

X-ON HEALTH

MASTER SERVICES AGREEMENT

THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO CLAUSE 12.3 (ANNUAL PRICE INCREASE) AND CLAUSE 15 (LIMITATION OF LIABILITY)

(1) The Customer	Per Quotation
(2) The Supplier	X-on Health Ltd 22 Riduna Park Melton Suffolk IP12 1QT Company Registration Number: 2578478

The Contract is made on the Effective Date subject to these terms and conditions set out below ("**Master Services Agreement**"). The Customer and the Supplier undertake to comply with the provisions of this Master Service Agreement and the applicable Service Schedule in the performance of the Contract.

The Supplier shall supply to the Customer, and the Customer shall receive and pay for the Goods and Services on the terms of the Contract.

The Definitions in Schedule 1 apply to the use of all capitalised terms in the Contract.

1. TERM

- 1.1. The Contract shall commence on the Effective Date.
- 1.2. The initial term applicable to each individual Service shall be the initial term specified for that Service in the relevant Quotation (each an "**Initial Term**").
- 1.3. Following expiry of the Initial Term for a Service, that Service shall automatically renew on a monthly rolling basis unless and until terminated earlier in accordance with the Contract (the Initial Term together with any such renewal periods, being the "**Term**").

2. CONTRACT FORMATION

- 2.1. This Master Services Agreement governs the overall relationship of the Parties in relation to the Supplier's provision Services and/or Goods to the Customer.
- 2.2. A quotation prepared and issued by the Supplier and subsequently signed by or on behalf of the Customer, constitutes an offer by the Customer to purchase the Goods and/or Services set out in that quotation on the terms of this Master Services Agreement

(an **Offer**). The Customer may not withdraw the Offer except as expressly permitted under the Contract.

- 2.3. No Offer is accepted by the Supplier unless and until the Supplier, at its sole discretion either:
 - 2.3.1. issues a written acceptance to the Customer, or
 - 2.3.2. takes steps clearly consistent with fulfilling the Customer's signed quotation.
- 2.4. If the Customer's Offer has been accepted by the Supplier pursuant to Clause 2.3, a binding contract for the supply of the Goods and/or Services in accordance with the Quotation and subject to the terms this Master Services Agreement and the applicable Service Schedule come into effect (the **Contract**).
- 2.5. The Customer is responsible for ensuring all information it provides to the Supplier for inclusion in a quotation is complete and accurate.
- 2.6. For the avoidance of doubt and subject to Clause 4.3, the Supplier has no obligation to provide any Goods or Services until it has accepted the relevant Offer in accordance with Clause 2.3.
- 2.7. The Supplier may accept or reject any Offer at its sole discretion.
- 2.8. Any quotation issued by the Supplier does not constitute an offer and is valid for 30 days from the date of issue unless otherwise agreed by the Supplier in writing.
- 2.9. The Contract governs the provision of Services and/or Goods by the Supplier to the Customer to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice, or course of dealing.
- 2.10. Any samples, drawings, descriptive materials or advertising produced by the Supplier are provided for illustrative purposes only and do not form part of the Contract.

3. ORDER OF PRECEDENCE

- 3.1. Should there be a conflict between any other parts of the Contract the order of priority for construction purposes shall be:
 - 3.1.1. the Quotation;
 - 3.1.2. the applicable Service Schedule
 - 3.1.3. this Master Services Agreement
 - 3.1.4. Schedule 1 (Definitions and Interpretations) of this Master Services Agreement;
 - 3.1.5. the order in which all subsequent schedules, if any, appear; and
 - 3.1.6. any other documentation forming part of the Contract in the date order in which such documentation was created with the more recent documentation taking precedence over older documentation to the extent only of any conflict.

- 3.2. The Customer acknowledges that certain compliance, security, data protection and transparency documents relevant to the Supplier's provision of the Services and Goods are made available on the Supplier's Trust Centre, accessible via <https://www.x-on.co.uk/trust-centre/> (**Trust Centre**). The documents published on the Trust Centre form part of the Contract to the extent they relate to the Services and Goods provided thereunder and are referenced in the applicable Service Schedule. The Supplier may update or replace the documents on the Trust Centre from time to time to reflect operational, legal or regulatory requirements, provided that any such changes do not materially diminish the overall level of protection afforded to the Customer.
- 3.3. The Customer acknowledges and agrees that it is the Customer's responsibility to review the Trust Centre periodically to remain informed of the current versions of all documents contained in the Trust Centre.

4. SUPPLY OF GOODS AND THE PROVISION OF SERVICES

- 4.1. The Supplier shall supply the Goods ordered by the Customer and provide the Services under the Contract:
 - 4.1.1. using reasonable endeavours to meet any estimated time limits as may be set out in the Contract;
 - 4.1.2. in accordance with all other provisions of the Contract;
 - 4.1.3. using reasonable skill and care;
 - 4.1.4. in accordance with any information governance and quality assurance standards as set out in the applicable Service Schedule;
 - 4.1.5. in accordance with Good Industry Practice; and
 - 4.1.6. in a professional and courteous manner.
- 4.2. The Supplier shall use its reasonable endeavours to comply with the Implementation Requirements (if any) in accordance with any estimated timescales as may be set out in the Quotation and/or applicable Service Schedule.
- 4.3. The Supplier shall use its reasonable endeavours to commence:
 - 4.3.1. supply of the Goods on the Supply of Goods Commencement Date; and
 - 4.3.2. delivery of the Services on the Target Services Commencement Date,but any such dates are estimates only and the Supplier shall not be liable for failure to meet them or for any delay caused by circumstances beyond the Supplier's reasonable control including but not limited to delays in obtaining consent to carry out work at and/or access the Premises and Locations.
- 4.4. The Supplier shall comply fully with its obligations set out in the applicable Service Schedule (which may include, without limitation, the KPIs and all obligations in relation to the quality, performance characteristics, supply, delivery, installation, commissioning, maintenance and training in relation to the Goods and their use).

- 4.5. Unless otherwise agreed by the Parties in writing, the Goods shall be new, consistent with any sample, and shall comply with any applicable specification set out in the Contract (to include, without limitation, the provisions of the Customer's requirements set out in the applicable Quotation and the Supplier's response to such requirements) and any applicable manufacturers' specifications.
- 4.6. The Supplier shall ensure that all relevant consents, authorisations, licences and accreditations:
- 4.6.1. required to supply the Goods are in place prior to the delivery of any Goods to the Customer; and
- 4.6.2. required to provide the Services are in place at the Actual Services Commencement Date and are maintained throughout the Term.
- 4.7. If there are any serious incidents that directly relate to or involve the use of the Goods by the Customer, or the use of the Services by the Customer, the Supplier shall cooperate with the Customer on reporting and responding to such incidents and shall respond to any reasonable and proportionate queries to the extent technically feasible, questions and/or requests for information that the Customer may have in this context in relation to the Goods or Services.
- 4.8. If there are any quality, performance and/or safety related reports, notices, alerts or other communications issued by the Supplier or any regulatory or other body in relation to the Goods or the Services, the Supplier shall promptly provide the Customer with a copy of any such reports, notices, alerts or other communications.
- 4.9. Neither the Company nor any Authorised Provider shall be responsible for any loss, destruction, alteration or disclosure of Customer Input except to the extent caused by the Supplier's negligence. Notwithstanding any other provision, the Supplier shall be entitled (but not obliged) to remove and/or delete (in the Supplier's absolute discretion) any Customer Input which it considers breaches the Customer's obligations under the Agreement.
- 4.10. Upon receipt of any such reports, notices, alerts or other communications pursuant to Clause 4.8 of this Master Services Agreement, the Customer shall be entitled to request further information from the Supplier and/or a meeting with the Supplier, and the Supplier shall use reasonable endeavours cooperate with any such request.

5. DELIVERY OF THE GOODS AND PASSING OF RISK AND OWNERSHIP IN THE GOODS

- 5.1. The Supplier shall take reasonable steps to deliver the Goods in accordance with any delivery timescales, delivery dates and delivery instructions set out in the Quotation or as otherwise agreed with the Customer in writing. Where no such delivery details are specified in the Quotation or agreed in writing, delivery shall be made to the address stated in the Quotation or registered office address of the Customer within a reasonable timeframe.
- 5.2. Delivery shall be completed when the Goods have been unloaded at the address noted in the Quotation (or at the Customer's registered office address if no address is stated on the Quotation) and such delivery has been received by a duly authorised agent, employee or location representative of the Customer. The Customer shall procure that such duly authorised agent, employee or location representative of the Customer is at the delivery location at any notified delivery date and times in order to accept such delivery. Any

arrangement by which the Goods are collected by the Customer in return for a discount on the Charges shall be agreed by the Parties in writing (where due to an emergency such arrangements cannot be committed to in writing prior to collection, the Parties shall confirm such arrangements in writing as soon as possible following collection). Where the Customer collects the Goods, collection is deemed delivery for the purposes of the Contract.

- 5.3. The Supplier shall ensure that a delivery note shall accompany each delivery of the Goods. Such delivery note shall contain the information specified in the applicable Quotation (if any) or as otherwise agreed with the Customer in writing. Where such information requirements as to the content of delivery notes are not specified or separately agreed, such delivery notes shall, as a minimum, contain the Customer's order number, the name and address of the Customer, a description and quantity of the Goods, and shall show separately any extra agreed charges for containers and/or any other item not included in the Charges or, where no such charge is made, whether the containers are required to be returned.
- 5.4. Part deliveries and/or deliveries outside of any agreed delivery times/dates may be refused unless the Customer has previously agreed in writing to accept such deliveries. Where delivery of the Goods is refused by the Customer in accordance with this Clause 5.4 of this Master Services Agreement, the Supplier shall be responsible for all risks, costs and expenses associated with the re-delivery of the Goods in accordance with the agreed delivery times/dates. Where the Customer accepts delivery more than five (5) days before the agreed delivery date, the Customer shall be entitled to charge the Supplier for the costs of insurance and storage of the Goods until the agreed date for delivery.
- 5.5. Unless otherwise set out in the applicable Service Schedule or agreed with the Customer in writing, the Supplier shall be responsible for carriage, insurance, transport, all relevant licences, all related costs, and all other costs associated with the delivery of the Goods to the delivery location and unloading of the Goods at that location. Without limitation to the foregoing provision of this Clause 5.5 of this Master Services Agreement, unless otherwise stated in the applicable Service Schedule or agreed with the Customer in writing, the Supplier shall be responsible for obtaining all export and import licences for the Goods and shall be responsible for any delays to the delivery time due to such licences not being available when required. Where any Goods are supplied from outside the United Kingdom, the Supplier shall ensure that accurate information regarding the country of origin of the Goods is provided to the Customer. The Supplier shall be liable for any additional duties, taxes, or charges incurred by the Customer to the extent that such costs arise as a result of any inaccuracy in the notified country of origin.
- 5.6. All third party carriers engaged to deliver the Goods shall at no time be an agent of the Customer and accordingly the Supplier shall be liable to the Customer for the acts and omissions of all third party carriers engaged to deliver the Goods to the Customer.
- 5.7. Risk in the Goods shall pass to the Customer when the Goods are delivered as specified in the Contract or, in the case of Goods which require installation by the Supplier, when that installation process is complete. For Hired Goods, risk shall pass to the Customer at the same point, but title shall at all times remain with the Supplier pursuant to Clause 5.9.
- 5.8. In respect of Goods purchased by the Customer, ownership shall pass to the Customer on the earlier of:
 - 5.8.1. full payment for such Goods; or

- 5.8.2. where the goods are consumables or are non-recoverable (e.g. used in clinical procedures), at the point such Goods are taken into use. For the avoidance of doubt, where ownership passes in accordance with this Clause 5.8.2 of this Master Services Agreement, then the full Charges for such Goods shall be recoverable by the Supplier from the Customer as a debt if there is non-payment of a valid invoice issued by the Supplier to the Customer in relation to such Goods.
- 5.9. Title in all Hired Goods shall remain with the Supplier and shall not, at any time or for any reason, transfer to the Customer.
- 5.10. All tools, equipment and materials of the Supplier required in the performance of the Supplier's obligations under the Contract shall be and remain at the sole risk of the Supplier, whether or not they are situated at a delivery location.

