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IMPORTANT: READ CAREFULLY – The software files and components defined below as the “**Software**” and the electronic and hardcopy documentation defined below as “**Documentation**” are subject to the terms and conditions set forth below (*the “Agreement”*). BY INSTALLING, COPYING OR OTHERWISE USING THE SOFTWARE OR THE DOCUMENTATION, YOU AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO THESE TERMS AND CONDITIONS, DO NOT INSTALL, COPY OR USE THE SOFTWARE OR THE DOCUMENTATION.

Volcano Corporation (“**Licensor**”) is granting to you, as the licensee under this Agreement (“**Licensee**”) the following rights, subject to the terms and conditions set forth in this Agreement.

1. **Definitions.** For purposes of this Agreement:

(a) “**Documentation**” means Licensor’s published technical documentation for the Software and the Product.

(b) “**Product**” means a product that Licensor manufactures and/or distributes and for which Licensor has approved the use of the Software.

(c) “**Product Location**” means the facility and address at which the Product is located and at which Licensee provides services using the Product with the Software, as identified in the Purchase Document. Subject to any and all applicable regulatory requirements, Licensee may move the Product and designate a new Product Location by giving written notice to Licensor in the manner set forth herein.

(d) “**Purchase Document**” means Licensor’s purchase acknowledgment document or other document in which Licensor and Licensee acknowledge Licensee’s purchase of a license to the Software.

(e) “**Software**” means the object code version of the Licensor software identified the Purchase Document..

(f) “**Term**” shall have the meaning given in Section 9(a).

2. **License.**

(a) **License Grant.** Subject to the terms and conditions of this Agreement, Licensor hereby grants to Licensee a nonexclusive license and the right during the Term to use the Software as provided to Licensee as part of the Product (and as modified by Licensor or its authorized designee from time to time) for Licensee’s internal business purposes only in connection with the Licensee’s use and operation of the Product at the Product Location and only for purposes that have received FDA or other applicable regulatory approval. As part of this License, Licensee may authorize its employees and agents who have received appropriate training on the use of the Product and the Software to use the Software with the Product at the Product Location. In connection with Licensee’s use of the Software and solely for the purpose

of supporting Licensee's use of the Software for its intended purpose under the license in this Section 1(a), Licensee may use the and may make a reasonable number of copies of the Documentation for internal educational, reference and training purposes.

(b) **License Restrictions.** Licensee may not remove the Software from the Product or copy the Software in any manner. Licensee may not use any product other than the Product to execute the Software code or use the Software in any other manner. Licensee may not use the Software for any purpose other than a purpose that has received FDA or other applicable regulatory approval. Licensee may not make the Software available for use over a network. Licensee may not modify, customize, rent, lease, or sublicense the Software, or use the Software for service bureau purposes. Licensee may not reverse engineer, decompile or disassemble the Software or otherwise attempt to reconstruct or discover any element of the Software that is not obvious from its ordinary use as part of the Product. Licensee may not distribute the Documentation to third parties or use the Documentation for any purpose other than the internal-use purposes specified in Section 2(a).

3. **License Fees.** Licensee shall pay when due any and all license fees specified in the Purchase Document.

4. **Limited Warranty and Disclaimer.** Licensor warrants that the media on which the Software is provided will be free from defects in materials and workmanship for a period of ninety (90) days after the date of its delivery to Licensee. LICENSEE ASSUMES FULL RESPONSIBILITY FOR THE SELECTION OF THE SOFTWARE TO ACHIEVE ITS INTENDED PURPOSES AND FOR VERIFYING THE RESULTS OBTAINED FROM USE OF THE SOFTWARE. LICENSOR DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE SOFTWARE WILL MEET LICENSEE'S REQUIREMENTS, THAT THE SOFTWARE IS FIT FOR ANY PARTICULAR USE OR PURPOSE, OR THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR AND BUG-FREE. EXCEPT FOR THE LIMITED WARRANTIES IN THIS SECTION 4, THE SOFTWARE IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT. Some states or jurisdictions do not allow the exclusion of implied warranties or limitations on how long an implied warranty may last, so the above limitations may not apply to Licensee. To the extent permissible, any implied warranties are limited to ninety (90) days. This warranty provides Licensee with specific legal rights. Licensee may have other rights which vary from state to state or jurisdiction to jurisdiction.

