

SUB-LICENSE TERMS

Prairie St. John's owns a site license to administer the Diagnostic Predictive Scales ("Diagnostic Predictive Scales" or "DPS"), a screening instrument developed by Christopher Lucas, M.D., M.P.H. (herein after referred to as the "Software"). The following are the terms on which the Sub-licensee will be entitled to use the "Software":

1. Sub-license and Title.

- (a) Subject to the terms and conditions hereinafter set forth, Prairie St. John's hereby grants, as of the Effective Date, which shall mean the date on which the cover page of this Sub-license Agreement is duly executed on behalf of the Sub-licensee, a nonexclusive and non-transferable Sub-license (the "Sub-license") to Sub-licensee to use the Software versions indicated on the cover page of this Sub-license Agreement and for the purposes described on the cover page of this Sub-license Agreement. This Sub-license Agreement shall not transfer any title or ownership rights in the Software, including intellectual property rights embodied therein, which shall at all times remain with Prairie St. John's. The Sub-license is granted on the condition that none of the Software, the related codes and data, or any changes, additions, modifications, improvements or alterations thereof, whether made by Prairie St. John's or Sub-licensee, shall knowingly be used by, made available to, or disclosed to any other person or entity.
- (b) Sub-licensee may not reverse engineer, decompile, disassemble, or take any other steps to derive a source code equivalent of the Software.
- (c) Upon the termination of this Sub-license, Sub-licensee will return the Software to Prairie St. John's or destroy all copies of the Software and, in either event, certify in writing that it has done so, that it has not retained any copies and that it has deleted the Software programs sub-licensed hereunder from all computers under its control.

2. Delivery of the Software.

- (a) Prairie St. John's shall deliver to Sub-licensee, within 30 days of the date of the Effective Date, the number of copies of the Software versions listed on the cover page of this Sub-license Agreement.

3. Software Charges.

- (a) Sub-licensee shall pay to Prairie St. John's, within 30 days of receipt of an invoice for the Software, a fee in the amount set forth on the invoice.
- (b) In addition to the fee described in Section 3(a) above, Sub-licensee shall pay any and all taxes which may be imposed as a result of this Sub-license Agreement or activities hereunder, except that Sub-licensee shall not be responsible for payment of any income taxes imposed upon Prairie St. John's.

4. Confidentiality: Protection of Software and Prairie St. John's Information.

- (a) Sub-licensee agrees that the Software and related materials shall be held in confidence and are being provided by Prairie St. John's for the exclusive use of Sub-licensee. Sub-licensee will be responsible for maintaining and securing on behalf of Prairie St. John's the Software and related materials in its possession or under its control. Sub-licensee (i) will protect the Software and related materials in the same manner that it protects its own confidential information; (ii) will knowingly permit access to the Software only to its authorized employees and, if applicable, students designated by Sub-licensee to use and maintain the Software and will inform in writing authorized employees and students who will have access to the Software of the obligations of confidentiality under this Sub-license Agreement; and (iii) will not remove or destroy any proprietary notice on the Software or related materials.
- (b) Any termination of this Sub-license Agreement and the Sub-license hereunder shall not terminate Sub-licensee's obligations of confidentiality under this Section 4.

5. Disclaimer of Warranties.

- (a) While the Software has been tested for accuracy and proper functioning, Prairie St. John's disclaims any responsibility for the accuracy or correctness of the Software or for its use or application by Sub-licensee. In the event that Prairie St. John's receives notification from the Sub-licensee of any defects in the Software provided to the Sub-licensee hereunder, Prairie St. John's will, at its option, either replace the defective Software or reimburse the Sub-licensee for the appropriate portion of the purchase price paid for the use of the Software.
- (b) EXCEPT AS SET FORTH IN SECTION 5(A) ABOVE, PRAIRIE ST. JOHN'S MAKES NO REPRESENTATION OR WARRANTY EITHER EXPRESS OR IMPLIED OF ANY KIND, INCLUDING AS TO MERCHANTABILITY OR THE ADEQUACY OR SUITABILITY OF THE SOFTWARE FOR ANY PARTICULAR PURPOSE OR TO PRODUCE ANY PARTICULAR RESULT AND NEITHER PRAIRIE ST. JOHN'S, NOR ANY EMPLOYEE OR AGENT OF PRAIRIE ST. JOHN'S, SHALL HAVE ANY LIABILITY TO SUB-LICENSEE OR ANY OTHER PERSON ARISING OUT OF THE USE OF THE SOFTWARE BY SUB-LICENSEE FOR ANY REASON,