6. INSPECTION, REJECTION, RETURN AND RECALL OF THE GOODS

- 6.1. As relevant and proportionate to the Goods in question and subject to reasonable written notice, the Supplier shall permit any person authorised by the Customer, to inspect work being undertaken in relation to the Goods and/or the storage facilities used in the storage of the Goods at all reasonable times at the Supplier's premises or at the premises of any Sub-contractor or agent of the Supplier in order to confirm that the Goods are being manufactured and/or stored in accordance with Good Industry Practice and in compliance the requirements of the Contract and/or that stock holding and quality assurance processes are in accordance with the requirements of the Contract.
- 6.2. Without prejudice to the provisions of Clause 6.7 of this Master Services Agreement and subject to Clause 6.8 of this Master Services Agreement, the Customer shall visually inspect the Goods within a reasonable time following delivery (or such other period as may be set out in the Service Schedule and/or Quotation, if any) and may by written notice reject any Goods found to be damaged or otherwise not in accordance with the requirements of the Contract ("**Rejected Goods**"). The whole of any delivery may be rejected if a reasonable sample of the Goods taken indiscriminately from that delivery is found not to conform in all material respects to the requirements of the Contract.
- 6.3. Without prejudice to the provisions of Clause 6.6 of this Master Services Agreement, upon the rejection of any Goods in accordance with Clauses 6.2 and/or 6.7 of this Master Services Agreement, the Supplier shall at the Customer's written request:
- 6.3.1. collect the Rejected Goods at the Supplier's risk and expense within ten (10) Business Days of issue of written notice from the Customer rejecting the Goods; and
- 6.3.2. without extra charge, promptly (and in any event within twenty (20) Business Days or such other time agreed by the Parties in writing acting reasonably) supply replacements for the Rejected Goods to the Customer subject to the Customer not cancelling its purchase obligations in accordance with Clause 6.6 of this Master Services Agreement.
- 6.4. If the Supplier requests and the Customer accepts that the Rejected Goods should be disposed of by the Customer rather than returned to the Supplier, the Customer reserves the right to charge the Supplier for the costs associated with the disposal of the Rejected Goods and the Supplier shall promptly pay any such costs.

- 6.5. Risk and title in respect of any Rejected Goods shall pass to the Supplier on the earlier of: (a) collection by the Supplier in accordance with Clause 6.3 of this Master Services Agreement; or (b) immediately following the expiry of ten (10) Business Days from the Customer issuing written notification rejecting the Goods. If Rejected Goods are not collected within ten (10) Business Days of the Customer issuing written notification rejecting the Goods, the Customer may return the Rejected Goods at the Supplier's risk and expense and charge the Supplier for the cost of storage from the expiry of ten (10) Business Days from the date of notification of rejection.
- 6.6. Where the Customer rejects any Goods in accordance with Clauses 6.2 and/or 6.7 of this Master Services Agreement and the Customer no longer requires replacement Goods, the Customer may by written notice cancel its purchase obligations in relation to such quantity of Rejected Goods. Should the Customer have paid for such Rejected Goods the Supplier shall refund such payment to the Customer within thirty (30) days of the Customer cancelling such purchase obligations and informing the Supplier that the Customer does not require replacements for such Rejected Goods.
- 6.7. Without prejudice to any other provisions of the Contract or any other warranties or guarantees applicable to the Goods supplied and subject to Clause 6.8 of this Master Services Agreement, if at any time following the date of the delivery of any Goods, all or any part of such Goods are found to be defective or otherwise not in accordance with the requirements of the Contract ("**Defective Goods**"), the Supplier shall, at the Customer's discretion:
- 6.7.1. upon written request and without charge, promptly (and in any event within twenty (20) Business Days or such other time agreed by the Parties in writing acting reasonably) remedy the deficiency by repairing such Defective Goods; or
- 6.7.2. upon written notice of rejection from the Customer, treat such Defective Goods as Rejected Goods in accordance with Clauses 6.2 to 6.6 (inclusive) of this Master Services Agreement.
- 6.8. The Supplier shall be relieved of its liabilities under Clauses 6.2 to 6.7 (inclusive) of this Master Services Agreement to the extent that any damage to, defect in, or failure of the Goods to comply with the requirements of the Contract arises from any act or omission of the Customer.
- 6.9. The Customer's rights and remedies under Clause 6.7 of this Master Services Agreement shall cease within a reasonable period of time from the date on which the Customer discovers or might reasonably be expected to discover that the Goods are Defective Goods or within such other period as may be set out in the Service Schedule, if any. For the avoidance of doubt, Goods not used before their expiry date shall in no event be considered Defective Goods following the date of expiry provided that at the point such Goods were delivered to the Customer they met any shelf life requirements set out in the applicable Service Schedule.
- 6.10. Where the Supplier is required by Law and/or Good Industry Practice to order a product recall ("**Requirement to Recall**") in respect of the Goods, the Supplier shall:
- 6.10.1. promptly (taking into consideration the potential impact of the continued use of the Goods on patients, service users and the Customer as well as compliance by the Supplier with any regulatory requirements) notify the Customer in writing of the recall together with the circumstances giving rise to the recall;

- 6.10.2. from the date of the Requirement to Recall treat the Goods the subject of such recall as Defective Goods in accordance with Clause 6.7 of this Master Services Agreement;
- 6.10.3. consult with the Customer as to the most efficient method of executing the recall of the Goods and use its reasonable endeavours to minimise the impact on the Customer of the recall; and
- 6.10.4. subject to Clauses 15.2 and 15.3, indemnify and keep the Customer indemnified against, any loss, damages, costs, expenses (including without limitation legal costs and expenses), claims or proceedings suffered or incurred by the Customer as a result of such Requirement to Recall.

7. OPERATION OF THE SERVICES

- 7.1. The Services shall be provided remotely and shall be accessible for use at the Customer's Premises and Locations, or such other Customer premises and locations as are agreed in writing by the Parties. For the avoidance of doubt, the Supplier is not required to attend the Customer's Premises unless expressly agreed in writing, for example in the Implementation Requirements.
- 7.2. The Customer shall grant reasonable access to the Supplier and its Staff to such Premises and Locations and computer systems to enable the Supplier to provide the Services or otherwise comply with its obligations under the Contract.
- 7.3. Any access granted to the Supplier and its Staff under Clause 7.2 of this Master Services Agreement shall be non-exclusive and revocable. Such access shall not be deemed to create any greater rights or interest than so granted (to include, without limitation, any relationship of landlord and tenant) in the Premises and Locations. The Supplier warrants that it shall carry out all such reasonable further acts to give effect to this Clause 7.3 of this Master Services Agreement.
- 7.4. Unless otherwise set out in the applicable Service Schedule or otherwise agreed by the Parties in writing, any equipment or other items provided by either Party for use by the other Party:
 - 7.4.1. shall be provided at that Party's sole discretion, except where the provision of such equipment or other items is necessary to enable the receiving Party to comply with its obligations under the Contract;
 - 7.4.2. shall be inspected by the receiving Party so that the receiving Party can confirm to its reasonable satisfaction that such equipment and/or item is fit for its intended use and shall not be used by the receiving Party until it has satisfied itself of this;
 - 7.4.3. must be returned to the providing Party within any agreed timescales for such return or otherwise upon the request of the providing Party; and
 - 7.4.4. shall be used by the receiving Party at the receiving Party's risk and the receiving Party shall upon written request by the providing Party reimburse the providing Party for any loss or damage relating to such equipment or other items caused by the receiving Party (fair wear and tear exempted).

- 7.5. If the Services, or any part of them, are regulated by any regulatory body, the Supplier shall ensure that at the Actual Services Commencement Date it has in place all relevant registrations and shall maintain such registrations during the Term. The Supplier shall notify the Customer forthwith in writing of any changes to such registration or any other matter relating to its registration that would affect the delivery or the quality of Services.
- 7.6. The Supplier shall notify the Customer forthwith in writing:
- 7.6.1. of any pending inspection of the Services provided to the Customer pursuant to the Contract, or any part of them, by a regulatory body with a reasonable period of the Supplier becoming aware of such inspection; and
- 7.6.2. of any failure of the Services provided to the Customer pursuant to the Contract, or any part of them, to meet the quality standards required by a regulatory body, promptly and in any event within two (2) Business Days of the Supplier becoming aware of any such failure. This shall include without limitation any informal feedback received during or following an inspection raising concerns of any nature regarding the provision of the Services.
- 7.7. Following any inspection of the Services provided to the Customer pursuant to the Contract, or any part of them, by a regulatory body, the Supplier shall provide the Customer with a copy of any report or other communication published or provided by the relevant regulatory body in relation to the provision of the Services.
- 7.8. Upon receipt of notice pursuant to Clause 7.6 of this Master Services Agreement or any report or communication pursuant to Clause 7.7 of this Master Services Agreement, the Customer shall be entitled to request further information from the Supplier and/or a meeting with the Supplier, and the Supplier shall cooperate with any such reasonable request to the extent it is permitted by law or its regulator and to the extent commercially viable.
- 7.9. The Supplier shall, as reasonably required by the Customer, cooperate with any other service providers to the Customer and/or any other third parties as may be relevant in the provision of the Services.
- 7.10. To the extent relevant to the Services, the Supplier shall have in place and operate a complaints procedure which complies with the requirements of the Local Customer Social Services and National Health Service Complaints (England) Regulations 2009.
- 7.11. Each Party shall inform the other of all complaints from or on behalf of patients or other service end-users arising out of or in connection with the provision of the Services within twenty four (24) hours of receipt of each complaint and shall keep the other Party updated on the manner of resolution of any such complaints.
- 7.12. The Supplier shall be relieved from its obligations under the Contract to provide the Services to the extent that it is prevented from complying with any such obligations due to any acts, omissions or defaults of the Customer. To qualify for such relief, the Supplier must notify the Customer promptly (and in any event within five (5) Business Days) in writing of the occurrence of such act, omission, or default of the Customer together with the potential impact on the Supplier's obligations.

