**FORM 23-II: Confirmatory Order Modifying License (Immediately Effective)(Materials Licensees)**

UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

In the Matter of )

)

[LICENSEE] ) [Docket Number] {*if applicable*}

[CITY], [STATE] ) [License Number] {*if applicable*}

) EA-[YY]-[XXX]

)

CONFIRMATORY ORDER MODIFYING LICENSE

(IMMEDIATELY EFFECTIVE)

***Double space from here to end, except single space in signature block.***

I

[Licensee/Company’s Full Legal Name] (Licensee) {*or other abbreviation*} is the holder of [Type of license] {*e.g.,* “Byproduct,” “Source Material” or “Special Nuclear Material”} License No. [License Number] issued on [Date] by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to Part [Part Number] of *Title 10 of the Code of Federal* Regulations (10 CFR). The license authorizes {*State what the license authorizes, e.g.,* “possession and use of [Amount] curies of [Type of Material] in the manufacture, installation, servicing and operation of [Type of Device] devices. The license further authorizes .”} The license, originally issued on [Date], was renewed on [Date], and is due to expire on [Date] (is under timely renewal).

II

{*This section should provide a description of relevant events, facts, violations, technical or legal reasons that provide the substantive basis for issuing the Order, e.g.:*

By letter dated [Date], the Licensee informed the Commission that it had a teletherapy misadministration to a patient on [Date]. The misadministration was reviewed during a special safety inspection that was conducted by the NRC Region [#] staff on [Date]. It was determined that the misadministration resulted from .

The NRC is concerned that the circumstances surrounding the misadministration reflect inadequate control over the safe use of licensed material. The Licensee met with the NRC staff during a predecisional enforcement conference at the NRC Region [#] office on [Date], to review the circumstances that led to this event. During the enforcement conference, the Licensee proposed various corrective actions that could be taken to reduce the possibility of another teletherapy misadministration. The Licensee agreed to submit these proposals to the NRC in writing for review and approval.}

III

{This section should begin by setting forth any commitments made by the Licensee in response to the NRC's concerns, e.g., “On [Date], the Licensee met with the NRC staff regarding this matter. In response to the staff's concerns, the Licensee subsequently submitted a letter dated [Date] in which it committed to take a number of actions with respect to . Specifically, [Name of Licensee] has committed to .”} {*This section should end with the licensee's consent and waiver of rights to a hearing and why the staff is accepting the Licensee’s commitments, e.g.,* “On [Date], the Licensee consented to issuing this Order with the commitments, as described in Section IV below. The Licensee further agreed in its [Date] letter that this Order is to be effective upon issuance and that it has waived its right to a hearing. Implementation of these commitments will provide enhanced assurance that sufficient resources will be applied to the radiation safety program, and that the program will be conducted safely and in accordance with NRC requirements.”}

{This section should end with the licensee's consent and waiver of rights to a hearing and why the staff is accepting the commitments, e.g., “On [Date], the Licensee consented to issuing this Order with the commitments, as described in Section IV below. The Licensee further agreed in its [Date] letter that this Order is to be effective upon issuance and that it has waived its right to a hearing. Implementation of these commitments will provide enhanced assurance that sufficient resources will be applied to the radiation safety program, and that the program will be conducted safely and in accordance with NRC requirements.”}

I find that the Licensee's commitments as set forth in Section IV are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that the public health and safety require that the Licensee's commitments be confirmed by this Order. Based on the above and Licensee's consent, this Order is immediately effective upon issuance.

IV

Accordingly, pursuant to Sections 103, {*Include 104b if any of the licenses subject to the order were issued under Section 104b*}, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 50, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT LICENSE NO. [LICENSE NUMBER] IS MODIFIED AS FOLLOWS:

{*Specifically list how license is modified, e.g.:*

A.

B.

C.

D. }

The Regional Administrator, Region [#], may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee of good cause.

V

In accordance with 10 CFR 2.202, the licensee must, and any other person adversely affected by this Order may, submit an answer to this Order within 20 days of its publication in the Federal Register. In addition, any other person adversely affected by this Order may request a hearing on this Order within 20 days of its publication in the Federal Register. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, and include a statement of good cause for the extension.

***Verify E-Filing Requirements at****:*

<https://adamsxt.nrc.gov/idmws/ViewDocByAccession.asp?AccessionNumber=ML120410550>

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC’s E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E‑Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC Web site at<https://www.nrc.gov/site-help/e-submittals.html>. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at hearing.docket@nrc.gov, or by telephone at 301-415-1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC’s public Web site at <https://www.nrc.gov/site-help/e-submittals/getting-started.html>. Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC’s public Web site at <https://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the document is submitted through the NRC’s E‑Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E‑Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC’s Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC’s adjudicatory E-Filing system may seek assistance by contacting the NRC’s Electronic Filing Help Desk through the “Contact Us” link located on the NRC’s public Web site at <https://www.nrc.gov/site-help/e-submittals.html>, by e‑mail to MSHD.Resource@nrc.gov, or by a toll-free call at 1‑866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC’s electronic hearing docket which is available to the public at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click “cancel” when the link requests certificates and you will be automatically directed to the NRC’s electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

***End of E-Filing Language***

If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected the Commission will issue an Order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained. Pursuant to 10 CFR 2.202(c)(2)(i), any person adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error. In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date this Order is published in the Federal Register without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

***{Ensure that there are at least 3 lines of text on the signature page}***

FOR THE NUCLEAR REGULATORY COMMISSION

[Name], Director

Office of Enforcement

Dated this \_\_\_\_ day of [Month] [Year]