

# **PRAXIS® Electronic Medical Records License Agreement**

This is a legal End User License Agreement (EULA) between You (either an individual or a single entity; hereinafter “Licensee”) and Infor-Med Medical Information Systems, Inc. (hereinafter “Infor-Med”). Signing this EULA, or otherwise installing, copying, entering the control code, using the software or, if applicable, clicking “I Agree” when installing software applications, if performed by You or by a third party on your behalf, indicates acceptance of these terms and conditions.

IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, DO NOT INSTALL THE SOFTWARE: PROMPTLY RETURN THE SOFTWARE AND ALL ACCOMPANYING MATERIALS TO INFOR-MED OR THE DEALER FROM WHICH IT WAS ACQUIRED TO RECEIVE A REFUND.

LICENSEE ALSO AGREES TO READ THE DISCLAIMERS IN THE SOFTWARE USER MANUAL AND WILL EITHER ACCEPT THE LIMITATIONS DESCRIBED THEREIN OR DISCONTINUE USE OF THE SOFTWARE.

**Ownership:** The Electronic Medical Records software program (“Praxis®”) and related written guides describing the use and operation of Praxis®, the Scanaway™ Medical Document Indexing Program (“Scanaway™”), and related written guides describing the use and operation of Scanaway™ are the property of Infor-Med, of Canoga Park, California. The Fastcoder add-on, including all CPTs and ICDs, is owned in part by ACME Software Partners and in part by the American Medical Association. The DIT database is owned by Drug Information Technologies. All ownership and related interests are protected by U.S. and international copyright law and various international treaties. All licensed products are licensed strictly in accordance with the provisions herein, not sold, and all ownership interests in all copyright, trade secret, patent, and other intellectual property rights therein are retained by Infor-Med, ACME Software Partners, the American Medical Association, and Drug Information Technologies.

## **1. Definitions:**

For the purposes of this Agreement:

(a) “Provider” refers to the individual or individuals designated by the software as billable providers of healthcare services, including but not limited to physicians, chiropractors, nurse practitioners, physician assistants, and other non - physician billable providers of healthcare services. Provider licenses must be purchased for the maximum number of providers authorized to use the program.

(b) “Runtime Program” refers to programs whose use shall be limited solely to running the Praxis® program, and may not be used to create or alter tables or reports, except as necessary for operation of the Praxis® program.

(c) “Site” refers to a location of the Licensees choosing.

(d) “Software” refers to the software products that Licensee has licensed from Infor-Med, including but not limited to Praxis 5, Scanaway™, DIT (Drug Information Technologies) Database, the written and electronic manuals accompanying the licensed software products, and any upgrade or upgrades that Licensee obtains individually or through an authorized maintenance and support services program.

## **2. Grant of Rights:**

Infor-Med grants to Licensee, and Licensee hereby accepts, subject to the terms and conditions set forth herein, a nonexclusive and non-transferable license of Praxis® and Scanaway™ software as follows: (a) To use one (1) Praxis® program in executable form

solely for the Licensee's practice at the Site, (b) To use via the Internet from any other locations, provided the installed software is located at the Licensee's Site, and (c) To use, only in connection with and/or to interface with the Praxis® program, an unlimited number of copies of the Scanaway™ program.

### **3. Limitation of Rights:**

Licensee agrees that he/she will not directly, and will not permit others, to do the following:

- (a) Assign or transfer copies of the Software, any written explanatory material describing the use and operation of the Software, or any rights under this Agreement;
- (b) Install or permit the installation of the Software at locations other than the Site, with the exception that the Site may be limited to a portable computer or, as a workstation, to a single server located at the private office or home of the Licensee;
- (c) Use or permit the use of the software for any purpose other than Licensee's own medical practice;
- (d) Transfer, assign, timeshare, or rent the Software, with the exception of a temporary transfer in the event of a computer malfunction at the Site;
- (e) Copy or otherwise duplicate the Software or explanatory written materials, with the exception of a single copy for backup or archival purposes. Licensee may purchase hard copies of explanatory written materials and additional runtime licenses at the prices in effect;
- (f) Attempt to disassemble, decompile, or reverse-engineer the Software;
- (g) Modify, adapt, copy, translate or create derivative works based on the Software, except as permitted above;
- (h) Publish any results of benchmark tests or evaluations of the Software, including any public Internet postings, without previous written permission by Infor-Med;
- (i) Export the Software outside the United States, or otherwise permit the Software to be exported directly or indirectly, without prior written authorization from Infor-Med or in violation of United States law or regulation;
- (j) Attempt to access the Software database in any manner other than through the Software application;
- (k) Use more than one copy of the Scanaway™ program outside of its connection to and interface with the Praxis® program.

### **4. Maintenance and Support:**

Infor-Med and/or its authorized agents shall provide maintenance and support of the Software in a manner established by Infor-Med for this purpose. In addition, Infor-Med shall provide to Licensee, at a charge to be disclosed by Infor-Med, those system upgrades made available to customers. Licensee understands and agrees that maintenance and support will be terminated if it is found that the Software has been tampered with or the Software database has been changed in any manner other than through the Software application itself. In addition, Licensee agrees to furnish Infor-Med and/or its authorized agents with reasonable electronic access via the Internet, unencumbered by firewalls that could restrict the ability of Infor-Med or its authorized agents to provide maintenance and support. As required by law, Licensee agrees to download from the [www.praxisemr.com](http://www.praxisemr.com) website, sign, and fax or mail to Infor-Med, or to the authorized Infor-Med reseller, a copy of the HIPAA Business Associate Agreement prior to requesting and receiving maintenance or support.

### **5. Training:**

Infor-Med and/or its authorized agents shall provide training for the Software in a manner set forth by Infor-Med for this purpose. As required by law, Licensee agrees to download

from the [www.praxisemr.com](http://www.praxisemr.com) website, sign, and fax or mail to Infor-Med a copy of the HIPAA Business Associate Agreement prior to receiving training.

**6. Term of License:**

The term of this Agreement shall begin on the date that the Software is received by the Licensee (effective date) and shall continue in effect until Licensee notifies Infor-Med in writing, discontinues use of the Software, and destroys or returns all copies of the Software received pursuant to this Agreement.

**7. Termination of Agreement:**

In the event of a material default by either party of this Agreement, the other party may terminate the Agreement with twenty (20) days written notice, unless the defaulting party resolves the default within the twenty-day period. Non-payment of any fees or payments more than 30 calendar days past due also constitutes default. Upon expiration or termination of this Agreement for any reason, Licensee agrees to promptly destroy or return, as directed by Infor-Med, all copies of the Software received pursuant to this Agreement, and to cease to use same or any portion thereof for any purpose.

**8. Government Restricted Rights:**

Use, duplication, or disclosure by the Government is subject to restrictions as set forth in Department of Defense Regulations Supplement ("DFARS") 252.227-7013(c)(1)(ii) and Federal Acquisition Regulation ("FAR") 52.227-14 and 52.227-19.

**9. General:**

(a) Pricing: Licensee shall be responsible for any and all use tax applicable to this Agreement. Further, Licensee recognizes that Infor-Med's pricing reflects the allocation of risk set forth in the Limited Warranty at the end of the EULA.

(b) Additional programs included with Software: Licensee understands that Infor-Med may from time to time embed additional programs belonging to third parties within the Software. These programs currently include the Drug Information Technologies Drug Contraindication Database, the FastCoder<sup>®</sup> Billing CPT/HCPCS, ICD9 and ICD10 information databases. Licensee understands that these additional programs are not a part of the Software, and agrees to pay the prices in effect for the additional programs, where applicable, or discontinue use of the additional programs. At its discretion, Infor-Med may replace these additional programs with other programs or cease to provide them at any time. These additional programs generally require a periodic fee for updates. These fees will be reflected in charges by Infor-Med, in addition to all other upgrade, maintenance, and/or support fees. Licensee has the option of paying these periodic update fees or discontinuing use of the additional programs, thereby accepting any and all responsibility or liability that may arise as a result of such discontinuance.

