

PROJECT AND FLEXIBLE ENGINEERING GENERAL TERMS

These general terms and conditions (“**General Terms**”) govern the Services (as defined) as provided by Egton Medical Information Systems Limited (the “**Supplier**”) to you (the “**Customer**”) and/or, where agreed by the parties in writing, for the benefit of any Service Recipients. These General Terms and the attached Annexes, together with any quotation or order form as may be provided by the Supplier, form the entire agreement between the Supplier and the Customer in respect of, where applicable, the sale of Hardware (as defined), supply of Equipment (as defined), the licensing of software and/or the provision of Services (the “**Agreement**”).

BACKGROUND

- (A) The Supplier has developed and provides a range of services to its customers.
- (B) The Customer wishes for the Supplier to provide certain services to the Customer, as specified in the Service Schedule at Annex 2.
- (C) The Supplier has agreed to provide and the Customer has agreed to take and pay for the Services subject to the terms and conditions of the Agreement.

AGREED TERMS

1. INTERPRETATION

1.1. The definitions and rules of interpretation in this clause apply in the Agreement.

Affiliate: means any business entity from time to time controlling, controlled by, or under common control with, either party, whereby a business entity shall be deemed to “control” another business entity if it owns, directly or indirectly, in excess of 50% of the outstanding voting securities or capital stock of such business entity, or any other comparable equity or ownership interest with respect to a business entity other than a corporation.

Annex: means an annex to these General Terms including where applicable any appendices to such annex.

Commencement Date: means the date from which the Supplier starts to perform its obligations under the Agreement.

Contract Year: means (a) a period of 12 months commencing on the Commencement Date; and (b) thereafter a period of 12 months commencing on each anniversary of the Commencement Date; provided that the final Contract Year shall end on the expiry or termination of the Agreement.

Data Protection Legislation: means (i) unless and until the General Data Protection Regulation ((EU) 2016/679) (GDPR) is no longer directly applicable in the UK, the GDPR and any national implementing laws, regulations and secondary legislation, as amended or updated from time to

time, in the UK including the Data Protection Act 2018, and then (ii) any successor legislation to the GDPR.

Documents: means any documentation in whatever format, including, in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form.

Equipment: means any equipment, including tools, systems, cabling or facilities, provided by the Supplier (or its subcontractors) and used directly or indirectly in the supply of the Services which are not the subject of a separate agreement between the parties under which title passes to the Customer.

Hardware: means the items of hardware, equipment or goods as detailed in the Supplier’s written quote or as otherwise agreed in writing with the Supplier.

Initial Term: means the period detailed in the Supplier’s written quote or as otherwise agreed in writing with the Supplier and commencing on the Commencement Date.

In-put Material: means all Documents, information and materials provided by the Customer relating to the Services.

Intellectual Property Rights: means all patents, rights to inventions, copyright and related rights, trade marks and trade names, rights to goodwill or to sue for passing off, rights in designs, database rights, rights in confidential information (including

know-how) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Losses: means any claims, demands, actions, liabilities, costs, expenses, fines, monetary penalties, losses and/or damages.

Pre-existing Materials: means all Documents, information and materials provided by the Supplier relating to the Services which existed prior to the Commencement Date, including computer programs, data, reports and specifications.

Service Recipient(s): means, where the Customer is contracting for delivery of the Services to one or more third parties (for example, GP practices), those third parties as identified in the Supplier's written quote or as otherwise agreed in writing with the Supplier.

Services: means the services the Supplier is to supply as specified in the Service Schedule.

Service Charge: means the charges payable by the Customer to the Supplier under the Agreement, as detailed in the Supplier's written quote or as otherwise agreed in writing with the Supplier, as may be modified from time to time by the Supplier in accordance with the terms of the Service Schedule.

Service Schedule: means the document set out in Annex 2 (incorporated into and forming part of the Agreement) which describes the Services, including, details of the deliverables (if any), applicable service levels, fees and/or any other additional terms and conditions not detailed in these General Terms.

Sites: means the locations at which the Supplier shall provide the Services as detailed in the Supplier's written quote or as otherwise agreed in writing with the Supplier.

Supplier Engineer: has the meaning attributed to it at clause 7.4.2.

Term: means the Initial Term, and any options to extend the Term, as detailed in the Supplier's quote or as otherwise agreed in writing with the Supplier.

VAT: means applicable value added tax chargeable under English law for the time being (and any similar additional or replacement tax).

Working Day: means any day other than a Saturday, Sunday or a public or statutory holiday in England.

1.2. Clause, annex, attachment and paragraph headings shall not affect the interpretation of the Agreement.

1.3. A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors or permitted assignees.

1.4. A reference to: (i) a company shall include any company, corporation or other body corporate, wherever and however incorporated or established; (ii) words in the singular shall include the plural and vice versa; (iii) one gender shall include a reference to the other genders; (iv) a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it; (v) writing or written shall include communications sent by email (unless expressly excluded); and (vi) clauses and Annexes are to the clauses and Annexes of these General Terms and references to sections are to sections of the relevant Annex.

1.5. The term "including" shall be construed without implying limitation (and variants of "including" shall be interpreted accordingly).

1.6. Where the terms of the Service Schedule conflict with these General Terms, the terms of the Service Schedule shall prevail.

1.7. To the extent the Supplier sells Hardware, supplies Equipment, and/or licences software, and/or performs Services for the benefit of any Service Recipients, the Customer shall:

1.7.1. procure that the Service Recipients comply with the Customer's obligations pursuant to the Agreement to the extent such Customer obligations relate to the Hardware sold to, Equipment supplied to, software licensed to and/or Services received by the Service Recipients (other than the obligation to pay the Service Charges) or that are otherwise stated in the Agreement to apply to such Service Recipients (including pursuant to clause 1.8) (collectively the "**Service Recipient Obligations**"); and

1.7.2. be liable to the Supplier for the acts and omissions of such Service Recipients to the extent they breach the Customer's or the Service Recipient Obligations, as if they were acts or omissions of the Customer.

1.8. In the Agreement, unless the context requires otherwise:

1.8.1. references to the Customer receiving the Hardware, Equipment, licensed software and/or

Services shall include, to the extent that they are receiving the Hardware, Equipment, licensed software and/or Services, the Service Recipients;

1.8.2. references to the Customer's:

- a) assets, systems, business, operations and the like; and
- b) customers, contractors, advisors and other similar third parties,

shall include, to the extent that they are receiving the Hardware, Equipment, licensed software and/or Services, those of the Service Recipients;

1.8.3. other references to the Customer shall be deemed to include the Service Recipients where such reference relates to a right of the Customer which the Service Recipients also require the benefit of in order to receive equivalent benefit in relation to the Hardware, Equipment, licensed software and/or Services under the Agreement.

