

PEARL INC. MASTER SERVICES AGREEMENT

This Master Services Agreement for Vyne Image Sync customers (hereafter referred to as this "Agreement"), is entered into by and between Pearl Inc., a Delaware corporation (hereafter referred to as "Pearl"), located at 8605 Santa Monica Blvd., PMB 58456, West Hollywood, California 90069 and "CLIENT" (each referred to herein as a "Party" and collectively as the "Parties"). The provisions of this Agreement shall be construed and shall be given effect in all respects as if it had been executed and delivered upon the day, month and year set forth in the terms and conditions of CLIENT's agreement with Vyne, (the "Effective Date"), and/or by the execution of the Quote by both Parties.

WHEREAS, Pearl has developed an AI-driven computer vision platform for dental professionals. Limited portions of the Pearl Platform are licensed to third parties to power their imaging software applications. Pearl also provides the full Pearl Platform and Services directly to customers; and

WHEREAS, Vyne has licensed portions of the Pearl Platform to assist in providing their Image Sync Application to dental professionals;

WHEREAS, CLIENT wishes to use the Image Sync Application pursuant to a separate agreement between CLIENT and Vyne, and thereby access those portions of the Pearl Platform, subject to the terms and conditions of this Agreement, Pearl desires to allow CLIENT access to the Services.

NOW THEREFORE, in consideration of the mutual agreements contained herein, Pearl and CLIENT hereby agree as follows:

ARTICLE I - DEFINITIONS

Capitalized terms in this Agreement shall have the meanings ascribed to such terms set forth herein or defined as set forth below:

1.1 "**Affiliate**" means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. "Control," for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

1.2 "**Authorized User**" means an individual (including, without limitation, an employee, consultant, contractor or agent of CLIENT) who is authorized by CLIENT to use the Services, for whom CLIENT has ordered the Services, and to whom CLIENT (or Pearl at CLIENT's request) has provided credential for accessing to Services.

1.3 "**CLIENT, "You" or "Your"** means CLIENT.

1.4 "**Image Sync Application**" means the Vyne Image Sync Application found within the Vyne Trellis Software.

1.5 "**Pearl, "We," "Us" or "Our"** means Pearl Inc.

1.6 "**Pearl Platform**" means the AI-driven computer vision platform developed by Pearl and provided to CLIENT pursuant to this Agreement and any Quote.

1.7 "**Permitted Site(s)**" means the named location(s) on Exhibit A, attached hereto, and such additional locations approved by Pearl in writing (which may be evidenced by email).

1.8 "**Quote**" means the estimated price of the Pearl Platform services and software, which will be provided to CLIENT if CLIENT chooses to purchase additional Pearl Platform access.

1.9 "**Services**" means the Pearl Platform together with any components included in the Image Sync Application as well as all modifications, enhancements, improvements, updates, additions and derivative works thereof and documentation and related material related thereto.

1.10 **“Your Content”** means electronic data and information submitted by an Authorized User to, or collected or processed by, the Pearl Platform in connection with CLIENT’s use of the Services in accordance with this Agreement.

ARTICLE II – SERVICES

2.1 **Image Sync Customers.** By signing this Agreement, Pearl grants to CLIENT a non-exclusive, non-transferable, right to access those portions of the Pearl Platform required to use the Image Sync Application solely in connection with CLIENT’s use of Vyne’s Trellis Software. Unless Client agrees separately to purchase access to the Pearl Platform as stated in Section 2.2, CLIENT’s right to access the Pearl Platform shall be limited to only those portions necessary to use the Image Sync Application so long as CLIENT maintains a subscription with Vyne, subject to any agreement between CLIENT and Vyne.

2.2 **Pearl Platform.** CLIENT may, at any time, purchase access to the Pearl Platform not granted in Section 2.1, and any additional Services provided thereby, (for example, Second Opinion and Practice Intelligence) directly from Pearl in addition to access to the Image Sync Application granted in Section 2.1. The Pearl Platform shall be available to CLIENT upon execution of a Quote by both Parties. Upon execution of a Quote, any reference to the Pearl Platform herein shall apply.

ARTICLE III – PEARL’S RESPONSIBILITIES

3.1 **Provision of Services.** Pearl will (a) use commercially reasonable efforts to make the Services available to Authorized Users at the Permitted Site(s) pursuant to this Agreement, subject to reasonable downtime for maintenance, and (b) provide support for registration/onboarding of Authorized Users for accessing the Services.

