

SPECIFIC TERMS FOR KESTREL SOFTWARE (FLEXSCANMD)

The terms and conditions contained in the license agreement(s) entered into by and between Client (as defined below) and Allscripts Healthcare, LLC (“**Allscripts**”) (such license agreement or agreements, collectively, the “**Allscripts Agreement**”), Client expressly agrees with Kestrel Software, LLC, (“**Kestrel**” and together with You, the “**Parties**” and each, a “**Party**”), that, in addition to the terms and conditions contained in the Allscripts Agreement, Client’s license to use Kestrel Software (as defined further below) as integrated into the one or more Allscripts products or offerings pursuant to the Allscripts Agreement, is subject to the following terms and conditions (the “**Terms**”). These Terms are incorporated into the Allscripts Agreement and the Client expressly acknowledges all the rights and obligations of Kestrel and Client as provided herein.

In the event of a conflict of terms between the Allscripts Agreement and these Terms, these Terms shall take precedence over the Allscripts Agreement. Capitalized terms not defined herein shall have the meaning ascribed to them in the Allscripts Agreement. These Terms address Clients license rights specific to the Kestrel Software.

“**Kestrel Software**” is defined as any Kestrel product or service, including, Kestrel’s cloud-based, inventory management solution (“**FlexScanMD**”) obtained by Allscripts subject to a Reseller Agreement with Kestrel.

“**Client**” refers to both the undersigned sublicensee and any person or entity on whose behalf the undersigned sublicensee acts, if any.

The following additional terms and conditions shall apply to the Kestrel Software license under the Allscripts Agreement:

i. License and Restrictions. The Allscripts Agreement and these Terms together constitute the “**License**” applicable to the Kestrel Software. Client shall implement and use reasonable access controls, passwords and other reasonable security measures when using the Kestrel Software. Except as otherwise expressly permitted herein, Client shall not authorize or permit any third parties, other than authorized users as permitted under the Allscripts Agreement, to access or use the Kestrel Software. Client shall not, and shall not authorize any third party to: (a) make any copies of the Kestrel Software except as expressly permitted by Kestrel in writing, in advance or make more than a reasonable number of copies of the Documentation for internal use only; (b) except as permitted under the Allscripts Agreement, use any Kestrel Software to provide any data processing, outsourcing, time sharing, service bureau, billing services, or any other services for the benefit of any third party; (c) attempt to decompile, disassemble, translate or reverse engineer any Kestrel Software; (d) install any Kestrel Software on any hardware or equipment that is not owned or leased by Client or that is located outside of the facilities for which such Kestrel Software is licensed, unless expressly authorized in writing, in advance by Kestrel; (e) grant any third party any right, title, interest, lien or option in or to any Kestrel Software; (f) remove, alter, add, or obscure any intellectual property or other notice included in any Kestrel Software; or (g) create any derivative works of any Kestrel Software. “Documentation” means any user documentation, including, but not limited to, operating instructions, input information and format specifications, pertaining to the use of Kestrel Software and made available from Kestrel Software. For the

avoidance of doubt, “Documentation” does not include any marketing materials or any information available through Kestrel’s publicly accessible website.

ii. Ownership. Client agrees that, as between Kestrel, Allscripts, Client, and authorized users, all right, title, and interest in and to the Kestrel Software, including all copyrights and other intellectual property inherent therein or appurtenant thereto, are, and at all times shall remain, the sole and exclusive property of Kestrel and are protected by copyright and other intellectual property laws. Except for the limited sublicense granted to Client under the Allscripts Agreement and the Terms, nothing contained in these Terms or the Allscripts Agreement shall confer any right, title, or interest in Kestrel Software, or any information therein and no other license is granted to Client hereunder, whether by estoppel, implication, or otherwise. Ownership in the Kestrel Software remains with Kestrel and is not altered, diminished, or lost by virtue of incorporation into Allscripts' products, applications or computer system, Client's computer system, or use by Client or authorized users.

iii. Representations and Warranties.

