

## 1. General Terms and Conditions

(a) These Terms and Conditions (the "**Agreement**") represent the final and complete agreement between ImpediMed Limited (ABN 65 089 705 144) ("**ImpediMed**") and the customer identified in the Customer Acknowledgement at the end of this Agreement ("**Customer**") (herein collectively referred to as the "**Parties**"). This Agreement comprises the entire agreement between the Parties, and supersedes all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. No other terms or conditions in any way modifying or changing the provisions of this Agreement shall be binding upon either Party unless made in writing and signed by both Parties. Fulfillment of Customer's order does not constitute acceptance of any of Customer's terms and conditions and does not serve to modify or amend this Agreement.

(b) Certain Definitions For purposes of this agreement –

(i) "**Administrative Users**" means those administrators of Customer who have been granted administrative accounts to the SOZO System. The maximum number of Administrative Users may be limited via Documentation.

(ii) "**Users**" means clinical users of the SOZO System who will have access to personal information, including sensitive information and health information, as defined below, of Customer's patients. Only licensed/qualified clinicians or support personnel acting in a treatment capacity may be granted access to User accounts.

(iii) "**Documentation**" means ImpediMed's user guides, instruction manuals, policies and procedures, including with respect to the use of the SOZO System, the mySOZO application and the mySOZO.com website. The Documentation may be updated by ImpediMed from time to time by posting the updated Documentation on its website or upon notice to Customer.

(iv) "**Distributor**" means Regional Technology Systems Pty Ltd (ACN 093 835 842).

(v) "**Distributor's Order Form**" means the order form executed between Distributor and Customer.

(vi) "**Privacy Act**" means the *Privacy Act 1988* (Cth).

(vii) "**Australian Privacy Laws**" is defined as all Australian privacy legislation, regulations and codes as amended from time to time which are applicable in respect of a patient's personal information including sensitive information and health information collected, used and/or disclosed under this Agreement which may include, but is not limited to:

- (i) *the Privacy Act*;
- (ii) *Health Records and Information Privacy Act 2002 (NSW)*;
- (iii) *Health Records Act 2001 (Vic)*;
- (iv) *Health Records (Privacy and Access) Act 1997 (ACT)*;
- (v) *My Health Records Act 2012 (Cth)*;
- (vi) *Healthcare Identifiers Act 2010 (Cth)*,  
and, where Customer is an agency as that term is defined in the *Privacy Act*,
- (vii) *Privacy and Personal Information Protection Act 1998 (NSW)*;
- (viii) *Information Privacy Act 2009 (Qld)*;
- (ix) *Information Privacy Act 2014 (ACT)*;
- (x) *Information Act 2002 (NT)*;
- (xi) *Personal Information and Protection Act 2004 (Tas)*;
- (xii) *Privacy and Data Protection Act 2014 (Vic)*;
- (xiii) *Health Care Act 2008 (SA)*; and
- (xiv) *PC012 Information Privacy Principles Instruction*.

(viii) The term "**personal information**" has the meaning given to that term by the Privacy Act.

(ix) The term "**sensitive information**" has the meaning given to that term by the Privacy Act.

(x) The term "**health information**" has the meaning given to that term by the Privacy Act.

## 2. SOZO System

ImpediMed via its Distributor shall deliver to Customer the products and services referenced in the Distributor's Order Form (collectively, the "**SOZO System**"), subject to availability of the SOZO System, which may consist of Hardware, Software, and SOZO Services. "**Hardware**" refers to tangible equipment such as the SOZO® device, support stand, tablet and accessories/Peripherals. "**Software**" refers to all forms of software, whether pre-installed, embedded (e.g., firmware), in read only memory, or found on any other media or other form and specifically includes the mySOZO app installed on the Hardware, but specifically excludes the SOZO Services. "**SOZO Services**" refers to the ImpediMed's cloud based SOZO software platform delivered on a software-as-a-service (SaaS) basis, including as available through mySOZO.com.