1.9. Without prejudice to the generality of clause 1.8, a number of clauses refer specifically to both the Customer and/or the Service Recipients for the sake of clarity.

2. APPLICATION OF TERMS

2.1. The terms of the Agreement shall apply to the provision of the Services under the Agreement and shall prevail over any inconsistent terms or conditions contained, or referred to, in the Customer's purchase order, confirmation of order, acceptance of a quotation, or specification or other Documents supplied by the Customer (and/or any Service Recipient), or implied by law, trade custom, practice or course of dealing.

2.2. The Customer's standard terms and conditions (if any) attached to, enclosed with or referred to in any purchase order or any other Document issued by or on behalf of the Customer shall not govern the contract.

2.3. Quotations are given by the Supplier on the basis that no contract shall come into existence except in accordance with this clause 2. Any quotation is valid for a period of thirty (30) days from its date, provided that the Supplier has not previously withdrawn it.

3. COMMENCEMENT AND DURATION

3.1. The Agreement shall commence on the Commencement Date and shall continue in force for the Term unless or until it is terminated pursuant to clause 12 or otherwise in accordance with its terms.

4. SUPPLIER'S OBLIGATIONS

4.1. The Supplier shall use its reasonable endeavours to:

4.1.1. provide the Services in accordance in all material respects with the Service Schedule;

4.1.2. provide the Services so as to meet any relevant key dates stated in the Supplier's quote or as otherwise agreed in writing with the Supplier, but any such dates shall be estimates only and shall not be of the essence in relation to the performance of the Services; and

4.1.3. observe all applicable health and safety rules and regulations, and any other reasonable security requirements that apply at the Customer's relevant premises (and that have been reasonably communicated to it pursuant to clause 5.1.9), provided that it shall not be liable if, as a result of such observation, it is in breach of any of its obligations under the Agreement (including the Service Schedule).

5. CUSTOMER'S OBLIGATIONS

5.1. The Customer shall:

5.1.1. co-operate with the Supplier in all matters relating to the provision of the Service;

5.1.2. contact the Supplier to schedule all Services to be delivered no later than 12 months after the Commencement Date. To the extent that the Services have not been fully delivered by that date and unless agreed in writing that an extension is necessary, the Services will be deemed to have been fully delivered and the Customer shall be liable to pay the Fees due in respect of the Services;

5.1.3. give notice to the Supplier of any adjustments or cancellations required in respect of the Services at least 10 Working Days before the scheduled date for delivery. If the Customer gives less than 10 Working Days' notice the adjusted days will be payable at the Supplier's then current daily rates;

5.1.4. where relevant, provide a copy of the Agreement to any Service Recipients and ensure that each is aware of the same;

5.1.5. provide the Supplier, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, with access to the Sites, information, data and other facilities as may be required by the Supplier from time to time;

5.1.6. provide the Supplier with such remote access to its systems as the Supplier may reasonably require for the purposes of providing the

Services and complying with its obligations under the Agreement;

5.1.7. provide the Supplier, in a timely manner, with such In-put Materials and other information as the Supplier may require (and shall ensure that the same is accurate in all material respects);

5.1.8. be responsible (at its own cost) for preparing and maintaining the relevant premises for the supply of the Services (including identifying, monitoring, removing and disposing of any hazardous materials from any relevant premises in accordance with all applicable laws, before and during the supply of the Services at those premises);

5.1.9. inform the Supplier of all health and safety rules and regulations and any other reasonable security requirements that apply in respect of the Customer's and/or any Service Recipient's premises or systems;

5.1.10. ensure that all of the Customer's equipment is in good working order and suitable for the purposes for which it is used in relation to the Services and conforms to all relevant United Kingdom standards or requirements;

5.1.11. obtain and maintain all necessary licences and consents and comply with all relevant legislation in relation to its receipt of the Services, the use of In-put Material and the use of the Customer's equipment, in all cases before the Commencement Date; and

5.1.12. keep, maintain and insure the Equipment whilst on Sites in good condition, and shall not dispose of or use the Equipment other than in accordance with the Supplier's written instructions or authorisation.

5.2. If the Supplier's performance of any of its obligations under the Agreement is prevented or delayed by any act or omission of the Customer (and/or or any Service Recipient), its agents, subcontractors, consultants or employees, then:

5.2.1. the Supplier shall not be liable for any costs, charges or losses sustained or incurred by the Customer arising directly or indirectly from such prevention or delay (and any timescales agreed between the parties will be revised accordingly); and

5.2.2. the Customer shall (and/or where appropriate shall procure the Service Recipient shall):

5.2.2.1. agree with the Supplier a reasonable extension of time corresponding to the delay; and

5.2.2.2. fully indemnify and hold harmless the Supplier for all costs, fees, damages, lost revenue or other expenses arising from any such event.

5.3. the Supplier shall not be liable for any delays, faults or interruptions in the Services caused by a failure or inadequacy in any Customer (and/or where appropriate any Service Recipient) or other third party equipment or processes or any incompatibility between any Customer (and/or where appropriate any Service Recipient) and third party equipment or processes.

5.4. The Customer shall be liable to pay the Supplier, on demand, all reasonable costs, charges or losses sustained or incurred by the Supplier arising from the Customer's and/or any Service Recipient's fraud, negligence or failure to perform, or delay in the performance of, any of its obligations under the Agreement. the Supplier shall confirm any and all such costs, charges and losses to the Customer in writing.

6. SALE OF HARDWARE

6.1. Where applicable, the Supplier shall sell and supply the Hardware to the Customer on the terms set out in this clause 6.

6.2. The Supplier reserves the right to amend the specification in respect of the Hardware, as detailed in the Supplier's written quote or as otherwise agreed in writing with the Supplier, to reflect any changes made by the relevant manufacturer(s) or if required by any applicable statutory or regulatory requirements.

6.3. The Hardware is described in the Supplier's written quote or as otherwise agreed in writing with the Supplier.

6.4. The Supplier shall deliver the Hardware to the location as detailed in the Supplier's written quote or as otherwise agreed in writing with the Supplier (the "**Delivery Location**") at any time after the Supplier notifies the Customer that the Hardware is ready. Delivery of the Hardware shall be completed on the Hardware's arrival at the Delivery Location.

6.5. Any dates quoted for delivery of the Hardware are approximate only, and the time of delivery is not of the essence. the Supplier shall not be liable for any delay (or failure) in delivery of the Hardware that is caused by the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Hardware.