8. APPLICATION OF TUPE

- 8.1. The Parties hereby agree and acknowledge that it is intended that TUPE shall not apply to the Contract and shall not operate to transfer the employment of any employees or personnel of either party or any third party or subcontractor to the other Party:
 - 8.1.1. on the Effective Date, or at the commencement of the provision of the Services and/or Goods by the Supplier; or
 - 8.1.2. on the expiry or termination of the Contract or of any Services or Goods provided under it.

9. STAFF AND LIFESCIENCE INDUSTRY ACCREDITED CREDENTIALING REGISTER

- 9.1. Subject to the requirements of the Contract and any Law, the Supplier shall be entirely responsible for the employment and conditions of service of Staff. The Supplier shall ensure that such conditions of employment are consistent with its obligations under the Contract.
- 9.2. The Supplier will employ sufficient Staff to ensure that it complies with its obligations under the Contract. This will include, but not be limited to, the Supplier providing a sufficient reserve of trained and competent Staff to supply the Goods and/or provide the Services during Staff holidays or absence.
- 9.3. The Supplier shall:
 - 9.3.1. employ only those Staff who are careful, skilled and experienced in the duties required of them;
 - 9.3.2. ensure that every member of Staff is properly and sufficiently trained and instructed;
 - 9.3.3. ensure all Staff have the qualifications to carry out their duties;
 - 9.3.4. maintain throughout the Term all appropriate licences and registrations with any relevant bodies (at the Supplier's expense) in respect of the Staff; and
 - 9.3.5. ensure all Staff comply with such registration, continuing professional development and training requirements or recommendations appropriate to their role including, to the extent relevant and applicable, those from time to time issued by the Department of Health and Social Care or any relevant regulatory body or any industry body in relation to such Staff.
- 9.4. The Supplier shall take reasonable steps to ensure that no person deployed in the provision of the Services who, to the Supplier's actual knowledge, presents a material risk to the health and safety of the Customer's staff, patients, service users or visitors subject to any agreed arrangements with the Customer.
- 9.5. The Supplier shall take reasonable steps to ensure that potential Staff or persons performing any of the Services during the Term who may reasonably be expected in the course of performing any of the Services under the Contract to have access to or come into contact with children, other vulnerable persons and/or persons receiving health care services, where required by Law:

- 9.5.1. are questioned concerning their Convictions; and
- 9.5.2. subject to appropriate Disclosure and Barring Service (or other appropriate body) checks as required by Law before the Supplier engages the potential staff or persons in the provision of the Services and ensure that such disclosures are maintained in accordance with applicable Law. The obtaining of such disclosures shall be at the Supplier's cost and expense.
- 9.6. Where the Services are or include regulated activities as defined by the Safeguarding Vulnerable Groups Act 2006 the Supplier shall comply with all requirements placed on it by the Safeguarding Vulnerable Groups Act 2006, to the extent relevant and applicable.
- 9.7. The Supplier shall, within a reasonable timeframe, provide to the Customer such information that the Customer reasonably requires to enable the Customer to satisfy itself that the obligations set out in Clause 9.5 to Clause 9.6 (inclusive) of this Master Services Agreement have been met.

10. BUSINESS CONTINUITY

- 10.1. Throughout the Term, the Supplier will ensure its Business Continuity Plan provides for continuity during a Business Continuity Event. The Business Continuity Plan details and will continue to detail robust arrangements that are reasonable and proportionate to:
 - 10.1.1. the criticality of the Contract to the Customer; and
 - 10.1.2. the size and scope of the Supplier's business operations, regarding continuity of the supply of the Goods and the provision of the Services during and following a Business Continuity Event.
- 10.2. The Supplier shall, within a reasonable timeframe of receiving the Customer's reasonable written request, provide the Customer with copies of its current Business Continuity Plan, subject always to any redactions required by the Supplier to protect its security arrangements or commercially sensitive information or comply with the Law.
- 10.3. The Customer may suggest reasonable and proportionate amendments to the Supplier regarding the Business Continuity Plan at any time. Where the Supplier, acting reasonably, deems such suggestions made by the Customer to be relevant and appropriate, the Supplier will incorporate into the Business Continuity Plan such suggestions made by the Customer in respect of such Business Continuity Plan. For the avoidance of doubt, the Supplier has full discretion as to whether it accepts or rejects such suggestion made by the Customer in respect of the Supplier's Business Continuity Plan.
- 10.4. Should a Business Continuity Event occur at any time, the Supplier shall implement and comply with its Business Continuity Plan.
- 10.5. Subject to Clause 23, during and following a Business Continuity Event, the Supplier shall use reasonable endeavours to continue to supply the Goods and provide the Services in accordance with the Contract.

11. THE CUSTOMER'S OBLIGATIONS

- 11.1. Subject to the Supplier supplying the Goods and providing the Services pursuant to the Contract, the Customer will pay the Supplier for the Goods and/or Services in accordance with the terms of the Contract.

- 11.2. In addition to the Customer's obligations under this Master Services Agreement, the Customer shall comply with the Customer's Obligations, as may be referred to in the Service Schedule and Quotation.
- 11.3. At the Customer's cost (unless otherwise stated), the Customer shall provide the Supplier with any reasonable and proportionate cooperation necessary to enable the Supplier to comply with its obligations under the Contract. The Supplier shall at all times provide reasonable advance written notification to the Customer of any such cooperation necessary in circumstances where such cooperation will require the Customer to plan for and/or allocate specific resources in order to provide such cooperation.
- 11.4. Where the Customer is a "deployment organisation" as defined by s.250 of the Health and Social Care Act 2012, the Customer is responsible for ensuring the systematic application of management policies, procedures and practices to the tasks of analysing, evaluating and controlling clinical risk in accordance with DCB0160 in respect of the use of any Services meeting the definition of a "digital product".
- 11.5. The Customer and its Authorised Users shall be responsible for checking and verifying any Service Output generated from its use of the Service and/or Goods. The Customer acknowledges and agrees that it is solely responsible for ensuring that its use of the Service, the Goods, and any Service Output complies with all applicable legal and regulatory requirements, including its obligations under DCB0160 and the Health and Social Care Act, as further set out in Clause 11.4.
- 11.6. The Supplier shall have no responsibility to the Customer in respect of the Customer's (or its employees, agents, suppliers, workers, consultants or sub-contractors) use of the Service Output, including, without limitation, any matters arising from the Customer's patient care practice, irrespective of whether such services were informed by, or based upon, the Service Output (in whole or in part).
- 11.7. In no event shall the Supplier, its employees, agents, suppliers and sub-contractors be liable to the Customer to the extent that the alleged infringement is based on:
- 11.7.1. Customer's or its Authorised Users' use of the Services and/or Service Output in combination with any products, services, or software not provided by or on behalf of the Supplier; or
 - 11.7.2. modification of the Services and/or Service Output, by Customer or any Authorised User other than: (i) as permitted in the Contract or (ii) with the Supplier's prior written approval; or
 - 11.7.3. Use, processing, possession or control of Customer Input by the Customer or its Authorised Users; or
 - 11.7.4. any actual or alleged infringement arising from or in connection with any Customer Input or the use thereof by the Supplier (and/or its employees, agents, suppliers or sub-contractors) in accordance with the Contract; or
 - 11.7.5. With respect to the Service Output, (i) Customer's use or creation of the Service Output that it knew or should have known was infringing; (ii) trademark violations resulting from Customer's use of the Service Output in trade or

commerce; or (iii) Customer's disablement or circumvention of any applicable source citation, filtering, or safety tools or functions of the Service.

- 11.8. The Customer assumes sole responsibility for results obtained from the use of the Services and the Goods by the Customer, and for conclusions drawn from such use. The Supplier shall have no liability for any damage caused by errors or omissions in any Service Output or any Customer Input, information, instructions or scripts provided to the Supplier by the Customer in connection with the Services, or any actions taken by the Supplier at the Customer's direction.
- 11.9. The Customer is solely responsible and liable for the accuracy, legality, quality, integrity of Customer Input.

12. PRICE AND PAYMENT

- 12.1. Subject to Clause 12.3 and 12.7, the Charges shall be as set out in the Quotation, and shall include any additional charges that the Customer is required to pay under the Contract, whether or not such charges are expressly referred to in the Quotation.
- 12.2. Unless otherwise stated in the Quotation or applicable Service Schedule, the Charges shall be payable from the Actual Services Commencement Date. The Supplier will make available to the Customer within 30 (thirty) days of the Actual Services Commencement Date, an invoice which will include:
 - 12.2.1. Charges payable for Services and/or Goods (including without limitation any Implementation Services) provided up to the last day of the first calendar month after the Actual Services Commencement Date; and
 - 12.2.2. Charges payable in advance for the provision of the Services and/or Goods for the following calendar month; andthereafter the Supplier will issue one or more invoice(s) to the Customer each month in advance, detailing the Charges for the following month.
- 12.3. The Supplier reserves the right to apply an annual price adjustment to the Charges, by a sum not to exceed the greater of:
 - 12.3.1. the prevailing headline rate of inflation, as recorded at January each calendar year, by the Office for National Statistics (Office for National Statistics) for the Consumer Price Index including owner occupiers' housing costs (CPIH) for All Items (2015=100); or
 - 12.3.2. 5%,and Supplier will notify the Customer by the 28th February, of the annual adjustment to be applied for that year, with the adjusted charges and fees being applied from the 1st April of that year.
- 12.4. The Customer shall pay (in full and cleared funds) the amount of each invoice submitted by the Supplier by direct debit within fifteen (15) calendar days of the date of invoice to the bank account nominated in writing by the Supplier. If the Customer's credit rating decreases at any time, the Supplier reserves the right to revise the credit terms to require payment upon receipt of such invoice or in less than fifteen (15) calendar days of the date of such invoice.

