#### ITAMARTM MEDICAL UK LIMITED TERMS AND CONDITIONS OF SALE

The following terms and conditions of sale, together with the terms and conditions stated in Purchaser's purchase order, accepted in writing by the Supplier as set out herein (“**Purchase Order**”) (collectively the “**Terms**”) shall apply to the sale of products and any consumable test probes listed in the Purchase Order (“**Products**”) by Itamar Medical UK Limited., a company incorporated under the laws of England (company number 13444624), registered address Mazars,

30 Old Bailey, London, United Kingdom, EC4M 7AU and its affiliates listed on the applicable Purchase Order (“**Supplier**”) to the purchaser/customer designated on the Purchase Order (“**Purchaser**”).

For the purpose of these Terms, "affiliate" means in relation to Itamar Medical UK Limited. Any person Controlling, Controlled by or under common Control with that party, where "Control" means (i) direct or indirect beneficial ownership of more than 50% of the issued share capital, stock or other participating interest carrying the right to vote of that party or (ii) the right to appoint the majority of the directors of that party or (iii) the right to direct the conduct of the affairs of that party and "Controlled" and "Controlling" shall have a corresponding meaning.

#### SCOPE:

* 1. All sales by Supplier of any of its Products to Purchaser are subject to these Terms to the exclusion of any other terms that Purchaser seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing. Purchaser hereby acknowledges and confirms that no terms or conditions contained in any document submitted by Purchaser that varies from, or conflicts with, any of these Terms shall become part of the Purchase Order or the contract for the sale of Products unless it is expressly accepted in writing and signed by Supplier’s authorized representative. Supplier shall not be deemed to have accepted such other terms and conditions nor to have waived any of these Terms by failing to object to provisions contained in any notification or other communication from Purchaser.
	2. . Except as set out in these Terms, no modification or addition to these Terms or to any other provision of the contract for the sale of Products shall be binding on either party unless it is in writing and signed by both parties.
	3. Each Purchase Order constitutes an offer by Purchaser to buy the Products subject to these Terms. Purchase Orders must be notified by Purchaser to Supplier in writing from time to time (which may include email).
	4. The Purchase Order must contain: (i) name and details of Purchaser and (ii) quantity, price and description of the Products.
	5. Purchaser shall ensure that the terms of the Purchase Order and any relevant specification are complete and accurate.
	6. No Purchase Order shall be accepted or deemed to be accepted by Supplier until Supplier has accepted the Purchase Order in writing at which point a legally binding contract including these Terms shall come into existence. Notwithstanding the foregoing, the provision of Products is subject always to availability.

#### DELIVERY AND ACCEPTANCE:

* 1. Delivery of all Products will be made *FOB Origin and/or Ex-Works* Supplier's facilities (Incoterms 2010) (the “**Delivery Location**”). Supplier will make reasonable endeavors to deliver the Products within 14 business days of Supplier's acceptance of the Purchase Order. However, time of delivery shall not be of the essence.
	2. Supplier shall have the right to deliver Products earlier than any agreed upon delivery date. Supplier reserves the right to make deliveries in installments.
	3. If for any reason Purchaser fails to accept delivery of the Products on the notified date of delivery then, subject to Clause 14 or where the delay was caused by Supplier's default, Supplier may store the Products until collection/ delivery takes place, whereupon Purchaser shall be liable for all related costs and expenses (including storage and any applicable insurance costs).
	4. Supplier shall not be liable for any delay in delivery of the Products that is caused by a Force Majeure Event or Purchaser's failure to provide Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Products.
	5. The quantity of any consignment of Products as recorded by Supplier upon dispatch from Supplier shall be conclusive evidence of the quantity received by Purchaser on delivery unless Purchaser can produce conclusive evidence to the contrary.
	6. If Supplier is delayed or prevented from delivering the Products (or any part or parts of them) due to any act or omission of Purchaser, its agents or employees, then Supplier may, at its option and without prejudice to any other rights, either:
		1. suspend performance and, if Supplier thinks fit, store the Products at Purchaser's expense and risk, until Supplier can deliver the Products or until it exercises its option to cancel the Product Order; or
		2. cancel the Product Order or so much of it as remains unperformed at any time after such act or omission. Supplier may resell or otherwise dispose of part or all of the Products and, after deducting reasonable storage and selling costs, account to Purchaser for any excess over the price of the Products or charge Purchaser for any shortfall below the price of the Products.

#### RISK OF LOSS, TITLE AND SECURITY

**INTEREST:** Risk of loss to Products and damage shall pass from Supplier to Purchaser at the Delivery Location upon delivery. Until Supplier receives full payment for all Products delivered pursuant to any Purchase Order, title and full ownership of the Products remains with Supplier. If full payment is not made by Purchaser when due, without limitation of any other rights and remedies of Supplier, Supplier may reclaim the Products wherever located and dispose of the same in any manner and retain for itself all proceeds derived from the Products reclaimed.

1. **PRICES:** The prices of the Products shall be as detailed in the Purchase Order.
2. **TERMS OF PAYMENT:** Terms of payment for the Products shall be thirty (30) days from invoice date, unless otherwise set forth in the Purchase Order. All payments shall be made in either [Pounds Sterling] or USD, as indicated on the Purchase Order. In the event Supplier institutes legal action against Purchaser to collect delinquent accounts, Purchaser agrees to reimburse Supplier for reasonable attorneys’ fees and costs of suit. In addition, all late payments shall be subject to a late payment interest calculated at the rate of the higher of one and one-half percent (1.5%) per month or the statutory interest payable in accordance with the Late Payment of Commercial Debts (Interest) Act 1998, which interest shall accrue daily.
3. **TAXES AND ADDITIONAL COSTS:** Prices are

exclusive of all sales, use, value added, or other similar

### Rev - May 2021

taxes, fees, levies, duties and other governmental charges (with the exception of taxes imposed on the income of Supplier), all of which will be borne exclusively by Purchaser.

#### PURCHASER DEFAULT AND TERMINATION:

* 1. If Purchaser is in default on any provision of the Terms, all of Purchaser’s payment obligations to Supplier shall immediately become due and payable, and Supplier may, without notice and at its sole discretion suspend, decline to make further shipments, deliveries or terminate Purchaser’s outstanding Purchase Order(s), without affecting any other right or remedy Supplier may have, including, but not limited to, any right to cancellation charges.
	2. For purposes of these Terms, a “default” shall occur in the event that Purchaser: (i) is more than five (5) days delinquent in any payment to Supplier, (ii) takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtains a moratorium, is wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), has a receiver appointed to any of its assets or ceases to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction, (iii) in the reasonable opinion of Supplier is otherwise unable to meet its financial obligations as they become due;or (iv) commits any other material breach of these Terms and (if such a breach is remediable) fails to remedy that breach within 14 days after being asked in writing to do so.
	3. Continued shipment by Supplier following Purchaser’s default, which shall be at Supplier’s sole discretion, shall not constitute a waiver nor shall it affect Purchaser’s legal obligations hereunder.
	4. The termination of a Purchase Order for whatever cause shall not affect any accrued rights or liabilities of either Party nor will it affect the coming into force or continuation in force of any provision of these Terms, which are impliedly or expressly intended to survive or operate in the event of termination of a Purchase Order.

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#### PURCHASER’S REPRESENTATIONS AND WARRANTIES:

* 1. Purchaser will use the Products solely in accordance with the Operation Manual (as defined in clause 12.3) and any updates as shall be provided by the Supplier.
	2. Purchaser shall only use the serial number(s) assigned to the Products as a means to communicate with Supplier and shall not use such serial number(s) as an identifier in any other manner.
	3. Purchaser shall use the Products only in accordance with the on-label use of the Products for the normal course of sleep testing and will not sell, convert or otherwise transfer them to any third party, except as detailed herein. Purchaser will not use the Products on any devices not covered under these Terms.
	4. Purchaser shall have full and sole responsibility for the proper safeguarding and preservation of the Products. The Purchaser shall promptly and without any undue delay notify the Supplier of any

misuse, malfunction or problems related to the Products and shall cease the use of such Products until it is repaired or replaced.

