specially ordered or commissioned by Customer and, accordingly, each is and will be a “work made for hire” for Customer, effective as of the moment each such item is fixed in a tangible medium, whether or not such item is complete. The Parties agree that the Work Product includes, without limitation, all elements of the Software created or developed by or on behalf of Consultant. Consultant hereby transfers and assigns to Customer all of its right, title and interest in the Work Product, including all patents and trade secret and other proprietary rights and all rights of Consultant under copyright.
- 1.2 Further Assurances of Consultant. Consultant will (a) execute such documents as Customer reasonably may request from time to time to vest in Customer any and all of the rights granted or transferred by Consultant under this Agreement or any other agreement between the Parties, including this Development Agreement, and (b) take all reasonable steps to have each of those persons who has or will have participated in any Project for, or on behalf of, Consultant execute any such documents and any agreements required for such purpose. Further, Consultant will create or develop the Work Product only through the services of Consultant employees and/or consultants who have executed written agreements that (a) contain appropriate confidentiality and ownership provisions consistent with the terms of this Agreement and (b) assign to Consultant all such personnel’s right, title and interest in the Work Product, including all patents and trade secret and other proprietary rights and all rights of such personnel under copyright.

- 1.3 Customer Materials. All right, title and interest in and to any materials provided by Customer to Consultant in connection with the Projects, including, without limitation, software and other technology, text, photos, graphics or other materials of any kind and nature and any trademarks, service marks, trade names and logos, as digitized or otherwise reformatted by Consultant, in all media (the “Customer **Materials**”) are and shall remain the sole property of Customer. In addition, except as otherwise provided in Section 1.4, all Work Product is and will be the sole property of Customer. Except as provided in this Agreement, or as Customer may otherwise expressly agree in advance in writing, Consultant will not use, sell, transfer, publish, disclose, discuss, display or otherwise make available to others all or any part of the Work Product or the Customer Materials. Consultant acknowledges that the Work Product and the Customer Materials contain proprietary trade secrets of Company and Customer hereby agrees to maintain the confidentiality of the Work Product and of the Customer Materials consistent with the terms of Section 2 of this Agreement.
- 1.4 Materials Already Delivered to Company. The Parties acknowledge that some of the Work Product delivered to Customer by Consultant prior to the Effective Date included material proprietary to Consultant that was not developed in connection with a Project (“**Consultant Materials**”) or material proprietary to third parties (“**Third Party Materials**”) and for which Consultant cannot grant to Company the rights set forth in Sections 1.1 and 1.2 above. Except as may be otherwise agreed by the parties in writing, all Consultant Materials are and shall remain the sole property of Consultant. In addition, except as may be otherwise agreed by the Parties in writing, Consultant hereby grants Customer, including its affiliates, successors and assigns, a perpetual, irrevocable, nonexclusive, worldwide, royalty-free right and license to use, execute, reproduce, display and perform, and prepare derivative works based upon, all such Consultant Materials and derivative works thereof. Further, subject to the restrictions set forth in the licenses granted to Consultant for such Third Party Materials, Consultant hereby grants Customer a perpetual, irrevocable, nonexclusive, worldwide, royalty-free right and license to use, execute, reproduce, display and perform, and prepare derivative works based upon, (including a right of sublicense) all such Third Party Materials and derivative works thereof, but only in connection with the development, distribution, marketing, licensing, operation and support of the Work Product in which such Third Party Materials are integrated. The Parties acknowledge and agree that the foregoing license is subject to the restrictions imposed on Consultant’s right to sublicense such Third Party Materials by the licensors thereof to Consultant. Consultant agrees to deliver to Customer either a copy of all such restrictions or a copy of the governing agreements between Consultant and the licensors of such Third Party Materials. Consultant represents and warrants that it (a) has delivered, or promptly after its execution of this Agreement will deliver, to Company a copy of all such restrictions or applicable agreements between Consultant and the licensors of the Third Party Materials, (b) to the extent permitted by such agreements, has passed, or promptly after its execution of this Agreement will pass, on to Company all warranties for such Third Party Materials, and (c) at the time of the delivery of such Third Party Materials to Company, had the right to include them in the Work Product and deliver them to Company.
- 1.5 Materials Delivered to Customer in the Future. The Parties acknowledge that it may benefit Customer from time to time for Consultant to include in the Work Product Customer Materials or Third Party Materials for which Consultant cannot grant to Customer the rights set forth in Sections 1.1 and 1.2 above (collectively, “**Non-Assignable Materials**”). In the event that Consultant desires to include Non-Assignable Materials in any deliverable or Work Product, Consultant first shall inform Customer of: (a) the nature of such Non-Assignable Material; (b) its owner; (c) any restrictions or royalty terms applicable to Consultant’s or Customer’s use of such material or Customer’s exploitation of the deliverable or Work Product as a derivative work thereof; and (d) the source of Consultant’s authority to employ such material in the preparation of the deliverable or Work Product. Except as may be otherwise agreed by the Parties in writing, all Non-Assignable Materials are and shall remain the sole property of Consultant or its licensor, as applicable. No Non-Assignable Materials may be included in the Software or any other deliverable