6.6. If the Customer fails to accept or take delivery of the Hardware, then (except where such failure or delay is caused by the Supplier's failure to

comply with its obligations under the Agreement) in respect of the Hardware:

6.6.1. delivery of the Hardware shall be deemed to have been completed at 9.00 am on the first business day following the day on which the Supplier notified the Customer that the Hardware was ready; and

6.6.2. the Supplier shall store the Hardware until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).

6.7. If ten (10) business days after the Supplier notified the Customer that the Hardware was ready for delivery the Customer has not accepted delivery, the Supplier may (without prejudice to any other rights or remedies) resell or otherwise dispose of part or all of the Hardware.

6.8. The Customer shall not be entitled to reject the Hardware if the Supplier delivers up to and including five (5) per cent more or less than the quantity of Hardware ordered, but a pro-rata adjustment shall be made to the relevant invoice on receipt of notice from the Customer that the wrong quantity of Hardware was delivered.

6.9. The Supplier may deliver the Hardware by instalments, which shall be invoiced and paid for separately. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

6.10. The Supplier shall use its reasonable endeavours to pass on to the Customer the benefit of any manufacturer's warranty regarding the relevant Hardware.

6.11. The Supplier warrants that on delivery, the Hardware shall:

6.11.1. conform in all material respects with the relevant specification (if any) set out in the Supplier's written quote or as otherwise agreed in writing with the Supplier; and

6.11.2. be free from material defects in design, material and workmanship.

6.12. Subject to clause 6.13, if:

6.12.1. the Customer gives notice in writing within a reasonable time of discovery that some or all of the Hardware items do not comply with the warranty set out in clause 6.11;

6.12.2. the Supplier is given a reasonable opportunity of examining such Hardware; and

6.12.3. the Customer (if asked to do so by the Supplier) returns such Hardware to the Supplier's place of business at the Customer's cost,

then the Supplier shall, at its option, repair or replace the defective Hardware, or refund the price of the defective Hardware in full.

6.13. The Supplier shall not be liable for the Hardware's failure to comply with the warranty in clause 6.11 if:

6.13.1. the Customer makes any further use of such Hardware after giving a notice in accordance with clause 6.12;

6.13.2. the defect arises because the Customer failed to follow the Supplier's instructions as to the storage, installation, commissioning, use or maintenance of the Hardware or (if there are none) good trade practice;

6.13.3. the Customer alters or repairs such Hardware without the written consent of the Supplier;

6.13.4. the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions; and/or

6.13.5. the Hardware differs from the relevant Hardware specification as a result of changes made to ensure they comply with applicable statutory or regulatory standards.

6.14. Except as provided in this clause 6, the Supplier shall have no liability to the Customer in respect of the Hardware's failure to comply with the warranty set out in clause 6.11.

6.15. The terms of the Agreement shall apply to any repaired or replacement Hardware items supplied by the Supplier under clause 6.12.

6.16. The risk in the Hardware shall pass to the Customer on completion of delivery.

6.17. Title to the Hardware shall not pass to the Customer until the Supplier receives payment in full (in cash or cleared funds) for the Hardware and any other goods that the Supplier has supplied to the Customer in respect of which payment has become due, in which case title to the Hardware shall pass at the time of payment of all such sums. For the avoidance of doubt, title relates only to the physical Hardware and not to any Software (and/or any software as may be embedded within the Hardware) provided by the Supplier, or any third party licensor, as it is only ever licensed to the Customer in accordance with the terms of the Agreement.

6.18. Until title to the Hardware has passed to the Customer, the Customer shall:

6.18.1. store the Hardware separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;

6.18.2. not remove, deface or obscure any identifying mark or packaging on or relating to the Hardware;

6.18.3. maintain the Hardware in satisfactory condition and keep them insured against all risks for their full price on the Supplier's behalf from the date of delivery;

6.18.4. notify the Supplier immediately if it becomes subject to any of the events listed in clauses 12.1.3 to 12.1.11; and

6.18.5. give the Supplier such information relating to the Hardware items as the Supplier may require from time to time.

6.19. If, before title to the Hardware passes to the Customer, the Customer becomes subject to any of the events listed in clauses 12.1.3 to 12.1.11, then, without limiting any other right or remedy the Supplier may have:

6.19.1. the Customer's right to use them in the ordinary course of its business ceases immediately; and

6.19.2. the Supplier may at any time: (i) require the Customer to deliver up all Hardware in its possession; and (ii) if the Customer fails to do so promptly, enter any sites where the Hardware items are stored in order to recover them.

7. CHARGES AND PAYMENT

7.1. The Customer shall pay the Service Charges.

7.2. The Service Schedule details whether the Service Charges are to be calculated on a time and materials basis, a fixed price basis, a combination of both or by applying some other pricing model.

7.3. Clause 7.4 applies if the Supplier provides Services on a time and materials basis. Clause 7.5 applies if the Supplier provides Services for a fixed price. The remainder of this clause 7 shall apply in any event. In relation to the sale of Hardware and/or licensing of software (where applicable), the:

7.3.1. total price for the sale or licence (as applicable) of such items; and/or

7.3.2. any additional payment terms,

shall be set out in the Supplier's written quote or as otherwise agreed in writing with the Supplier.

7.4. Where Services are provided on a time and materials basis:

7.4.1. the charges payable for the Services shall be calculated in accordance with the Supplier's standard daily fee rates, as identified in the Supplier's quote or as otherwise agreed in writing with the Supplier (as may be amended from time to

time by the Supplier giving not less than thirty (30) days' written notice);

7.4.2. the Supplier's standard daily fee rates for each individual the Supplier employee, engineer, contractor and/or agent (each an "**Supplier Engineer**") performing the Services are calculated on the basis of an eight (8) hour working day, worked between such times as shall be specified in the Service Schedule on weekdays (excluding public holidays);

7.4.3. the Supplier shall be entitled to charge an overtime rate of two hundred percent (200%) of the standard daily fee rate on a pro-rata basis for each part day or for any time worked by Supplier Engineers in delivering the Services outside the hours referred to in clause 7.4.2;

7.4.4. the Supplier shall ensure that every Supplier Engineer that it instructs completes time sheets recording time spent delivering the Services, and the Supplier shall use such time sheets to calculate the charges included in each monthly invoice referred to in clause 7.4.5; and

7.4.5. Subject to clause 7.14, the Supplier shall invoice the Customer monthly in arrears for its charges for time, expenses and materials for the month concerned, calculated as provided in this clause 7.4. Each invoice shall set out the time spent by each Supplier Engineer whom it engages on the Services and provide a detailed breakdown of any expenses and materials, accompanied by the relevant receipts.

