



# **License Agreement and Terms & Conditions**

Prepared for The Orthopedic Review

# LICENSE AGREEMENT

For use of The Orthopedic Review Business Directory & Reviews Website

This License Agreement (this “Agreement” of this “LicenseAgreement”) is made and effective as of [COMMENCEMENT DATE] (the “Commencement Date”) by and between:

[SENDER.Company], a company organized and existing in [SENDER.Country], with a registered address at [SENDER.Address] (“Licensor”)

and

[SIGNER.Company], a company organized and existing in [SIGNER.Country], with a registered address at [SIGNER.Address] (“Licensee”).

WHEREAS:

1. Licensee wishes to obtain a license to use The Orthopedic Review Website (hereinafter, the “Asset”), and
2. Licensor is willing to grant to the Licensee a non-exclusive, non-transferable License to use the Asset for the term and specific purpose set forth in this Agreement,

NOW, THEREFORE, in consideration of the foregoing, and of the mutual promises and undertakings contained herein, and other good and valuable consideration, the parties agree as follows:

## **LICENSE AGREEMENT**

1. DEFINITIONS.
2. LICENSE GRANT.
3. CHARGES.
4. LICENSEE’S OBLIGATIONS.
5. INTELLECTUAL PROPERTY RIGHTS.
6. LIMITATION OF LIABILITY.
7. CONFIDENTIALITY.
8. DISCLAIMERS & RELEASE.
9. INDEMNITY.
10. WAIVER.
11. GOVERNING LAW.
12. TERMINATION.
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14. ASSIGNMENT.

- 15. NOTICES.
- 16. COUNTERPARTS.
- 17. SEVERABILITY.
- 18. ENTIRE AGREEMENT.
- 19. SCHEDULE

## 1. DEFINITIONS.

1.1 "Agreement" means this License Agreement including the attached Schedule.

1.2 "Confidential Information" means information that:

- a. is by its nature confidential;
- b. is designated in writing by Licensor as confidential;
- c. the Licensee knows or reasonably ought to know is confidential;
- d. Information comprised in or relating to any Intellectual Property Rights of Licensor.

1.3 "Asset" means the Asset provided by Licensor as specified in Item 6 of the Schedule in the form as stated in Item 7 of the Schedule.

1.4 "Intellectual Property Rights" means all rights in and to any copyright, trademark, trading name, design, patent, know how (trade secrets) and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic field and any application or right to apply for registration of any of these rights and any right to protect or enforce any of these rights, as further specified in clause 5.

1.5 "Party" means a person or business entity who has executed this Agreement; details of the Parties are specified in Item 2 of the Schedule.

1.6 "Term" means the term of this Agreement commencing on the Commencement Date as specified in Item 4 of the Schedule and expiring on the Expiry Date specified in Item 5 of the Schedule.

## 2. LICENSE GRANT.

2.1 Licensor grants to the Licensee a non-exclusive, non-transferable License for the Term to use the Asset for the specific purpose specified in this Agreement, subject to the terms and conditions set out in this Agreement.

### 3. CHARGES.

3.1 In consideration of the Licensor providing the License under clause 2 of this License Agreement, the Licensee agrees to pay Licensor the amount of the License Charge as specified in Item 9 of the Schedule.

### 4. LICENSEE'S OBLIGATIONS.

4.1 The Licensee cannot use the Asset, for purposes other than as specified in this Agreement and in Item 8 of the Schedule.

4.2 The Licensee may permit its employees to use the Asset for the purposes described in Item 8, provided that the Licensee takes all necessary steps and imposes the necessary conditions to ensure that all employees using the Asset do not commercialize or disclose the contents of it to any third person, or use it other than in accordance with the terms of this Agreement.

4.3 The Licensee will not distribute, sell, License or sub-License, let, trade or expose for sale the Asset to a third party.