* 1. The Products were either evaluated by or demonstrated to and selected by the Purchaser and the Purchaser is satisfied that the Products are suitable for Purchaser’s purposes.
	2. Purchaser has not relied on Supplier’s skill or judgment in the selection of the Products suitable for any particular purpose.
	3. Purchaser has full right and authority to enter into these Terms and to perform its obligations hereunder and it is enforceable against it.
	4. Purchaser shall: (a) comply with all applicable laws and regulations, accreditation standards, and third- party payor requirements applicable to services performed using the Products; (b) maintain all licenses, permits and accreditations as required to perform its obligations hereunder and to provide services to their patients using the Products; and (c) only use the Products pursuant to the terms of these Terms.
	5. Unless otherwise agreed upon between the Parties in writing, Purchaser is solely responsible for providing all medical oversight and supervision for all services performed using the Products. The Client acknowledges and agrees that all clinical, medical treatment and diagnostic decisions are solely the responsibility of the Client and its physicians and that the Company cannot and will not have any involvement in such activities. The Company accepts no responsibility or liability for any loss or damage arising as a result of the clinical use or application of the HST results
	6. Purchaser further represents and warrants that (a) it is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization, and has all necessary licenses and authorizations in the jurisdiction where it provides medical services to patients; (b) it shall require its physicians, employees, contractors and agents to comply with applicable laws and regulations, including any requirements of third-party payors, professional standards, and the standard of care of the medical community in which the patient resides; (c) it shall ensure that a physician who is licensed in the jurisdiction where a patient resides has issued a prescription prior to using the Products for that patient; (d) neither it nor any of its employees, contractors, and agents are, or have been, debarred or suspended under the US Federal Food, Drug, and Cosmetic Act or any comparable applicable laws and regulations of any other applicable jurisdiction or suspended or excluded from, or otherwise ineligible to participate in, any healthcare program or non-procurement program; and (e) its billing practices shall comply with applicable laws and regulations and any third-party payor requirements.

#### INTELLECTUAL PROPERTY:

* 1. It is expressly understood and agreed by the Purchaser that the Products, Operation Manual and other information provided by Supplier to Purchaser in connection with these Terms incorporate confidential information and Intellectual Property Rights (all of which, whether or not

### Rev - May 2021

copyrighted or patented, are hereafter referred to as “Technology”). For the purposes of these Terms, "Intellectual Property Rights" means copyright and related rights, trademarks, service marks, rights in designs, patents, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, database rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world. "Intellectual Property Right" means any one of the Intellectual Property Rights.

* 1. The Technology is, and shall always remain, the exclusive property of the Supplier and its affiliates. Purchaser, by taking delivery of or using the Products shall not become entitled to any proprietary or non-proprietary rights in or to the Intellectual Property Rights.
	2. The Purchaser shall have a continuing obligation to maintain the confidentiality of the Technology until such time that it becomes publicly known other than by way of Purchaser breaching this provision.
	3. The Purchaser agrees not to use in any way or form whatsoever, any part of the Technology for any purpose whatsoever other than in the normal business operation in connection with the use of the Products and the Purchaser shall not replicate, reproduce, alter, modify, disassemble, decompile, reverse engineer, create derivative works from, transfer or disclose to third parties, any part of the Technology for any purpose whatsoever.
	4. This Clause shall survive the termination of these Terms.

#### DATA PROTECTION:

* 1. The Purchaser acknowledges and agrees that the Supplier is solely the developer and owner of the Products and the provider of the services. As such, Supplier has no contractual relationship or interaction with the patients or other end users of the Products. Purchaser further acknowledges that both Purchaser or Supplier may process certain Personal Data (as such term is defined in applicable data protection regulation) based on permission and disclosures presented by Supplier as required under applicable laws. Purchaser shall be responsible to obtain the patient's consent to the collection and processing of data as well as disclose its use of the Product which might enable the sharing of Personal Data with Supplier. The Purchaser and Supplier shall enter into a Data Protection Agreement and/or Business Associate agreement in order to set the data protection between the parties.
	2. In order to be compliant with any and all applicable data protection laws including, but not limited to:

(i) the General Data Protection Regulation (EU Regulation 2016/679) (the "**GDPR**"); (ii) the EU GDPR as saved into United Kingdom law by virtue of section 3 of the United Kingdom's European Union (Withdrawal) Act 2018 (the "**UK GDPR**");

(iii) the EU e-Privacy Directive (EU Directive 2002/58/EC ); (iv) any and all applicable national implementing legislation made under or pursuant to

(i) to (iii); and (v) any legislation replacing or updating any of the foregoing, the parties shall enter into a data protection agreement substantially in the form attached hereto as **Exhibit B**.

#### USE OF PRODUCTS SOLELY BY PURCHASER;

**PROHIBITED ACTIVITIES**: Purchaser is the sole authorized user of the Products and Purchaser may not sell, assign, transfer, lend to or allow any third party the right to use the Products. Purchaser shall not reverse engineer, decompile, misuse, incorporate into another product, modify, alter, enhance, change, copy or attempt to copy, or perform any similar type of operation on Products, in any fashion or for any purpose whatsoever or otherwise, either directly or indirectly, violate Supplier's rights with regard to the Products or the Intellectual Property Rights therein (“**Prohibited Activities**”). Breach of this Clause is a material breach not capable of remedy for the purpose of Clause 7 of these Terms.

#### LIMITED WARRANTY:

* 1. Supplier hereby warrants to Purchaser that: (1) each Product to be delivered hereunder will be free of material defects in material and workmanship under normal use and service for a period of twelve months from the date of delivery (the “**Warranty Period**”).
	2. If, during the Warranty Period, a Product or any component of the Products becomes defective by reason of material or workmanship, and provided the Purchaser immediately notifies Supplier of such defect, Supplier may, at its option, supply a replacement, or request the return of equipment to Supplier's premises for repair in accordance with Supplier's warranty and repair procedures.
	3. This warranty shall not apply to any Products or component parts, that (a) have been damaged by improper operation, tampering with, improper maintenance, misuse, accident, or neglect, or were subject to any of the Prohibited Activities; (b) have been used in a manner not in accordance with the instructions supplied by Supplier, including without limitation, in accordance with the operation manual located on the Supplier’s website: [https://www.itamar-](https://www.itamar-medical.com/support/downloads/) [medical.com/support/downloads/](https://www.itamar-medical.com/support/downloads/) ("**Operation Manual**") and which may be modified from time to time by the Supplier; (c) have had changes or repairs made without written authorization of Supplier to do so; (d) were incorporated into another product without the prior written approval of Supplier; or (e) were stored in conditions and/or for a period of time contrary to the guidelines of Supplier which proves to be inadequate or unreasonable.
	4. The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Terms.

#### LIMITATION OF LIABILITY:

* 1. PURCHASER'S SOLE REMEDIES FOR BREACH BY SUPPLIER OF ANY WARRANTIES HEREUNDER OR FOR ANY OTHER BREACH BY SUPPLIER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), MISREPRESENTATION, RESTITUTION OR OTHERWISE SHALL BE LIMITED TO THE EXPRESS REMEDIES PROVIDED FOR HEREIN.
	2. THE PRODUCTS ARE PROVIDED TO THE PURCHASER HEREUNDER "AS-IS". EXCEPT AS SET FORTH IN THESE TERMS AND TO

### Rev - May 2021

THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE SUPPLIER MAKES NO WARRANTIES OF ANY KIND HEREUNDER, WHETHER EXPRESS, IMPLIED OR ARISING FROM TRADE USAGE, CONTRACT, AND TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE TERMS IMPLIED BY SECTIONS 13 TO 15 OF THE SALE OF GOODS ACT 1979 ARE, TO THE FULLEST EXTENT PERMITTED BY LAW, EXCLUDED FROM THE TERMS. WARRANTIES EXTEND SOLELY TO THE PURCHASER.

* 1. THE SUPPLIER SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE (INCLUDING, WITHOUT LIMITATION, LOST PROFITS OR DIRECT, INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSS OF USE OR CORRUPTION OF SOFTWARE, DATA OR INFORMATION, LOSS OF OR DAMAGE TO GOODWILL) CAUSED BY OR RELATING TO THE SERVICES PERFORMED OR THE PRODUCTS PROVIDED UNDER THESE TERMS AND PURCHASE ORDER, OR BY DELAY OR ANY ACT OR OMISSION OF SUPPLIER IN CONNECTION WITH THESE TERMS, THE USE OR PERFORMANCE OF, OR THE RESULT OBTAINED OR NOT OBTAINED FROM THE PRODUCTS EVEN IF THE SUPPLIER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. THE PURCHASER'S SOLE AND EXCLUSIVE REMEDY FOR BREACH OF ANY AND ALL WARRANTIES AND FOR THE SUPPLIER’S LIABILITY OF ANY KIND UNDER OR ARISING OUT OF THESE TERMS (WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE) SHALL BE LIMITED TO THE REPAIR OR REPLACEMENT OF DEFECTIVE PRODUCTS.
	2. NOTHING IN THESE TERMS LIMITS ANY LIABILITY WHICH CANNOT LEGALLY BE LIMITED OR EXCLUDED, INCLUDING LIABILITY FOR: (A) DEATH OR PERSONAL INJURY CAUSED BY NEGLIGENCE; (B) FRAUD OR FRAUDULENT MISREPRESENTATION; (C) BREACH OF THE TERMS IMPLIED BY SECTION 12 OF THE SALE OF GOODS ACT 1979; (D) (D) DEFECTIVE PRODUCTS UNDER THE CONSUMER PROTECTION ACT 1987.
	3. This Clause shall survive termination of the Terms.