3.2 **Additional Authorized Users.** Upon CLIENT’s written request (which may be made via email), additional or different individuals may be designated as Authorized Users subject to Pearl’s approval (which may be provided by email and will not be unreasonably withheld, conditioned or delayed).

3.3 **Protection of CLIENT Content.** Pearl will maintain reasonable administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Your Content and will comply with the applicable requirements and responsibilities imposed upon Pearl by the Health Insurance Portability and Accountability Act of 1996 45 CFR Parts 160 and 164 (“HIPAA”) and any other applicable federal, international or state laws or regulations.

ARTICLE IV - USE OF SERVICES

4.1 **Your Responsibilities.** CLIENT will (a) be responsible for ensuring the continuous availability of Internet service, at its expense, sufficient for Authorized Users to access and use the Services in accordance with this Agreement, (b) be responsible for compliance of all Authorized Users with this Agreement, (c) be responsible for the accuracy, quality and legality of Your Content, (d) ensure that it has the necessary rights to use, transfer, modify, and process Your Content in connection with the use of the Services in accordance with this Agreement, (e) use reasonable measures to prevent unauthorized access to or use of Services and, in the event of such unauthorized access or use, notify Us promptly, and (f) use Services only in accordance with applicable laws, rules and regulations.

4.2 **FDA Regulations.** CLIENT shall use the Services only for the purposes described within this agreement. If applicable, the Practice Intelligence portion of the Pearl Platform is NOT to be used as a Medical Device for the purpose of clinical review or diagnosis of patient radiographs as such term is defined in the Medical Device Regulation Act or Medical Device Amendments of 1976 published in the Code of Federal Regulations (“C.F.R.”) at Title 21, Sections 804 and 820 (The “FDA Regulations”). CLIENT hereby agrees not to use the Practice Intelligence portion of the Pearl Platform clinically without the execution of a separate Licensing Agreement for use of Second Opinion® as a Computer Aided Detection Device.

4.3 Usage Restrictions. CLIENT shall access the Services solely at the Permitted Site(s). CLIENT shall inform all Authorized Users of the restrictions and requirements of this Agreement. Except as otherwise provided herein, CLIENT agrees that CLIENT will not, directly or indirectly, cause or allow any Authorized User to: (i) copy, reproduce, or rebrand any portion of the Services; (ii) license, distribute, resell, rent, lease, subcontract, operate as a service bureau or otherwise make available to any third party, any portion of the Services; (iii) decompile, disassemble, reverse engineer or create derivative works of any portion of the Services; (iv) develop a product or service that is designed to compete with any portion of the Services or any product or service incorporating or embodying ideas, features, functions or graphics that are similar to the Services. (v) disclose any passwords or other security or authentication information or credentials with respect to the Services to any person or entity other than Authorized Users; (vi) use the Services in a manner that is not specified in the documentation provided by Pearl or that constitutes a violation of any applicable law, rule or regulation; or (vii) remove, conceal or alter any identification, copyright or other proprietary rights legends, notices or labels in or on the Services.

ARTICLE V - OWNERSHIP RIGHTS & FEEDBACK

5.1 Reservation of Rights. You acknowledge and agree that, except for CLIENT's rights to use and access the Services as expressly provided in this Agreement, all right, title and interest in and to the Services and intellectual property rights therein is and shall remain exclusively with Pearl. Nothing in this Agreement shall grant CLIENT any implied license or right in the Services or any part thereof.

5.2 Your Content. You grant Pearl a nonexclusive, royalty-free license to host, copy, transmit and display Your Content during the Term in providing the Services and in using Your Content to make modifications, improvements and enhancements to the Services.

5.3 Feedback. In consideration for receiving access to the Services, You agree to notify Pearl during the Term of any and all problems experienced in connection with using the Services and recommendations, corrections, suggestions, ideas for enhancements or other feedback relating to the Services ("Feedback"). You hereby grant to Pearl a non-exclusive, worldwide, perpetual, irrevocable, royalty-free license to use the Feedback to create modifications, improvements and enhancements of the Services and You hereby assign to Pearl all right, title and interest that you may acquire in and to such modifications, improvements or enhancements and all intellectual property rights therein including without limitation patent, copyright, trade secret, mask work, and trademark rights.

5.4 HIPAA. Pearl acknowledges and agrees that from time to time during the Term, it may be exposed to or have access to Protected Health Information as defined by the HIPAA ("PHI"). Pearl's obligations with respect to PHI will be governed by that certain Business Associate Agreement (the "Business Associate Agreement" or "BAA") between Pearl and CLIENT directly, or between Vyne (to which Pearl is a designated subcontractor pursuant to 45 CFR §160.103(3)(iii)) and CLIENT, which is incorporated herein by this reference.