4.4 No copies of the Asset are to be made other than as expressly approved by Licensor.

4.5 No changes to the Asset or its content may be made by Licensee.

4.6 The Licensee will provide technological and security measures to ensure that the Asset which the Licensee is responsible for is physically and electronically secure from unauthorized use or access.

4.7 Licensee shall ensure that the Asset retains all Licensor copyright notices and other proprietary legends and all trademarks or service marks of Licensor.

### 5. INTELLECTUAL PROPERTY RIGHTS.

5.1 All Intellectual Property Rights over and in respect of the Asset are owned by Licensor. The Licensee does not acquire any rights of ownership in the Asset.

## 6. LIMITATION OF LIABILITY.

6.1 The Licensee acknowledges and agrees that neither Licensor nor its board members, officers, employees or agents, will be liable for any loss or damage arising out of or resulting from Licensor's provision of the Asset under this Agreement, or any use of the Asset by the Licensee or its employees; and Licensee hereby releases Licensor to the fullest extent from any such liability, loss, damage or claim.

## 7. CONFIDENTIALITY.

7.1 Neither Party may use, disclose or make available to any third party the other Party's Confidential Information, unless such use or disclosure is done in accordance with the terms of this Agreement.

7.2 Each Party must hold the other Party's Confidential Information secure and in confidence, except to the extent that such Confidential Information:

- a. is required to be disclosed according to the requirements of any law, judicial or legislative body or government agency; or
- b. was approved for release in writing by the other Party, but only to the extent of and subject to such conditions as may be imposed in such written authorization.

7.3 This clause 7 will survive termination of this Agreement.

## 8. DISCLAIMERS & RELEASE.

8.1 To the extent permitted by law, Licensor will in no way be liable to the Licensee or any third party for any loss or damage, however caused (including through negligence) which may be directly or indirectly suffered in connection with any use of the Asset.

8.2 The Asset is provided by Licensor on an "as is" basis.

8.3 Licensor will not be held liable by the Licensee in any way, for any loss, damage or injury suffered by the Licensee or by any other person related to any use of the Asset or any part thereof.

8.4 Notwithstanding anything contained in this Agreement, in no event shall Licensor be liable for any claims, damages or loss which may arise from the modification, combination, operation or use of the Asset with Licensee computer programs.

8.5 Licensor does not warrant that the Asset will function in any environment.

8.6 The Licensee acknowledges that:

- a. The Asset has not been prepared to meet any specific requirements of any party, including any requirements of Licensee; and
- b. it is therefore the responsibility of the Licensee to ensure that the Asset meets its own individual requirements.

8.7 To the extent permitted by law, no express or implied warranty, term, condition or undertaking is given or assumed by Licensor, including any implied warranty of merchantability or fitness for a particular purpose.

## 9. INDEMNITY.

9.1 The Licensee must indemnify, defend and hold harmless Licensor, its board members, officers, employees and agents from and against any and all claims (including third party claims), demands, actions, suits, expenses (including attorney's fees) and damages (including indirect or consequential loss) resulting in any way from:

- a. Licensee's and Licensee's employee's use or reliance on the Asset,
- b. any breach of the terms of this License Agreement by the Licensee or any Licensee employee, and
- c. any other act of Licensee.

9.2 This clause 9 will survive termination of this Agreement.

## 10. WAIVER.

10.1 Any failure or delay by either Party to exercise any right, power or privilege hereunder or to insist upon observance or performance by the other of the provisions of this License Agreement shall not operate or be construed as a waiver thereof.

## 11. GOVERNING LAW.

11.1 This Agreement will be construed by and governed in accordance with the laws of The United State of America. The Parties submit to exclusive jurisdiction of the courts of The United States of America.

