

MEDICALHOLODECK® INC.
END USER LICENSE AGREEMENT (EULA)

Version 2.1, September 2023



MEDICALHOLODECK INC.

General Terms

1. Subject of the Agreement and Definitions

1.1 Licensed Materials

The program in its object code, the related printed or machine-readable available documentation, and the data media shall be referred to hereinafter as "Licensed Materials." Under this Agreement, the Licensor shall grant the Customer the right to use the Licensed Materials upon Customer's payment in accordance with Section 5. Unless otherwise agreed, the Customer alone shall be allowed to use the Licensed Materials and only on the computer and headset unit on which they were initially installed.

The Licensed Materials shall be delivered without granting copyrights to the Customer solely for use during the term of the Agreement, and no ownership rights shall be transferred to the Customer. The Customer shall not be entitled to receive or use the source code.

1.2 License Types

Various types of licenses are available to suit different needs and applications. By proceeding with the purchase or use of any license, you agree to abide by the terms and conditions as specified.

1.21 Personal License

The **Personal License** is specifically designed for non-commercial, individual use and may not be employed for any business or commercial activities.

This license is exclusively assigned to the individual purchaser and is non-transferable. Use of the software under this license is restricted to a single device at any given time. This license is intended for use in private settings and should not be utilized in any manner that generates commercial gain, either directly or indirectly. Violation of these terms may result in termination of the license and could lead to legal action. By purchasing this license, you agree to comply with these conditions.

1.22 MD License

The **MD License** is a commercial License for Business Applications. The Commercial License is intended specifically for limited business or commercial activities in professional practice. The MD license is not permitted for use in research or scientific settings. Any use for publications of any nature is prohibited.

This license is device-bound, meaning it is tied to a designated piece of hardware such as a computer or VR headset, and is not transferable. Usage of the software under this license permits an unlimited number of users, but only on the device to which the license is allocated. The maximum number of Commercial Licenses that can be purchased is limited to two per entity. Violating any of these conditions may result in termination of the license and could lead to legal consequences. By acquiring this license, you agree to adhere to these terms.

1.23 EDU License

The **Educational License** is specifically tailored for utilization in educational contexts, including but not limited to schools, colleges, and training centers.

The EDU license is not permitted for use in research or scientific settings. Any use for publications of any nature is prohibited.

This license is restricted to a designated hardware device, such as a computer or VR headset, and is not transferable. An unrestricted number of users are allowed to operate the software under this license, but only on the device to which the license has been allocated. There is no limit on the number of Educational Licenses that can be acquired by an institution. Violation of these terms may result in the revocation of the license and potential legal repercussions. By purchasing this license, you agree to comply with these conditions.

1.24 PRO Licenses

The **PRO License** is meticulously designed for professional use in hospitals, research facilities, and laboratories. This license also encompasses usage at conferences, trade shows, and for professional showcases. It is fully suitable for scientific research and related publications.

This license is restricted to a designated hardware device, such as a computer or VR headset, and is not transferable. An unrestricted number of users are allowed to operate the software under this license, but only on the device to which the license has been allocated. There is no limit on the number of Pro Licenses that can be acquired by an institution.

Refer to Chapter 6 for guidelines on properly citing the use of Medicalholodeck. It is essential when incorporating it as a fundamental component of any publication or when utilizing it on- and offline, at conferences or in public spaces.



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1.3 Additional Services

Services in connection with the development and modification of the Licensed Materials to the requirements of the Customer, consultancy in selecting, installing, implementing and using the Licensed Materials, and introduction to and training of the Customer's staff shall be provided by the Licensor pursuant to a separate agreement.

1.4 Safeguarding of the Source Code

Any escrow for the source code and development documentation by transfer to an authorized agent in return for compensation shall be agreed upon in a separate software escrow agreement.

2. Customer's Responsibilities

The Customer shall be responsible for selecting, installing and using the Licensed Materials and solving problems specifically related to its use, provided that the Licensor has not advised the Customer on these activities in return for compensation. The Customer shall also be responsible for selecting, using and maintaining the IT systems used in connection with the Licensed Materials, other programs and data systems, and any required services and shall ensure the proper organization for the use of the Licensed Materials.