5. **Limitation of Liability.** LICENSEE UNDERSTANDS AND ACKNOWLEDGES THAT THE SOFTWARE IS A DIAGNOSTIC TOOL THAT PROVIDES ENHANCED TREATMENT OF ULTRASOUND IMAGES AND THAT THE USE OF THE SOFTWARE AND THE PRODUCT IS SUBJECT TO GOVERNMENTAL REGULATION. USE OF THE SOFTWARE AND THE PRODUCT DOES NOT CONSTITUTE A RECOMMENDATION REGARDING ANY PARTICULAR COURSE OF TREATMENT. LICENSEE REPRESENTS AND WARRANTS THAT IT IS FAMILIAR WITH THE APPLICABLE REGULATORY APPROVALS AND LIMITATIONS OF THE SOFTWARE AND THE PRODUCT. IN NO EVENT SHALL LICENSOR BE LIABLE UNDER ANY THEORY FOR TREATMENT

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6. **Ownership.** Licensee acknowledges that Licensor or its licensors own the Software (including all intellectual property rights contained therein) and that Licensee is not obtaining any ownership rights in the Software hereby. Licensee further acknowledges that (a) the Software is protected by copyright laws, (b) some elements are protected by laws governing trademarks, trade dress and trade secrets, and (c) the Software may also be protected by patent laws. Licensee agrees that it will, in addition to complying with the terms of this License, comply with all restrictions on the use of the Software imposed by the laws described above.

7. **Keys and Access.** Licensee acknowledges that the Software may contain disabling codes that prevent use of the Software during any period in which Licensee has not paid the License Fee. Subject to Licensee's obligation to pay the applicable License Fee when due, Licensor will provide to Licensee those Software keys which are reasonably necessary to permit Licensee to gain access to the Software. Licensee shall not disclose the Software keys to any third party.

8. **Support and Maintenance.** This Agreement does not provide for support or maintenance services for the Software and does not obligate Licensor to update or upgrade the Software or to provide Licensee with any updates or upgrades to the Software that Licensor may create from time to time. Any such services shall be at Licensor's sole discretion unless Licensor and Licensee enter into a separate agreement for the support and maintenance of the Software.

9. **Term and Termination.**

(a) **Term.** This Agreement shall commence upon the Effective Date and will remain in effect until terminated as set forth herein.

(b) **Termination.** Licensor may terminate this Agreement upon written notice to Licensee if Licensee breaches any of its provisions. Licensee may terminate this Agreement by providing Licensor with written notice and discontinuing its use of the Software. Licensee's termination of this Agreement shall not relieve Licensee of its obligation to pay the License Fee. This Agreement shall terminate automatically and without action or notice by either party if Licensee discontinues its use of the Product.

(c) **Consequences of Termination.** Upon termination of this Agreement, Licensee shall immediately discontinue using the Software and Documentation, remove the Software and any electronic copies of the Documentation from all Licensee's systems, and, at Licensor's election, either destroy or return to Licensor all copies of the Software and the Documentation.

10. **Dispute Resolution.**

(a) **Generally.** The parties desire to resolve certain disputes, controversies and claims arising out of this Agreement without litigation. Accordingly, except in the case of a suit, action or proceeding to compel either party to comply with the dispute resolution procedures set forth in this Section 10, the parties agree to use the following alternative procedure as their sole remedy with respect to any dispute, controversy or claim arising out of or relating to this Agreement or its breach. The term "Arbitrable Dispute" means any dispute, controversy or claim to be resolved in accordance with the dispute resolution procedure specified in this Section 10.

(b) **Informal Resolution.** At the written request of a party, each party shall appoint a knowledgeable, responsible representative to meet and negotiate in good faith to resolve any Arbitrable Dispute arising under this Agreement. The parties intend that these negotiations be conducted by nonlawyer, business representatives. The discussions shall be left to the discretion of the representatives. Upon agreement, the representatives may utilize other alternative dispute resolution procedures such as mediation to assist in the negotiations. Discussions and correspondence among the representatives for purposes of these negotiations shall be treated as confidential information developed for purposes of settlement, shall be exempt from discovery and production, and shall not be admissible in the arbitration described below or in any lawsuit without the concurrence of all parties. Documents identified in or provided with such communications, which are not prepared for purposes of the negotiations, are not so exempted and may, if otherwise admissible, be admitted in evidence in the arbitration or lawsuit.