- a) During the support and/or subscription period for any Kestrel Software, Kestrel represents and warrants to Client that the Kestrel Software will conform to the material functional descriptions in the applicable Documentation. To the extent the Kestrel Software does not conform to the above limited warranty, Kestrel shall provide software modification or workarounds so that the Kestrel Software complies with the above warranty.
- b) Kestrel represents and warrants that it uses commercially reasonable efforts so that the Kestrel Software does not include any viruses, worms, Trojan horses or other malicious code.

iv. Disclaimer of Warranties. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW AND EXCEPT FOR THE LIMITED WARRANTIES SET FORTH ABOVE, KESTREL EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION: (A) ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE (WHETHER OR NOT KESTREL KNOWS, HAS REASON TO KNOW, OR HAS BEEN ADVISED OF ANY SUCH PURPOSE); (B) ANY WARRANTY REGARDING RESULTS OBTAINABLE OR TO BE OBTAINED BY CLIENT AS A RESULT OF PROVISION OR USE OF THE KESTREL SOFTWARE PROVIDED HEREUNDER; AND (C) ANY WARRANTY OF UNINTERRUPTED, TIMELY, OR ERROR-FREE OPERATION OF THE KESTREL SOFTWARE.

V. Limitations of Liability. NOTWITHSTANDING ANYTHING ELSE, EXCEPT FOR KESTREL’S GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT OR KESTREL’S

INDEMNIFICATION OBLIGATIONS UNDER THE TERMS, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL KESTREL OR ANY OF ITS OR THEIR RESPECTIVE MANAGERS, MEMBERS, OFFICERS, EMPLOYEES, OR AGENTS BE LIABLE TO CLIENT OR ANY AUTHORIZED USER WITH RESPECT TO THE KESTREL SOFTWARE AND/OR ANY OTHER SUBJECT MATTER OF THESE TERMS OR ALLSCRIPTS AGREEMENT UNDER ANY THEORY OF CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR OTHER LEGAL OR EQUITABLE THEORY FOR: (I) ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, OR OTHER INDIRECT DAMAGES OF ANY CHARACTER, INCLUDING, BUT NOT LIMITED TO, LOSS OF REVENUE OR PROFITS, REPLACEMENT COSTS OR LOST BUSINESS, EVEN IF KESTREL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; OR (II) IN THE AGGREGATE, IN ANY AMOUNT, GREATER THAN THE FEES PAID BY ALLSCRIPTS TO KESTREL FOR THE CLIENT'S USE OF KESTREL SOFTWARE AND RELATED ITEMS THAT IS/ARE THE SUBJECT OF ANY CLAIMS DURING THE TWELVE (12) MONTH PERIOD BEFORE THE FIRST EVENT, ACTION, OR OMISSION GIVING RISE TO THE CLAIM.

vi. Intellectual Property. Kestrel shall defend, indemnify and hold harmless Client from and against third party claims ("Claims") and Client's damages, liabilities, settlements, judgments, costs and expenses ("Losses") resulting from such Claims to the extent they are based on allegations that the Kestrel Software, used by Client as expressly authorized during the applicable support and/or subscription term, infringes any third party copyright or U.S. patent or misappropriates any third party trade secret. The foregoing obligations of Kestrel set forth in this section do not apply to any Claim or Loss to the extent it results from or arises out of (i) Client confidential information or Client's software, equipment or systems, (ii) the use of any Kestrel Software in combination with any technology, hardware, software, service, information, processes, and/or other property not provided by Allscripts or Kestrel or that Allscripts or Kestrel recommends not be used with such Kestrel Software; (iii) Client's continued use of the Kestrel Software after Allscripts or Kestrel has provided an IP Remedy. If any Kestrel Software is or is believed by Kestrel to infringe or misappropriate any third party intellectual property rights, then Kestrel, may, at its sole option and expense (each of the following, an "IP Remedy"): (a) obtain for Client the right to continue using such Kestrel Software on substantially similar terms to those contained herein; (b) modify or replace such Kestrel Software so that it becomes non-infringing and has substantially the same functionality; or (c) refund to Client a pro-rata portion of the license fees paid amortized over a five (5) year period from the effective date of the license (unless the term of the license is less than five years in which case the license fees shall be amortized over a one (1) year period from the effective date of the license).

