**Product Addendum for SurgiCount Software**

**to**

**Software and Hosting Terms and Conditions (Continental United States)**

This Product Addendum for the SurgiCount sponge safety system, consisting of this cover page and any documents attached or expressly referenced therein (the “**Product Addendum**”), is entered into by and between the “Stryker Entity” listed below (“**Stryker**”) and the “Customer Entity” listed below (“**Customer**”). Capitalized terms not otherwise defined have the meaning set forth in the Software and Hosting Terms.

Subject to the terms of this Agreement, Customer may order Stryker Software and Hosting Services for, and allow the use of Stryker Software and Hosting Services by, its owned and operated acute health care facilities as specified, and at the addresses set forth, in **Schedule B** (each, a “**Participant**”) on SurgiCount tablets.

This Agreement includes the following attachments, which are incorporated into and made part hereof this Agreement:

**Schedule A** – SurgiCount Software Application and Optional SurgiCount EMR Software and Pricing

**Schedule B** – Participants and Permitted Facilities

***Customer agrees to the Software and Hosting Terms at*** <https://www.stryker.com/us/en/legal/it.html>.

|  |  |  |
| --- | --- | --- |
|  | **Stryker Entity** | **Customer Entity** |
| **Party (Full Name)** | Stryker Sales LLC, acting on behalf of its Instruments division | [Full name] |
| **Principal Place of Business** | Michigan, US | [Principal place of business] |
| **Type of Company** |  | [Type of company] |
| **Main Contact for Notices** | Stryker Instruments  1941 Stryker Way  Portage, MI 49002  Attn: Legal | [Name]  [Title]  [Address] |
| **Email** |  | [Email] |
| **Phone** |  | [Phone] |
| **With a copy of all notices to:** | Stryker  2825 Airview Boulevard  Kalamazoo, MI 49002  Attn: Legal | [Address] |

**IN WITNESS WHEREOF**, each of the Parties has caused this Agreement to be executed as of the Effective Date by its duly authorized representatives.

|  |  |
| --- | --- |
| **STRYKER SALES LLC, ACTING ON BEHALF OF ITS INSTRUMENTS DIVISION** | **CUSTOMER** |
|  |  |
| By:  Name: [Name]  Title: [Title] | By:  Name: [Name]  Title: [Title] |

**Schedule A**

**SurgiCount Software Application and Optional SurgiCount EMR Software and Pricing**

1. **Product Descriptions**
   1. **SurgiCount Software Application for SurgiCount Tablet**

The SurgiCount Software Application is installed and runs on a SurgiCount tablet as Embedded Software and enables a SurgiCount User to count the number of Safety-Sponges used in a medical procedure at a Permitted Facility. Company must have a current, fully paid annual subscription for each SurgiCount tablet to use the SurgiCount Software Application on a SurgiCount tablet at a Permitted Facility. The period for the term of any Hosting Services provided by Stryker for data uploaded or generated through the SurgiCount Software Application will be the period of the current, fully paid annual subscription. *See the applicable Product Documentation for more product detail.* This is device-based software license type. The use is limited to use on or with the specific SurgiCount tablet of such model as identified in the Product Documentation, and for use of such SurgiCount tablet at a Permitted Facility.

The SurgiCount Connect Software Application consists of functionality to allow Customer to do one or all of the following:

* Count the number of Safety-Sponges used in a medical procedure
* Store information during the applicable service term uploaded or generated by a User regarding the use of S Safety-Sponges in a cloud-based hosting environment, including reconciliation reports
* Provide post-operative evidence that individual Safety-Sponges used have been successfully accounted for outside of the patient
* Assist in the monitoring of adherence to the Permitted Facility’s sponge/lap/towel count procedure
* Provide Safety-Sponge usage data
* Provide access to an interface for data access and review
* Access to an email alert function to provide information in certain situations with potential compliance or patient safety issues  
  1. **SurgiCount EMR Software**

The use of SurgiCount EMR Software is optional and will be provided to Customer if it elects to order the SurgiCount EMR Software pursuant to an Ordering Document, and subject to the terms of the Agreement. Company must have a current, fully paid annual subscription for each SurgiCount table to use and have access to the SurgiCount EMR Software. The period for the term applicable to any Hosting Services provided by Stryker for data uploaded or generated through the SurgiCount EMR Software will be the period of the current, fully paid annual subscription. In addition, there is a one-time implementation fee for the SurgiCount EMR Software for each Permitted Facility.

The SurgiCount EMR Software provides SurgiCount Users with the option to transfer data to the Electronic Health Records (EHR) System of the applicable Permitted Facility. After case closure and successful data transmission from the SurgiCount tablet to the Medical Device Data Systems, certain data components can be transmitted to a third party EMR integration vendor. *See the applicable Product Documentation for more product detail.* This is a user-based license. Use is limited to the number of Users listed on the Ordering Document at the Permitted Facilities.

1. **Pricing**

Customer will pay to Stryker in advance the fees and charges set forth below for each of the Products set forth below that Customer orders pursuant to an Ordering Document. The fees and charges are exclusive of taxes, and Customer is responsible for all applicable taxes. Customer will remit payment to Stryker within 30 days following the date of each invoice. Stryker is entitled to interest on the unpaid amount of any Stryker invoice that remains unpaid following the due date. The interest rate will be 12% per annum (or, if lower, the maximum rate permitted by applicable Law), and accrue on a daily basis from the due date until actual payment of the overdue amount. All fees and charges are non-refundable. For any on-site services, Customer will reimburse Stryker for its reasonable, documented out-of-pocket travel, lodging, meal and related expenses required and actually incurred by Stryker’s personnel in providing such services and activities.

|  |  |  |  |
| --- | --- | --- | --- |
| **Product** | **Pricing\*** | **Subscription Term** | **Billing Frequency** |
| SurgiCount Software Application | [Pricing] | [XXX 2020 – XXX 2020] | Annual per SurgiCount tablet – required for each SurgiCount tablet |
| SurgiCount EMR Software | [Pricing] | [XXX 2020 – XXX 2020] | Annual per per SurgiCount tablet – optional |
| EMR Implementation Fee | [Pricing] | [XXX 2020-XXX 2020] | One time per Permitted Facility |

*\*For subsequent terms, Stryker reserves the right to change pricing upon notice to Customer.*

**Schedule B**

**Participants and Permitted Facilities**

|  |  |  |  |
| --- | --- | --- | --- |
| **Participant Name** | **Address of Permitted Facility** | **Telephone and Name of Contact(s) including Accounts Payable Contact** | **ID #** |
| **[Add new rows as needed]** |  |  |  |