Furthermore, the Customer shall comply with the instructions issued by the Licensor in connection with the Licensed Materials, take appropriate precautions to check the results produced, secure and backup the data and be responsible for ensuring compliance with any laws applicable to the use of the Licensed Materials.

3. Principles of the Right of Use

Unless otherwise agreed, the following provisions shall apply for the right of use:

3.1 Normal Use

"Normal Use" for the purpose of this Agreement shall mean the, in full or parts, downloading, saving, transferring, converting, executing and reproduction of programs in machine-readable form for the purposes of executing program instructions to process the Customer's data within the scope of the software, including temporarily producing the copies required for those activities, and using the related documentation.

Normal Use shall include the Customer's right to produce archival and backup copies. The use of such copies may not lead to an expansion of the scope of the right of use. Archival and backup copies shall also be identified as such.

Furthermore, the Customer shall be entitled to temporarily use the Licensed Materials on a backup system in the event of the breakdown of the designated IT system and to test such potential use.

3.2 Increased or Expanded Use

Any increased or expanded use of the Licensed Materials compared to the specifications, such as their use on one or more computer systems with greater capacity or higher performance, on auxiliary equipment, by a larger number of authorized users, at additional usage sites, by affiliated companies or for increased use based on type, scope and intensity, shall not be allowed without prior authorization from the Licensor and shall also result in a corresponding adjustment to the license fee.

Should an increased or expanded use occur without the Licensor's approval, the Licensor may demand that the Customer immediately cease such use or, in case of subsequent approval, retroactively invoice to Customer the then applicable additional license fees.

3.3 Modifications

The Licensor is prohibited from modifying the Licensed Materials unless granted prior written consent from the Customer. Any unauthorized changes by the Licensor shall constitute an interference with the industrial property rights of the Customer.

3.4 Reverse Engineering

Reverse engineering is not permitted.

3.5 Reselling/Sub-Licensing

The Customer shall not resell or Sub-License the Licensed Materials without obtaining the Licensor's prior written consent.

4. Delivery, Installation, Testing and Acceptance of the Licensed Materials

4.1 Delivery and Installation

The delivery of the Licensed Materials shall occur at Licensor's option by making them available electronically for download.



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4.2 Acceptance of the Licensed Materials

The Customer shall conduct a prompt acceptance test of the delivered or available Licensed Materials. Should the acceptance test reveal defects that do not render the functionality and/or proper use of the Licensed Materials impossible or unreasonably difficult, the Customer shall issue the respective acceptance without claiming a reduction in price, provided that the defects are remedied on time. The Licensor agrees to remedy such defects as soon as possible, but no later than within the warranty period set out in Section 7.2.

Should material defects be uncovered that render the proper use and/or the functionalities of the Licensed Materials impossible or unreasonably difficult, the Customer may refuse to issue the acceptance and set an appropriate period of time in which the Licensor must remedy the defects.

If, despite two previous attempts, the third acceptance test should fail, the Customer shall be entitled to request subsequent remedial or that the license fee be appropriately reduced, or – only in case of defects that render the use of the Licensed Materials impossible or unreasonably difficult – to fully or partially rescind the License Agreement regarding the defective Licensed Materials.

The acceptance shall be deemed issued if the Customer does not accept the Licensed Materials within 30 days of their delivery or availability or if it commences productive use of the Licensed Materials.

4.3 Default

Should the Licensor not meet the delivery date, the Customer shall grant to the Licensor by registered mail a grace period of at least 30 days to deliver the Licensed Materials.

Should the Licensed Materials not be delivered within such grace period, the Customer shall be entitled to rescind the Agreement by sending a written notice to the Licensor and to be refunded any paid license fees.

4.4 Replacement

Should the Licensed Materials be inadvertently damaged or destroyed by the Customer, the Licensor shall upon request by the Customer replace such Licensed Materials, if possible and available. In such a case, the Customer shall bear the actual costs of replacing, delivering and, as applicable, installing the Licensed Materials.