INCLUDING BUT NOT LIMITED TO THE UNMERCHANTABILITY, INADEQUACY OR UNSUITABILITY OF THE SOFTWARE FOR ANY PARTICULAR PURPOSE OR TO PRODUCE ANY PARTICULAR RESULT, FOR ANY LATENT DEFECTS THEREIN OR THE FAILURE OF PRAIRIE ST. JOHN'S TO PROVIDE SUB-LICENSEE WITH ANY MODIFICATIONS OR CHANGES IN THE SOFTWARE.

- (c) In no event will Prairie St. John's or its trustees, officers, agents or employees be liable to Sub-licensee or to any other party, for any loss or damages, incidental, consequential or otherwise, including, but not limited to time, money, or good will, arising from the use or operation of the Software by Sub-licensee.

6. Indemnity; Insurance.

Sub-licensee shall hold harmless, defend and indemnify Prairie St. John's and its Trustees, officers, agents and employees from and against any damages, suits claims, liabilities, costs and expenses (including reasonable attorneys' fees) arising out of or relating to, directly or indirectly, the use or operation of the Software by Sub-licensee. Sub-licensee shall reimburse Prairie St. John's for any costs incurred by Prairie St. John's in enforcing this provision. Sub-licensee will maintain during the term of this Agreement a sufficient general liability insurance policy with reputable and financially secure insurance carrier(s) to fully cover its activities hereunder. Such coverage shall be in an amount no less than \$1,000,000 per occurrence, \$2,000,000 annual aggregate. Any insurance Prairie St. John's may purchase will be excess and noncontributory.

7. Use of Name.

Sub-licensee will not use the name of Prairie St. John's or the name of any faculty member, other employee or student of Prairie St. John's for any purpose whatsoever without Prairie St. John's written consent.

8. Termination.

- (a) Prairie St. John's may terminate this Sub-license Agreement and the Sub-license granted hereunder upon 30 days' written notice of Sub-licensee's material breach of the Sub-license Agreement and Sub-licensee's failure to cure the breach within 30 days of receipt of said notice.
- (b) Sub-licensee may terminate this Sub-license Agreement and the Sub-license hereunder upon 30 days' written notice to Prairie St. John's; such termination will be effective upon compliance with Section 1(c) above.
- (c) Sections 2, 6, and 7 shall survive the termination or expiration of this Sub-license Agreement.

9. General Provisions.

- (a) **Notice.** Any notice or other communication required or permitted to be given under this Sub-license Agreement shall be sufficient if in writing and shall be considered given when mailed by certified or registered mail, return receipt requested, to the parties at the following addresses (or at such other address that a party may specify by notice hereunder):

If to Prairie St. John's: Prairie St. John's
7616 Currell Blvd Ste 100; Woodbury, MN 55125

If to Sub-licensee, to the address specified in the cover sheet to this sub-license agreement, or to such other address as the Sub-licensee may provide in writing from time to time.

- (b) **Assignment.** Neither this Sub-license Agreement nor any rights or obligations hereunder may be assigned, subsub-licensed or transferred by Sub-licensee without the prior written consent of Prairie St. John's.
- (c) **Governing Law.** This Sub-license Agreement shall be governed by New York law applicable to agreements made and to be fully performed in New York.
- (d) **Entire Agreement; Amendment.** This Sub-license Agreement (which includes the cover page and these sub-license terms) sets forth the entire agreement between the parties and supersedes all previous agreements, written or oral, concerning the subject matter hereof. This Sub-license Agreement may not be changed or terminated orally.
- (e) **Severability.** In the event that one or more provisions of this Sub-license Agreement shall be found to be invalid, illegal or unenforceable, in whole or in part, the validity, legality and enforceability of any of the remaining provisions or portions thereof shall not in any way be affected or impaired thereby and shall nevertheless be binding. Any such invalid, illegal or unenforceable provision or portion thereof shall be changed and interpreted so as to best accomplish the objectives of such provision or portion thereof within the limits of applicable law or applicable court decisions.