## 12. TERMINATION.

12.1 This Agreement and the License granted herein commences upon the Commencement

Date and is granted for the Term, unless otherwise terminated by Licensor in the event of any of the following:

- a. if the Licensee is in breach of any term of this License Agreement and has not corrected such breach to Licensor's reasonable satisfaction within 7 days of Licensor's notice of the same;
- b. if the Licensee becomes insolvent, or institutes (or there is instituted against it) proceedings in bankruptcy, insolvency, reorganization or dissolution, or makes an assignment for the benefit of creditors; or
- c. the Licensee is in breach of clause 5 or 7 of this Agreement.

12.2 Termination under this clause shall not affect any other rights or remedies Licensor may have.

## 13. LICENSE FEE.

13.1 In consideration for the License grant described in this License Agreement, Licensee shall pay the yearly License fee as stated in Item 9 of the Schedule immediately upon execution of this Agreement and upon each anniversary date of this Agreement.

13.2 The License fee and any other amounts payable by the Licensee to the Licensor, under this Agreement, are exclusive of any and all foreign and domestic taxes, which if found to be applicable, will be invoiced to Licensee and paid by Licensee within 30 days of such invoice.

## 14. ASSIGNMENT.

14.1 Licensee shall not assign any rights of this License Agreement, without the prior written consent of Licensor.

## 15. NOTICES.

15.1 All notices required under this Agreement shall be in writing and shall be deemed given (i) when delivered personally; (ii) five (5) days after mailing, when sent certified mail, return receipt requested and postage prepaid; or (iii) one (1) business day after dispatch, when sent via a commercial overnight carrier, fees prepaid. All notices given by either Party must be sent to the address of the other as first written above (unless otherwise changed by written notice).

## 16. COUNTERPARTS.

16.1 This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall constitute one instrument.

## 17. SEVERABILITY.

17.1 The Parties recognize the uncertainty of the law with respect to certain provisions of this Agreement and expressly stipulate that this Agreement will be construed in a manner that renders its provisions valid and enforceable to the maximum extent possible under applicable law. To the extent that any provisions of this Agreement are determined by a court of competent jurisdiction to be invalid or unenforceable, such provisions will be deleted from this Agreement or modified so as to make them enforceable and the validity and enforceability of the remainder of such provisions and of this Agreement will be unaffected.

## 18. ENTIRE AGREEMENT.

18.1 This Agreement contains the entire agreement between the Parties and supersedes any previous understanding, commitments or agreements, oral or written. Further, this Agreement may not be modified, changed, or otherwise altered in any respect except by a written agreement signed by both Parties.



IN WITNESS WHEREOF, this Agreement, including the attached Schedule, was signed by the Parties under the hands of their duly authorized representatives and made effective as of the Commencement Date.

[SENDER.Company]

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The Orthopedic Review  
[SENDER.Title]

[SIGNER.Company]

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[SIGNER.Title]

## 19. SCHEDULE

Item 1 – License Agreement

THE LICENSE AGREEMENT OF WHICH THIS SCHEDULE FORMS A PART IS DATED AS OF [DATE] AND IS BY AND BETWEEN THE PARTIES REFERENCED IN ITEM 2 BELOW.

Item 2 – Name and Address of Licensor and Licensee

Licensor: [SENDER.Company], a company organized and existing in [SENDER.Country], with a registered address at [SENDER.Address].

Licensee: [SIGNER.Company], a company organized and existing in [SIGNER.Country], with a registered address at [SIGNER.Address].

Item 3 – Other License Terms

Item 4 – Commencement Date

Item 5 – Expiry Date

Item 6 – Description of Asset

Item 7 – Format of Asset

Item 8 – Approved Purpose

Item 9 – License Fee

# STANDARD TERMS AND CONDITIONS

## 1. Introduction.

These Website Standard Terms and Conditions (these “Terms” or these “Website Standard Terms and Conditions”) contained herein on this webpage, shall govern your use of this website, including all pages within this website (collectively referred to herein below as this “Website”). These Terms apply in full force and effect to your use of this Website and by using this Website, you expressly accept all terms and conditions contained herein in full. You must not use this Website, if you have any objection to any of these Website Standard Terms and Conditions.