ARTICLE VI - CONFIDENTIALITY

6.1 Confidentiality. As used herein, "Confidential Information" means information that is disclosed by either Party to the other Party hereunder during the Term that is clearly labeled or identified as confidential or proprietary when disclosed, or that, under the circumstances, should reasonably be treated as confidential, including without limitation information regarding a Party's technology, source code, software, designs, techniques, research, know-how, specifications, product plans, pricing, customer information, user data, current or future strategic information, current or future business plans, policies or practices, employee information, and other business and technical information. "Confidential Information" shall not include any information that (a) is or becomes generally known to the public through no fault of, or breach of this Agreement by, the Receiving Party; (b) is rightfully in the Receiving Party's possession at the time of disclosure without an obligation of confidentiality; (c) is independently developed by the Receiving Party without use of the Disclosing Party's Confidential Information; or (d) is rightfully obtained by the Receiving Party from a third party without restriction on use or disclosure. In addition, (i) the terms and conditions of this Agreement shall be deemed to be Confidential Information of both Parties; (ii) the

Service and Pearl Technology shall be deemed Confidential Information of Pearl, regardless of whether or not they are labeled or identified, or would reasonably be considered confidential; and (iii) Customer Data shall be deemed Confidential Information of Customer.

6.2 Retained Scans. CLIENT acknowledges and agrees that Pearl may retain following expiration or termination of this Agreement certain Confidential Information, specifically radiography and related files in the form of x-rays, stereolithography, intraoral photos and metadata stored on Pearl's servers ("Retained Confidential Information). Retained Confidential Information shall be subject to the protections and limitations of the NDA for so long as Pearl retains such Retained Confidential Information.

ARTICLE VII – REPRESENTATIONS AND WARRANTIES; WARRANTY DISCLAIMER

7.1 Mutual Representations. Each Party represents and warrants to the other Party that (a) it is validly existing and in good standing under the laws of the place of its establishment, (b) it has full power and authority to execute, deliver and perform its obligations under this Agreement, (c) the person signing this Agreement on its behalf has been duly authorized and empowered to enter into this Agreement, (d) this Agreement is valid, binding and enforceable in accordance with its terms, and (e) neither the execution of this Agreement nor the performance of its obligations under the Agreement will conflict with, or result in a breach of, or constitute a default under, any contract or agreement to which it is a party or is subject.

7.2 Warranty Disclaimer. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 7.2, PEARL HEREBY DISCLAIMS ON BEHALF OF ITSELF AND ITS STOCKHOLDERS, OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS (COLLECTIVELY, "PEARL PARTIES") ANY AND ALL WARRANTIES OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. PEARL DOES NOT REPRESENT OR WARRANT THAT ACCESS TO THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE, THAT DEFECTS, IF ANY, WILL BE CORRECTED, OR THAT THE SERVICES ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS; NOR DOES PEARL MAKE ANY REPRESENTATION OR WARRANTY ABOUT THE ACCURACY, RELIABILITY, CURRENCY, QUALITY, PERFORMANCE OR SUITABILITY OF THE SERVICES. THE SERVICES ARE PROVIDED VIA THE INTERNET AND CLIENT ACKNOWLEDGES AND AGREES THAT PEARL DOES NOT OPERATE OR CONTROL THE INTERNET. AS SUCH, THE SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS.

PEARL IS NOT ENGAGED IN THE PRACTICE OF MEDICINE, AND NO SERVICES PROVIDED UNDER THIS AGREEMENT SHOULD BE CONSIDERED MEDICAL ADVICE OR TOOLS FOR MEDICAL DIAGNOSIS. THE SERVICES SHALL NOT BE USED IN CONNECTION WITH RENDERING PATIENT CARE BY ANYONE OTHER THAN AN APPROPRIATELY LICENSED MEDICAL PROFESSIONAL EXERCISING PROFESSIONAL JUDGMENT AND PEARL SHALL NOT BE RESPONSIBLE FOR ANY INTERPRETATION, DIAGNOSIS, OR TREATMENT DECISIONS RENDERED BY THE MEDICAL PROFESSIONAL OR ANY OTHER PARTY. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, PEARL SHALL NOT BE RESPONSIBLE UNDER THIS AGREEMENT FOR: (I) ANY THIRD-PARTY SOFTWARE OR SERVICES USED WITH THE SERVICES; (II) MODIFICATION OR IMPROVEMENTS BY CLIENT TO ANY APPLICATION PROTOCOL INTERFACES TO THE SERVICES; OR (III) THE CORRECTION OF ERRORS RESULTING FROM ANY MODIFICATION OF THE SERVICES AT THE REQUEST OF CLIENT OR CLIENT'S FAILURE TO USE THE SERVICES IN ACCORDANCE WITH DOCUMENTATION PROVIDED BY PEARL.