## 3. Regulatory Restrictions

Customer hereby represents and warrants that Customer will only use the SOZO System for the indication included on the SOZO System labeling and in accordance with the SOZO System Documentation. Customer understands that to the extent the SOZO System or any components thereof have received authorisation, accreditation, registration or licensing from any applicable governmental authority or organisation (e.g., The Therapeutic Goods Administration ("**TGA**")) that the SOZO System or such components have only been approved for the specific indication on the applicable product labeling and have not been tested for safety and efficacy in any other use. Customer shall not use the SOZO System in any manner requiring any additional authorisation. Customer shall defend, indemnify and hold Distributor and ImpediMed harmless for any and all claims arising out of Customer's use of the SOZO System for any purpose other than as authorised herein.

## 4. Confidential Information

(a) "**Confidential Information**" means: (i) any information disclosed (directly or indirectly) by one party (in the context of disclosing information under this Agreement, the "**Discloser**") to the other party (in the context of disclosing information under this Agreement, the "**Recipient**") pursuant to this Agreement that is in written, graphic, machine readable or other tangible form (including, without limitation, research, product plans, products, services, equipment, customers, markets, software, inventions, processes, designs, drawings, formulations, specifications, product configuration information, marketing and finance documents, prototypes, samples, data sets, and equipment) and is marked "Confidential," "Proprietary" or in some other manner to indicate its confidential nature; (ii) oral information disclosed (directly or indirectly) by Discloser to Recipient pursuant to this Agreement; provided that such information is designated as confidential at the time of its initial disclosure and reduced to a written summary by Discloser that is marked in a manner to indicate its confidential nature and delivered to Recipient within thirty (30) days after its initial disclosure; and (iii) information otherwise reasonably expected to be treated in a confidential manner under the circumstances of disclosure under this Agreement or by the nature of the information itself. Confidential Information may include information of a third-party that is in the possession of Discloser and is disclosed to Recipient under this Agreement. Confidential Information of ImpediMed shall include the Software and SOZO Services. Confidential Information of each party shall include the terms of this Agreement.

(b) Recipient shall not use any Confidential Information of Discloser for any purpose outside of the scope of this Agreement. Recipient shall not disclose any Confidential Information of Discloser to third parties or to Recipient's employees, except that Recipient may disclose Discloser's Confidential Information to those employees or third-party consultants of Recipient who are required to have such information in order to perform, provide or receive the SOZO System and services under this Agreement. Recipient shall take no less than reasonable measures to protect

the secrecy of and avoid disclosure and unauthorised use of the Confidential Information of Discloser. Without limiting the foregoing, Recipient shall take at least those measures that it employs to protect its own confidential information of a similar nature. Recipient shall reproduce Discloser's proprietary rights notices on any such authorised copies in the same manner in which such notices were set forth in or on the original. Recipient shall promptly notify Discloser of any unauthorised use or disclosure, or suspected unauthorised use or disclosure, of Discloser's Confidential Information of which Recipient becomes aware.

(c) The foregoing restrictions pertaining to the Confidential Information shall not apply with respect to any Confidential Information that: (i) was or becomes publicly known through no fault of Recipient; (ii) was known by Recipient before receipt from Discloser, as evidenced by its written records; (iii) becomes known to Recipient without confidential or proprietary restriction from a source other than Discloser that does not owe a duty of confidentiality to Discloser with respect to such Confidential Information; or (iv) is independently developed by Recipient without the use of the Confidential Information. In addition, Recipient may use or disclose Confidential Information to the extent (x) expressly approved by Discloser in writing and (y) Recipient is legally compelled to disclose such Confidential Information, provided, however, prior to any such compelled disclosure Customer shall, to the extent permitted by applicable law, cooperate fully with Discloser in protecting against any such disclosure and/or obtaining a protective order narrowing the scope of such disclosure and/or use of the Confidential Information.