5. Remuneration and Payment Terms

5.1 License Fee

The one-time, recurring and/or usage-based license fee shall be the remuneration for Normal Use of the Licensed Materials for the duration and in accordance with the type, scope and intensity of the permitted use set out therein.

5.2 Remuneration for Additional Services

Unless otherwise set out, additional services shall be invoiced on a time and material basis pursuant to Section 1.2.

5.3 Expenses, Additional Costs, Taxes and Duties

Unless otherwise agreed, the Licensor shall be entitled to separately invoice any costs and expenses incurred in connection with the performance of the Agreement (e.g. travel and accommodation costs of its personnel, data communication costs) as well as taxes, duties and fees, particularly VAT, imposed as a result of signing and performing the Agreement. Unless otherwise agreed in the license annex, half of any travel time shall constitute work time.

5.4 Payment Terms

License fees shall be invoiced based on the due date, while the costs for additional services shall be invoiced on a monthly basis, unless otherwise agreed; both shall be invoiced plus expenses and additional costs. All invoices shall be paid strictly net by the Customer within 30 days of the invoice date to the account specified by the Licensor. Invoices that are not challenged in writing within the payment period shall be deemed approved.

Upon expiration of the payment period, the Licensor shall be entitled, without prior reminder, to charge interest on all outstanding payments at the statutory default interest rate.

5.5 Offsetting of Claims

Claims may only be offset by a contracting party with claims which have been acknowledged in writing by the other party or which have been finally awarded by a court.



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6. Copyrights on Publications, Rights to the Licensed Materials, Protection of the Licensed Materials

6.1 Ownership and Industrial Property Rights

The Customer shall be entitled only to the rights to use the Licensed Materials that are expressly granted under this Agreement. All other rights, particularly proprietary rights, copyrights, and industrial property rights to the Licensed Materials, and all usage rights not expressly granted shall remain the property of the Licensor or the owner of the industrial property rights to the Licensed Materials.

6.2 Copyrights on Publications

General Usage

For any dissemination of content derived from or incorporating the Licensed Materials, including but not limited to publications, broadcasting, television, scientific publications, internet posts, internet publications, movies, and screenshots, the watermark must remain intact and unaltered at any time. The following caption must accompany such content: "All rights reserved by Medicalholodeck® Inc., Zurich, Switzerland."

Watermark Integrity

Watermarks embedded within the Licensed Materials must not be removed or altered under any circumstances.

Third-Party Broadcasting and Publications

Any third-party broadcasting or publication, specifically in news media and television, that utilizes content from the Licensed Materials requires explicit prior written consent from the Licensor.

6.3 Confidentiality of the Licensed Materials

The Licensed Materials contain information, ideas, data structures, data base models, concepts, designs, methods and processes that constitute the business and trade secrets of the Licensor. Accordingly, the Customer agrees to treat the Licensed Materials with the same diligence and confidentiality as its own business and trade secrets, make compliant use of them as set out in this Agreement, and not to grant full or partial access to third parties in any way or form, nor to publish them, unless it is given prior written authorization to do so by the Licensor.

The Customer shall ensure that all persons who have access to the Licensed Materials comply with these obligations through appropriate instructions, agreements and other suitable precautions.

The obligation of confidentiality shall remain in effect for as long as the Licensor has a legitimate interest in the Licensed Materials and even after the contractual relationship has ended.

6.4 Control and Security of the Licensed Materials

The Licensor shall be entitled to implement appropriate technical measures (activation key, time release, etc.) to protect the Licensed Materials. It shall inform the Customer of these measures. The Customer shall not circumvent such measures.

6.5 Protection of Industrial Property Rights

The Customer shall recognize the ownership, the copyrights and the industrial property rights of the Licensor or owner of such rights to the Licensed Materials, abstain from committing any offence against the existence and extent of these rights for the duration of the license granted to it, take every action in accordance with the instructions of the Licensor to protect the rights of the Licensor or owner of such rights to the Licensed Materials, and provide the Licensor with reasonable support at Licensor's cost to defend the industrial property rights (Section 8.2). The Customer shall particularly apply or leave the proprietary notice of the Licensor on all full or partial copies of the Licensed Materials.