or Work Product without the prior written consent of Customer, specific to such Non-Assignable Materials. In addition, except as may be otherwise agreed by the Parties in writing and subject to the restrictions described below, Consultant hereby grants Customer a perpetual, irrevocable, nonexclusive, worldwide, royalty-free right and license to use, execute, reproduce, display and perform, and prepare derivative works based upon, (including a right of sublicense) all such Non-Assignable Materials and derivative works thereof, but only in connection with the development, distribution, marketing, licensing, operation and support of the Work Product in which such Non-Assignable Materials are integrated. With respect to Non-Assignable Materials that are licensed to Consultant, the Parties acknowledge and agree that the foregoing license will be subject to the restrictions imposed on Consultant's right to sublicense such Non-Assignable Materials by the owner thereof and Customer agrees to comply with all such restrictions that are communicated to Customer by Consultant or by the owner of the Non-Assignable Materials in writing prior to or at the time of delivery to Customer of such Non-Assignable Materials, together with a copy of the underlying license agreement. Consultant represents and warrants that it (a) will communicate to Customer all restrictions on the foregoing sublicense imposed by the owner of the Non-Assignable Materials, (b) will pass on to Customer all warranties for such Non-Assignable Materials, (c) will have the right to include such Non-Assignable Materials in such Work Product and deliver them to Customer, and (d) will have the right to grant to Customer the license granted for such Non-Assignable Materials above, subject only to the aforesaid restrictions.

- 1.6 No Infringement. Consultant agrees not to design, develop or provide to Customer any deliverables or Work Product that violate or infringe upon the rights of any person or entity, including rights relating to defamation, privacy, publicity, contract, patent, copyright, trademark, trade secret or other intellectual property rights. If Consultant becomes aware of any such possible violation or infringement in the course of performing any services for Customer, Consultant shall immediately so notify Customer in writing.

2 Confidentiality

- 2.1 Confidential Information. The term “**Confidential Information**” means any information or material received by a Party (the “**Receiving Party**”) in the course of preparing for or participating in any Project, whether such information is oral or written, including, without limitation, information that: (a) is designated as Confidential Information by the disclosing Party (the “**Disclosing Party**”) and not generally known other than by the Disclosing Party; (b) is proprietary to the Disclosing Party, which for Company shall include, without limitation, the Work Product, the Customer Materials and information about the business, affairs and customer base of Customer, and for Consultant shall include, without limitation, the tools and other methodologies customarily used by Consultant in performing its services; or (c) the Disclosing Party obtains from any third party and the Disclosing Party treats as proprietary or designates as Confidential Information, whether or not owned by the Disclosing Party. Confidential Information will not include information that: (a) was known by the Receiving Party at the time of receipt from the Disclosing Party and is not subject to any other non-disclosure agreement between the Parties; (b) is, or hereafter becomes, generally known to the public through no fault of the Receiving Party; (c) was or becomes available to the Receiving Party on a non-confidential basis from a third party, provided that such third party is not bound by an obligation of confidentiality to the Disclosing Party with respect to such Confidential Information; (d) was independently developed by the Receiving Party without reference to the Disclosing Party's Confidential Information; or (e) was provided by Consultant to Customer and not clearly marked as confidential.
- 2.2 Duty of Confidentiality. Each Party will (a) keep strictly confidential all Confidential Information of the other Party, (b) use such Confidential Information only in the exercise of its rights under this or any other agreement with the other Party or in the course of performance of (i) its