(d) Each party acknowledges and agrees that, due to the unique nature of Discloser's Confidential Information, there can be no adequate remedy at law to compensate Discloser for the breach of this Section; and, therefore, that upon any such breach or threat thereof, Discloser shall be entitled to seek injunctive and other appropriate equitable relief (without the necessity of proving actual damages or of posting a bond), in addition to whatever remedies it may have at law, hereunder, or otherwise.

#### 5. Intellectual Property; Software License; Use of SOZO Services.

(a) To the extent that the SOZO System provided under this Agreement contains Software, whether pre-installed, embedded, in read only memory, or found on any other media or other form, such Software, as well as any Updates, and accompanying Documentation are licensed to Customer, not sold and shall remain the sole and exclusive property of ImpediMed or third-party licensors of ImpediMed.

(b) Subject to the terms and conditions of this Agreement and the payment of all fees hereunder, solely during the Subscription Term, for Customer's internal business use and consistent with any ImpediMed Documentation, ImpediMed grants Customer: (i) a limited, non-exclusive license to use the Software provided with the Hardware, and (ii) a limited, non-exclusive right to access and use the SOZO Services as made available by ImpediMed as part of the SOZO System, in each case of (i) and (ii) solely for use as part of the SOZO System and in accordance with any Documentation provided with the SOZO System. Except as set forth in this section, no other right or license of any kind is granted by ImpediMed to Customer hereunder with respect to the SOZO System. Certain components of the SOZO System may include third-party hardware and third-party software such as tablets and computer operating systems. Licenses to such third-party software are subject to the terms and conditions of any applicable third-party software license agreements. Unless expressly stated otherwise, no license or right of use is granted by ImpediMed with respect to such third-party software products that may be provided with the SOZO System (if any). ImpediMed makes no warranties regarding any third-party hardware or software that may accompany the SOZO System or otherwise and such hardware and software is explicitly included in the definition of

Third-Party Products below. ImpediMed shall provide notice of any third-party software used in the SOZO System and shall make the terms and conditions applicable to such third-party software available to Customer at Customer's request.

(c) Customer shall not, and shall not permit any employee or third party to: (a) copy all or any portion of the Software or SOZO Services; (b) decompile, disassemble or otherwise reverse engineer the Software or SOZO Services, or any portion thereof, or determine or attempt to determine any source code, algorithms, methods, or techniques used or embodied in the Software or SOZO Services or any portion thereof; (c) modify, translate, or create any derivative works based upon the Software or SOZO Services; (d) distribute, disclose, market, rent, lease, sublicense, or pledge the Software or SOZO Services, in whole or in part, to any third party; (e) remove or alter any copyright, trademark, or other proprietary notices, legends, symbols, or labels appearing on or in the Software or SOZO Services; (f) perform, or release the results of, benchmark tests or other comparisons of the Software or SOZO Services with other software or materials; (g) transfer the Software or SOZO Services, except as part of, or with, the Hardware in accordance with this Agreement and subject to the restrictions contained herein; (h) permit the Software or SOZO Services to be used for or in connection with any outsourcing services, service provider, service bureau, time-sharing, software as a service, data processing, information service or other similar technology, service or arrangement, on behalf of or for the benefit of a third party; (i) incorporate the Software or SOZO Services or any portion thereof into any other materials, products, or services, or use the Software or SOZO Services for production purposes; (j) use the Software or SOZO Services with any peripheral equipment or devices, other than Authorised Devices as defined in clause 7(c); or (k) use the Software or SOZO Services for any purpose other than in accordance with the terms and conditions of this Agreement. In the event of any violation of this clause 5, ImpediMed may immediately terminate this Agreement or suspend access to the SOZO Services, and shall be entitled to equitable relief in accordance with the terms of this Agreement.

(d) The Software and SOZO Services may be subject to other usage limits, including, quantities of Administrative Users, Users, or patients. Unless otherwise set forth herein, (i) password may not be shared with any other individual, and (ii) identifications may be reassigned to a new employee replacing one who no longer is designated by Customer to use the Software and SOZO Services.