The Customer shall take the organizational and technical measures within its business which are required to protect the Licensed Materials from unintentional disclosure or access, theft or misuse by unauthorized parties. In particular, Customer shall delete all parts of the Licensed Materials stored on computer systems or storage media prior to their transfer and/or destruction.

6.6 Verification Measures and Audit Right

The Licensor shall be entitled to perform an on-site audit of the Customer's compliance with the provisions regarding Normal Use and protection of the Licensed Materials in the Customer's business itself or through a commissioned third party (e.g. a consultancy firm).

6.7 Violations

The Licensor shall be entitled to demand at any time that usage in violation of this Agreement be ceased. The right to terminate the Agreement in accordance with Section 10.4 shall remain reserved.

In the event that an audit reveals that the Licensed Materials are being used in excess of the usage rights, the Customer shall pay to Licensor the costs for such audit as well as compensation for the determined excessive use based on its extent and duration and



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according to the then applicable rates and conditions, including interest. Should the Customer or any of its agents violate the provisions of this Agreement regarding use and protection of the Licensed Materials on purpose or in a grossly negligent manner, the Customer shall owe to the Licensor compensation in the amount of three times the annual fee (without discounts or staggered payments) for each violation. The Licensor reserves the right to claim further damages.

7. Warranty of Quality

7.1 Warranty for Program Functionality

Provided the Licensed Materials (e.g. pre- version, test version) are not supplied without any warranty, the Licensor warrants the operability of the delivered Licensed Materials under this Agreement.

A defect in the Licensed Materials covered under warranty shall exist when the Licensed Materials, despite being used in compliance with Normal Use and the operating conditions set out in this document, are deviating from the agreed functionality and performance to an extent which abolishes or greatly impairs their fitness for use as described.

Furthermore, the Licensor warrants that the Licensed Materials have been protected from and inspected for "malware" (malicious codes, such as viruses) using an updated process employed by the Licensor prior to release to the Customer.

7.2 Correction of Defects / Warranty Period

The provisions of this Section 7.2 shall be subject to any diverging provisions agreed or a software maintenance agreement having been agreed with the Customer in accordance with Section 7.6.

Unless otherwise agreed, the Licensor shall perform services to correct defects in the latest, unaltered version of the Licensed Materials which have been properly documented and reported to it within 6 months of the date of acceptance (Section 4.2). Such documentation shall be deemed adequate if it allows for the verification of the operating conditions under which a defect occurs. A separate warranty period may be agreed for specific functions with longer periodicity (e.g. year-end processing).

Defects may be remedied at Licensor's option by providing a patch or a corrected version of the Licensed Materials, or by providing a (temporary) workaround to bypass or inhibit the error.

The Customer shall reasonably support the Licensor in analyzing the root causes and conditions of the defect and testing the patch or a workaround solution.

7.3 Rescission

Should the Licensor fail to remedy defects which have been reported and documented within the warranty period and should, as a consequence thereof, the use of the Licensed Materials in accordance with Section 7.1 be impossible or unreasonably difficult, the Customer may rescind the License Agreement after unsuccessful expiration of an additional grace period of at least 30 days (such grace period to be notified to the Licensor by registered mail). The provisions contained in Section 10.5 shall apply regarding the consequences of such rescission.

7.4 Limitation of Warranty

The Licensor cannot warrant that the Licensed Materials can be used without interruptions and errors in all of the Customer's intended combinations with all data, IT systems and other programs, or that the measures set out in Section 7.2 will prevent other defects from emerging.

7.5 Exclusion of Warranty

The Licensor shall be released from its warranty obligations to the extent that a defect is caused by circumstances that are not attributable to it, such as:

- changes in the usage and operating conditions;
- changes made to the Licensed Materials by the Customer or third parties;
- impacts by systems or programs not licensed by the Licensor.