vii. Government Use. The Software provided by Allscripts includes "commercial computer software" and related documentation within the meaning of Federal Acquisition Regulation 2.101, 12.212, and 27.405-3 and Defense Federal Acquisition Regulation Supplement 227.7202 and 52.227-7014(a). The Software is highly proprietary to Allscripts and its vendors (including Kestrel). Client shall ensure that all Authorized Users, including those that are representatives of the U.S. Government or any other government body, are permitted to use the Software (including the Kestrel Software) only as expressly authorized under the Allscripts Agreement and these Terms. Neither Client nor any government body shall receive any

ownership, license, or other rights other than those expressly set forth herein, irrespective of (a) whether Client is an agency, agent, or other instrumentality of the U.S. Government or any other government body, (b) whether Client is entering into or performing under the Allscripts Agreement or these Terms in support of a U.S. Government or any other government agreement or utilizing any U.S. Government or any other government funding of any nature, or (c) anything else.

viii. Third Party Beneficiary. Client acknowledges and agrees that Kestrel is an intended third party beneficiary of the Terms and is entitled to the rights and benefits thereunder and may enforce the provisions of these Terms against Client.

ix. Dispute Resolution.

a. Negotiation. The Parties shall attempt in good faith to resolve any dispute hereunder pursuant to this Section. Either Party may initiate negotiations by providing notice to the other Party, setting forth the subject of the dispute. Only if the dispute is not resolved through negotiation within thirty (30) days thereafter, may either Party initiate an arbitration or litigation of that dispute and then only in accordance with this Section.

b. Arbitration. Each dispute that is not resolved under the “Negotiation” section shall be decided by binding arbitration administered by JAMS under its then-current Comprehensive Arbitration Rules and Procedures, provided that to the extent such rules are inconsistent with the Allscripts Agreement or these Terms, the Allscripts Agreement and these Terms shall govern. Related actions between the Parties shall be consolidated. Arbitration awards shall be final and binding upon the Parties, and judgment on any such award may be entered in any court having jurisdiction thereof. The arbitrator(s) shall have no power or authority to award special, incidental, consequential, exemplary, punitive or other indirect damages that would be inconsistent with the limitation of liability provision or the other provisions of the Allscripts Agreement or these Terms. All aspects of the arbitration and any award shall be confidential. Notwithstanding anything else, either Party may (a) seek equitable remedies from a court of competent jurisdiction and, if the disputes are urgent, seek provisional equitable remedies without following the informal dispute resolution terms of Section, and (b) in lieu of arbitration, litigate disputes concerning ownership or unauthorized use or disclosure of Confidential Information or intellectual property in courts of competent jurisdiction, and upon commencement of any such proceeding, any arbitration then pending shall be stayed, insofar as it concerns the matters subject to decision by such court. The prevailing Party (if any, and as adjudged by the arbitrator(s) or judge) shall be entitled to recover from the other the costs of arbitration or court proceedings and its attorneys’ fees and expenses, provided that the arbitrator(s) or judge may eliminate or reduce such recovery on grounds that it is unreasonable or disproportionate to the harm suffered. To the extent permitted by applicable law, the Parties hereby waive their right to a jury trial in any actions under the Allscripts Agreement or these Terms. No action, regardless of form, arising hereunder, may be brought by either Party against the other more than one year after the cause of action has accrued, except that, (a) an action for non-payment may be brought by Kestrel at any time, and (b) subject to the applicable statutes of limitations, an action for breach of or default under the license restrictions or confidentiality sections of the Allscripts Agreement may be brought at any time.

c. Governing Law/Forum. This Terms shall be governed by and interpreted according to the laws of the State of Illinois, disregarding any conflict-of-laws rules which may

direct the application of the laws of another jurisdiction. Each arbitration shall be conducted in Raleigh, North Carolina or through the use of remote technology such as phone or video conferencing and any cause of action shall be subject to the State and Federal courts located in Raleigh, North Carolina. Each Party submits to this exclusive jurisdiction.

x. Survival of Provisions. The provisions of these Terms that impose or contemplate continuing obligations on or of a Party shall survive termination or expiration of the Allscripts Agreement and these Terms shall remain in effect until all related obligations are satisfied.