(e) All patents, trademarks, copyrights or other intellectual property rights embodied in the SOZO System, including without limitation the Software, SOZO Services and all Updates and derivative works, are owned by ImpediMed and its licensors. ImpediMed and its licensors retain all right, title and interest in such intellectual property rights. Except as expressly set forth herein, no license rights or ownership in or to any of the foregoing is granted or transferred hereunder, either directly or by implication. ALL RIGHTS RESERVED.

#### 6. Support, Service Levels and Maintenance.

(a) During the Subscription Term, ImpediMed shall provide Customer with support in accordance with the then current SOZO Support Policy and SOZO Service Level Agreement available at <https://www.impedimed.com/products/sozo/> or such other web address provided by ImpediMed to Customer in the future. Customer agrees that ImpediMed may update such SOZO Support Policy and SOZO Service Level Agreement at any time by posting a new version of the policy or agreement on the website referenced above. The SOZO Support Policy and SOZO Service Level Agreement constitute ImpediMed's sole responsibility to provide support for the SOZO System.

(b) During the Subscription Term, ImpediMed will provide (or with respect to the SOZO Services, make available) Updates to the Software and SOZO Services as such Updates are generally released by ImpediMed to its other customers. For purposes hereof, "Updates" means the object code forms of any modifications, error corrections, bug fixes, new releases, or other

updates of or to the Software or SOZO Services and Documentation that may be provided or otherwise made available hereunder by ImpediMed to Customer during the Subscription Term. Any such Update provided or made available by ImpediMed hereunder shall be deemed a part of the SOZO System and subject to the terms and conditions of this Agreement. To the extent any Updates include new functionality, including, without limitation any new versions allowing the Software or SOZO Services to be used for one or more new indications, Customer may be required to pay additional fees for use of such functionality, as mutually agreed upon by both Parties.

(c) Customer and ImpediMed shall designate a maximum number of named contacts to request and receive support services from ImpediMed ("**Named Support Contacts**"). Named Support Contacts must be trained on the ImpediMed product(s) for which they initiate support requests.

#### 7. Installation; Customer Obligations.

(a) Unless otherwise agreed to in writing, Customer is responsible for proper installation of the SOZO System and any necessary equipment, software or hardware. Customer is responsible for ensuring that its hardware and software conform with ImpediMed minimum hardware and software requirements as made available to Customer. Customer shall strictly abide by any ImpediMed installation procedures provided with the SOZO System or otherwise provided to Customer by ImpediMed. ImpediMed reserves the right to update such procedures from time to time.

(b) Customer shall provide and maintain a suitable, safe and hazard free location and environment in material compliance with any written requirements provided by ImpediMed. Customer shall also use the SOZO System and timely perform all ImpediMed recommended routine maintenance and operator adjustments to the SOZO System using qualified personnel and in accordance with the Documentation.

(c) Customer is also responsible for providing and maintaining connectivity to the SOZO System (broadband internet connection, or other secure remote access reasonably requested by ImpediMed) to permit ImpediMed to provide the SOZO Services. Customer is solely responsible for ensuring that Customer's network is adequate for the proper operation and performance of the SOZO System and that it otherwise meets ImpediMed network configuration requirements (including requirements for preparation of Customer's site, remote interconnections and Internet protocol address assignments) provided by ImpediMed to Customer. Customer shall provide ImpediMed prompt and unencumbered access to the SOZO System, network cabling and communication equipment as necessary in the event ImpediMed agrees to provide any on-site services.

(d) Customer agrees that it will only access, and permit Administrative Users and Users to access the SOZO Services through the Hardware or on Authorised Devices and in compliance with the Documentation. "**Authorised Devices**" shall mean those third-party devices identified in Documentation that are compatible with the SOZO Services.

(e) Upon initial setup of Administrative User accounts, all set up of User accounts shall be the responsibility of Customer except as provided in the Documentation, including the assignment of credentials and roles. Customer will be responsible for all actions and omissions of Administrative Users and Users and any liabilities arising from the use of any Administrative User and User accounts. If Customer becomes aware of any violation of the terms of this Agreement by any Administrative User or User it shall immediately take action to suspend the account and will immediately report the violation to ImpediMed.