#### FORCE MAJEURE:

* 1. No default shall be caused by and the Parties shall not be responsible to one another for any loss, damages, or penalty resulting from any delay or failure to perform the obligations of a Party hereunder that are due to any cause beyond a Party’s control, including but not restricted to strikes, disruption to the supply chain, political unrest, financial distress, war, civil disorder, terrorism and natural disasters, pandemic and analogues events , scarcity of the basic elements necessary to manufacture the Products or

because of any governmental restriction whatsoever upon the possession or distribution of such basic elements ("**Force Majeure Event**").

* 1. These Terms shall be suspended during the period and to the extent of such period that Supplier believes either party is prevented or hindered from complying with their obligations under any part of these Terms by a Force Majeure Event.
	2. If such period of suspension exceeds ninety (90) days, then Supplier shall, upon giving written notice to Purchaser, be able to require that: (a) all money due to Supplier up to the date of the Force Majeure Event shall be paid immediately; and (b) the Purchase Order is terminated without prejudice to the accrued rights of either Party.
1. **COMPLIANCE:** The Supplier is committed to conducting its business in an ethical, legal and socially responsible manner and expects similar principled conduct from everyone with whom Supplier has commercial dealings. The Purchaser undertakes to conduct its business in compliance with all applicable national and international laws and regulations, including with respect to Foreign Corrupt Practices Act, the UK Bribery Act 2010 and any similar laws and regulation in applicable jurisdictions, including without limitation with respect to corruption, bribery, fraud and/or unfair and/or prohibited business practices, and to keep high ethical values of integrity, professionalism, loyalty and respect both for man and environment.

#### GOVERNING LAW; JURISDICTION: The

formation, existence, construction, performance, validity and all aspects of these Terms and the Purchase Orders are governed by the laws of England and Wales (including non-contractual disputes or claims), excluding its conflict of laws principles. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to any of the transactions contemplated hereunder. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with these Terms and/or a Purchase Order.

#### GENERAL:

* 1. No rights or obligations of Purchaser under these Terms may be assigned or otherwise transferred, mortgaged, charged, subcontracted, delegated, declared a trust over or dealt in any other manner by Purchaser, in whole or in part, without the express written prior consent of Supplier.
	2. If any provision of these Terms is held to be invalid or unenforceable for any reason, such determination shall not affect the validity or enforceability of any or all of the remaining portions hereof.
	3. Failure of either party to insist upon strict performance of any of the terms or conditions hereof, or delay in exercising any remedy, shall not constitute a waiver of such terms and conditions nor shall it constitute a waiver of any default or remedy hereunder.
	4. These Terms and the Purchase Order are a complete and exclusive statement of the agreement and understanding between the parties regarding the subject matter hereof and thereof. These Terms supersede and replace all prior or contemporaneous agreements, written or oral. Each party acknowledges that in entering into these Terms it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in these Terms. Each party agrees that it shall

### Rev - May 2021

have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Terms.

* 1. The parties are independent of each other and nothing in these Terms shall be construed as constituting, or shall be deemed to constitute, a partnership or joint venture between the parties or shall render either party (or any of its Affiliates) an agent (commercial or otherwise) of the other for any purpose, and neither of the parties shall have any authority.
1. **NOTICES**. All notices shall be in writing and shall be hand-delivered or sent by courier, certified or registered mail, return receipt requested, or any nationally recognized express mail service or via email to the addresses set forth in the Purchase Order or such other address as the parties shall notify the other in accordance with this section.

#### SOFTWARE

* 1. If Purchaser opts to purchase a license to access and use one of the Supplier’s test management systems, (either the CloudPAT™ cloud-based platform or the zzzPAT software, the Supplier shall grant the Purchaser a non- transferable, nonexclusive, royalty-free License to the applicable system, all subject to the provisions set forth herein, including without limitation as set forth in **Exhibit A** (the “**License”**).
	2. CloudPAT offering. If Purchaser opts to use the CloudPAT cloud-based management system, the License shall be subject to the provisions set forth herein, including without limitation, the License.
	3. When using CloudPAT, the Purchaser shall have the option, but not the obligation, to use the Supplier’s interpretation services of the Results (as defined in **Exhibit A**). To the extent that the Purchaser wishes to use these services, then the Purchaser hereby consents to the terms of the Interpretation Services Agreement (“**Interpretation Services Agreement**”). The Purchaser hereby confirms that except as set forth in the Interpretation Services Agreement, the Supplier does not perform any diagnostic services, including without limitation, of the Results.
	4. SleePATh™ offering. Purchases of the SleePATh services are also subject to the privacy policy and WatchPAT ONE App terms and conditions which are available at https://[www.itamar-medical.com/terms-and-](http://www.itamar-medical.com/terms-and-) conditions/ and are incorporated by reference herein.

#### TERMS APPLICABLE TO WATCHPAT ONE PURCHASES

* 1. Single Use Products. It is hereby clarified that the WatchPAT ONE is a single use Product as opposed to other reusable WatchPAT Products which the Purchaser may have purchased under its last current

commercial agreement with the Supplier (e.g., WatchPAT 300). Therefore, it is hereby clarified and agreed that any terms of last current commercial agreement that by their nature apply to reusable Products, such as, without limitation, pricing or RMA terms, shall not apply to the purchase of WatchPAT ONE and are hereby expressly disclaimed.

* 1. Notwithstanding the above, Purchaser is not allowed to resell the Products. Purchaser shall only be allowed to and interpretation using the Products to a third party [through marketing, sales and/or online marketing channels] subject to the following terms: (1) Purchaser complies with the representations and warranties detailed in these Terms; (2) Purchase complies with the applicable laws and regulations in respect of advertising medical devices and related services to patients.

#### MARKETING AND TRADEMARKS

* 1. “Trademark” shall refer to the trademarks “PATTM”, “WatchPATTM ONE”, “WatchPATTM”,

“ItamarTM-Medical” and any other of the Supplier’s trademarks, as detailed on Supplier’s website.

* 1. Any user of the Trademark (the “**User**”) shall ensure that any and all such Trademark shall bear the trademark notice (™ symbol) and should appear superscripted at the end of the Trademark: (1) on the most prominent use; such as the main use on a label or the headline of a document; and (2) the first use of the mark in running text and in each new section; and (3) once every page or field of vision.
	2. The User shall not alter the Trademark in spelling or usage. It should always be an adjective that modifies the generic. The User shall avoid using the Trademark in a possessive form.
	3. User may use the following materials which may include the Trademarks:
		1. User may use Supplier’s images provided to the User by Supplier, without cropping, changing, editing, adding text or altering the images in any way.
		2. User shall comply with all instructions and guidelines for trademark and marketing materials issued by Supplier from time to time, and User agrees to incorporate all such changes as soon as possible after notification. User shall ensure the Trademarks and marketing materials are not modified in any manner without the prior written consent of Supplier.
	4. Devices, consumables, and/or any products and/or materials and/or documents bearing the Trademark shall comply with the provisions of these Terms and any associated agreement. Any breach or violation shall be corrected (or relevant materials destroyed) immediately upon the Supplier’s demand at User’s sole cost and expense.

### Rev - May 2021

**Exhibit A License Agreement**

# PLEASE READ THIS LICENSE AGREEMENT CAREFULLY BEFORE INSTALLING OR OTHERWISE USING THE LICENSED SOFTWARE (AS DEFINED BELOW). THIS LICENSE AGREEMENT APPLIES TO ALL LICENSED SOFTWARE (AS DEFINED BELOW).

This License Agreement is a legal agreement between Purchaser (also referred to as “**you**”) and Supplier (also referred to as “**Itamar**”) pursuant and subject to the Terms to which this Exhibit A is attached. Terms not defined in this Exhibit A shall have the definitions provided in the Terms.

By installing, copying, or otherwise using the Licensed Software, you agree to be bound by the terms of this License Agreement. If you do not agree to the terms of this License Agreement, including, without limitation, the limitations and restrictions on use as provided in Section 2, do not install, use or copy the Licensed Software or use the Third-Party Software.

The Licensed Software is protected by US Intellectual Property laws, other countries’ Intellectual Property laws, and international treaty provisions.

Therefore, you must treat the Licensed Software like any other Intellectual Property-protected material or product. All right, title and interest in and to all Intellectual Property Rights in and to the Licensed Software are and shall remain with Itamar.