This Website is not for use by any minors (defined as those who are not at least 18 years of age), and you must not use this Website if you a minor.

## 2. Intellectual Property Rights.

Other than content you own, which you may have opted to include on this Website, under these Terms, The Orthopedic Review and/or its licensors own all rights to the intellectual property and material contained in this Website, and all such rights are reserved.

You are granted a limited license only, subject to the restrictions provided in these Terms, for purposes of viewing the material contained on this Website,

## 3. Restrictions.

You are expressly and emphatically restricted from all of the following:

1. publishing any Website material in any media;
2. selling, sublicensing and/or otherwise commercializing any Website material;
3. publicly performing and/or showing any Website material;
4. using this Website in any way that is, or may be, damaging to this Website;
5. using this Website in any way that impacts user access to this Website;
6. using this Website contrary to applicable laws and regulations, or in a way that causes, or may cause, harm to the Website, or to any person or business entity;
7. engaging in any data mining, data harvesting, data extracting or any other similar activity in relation to this Website, or while using this Website;
8. using this Website to engage in any advertising or marketing;

Certain areas of this Website are restricted from access by you and The Orthopedic Review may further restrict access by you to any areas of this Website, at any time, in its sole and absolute discretion. Any user ID and password you may have for this Website are confidential and you must maintain confidentiality of such information.

## 4. Your Content.

In these Website Standard Terms and Conditions, “Your Content” shall mean any audio, video, text, images or other material you choose to display on this Website. With respect to Your Content, by displaying it, you grant The Orthopedic Review a non-exclusive, worldwide, irrevocable, royalty-free, sub licensable license to use, reproduce, adapt, publish, translate and distribute it in any and all media.

Your Content must be your own and must not be infringing on any third party’s rights. The Orthopedic Review reserves the right to remove any of Your Content from this Website at any time, and for any reason, without notice.

## 5. No warranties.

This Website is provided “as is,” with all faults, and The Orthopedic Review makes no express or implied representations or warranties, of any kind related to this Website or the materials contained on this Website. Additionally, nothing contained on this Website shall be construed as providing consult or advice to you.

## 6. Limitation of liability.

In no event shall The Orthopedic Review, nor any of its officers, directors and employees, be liable to you for anything arising out of or in any way connected with your use of this Website, whether such liability is under contract, tort or otherwise, and The Orthopedic Review, including its officers, directors and employees shall not be liable for any indirect, consequential or special liability arising out of or in any way related to your use of this Website.

## 7. Indemnification.

You hereby indemnify to the fullest extent The Orthopedic Review from and against any and all liabilities, costs, demands, causes of action, damages and expenses (including reasonable attorney's fees) arising out of or in any way related to your breach of any of the provisions of these Terms.

## 8. Severability.

If any provision of these Terms is found to be unenforceable or invalid under any applicable law, such unenforceability or invalidity shall not render these Terms unenforceable or invalid as a whole, and such provisions shall be deleted without affecting the remaining provisions herein.

## 9. Variation of Terms.

The Orthopedic Review is permitted to revise these Terms at any time as it sees fit, and by using this Website you are expected to review such Terms on a regular basis to ensure you understand all terms and conditions governing use of this Website.

## 10. Assignment.

The Orthopedic Review shall be permitted to assign, transfer, and subcontract its rights and/or obligations under these Terms without any notification or consent required. However, you shall not be permitted to assign, transfer, or subcontract any of your rights and/or obligations under these Terms.

## 11. Entire Agreement.

These Terms, including any legal notices and disclaimers contained on this Website, constitute the entire agreement between The Orthopedic Review and you in relation to your use of this Website, and supersede all prior agreements and understandings with respect to the same.

## 12. Governing Law & Jurisdiction.

These Terms will be governed by and construed in accordance with the laws of the State of New Jersey, and you submit to the non-exclusive jurisdiction of the state and federal courts located in New Jersey for the resolution of any disputes.