#### 8. Indemnification.

(a) ImpediMed shall indemnify, defend and hold Customer, and its directors, officers, employees, agents and representatives harmless against any action brought against Customer to the

extent it is based on a third-party claim that use by Customer of the Software or SOZO Services as furnished hereunder, which use is in accordance with the terms and conditions of this Agreement, directly infringes any valid Australian patent, copyright, trade secret or other third-party intellectual property right. ImpediMed shall pay any liabilities, costs, damages, and expenses (including reasonable legal fees) finally awarded against Customer in such action that are attributable to such claim, provided: (a) Customer notifies ImpediMed in writing of any such claim within thirty (30) days of learning of such claim; (b) ImpediMed has sole control of the defence and all related settlement negotiations; and (c) Customer cooperates with ImpediMed, at ImpediMed's expense, in defending or settling such claim (provided that ImpediMed shall not enter into any settlement or other compromise that materially adversely affects Customer without Customer's written approval, not to be unreasonably withheld, delayed, or conditioned). Should the Software or SOZO Services become, or be likely to become in ImpediMed's opinion, the subject of any claim of infringement, ImpediMed may, at its option: (i) procure for Customer the right to continue using the potentially infringing materials; (ii) replace or modify the potentially infringing materials to make them non-infringing; or (iii) terminate this Agreement and refund to Customer a pro-rated portion of any unused subscription fees paid hereunder.

(b) To the extent permitted by law, ImpediMed shall have no liability for any claim based upon: (i) the use, operation, or combination of the Software or SOZO Services with non-ImpediMed programs, data, equipment, or documentation, other than SOZO System, if liability would have been avoided but for such use, operation, or combination; (ii) use of other than the then-current, unaltered version of the Software; (iii) Customer's or its agents' or employees' activities after ImpediMed has notified Customer that ImpediMed believes such activities may result in infringement; (iv) any modifications to the Software or SOZO Services that are not specifically authorised in writing by ImpediMed; (v) any Third-Party Products; (vi) the collection, use and/or disclosure of, or in relation to, any Customer data or personal information, including but not limited to sensitive information and health information; or (vii) Customer's breach or alleged breach of this Agreement. To the extent permitted by law, the foregoing states the entire liability of ImpediMed and the exclusive remedy of Customer with respect to infringement of any intellectual property or other rights, whether under theory of warranty, indemnity, or otherwise.

(c) ImpediMed shall carry and at all times maintain in full force and effect, at its sole expense, policies of general liability and product liability insurance in the minimum amount of Three Million Australian Dollars (AUD\$3,000,000) for each claim and a policy for cyber liability coverage in the minimum amount of Five Million Australian Dollars (AUD\$5,000,000) per claim and in the aggregate.

#### 9. Limited Warranty.

(a) Software. Subject to the exceptions and upon the conditions set forth herein, during the Subscription Term ImpediMed warrants that, from the date of shipment or the date of electronic availability, as applicable, the Software will conform to the applicable Documentation for such Software.

(b) SOZO Services. Subject to the exceptions and upon the conditions set forth herein, during the Subscription Term ImpediMed warrants that the SOZO Services will perform substantially in accordance with the Documentation.

(c) **TO THE FULLEST EXTENT PERMITTED BY LAW, EXCEPT FOR THE WARRANTIES EXPRESSLY SET FORTH IN THIS SECTION 9, THE SOZO SYSTEM IS PROVIDED "AS-IS" AND IMPEDIMED MAKES NO WARRANTIES WHATSOEVER WITH RESPECT TO THE SOZO SYSTEM OR ANY COMPONENTS THEREOF, INCLUDING ANY (A) WARRANTY OF MERCHANTABILITY; (B) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (C) WARRANTY**

OF TITLE; (D) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD-PARTY; (E) WARRANTY THAT THE SOFTWARE OR SOZO SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, OR THAT DEFECTS CAN BE CORRECTED; OR (F) WARRANTY THAT ANY DATA WILL NOT BE LOST OR DAMAGED; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.