1. DEFINITIONS
	1. “Feedback” means all data, feedback, suggestions, comments, ideas, questions, material, defects, errors or problems, and any information regarding the Licensed Software.
	2. “Intellectual Property Rights” means worldwide (a) patents, patent applications, and patent rights;

(b) rights associated with works of authorship, including copyrights, copyrights applications, copyrights restrictions, mask work rights, mask work applications, and mask work registrations; (c) rights relating to the protection of trade secrets and Confidential Information; (d) trademarks and indicia of origin; (e) designs, including without limitation industrial designs; (f) rights similar or analogous to those set forth herein; (g) any other Intellectual Property, proprietary or other rights relating to the foregoing; and (h) all applications and registrations for the foregoing now existing or hereafter filed, issued, or acquired.

* 1. “Product(s)” means the EndoPAT®, WatchPAT®200, WatchPAT®300, WatchPAT® ONE and/or any derivatives, modifications, improvements, or related Products or components, the PAT® Probes and the corresponding components of any third party with which this License Agreement was received. Some Products are stand-alone products, and some Products are incorporated as components within third party products, in each case sold, or otherwise made available, by Itamar and/or third parties.
	2. “Licensed Software” means the EndoPAT software, zzzPAT®, CloudPAT®, SleePATh® and the associated media and/or any other software and accompanying materials provided to you by Itamar. Some Licensed Software is a stand-alone product, and some Licensed Software is incorporated as a component within a Product, in each case sold or otherwise made available, by Itamar and/or third parties.
1. LICENSE TO USE, LIMITATIONS AND RESTRICTIONS ON USE
	1. LICENSE TO USE LICENSED SOFTWARE. Subject to the terms and conditions of this License Agreement and the Terms, and for the duration thereof, Itamar hereby grants you a limited, non- exclusive, non-transferable, non-sublicensable, revocable right to use the Licensed Software: (i) solely with the Product(s); and (ii) solely in object code for its/their intended use in accordance with the provisions of this License Agreement and the instructions provided in the documentation accompanying the Licensed Software and the Product, subject to the Limitations on Use as provided in Section 2.2 and the Restrictions on Use as provided in Section 2.3.
	2. LIMITATIONS ON USE. The licenses granted in Section 2.1 above are for use in connection with the medical diagnosis of sleep apnea. You are not licensed or authorized to include, or use in any manner, or to provide to any third party for such inclusion or use, any test results derived from any of the Products and/or the Licensed Software, for the purpose of seeking or obtaining any regulatory approval from any governmental or regulatory agency for any diagnostic or therapeutic claim, or for any medical, pharmaceutical, or other therapeutic or diagnostic product. Without derogating from the generality of the foregoing, the inclusion by you or any third party of any results of any type, derived through the use of the Products and/or the Licensed Software, in any regulatory filing for the purpose of supporting, or obtaining any such approval, without the prior written consent of Itamar is expressly prohibited. NOTHING IN THIS LICENSE AGREEMENT, INCLUDING THIS LIMITATION ON USE, IS INTENDED, IN ANY MANNER, TO RESTRICT THE REPORTING OF INFORMATION REGARDING ITAMAR’S PRODUCTS AND/OR LICENSED SOFTWARE IN ACCORDANCE WITH THE REPORTING REGULATIONS OF ANY GOVERNMENTAL OR REGULATORY AGENCY.
	3. RESTRICTIONS ON USE. Any use of the Licensed Software other than as set forth in Section 2.1 above, as limited by Section 2.2 above, is strictly forbidden. Without derogating from the generality of the above, you may not:
		1. Distribute, reproduce, copy, assign, rent, lease, publish, market, license, sublicense, sell, pledge, resell, or otherwise transfer the rights granted to you under this License Agreement to any third party except as explicitly set forth in this License Agreement;
		2. Reverse engineer, decompile, or disassemble, as applicable, the Licensed Software;
		3. Engage in or permit any form of automated scraping, data mining, data harvesting, or any similar activity that involves unauthorized extraction or collection of data related to the Licensed Software or Technical Device Data.
		4. Attempt to discover, access, or use the Licensed Software source code;
		5. Modify or create any derivative work in any manner of the Licensed Software;
		6. Disclose, publish, or otherwise make publicly available the results of any benchmarking of the Licensed Software, or use such results for competing software development activities;
		7. use or permit the Licensed Software to be used to perform services for third parties, whether on a service bureau or time-sharing basis or otherwise;
		8. Transmit any content which contains software viruses, or other harmful, infringing, illegal, disruptive or destructive content, messages, computer code, files, or programs;
		9. Use or launch any automated system (including without limitation, “robots” and “spiders”) to access the Licensed Software, including, without limitation, in order to extract for re-utilization

of any parts of the Licensed Software, or perform any act that destabilizes, interrupts, or encumbers the Licensed Software or its servers or use automatic means that enable sending more request messages to the servers of the Licensed Software, in a given period of time, than a human can reasonably send in that time period by using the Licensed Software;

* + 1. Circumvent, disable, or otherwise interfere with security-related features of the Licensed Software, such as features that restrict or monitor use of the Licensed Software or features that prevent or restrict use or copying of any content or that enforce limitations on use of the Licensed Software;
		2. Use or encourage, promote, facilitate, or instruct others to use the Licensed Software for any unlawful, harmful, irresponsible, prohibited by this Agreement, or inappropriate purpose;
		3. Remove or otherwise alter any of Itamar's trademarks, logos, copyrights, or other proprietary notices or indicia, if any, fixed or attached to the Licensed Software or use the Itamar name, logo, or trademarks without prior written consent from Itamar;
		4. Ship, transfer, or export the Licensed Software or use the Licensed Software in any manner that is prohibited by law, including without limitation, selling, distributing, downloading, or exporting the Licensed Software : (a) into (or to a national or resident of) Cuba, Iran, Iraq, Libya, North Korea, Sudan, Lebanon; or Syria (b) to anyone on the U.S. Commerce Department's Table of Denial Orders or U.S. Treasury Department's list of Specially Designated Nationals; (c) to any country to which such export or re-export is restricted or prohibited, or as to which the U.S. or Israeli government or any agency thereof requires an export license or other governmental approval at the time of export or re-export without first obtaining such license or approval; (d) otherwise in violation of any export or import restrictions, laws or regulations of the U.S. or Israel or any foreign agency or authority; or (e) make use of the Licensed Software in any jurisdiction where same are illegal or which would subject Itamar or its affiliates to any registration requirement within such jurisdiction or country. You hereby agree to the foregoing and warrant that you are not located in, under the control of, or a national or resident of any such prohibited country as in sub-section (a) or on any such prohibited party list;
		5. Contest Itamar’s Intellectual Property Rights, including at any time after the termination or expiration of this License Agreement;
		6. Refer to the Licensed Software by use of framing or utilize the Licensed Software, including without limitation any related point of presence, servers, and network, in any way which will result in the violation or circumvention of any applicable laws or regulations including, without limitation, those enforcing censorship, privacy, government authority restrictions or others;
		7. Use the Licensed Software contrary to this License Agreement or the license metrics and work environment conditions set forth in the Operation Manual or in any agreement between the parties.

You are solely responsible for acquiring and maintaining all of the hardware, software, and services necessary to access and make use of the Product, including without limitation paying all fees and other costs related to internet access, server or cloud account subscription and maintenance.

1. ITAMAR INTELLECTUAL PROPERTY
	1. The Licensed Software (including Feedback) and any modifications, improvements, or derivatives thereof and all Intellectual Property Rights related thereto (“Itamar IPR”) are the property of Itamar

who retains all right, title and interest in connection therewith. Nothing herein contained shall be construed as granting you any right, title, or interest in and to Itamar IPR.

* 1. Any and all trademarks and logos which appear on or in connection with the Licensed Software, as may be amended and updated from time to time, are trademarks of Itamar. No right, license, or interest to such trademarks are generated or granted hereunder other than the limited right to use provided herein, and you agree that no such right, license, or interest shall be asserted by you with respect to such trademarks. You may not remove, alter, or destroy any copyright, trademark, logo or other proprietary marking or legend placed on or contained in the Licensed Software.
1. LIMITED WARRANTIES AND DISCLAIMERS
	1. Itamar hereby warrants to you that to its knowledge the Licensed Software does not infringe any third party owned patent registered in the US.
	2. Itamar warrants that during the provision of Services, the Licensed Software will, under normal use, perform substantially in accordance with its technical specifications. If during that time, the Licensed Software does not perform substantially in accordance with its technical specifications, Itamar shall as sole and exclusive remedy and at its sole discretion: (a) attempt to correct or assist you around errors with efforts which Itamar believes suitable to the problem, or (b) replace the Licensed Software with a functionally equivalent software. Notwithstanding the foregoing, the warranty period for the Licensed Software incorporated as a component within a Product shall not extend beyond the warranty period for the Product itself.
	3. Limitation of Warranties. The warranty contained in Section 4.2 above does not cover damages caused by accident, misuse, abuse, negligence, failure to install in accordance with this License Agreement or Itamar’s installation instructions, failure to operate under conditions of normal use and in accordance with the terms of the documentation accompanying the Licensed Software, defects discovered in any component of the Licensed Software that have been modified, altered, or enhanced other than by Itamar, failure to maintain in accordance with applicable documentation accompanying the Licensed Software, alteration or any defects not related to materials or workmanship.
	4. While every reasonable effort has been made to ensure that you will receive Licensed Software that you can use, Itamar does not warrant that the functions of the Licensed Software will meet your requirements or that the operation of the Licensed Software will be uninterrupted or error-free. Itamar is not responsible for problems caused by changes in the operating characteristics of the hardware or operating system software you are using, nor for any problems in the interaction of the Licensed Software with non-Itamar software.