obligations with respect to the Projects, or (ii) any other obligations that it may have with respect to the other Party, and (c) disclose such Confidential Information within its organization only to those of its employees or consultants who (i) need to know it to perform the obligations or exercise the rights of such Party, and (ii) are under a similar obligation of confidence. Each Party shall use at least the same degree of care in safeguarding the other Party's Confidential Information as it uses in safeguarding its own Confidential Information, subject to a minimum standard of reasonable diligence and protection. It will not be a violation by any Party of this Section 2.2 to disclose any information required to be disclosed by law or legal process. However, the Receiving Party promptly shall notify the Disclosing Party of the disclosure request to provide the Disclosing Party an opportunity to seek a protective order or otherwise prevent or limit such disclosure. Promptly following the request of the Disclosing Party and upon the termination or expiration of this Agreement, each Party will return to the Disclosing Party all of the Confidential Information the Disclosing Party delivered or disclosed, together with all copies thereof in the possession of the Receiving Party or any of its contractors, except such materials as the Receiving Party will then warrant to the Disclosing Party, in a writing signed by an officer of the Receiving Party, to have been destroyed, which shall include all electronic copies thereof, other than any Confidential Information that is in backup or archival storage or is required to be retained for legal or audit purposes, which shall be kept confidential in accordance with this Section 2.

- 2.3 Injunctive Relief. Because of the unique nature of the Confidential Information, the Work Product and the Company Materials, each Party acknowledges that the other Party will suffer irreparable harm in the event of a breach of the obligations provided in this Section 2 or in Section 1.3 with respect to such Party's Confidential Information or other proprietary materials or information and that monetary damages will be inadequate to compensate the Party for such breach. In the event of such a breach, the non-breaching Party will, in addition to any other remedies at law, be entitled to injunctive or other equitable relief, without the necessity of posting bond. Each Party agrees that in any request to a court of competent jurisdiction by the non-breaching Party for injunctive or other equitable relief seeking to restrain such use or disclosure, the other Party will not maintain that such remedy is not appropriate under the circumstances.

3 License to Consultant

- 3.1 Customer grants Consultant a non-exclusive, non-transferable, limited license, solely during the term of this Agreement, to use the Work Product and Customer Materials for Customer's sole benefit pursuant to the terms and conditions of this Agreement. Consultant may make such copies of the Work Product and Customer Materials as may be necessary to perform its obligations under this Agreement, the Development Agreement and other agreements between the Parties.
- 3.2 In addition to the license granted above, Customer hereby grants to Consultant a world-wide, perpetual, non-exclusive, royalty-free license to use, copy and distribute portions of the Work Product that do not include any Customer Materials, except with the prior written consent of Customer specific to such Company Materials, including the granting of licenses for the use, reproduction and distribution of such portions of the Work Product, in the development and potential marketing of products which: (a) incorporate such portions of the Work Product solely for use unrelated to IMRT programs or workflow management systems; (b) do not provide the primary functionality provided by the Software or the Work Product; and (c) do not allow any external application access to the Software or the Work Product.

4 Customer Representations and Warranties

- 4.1 Customer hereby covenants, represents and warrants that it has full right, power and authority to enter into and perform this Agreement.

5 Consultant Representations and Warranties

- 5.1 Consultant hereby covenants, represents and warrants that: (a) Consultant has full right, power and authority to enter into and perform this Agreement, and to grant to and vest in Customer all rights granted to Customer by Consultant as set forth in this Agreement, free and clear of any and all claims, rights and obligations whatsoever; (b) Consultant has not sold, assigned, leased or in any other way disposed of or encumbered any of the rights granted to Customer by Consultant in this Agreement, nor will Consultant sell, assign, lease, license or in any other way dispose of or encumber such rights.

6 Indemnity and Actions

- 6.1 Consultant's Obligation to Indemnify and Hold Harmless. Consultant will, at its sole expense, indemnify and hold harmless Customer and its affiliates and their respective officers, directors, agents and representatives (collectively, the "Customer **Indemnified Parties**") from and against any and all damages, losses, liabilities, judgments and awards (including reasonable attorneys' fees and costs) incurred by any of the Customer Indemnified Parties as a result of any claim alleging facts or circumstances that, if true, would constitute a material breach of any covenant, representation or warranty of Consultant, as set forth in this Agreement. In any such event, the Customer Indemnified Party will provide Consultant: (a) prompt written notice of any such claim; and (b) such reasonable cooperation and assistance as may reasonably be required from time to time in the defense thereof, at Consultant's expense