(d) TO THE FULLEST EXTENT PERMITTED BY LAW, THE REMEDIES SET FORTH HEREIN SHALL BE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND IMPEDIMED'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY SET FORTH IN THIS SECTION. Representations and warranties made by any person, including representatives of ImpediMed, which are inconsistent or in conflict with the terms of this warranty, as set forth above, shall not be binding upon ImpediMed.

10. Limitation of Liability.

EXCEPT FOR VIOLATION OF IMPEDIMED'S PROPRIETARY RIGHTS IN THE SOZO SYSTEM, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, LOSS OF INFORMATION OR DATA, OR PERSONAL INJURY OR DEATH ARISING IN ANY WAY OUT OF THE MANUFACTURE, SALE, USE, OR INABILITY TO USE ANY ASPECT OF THE SOZO SYSTEM, OR ARISING OUT OF OR RELATING TO ANY BREACH OF THESE TERMS, WHETHER OR NOT THE POSSIBILITY OF SUCH DAMAGES HAS BEEN DISCLOSED IN ADVANCE BY CUSTOMER OR COULD HAVE BEEN REASONABLY FORESEEN BY CUSTOMER, REGARDLESS OF THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL IMPEDIMED'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO IMPEDIMED FOR THE SOZO SYSTEM PROVIDED HEREUNDER IN THE TWELVE (12) MONTH PERIOD PRIOR TO THE DATE ON WHICH A CLAIM IS MADE.

11. Access to, Collection, Use and Disclosure of Personal Information

(a) Customer is responsible for obtaining such consents from patients and making such disclosures to patients as are necessary to ensure that Customer and ImpediMed comply with the Australian Privacy Laws.

(b) The Parties expressly acknowledge that the SOZO System includes functionality which allows de-identified data to be generated, extracted and exported through the Software and SOZO Services. For purposes of the Agreement, the term "de-identified" has the meaning given to it in the Privacy Act. Customer will fully cooperate in allowing ImpediMed to exercise its rights in the de-identified data, and shall not take any actions that could prevent such de-identified data from being used by ImpediMed. Except for any rights explicitly granted to Customer under this Agreement, ImpediMed shall be the sole and exclusive owner of all right, title, and interest (including any intellectual property rights) in and to any de-identified data. ImpediMed and Customer both warrant that they shall only utilise such de-identified data for purposes permitted by the Australian Privacy Laws.

(c) ImpediMed may provide Customer with information from time to time concerning the operation of the SOZO System including information about matters required to be subject to

consents and disclosures in order to assist both Parties to comply with their relevant privacy obligations including, but not limited to, their obligations under the Australian Privacy Laws. Such consents and disclosures must reflect the information provided to Customer by ImpediMed from time to time including, but not limited to:

- (i) Customer's information is stored in Australia using secure third party cloud storage; and
- (ii) ImpediMed will not generally access, use or disclose that information unless it is required to do so by law, or for software maintenance or support purposes;
- (iii) such information may be de-identified (as that term is defined in the Privacy Act), and that de-identified information may be disclosed to ImpediMed and its related bodies corporate in the US for its internal business purposes including, but not limited to, improving the SOZO System and ImpediMed's other products and services.

(d) Customer acknowledges and agrees that Administrative Users will not have access to health information except when acting in a technical support capacity to Users.

12. Security.

Each of the Parties shall use appropriate safeguards to prevent inappropriate use of the services provided under this Agreement. Each party represents that it or its suppliers have implemented and will maintain administrative, physical, and technical safeguards that protect the confidentiality, security, integrity, and availability of health information from unauthorised access, destruction, use, modification or disclosure and are no less rigorous than accepted industry practices (including, without limitation, relevant IT security auditing standards). Each party represents and warrants that its collection, access, use, storage, disposal and disclosure of health information does and will comply with all applicable privacy and data protection laws, including, but not limited to, the Australian Privacy Laws, as well as all other applicable regulations and directives. On a periodic basis, each party shall conduct audits of the information technology and information security controls used in complying with its obligations under this Agreement.