7.5. Where Services are provided on a fixed price basis, the total price for the Services shall be the amount set out in the Supplier's written quote or as otherwise agreed in writing with the Supplier.

7.6. Any fixed price and/or daily rate as identified in the Supplier's written quote or as otherwise agreed in writing with the Supplier excludes:

7.6.1. the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the Supplier Engineers whom the Supplier engages in connection with the Services, the cost of any materials and the cost of services reasonably and properly provided by third parties and required by the Supplier for the supply of the Services. Such expenses, materials and third party services shall be invoiced by the Supplier at cost; and

7.6.2. VAT, which the Supplier shall add to its invoices at the appropriate rate.

7.7. The Customer shall pay each invoice submitted by the Supplier, in full and in cleared funds (without deduction or set-off) to a bank

account nominated in writing by the Supplier within thirty (30) days of the date of such invoice.

7.8. Without prejudice to any other right or remedy that it may have available to it, if the Customer fails to pay the Supplier on the due date, the Supplier may:

7.8.1. charge interest on such sum from the due date for payment at the rate of four percentage points a year above the Bank of England's base rate, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment, and the Customer shall pay the interest immediately on demand (or, at its option, the Supplier may claim interest under the Late Payment of Commercial Debts (Interest) Act 1998); and/or

7.8.2. suspend the performance of any and all Services (without any liability to the Customer or any Service Recipient) until payment has been made in full.

7.9. Time for payment shall be of the essence of the Agreement.

7.10. Notwithstanding any provision in the Agreement to the contrary, all sums payable to the Supplier under the Agreement shall become due immediately on its termination. This clause 7.10 is without prejudice to any right to claim for interest under the law, or any such right under the Agreement.

7.11. The Supplier may, without prejudice to any other rights it may have, set off any liability of the Customer to the Supplier against any liability of the Supplier to the Customer.

7.12. Where the Customer is purchasing Hardware, software licences, Services and/or the supply and use of Equipment for the benefit of a number of Service Recipients the date of actual receipt of Services, software licences and/or delivery and installation of Equipment and/or Hardware may not be uniform across all Service Recipients, and accordingly Service Recipients will likely receive the benefit of the same at various points following the Commencement Date.

7.13. For the purposes of clause 7.14, Service Recipients who have received the benefit of the Services, software licences, Equipment and/or Hardware are referred to as "**Actual Service Recipients**", and those who have not yet received the benefit of the same are referred to as "**Pending Service Recipients**".

7.14. Notwithstanding clause 7.12, the Supplier shall be entitled to invoice the Customer in respect of Service Charges as follows:

7.14.1. for the first Contract Year, the Supplier shall be entitled to invoice the Customer in advance, immediately following the Commencement Date, for all Service Charges due in respect of all Service Recipients in the first Contract Year, on the basis that all Service Recipients are deemed to be Actual Service Recipients on or immediately following the Commencement Date;

7.14.2. where the Term exceeds 12 months:

7.14.2.1. for the second Contract Year, the Supplier shall adjust the Service Charges, on a pro rata basis, to reflect any period in the first Contract Year during which any Service Recipients were Pending Service Recipients; and

7.14.2.2. for the third and subsequent Contract Years, the Supplier shall be entitled to invoice the Service Charges in full, in respect of all Service Recipients; and/or

7.14.3. where the Term is only 12 months (or less), then at the expiry of the Term, the Supplier shall issue the Customer with a credit note in respect of the Service Charges on a pro rata basis, equivalent to the period during the Term that any Service Recipients were Pending Service Recipients.

8. INTELLECTUAL PROPERTY RIGHTS

8.1. As between the Customer and the Supplier, all Intellectual Property Rights and all other rights (including, any arising rights) in respect of the Services, Documents provided by the Supplier and the Pre-existing Materials shall be owned by the Supplier. Subject to clause 8.2 and the Service Schedule, the Supplier licenses all such rights to the Customer on a personal, non-exclusive and non-transferable basis to such extent as is necessary to enable the Customer to receive the Services. If the Agreement terminates, this licence shall automatically terminate.

8.2. The Customer acknowledges that, where the Supplier does not own the Intellectual Property Rights in any Pre-existing Materials, then the Customer's use of the same is conditional on the Supplier obtaining the necessary licence(s) from the relevant licensor(s) of such Pre-existing Materials on such terms as will entitle the Supplier to license such rights to the Customer under clause 8.1.

9. CONFIDENTIALITY

9.1. The Customer shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives

which are of a confidential nature and which have been disclosed to the Customer and/or where appropriate any Service Recipient by the Supplier, its employees, agents, consultants or subcontractors and any other confidential information concerning the Supplier's business or its services which the Customer may obtain under or in its connection with this Agreement (collectively, the "**Confidential Information**").

9.2. The Customer and/or where appropriate a Service Recipient may disclose the relevant Confidential Information:

9.2.1. to its employees, officers, representatives, advisers, agents or subcontractors who need to know such Confidential Information for the purposes of carrying out the Customer's obligations under the Agreement and/or of receiving the Services; and

9.2.2. as may be required by law, court order or any governmental or regulatory authority.

9.3. The Customer shall ensure that its employees, officers, representatives, advisers, agents or subcontractors to whom it discloses any Confidential Information comply with this clause 9.

9.4. The Customer shall not use any Confidential Information for any purpose other than to receive the Services, or to perform its obligations, under the Agreement.

9.5. All materials, Equipment and tools, drawings, specifications and data supplied by the Supplier to the Customer (including, any Pre-existing Materials and Equipment) shall, at all times, be and remain the exclusive property of the Supplier, but shall be held by the Customer in safe custody at its own risk and maintained and kept in good condition by the Customer until returned to the Supplier, and shall not be disposed of or used other than in accordance with the Supplier's written instructions or authorisation.

10. LIMITATIONS OF LIABILITY

10.1. THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE 10, WHICH THE CUSTOMER ACKNOWLEDGES IS A FAIR AND EQUITABLE APPORTIONMENT OF RISK UNDER THE AGREEMENT.

10.2. This clause 10 sets out the entire financial liability of the Supplier (including any liability for the acts or omissions of its employees, agents, consultants, and subcontractors), including in respect of:

10.2.1. any breach of the Agreement;

10.2.2. the delivery of the Services and any use made of the Services or any part of them; and

10.2.3. any representation, misrepresentation (whether innocent or negligent), statement or tortious act or omission (including negligence) arising under or in connection with the Agreement.

10.3. Nothing in the Agreement limits or excludes the liability of either party for:

10.3.1. death or personal injury resulting from negligence;

10.3.2. any Losses incurred as a result of fraud or fraudulent misrepresentation; or

10.3.3. any Losses which cannot be limited or excluded pursuant to applicable law.