ARTICLE VIII - INDEMNIFICATION

8.1 Indemnification by Pearl. Pearl will defend CLIENT against any claim, demand, suit or proceeding made or brought against CLIENT by a third party (a "Claim") alleging (i) Pearl's performance of the Services or CLIENT's use thereof infringes such third party's intellectual property rights, unless the infringement results from (x) CLIENT's use of the Services in a manner other than as permitted under this Agreement, (y) Your Content or any product, software, data, information or materials not provided by Pearl, (z) the

combination of the Services with any product, technology or service not provided by Pearl or (ii) personal injury or property damage caused by Pearl's performance of the Services, or (iii) damages or claims related to Pearl's breach of this Agreement, negligence or willful or intentional misconduct. Pearl will indemnify CLIENT from any damages, attorney fees and costs finally awarded against CLIENT as a result of, or for any amounts paid by CLIENT under a court-approved settlement of, such a Claim, provided CLIENT promptly gives Pearl written notice of the Claim, permits Pearl sole control of the defense and settlement of the Claim and provides Pearl reasonable assistance, at Our expense; provided, however, Pearl will not settle, compromise, or otherwise enter into any agreement regarding the disposition of any such Claim without CLIENT's prior written consent and approval, unless such settlement (a) is solely for a cash payment, (b) requires no admission of liability or wrongdoing by CLIENT, (c) imposes no affirmative obligation on CLIENT, (d) imposes no restriction, sanction, penalty or fine on CLIENT's business, (e) provides that the parties to such settlement shall keep the terms of the settlement confidential, and (f) provides for a full and complete release of CLIENT.

8.2 Indemnification by CLIENT. CLIENT will defend Pearl against any Claim alleging (i) Your Content infringes such third party's intellectual property rights or violates other rights of such third party or (ii) any CLIENT product or service offering developed directly or indirectly from CLIENT's use of the Services, or (iii) damages or claims related to CLIENT'S breach of this Agreement, negligence or willful or intentional misconduct. CLIENT will indemnify Pearl from any damages, attorney fees and costs finally awarded against Pearl as a result of, or for any amounts paid by CLIENT under a court-approved settlement of, such a Claim, provided Pearl promptly gives CLIENT written notice of the Claim, permits CLIENT sole control of the defense and settlement of the Claim and provides CLIENT reasonable assistance, at CLIENT's expense; provided, however, CLIENT will not settle, compromise, or otherwise enter into any agreement regarding the disposition of any such Claim without Pearl's prior written consent and approval, unless such settlement (a) is solely for a cash payment, (b) requires no admission of liability or wrongdoing by Pearl, (c) imposes no affirmative obligation on Pearl, (d) imposes no restriction, sanction, penalty or fine on Pearl's business, (e) provides that the parties to such settlement shall keep the terms of the settlement confidential, and (f) provides for a full and complete release of Pearl.

8.3 Intellectual Property Infringement. If CLIENT'S use of the Services (or any portion thereof) in accordance with this Agreement is enjoined or threatened to be enjoined, then Pearl may, at its option and sole cost and expense, (a) replace or modify the Services to make such Services non-infringing, while providing substantially equivalent functionality; or (b) secure Your right to continue use of the Services in accordance with this Agreement. If Pearl is unable to avoid the infringement despite exercising commercially reasonable efforts or if actions undertaken by Pearl pursuant to the foregoing clause (a) has a material adverse impact on CLIENT's use of the Services in accordance with this Agreement, then either You or We may terminate this Agreement upon written notice to the other Party without liability or further obligation hereunder. EXCEPT AS OTHERWISE STATED IN SECTION 7.1 ABOVE, THIS SECTION 7.3 STATES THE EXCLUSIVE REMEDIES AND PEARL'S SOLE AND EXCLUSIVE LIABILITY REGARDING INFRINGEMENT OR MISAPPROPRIATION OF ANY INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY BY CLIENT'S USE OF THE SERVICES AND IS PROVIDED IN LIEU OF ANY WARRANTY OF NON-INFRINGEMENT.