## ITAMAR HEREBY DISCLAIMS, WITH RESPECT TO THE LICENSED SOFTWARE, ALL OTHER WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED, LEGAL OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OR CONDITIONS OF OR RELATED TO MERCHANTABILITY, MERCHANTABLE QUALITY, DURABILITY, TRADE USAGE, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY OR COMPLETENESS OF INFORMATION, LACK OF NEGLIGENCE AND CORRESPONDENCE TO DESCRIPTION, AND TITLE.

1. LIMITATION OF LIABILITY
	1. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL ITAMAR AND/OR ANY OF ITS AFFILIATES AND/OR REPRESENTATIVES BE LIABLE TO YOU FOR DAMAGES IN EXCESS OF THE FEES YOU PAID FOR THE PRODUCTS DURING

THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT THAT GAVE RISE TO THE CLAIM, COMPLAINT, OR DEMAND. THE FOREGOING LIMITATION SHALL BE APPLICABLE REGARDLESS OF WHETHER THE ACTION GIVING RISE TO SUCH DAMAGES IS IN TORT, CONTRACT, STRICT PRODUCTS LIABILITY, CIVIL LIABILITY OR OTHERWISE.

* 1. IN NO EVENT SHALL ITAMAR /OR ANY OF ITS AFFILIATES AND/OR REPRESENTATIVES BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER ARISING OUT OF OR IN ANY WAY RELATED TO OR IN CONNECTION WITH THE SUBJECT MATTER OF THIS LICENSE AGREEMENT OR THE LICENSED SOFTWARE, THE USE OF OR INABILITY TO USE THE LICENSED SOFTWARE, OR THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT SERVICES BY ITAMAR OR ANY OF ITS AFFILIATES OR REPRESENTATIVES, EVEN IF ITAMAR AND/OR ANY OF ITS AFFILIATES OR REPRESENTATIVES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATION OF LIABILITY SHALL BE APPLICABLE REGARDLESS OF WHETHER THE ACTION GIVING RISE TO SUCH DAMAGES IS IN TORT, CONTRACT, STRICT PRODUCTS LIABILITY, CIVIL LIABILITY OR OTHERWISE.
	2. Notwithstanding the foregoing, you shall be liable to Itamar for all direct damages incurred by Itamar resulting from your failure to comply with this License Agreement as well as negligent or willful misconduct directly resulting in damage to Itamar’s network or Itamar. Specifically, you shall compensate Itamar for damage caused to Itamar’s network by introduction of a virus, including, but not limited to, workstation reimaging, forensic analysis, containment activities, employee or contractor time, repair or replacement of hardware or software directly attributable to the virus introduction. You shall also compensate Itamar for any direct damages caused by your misuse of Itamar’s intellectual property, or use of licensed property for which you were not provided a license or sublicense to use.
1. TERMINATION

Without prejudice to any other rights or remedies, Itamar may terminate this License Agreement immediately if you fail to comply with any of its terms and conditions. In the event of such termination, you must, within ten (10) business days of receiving notice of termination from Itamar, cease all use of the Licensed Software and destroy all copies thereof, return any and all information representing Itamar IPR and Confidential Information and delete any such information held by you in electronic form. The following Sections shall survive termination: 1, 3, 4.5, 5, 8, 10.

1. TRANSFERABILITY

Except as expressly permitted hereunder, you may not transfer or assign the rights and obligations hereunder together with the Licensed Software or third party Software. Any attempt by you to sell, rent, lease, sublicense, assign or transfer any of the rights, duties, or obligations hereunder in any other way is forbidden and shall be null and void. Itamar may assign its rights and obligations herein to any third party at its discretion.

1. CONFIDENTIALITY

All data and information related to the Licensed Software or to Itamar or its affiliates, are confidential information of Itamar (“**Confidential Information**”). You agree to keep the Confidential Information confidential and not disclose to any person or entity or use any such Confidential Information in any other

way. You will not disclose any information regarding the results of the Licensed Software to any third party without Itamar's prior written consent.

1. YOUR ACCOUNT

You are solely responsible for any actions performed in the Licensed Software under your username and password. Keeping your password safe is your sole responsibility. If you have any reasons to suspect that your password was discovered by any third party or that there was an unauthorized access to your account, you will immediately notify Itamar and modify your login and password details. You shall also provide notice to Itamar of any representative who is terminated by you or no longer permitted to access your account on your behalf within 24 hours of such change or determination.

The Licensed Software is intended for use by users at least eighteen (18) years old. You hereby declare that you and all the users of the Licensed Software on your behalf are eighteen (18) years old or older and undertake to monitor your account to ensure that no minor under that age has access to the Licensed Software. Access is provided subject to a security review by Itamar; such review may include a review of your process, procedures, and oversight to individual’s receiving access to your account. This License Agreement does not guarantee access to your account, but defines the terms under which Itamar may provide such access. Itamar reserves the right to deny access to your account to any individual for any reason, including non-compliance with Itamar’s policy or procedures or this License Agreement. You shall ensure no representative shall access any resource for which access is not authorized by Itamar or which is not necessary for you to receive Itamar’s services.

You shall be responsible for: (a) providing, configuring, installing, maintaining, and troubleshooting all equipment and software required to maintain your account connectivity at your facility; (b) maintaining your internet connectivity to facilitate the transfer of electronic information; (c) reporting problems with your account to Itamar in a timely manner; (d) assisting Itamar in the management of your account and this Agreement; (e) providing Itamar an early warning of any organizational, functional, or technical change that might affect your ability to fulfill your obligations described in this Agreement; and (f) assisting Itamar in resolution of account incidents.

You shall also be responsible for the cost and support in providing, configuring, installing, maintaining, and troubleshooting all equipment, including switches, hubs, and routers, necessary to access your account. Itamar shall not be responsible for providing any technology to you necessary for you to set up your account except that which is expressly set forth in this License Agreement. Each party shall retain exclusive control over its own management and affairs and shall be responsible for its own acts or omissions in using the account.

1. USER WARRANTIES
	1. You represent and warrant that: (a) you have, and will have at all times, all permits and consents in connection with the Licensed Software as required to fulfill your obligations ; (b) you and your use of the Licensed Software will comply with all applicable laws; (c) you are not located in, under the control of, or a national or resident of any of the countries or entities referred to in Section 2.3.12(a) above and/or any country or entity that is subject to an Israel or U.S. Government embargo, or that has been designated by the Israel or U.S. Government as a “terrorist supporting” country and are not listed on any Israel or U.S. Government list of prohibited or restricted parties.
	2. PRIVACY. Itamar's privacy practices are governed by its privacy policy, the most updated copy of which can be found at https://[www.itamar-medical.com/privacy\_policy.htm](http://www.itamar-medical.com/privacy_policy.htm) (“**Privacy Policy**”).
2. CLOUDPAT TERMS OF USE
	1. Use of CloudPAT will enable the Purchaser to provide access to the relevant physicians to the results of the sleep study for a specific patient. CloudPAT utilizes a secure HIPAA compliance format for encrypting and sending data files. It is Purchaser’s obligation to ensure that transfer of any patient records and/or results is performed in accordance with applicable law and ensuring patient confidentiality.
	2. Purchaser shall not assign or transfer or grant any other third-party access to CloudPAT except as permitted herein.
	3. Itamar shall only be obligated to store any Clinical Data using CloudPAT for up to seven (7) years as of the applicable test date. Upon termination of this License Agreement, Itamar shall be entitled to transfer Clinical Data to Purchaser and upon such transfer, Itamar shall be entitled to destroy or delete Clinical Data without any liability to Purchaser or the patient or any third party. Notwithstanding the above, the parties may agree in writing on a different retention period of Clinical Data.
	4. It is Purchaser’s sole responsibility to maintain sufficient and proper records of all Results in accordance with the laws and regulations applicable to Purchaser.
	5. All rights and title to CloudPAT and any and all derivative works and/or modifications thereof, as well as any documentation, trademarks, and any patentable information contained therein or embodied thereby, shall remain solely with Itamar.
	6. Purchaser who provides patient education videos will obtain consent and authorization from participants and physicians, to distribute such videos to all assigned patients via SleePATh® before providing them to Itamar. Purchaser acknowledges that provided videos will be available for general patient education unless specifically disabled by that patient’s physician.