10.4. Subject to clause 10.3, the Supplier shall not be liable, whether in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, for any:

10.4.1. loss (whether direct or indirect) of revenue or profits;

10.4.2. loss (whether direct or indirect) of business opportunity;

10.4.3. loss (whether direct or indirect) of goodwill or injury to reputation;

10.4.4. loss (whether direct or indirect) of anticipated savings;

10.4.5. loss (whether direct or indirect) of use;

10.4.6. loss (whether direct or indirect) of, or corruption to, data or information; and/or

10.4.7. indirect, consequential or special loss or damage,

in each case arising out of or in connection with the Agreement.

10.5. Subject to clause 10.3, the Supplier's (and its Affiliates and sub-contractors) total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, equity, restitution or otherwise arising out of or in connection with the Agreement in respect of all Losses (including under any indemnities) arising in any Contract Year will be limited to a sum equal to one hundred and twenty percent (120%) of the total Service Charges paid and/or due to be paid by the Customer under the Agreement in that Contract Year (or in respect of any and all Losses arising after the Agreement has terminated or expired, a sum equal to one hundred and twenty percent (120%) of the Service Charges paid and/or due to be paid in the final Contract Year of the Agreement).

10.6. Any Losses suffered by a Service Recipient under or in connection with the Agreement ("**Service Recipient Losses**") shall be

deemed for the purposes of the Agreement to be Losses suffered by Customer under the Agreement, and that Customer shall be entitled to seek to recover from the Supplier any such Service Recipient Losses, subject always to the provisions of this clause 10, as though the relevant Losses had been suffered by the Customer (provided always that under no circumstances shall any Service Recipient have any right to bring any claim or action against the Supplier other than via the Customer and subject to the terms of the Agreement and if any such claim should be brought then the Customer will indemnify the Supplier in respect of the same).

11. DATA PROTECTION

11.1. Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 11 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

11.2. The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer (or the Service Recipient as appropriate) is the data controller and the Supplier is the data processor (where data controller and data processor have the meanings as defined in the Data Protection Legislation).

11.3. Annex 1 (as may, from time to time, be updated to reflect any changes to the scope of the processing) sets out the scope, nature and purpose of processing by the Supplier, the duration of the processing and the types of Personal Data and categories of Data Subject (both as defined in the Data Protection Legislation). The parties may, from time to time, update Annex 1 to reflect any changes to the scope of the processing.

11.4. Without prejudice to the generality of clause 11.1, the Customer (and/or where appropriate the relevant Service Recipient) will ensure that it has all necessary rights and notices in place to enable the lawful transfer of the Personal Data to the Supplier for the duration and purposes of the Agreement.

11.5. The Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under the Agreement:

11.5.1. process that Personal Data on the written instructions of the Customer or where appropriate the relevant Service Recipient (unless otherwise required by law);

11.5.2. ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer (and/or where

appropriate the relevant Service Recipient), to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;

11.5.3. take all reasonable steps to ensure the reliability and integrity of personnel who have access to and/or process Personal Data;

11.5.4. not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Customer (and/or where appropriate the relevant Service Recipient) has been obtained and the following conditions are fulfilled:

a) the Customer (and/or where appropriate the relevant Service Recipient) or the Supplier has provided appropriate safeguards in relation to the transfer;

b) the Data Subject has enforceable rights and effective legal remedies;

c) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and

d) the Supplier complies with reasonable instructions notified to it in advance by the Customer (and/or where appropriate the relevant Service Recipient) with respect to the processing of the Personal Data;

11.5.5. assist the Customer (and/or where appropriate the relevant Service Recipient), at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

11.5.6. notify the Customer (and/or where appropriate the relevant Service Recipient) without undue delay on becoming aware of a Personal Data breach;

11.5.7. at the written direction of the Customer (and/or where appropriate the relevant Service Recipient), delete or return Personal Data and copies thereof to the Customer (and/or where appropriate the relevant Service Recipient) on termination of the Agreement unless required by law to store the Personal Data; and

11.5.8. allow for audits by the Customer (and/or where appropriate the relevant Service Recipient) or its designated auditor in respect of the Supplier's data processing activities under the Agreement.

11.5.9. the Supplier is given general authorisation to engage third-parties to process the Personal Data ("**Sub-Processors**") without obtaining any further written, specific authorisation from the Customer or where appropriate the relevant Service Recipient. the Supplier will notify the Customer in writing about the identity of a potential Sub-Processor and the Customer will have the right to object to the same by giving notice in writing within one month from receiving the notification from the Supplier. If the Customer objects to the change then the Supplier may either accept the objection and not appoint the relevant Sub-Processor or it may terminate the Agreement without any liability to the Customer). The Supplier shall complete a written sub-processor agreement with any Sub-Processors which shall include protections substantially similar to those under the Agreement. The Supplier is accountable for any Sub-Processor in the same way as for its own actions and omissions. A list of the Supplier's material sub-processors as at the date of the Agreement is set out on the Supplier's website (or will otherwise be notified to the Customer). Any objection to an amendment to the list of Sub-Processors may be escalated for discussion within 10 days after receipt of a notification of any change. If the parties are (acting reasonably) unable to resolve the objection and the Supplier informs the Customer that it nevertheless intends to appoint the relevant Sub-Processor then the Customer may either: (i) accept the change; or (ii) terminate the Agreement upon written notice within one month of raising the objection (and as the Customer's sole and exclusive remedy, the Supplier will refund any unused prepaid fees).

11.6. The parties may, acting reasonably, agree to amend the Agreement to ensure that it complies with any applicable guidance issued by the Information Commissioner's Office from time to time.

11.7. The Supplier acknowledges that the Customer has (and the relevant Service Recipients have) duties and obligations under the Freedom of Information Act 2000 (FOIA) and the Supplier will upon request give reasonable assistance where appropriate or necessary in relation to their compliance with such duties.

12. TERMINATION

12.1. Without prejudice to any other rights or remedies which the parties may have, either party

may terminate the Agreement, without liability to the other, immediately on giving notice to the other if:

12.1.1. the other party fails to pay any amount due under the Agreement on the due date for payment and remains in default not less than seven (7) days after being notified in writing to make such payment;

12.1.2. the other party commits a material breach of any of the terms of the Agreement provided, if such a breach is remediable, the party in breach fails to remedy that breach within thirty (30) days of that party being notified in writing of the breach;

12.1.3. the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being a natural person) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;

12.1.4. the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;

12.1.5. a petition is filed, a notice is given, a resolution is passed, or an order is made, for or on connection with the winding up of that other party;

12.1.6. an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party;

12.1.7. a floating charge holder over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;

12.1.8. a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;

12.1.9. a creditor of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within fourteen (14) days;

12.1.10. any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clauses 12.1.3 to 12.1.9 (inclusive); or

12.1.11. the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business.