ARTICLE IX

LIMITED LIABILITY

9.1 Exclusion of Consequential Damages. TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, NEITHER PARTY WILL HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS OR REVENUES, THE COST OR PROCURING SUBSTITUTE GOODS, SERVICES, TECHNOLOGY OR RIGHTS OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, WHETHER ARISING FROM AN ACTION IN CONTRACT, STRICT LIABILITY OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

ARTICLE X

COOPERATION ON PUBLIC DISCLOSURES

10.1 **Press Releases.** Neither Party shall issue any press release or other public statement or SEC disclosure relating to this Agreement without the prior written approval of the other Party.

SECTIONS 11 AND 12 ONLY APPLY IF YOU PURCHASE ADDITIONAL ACCESS TO THE PEARL PLATFORM DIRECTLY FROM PEARL PURSUANT TO A QUOTE. IF YOU ARE ONLY USING THE SERVICES IN CONNECTION WITH THE IMAGE SYNC APPLICATION THESE SECTIONS SHALL NOT APPLY. PLEASE REFER TO YOUR AGREEMENT WITH VYNE FOR APPLICABLE PAYMENT TERMS, TERM, AND TERMINATION PROVISIONS.

ARTICLE XI - COMPENSATION

11.1 **Service Fees.** In consideration for the Services, CLIENT shall pay to Pearl the full amount of the Service Fees or Subscription Fees set forth in the Quote.

11.2 **Invoicing.** Pearl shall invoice CLIENT on a monthly or annual basis for the Services provided hereunder at the beginning of each billing cycle throughout the Term. Invoices for the Service Fees corresponding to the Services provided shall be due and payable by CLIENT within THIRTY (30) days following CLIENT's receipt.

11.3 **Late Payment.** CLIENT shall pay an administrative fee of 1.5% per month, or the highest rate permissible by law, of all amounts not paid within 30 days when due until paid. CLIENT shall be responsible for any reasonable fees, including attorneys' fees, incurred by Pearl in collecting any late payments owed by CLIENT hereunder.

11.4 **Sales Tax.** Service Fees do not include sales or use taxes, or other applicable duties required by law. CLIENT shall be responsible for the payment of any applicable sales or use taxes or similar taxes payable with respect to the Services or otherwise arising out of or in connection with this Agreement, other than taxes levied or imposed based upon Pearl's net income. Any such taxes or duties imposed by law will be charged to CLIENT in addition to the applicable Service Fees

11.4 **Obligation to Pay for Services.** CLIENT's payment obligations hereunder shall not be affected by, and shall survive, the termination of this Agreement.

ARTICLE XII – TERM AND TERMINATION

12.1 **Term and Renewal.** The term of this Agreement shall commence on the Effective Date and continue month-to month or annually, as indicated, unless earlier terminated in accordance with this Agreement (the "Term"). Thereafter, the Term shall automatically renew until terminated.

12.2 **Termination.** CLIENT may terminate this Agreement and any corresponding Services upon providing at least thirty (30) days written notice to Pearl prior to the renewal of the current Term. Pearl reserves the right to terminate this Agreement at any time upon written notice to CLIENT. Except as provided for in Section 11.6, CLIENT acknowledges and agrees that Service Fees are non-refundable.

12.3 **Payment.** In order to use the Services, CLIENT must provide account information for at least one valid Payment Method. Client hereby authorizes Pearl to run credit card authorizations on all credit cards provided by CLIENT, to store credit card and banking or other financial details as CLIENT's method of payment consistent with our Privacy Policy, and to charge CLIENT's credit card (or any other Payment

Method) for any amounts owed under the Terms of Service. To the extent permitted by applicable law and subject to our Privacy Policy, CLIENT acknowledges and agrees that Pearl may use certain third-party vendors and service providers to process payments and manage CLIENT's payment method information. By providing payment method information through the site and authorizing payments with the payment method, CLIENT represents, warrants, and covenants that: (a) CLIENT is legally authorized to provide such information; (b) CLIENT is legally authorized to make payments using the payment method(s); (c) if CLIENT is an employee or agent of a company or person that owns the payment method, that CLIENT is authorized by the company or person to use the payment method to make payments to Pearl; and (d) such actions do not violate the terms and conditions applicable to CLIENT's use of such payment method(s) or applicable law. When CLIENT authorizes a payment using a payment method via the site, CLIENT represents and warrants that there are sufficient funds or credit available to complete the payment using the designated payment method. To the extent that any amounts owed under this Agreement, or the other Terms of Service cannot be collected from CLIENT's payment method(s), CLIENT is solely responsible for paying such amounts by other means. Pearl is not liable to any User if Pearl does not complete a transaction as a result of any limit by applicable law or your financial institution, or if a financial institution fails to honor any credit or debit to or from an account associated with such payment method. Pearl will make commercially reasonable efforts to work with any such affected Users to resolve such transactions in a manner consistent with this Agreement.