Should a defect be attributable to the Customer, for example, if a user error occurred or if additional efforts are incurred due to Customer having failed to fulfill its obligation of cooperating with and providing adequate documentation to the Licensor, the Licensor shall be entitled to invoice the Customer on a time and material basis for the actual costs incurred by services to remedy the defect.

7.6 Maintenance Services

The Licensor agrees to perform services to maintain the functional efficiency of the Licensed Materials, after acceptance of such Licensed Materials, for Normal Use during an indefinite period of time in accordance with the rates, specifications and conditions of a separate software maintenance agreement or based on a special agreement with the Customer, or to have such services performed.



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8. Warranty of Title

8.1 Content

The Licensor represents that it has either developed the Licensed Materials itself and owns the applicable industrial property rights, particularly the copyrights, or that it has acquired the right to grant rights of use for the Licensed Materials under this Agreement from the owner of said rights and that at the time of accepting this Agreement, it had no knowledge of any conflicting third party rights in Switzerland.

8.2 Obligation to Defend

Should third parties exercise claims against the Customer for infringement of their alleged intellectual property rights in Switzerland or abroad concerning the use of the Licensed Materials by the Customer in accordance with this Agreement, the Customer shall immediately inform the Licensor in writing of such claims, shall authorize it to conduct the defence, including reaching a settlement, and shall reasonably support the Licensor in its efforts. In such a case, the Licensor shall assume the defence at its own expense and shall indemnify the Customer for any costs and damages finally awarded by a court of law.

8.3 Preventive Measures

If it emerges that, in the view of the Licensor, the Licensed Materials do or could infringe the intellectual property rights of third parties in Switzerland or abroad, the Licensor shall at its choice either perform modifications at its own expense in order to eliminate the potential infringement of intellectual property rights, or commence negotiations to acquire the respective rights from the authorized third party.

Should these measures not result in the intended goal despite appropriate and reasonable efforts, the Licensor shall be entitled to take back the Licensed Materials. In such a case, the Customer shall solely have the right to a refund of the license fees that it has paid, subject to a deduction of an appropriate fee for their interim use.

8.4 Release

The Licensor shall be released from the aforementioned obligations if an intellectual property right claim arises on the basis that the Customer has changed the Licensed Materials, has used them in conjunction with other programs or under usage and operating conditions other than as agreed in the license annex or that it did not adopt the changes provided by the Licensor pursuant to Section 8.3.

9. Liability

9.1 Scope

The liability of Licensor for direct damages incurred by the Customer resulting from or in connection with the fulfillment of this Agreement, irrespective of its legal basis (such as default, non or incorrect performance, breach of duty, warranty), shall be limited in aggregate for the term of the Agreement to the higher of the following amounts: a) the annual fee of license costs, or b) CHF 10,000.-. This limitation shall not apply to any liability for culpably caused personal injuries/bodily harm and the consequences set out in Section 8 for intellectual property rights indemnification.

9.2 Force Majeure

The Licensor shall not be held liable if it is prevented from performing the services set out in this Agreement in a timely and appropriate manner due to reasons beyond its control. The deadlines for performing such services shall be extended based on the duration of the impact of the circumstances that are beyond Licensor's control.

9.3 Exclusion

Any liability of the Licensor resulting from the use of the Licensed Material, for the results of such use, lost data and indirect or consequential damages, such as loss of profits, non-realized savings, additional efforts and expenses by the Customer or third party claims, shall be excluded.

9.4 Liability for Agents

The Licensor shall be liable for the actions and omissions of its agents as it is liable for its own actions and omissions.

9.5 Additional Liability

Any further liability provided by mandatory law shall remain reserved at all times.



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10. Term and Termination of the Agreement

10.1 Commencement

This Agreement shall become effective upon the Customer's first use of the Software.

10.2 Term

Unless otherwise agreed, the Customer shall be granted the perpetual right to use the Licensed Materials.

10.3 Termination by the Customer

This Agreement shall automatically terminate one year from the date of acceptance unless the Customer elects to extend the contract by paying the license fee for the subsequent annual term. No claims for refunds may be made for one-time license fees; recurring fees shall be owed until the expiration/termination of the Agreement.