12.2. The Supplier may terminate the Agreement by giving notice in writing if there is a change of control of the Customer (as defined in section 574 of the capital allowances act 2001).

12.3. On termination of the Agreement for any reason:

12.3.1. the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Supplier may submit an invoice, which shall be payable immediately on receipt; and

12.3.2. the Customer shall (and shall ensure that any Service Recipients shall) return all of the Supplier's Equipment and Pre-existing Materials. If the Customer fails to do so, then the Supplier may enter the Customer's (and/or where appropriate the relevant Service Recipient's) premises and take possession of them. Until they have been returned or repossessed, the Customer (and/or where appropriate the relevant Service Recipient) shall be solely responsible for their safe keeping.

12.4. Expiry or termination of the Agreement for any reason (whether under the Agreement or otherwise) will:

12.4.1. be without prejudice to any obligation or right of either party which has accrued prior to such expiry or termination (or will thereafter accrue in respect of the period before such expiry or termination); and

12.4.2. not affect any provision of the Agreement which is expressly or by implication intended to come into effect on, or to continue in effect after, such expiry or termination.

12.5. Without prejudice to the generality of clause 12.4, the provisions of clauses 8, 9, 10, 11, 12, 21, and 27 will survive expiry or termination of the Agreement for any reason.

12.6. No element of the Service Charge shall be refundable by the Supplier on termination of the Agreement or any of the Services by the Customer.

13. CORRUPT GIFTS AND PAYMENTS

13.1. The term "**prohibited act**" means offering, giving or agreeing to give to any person employed by or otherwise associated with the Supplier any gift or consideration of any kind as an inducement or reward for:

13.1.1. doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of the Agreement;

13.1.2. showing or not showing favour or disfavour to any person in relation to the Agreement;

13.1.3. entering into the Agreement where commission has been paid or has been agreed to be paid by the Supplier or on its behalf, or to its knowledge, unless before the relevant agreement is entered into particulars of any such commission and of the terms and conditions of any such agreement for the payment of such commission have been disclosed in writing to the Supplier; and includes committing any offence under the Prevention of Corruption Acts 1889-1916 or the Bribery Act 2010; or

13.1.4. committing any offence under any act creating offences in respect of bribery or fraudulent acts; or at common law, in respect of fraudulent acts in relation to the Agreement or any other related agreement; or defrauding or attempting to defraud the Supplier.

13.2. The Customer shall ensure that it (and any person associated with the Customer in connection with the Agreement, including, where applicable, a Service Recipient) shall refrain from committing, facilitating, encouraging or allowing a prohibited act. The Customer shall be responsible and directly liable for any such prohibited act carried out by any person associated with the Customer in connection with the Agreement (including any Service Recipient).

14. INDEMNIFICATION

14.1. The Customer shall defend, indemnify and hold harmless the Supplier (its directors, officers, agents and employees) at all times from and against any Losses suffered, sustained or incurred by the Supplier in relation to any claim relating to or arising from:

14.1.1. any injury or harm suffered by any the Supplier employee involved in the provision of the Services, arising out of any act or omission by the Customer and/or any Service Recipient, the Customer's and/or any Service Recipient's employees, the Customer's and/or any Service Recipient's agents and/or the Sites; or

14.1.2. the Customer's and/or any Service Recipient's (or any of its or their directors, officers, agents and employees) use of the Services or any licensed software other than in accordance with the terms of the Agreement.

14.2. In the event the Supplier is able to claim under the indemnity in clause 14.1 (or such a claim seems likely to arise), then the Supplier may

suspend delivery of the Services unless or until such time as the Supplier is certain, in its reasonable opinion, that there is not likely to be a claim or the claim has been resolved.

15. WARRANTY DISCLAIMER

15.1. Except as expressly stated in the Agreement, there are no conditions, warranties, representations or other terms, express or implied, that are binding on the Supplier. Any condition, warranty, representation or other term concerning the sale of Hardware, supply of Equipment, licence of software and/or provision of the Services which might otherwise be implied into, or incorporated in, the Agreement whether by statute, common law or otherwise, is excluded to the fullest extent permitted by law.

15.2. THE SUPPLIER DOES NOT WARRANT THAT ANY SOFTWARE LICENSED UNDER THE AGREEMENT WILL BE ERROR FREE.

15.3. The Customer acknowledges that any software licensed under the Agreement has not been developed to meet its individual requirements, and that it is therefore its responsibility to ensure that the facilities and functions of any such software meet its requirements.

16. FORCE MAJEURE

The Supplier shall have no liability under the Agreement if it is prevented from, or delayed in performing, its obligations under the Agreement or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport network, act of god, epidemic, pandemic, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

17. NON-SOLICITATION

17.1. During the Term and for twelve (12) months thereafter, the Customer shall not employ or contract for the services of any individual who is or has been in the employ of the Supplier and has been concerned with the performance of the Services hereunder.

17.2. In the event of any breach of clause 17.1, the Customer shall promptly pay to the Supplier as liquidated damages a sum equal to one hundred per cent (100%) of the annual compensation payable by the Supplier to the person so hired plus

all recruitment agency costs incurred in appointing a replacement for such person.

18. VARIATION

18.1. The Supplier may, from time to time and without notice, change the Services in order to comply with any applicable safety or legal requirements, provided that such changes do not materially and adversely affect the nature, scope of, or the charges for the Services. If the Supplier requests a change to the scope of the Services for any other reason, the Customer shall not unreasonably withhold or delay consent to it.

18.2. Subject to clause 18.1, no variation of the Agreement or of any of the Documents referred to hereunder, shall be valid unless it is in writing and signed by or on behalf of each party.

19. WAIVER

19.1. A waiver of any right under the Agreement is only effective if it is in writing and it applies only to the circumstances for which it is given. No failure or delay by a party in exercising any right or remedy under the Agreement or by law shall constitute a waiver of that (or any other) right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that (or any other) right or remedy.

19.2. Unless specifically provided otherwise, rights arising under the Agreement are cumulative and do not exclude rights provided by law.

20. SEVERANCE

20.1. If any provision of the Agreement (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of the Agreement, and the validity and enforceability of the other provisions of the Agreement shall not be affected.

20.2. If a provision of the Agreement (or part of any provision) is found illegal, invalid or unenforceable, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

21. ENTIRE AGREEMENT

21.1. The Agreement constitutes the whole agreement between the parties and supersedes all previous agreements between the parties relating to its subject matter.