**Exhibit B**

**Data Protection Agreement**

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| This Data Protection Agreement ("**Agreement**") is incorporated by reference into the Terms and Conditions of Sale ("**Main Agreement**") entered into on [*Date*] between [*Please insert full legal name*] ("**Controller**") and **Itamar Medical UK Limited.**, on behalf of itself and its affiliates (collectively, "**Processor**"). All defined terms contained herein shall have the same meaning as the definitions set forth in the Main Agreement.Processor shall comply with the following in respect of personal data and/or personal identifiable information (hereinafter "**PII**") (as defined under Regulation (EU) 2016/679 (General Data Protection Regulation) the "**EU GDPR**", the EU GDPR as saved into United Kingdom law by virtue of section 3 of the United Kingdom's European Union (Withdrawal) Act 2018 (the "**UK GDPR**"), together the "**GDPR**". : |
| **1. Controller's Compliance**. Controller's instructions for processing of PII shall comply with all applicable privacy and data protection laws, including (as applicable) the GDPR, the UK Data Protection Act 2018 and the French Data Protection Act n°78/17 6 January 1978. Controller shall have sole responsibility for the accuracy, quality and legality of PII and the means by which Controller acquired PII. |
| **2. Details of Processing**. The details of the processing activities to be carried out by Processor are specified in **Annex 1**. |
| **3. Processing only on documented instructions:** The Processor will only process PII on documented instructions from the Controller, unless required to do so by law to which Processor is subject. In such a case, the processor shall inform the controller of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest. The parties agree that all documented instructions regarding the processing are contained within this Agreement and the Main Agreement. The parties also agree that any further instructions regarding the processing of PII must be provided in writing by the Controller to the Processor and they must be consistent with the Processor's preexisting obligations under this Agreement and the Main Agreement. |
| **4. Data Subjects Rights**. Processor shall assist Controller, by using appropriate technical and organizational measures, in the fulfillment of Controller's obligations to respond to requests by data subjects in exercising their rights under applicable laws. |
| 1. **Data Subject Information.** Controller represents and warrants that, where it provides any PII to Processor for processing or where it contacts any data subjects through the PII provided by Processor:
	1. it has duly informed the relevant data subjects of their rights and obligations, obtained their consent if necessary, and in particular has informed them of the possibility of Processor processing their PII on the Controller’s behalf and in accordance with its instructions;
	2. it has complied with all applicable data protection legislation in the collection and provision to Processor of such PII. Specifically, the Controller ensures that any disclosure PII to Processor is PII that has been collected lawfully, i.e. processed on a legal basis as described in the articles 6-10 of the GDPR;
	3. the processing of such PII in accordance with the instructions of Controller is lawful.
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| **6. Confidentiality**. Processor shall ensure that its personnel engaged in the processing of PII are bound by a confidentiality undertaking. |

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| **7. Data Breach**. Processor will promptly notify Controller after becoming aware of any actual breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, PII ("**Data Breach**"). |
| **8. Records**. Processor will maintain up-to-date written records of its processing activities, including, *inter alia*, Processor's and Controller's contact details, details of data protection officers (where applicable), the categories of processing, transfers of PII across borders and the technical and organizational security measures implemented by the Processor. Upon request, Processor will provide an up-to-date copy of these records to Controller. |
| **9. Sub-Processors**. Controller acknowledges and agrees that Processor may engage any of the third-party sub-processors listed in **Annex 3**. Such sub-processors shall be bound by data protection obligations no less protective than those in this Agreement to the extent applicable to the nature of the Services provided by such sub-processor. Processor shall not subcontract any processing of the PII to any other third party subprocessor without the prior written consent of the Controller. Notwithstanding this, the Controller consents to the Processor engaging third party subprocessors to process the PII provided that: (i) The Processor provides at least 14 calendar days' prior notice of the addition or removal of any subprocessor (including details of the processing it performs or will perform), which may be given by Processor emailing the Controller or by the Processor posting details of such addition or removal on a webpage that has been set up for this purpose and which Processor has provided the Controller with emailed notice about; (ii) Processor agrees data protection terms with any subprocessor that are no less protective than those in this Agreement to the extent applicable to the nature of the Services provided by such subprocessor; and (iii) Processor remains fully liable for any breach of this Agreement that is caused by an act, error or omission of its subprocessor. If the Controller refuses to consent to the Processor's appointment of a third party subprocessor on reasonable written grounds relating to the protection of the PII and the parties cannot resolve any concerns through good faith discussion, then either the Processor will not appoint the subprocessor or the Controller may elect to suspend or terminate this Agreement and the Main Agreement in accordance with relevant provisions in the Main Agreement. |
| **10. Assistance**. Processor will assist Controller in ensuring compliance with Controller's obligations related to the security of the processing, notification and communication of Data Breaches, conduct of data protection impact assessments and any inquiry, investigation or other request by a supervisory authority. In the event that the Controller requests the Processor's assistance in relation to the PII processing for the Controller, such assistance services will be provided, subject to feasibility and acceptance by the Processor, at the rates of the Processor in force at that time. |
| **11. Possible Violation**. Where Processor believes that an instruction would result in a violation of any applicable data protection laws, Processor shall notify the Controller thereof. |
| **12. Information**. Processor will make available to Controller, upon request, information necessary to demonstrate compliance with the obligations set forth in this Agreement. |
| **13. Audits**. Upon Controller's request, Processor shall cooperate with audits and inspections of its compliance with the requirements and obligations herein and/or under applicable law. Such audits and inspections may be conducted by Controller or by any third party designated by Controller and may not exceed 2 audits per year. In consultation with Processor, Controller may engage a third party to perform its audit rights, provided that such third party is bound by an agreement of confidentiality with Processor. Processor shall be entitled to invoice the Controller on a time and material basis at the then-currentapplicable prices for any time expended for any such audit. |

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| 1. **Technical and Organizational Measures**.
	1. Processor shall implement and maintain all technical and organizational measures that are required for protection of the PII and ensure a level of security that is appropriate to for dealing with and protecting against any risks to the rights and freedoms of the data subjects, and as required in order to avoid accidental or unlawful destruction, loss, alteration or unauthorized disclosure of, or access to PII and/or as otherwise required pursuant to the GDPR, including, *inter alia*, the measures set forth in **Annex 2**. When complying with Section 14 hereof, Processor shall take into consideration the state of technological development existing at the time and the nature, scope, context and purposes of processing as well as the aforementioned risks.

14.2. Processor shall regularly monitor its compliance with this Agreement and will provide Controller, upon request, with evidence that will enable verification of such monitoring activities. Processor shall promptly implement all changes to **Annex 2**, as requested by Controller. Processor shall ensure that all persons acting under its authority or on its behalf and having access to the PII, do not process the PII except as instructed by Controller and permitted herein. |
| **15. Transfer of PII to Third Countries**. Processor or any subprocessor will not transfer PII to a recipient located in a country that is not a Member State of the European Union or European Economic Area, unless that country is considered by the European Commission to have an adequate level of protection or pursuant to appropriate safeguards as set out by the GDPR, including the Standard Contractual Clauses of the European Commission. |
| **16. Return and Deletion of PII**. On the Controller's request, Processor shall return or destroy PII to the extent allowed by applicable law. |
| **17. Sensitive Data.** Controller is likely to process sensitive data as defined in article 9 of the GDPR. In this context, Controller and Processor undertake to comply with the measures specific to this category of data. |
| **18. Contact of the DPO -** **ItamarDPO@zoll.com.** |

**Annex I**

**Data Processing Description**

This Annex I forms part of the Agreement and describes the processing that the processor will perform on behalf of the controller.

It should be noted that two separate types of products and services are described in this Annex. Namely:

(1) On premises solutions (including "zzzPAT™ Software", "WatchPAT300" (this is both an on premises and cloud based solution) and "EndoPAT"); and (2) cloud based solutions (including "CloudPAT™ Software", "WatchPAT300" (this is both an on premises and cloud based solution), "WatchPAT ONE" and "SleePATh"). The details that apply will therefore depend on what type of product or service the Controller is using.

The practical data protection difference between the two types of products and services is that the on premises solutions involve the Controller undertaking all storage of PII itself, except for that required for technical support purposes, while the cloud based solutions involve the Processor (via its subprocessors, Amazon Web Services Inc. and Amazon Web Services EMEA SARL) undertaking all the storage of PII.