(c) Management: Licensee is responsible for any hardware installation and for the management and operation of the Software.

(d) Limitation of Liability: Infor-Med will not be responsible or liable for the deletion, correction, destruction, damage, loss, or failure to store or maintain any data you enter into Praxis. Under no circumstances, including but not limited to negligence, will Infor-Med Medical Information Systems, Inc. (Infor-Med) or its affiliates, contractors, employees, agents, or third-party partners, licensors, or supplier be liable for any special, indirect, incidental, consequential, punitive, reliance, or exemplary damages (including without limitation losses or liability resulting from loss of data, loss of revenue, anticipated profits, or loss of business opportunity) that result from your use or your inability to use Praxis, or any other interactions with Infor-Med, even if Infor-Med or an Infor-Med authorized representative has been advised of the possibility of such

damages. You acknowledge and agree that Infor-Med has offered its products and services and entered into these terms in reliance upon the disclaimers of warranty and the limitations of liability set forth herein, that the disclaimers of warranty and the limitations of liability set forth herein reflect a reasonable and fair allocation of risk between the parties (including the risk that a contract remedy may fail of its essential purpose and cause consequential loss).

(e) Indemnification; Hold Harmless: You will indemnify, defend, and hold harmless Infor-Med Medical Information Systems, Inc. (Infor-Med), its officers, investors, directors, employees, shareholders, agents, licensors and subcontractors (collectively "Indemnified Parties") from and against any and all liabilities, losses, damages, judgments, costs and expenses (including legal fees and expenses) associated with any claims, demands, actions, settlements, or proceedings brought against Infor-Med or any Indemnified Parties, whether or not involving a third party, which directly or indirectly arise out of or relate to your use or misuse of Praxis, whether or not caused by the negligence of Infor-Med or any other Indemnified Party and whether or not the relevant claim has merit. Such a circumstance requiring application of this section includes, but is not limited to, if any of your patients brings a medical malpractice claim against you, your organization, clinic, medical professionals, or employees, and names Infor-Med or Praxis, you are obligated to defend, indemnify, and hold harmless. Infor-Med will have the right to control the defense, settlement, adjustment or compromise of any such claims, demands, actions or proceedings by using counsel selected by Infor-Med.

(f) Governing Law: The laws of the State of California, USA, without regard to its conflicts of laws, control this Agreement, and the United Nations Convention on International Sale of Goods does not apply. This EULA specifically excludes the application of the Uniform Computer Information Transactions Act. It is enforceable by Infor-Med or its distributors and dealers.

(f) Jury Trial Waiver: EACH PARTY EXPRESSLY WAIVES ALL RIGHTS TO A TRIAL BY JURY IN CONNECTION WITH ANY DISPUTE ARISING UNDER, OR RELATED TO, THIS EULA.

(g) Arbitration: Disputes (other than collection matters) arising under or relating to this EULA will be resolved in arbitration before one arbitrator pursuant to AAA Rules of Arbitration and conducted in Los Angeles, California, USA. The cost of the arbitration, including the fees and expenses of the arbitrator, will be shared equally, with each party paying its own attorney's fees. The arbitrator will have the authority to award damages only to the extent otherwise available under this EULA. Licensee acknowledges and agrees that a material breach of this EULA would cause irreparable harm to Infor-Med; therefore Infor-Med shall be entitled to seek immediate equitable relief, in addition to whatever remedies Infor-Med might have under law or under this EULA.

(h) Survival of terms: These provisions shall survive the termination of this Agreement, regardless of the cause of termination.

(i) Severability: If the terms and conditions of this EULA are found to be unenforceable by a court of competent jurisdiction, such unenforceable terms and conditions shall be severed from this EULA, and the remaining provisions of the EULA shall continue in force and effect to the greatest extent permitted by law.