(c) **Arbitration.** If the negotiations do not resolve the Arbitrable Dispute within sixty (60) days of the initial written request, the Arbitrable Dispute shall be submitted to binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association (*the "Rules"*) presided over by a single arbitrator selected by the parties, or if the parties are unable to agree, selected pursuant to the Rules. A party may demand such arbitration, in accordance with the procedures set out in the Rules, at the office of the American Arbitration Association in San Francisco, California and the arbitration shall be held at a location designated by Licensor in the metropolitan area of Sacramento, California or in the San Francisco Bay Area. Discovery shall be controlled by the arbitrator and shall be permitted to the extent set out in this Section. Each party may submit in writing to a party, and that party shall so respond, to a maximum of any combination of thirty-five (35) (none of which may have subparts) of the following: interrogatories, demands to produce documents and requests for admission. Each party is also entitled to take the oral deposition of up to two (2) individuals of another party. Additional discovery may be permitted upon mutual agreement of the parties. The arbitration hearing shall be commenced within sixty (60) days of the demand for arbitration and the arbitration shall be held in a mutually acceptable location. The arbitrator shall control the scheduling so as to process the matter expeditiously. The parties may submit written briefs. The arbitrator shall rule on the Arbitrable Dispute by issuing a written opinion within thirty (30) days after the close of hearings. The times specified in this Section may be extended upon mutual agreement of the

parties or by the arbitrator upon a showing of good cause. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction.

(d) **Arbitrator's Decision Final, Binding and Enforceable.**

(i) Each party hereby expressly waives any applicable laws permitting appeal to courts of law or any other body so that there shall be no appeal to any court or other body from the decision (or any interim decision) of the arbitrator and neither party shall dispute or question the validity of such award before any judicial or other authority in Licensee's jurisdiction or elsewhere of any enforcement action taken by the party in whose favor the award was rendered.

(ii) Licensee hereby warrants that an arbitral award rendered pursuant to this Section 10 shall be enforceable pursuant to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, and accordingly warrants and covenants that the decision of the arbitration tribunal shall be final and incontestable and may be used as a basis for judgment thereon anywhere. Licensee specifically warrants that an arbitral award rendered pursuant to this Section 10 shall be enforceable in the jurisdiction in which it is located, and accordingly warrants and covenants that the decision of the arbitrator shall be final and incontestable and may be used as a basis for judgment thereon in Licensee's jurisdiction.

(e) **Equitable Remedies.** Notwithstanding the provision of this Section 10 and any other provisions contained in this Agreement, Licensor may, in its sole discretion bring claims at law or in equity in law to the courts of any jurisdiction in matters of confidentiality and industrial property rights (including patents, copyright, trademarks, trade names, industrial secrets).

(f) **Costs.** Each party shall bear its own cost of these procedures. A party seeking discovery shall reimburse the responding party the cost of production of documents (to include search time and reproduction time costs). The parties shall equally share the fees of the arbitration and the arbitrator. The arbitrator may award attorneys' fees to the prevailing party as set forth in Section 12(g).

11. **Indemnities.**

(a) **Licensor Indemnity.**

(i) **Infringement.** Licensor shall defend or settle, at its own expense, any action against Licensee based upon a claim that the Software infringes any United States patent, copyright, or trademark, and will pay such damages or costs as are finally awarded against Licensee attributable to such claim, provided that Licensee (1) notifies Licensor promptly in writing of any such action, (2) gives Licensor sole control of the defense and/or settlement of such action, and (3) gives Licensor all reasonable information and assistance (at Licensor's expense excluding time spent by Licensee's employees).

(ii) **Infringement Remedy.** Should the Software become, or in the opinion of Licensor be likely to become, the subject of such an infringement claim, Licensor may, in its sole discretion, (1) procure for Licensee the right to use the Software free of any liability, (2) replace or modify, in whole or in part, the Software to make it non-infringing while still conforming to

the published specifications, or, if (1) and (2) are commercially impracticable, (3) remove Software, or part thereof, and refund any fees paid therefor, as reduced using a five-year straight-line amortization schedule from the Effective Date.