The processing details for these two types of products and services are otherwise the same except as specifically clarified in the table below.

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| Categories of data subjects whose personal data is transferred: | Patients, Health care professionals |
| Categories of personal data transferred: | Header Section:* Patient ID
	+ Prefix
	+ First name
	+ Last name
	+ Office
	+ Gender
	+ Date of birth
	+ Referring Physician
	+ Mobile Phone
	+ Email

Personal Details:* + Height
	+ Weight
	+ BMI
	+ Neck circumference
	+ EPWORTH SCORE
	+ STOP-Bang score
	+ PACEMAKER

Logistic Comments* + Edit field

Contact Information* + Street
	+ City
	+ ZIP Code
	+ State
	+ Country
 |

|  |  |
| --- | --- |
|  | * Home phone
* Work phone
* Opt-out from communication

Study Details* Bracelet Study
* Request Script
* Number of Nights dropdown.
* Status

Insurance Information* INSURANCE PROVIDER
* GROUP NUMBER
* OTHER

Additional Information* Specialty
* Status
* Custom Field1 to Custom Field5 (if configured for the office)

Compliance Data optional tab:The Daily Compliance Graph shall show both the usage (h) and AHI (#) graphs.The compliance fields shall include the following:* Is Active: Y / N
* Tx Manufacturer:
* Days since Tx started:
* Last update from CPAP:
* WatchPAT AHI:
* Treatment Date:

The compliance table shall display columns for the last 30 days, 90 days, and 180 days and rows of % of days with CPAP, % of days with CPAP > 4h, Average number of hours, PAP Reported AHI.The compliance table shall show a red indicator if there were less than four hours per night of average use and a green indicator if more.The CPAP Reported AHI row shall include the following indications: an arrow when the value is higher than 10:* Less than 10: Green indication
* More than 10 yet the reduction compared to the WP AHI > 50%: Yellow indication
* More than 10 however the reduction compared to the WP AHI < 50%: Orange indication

Study DetailsThis tab shall contain the interpreter report if one was created. |

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|  | CP shall display the minimum desaturation that was used for AHI and RDI calculations, which can be 3% or 4%.CP shall allow downloading the raw data files of the study.CP shall allow downloading the PDF file and the secondary report if configured to this office (HTML or RTF)CP shall show links to files attached by the interpreting physician.Study Details screen shall include a dropdown called Min Desat for ODI with values of 3% or 4% but If the selected AHI is 4% the ODI must be 4% as well.The questionnaire answers PDF file shall be appended to the report once the questionnaires are completed or questionnaires timeout has been reached with no need to wait for the save and lock operation.The report shall include a subset of the following elements, please see full details in Appendix A: Header, Self-Reported Patient Details, Bedtime Questionnaire, Morning Questionnaire, Main Sleep Complaints, Prior Sleep Diagnosis, Breathing table, CVD Markers, Insomnia, Daytime Sleepiness, Insomnia Severity Index (ISI), Epworth sleepiness scale (ESS), Narcolepsy, Movement, RLS, Sleep Schedule, Circadian, Lifestyle, Diseases, Medications, Appendix including ISI ESS and STOP BANG.Sleep Report (Done through the WP Device Interface)CP shall produce a generic sleep report as a PDF file and a secondary report if configured to this office (HTML or RTF).The report shall include the output of the WP Interface process.Report generated during analysis shall include data from study analysis and the most recent patient data available at the time of analysis. |
| Sensitive data transferred (if applicable) and applied restrictions or safeguards that fully take into consideration the nature of the data and the risks involved, such as for instance strict purpose limitation,access restrictions (including access only for staff having followed specialised training), keeping a record of access to the data, restrictions for onward | **Sensitive data types**All categories of data listed above would likely be considered health data apart from:* First name
* Last name
* Gender
* Date of birth
* Mobile Phone
* Email

**Applied restrictions / safeguards**The applied restrictions / safeguards that apply to this sensitive data are the same as apply to the data generally and which can be found in Annex II beelow. |

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| transfers or additional security measures: |  |
| The frequency of the transfer (e.g. whether the data is transferred on a one-off or continuous basis): | **On premises solutions:** As and when needed for technical support reasons. |
| **Cloud based solutions:** Continuous. |
| Nature of the processing: | **On premises solutions:** Access, use for technical support reasons, minimal storage as necessary for technical support reasons and any use asmay be required by law. |
| **Cloud based solutions:** Storage, providing access, use for technical support reasons and any use as may be required by law. |
| Purpose(s) of the data transfer and further processing: | **On premises solutions:** Incidental use for technical support reasons. Any use as may be required by law. |
| **Cloud based solutions:** Storage and providing so as to provide the services. Use for technical support reasons. Any use as may be required bylaw. |
| The period for which the personal data will be retained, or, if that is not possible, the criteria used to determine that period: | **On premises solutions:** As long as needed for technical support reasons or as may be required by applicable law. |
| **Cloud based solutions:** On the Controller's request, and at the ending of the Main Agreement at the latest, Processor shall return or destroy PII to the extent allowed by applicable law. |
| For transfers to (sub-) processors, also specify subject matter, nature and duration of the processing: | As per above. |

**Annex II**

**Technical and Organisational Security Measures**

Description of the technical and organisational measures implemented by the processor(s) / data importer(s) (including any relevant certifications) to ensure an appropriate level of security, taking into account the nature, scope, context and purpose of the processing, and the risks for the rights and freedoms of natural persons.

The column entitled "Itamar" in the table directly below reflects the security measures of the Processor and its affiliate subprocessor, Itamar Medical Limited. These entities (jointly also referred to as "Itamar" below) only process the PII for the purposes of providing technical support and as may be required by law.

The column entitled "AWS" directly below contains both the "custom" data security measures that the Processor's subprocessor, Itamar Medical Limited, has elected to use from its further subprocessors, Amazon Web Services Inc. and Amazon Web Services EMEA SARL (together "AWS"), along with "standard" AWS data security measures from the data processing agreement that Processor's subprocessor, Itamar Medical Limited, has with AWS and which can be found here - [https://d1.awsstatic.com/legal/aws-gdpr/AWS\_GDPR\_DPA.pdf.](https://d1.awsstatic.com/legal/aws-gdpr/AWS_GDPR_DPA.pdf) AWS processes the PII for the purposes of storage, providing access, providing technical support and as may be required by law.

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| **Measures** | **Itamar** | **AWS** |
| Measures of pseudonymisation and encryption of personal data | Controller can easily delete all PII from files that are sent to Processor for technical support reasons.SSL (secure ciphers over TLS 1.2) is used as encryption method for any data transfers. | **Custom measures:** Controller can easily delete all PII from files that are sent to Processor and its subprocessors.SSL (secure ciphers over TLS 1.2) is used as encryption method for any data transfers. |
| Measures for ensuring ongoing confidentiality, integrity, availability and resilience of processing systems and services | **Confidentiality**Itamar will only access PII if the Controller has specifically requested and approved that Itamar undertake a technical support activity which involves the viewing of PII (e.g. through screen sharing functionality).Itamar does not store PII on its own systems except as may be required by applicable law.Only a minimal amount of Itamar staff, who are subject to contractual obligations of confidentiality and whose access is password protected, will be provided with access to the Controller's PII.**Integrity**Itamar will only change PII if instructed to by Controller.**Availability**Availability is not applicable to the processing undertaken directly by Itamar as it does not actively involve data storage except as may be required by applicable law.**Resiliance**Resiliance is not applicable to the processing undertaken directly by Itamar as it does not actively involve data storage except as may be required by applicable law. | **Confidentiality****Custom measures:** All servers hosted with AWS have custom Firewall rules and additional security measures employed by Itamar Digital Health Team in place.**Standard measures:** Network Security. The AWS Network will be electronically accessible to employees, contractors and any other person as necessary to provide the Services. AWS will maintain access controls and policies to manage what access is allowed to the AWS Network from each network connection and user, including the use of firewalls or functionally equivalent technology and authentication controls. AWS will maintain corrective action and incident response plans to respond to potential security threats.**Integrity****Custom measures:** All servers hosted with AWS have custom Firewall rules and additional security measures employed by Itamar Digital Health Team in place.**Standard measures:** Network Security. The AWS Network will be electronically accessible to employees, contractors and any other person as necessary to provide the Services. AWS will maintain access controls and policies to manage what access is allowed to the AWS Network from each networkconnection and user, including the |