Subscription costs may be paid with applicable payment method as follows:

\$0-\$4,999 per month (or annualized): Automated credit card, ACH, paper check, wire transfer
\$5,000+ per month (or annualized): ACH, paper check, wire transfer

12.4 Events of Default. In the event a Party asserts that a breach or default of this Agreement has occurred, such Party shall promptly give the other Party written notice specifying the nature of the breach or default (a "Default Notice"). The following events constitute an "Event of Default" hereunder:

a. Either Party's breach or failure to observe or perform any material term, covenant, agreement, or obligation of this Agreement, unless: a) within thirty (30) days after receipt of a Default Notice, the defaulting Party cures said breach or failure, or if the breach or failure cannot be reasonably cured within thirty (30) days, then within such longer period as the Parties may agree in writing; provided, however, CLIENT's breach of Section 4.3 or a Party's breach of the NDA shall be deemed to be non-curable; or b) within thirty (30) days after receipt of a Default Notice the defaulting Party provides the non-defaulting Party a Dispute Notice (as defined below) and cures, within such thirty (30)-day period or such longer period as the Parties may agree in writing, the breach or failure to the extent not subject to the Dispute identified in the Dispute Notice.

b. Any material representation or warranty herein by a Party shall prove to have been incorrect when made.

c. A Party is dissolved or ceases to do business in the ordinary course, or otherwise terminates its business operations, seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition or comparable proceeding, or any such proceeding is instituted against it, which is not dismissed within sixty (60) days, or is subjected to any writ of attachment, execution, garnishment or other legal process with respect to all or substantially all of its assets, which is not released within thirty (30) days.

12.5 Remedies Upon Default. Subject to the dispute resolution and arbitration procedures in Section 14, upon the occurrence of an Event of Default by a Party, the non-defaulting Party may exercise all remedies available at law or at equity.

If an Event of Default occurs, the non-defaulting Party may, without recourse to legal process, terminate

this Agreement by delivery of a written notice to the defaulting Party declaring termination (a "Termination Notice"), effective sixty (60) days following receipt of the Termination Notice by the defaulting Party without further obligation or liability to the defaulting Party after the effective date of termination; provided the non-defaulting Party delivers the Termination Notice while the Event of Default is continuing or, with respect to an Event of Default that has been cured, the non-defaulting Party delivers the Termination Notice within sixty (60) days after the Event of Default has been cured.

12.6 Effect of Termination. No termination of this Agreement following any Event of Default shall relieve the defaulting Party of its liability and obligations arising hereunder prior to the effective date of termination. In the event Pearl terminates this Agreement in accordance with Section 12.2, Pearl shall return any pro-rated portion of annual fees paid in connection with Services that CLIENT would have received but for Pearl's cancellation. No refunds are available for Clients who pay on a monthly basis.

12.7 Obligations on Termination. Within ten (10) days after termination of this Agreement, CLIENT shall cease and desist all use of the Pearl Platform and shall return to Pearl any and all software and documentation relating to the Pearl Platform in CLIENT's possession or control.

ARTICLE XIII - FORCE MAJEURE

13.1 Force Majeure. Neither Pearl nor CLIENT shall be liable for any loss or damage of any nature suffered or incurred as a result of any failure or delay in performance hereunder, except for payment obligations of CLIENT hereunder, due to Force Majeure (as defined below). For the purpose of this Agreement, "Force Majeure" shall mean any circumstance, event, act, or force not resulting from the fault or negligence of the affected Party which is beyond the reasonable control of such Party, including, but not limited to: any strikes, lockouts, or labor disputes; fires or explosions; acts of God; acts or omissions of third parties not under the control of Pearl or CLIENT; acts of the public enemy; riots; incendiaries; sabotage; terrorist activity or threat of terrorist activity which, under the circumstances, would be considered to be a precursor to actual terrorist activity; economic sanction or embargo; earthquake; abnormal weather conditions, action of the elements, floods, lightning, or wind; unavailability of equipment, supplies, or products; interference by civil or military authorities; epidemics, compliance with the laws of the United States of America or with the orders or policies, laws, or rules of any governmental authority; equipment breakdown or failure; delays in transit or delivery on the part of transportation companies or communication facilities. A Party shall not be deemed to have suffered an event of Force Majeure due to the failure of equipment which that Party, or its agents, employees, or assigns, is responsible for operating or maintaining if the equipment has not been operated or maintained in accordance with industry standard practices.