**10. Entire Agreement - Future Changes:**

A copy of this License Agreement (the "LA") available to you at <http://www.praxisEMR.com/eula.html>, constitutes part of this Agreement and is incorporated by reference into this Agreement.

You acknowledge and agree that any amendments or modifications to this End User License Agreement made in accordance with the terms and conditions of the current agreement after execution of this Agreement shall also constitute part of this End User License Agreement.

This Agreement, together with the attached "Limited Warranty", any applicable Cloud Services Provider Agreement, and the HIPAA Business Partner agreement, which may all be amended by Infor-Med from time to time, constitutes the complete agreement for the license and use of the Software. All prior or contemporaneous agreements or representations regarding the license or use of the software are superseded by this license agreement and subsequent agreements and amendments found at <http://www.praxisEMR.com/eula.html>.

Each Infor-Med or third party software shall be a third party beneficiary of this EULA with respect to the enforcement of intellectual property rights to the maximum extent permitted by law. This EULA may not be amended except in writing by Infor-Med. Should you have any questions about this EULA, please contact Infor -Med Corporation at (818) 592-2900.

Clinic Name (Covered Entity)  
Authorized Individual Name (please print)  
Authorized Signature  
Date:

Richard M. Low MD  
CEO  
INFOR-MED MEDICAL INFORMATION SYSTEMS INC.

## LIMITED WARRANTY

What is covered:

Infor-Med warrants to Licensee that the software will perform in accordance with the explanatory written materials for a period of 365 days from the date of license (the "Warranty Period") as provided in and subject to the conditions set forth in this Limited Warranty. Licensee agrees to carefully read the disclaimers and caveats found in the Licensed Product manual prior to using the software and within the period of Licensed Product returns.

Within the Warranty Period, Infor-Med will, at its discretion, either replace or correct any nonconforming copy of the software and provide addenda or substitute pages for nonconforming portions of the User Manual. If Infor-Med is unable to provide corrected software or documentation within a reasonable time, Infor-Med will, at its sole discretion, either replace the software with functionally equivalent software or refund the price paid by Licensee for the software, minus costs incurred by Infor-Med. The foregoing constitutes the sole and exclusive remedies of Licensee for any breach of warranty, and Infor-Med shall have no additional warranty obligation to Licensee.

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Under no circumstances shall Infor-Med's liability exceed the license fees paid by Licensee. In addition, the other add-on optional licensed products include similar limitations as described elsewhere.

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To submit a warranty claim: You must inform Infor-Med via FAX, or in writing, during or no later than seven working days after the termination of the Warranty Period. Address all warranty claims to:

Infor-Med Medical Information Systems, Inc.  
7108 De Soto Avenue, 201A,  
Canoga Park, California, 91303  
Fax: (818) 474-8544

Claims must include dated proof of purchase, such as a copy of a receipt or invoice.

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and subparagraph (c) (1) (ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013.

Other Conditions:

Other agents, employees, distributors and dealers of Infor-Med are not authorized to modify this warranty, nor to issue additional warranties. Additional statements, such as dealer advertising or presentations, whether oral or written, do not constitute warranties by Infor-Med.

This warranty provides you with specific legal rights: you may have additional rights, which vary from state to state.

**Important Notice: Backups**

**Despite numerous warnings in our manuals and End User Agreements, each year Praxis users lose some or all of their medical records due to inadequate or improper backup procedures. By including this notice here, it is our hope that the Licensee will review the Technical Manual and learn to perform effective backups.**

**Be particularly sure to back up your system prior to software upgrades of any kind, including small updates.**

**A common thread in all cases of lost medical records is that the Licensee delegates backup procedures to staff or an outside expert, then never gives backups a second thought. We strongly recommend that the Licensee understand and periodically review backup procedures. Please remember that electronic medical records are not paper records and must be protected accordingly. Praxis Support stands ready to advise and inspect your backup procedures.**

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