13. Medical Qualifications; Compliance with Law.

(a) Customer shall be responsible for all information submitted using the SOZO System, including ensuring that all information is accurate and error-free and legally obtained. All recommendations and analysis generated by the SOZO System must be reviewed by a qualified healthcare provider before making any recommendations to patients based on such information. Neither ImpediMed, nor the SOZO System make any clinical, medical or other professional decisions, and are not substitutes for licensed medical personnel applying their own professional judgement and analysis in every case. Customer is solely responsible for (i) verifying the accuracy and diagnostic utility (if any) of all information and reports produced by the SOZO System, (ii) obtaining any necessary written and binding consents for collection, use and disclosure of personal information, including sensitive information and health information, from patients, as outlined in clause 11 above, (iii) determining the data necessary or appropriate for decision-making by its licensed medical personnel; and (iv) making all diagnoses and treatments and determining compliance, and complying with, all laws and licensing requirements for delivery of medical care. Customer is responsible for ensuring that all personnel using the SOZO System have active professional licenses and all other credentials required by applicable law for the provision of services by them and are not suspended, debarred or prohibited from providing medical care services by applicable law or otherwise.

(b) Each party shall comply with all applicable laws, regulations and ordinances in connection with the performance of this Agreement. Each party shall maintain in effect all the licenses, permissions, authorisations, consents and permits that it needs to

carry out its obligations under this Agreement. Each party shall comply with all export and import laws of all countries involved in the sale of the SOZO System under this Agreement. The SOZO System, services and technical data delivered by ImpediMed shall be subject to U.S. export controls. Each party shall obtain all licenses, permits and approvals required by any government and shall comply with all applicable laws, rules, policies and procedures of the applicable government and other competent authorities.

14. Default.

If either party materially defaults in any of its obligations under this Agreement, the non-defaulting party, at its option, shall have the right to terminate this Agreement by written notice to the other party unless, within thirty (30) calendar days after written notice of such default, the defaulting party remedies the default. Notwithstanding anything herein to the contrary, in the event either party breaches the restrictions, limitations or obligations under clauses 3, 4, 5, 7, 11 or 13 of this Agreement as the case may be, the non-defaulting party may immediately terminate this Agreement upon notice to the defaulting party.

15. Amendment and Modification.

This Agreement may only be amended or modified in a writing which specifically states that it amends this Agreement and is signed by two authorised representatives of ImpediMed and one authorised representative of the Customer.

16. Waiver.

No waiver by ImpediMed of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by ImpediMed. No failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from this Agreement operates or may be construed as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

17. Assignment.

Customer shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of ImpediMed. Any purported assignment or delegation in violation of this clause 17 is null and void. No assignment or delegation relieves Customer of any of its obligations under this Agreement. Any permitted assignee must assume and agree to all of the term and conditions of this Agreement. Subject to the foregoing, this Agreement shall inure to the benefit of and shall be binding upon the respective successors and permitted assigns of each party.

18. Relationship of the Parties.

The relationship between the Parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the Parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

19. Publicity.

Upon written consent, ImpediMed may have the right to display Customer's name and logo on ImpediMed's website and in presentations to prospective clients and investors for the purpose of referencing Customer as a client of ImpediMed's SOZO System and/or Services.

20. No Third-Party Beneficiaries.

This Agreement is for the sole benefit of the Parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

21. Governing Law.

All matters arising out of or relating to this Agreement is governed by and construed in accordance with the internal laws of the State of New South Wales without giving effect to any choice or conflict of law provision or rule (whether of the State of New South Wales or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of New South Wales.