13.2 Effect of Force Majeure. If a Party is rendered wholly or partly unable to perform its obligations under this Agreement because of Force Majeure, that Party shall be excused from the performance that is affected by the Force Majeure to the extent so affected, provided that:

- a. The Party affected by such Force Majeure, as soon as reasonably practical after the occurrence of the claimed Force Majeure event, gives prompt verbal notice to the other Party, followed by a written notice, fully describing the particulars of the occurrence.
- b. The suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure; and
- c. The Party affected by the Force Majeure shall in good faith use such effort as is reasonable under all the circumstances known to the Party at the time to remove or remedy the cause(s) of the Force Majeure and to mitigate the impact of its suspension of performance.

ARTICLE XIV - DISPUTE RESOLUTION

14.1 General Provisions. Every dispute of any kind or nature between the Parties arising out of or in connection with this Agreement or a Party's performance hereunder (each a "Dispute") shall be resolved in accordance with this Article XIV, to the extent permitted by law.

14.2 Referral to Senior Management.

- a. Upon the occurrence of a Dispute, either Party may deliver a notice to the other Party requesting that the Dispute be referred to the senior management of Pearl and CLIENT (a "Dispute Notice"). Any such Dispute Notice shall include the names of the senior management of the party nominated to attempt to resolve the Dispute and a schedule of their availability during the thirty (30) day period following the date of the Dispute Notice. Any such Dispute Notice shall be delivered within a reasonable time after the Dispute arises, but in no event shall it be delivered less than thirty (30) days before the institution of legal or equitable proceedings based on such Dispute would be barred by any applicable statute of limitations.
- b. Within seven (7) days after receipt of a Dispute Notice, the other Party shall provide a notice to the requesting Party indicating the names of the senior management of the Party nominated to attempt to resolve the Dispute, and a schedule of their availability during the remainder of the thirty (30) day period following the date of the Dispute Notice.
- c. During the remainder of the thirty (30) day period following delivery of the Dispute Notice, the nominated members of the senior management of Pearl and CLIENT shall meet as frequently as reasonably practicable and shall attempt in good faith to resolve the Dispute.

14.3 Arbitration

- a. Any Dispute that has not been resolved within thirty (30) days of the delivery of the Dispute Notice shall be submitted to arbitration pursuant to the procedures set forth in this Section 13.3 and pursuant to the commercial arbitration rules of the American Arbitration Association (the "Arbitration Rules"). If and to the extent that the provisions of this Section 13.3 are inconsistent with the Arbitration Rules, the provisions of this Section 13.3 shall control in any arbitration proceeding to the extent permitted by law.
- b. Either CLIENT or Pearl may make demand for arbitration in writing to the other Party, setting forth the nature of the Dispute, the amount involved, if any, the remedies sought, and the name of the arbitrator appointed by the Party demanding arbitration. The demand for arbitration shall be made within a reasonable time after the expiration of the thirty (30) day period following delivery of the Dispute Notice, and in no event shall it be made when institutions of legal or equitable proceedings based on such Dispute would be barred by any applicable statute of limitations.
- c. Within fifteen (15) days after any demand for arbitration under Section 15.3(a), the other Party shall name its arbitrator, or if, if such Party fails to do so, an arbitrator will be nominated on behalf of such Party in accordance with the Arbitration Rules. The two (2) arbitrators so selected shall name a third arbitrator within ten (10) days after selection of the second arbitrator, or, in the absence of agreement on a third arbitrator by the two (2) arbitrators so appointed, a third arbitrator shall be appointed in accordance with the Arbitration Rules.
- d. The arbitration proceeding shall be held in Delaware, or such other place as may be mutually agreed upon by the Parties and shall commence not later than ninety (90) days after the date of the demand for arbitration. The award of the arbitrators shall be made not later than thirty (30) days after the date of closing of the proceeding, or if oral hearings have been waived, after the date of transmitting the final statements and proof to the arbitrators; provided, however, that in no event shall any award be made later than one hundred and eighty (180) days after the date of the demand for arbitration. The arbitrators shall be required to render a reasoned decision in writing accompanying any award.
- e. In the event the arbitrators find a breach of this Agreement to have occurred and be continuing, the arbitrators shall have express authority to order specific performance of this Agreement or an injunction of acts in violation of this Agreement, and to order the payment of damages to compensate the non-defaulting Party for any loss to the extent allowed in Article VIII. Any payment of damages ordered by the arbitrators shall bear interest at the Prime Rate as set forth in the Wall Street Journal, which interest shall accrue daily, from the date as of which such damages are