21.2. Each party represents and agrees that in entering the Agreement it does not rely on, and will

have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether party to the Agreement or not) other than as expressly set out in the Agreement. The only remedy available to either party for breach of the warranties will be for breach of contract under the terms of the Agreement.

21.3. Nothing in this clause 21 shall limit or exclude any liability for fraud.

22. ASSIGNMENT

22.1. The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, mortgage, subcontract or deal in any other manner with any or all of its rights or obligations under the Agreement.

22.2. The Supplier may at any time assign, transfer, charge, mortgage, subcontract or deal in any other manner with all or any of its rights under the Agreement and may subcontract or delegate in any manner any or all of its obligations under this Agreement to any third party or agent.

23. THIRD PARTY RIGHTS

23.1. Save as expressly provided for under the Agreement in respect of any Service Recipients each party that has rights under the Agreement is acting on its own behalf and not for the benefit of another person.

23.2. The Agreement does not create or confer any rights or benefits enforceable by any person not a party to it (within the meaning of the Contracts (Rights of Third Parties) Act 1999) except always that, subject to clause 23.3, each Service Recipient shall have the right to enforce any rights or benefits conferred under the Agreement.

23.3. Notwithstanding clause 23.2, the parties may by agreement rescind, vary or terminate the Agreement without the consent of any Service Recipient, notwithstanding that such rescission or variation may extinguish or alter that person's entitlement under that right.

24. NO PARTNERSHIP OR AGENCY

Nothing in the Agreement is intended, or shall be deemed, to constitute a partnership or joint venture of any kind between the parties, nor constitute either party the agent of the other party for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

25. CONTRACT MANAGEMENT

25.1. Each party shall nominate an individual to act as their representative in respect of the

Services to be provided under the Agreement (each a **"Service Manager"**).

25.2. The principal point of contact between the parties in relation to any issues arising out of the Agreement or the performance of the Services will be the Service Managers who will meet from time to time or upon request to discuss matters relating to the Agreement. Either Party may change the identity of its Service Manager at any time by written notice to the other.

25.3. If an issue should arise which the parties are unable to resolve via the Service Managers then the Customer may (without prejudice to clause 27) escalate the same by following the Supplier's formal complaint's procedure (a copy of which will be provided by the Supplier's Service Manager promptly upon request).

26. NOTICES

26.1. Any notice required to be given under the Agreement shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its registered office address, or such other address as may have been notified by that party for such purposes, or (in respect of notices sent by the Customer) by email to uk.contracts@optum.com

26.2. A notice delivered by hand or email shall be deemed to have been received when delivered (or if delivery is not in normal business hours, at 9:00am on the first business day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post.

26.3. All notices sent to the Supplier shall be marked for the attention of legal counsel.

27. DISPUTE RESOLUTION; GOVERNING LAW AND JURISDICTION

27.1. Any dispute arising out of or in connection with the Agreement (each a **"Dispute"**) shall be referred by either party first to representatives of each of the parties for resolution. If the Dispute cannot be resolved by the relevant representatives of the parties within ten (10) business days after the Dispute has arisen, either party may give notice to the other party in writing (each a **"Notice"**) that a Dispute has arisen. Within ten (10) business days after the date of the Notice, the Dispute shall be referred to a senior executive of each of the Supplier and the Customer for resolution. If the Dispute is not resolved by agreement in writing

between the parties within ten (10) business days after the date of the Notice, then each party shall be entitled to pursue such remedies as may be available to it under the Agreement or otherwise at law or in equity. This clause 27 is without prejudice to either party's right to seek interim relief against the other party (such as injunction) through local courts, as defined herein, to protect its rights and interests, or to enforce the obligations of the other party.

27.2. The Agreement, and any dispute or claim arising out of or in connection with it or its subject

matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, the law of England and Wales.

27.3. The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with, the Agreement or its subject matter or formation (including non-contractual disputes or claims).

ANNEX 1 – Processing, Personal Data and Data Subject

Processing by the Supplier

As noted in clause 11, the parties may from time to time agree one or more separate, service specific, data processing schedules in relation to individual Service Schedule(s) which shall take precedence over this schedule as appropriate.

Purpose of Processing:	for the purposes of delivering the relevant services and meeting other obligations specified in the Agreement.
Duration of the Processing:	for the Term (together with the delivery of any post-termination obligations including any back-up copies of data created through the delivery of the relevant services).
Nature:	such processing as is necessary to enable the Supplier to provide the services provided for under the Agreement (which may include, from time to time: collecting, recording, organising, structuring, storing, adapting and altering, retrieving, consulting, using, disclosing by transmission, dissemination or otherwise making available, combining, restricting access to, erasing or destroying of data).
Types of Personal Data:	data which may be processed under the Agreement includes names, data of birth, addresses, telephone numbers, email addresses and other contact details together, where relevant dependent on the relevant services being delivered, with data concerning health.
Categories of Data Subject:	data subjects may include: members of the Customer's (and/or where applicable any Service Recipient's) staff (including those of its associated entities or third party suppliers) and, where relevant dependent on the relevant services being delivered, patients (and members of the patients' family).

ANNEX 2 – Service Schedule

(Supplier Ref: LCC101EG)

BACKGROUND

This Annex 2 details the deliverables, fees and additional conditions applicable to the Supplier's provision of the Services hereunder to the Customer.

1. DEFINITIONS

- 1.1 In addition to the definitions set out in clause 1 of the General Terms, the following definitions apply in this Annex 2.

Supplier Engineer:	means an individual nominated by the Supplier and qualified to an industry standard and having an appropriate level of skill to perform the Services.
Engineering Day:	means a Working Day performed by an Supplier Engineer during Standard Working Hours.
Project Document:	means the project document agreed in writing between the parties on or after the Commencement Date.
Regional Manager:	means the individual nominated by the Supplier as detailed in the Supplier's written quote or otherwise as notified by the Supplier, who shall have responsibility for supervising the performance of the Supplier Engineer(s).
Standard Working Hours:	9:00am to 5:00pm on a Working Day.