- 12.5. The Customer shall pay the Charges in pounds sterling without set-off, counterclaim, deduction or withholding.
- 12.6. The Charges is exclusive of VAT, which, if properly chargeable, the Customer shall pay at the prevailing rate subject to receipt from the Supplier of a valid and accurate VAT invoice.
- 12.7. Where the Charges become or may become subject to any pricing requirements of any voluntary and/or statutory pricing regulation schemes, the Parties shall comply with such pricing requirements as required by Law from time to time, including any reductions or increase in the Charges by reason of the application of such schemes. The Supplier reserves the right to adjust the Charges to reflect any legal or regulatory changes arising from such schemes, or as required by any OFCOM direction, determination, order, or similar decision.
- 12.8. If the Customer disputes any invoice (including the calculation of any amounts payable) they must notify the Supplier within twelve (12) months of the date of the invoice. The Customer shall not be entitled to any credit or refund relating to disputes raised after expiry of this period. Any undisputed amounts set out in the relevant invoice shall be paid in full by the Customer in accordance with the terms of the Contract.
- 12.9. The Customer may only deduct or set off any amounts from sums due to the Supplier where such amounts have been:
- 12.9.1. expressly agreed in writing by the parties, or
- 12.9.2. awarded against the Supplier by a court of competent jurisdiction and are not subject to any ongoing appeal.
- 12.10. Where the Customer is entitled to receive any sums (including, without limitation, any costs, charges or expenses) from the Supplier under the Contract, the Customer may invoice the Supplier for such sums. Such invoices shall be paid by the Supplier within thirty (30) calendar days of receipt of such invoice.
- 12.11. Without prejudice to any other rights and remedies available to the Supplier under the Contract or by operation of the law, if the Customer fails to pay any undisputed sum properly due to the Supplier under the Contract, the Supplier shall have the right to:
- 12.11.1. charge interest on the overdue amount at the rate of four percent (4%) above the Bank of England base rate accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgement; and/or
- 12.11.2. to suspend performance of the Services and Goods until the outstanding sum plus any applicable interest is received by the Supplier

13. WARRANTIES

- 13.1. Subject to Clause 13.9, the Supplier shall use reasonable endeavours to:
- 13.1.1. ensure the Goods shall be suitable for any purposes and/or treatments as referred to in the applicable Service Schedule, be of satisfactory quality and shall comply with the standards and requirements set out in the Contract;
- 13.1.2. comply with all obligations imposed on it by Law relevant to the Goods in relation to packaging and identification;

- 13.1.3. ensure that the transport and delivery of the Goods mean that they are delivered in good and useable condition;
 - 13.1.4. ensure all Goods delivered to the Customer shall comply with any shelf life requirements set out in the applicable Service Schedule;
 - 13.1.5. ensure it has a clinical risk management system for ensuring the systematic application of management policies, procedures and practices to the tasks of analysing, evaluating and controlling clinical risk in accordance with DCB0129 in respect of any of its Services meeting the definition of a “digital product”;
 - 13.1.6. provide the Services using reasonable skill and care and shall fulfil all requirements of the Contract using appropriately skilled, trained and experienced staff;
 - 13.1.7. comply with the requirements of the applicable Service Schedule and any notices or instructions given to the Supplier by the Customer and/or any competent body, as relevant to the supply of the Goods, the provision of the Services and the Supplier’s access to the Premises and Locations in accordance with the Contract;
 - 13.1.8. ensure it has the right to enter into the Contract and that it has the capability and capacity to fulfil its obligations under the Contract; and
 - 13.1.9. ensure it is a properly constituted entity and it is fully empowered by the terms of its constitutional documents to enter into and to carry out its obligations under the Contract and the documents referred to in the Contract.
- 13.2. Where the sale, manufacture, assembly, importation, storage, distribution, supply, delivery, or installation of the Goods and/or Services under the Contract relates to medical devices (as defined under any relevant Law), the Supplier warrants and undertakes that it will comply with any such Law and with Good Industry Practice relating to such activities in relation to such medical devices. In particular, but without limitation, the Supplier warrants that:
- 13.2.1. at the point such Goods and/or Services are supplied to the Customer, all such Goods which are medical devices shall have valid CE marking or UKCA marking as required by Law and that all relevant marking, authorisation, registration, approval and documentation requirements as required under Law relating to the sale, manufacture, assembly, importation, storage, distribution, supply, delivery, or installation of such Goods and/or Services shall have been complied with. The Supplier shall, upon written request from the Customer, make available to the Customer evidence of the grant of such valid CE marking or UKCA marking, and evidence of any other authorisations, registrations, approvals or documentation required; and
 - 13.2.2. it shall maintain, and no later than any due date when it would otherwise expire, obtain a renewal of, any authorisation, registration or approval required in relation to the Goods and/or Services in accordance with Law for the duration of the Contract.

- 13.3. If the Supplier is in breach of Clause 13.2 of this Master Services Agreement, then, without prejudice to any other right or remedy of the Customer, the Customer shall be entitled to reject and/or return the Goods.
- 13.4. The Supplier agrees to use reasonable endeavours to assign to the Customer upon request the benefit of any warranty, guarantee or similar right which it has against any third party manufacturer or supplier of the Goods in full or part.
- 13.5. The Supplier acknowledges that a failure by the Supplier to submit accurate invoices and other information on time to the Customer may result in the commissioner of health services, or other entity responsible for reimbursing costs to the Customer, delaying or failing to make relevant payments to the Customer. Accordingly, the Supplier warrants that it shall use reasonable endeavours to submit accurate invoices and other information on time to the Customer.
- 13.6. The Supplier shall take reasonable steps to comply with any eProcurement Guidance (to the extent relevant and notified to it) as it may apply to the Supplier and shall carry out all reasonable acts required of the Supplier to enable the Customer to comply with such eProcurement Guidance.
- 13.7. The Supplier warrants and undertakes to the Customer that, as at the Effective Date, it has notified the Customer in writing of any Occasions of Tax Non-Compliance or any litigation that it is involved in that is in connection with any Occasions of Tax Non-Compliance. If, at any point during the Term, an Occasion of Tax Non-Compliance occurs, the Supplier shall:
 - 13.7.1. notify the Customer in writing of such fact within five (5) Business Days of its occurrence; and
 - 13.7.2. promptly provide to the Customer:
 - 13.7.2.1. details of the steps which the Supplier is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors that it considers relevant; and
 - 13.7.2.2. such other information in relation to the Occasion of Tax Non-Compliance as the Customer may reasonably require.
- 13.8. The Service Output must be reviewed and verified by a qualified healthcare professional before being used in clinical decision-making or patient records. Use of the Service and/or Service Output does not substitute professional judgment or clinical oversight.
- 13.9. The Supplier does not warrant:
 - 13.9.1. the Customer's use of the Services and/or Goods will be uninterrupted or error-free; or
 - 13.9.2. that any Service Output is accurate, complete, reliable, or suitable for the Customer's intended use, including without limitation use in connection with the Customer's patient care practice where relevant. It is the sole responsibility of the Customer, and its Authorised Users, to assess and verify the appropriateness, accuracy, and reliability of any Service Output before relying on or using it for any purpose. The Supplier shall have no liability for any decisions, actions, or outcomes arising from or connected to any reliance

placed on Service Output in the course of the Customer's business or otherwise.

- 13.10. Any warranties provided under the Contract are both independent and cumulative and may be enforced independently or collectively at the sole discretion of the enforcing Party.

14. INTELLECTUAL PROPERTY

- 14.1. The Customer acknowledges and agrees that the Supplier and/or its licensors own all Intellectual Property Rights in the Services and all deliverables, materials or other outputs supplied as part of the Services. Except as expressly stated herein, the Contract does not grant the Customer any rights (including without limitation, any Intellectual Property Rights) or licences in respect of the Services or any deliverables, materials or other outputs supplied as part of the Services (including without limitation the Service Output).
- 14.2. Unless otherwise specified in the applicable Service Schedule, the Supplier hereby grants to the Customer, for the Term, a revocable, royalty-free and non-exclusive licence to use such Intellectual Property Rights as are strictly necessary to enable the Customer to receive and use the Goods (including any associated technical or other documentation and information supplied or made available in any media) in accordance with this Contract.
- 14.3. The Supplier warrants and undertakes to the Customer that it (and/or its licensors) owns, or is otherwise entitled to use, all Intellectual Property Rights used in the development and provision of the Services, and all Intellectual Property Rights necessary to give effect to the Services and to enable the Customer to use any deliverables, materials, or other outputs supplied as part of the Services in accordance with the Contract. The Supplier further warrants that it (and/or its licensors) will continue to own, or remain entitled to use, such Intellectual Property Rights for the duration of this Agreement.
- 14.4. Subject to Clause 14.6 and unless otherwise specified in the applicable Service Schedule, the Supplier hereby grants to the Customer, for the Term, a revocable, royalty-free and non-exclusive licence to receive and use the Services and any deliverables, materials or other outputs supplied as part of the Services, to the extent strictly necessary for use in accordance with this Contract.
- 14.5. The Customer grants the Supplier (and any Authorised Provider) a perpetual, non-exclusive, worldwide, royalty-free and sublicensable right to use, copy, store, disclose, transmit, transfer, publicly display, modify and create derivative works from Customer Input only as strictly necessary to:
- 14.5.1. provide the Services and Goods;
 - 14.5.2. collect and use data derived from the Customer's use of the Services, including but not limited to interaction logs, feature usage and performance metrics, for

the purposes of analytics, service improvement, platform optimisation and verifying the Customer's compliance with its obligations under this Contract;

- 14.5.3. create and compile aggregated and/or anonymised data sets;
 - 14.5.4. otherwise in accordance with applicable laws;
 - 14.5.5. train, develop, and improve the Service and Service Outputs; and/or
 - 14.5.6. as agreed between the parties in writing.
- 14.6. The Supplier and/or its licensors own all Intellectual Property Rights in the Service Output (excluding Customer Input), which shall vest in the Supplier and/or its licensors upon creation of such Service Output and the Supplier hereby grants the Customer, for the duration of the Contract, a non-exclusive, non-transferable, revocable and non-sublicensable licence to use, copy and modify Service Output in the course of its patient care practice or internal business purposes (as the case may be).
- 14.7. For the avoidance of doubt:
- 14.7.1. unless specified otherwise in the Service Schedule or elsewhere in the Contract, the Customer must use the Goods, Services and deliverables, materials and any other outputs supplied to it in any format as part of the Services solely for its patient care practice or own internal business purposes (as the case may be) and shall not commercially exploit (e.g. by selling, sublicensing or offering access to third parties) any Goods, Services and/or deliverables, matter or any other output supplied to the Customer in any format as part of the Services; and
 - 14.7.2. all enhancements, modifications, improvements, or derivatives of the Goods, Service and deliverables, materials and any other outputs supplied to it in any format (including but not limited to any improvements to any Supplier AI Feature, AI models, algorithms, or speech processing technologies, whether provided in connection with the Contract or otherwise) shall be owned exclusively by the Supplier and / its licensors in full.

15. LIMITATION OF LIABILITY

- 15.1. Nothing in the Contract shall exclude or restrict the liability of either Party:
- 15.1.1. for death or personal injury resulting from its negligence;
 - 15.1.2. for fraud or fraudulent misrepresentation; or
 - 15.1.3. in any other circumstances where liability may not be limited or excluded under any applicable law.
- 15.2. Subject to Clauses 15.1 and 15.3 of this Master Services Agreement, the total liability of each Party to the other under or in connection with the Contract whether arising in contract, tort, negligence, breach of statutory duty or otherwise shall be limited in aggregate to the greater of: (a) one million GBP (£1,000,000); or (b) one hundred and twenty five percent (125%) of the total Charges paid or payable by the Customer to the Supplier for the Goods and Services.