calculated to the date on which the Party entitled thereto receives payment thereof in full. The award of the arbitrators shall be final, except as otherwise provided by applicable law. Judgment upon such award may be entered on behalf of the prevailing Party in any court having jurisdiction thereof, and application may be made by such Party to any such court for judicial acceptance of such award and an order of enforcement.

f. The administrative and arbitrator's costs shall be borne by the unsuccessful Party unless the arbitrators by their award shall otherwise provide, but otherwise each Party shall bear its own costs, including attorney's fees.

14.4 No Other Remedies. Unless an Event of Default unrelated to a Dispute occurs, during the conduct of dispute resolution procedures pursuant to this Article XIII, no Party shall exercise any other remedies hereunder with respect to the Dispute; provided, however, that nothing in this Section 13.4 shall be construed to prevent Pearl from suspending performance of the Services in the event that CLIENT fails to pay undisputed amounts due and payable to Pearl under this Agreement.

ARTICLE XV - GOVERNING LAW & JURISDICTION

15.1 Governing Law and Jurisdiction. This Agreement will be governed by and interpreted in accordance with the laws of the State of Delaware, without regard to its conflict of laws rules. The Parties specifically consent and agree that, except as otherwise provided in Article XIII, the courts of the State of California and/or the federal courts located in Delaware will have exclusive jurisdiction over each of the Parties and over the subject matter of any such proceedings. Additionally, except as otherwise provided in Article XIII, the prevailing Party in any legal action relating to this Agreement will be entitled to an award of its costs and expenses incurred in connection therewith, including all attorneys' and other professional fees and expenses.

ARTICLE XVI – ENTIRE AGREEMENT; SEVERABILITY; ASSIGNMENT

16.1 Entire Agreement; Order of Precedence. This Agreement (including all exhibits) is the entire agreement between You and Us regarding the Services and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning the same subject matter. No waiver of any provision of this Agreement will be effective unless in writing and signed by both Parties. Except to the extent prohibited by applicable HIPAA Regulations, HITECH Standards or other applicable laws or regulations, in the event of a conflict between the NDA, the Business Associate Agreement and/or this Agreement, the terms of this Agreement will control.

16.2 Severability. If any provision of this Agreement is held to be illegal or unenforceable, such provision shall be limited or eliminated to the minimum extent necessary so that the remainder of this Agreement will continue in full force and effect and enforceable.

16.3 Assignment. Neither this Agreement nor the licenses granted hereunder are assignable or transferable by either Party without the prior written consent of the other Party; any attempt to do so shall be null and void. Notwithstanding the foregoing, either Party shall have the right to assign all (but not less than all) of its interest in this Agreement to a subsidiary or affiliate or to an entity with which it has merged or consolidated or transferred all or substantially all of its assets, stock or business to which this Agreement relates; provided, however, that the assignee shall assume in writing all of the assignor's rights and obligations under this Agreement.

16.4 Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the respective successors and permitted assigns of the Parties.

ARTICLE XVII - MODIFICATION OF TERMS AND CONDITIONS

17.1 Modifications. Modification of the terms and conditions of this Agreement may be made from time to time during the term hereof upon the mutual agreement of both Parties and shall not be binding unless in writing and signed by authorized representatives of both Parties.

ARTICLE XVIII - NOTICES

18.1 **Notice.** All notices or other communications required or permitted hereunder shall be in writing and, except as otherwise provided in this Agreement, shall be deemed to have been duly given either when personally delivered, one (1) business day following delivery by a nationally recognized overnight courier, or three (3) business days following deposit in the U.S. mail, registered or certified, postage prepaid, return receipt requested, to the addresses set forth below, with the exception that Pearl may send You information relating to Your account (e.g. Payment authorizations, invoices, confirmation messages) and any changes or notices to the Agreement in electronic form, for example, via emails to the email address provided during registration. You agree that any notices, agreements, disclosures or other communications what Pearl sends to you electronically will satisfy any legal communication requirements herein, including that such communications be in writing. Additionally, you agree that any notices, agreements, disclosures or other communications sent by Pearl will be provided in English only.