7 Term and Termination

- 7.1 Term. The term of this Agreement will commence on the Effective Date and, unless terminated earlier pursuant to this Section 7, will continue until the [*] anniversary of the completion of all professional services to be performed by Consultant related to the Software or any Project.
- 7.2 Termination for Cause. If either Party materially fails to perform any of its material obligations under this Agreement or any other agreement related to any Project and such failure is not cured within thirty (30) days after written notice of such failure, then the non-breaching Party may terminate this Agreement effective as of the date specified in a written notice of termination.
- 7.3 Effect of Termination. Upon the expiration or any termination of this Agreement, Consultant will promptly deliver to Customer any Work Product in its possession, in whatever state it exists as of the expiration or termination date.
- 7.4 Survival. Sections 4, 5 and 7 will remain in effect for one (1) year following the termination or expiration of this Agreement. Sections 1, 2, 6 and 10 will remain in effect following the termination or expiration of this Agreement and will apply to the full extent permitted by law.

8 Notices

- 8.1 All notices, demands approvals or other communications which are required or permitted hereunder shall be in writing and sufficient if (a) delivered by hand, (b) sent by registered or certified mail, postage prepaid, (c) sent by courier, or (d) sent by facsimile, and addressed to the persons and at the addresses listed below or to such other persons and addresses as may be specified by notice given pursuant to this Section 8 from time to time.

If to Customer:

[*]

[*]

[*]

If to Consultant:

[*]

[*]

[*]

8.2 Such notice shall be deemed effective (a) if delivered by hand, courier or by facsimile, upon receipt thereof, or (b) if sent by registered or certified mail, 48 hours after being mailed in the manner set forth in this Section.

9 Assignment and Delegation

9.1 Consultant will not have the right to, and will not, assign or transfer this Agreement, or any of its rights, duties or obligations under this Agreement, and this Agreement may not be involuntarily assigned or assigned by Consultant by operation of law. Any attempted assignment without the prior, written consent of Customer will be null and void. Subject to the limitations set forth in this Section 9, this Agreement will be binding upon and inure to the benefit of each of the parties and their respective successors and assigns.

10 Final Provisions

10.1 This Agreement shall be subject to law of [*] without reference to any of its conflict of law rules.

10.2 Parties agree to resolve any disputes arising out of or relating to this Agreement in good faith. In the event of a dispute arising under this Agreement, each party agrees to notify the other party of the specific complaints or points of disagreement, and to use its good faith efforts to resolve such dispute, without legal action. In case Parties will not solve disputes amicably, The courts seated in [*], shall have exclusive jurisdiction over all disputes arising from or relating to the Agreement.

10.3 This Agreement contains the entire understanding between the Parties concerning the Confidential Information relating to the Authorized Use; provided that any prior written agreement between the Parties concerning confidentiality or non-disclosure of information or data relating to the same subject matter as the Authorized Use, whether still in force at the date of this Agreement or whose terms has expired, but under which the Confidential Information of the Disclosing Party is still protected, shall be deemed to be merged with this Agreement and subject to all restrictions and obligations and other terms and conditions of this Agreement.

10.4 Any modification of this Agreement or any other declaration to be given under the Agreement will not be effective unless given in writing and signed by the duly authorized representatives of the respective Party or, in case of an agreement, by both Parties. This also applies to a modification of this written form requirement.

10.5 Should any provision contained within this Agreement be or become invalid or unenforceable, the validity or enforceability of the remaining provisions shall not be affected. The Parties are obligated to replace the invalid or unenforceable provision with a new legally acceptable provision, which approximates the replaced provision as closely as possible.

10.6 This Agreement will be binding upon and inure to the benefit of the Parties hereto and each Party's respective successors and assigns.

10.7 Each Party hereto represents and warrants that it has full power and authority to enter into and perform this Agreement, and each party knows of no law, rule, regulations, order, agreement, promise, undertaking or other fact or circumstance which would prevent its full execution and performance of this Agreement.

10.8 This Agreement may be executed in any number of counter, each of which shall be an original, but all of which together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the Parties hereto have executed the Agreement:

[SIGNATURE SECTION FOLLOWS]

[*]

Location: [*], [*]

Date: [*]

Signature:

Name of Representative: [*]

Function: [*]

[*]

Location: [*], [*]

Date: [*]

Signature:

Name: [*]

Function: [*]