- 15.3. There shall be no right to claim losses, damages and/or other costs and expenses under or in connection with the Contract whether arising in contract (to include, without limitation, under any relevant indemnity), tort, negligence, breach of statutory duty or otherwise to the extent that any losses, damages and/or other costs and expenses claimed are in respect of loss of production, loss of business opportunity or are in respect of indirect or consequential losses of any nature suffered or alleged by either Party.
- 15.4. Subject always to clause 15.2, the Parties agree that for the purposes of the Contract the following costs, expenses and/or loss of income shall be direct recoverable losses (to include under any relevant indemnity) provided such costs, expenses and/or loss of income are properly evidenced by the claiming Party:
- 15.4.1. extra costs incurred purchasing replacement or alternative goods and/or services;
 - 15.4.2. costs incurred in relation to any product recall;
 - 15.4.3. costs associated with advising, screening, testing, treating, retreating or otherwise providing healthcare to patients;
 - 15.4.4. the costs of extra management time; and/or
 - 15.4.5. loss of income due to an inability to provide health care services,
- in each case to the extent to which such costs, expenses and/or loss of income arise or result from the other Party's breach of contract, negligent act or omission, breach of statutory duty, and/or other liability under or in connection with the Contract.
- 15.5. Each Party shall at all times take all reasonable steps to minimise and mitigate any loss for which that Party is entitled to bring a claim against the other pursuant to the Contract.
- 15.6. Clause 15 of this Master Services Agreement shall survive the expiry of or termination of the Contract for any reason.

16. INSURANCE

- 16.1. Subject to Clause 16.2 of this Master Services Agreement and unless otherwise agreed between the Parties, the Supplier shall put in place and/or maintain in force at its own cost with a reputable insurer, insurance arrangements in respect of employer's liability, public liability, product liability and professional indemnity in accordance with Good Industry Practice with the minimum cover per claim of the greater of five million pounds (£5,000,000) or any sum as required by Law. These requirements shall not apply to the extent that the Supplier is a member and maintains membership of each of the indemnity schemes run by the NHS Litigation Customer.
- 16.2. Without limitation to any insurance arrangements as required by Law, the Supplier shall put in place and/or maintain the different types and/or levels of indemnity arrangements explicitly required by the Customer, if specified in the Service Schedule.
- 16.3. The amount of any indemnity cover shall not relieve the Supplier of any liabilities under the Contract.
- 16.4. The Supplier warrants that it shall not take any action or fail to take any reasonable action or (in so far as it is reasonable and within its power) permit or allow others to take or fail to

take any action, as a result of which its insurance cover may be rendered void, voidable, unenforceable, or be suspended or impaired in whole or in part, or which may otherwise render any sum paid out under such insurances repayable in whole or in part.

- 16.5. The Supplier shall within five (5) Business Days of written demand provide documentary evidence to the Customer that insurance arrangements taken out by the Supplier pursuant to this Clause 16 of this Master Services Agreement and the Service Schedule are fully maintained and that any premiums on them and/or contributions in respect of them (if any) are fully paid.
- 16.6. Upon the expiry or earlier termination of the Contract, the Supplier shall ensure that any ongoing liability it has or may have arising out of the Contract shall continue to be the subject of appropriate indemnity arrangements for the period of six (6) years from termination or expiry of the Contract or until such earlier date as that liability may reasonably be considered to have ceased to exist.

17. TERM AND TERMINATION

- 17.1. Either Party may terminate the Contract for convenience by giving the other Party at any time one (1) months' prior written notice. Such notice shall not be served within six (6) months of the Effective Date.
- 17.2. Without prejudice to a Party's other rights and remedies under the Contract, if either Party commits a breach of the Contract that is capable of remedy, the non-breaching Party may, without prejudice to its other rights and remedies under the Contract, issue a written notice to the Party in breach requiring the breach to be remedied. The Party in breach shall, within ten (10) Business Days (or such other period as agreed in writing), submit a proposed remedial plan for the non-breaching Party's approval (such agreement not to be unreasonably withheld or delayed) and must be implemented within the agreed timescales.
- 17.3. If the Party in breach fails:
 - 17.3.1. to submit a remedial plan within a period of ten (10) Business Days (or such other period as the non-breaching Party may agree in writing) from written notification of the relevant default or breach from the non-breaching Party;
 - 17.3.2. to implement the agreed remedial plan in accordance with its timescales (including, without limitation, as to its timescales for implementation, which shall be no more than thirty (30) calendar days unless otherwise agreed between the Parties); and/or
 - 17.3.3. to remedy the default or breach despite implementation of such agreed remedial plan

then the breach shall be treated as a material breach, entitling the non-breaching Party to terminate the Contract in accordance with Clause 17.4.

- 17.4. Either Party may terminate the Contract immediately by giving written notice to the other Party if such other Party commits a material breach of any of the terms of the Contract which is:
 - 17.4.1. not capable of remedy; or

- 17.4.2. in the case of a breach capable of remedy, which is not remedied in accordance with a Clause 17.3.
- 17.5. Either Party may terminate the Contract immediately by giving written notice to the other Party:
 - 17.5.1. if the other Party, or any third party guaranteeing the obligations of the other Party under the Contract, ceases or threatens to cease carrying on its business; suspends making payments on any of its debts or announces an intention to do so; is, or is deemed for the purposes of any Law to be, unable to pay its debts as they fall due or insolvent; enters into or proposes any composition, assignment or arrangement with its creditors generally; takes any step or suffers any step to be taken in relation to its winding-up, dissolution, administration (whether out of court or otherwise); has a liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or similar officer appointed (in each case, whether out of court or otherwise) in respect of it or any of its assets; has any security over any of its assets enforced; or any analogous procedure or step is taken in any jurisdiction; and/or
 - 17.5.2. if the other Party purports to assign, novate, create a trust in or otherwise transfer or dispose of the Contract in breach of Clause 30.1 of this Master Services Agreement.
- 17.6. Where the failure to comply with legal obligations in the fields of environmental, social or labour Law is a failure by one of the Supplier's Sub-contractors, the Customer may, acting reasonably, request the replacement of such Sub-contractor only where the Customer has provided to the Supplier clear and substantiated evidence of the alleged non-compliance. The Supplier shall not be required to comply with such request where replacement of the Sub-contractor would be disproportionate, impracticable, or would materially disrupt the performance of the Services or would otherwise risk causing the Supplier to breach its obligations under the Contract or any other contract (including without limitation the contract with the relevant Sub-contractor).

18. CONSEQUENCES OF TERMINATION OF THE CONTRACT

- 18.1. If the Customer terminates the Contract before the expiry of the Initial Term pursuant to Clause 17.1, the Customer shall pay the Supplier the Termination Sum. Following receipt of the Customer's written notice to terminate, the Supplier shall, within a reasonable timeframe, issue an invoice for the Termination Sum, and the Customer shall pay that invoice in full (without deduction, set-off or lien) within fifteen (15) calendar days of the date of the Supplier's invoice to the bank account nominated in writing by the Supplier.
- 18.2. Subject to Clause 18.6 of this Master Services Agreement, upon termination of the Contract, the Customer agrees to immediately pay:
 - 18.2.1. the Supplier for the Goods which have been supplied by the Supplier and not rejected by the Customer in accordance with the Contract prior to termination of the Contract;
 - 18.2.2. the Supplier for the Services which have been completed by the Supplier in accordance with the Contract prior to termination of the Contract; and

- 18.2.3. to the Supplier all of the Supplier's unpaid invoices and interest and, where no invoice has been submitted for Services and Goods supplied pursuant to Clause 18.2.1 and 18.2.2, the Supplier may submit an invoice, which shall be payable immediately on receipt.
- 18.3. Subject at all times to Clauses 14.5, 14.7.2 and 24.1-24.2 (inclusive) immediately following termination of the Contract or the end of the Handover Period (whichever occurs later):
- 18.3.1. to the extent technically feasible and subject always to the terms of the applicable Service Schedule, all data, excluding Personal Data, documents and records (whether stored electronically or otherwise) relating in whole or in part to the Services, including without limitation relating to patients or other service users, and all other items provided on loan or otherwise to the Supplier by the Customer shall be delivered by the Supplier to the Customer provided that the Supplier shall be entitled to keep copies to the extent that: (a) the content does not relate solely to the Contract; (b) the Supplier is required by Law to keep copies; or (c) the Supplier was in possession of such data, documents and records prior to the Effective Date;
- 18.3.2. any Personal Data Processed by the Supplier on behalf of the Customer shall be processed, returned or destroyed in accordance with the relevant provisions of the Data Protection Protocol;
- 18.3.3. the Customer shall promptly return to the Supplier all documents and materials (and any copies) containing the Supplier's Confidential Information and irretrievably erase any such Confidential Information from the Customer's computer system. Any digital copies of the Supplier's Confidential Information (which includes without limitation personal data), are considered deleted where they are put beyond further use by the Customer or any Authorised User; and
- 18.3.4. the Customer shall return to the Supplier all equipment, materials and other property belonging to the Supplier and supplied in connection with the Contract (including, without limitation, any Hired Goods), in each case:
- 18.3.4.1. in full working order and free from damage, fair wear and tear excepted;
- 18.3.4.2. complete with all components, accessories, documentation, and ancillary items originally supplied with the relevant equipment; and
- 18.3.4.3. securely packaged in its original packaging (or packaging of an equivalent standard that provides not less than the same level of protection).
- 18.4. For the avoidance of doubt, the Customer shall be liable for any loss of or damage to the items referred to under Clause 18.3.4 (other than fair wear and tear) and the Supplier shall be entitled to recover from the Customer all costs and losses incurred as a result of any repair, refurbishment or replacement required due to such loss or damage.
- 18.5. The Supplier shall retain all data relating to the provision of the Services that is not transferred or destroyed pursuant to Clause 18.3 of this Master Services Agreement for the period set out in Clause 24.1 of this Master Services Agreement.
- 18.6. The Supplier shall reasonably cooperate with the Customer or, as the case may be, any replacement supplier during any re-procurement and handover period prior to and

following the expiry or earlier termination of the Contract, provided that such reasonable cooperation shall not be required for longer than thirty (30) calendar days following such expiry or termination (**Handover Period**). This reasonable cooperation shall extend to providing access to information materially and reasonably necessary to facilitate the continued provision of certain services and for an orderly Handover Period, provided that:

- 18.6.1. the Supplier shall not be required to disclose any of its own or any third party's confidential, commercially sensitive or proprietary to any competitor of the Supplier;
 - 18.6.2. where disclosure of information is required, the Supplier may redact, summarise or otherwise limit access to such information to ensure that its or any third party's confidential or proprietary information is protected;
 - 18.6.3. the Customer and any replacement supplier shall be required to enter into a confidentiality agreement on terms acceptable to the Supplier before gaining access to any information; and
 - 18.6.4. information shall only be provided to the replacement supplier to the extent strictly necessary for continuity of service during the Handover Period and shall be subject to reasonable information-security controls imposed by the Supplier.
- 18.7. Except to the extent required to enable the Parties to comply with their obligations under Clause 18.6, any licence granted or entered into pursuant to this Contract shall automatically terminate upon the expiry or earlier termination of this Contract, unless expressly stated otherwise elsewhere in this Contract.
- 18.8. The expiry or earlier termination of this Contract for any reason shall not affect any rights or obligations of either Party which have accrued prior to such expiry or earlier termination, nor shall it affect any obligations which are expressed, or by implication intended, to come into or continue in force on or after such expiry or termination.