22. Dispute Resolution.

The Parties irrevocably agree that any dispute, legal suit, action or proceeding arising out of or relating to this Agreement shall be submitted to the Australian Centre for International Commercial Arbitration ("**ACICA**") and shall be finally settled under the ACICA rules. The place and location of the arbitration shall be in the state and country of Customer's principal place of business if ImpediMed brings the claim, or in Sydney, New South Wales if Customer brings the claim, pursuant to the ACICA rules and shall be finally settled in accordance with said rules by a single arbitrator selected by both Parties. If the Parties are unable to agree, then the ACICA shall choose the arbitrator. The language to be used in the arbitral proceeding shall be English. The arbitrator(s) shall have no authority to issue an award that is contrary to the express terms of this Agreement or the laws of the State of New South Wales or applicable Australian law, and the award may be vacated or corrected on appeal to a court of competent jurisdiction for any such error. The arbitrator(s) shall be specifically empowered to allocate between the Parties the costs of arbitration, as well as reasonable legal fees and costs, in such equitable manner as the arbitrator(s) may determine. The arbitrator(s) shall have the authority to determine issues of arbitrability and to award compensatory damages, but they shall not have authority to award punitive or exemplary damages. Judgment upon the award so rendered may be entered in any court having jurisdiction or application may be made to such court for judicial acceptance of any award and an order of enforcement, as the case may be. In no event shall a demand for arbitration be made after the date when institution of a legal or equitable proceeding based upon such claim, dispute or other matter in question would be barred by the applicable statute of limitations. Notwithstanding the foregoing, either party shall have the right, without waiving any right or remedy available to such party under this Agreement or otherwise, to seek and obtain from any court of competent jurisdiction any interim or provisional relief that is necessary or desirable to protect the rights or property of such party, pending the selection of the arbitrator(s) hereunder or pending the arbitrator(s)' determination of any dispute, controversy or claim hereunder.

23. Severability.

If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

24. Survival.

Provisions of this Agreement which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Agreement including, but not limited to, the following clauses: 4 (Confidential Information), 11 (Access to, Collection, Use and Disclosure of Personal Information), 13 (Medical Qualifications; Compliance with Law), 21 (Governing Law), 22 (Dispute Resolution), 24 (Survival), and the restrictions (but not the rights granted to Customer) in clauses 3 (Regulatory Restrictions) and 5 (Intellectual Property; Software License; Use of SOZO Services).

25. Subscription Term and Termination.

The license to the Software and subscription to the SOZO Services provided to Customer hereunder shall commence within 30 days of execution of this agreement and shall continue for the initial Subscription Term, unless earlier terminated as provided in the Agreement, and shall automatically renew for successive one

(1) year periods unless either party notifies the other of its intention not to renew prior to thirty (30) days before the end of the then-current term (the "**Subscription Term**"). Customer shall immediately discontinue use of the Software and SOZO Services upon any termination of the license or subscription rights or this Agreement. The licenses and subscription granted to Customer shall terminate upon any termination of the Agreement. Prior to the expiration or earlier termination of the Agreement, Customer shall have the obligation to export any data it desires to retain from the SOZO System using the export functionality provided via the Software and SOZO Services.

26. Notices.

All notices, request, consents, claims, demands, waivers and other communications hereunder (each, a "**Notice**") shall be in writing and addressed to the Parties at the addresses set forth below or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognised overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission) or certified mail (with return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt of the receiving party, upon confirmation of delivery by nationally recognised overnight courier or upon forty-eight (48) hours after being sent by certified or registered mail (as applicable), and (b) if the party giving the Notice has complied with the requirements of this Section.

**All notices to Customer must be addressed to:**

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**All notices to ImpediMed must be addressed to:**

ImpediMed Limited  
c/o Privacy Officer  
Unit 1, 50 Parker Court  
Pinkenba, QLD 4008  
Australia

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## **CUSTOMER ACKNOWLEDGEMENT**

**By accepting this Agreement, you acknowledge and agree that you have read and accept the SOZO® Australia Terms and Conditions as of the date of your signature below.**

**CUSTOMER:**

For, on behalf and with the express authority of:

Customer Name: \_\_\_\_\_

ACN / ABN: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_