(iii) **Limitations.** Licensor assumes no liability hereunder for (1) any method or process in which the Software may be used or the manner in which Licensee uses, promotes, advertises, or sells the Software, (2) any compliance with Licensee's specifications requiring deviation from the standard specifications for the Software, (3) use of other than a current unaltered release of the Software, or (4) the combination, operation or use of the Software with non-Licensor programs or data other than as expressly required or specified in Licensor's published specifications, if such infringement would have been avoided by the combination, operation or use of the Software with other programs or data. THIS SECTION SETS FORTH LICENSOR'S ENTIRE LIABILITY AND OBLIGATION AND CUSTOMER'S SOLE REMEDY FOR ANY CLAIM OF INFRINGEMENT OF PATENT, COPYRIGHT, TRADEMARK, OR OTHER INTELLECTUAL PROPERTY RIGHTS.

(b) **Licensee's Indemnity.** Licensee will defend, indemnify and hold Licensor harmless from and against any and all claims and damages and expenses (including attorneys' fees) arising from or relating to Licensee's use of the Software except for those claims, damages or expenses, if any, for which Licensor would have an indemnification obligation under Section 11a, provided that Licensor (1) notifies Licensee promptly in writing of any such action, (2) gives Licensee sole control of the defense and/or settlement of such action and (3) gives Licensee all reasonable information and assistance (at Licensee's expense excluding time spent by Licensor's employees).

12. **Miscellaneous.**

(a) **Entire Agreement.** This is the entire agreement between Licensor and Licensee regarding the Software and the Documentation and it may be amended only by a writing executed by Licensee and Licensor.

(b) **Assignment.** Licensee may not assign this Agreement or its rights in the Software or the Documentation in whole or in part to any third party without Licensor's prior written consent and any attempt to do so is void.

(c) **Severability.** If any provision of this Agreement is found to be unenforceable or invalid, the balance of this agreement shall remain enforceable according to its terms.

(d) **No Implied Waivers.** The failure of either party at any time to require performance by the other party of any provision hereof shall not affect in any way the right to require such performance at any time thereafter. Nor shall the waiver by either party of a breach of any provision hereof be taken or held to be a waiver of any subsequent breach of the same provision or any other provision.

(e) **Governing Law.** This Agreement shall be governed by the laws of the State of California and the United States as applied to agreements entered into and fully performed therein by residents thereof. The United Nations Convention on Contracts for the International Sale of Goods is expressly excluded.

(f) **Jurisdiction and Venue.** Any action or proceeding arising directly or indirectly from this Agreement shall be litigated in an appropriate state or federal court in the County of Sacramento, California. Both parties consent to the jurisdiction of such courts.

(g) **Attorneys' Fees.** The prevailing party in any action to enforce this Agreement shall be entitled to recover costs and expenses, including attorneys' fees.

(h) **Export Laws.** The Software shall not be exported from the United States except in compliance with all applicable export laws and regulations.

(i) **Government End Users.** The Software is a "commercial item" as that term is defined in 48 C.F.R. 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, Licensee will provide the Software to U.S. Government End Users only pursuant to the terms and conditions therein.

(j) **Purchase Order Terms.** The terms stated in this Agreement are the exclusive terms regarding Licensee's rights and obligations with respect to the Software. Any terms or conditions stated in any purchase order, acknowledgment or invoice shall be of no force and effect, and no course of dealing, usage of trade, or course of performance shall be relevant to explain or modify any term expressed in the Agreement.

(k) **Publicity; Terms of Agreement.** Licensor may publicly identify Licensee as Licensor's customer and a licensee of the Software. Licensee shall not disclose the terms of this Agreement to any third party without Licensor's prior written consent.

(l) **Notices.** All notices or other communications required to be given hereunder shall be in writing and shall be delivered by personal delivery, mail, courier, or facsimile to the address or facsimile number of the other party set forth on the Purchase Document. Notice shall be deemed given: upon personal delivery; if sent by fax, with confirmation of correct transmission, on the next business day after it was sent; upon the courier's confirmed delivery if sent by courier; and if sent by mail with proper postage prepaid, five (5) days after the date of mailing. A party may change its address for notice by delivering to the other party written notice of the new address in accordance with the requirements of this Section 12(l).

(m) **Language.** The official version of this Agreement is in the English language and this Agreement will be construed in accordance with this version. Translations of this agreement into any other language are for the purpose of accommodation only and shall be of no legal effect.