2. SERVICES

- 2.1 The Supplier shall during the Term provide the Customer with the Services, which shall be project work performed by Supplier Engineer(s) as detailed in this Annex 2 and in the Project Document.
- 2.2 The Services shall be made up of either (i) the number of Engineering Days set out in the Supplier's written quote or otherwise as agreed in writing with the Supplier; and/or (ii) the Supplier assisting the Customer with an agreed project, as detailed in the Project Document.
- 2.3 The Customer acknowledges that the Services do not include the installation, configuration or maintenance of any third party equipment which is not the property of the Customer.
- 2.4 The Customer acknowledges that it is responsible for ensuring that the Services detailed in the Project Document meet its requirements and that the Supplier shall not be liable for any failure to deliver any service which is not detailed at section 2.1.
- 2.5 The Customer acknowledges that all Services purchased must be scheduled to be undertaken within a 12 month period from the Commencement Date (unless agreed otherwise in writing) and any cancellations or adjustments to any scheduled days must be notified at least 10 Working Days in advance (in accordance with clause 5.1.2 and 5.1.3).
- 2.6 In providing the Services, the Supplier shall:
- 2.6.1 assign the Supplier Engineer(s) to provide the agreed Services to the Customer. For the avoidance of doubt the Supplier Engineer shall be field based and shall attend the Customer and the Sites to provide the Services;
 - 2.6.2 ensure that the Supplier Engineer(s) performs the service to a reasonable industry standard;
 - 2.6.3 during any absences by the Supplier Engineer(s), promptly provide suitable cover for the Supplier Engineer(s);

- 2.6.4 work with the Customer, upon request, to devise a suitable IT strategy which will be implemented as a part of the day to day tasks of the Supplier Engineer(s), which may include for example planned maintenance of equipment;
- 2.6.5 equip the Supplier Engineer(s) with appropriate equipment as required to deliver the Services (e.g. mobile telephone, tools, lap top computer etc.);
- 2.6.6 equip the Supplier Engineer(s) with a vehicle and pay all mileage costs incurred by the Supplier Engineer(s) in providing the Services, or where the Supplier Engineer uses their own vehicle pay all mileage costs incurred by the Supplier Engineer;
- 2.6.7 ensure that the Supplier Engineer(s) is available to provide the Services during Standard Working Hours on the agreed Engineering Days;
- 2.6.8 ensure that the Supplier Engineer(s) has full access to the Supplier's support services; and
- 2.6.9 replace any Supplier Engineer(s), upon request, who fail(s) to perform to the required level of technical ability or meet the required level of professionalism.
- 2.7 If the Customer requires any additional Engineering Days above those paid for in the Service Charge then the Supplier will provide a written quote for such work.
- 2.8 The Supplier shall not authorise any work or incur any costs on behalf of the Customer without the prior approval of the Customer.
- 2.9 The Customer shall:
 - 2.9.1 where appropriate have day to day responsibility for instructing the Supplier Engineer(s) in relation to the performance of the Services;
 - 2.9.2 provide suitable secure accommodation, assistance, facilities, and environmental conditions for the performance of the Services and all necessary power supplies (including back-up) and other installations and fittings for the commissioning and provision of the Services;
 - 2.9.3 ensure that any restoration and re-decorating at the Site's required following the performance of the Services are effected at no expense to the Supplier;
 - 2.9.4 where necessary to allow the Supplier to perform the Services, permit or procure permission for the Supplier and any person authorised by the Supplier to have access to the Sites in order for the Supplier to provide the Services and shall provide the Supplier with or procure such facilities and co-operation as the Supplier shall reasonably request;
 - 2.9.5 in the event that a secure power supply is required at the Site(s) in order for the Supplier to provide the Services, provide such power supply at Customer's cost;
 - 2.9.6 advise the Supplier in writing of any rules or regulations relating to health and safety at work applicable at the Sites and the Supplier shall observe and procure that the Supplier Engineer(s) and any other the Supplier employees involved in providing the Services observe the rules or regulations so advised while at the Sites;
 - 2.9.7 ensure the health and safety of the Supplier Engineer(s) including, ensuring the compliance of the Site with all applicable health and safety legislation;
 - 2.9.8 not ask or permit the Supplier Engineer(s) to carry out any work that would place the health and safety of the Supplier Engineer(s) at risk;
 - 2.9.9 undertake an ongoing process of carrying out and maintaining risk assessments to cover all the expected duties of the Supplier Engineer(s) and take appropriate action following such risk assessments;

2.9.10 allow the Supplier Engineer(s) to perform the Services during Standard Working Hours unless stated otherwise in the Project Document; and

2.9.11 allow the Supplier Engineer(s) all employment rights that the Supplier Engineer(s) is entitled to under their contract of employment with the Supplier, including half an hour's lunch break per day.

3. TIMING

3.3 Time shall not be of the essence in relation to the Supplier's performance of the Services unless stated to the contrary in the Project Document.

3.4 Any times detailed in the Project Document are indicative only and any failure to meet them shall not amount to a breach of contract or result in any service credits being accrued unless specifically detailed otherwise in the Project Document.

4. OPTUM SUPERVISION

4.1 A regular operational progress review will be carried out with the Customer either in person, by telephone or by email. This will assess:

4.1.1 effectiveness of the Services;

4.1.2 quality of the Services received; and

4.1.3 any other criteria as may be agreed between the Supplier and Customer.

4.2 The Supplier may also carry out individual Site quality surveys as required.

4.3 Should the Customer have any concern in relation to the Services and/or the performance of the Supplier Engineer(s) then the Customer shall detail such concerns in writing (which may include via email) to the Regional Manager, confirming:

4.3.1 all applicable details reasonably required to allow the Supplier to investigate such matter; and

4.3.2 what remedy, if applicable, the Customer is seeking from the Supplier in relation to such concerns.

4.4 The Customer shall provide any additional information, documentation, access to its premises, the Sites and/or employees and assistance to the Supplier to deal with any concerns raised by the Customer pursuant to section 4.3.

5. SERVICE CHARGES

5.1 Pursuant to clause 7 (Charges and Payment) of the General Terms, the Customer shall pay the Supplier the Service Charge in payment for the Services provided by the Supplier during the Term.

5.2 The Supplier shall raise an invoice in relation to the Service Charge after the Commencement Date. Should Customer not receive such an invoice from the Supplier then Customer shall notify the Supplier in writing that it has not received such invoice and the Supplier shall duly issue the invoice.

5.3 The Service Charge may be adjusted by the Supplier in the event that the Term is extended by the parties. the Supplier shall notify Customer in writing (which may include via email) of any change in the Service Charge prior to the expiration of the Term, or as part of any extension of the Term.

5.4 Should the Customer wish to extend the Term in accordance with the terms and conditions of the Agreement, then the Customer shall pay the applicable Service Charge, subject to any change notified to Customer by the Supplier pursuant to section 5.3 of this Annex 2, within thirty (30) days of the execution of such an extension.

- 5.5 For the avoidance of doubt all Service Charges are exclusive of VAT, which the Supplier shall add to its invoices at the appropriate rate.