10.4 Termination by the Licensor

The Licensor may only terminate this Agreement and revoke the rights granted to the Customer therein, if the Customer is breaching the Agreement in a material manner, particularly if the Customer is at least 60 days in default of payment despite a written reminder or if he continues to be in violation of the provisions regarding protection of the Licensed Materials (Section 6) despite having received a written warning imposing a reasonable period of at least 30 days to restore compliance with the contractual provisions. Furthermore, the Licensor shall be entitled to terminate the Agreement in accordance with Section 8.3, if it is unable to rectify the violation of the intellectual property rights by any other options.

10.5 Obligations at Termination

Upon termination or expiration of the Agreement, the Customer's right to use the Licensed Materials pursuant to Section 3 shall expire.

The Customer shall be entitled to keep an archival copy of the Licensed Materials in order to fulfill its statutory record retention obligations and not for productive purposes. The Customer shall ensure, and submit proof thereof at the request of the Licensor, that it is no longer using the Licensed Materials (e.g. archival and backup copies) for productive purposes.

The right of retention under Article 895 of the Swiss Civil Code shall be explicitly excluded.

11. Miscellaneous

11.1 Confidentiality

Both contracting parties shall, both in respect of themselves and their agents, mutually protect the confidentiality of all non-public documents and information regarding the business of the other contracting party and which becomes available to them through the preparation and implementation of this Agreement. This obligation shall apply as long as a legitimate interest exists in this respect, even after termination of the contractual relationship.

11.2 Data Protection

The contracting parties acknowledge that the conclusion and performance of this Agreement may lead to personal data of the contracting parties, their employees, subcontractors etc. being processed. They hereby agree that such data can be used for the management of their business relations and can be disclosed for such purpose to third parties, such as – without limitation – manufacturers, subcontractors, intellectual property rights holders, in Switzerland or abroad. In such cases, the contracting party disclosing the data shall ensure that data protection is guaranteed by taking appropriate organizational, technical and contractual precautions.

11.3 Export Control

The contracting parties are aware that the export of IT resources (in particular hardware and software, but also related know-how) from Switzerland may be subject to export control and the parties shall comply with the respective provisions.

12. Final Provisions

12.1 Entire Agreement

This Agreement shall govern the relationship between the contracting parties in relation to the subject matter of the Agreement in its entirety and shall replace any negotiations and correspondence made prior to the conclusion of the Agreement. In case of discrepancies, the most recent validly agreed provisions shall take precedence over these provisions contained herein.



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12.2 Form

This Agreement, its license annexes and any amendments and supplements shall be made in writing and signed by both contracting parties in order to be valid. This formal requirement may only be waived by written agreement.

12.3 Notices

Any notices required to exercise rights and obligations under this Agreement shall be issued in writing, transmitted by email with subsequent confirmation letter, to the address of the contracting party specified on the front page of the Agreement.

12.4 Severability

If individual provisions or parts of this Agreement, including its license annexes, prove to be void or ineffective, the validity of the remaining parts of the Agreement shall not be affected. In such a case, the contracting parties shall amend the Agreement in such way that the purpose of the void or ineffective part is achieved as best as possible.

12.5 Assignment and Transfer

This Agreement and any rights and obligations arising from it may only be transferred or assigned to third parties upon prior written consent of the other contracting party.

12.6 Copies of the Agreement

This Agreement and all license annexes shall be issued in two copies and each contracting party shall receive one copy.

12.7 Applicable Law

This Agreement shall be governed by Swiss law, with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods dated April 11, 1980.

12.8 Dispute Settlement

Both contracting parties shall attempt in good faith to reach an amicable solution to any disputes relating to this Agreement.

12.9 Place of Jurisdiction

If the contracting parties fail to resolve differences amicably despite respective efforts, the competent court at the domicile of the Licensor shall have exclusive jurisdiction over any disputes arising from or in connection with this Agreement. The Licensor however reserves its right to bring an action against the Customer at the Customer's domicile.