19. MODERN SLAVERY AND ENVIRONMENTAL, SOCIAL, AND LABOUR LAWS

Environmental, social and labour law requirements

- 19.1. The Supplier shall comply in all material respects with applicable environmental, social and labour Law requirements in force from time to time in relation to the Goods and Services. Where the provisions of any such Law are implemented by the use of voluntary agreements, the Supplier shall comply with such agreements as if they were incorporated into English law subject to those voluntary agreements being cited in the applicable Service Schedule. Without prejudice to the generality of the foregoing, the Supplier shall:
- 19.1.1. comply with all procedures and requirements set out in the applicable Service Schedule in relation to any stated environmental, social and labour requirements, characteristics and impacts of the Goods and Services;
 - 19.1.2. maintain relevant policy statements documenting the Supplier's significant labour, social and environmental aspects as relevant to the Goods and Services being supplied and provided and as proportionate to the nature and scale of the Supplier's business operations; and

- 19.1.3. maintain plans and procedures that support the commitments made as part of the Supplier's significant labour, social and environmental policies, as referred to at Clause 19.1.2 of this Master Services Agreement.

Modern slavery

- 19.2. The Supplier shall, and shall procure that each of its sub-contractors shall, comply with:
 - 19.2.1. the Modern Slavery Act 2015 ("Slavery Act"); and
 - 19.2.2. the Customer's anti-slavery policy as provided to the Supplier by the Customer from time to time ("Anti-Slavery Policy").
- 19.3. The Supplier shall:
 - 19.3.1. implement due diligence procedures for its Sub-contractors and other participants in its supply chains in accordance with Good Industry Practice with the aim of avoiding slavery or trafficking in its supply chains;
 - 19.3.2. respond promptly to all slavery and trafficking due diligence questionnaires issued to it by the Customer from time to time and shall ensure that its responses to all such questionnaires are complete and accurate;
 - 19.3.3. upon request from the Customer, prepare and deliver to the Customer each year, an slavery and trafficking report setting out the steps it has taken to ensure that slavery and trafficking is not taking place in any of its supply chains or in any part of its business;
 - 19.3.4. maintain a complete set of records to trace the supply chain of all goods and services purchased and/or supplied by the Supplier in connection with all contracts or framework agreements with the Customer;
 - 19.3.5. implement a system of training for its employees to ensure compliance with the Slavery Act; and
 - 19.3.6. ensure that any sub-contracts contain anti-slavery provisions consistent with the Supplier's obligations under Clause 19 of this Master Services Agreement.
- 19.4. The Supplier undertakes on an ongoing basis that:
 - 19.4.1. it conducts its business in a manner consistent with all applicable Laws including the Slavery Act and all analogous legislation in place in any part of the world in which its supply chain operates;
 - 19.4.2. its responses to all slavery and trafficking due diligence questionnaires issued to it by the Customer from time to time are complete and accurate; and
 - 19.4.2.1. neither the Supplier nor, so far as the Seller is aware, any of its sub-contractors (including any Staff):
 - 19.4.2.2. has been convicted of any offence involving slavery or trafficking; or
 - 19.4.2.3. has been, or is currently, the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or

regulatory body relating to any offence committed regarding slavery or trafficking,

not already notified to the Customer in writing in accordance with Clause 19.5 of this Master Services Agreement .

- 19.5. The Supplier shall notify the Customer as soon as it becomes aware of:
- 19.5.1. any breach of the Anti-Slavery Policy; or
 - 19.5.2. any actual slavery or trafficking in its supply chain.
- 19.6. If the Supplier notifies the Customer pursuant to Clause 19.5 of this Master Services Agreement, it shall respond promptly to the Customer's reasonable enquiries and co-operate with any investigation.
- 19.7. If the Supplier is in breach of Clause 19.3 or the undertaking at Clause 19.4 in addition to its other rights and remedies provided under the Contract, the Customer may:
- 19.7.1. by written notice require the Supplier to remove from performance of any contract or framework agreement with the Customer (including the Contract) any Sub-contractor, Staff or other persons associated with it whose acts or omissions have caused the breach; or
 - 19.7.2. terminate the Contract by issuing written notice to the Supplier.

Further corporate social responsibility requirements

- 19.8. The Supplier shall comply with any further corporate social responsibility requirements set out in the applicable Service Schedule.

Provision of further information

- 19.9. The Supplier shall meet reasonable requests by the Customer for information evidencing the Supplier's compliance with the provisions of Clause 19 of this Master Services Agreement. For the avoidance of doubt, the Customer may audit the Supplier's compliance with Clause 19 of this Master Services Agreement in accordance with Clause 24 of this Master Services Agreement.

20. CARBON REDUCTION PLANS AND REPORTING

- 20.1. The Supplier shall use reasonable endeavours to align with applicable NHS guidance on carbon reduction, including maintaining an internal approach to carbon reduction which reasonably reflects the NHS Net Zero Supplier Roadmap, as updated from time to time.
- 20.2. Where reasonably practicable, the Supplier may, if requested, report progress on its carbon reduction activities through any relevant NHS-recommended assessment or reporting mechanism as such mechanisms become available.

21. NET ZERO AND SOCIAL VALUE

- 21.1. The Supplier shall use reasonable endeavours to support any net zero and social value objectives identified in the Service Schedule forming part of the Contract (**Net Zero and Social Value Contract Commitments**).

- 21.2. The Supplier may, if requested and only where reasonably practicable, provide information on its progress in relation to such objectives in a manner agreed between the parties

22. DISPUTE RESOLUTION

- 22.1. Without prejudice to the Supplier's right under Clause 12.11.2, during any Dispute, including a Dispute as to the validity of the Contract, it is agreed that the Parties shall continue to comply with its obligations under the Contract (unless the Customer requests in writing that the Supplier does not do so).
- 22.2. In the case of a Dispute arising out of or in connection with the Contract, the Supplier and the Customer shall make every reasonable effort to communicate and cooperate with each other with a view to resolving the Dispute and follow the procedure set out in Clause 22.3 of this Master Services Agreement as the first stage in the Dispute Resolution Procedure.
- 22.3. If any Dispute arises out of the Contract either Party may serve a notice on the other Party to commence formal resolution of the Dispute. The Parties shall first seek to resolve the Dispute by escalation in accordance with the management levels as set out in clause 29. Respective representatives at each level, shall have five (5) Business Days at each level during which they will use their reasonable endeavours to resolve the Dispute before escalating the matter to the next level until all levels have been exhausted. Level 1 will commence on the date of service of the Dispute Notice. The final level of the escalation process shall be deemed exhausted on the expiry of five (5) Business Days following escalation to that level unless otherwise agreed by the Parties in writing.
- 22.4. If the procedure set out in Clause 22.3 of this Master Services Agreement above has been exhausted and fails to resolve such Dispute, as part of the Dispute Resolution Procedure, the Parties will attempt to settle it by mediation. The Parties shall, acting reasonably, attempt to agree upon a mediator. In the event that the Parties fail to agree a mediator within five (5) Business Days following the exhaustion of all levels of the escalation procedure at Clause 22.3 of this Master Services Agreement, the mediator shall be nominated and confirmed by the Centre for Effective Dispute Resolution, London.
- 22.5. The mediation shall commence within twenty eight (28) days of the confirmation of the mediator in accordance with Clause 22.4 of this Master Services Agreement or at such other time as may be agreed by the Parties in writing. Neither Party will terminate such mediation process until each Party has made its opening presentation and the mediator has met each Party separately for at least one hour or one Party has failed to participate in the mediation process. After this time, either Party may terminate the mediation process by notification to the other Party (such notification may be verbal provided that it is followed up by written confirmation). The Customer and the Supplier will cooperate with any person appointed as mediator providing them with such information and other assistance as they shall require and will pay their costs, as they shall determine, or in the absence of such determination such costs will be shared equally.
- 22.6. Nothing in the Contract shall prevent:
- 22.6.1. Either Party from taking action in any court in relation to any death or personal injury arising or allegedly arising in connection with the supply of the Goods and/or the provision of the Services; or
- 22.6.2. either Party seeking from any court any interim or provisional relief that may be necessary to protect the rights or property of that Party or that relates to the

safety of patients and other service users or the security of Confidential Information, pending resolution of the relevant Dispute in accordance with the Dispute Resolution Procedure.

- 22.7. Clause 22 of this Master Services Agreement shall survive the expiry of or earlier termination of the Contract for any reason.

23. FORCE MAJEURE

- 23.1. Subject to Clause 23.2 of this Master Services Agreement neither Party shall be liable to the other for any failure to perform all or any of its obligations under the Contract nor liable to the other Party for any loss or damage arising out of the failure to perform its obligations to the extent only that such performance is rendered impossible by a Force Majeure Event.
- 23.2. The Supplier shall only be entitled to rely on a Force Majeure Event and the relief set out in Clause 23 of this Master Services Agreement and will not be considered to be in default or liable for breach of any obligations under the Contract if:
- 23.2.1. the Force Majeure Event does not arise directly as a result of any wilful or negligent act or default of the Supplier; and
- 23.2.2. the Supplier has complied with the procedural requirements set out in Clause 23 of this Master Services Agreement.
- 23.3. Where a Party is (or claims to be) affected by a Force Majeure Event it shall use reasonable endeavours to mitigate the consequences of such a Force Majeure Event upon the performance of its obligations under the Contract, and to resume the performance of its obligations affected by the Force Majeure Event as soon as practicable.
- 23.4. Where the Force Majeure Event affects the Supplier's ability to perform part of its obligations under the Contract the Supplier shall fulfil all such contractual obligations that are not so affected and shall not be relieved from its liability to do so.
- 23.5. If either Party is prevented or delayed in the performance of its obligations under the Contract by a Force Majeure Event, that Party shall as soon as reasonably practicable serve notice in writing on the other Party specifying the nature and extent of the circumstances giving rise to its failure to perform or any anticipated delay in performance of its obligations.
- 23.6. Subject to service of such notice, the Party affected by such circumstances shall have no liability for its failure to perform or for any delay in performance of its obligations affected by the Force Majeure Event only for so long as such circumstances continue and for such time after they cease as is necessary for that Party, using its best endeavours, to recommence its affected operations in order for it to perform its obligations.
- 23.7. The Party claiming relief shall notify the other in writing as soon as the consequences of the Force Majeure Event have ceased and of when performance of its affected obligations can be resumed.
- 23.8. If the Supplier is prevented from performance of its obligations as a result of a Force Majeure Event, the Customer may at any time, if the Force Majeure Event subsists for thirty (30) days or more, terminate the Contract by issuing a written notice to the Supplier.