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|  |  | use of firewalls or functionally equivalent technology and authentication controls. AWS will maintain corrective action and incident response plans to respond to potential security threats.**Availability****Custom measures:** A backup concept for databases, configuration, servers and files is in place.**Resiliance****Custom measures:** A data security testing concept is in place that involves constant testing for any data security vulnerabilities.**Standard measures:** Continued Evaluation. AWS will conduct periodic reviews of the security of its AWS Network and adequacy of its information security program as measured against industry security standards and its policies and procedures. AWS will continually evaluate the security of its AWS Network and associated Services to determine whether additional or different security measures are required to respond to new security risks or findings generated by the periodic reviews. |
| Measures for ensuring the ability to restore the availability andaccess to personal | Availability and access are not applicable as the processing undertaken directly by Itamar does not involve data storage except as may be required by applicable law. | **Custom measures:** A backup concept for databases, configuration, servers and files is in place. |
| data in a timely |  |  |
| manner in the event of |  |  |
| a physical or technical |  |  |
| incident |  |  |
| Processes regularly assessingevaluating | for testing,andthe | Itamar regularly runs internal testing to ensure that its data security measures are adequate. | **Custom measures:** A data security testing concept is in place that involves constant testing for any data security vulnerabilities. |

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| effectiveness oftechnical and organisational measures in order to ensure the security of the processing |  | **Standard measures:** Continued Evaluation. AWS will conduct periodic reviews of the security of its AWS Network and adequacy of its information security program as measured against industry security standards and its policies and procedures. AWS will continually evaluate the security of its AWS Network and associated Services to determine whether additional or different security measures are required to respond to new security risks or findings generated by the periodic reviews. |
| Measures for user identification and authorisation | Itamar will only access PII if the Controller has specifically requested and approved that Itamar undertake a technical support activity which involves the viewing of PII (e.g. through screen sharing functionality).Only a minimal amount of Itamar staff, who are subject to contractual obligations of confidentiality and whose access is password protected, will be provided with access to the Controller's PII. | **Custom measures:** Access Control system in place across all Itamar Cloud systems inclduing authenticated access and password protection.**Standard measures:** Network Security. The AWS Network will be electronically accessible to employees, contractors and any other person as necessary to provide the Services. AWS will maintain access controls and policies to manage what access is allowed to the AWS Network from each network connection and user, including the use of firewalls or functionally equivalent technology and authentication controls. AWS will maintain corrective action and incident response plans to respond to potential security threats. |
| Measures for the protection of data during transmission | The encryption standard used for PII in transit is SSL (secure ciphers over TLS 1.2). | **Custom measures:** The encryption standard used for data in transit is SSL (secure ciphers over TLS 1.2). |
| Measures for the protection of data during storage | Itamar does not actively store PII on its own systems except as may be required by applicable law. | **Custom measures:** The encryption standard used for data at rest is - AES256. |
| Measures for ensuring physical security of | Itamar does not actively store PII on its own systems as part of providing the technical support services. | **Standard measures:** Physical Access Controls. Physical components of the AWS Network are |

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| locations at which personal data are processed | Only a minimal amount of Itamar staff, who are subject to contractual obligations of confidentiality and whose access is password protected, will be provided with access to the Controller's PII. | housed in nondescript facilities (the “Facilities”). Physical barrier controls are used to prevent unauthorised entrance to the Facilities both at the perimeter and at building access points. Passage through the physical barriers at the Facilities requires either electronic access control validation (e.g., card access systems, etc.) or validation by human security personnel (e.g., contract or in-house security guard service, receptionist, etc.). Employees and contractors are assigned photo-ID badges that must be worn while the employees and contractors are at any of the Facilities. Visitors are required to sign-in with designated personnel, must show appropriate identification, areassigned a visitor ID badge that must be worn while the visitor is at any of the Facilities, and are continually escorted by authorised employees or contractors while visiting the Facilities.Limited Employee and Contractor Access. AWS provides access to the Facilities to those employees and contractors who have a legitimate business need for such access privileges. When an employee or contractor no longer has a business need for theaccess privileges assigned to him/her, the access privileges are promptly revoked, even if the employee or contractor continues to be an employee of AWS or its Affiliates.Physical Security Protections: All access points (other than main entry doors) aremaintained in a secured (locked) state. Access points to the Facilities are monitored by video surveillance cameras designed to record all individuals accessing theFacilities. AWS also maintains electronic intrusion detection systems designed to |

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|  |  | detect unauthorised access to the Facilities, including monitoring points of vulnerability(e.g., primary entry doors, emergency egress doors, roof hatches, dock bay doors, etc.) with door contacts, glassbreakage devices, interior motion- detection, or otherdevices designed to detect individuals attempting to gain access to the Facilities. All physical access to the Facilities by employees and contractors is logged and routinely audited. |
| Measures for ensuring events logging | All events are logged and there is no way for the logs to be manipulated. | **Custom measures:** All events are logged and there is no way for the logs to be manipulated. |
| Measures for ensuring system configuration, including default configuration | Please refer to above and below. | **Custom measures:** All AWS systems are built and maintained by Itamar Medical’s Digital Health Team in order to ensure an appropriate level of data security. |
| Measures for internal IT and IT security governance and management | Itamar has internal IT and IT security policies and / or procedures in place to ensure effective governance in this area. This includes relevant staff training. | **Standard measures**: Information Security Program. AWS will maintain an information security program (including theadoption and enforcement of internal policies and procedures) designed to(a) help Customer secure Customer Data against accidental or unlawful loss, access or disclosure, (b) identify reasonably foreseeable and internal risks to security and unauthorised access to the AWS Network,and (c) minimise security risks, including through risk assessment and regular testing. AWS will designate one or more employees to coordinate and be accountable for the information security program. |
| Measures for certification/assurance of processes and products | Itamar is in the process of becoming ISO 27001 certified. | **Standard measures:** AWS ISO- Certification and SOC Reports. In addition to the information contained in this DPA, upon Customer’s request, and provided that theparties have an applicable NDA in |

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|  |  | place, AWS will make available the following documents and information:(i) the certificates issued in relation to the ISO 27001 certification, the ISO 27017 certification and the ISO 27018 certification (or the certifications or other documentation evidencing compliance with such alternative standards as are substantially equivalent to ISO 27001, ISO 27017 and ISO 27018);and (ii) the System and Organization Controls (SOC) 1 Report, the System and Organization Controls (SOC) 2 Report and the System and Organization Controls (SOC) 3 Report (or the reports or other documentation describing the controls AWS GDPR Data Processing Addendum 5 implemented by AWS that replace or are substantially equivalent to the SOC 1, SOC 2 and SOC 3). 10.2AWS Audits. AWS uses external auditors to verify the adequacy of its security measures, including the security of the physical data centers from which AWS provides the Services. This audit: (a) will be performed at least annually; (b) will be performed according to ISO 27001 standards or such other alternative standards that are substantially equivalent to ISO 27001; (c) will be performed by independent third party security professionals at AWS’s selection and expense; and (d) will result in the generation of an audit report (“Report”), which will be AWS’s Confidential Information. 10.3 Audit Reports. At Customer’s written request, and provided that the parties have an applicable NDA in place, AWS will provide Customer with a copy of the Report so that Customer can reasonably verify AWS’s compliance with itsobligations under this DPA. |
| Measures for ensuring data minimisation | Data minimisation is a Controller responsibility. | Data minimisation is a Controller responsibility. |

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| Measures for ensuring data quality | Data quality is a Controller responsibility. | Data quality is a Controller responsibility. |
| Measures for ensuring limited data retention | Limited data retention is a Controller responsibility. Itamar also does not actively store PII on its own systems except as may be required by applicable law. | Limited data retention is a Controller responsibility. |
| Measures for ensuring accountability | Accountability is primarily a Controller responsibility. However,Itamar's accountability is also set out above. | Accountability is primarily a Controller responsibility. However,AWS's accountability is also set out above. |
| Measures for allowing data portability and ensuring erasure | Itamar does not actively store PII on its own systems except as may be required by applicable law. | **Standard measures**: At any time up to the Termination Date, and for 90 days following the Termination Date, subject to the terms and conditions of the Agreement, AWS will return or delete Customer Data when Customer uses the Service Controls to request such return or deletion. No later than the end of this 90-day period, Customer will close all AWSaccounts containing Customer Data. |

*For transfers to (sub-) processors, also describe the specific technical and organisational measures to be taken by the (sub-) processor to be able to provide assistance to the controller (and, for transfers from a processor to a sub-processor, to the data exporter).*

Please refer to above.

**Annex III**

**Subprocessors**

The controller has authorised the use of the following sub-processors:

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|  | Name: | Itamar Medical Limited |
|  | Address: | 9 Halamish, Caesarea 3088900, Haifa, Israel |
|  | Contact person’s name, position and contact details: | Data Protection Officer, ItamarDPO@itamar- medical.com |
|  | Description of processing (including a clear delimitation ofresponsibilities in case several sub-processors are authorised): | Processing for the purposes of providing technical support and as may be required by law. |