- 23.9. Following such termination in accordance with Clause 23.8 of this Master Services Agreement and subject to Clause 23.10 of this Master Services Agreement, neither Party shall have any liability to the other.
- 23.10. Any rights and liabilities of either Party which have accrued prior to such termination in accordance with Clause 23.8 of this Master Services Agreement shall continue in full force and effect unless otherwise specified in the Contract.

24. RECORDS RETENTION AND RIGHT OF AUDIT

- 24.1. Subject to any statutory requirement and Clause 24.2 of this Master Services Agreement, the Supplier shall keep secure and maintain for the Term and six (6) years afterwards, or such longer period as may be agreed between the Parties, full and accurate records of all matters relating to the Contract.
- 24.2. Where any records could be relevant to a claim for personal injury such records shall be kept secure and maintained by the Supplier for a period of twenty one (21) years from the date of expiry or earlier termination of the Contract.
- 24.3. The Customer shall have the right to audit the Supplier's compliance with the Contract. The Supplier shall permit or procure permission for the Customer or its authorised representative during normal Business Hours having given advance written notice of no less than five (5) Business Days, access to any premises and facilities, books and records reasonably required to audit the Supplier's compliance with its obligations under the Contract.
- 24.4. Should the Supplier Sub-contract any of its obligations under the Contract, the Customer shall have the right to audit and inspect such third party. The Supplier shall procure permission for the Customer or its authorised representative during normal Business Hours no more than once in any twelve (12) months, having given advance written notice of no less than five (5) Business Days, access to any premises and facilities, books and records used in the performance of the Supplier's obligations under the Contract that are Sub-contracted to such third party. The Supplier shall cooperate with such audit and inspection and accompany the Customer or its authorised representative if requested.
- 24.5. The Supplier shall grant to the Customer or its authorised representative, such access to those records as they may reasonably require in order to check the Supplier's compliance with the Contract for the purposes of:
- 24.5.1. the examination and certification of the Customer's accounts; or
 - 24.5.2. any examination pursuant to section 6(1) of the National Audit Act 1983 of the economic efficiency and effectiveness with which the Customer has used its resources.
- 24.6. The Supplier shall provide reasonable cooperation to the Customer, its representatives and any regulatory body in relation to any audit, review, investigation or enquiry carried out in relation to the subject matter of the Contract.
- 24.7. The Supplier shall provide all reasonable information as may be reasonably requested by the Customer to evidence the Supplier's compliance with the requirements of the Contract.

25. CONFLICTS OF INTEREST AND THE PREVENTION OF FRAUD

- 25.1. The Supplier shall take appropriate steps to ensure that neither the Supplier nor any Staff are placed in a position where there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier and the duties owed to the Customer under the provisions of the Contract. The Supplier will disclose to the Customer full particulars of any such conflict of interest which actually arises.
- 25.2. The Customer reserves the right to terminate the Contract immediately by notice in writing and/or to take such other steps it deems necessary where the Customer can demonstrate with objective evidence that there is an actual conflict between the pecuniary or personal interests of the Supplier and the duties owed to the Customer under the provisions of the Contract. The actions of the Customer pursuant to this Clause 25.2 of this Master Services Agreement shall not prejudice or affect any right of action or remedy which shall have accrued or shall subsequently accrue to the Customer.
- 25.3. The Supplier shall take all reasonable steps to prevent Fraud by Staff and the Supplier (including its owners, members and directors). The Supplier shall notify the Customer immediately if it has reason to suspect that any Fraud has occurred or is occurring or is likely to occur.
- 25.4. If the Supplier or its Staff commits Fraud the Customer may terminate the Contract and recover from the Supplier the amount of any direct loss suffered by the Customer resulting from the termination.

26. EQUALITY AND HUMAN RIGHTS

- 26.1. The Supplier shall:
 - 26.1.1. ensure that (a) it does not, whether as employer, a supplier of Goods or as provider of the Services, engage in any act or omission that would contravene the Equality Legislation, and (b) it complies with all its obligations as an employer, a supplier of Goods or provider of the Services as set out in the Equality Legislation and take reasonable endeavours to ensure its Staff do not unlawfully discriminate within the meaning of the Equality Legislation;
 - 26.1.2. in the management of its affairs and the development of its equality and diversity policies, cooperate with the Customer in light of the Customer's obligations to comply with its statutory equality duties whether under the Equality Act 2010 or otherwise. The Supplier shall take such reasonable and proportionate steps to promote equality and diversity, including race equality, equality of opportunity for disabled people, gender equality, and equality relating to religion and belief, sexual orientation and age; and
 - 26.1.3. the Supplier shall impose on all its sub-contractors and suppliers, obligations substantially similar to those imposed on the Supplier by Clause 26 of this Master Services Agreement.
 - 26.1.4. The Supplier shall meet reasonable requests by the Customer for information evidencing the Supplier's compliance with the provisions of Clause 26 of this Master Services Agreement.

27. DATA PROTECTION

For the purposes of this Clause 27, the terms Commissioner, controller, data subject, personal data breach, processor and processing have the meaning given to them in Data Protection Legislation.

- 27.1. The Parties shall comply with their respective obligations under the applicable Information and Data Schedule, Data Protection Protocol and applicable Data Protection Legislation. This Clause 27.1 is in addition to, and does not relieve, remove, or replace, a party's obligations or rights under Data Protection Legislation.
- 27.2. The Parties acknowledge that the Customer is the controller and the Supplier is the processor in respect of Personal Data processed under the Contract for the purposes of the UK GDPR.
- 27.3. The Supplier shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk, as set out under the applicable Information and Data Schedule.
- 27.4. The Trust Centre sets out the Supplier's current list of approved sub-processors. The Customer grants the Supplier a general authorisation to appoint, remove or replace sub-processors. Any updates to the list of approved sub-processors will be made available in the Trust Centre, and it is the Customer's responsibility to check the Trust Centre regularly for the latest information. The Supplier may, but is not obliged to, notify the Customer of any such change, and the Customer acknowledges that continued use of the Services following any update to the Trust Centre constitutes acceptance of the updated sub-processor list.
- 27.5. In relation to any sub-processor appointed by the Supplier, the Supplier shall ensure that:
 - 27.5.1. a data processing agreement is in place imposing obligations on the sub-processor equivalent to the UK GDPR Article 28 terms; and
 - 27.5.2. the Supplier remains fully liable to the Customer for the sub-processor's performance, subject to Clause 15 of this Master Services Agreement.
- 27.6. Taking into account the nature of the processing, the Supplier shall assist the Customer by appropriate technical and organisational measures, insofar as possible, in responding to requests by data subjects exercising their rights under Data Protection Legislation.
- 27.7. The Supplier shall assist the Customer insofar as this is possible (taking into account the nature of the processing and the information available to the Supplier), at the Customer's cost, in ensuring compliance with the Customer's obligations relating to:
 - 27.7.1. security of processing;
 - 27.7.2. notification of personal data breaches to supervisory authorities;
 - 27.7.3. communication of personal data breaches to data subjects;
 - 27.7.4. data protection impact assessments; and
 - 27.7.5. prior consultation with supervisory authorities.
- 27.8. The Supplier shall notify the Customer without undue delay (and in any event promptly

upon becoming aware) of a personal data breach affecting Personal Data processed under the Contract, providing the Customer with sufficient information to enable the Customer to meet its obligations.

- 27.9. At the end of the provision of the Services relating to processing, the Supplier shall, at the choice of the Customer, delete or return all Personal Data to the Customer and delete existing copies unless Data Protection Legislation requires this continued processing and/or storage of the Personal Data.
- 27.10. The Supplier shall make available to the Customer all information necessary to demonstrate compliance with Article 28 obligations under the Data Protection Legislation, and allow for audits by the Customer (or its designated professional auditors) for this purpose. The requirements of Clause 24 will apply to any audits under this Clause 27.10.
- 27.11. The Supplier will not carry out, via itself or via any other processor, any processing of Customer Personal Data, or transfer any Customer Personal Data, outside of the UK or EEA unless the Supplier ensures that a valid transfer mechanism under Data Protection Legislation is in place.
- 27.12. The Supplier shall maintain records of processing activities as required under Article 30(2) UK GDPR and make them available to the Customer on request.
- 27.13. When the Customer uses the Services to record calls and/or to generate speech-to-text transcriptions, the Customer is responsible for ensuring that such recording and processing complies with applicable Data Protection Legislation. This includes determining and documenting the appropriate lawful basis for the recording and for any subsequent processing, and ensuring that all call participants are provided with clear and sufficient information about the fact and purpose of the recording and transcription pursuant to applicable Data Protection Legislation. The Customer shall ensure that call participants are informed, prior to or at the start of the call, that the call may be recorded and automatically transcribed using any speech-to-text technology.
- 27.14. If the Customer takes payment details from a patient on a call it is their responsibility to ensure their practice on call recording is appropriate pursuant to applicable Data Protection Legislation including without limitation:
 - 27.14.1. Maintaining accurate and clear records of any such information disclosed;
 - 27.14.2. Ensuring confidentiality of the information provided;
 - 27.14.3. Securely storing or deleting any records of such information in accordance with its own obligations under applicable Data Protection Legislation; and
 - 27.14.4. taking all required steps to prevent unauthorised access, disclosure, or misuse of such information.

28. CONFIDENTIAL INFORMATION

- 28.1. In respect of any Confidential Information it may receive directly or indirectly from the Discloser and subject always to the remainder of this Clause 28, each Recipient undertakes to keep secret and strictly confidential and shall not disclose any such

Confidential Information to any third party without the Discloser's prior written consent provided that:

- 28.1.1. the Recipient shall not be prevented from using any general knowledge, experience or skills which were in its possession prior to the Effective Date;
- 28.1.2. the provisions of this Clause 28 shall not apply to any Confidential Information:
 - 28.1.2.1. which is in or enters the public domain other than by breach of this Clause 28 or other act or omissions of the Recipient;
 - 28.1.2.2. which is obtained from a third party who is lawfully authorised to disclose such information without any obligation of confidentiality;
 - 28.1.2.3. which is authorised for disclosure by the prior written consent of the Discloser;
 - 28.1.2.4. which the Recipient can demonstrate was in its possession without any obligation of confidentiality prior to receipt of the Confidential Information from the Discloser; or
 - 28.1.2.5. which the Recipient is required to disclose purely to the extent to comply with the requirements of any relevant stock exchange.
- 28.2. Nothing in this Clause 28 shall prevent the Recipient from disclosing Confidential Information where it is required to do so by judicial, administrative, governmental or regulatory process in connection with any action, suit, proceedings or claim or otherwise by applicable law.
- 28.3. The Customer may disclose the Supplier's Confidential Information:
 - 28.3.1. on a confidential basis to NHS England organisations;
 - 28.3.2. on a confidential basis, to any consultant, contractor or other person engaged by the Customer for receiving such information;
 - 28.3.3. on a confidential basis to any relevant party for the purpose of the examination and certification of the Customer's accounts;
 - 28.3.4. to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirements; or
 - 28.3.5. on a confidential basis to a proposed successor body in connection with any proposed or actual, assignment, novation or other disposal of rights, obligations, liabilities or property in connection with this Clause 28;

and for the purposes of this Clause 28, references to disclosure "on a confidential basis" shall mean the Customer making clear the confidential nature of such information and that those individuals and/or organisations set out under this Clause 28.3 are under binding confidentiality obligations no less onerous than set out in this Clause 28.
- 28.4. The Supplier may only disclose the Customer's Confidential Information, and any other information provided to the Supplier by the Customer in relation to the Contract, to the Supplier's Staff, subcontractors or professional advisors who are directly involved in the

performance of or advising on the Supplier's obligations under the Contract. The Supplier shall ensure that such Staff, subcontractors or professional advisors are aware of and shall comply with the obligations in this Clause 28 as to confidentiality and that all information, including Confidential Information, is held securely, protected against unauthorised use or loss and, at the Customer's written discretion, destroyed securely or returned to the Customer when it is no longer required. The Supplier shall not, and shall ensure that the staff do not, use any of the Customer's Confidential Information received otherwise than for the purposes of performing the Supplier's obligations in the Contract.

28.5. For the avoidance of doubt, save as required by law or as otherwise set out in this Clause 28, the Supplier shall not, without the prior written consent of the Customer (such consent not to be unreasonably withheld or delayed), announce that it has entered into the Contract and/or that it has been appointed as a Supplier to the Customer and/or make any other announcements about the Contract.

28.6. This Clause 28 shall remain in force, without limit in time in respect of Confidential Information which:

28.6.1. comprises Personal Data, but shall continue for only as long as the Processor or Sub-Processor holds or has access to any such Personal Data; or

28.6.2. which relates to National Security; and

for all other Confidential Information for a period of three (3) years after the expiry or earlier termination of the Contract unless otherwise agreed in writing by the Parties.

29. NOTICE

29.1. Subject to Clause 22.5 of this Master Services Agreement, any notice required to be given by either Party under the Contract shall be in writing quoting the date of the Contract and shall be delivered by hand or sent by prepaid first class recorded delivery or by email to:

29.1.1. **For the Customer:** the person signing the Quotation or such other person or such other duly authorised representative as the Customer may appoint.

29.1.2. **For the Supplier:** The Managing Director, X-on Health Ltd.

29.2. A notice shall be treated as having been received:

29.2.1. if delivered by hand within normal Business Hours when so delivered or, if delivered by hand outside normal Business Hours, at the next start of normal Business Hours; or

29.2.2. if sent by first class recorded delivery mail on a normal Business Day, at 9.00 am on the second Business Day subsequent to the day of posting, or, if the notice was not posted on a Business Day, at 9.00 am on the third Business Day subsequent to the day of posting; or

29.2.3. if sent by email, if sent within normal Business Hours when so sent or, if sent outside normal Business Hours, at the next start of normal Business Hours provided the sender has either received an electronic confirmation of delivery or has telephoned the recipient to inform the recipient that the email has been sent.

30. ASSIGNMENT, NOVATION AND SUB-CONTRACTING

- 30.1. The Supplier shall not, except where Clause 30.3 of this Master Services Agreement applies, assign, novate, create a trust in, or in any other way dispose of the whole or any part of the Contract without the prior consent in writing of the Customer (such consent not to be unreasonably withheld or delayed).
- 30.2. The Supplier may at any time subcontract any of the Supplier's rights or obligations under the Contract. If the Supplier Sub-contracts any of its obligations under the Contract, every act or omission of the Sub-contractor shall for the purposes of the Contract be deemed to be the act or omission of the Supplier and the Supplier shall be liable to the Customer as if such act or omission had been committed or omitted by the Supplier itself.
- 30.3. The Supplier may assign to a third party ("Assignee") the right to receive payment of any sums due and owing to the Supplier under the Contract for which an invoice has been issued. Any assignment under this Clause 30.3 of this Master Services Agreement shall be subject to:
- 30.3.1. all related rights of the Customer in relation to the recovery of sums due but unpaid;
 - 30.3.2. the Customer receiving notification of the assignment and the date upon which the assignment becomes effective together with the Assignee's contact information and bank account details to which the Customer shall make payment;
 - 30.3.3. the provisions of Clause 12 of this Master Services Agreement continuing to apply in all other respects after the assignment which shall not be amended without the prior written approval of the Customer; and
 - 30.3.4. payment to the Assignee being full and complete satisfaction of the Customer's obligation to pay the relevant sums in accordance with the Contract.
- 30.4. The right for the Supplier to Sub-contract any of its obligations under the Contract pursuant to Clause 30.2 shall not impose any duty on the Customer to enquire as to the competency of any authorised Sub-contractor. The Supplier shall ensure that any authorised Sub-contractor has the appropriate capability and capacity to perform the relevant obligations and that the obligations carried out by such Sub-contractor are fully in accordance with the Contract.
- 30.5. Where the Supplier enters into a Sub-contract in respect of any of its obligations under the Contract relating to the manufacture, supply, delivery or installation of or training in relation to the Goods or the provision of the Services, the Supplier shall include provisions in each such Sub-contract, unless otherwise agreed with the Customer in writing, which:
- 30.5.1. contain at least equivalent obligations as set out in the Contract in relation to such manufacture, supply, delivery or installation of or training in relation to the Goods or the performance of the Services to the extent relevant to such Sub-contracting;
 - 30.5.2. contain at least equivalent obligations as set out in the Contract in respect of confidentiality, information security, data protection, Intellectual Property Rights,

compliance with Law, Guidance, and Good Industry Practice, and record keeping;

- 30.5.3. contain a prohibition on the Sub-contractor Sub-contracting, assigning or novating any of its rights or obligations under such Sub-contract without the prior written approval of the Customer (such approval not to be unreasonably withheld or delayed);
 - 30.5.4. contain a right for the Customer to take an assignment or novation of the Sub-contract (or part of it) upon expiry or earlier termination of the Contract;
 - 30.5.5. requires the Supplier or other party receiving goods or services under the contract to consider and verify invoices under that contract in a timely fashion;
 - 30.5.6. provides that if the Supplier or other party fails to consider and verify an invoice in accordance with Clause 30.5.5 of this Master Services Agreement , the invoice shall be regarded as valid and undisputed for the purpose of Clause 30.5.7 after a reasonable time has passed;
 - 30.5.7. requires the Supplier or other party to pay any undisputed sums which are due from it to the Sub-contractor within a specified period not exceeding thirty (30) days of verifying that the invoice is valid and undisputed;
 - 30.5.8. permitting the Supplier to terminate, or procure the termination of, the relevant Sub-contract in the event the Sub-contractor fails to comply in the performance of its Sub-contract with legal obligations in the fields of environmental, social or labour Law; and
 - 30.5.9. requires the sub-contractor to include a clause to the same effect as Clause 30.5 of this Master Services Agreement in any Sub-contract which it awards.
- 30.6. The Customer shall upon written request have the right to review any Sub-contract entered into by the Supplier in respect of the supply of the Goods and/or the provision of the Services and the Supplier shall provide a certified copy of any Sub-contract within five (5) Business Days of the date of a written request from the Customer. For the avoidance of doubt, the Supplier shall have the right to redact any confidential information (including without limitation pricing information) in relation to such copies of Sub-contracts.
- 30.7. The Customer may at any time transfer, assign, novate, sub-contract or otherwise dispose of its rights and obligations under the Contract or any part of the Contract and the Supplier warrants that it will carry out all such reasonable further acts required to effect such transfer, assignment, novation, sub-contracting or disposal.

31. PROHIBITED ACTS

31.1. The Supplier warrants and represents that:

31.1.1. it has not committed any offence under the Bribery Act 2010 or done any of the following ("Prohibited Acts"):

31.1.1.1. offered, given or agreed to give any officer or employee of the Customer any gift or consideration of any kind as an inducement or reward for doing or not doing or for having done or not having done any act in relation to the obtaining or performance of this or any other agreement with the

Customer or for showing or not showing favour or disfavour to any person in relation to this or any other agreement with the Customer; or

31.1.1.2. in connection with the Contract paid or agreed to pay any commission other than a payment, particulars of which (including the terms and conditions of the agreement for its payment) have been disclosed in writing to the Customer; and

31.1.2. it has in place adequate procedures to prevent bribery and corruption, as contemplated by section 7 of the Bribery Act 2010.

31.2. If the Supplier or its Staff (or anyone acting on its or their behalf) has done or does any of the Prohibited Acts or has committed or commits any offence under the Bribery Act 2010 with or without the knowledge of the Supplier in relation to this or any other agreement with the Customer:

31.2.1. the Customer shall be entitled:

31.2.1.1. to terminate the Contract and recover from the Supplier the amount of any loss resulting from the termination;

31.2.1.2. to recover from the Supplier the amount or value of any gift, consideration or commission concerned; and

31.2.1.3. to recover from the Supplier any other loss or expense sustained in consequence of the carrying out of the Prohibited Act or the commission of the offence under the Bribery Act 2010;

31.2.2. any termination under Clause 31.2.1 of this Master Services Agreement shall be without prejudice to any right or remedy that has already accrued, or subsequently accrues, to the Customer; and

31.2.3. notwithstanding the Dispute Resolution Procedure, any Dispute relating to:

31.2.3.1. the interpretation of Clause 31 of this Master Services Agreement; or

31.2.3.2. the amount or value of any gift, consideration or commission, shall be determined by the Customer, acting reasonably, and the decision shall be final and conclusive.

32. GENERAL

32.1. Each of the Parties is independent of the other and nothing contained in the Contract shall be construed to imply that there is any relationship between the Parties of partnership or of principal/agent or of employer/employee nor are the Parties hereby engaging in a joint venture and accordingly neither of the Parties shall have any right or authority to act on behalf of the other nor to bind the other by agreement or otherwise, unless expressly permitted by the terms of the Contract.

32.2. Failure or delay by either Party to exercise an option or right conferred by the Contract shall not of itself constitute a waiver of such option or right.

32.3. The delay or failure by either Party to insist upon the strict performance of any provision, term or condition of the Contract or to exercise any right or remedy consequent upon such

breach shall not constitute a waiver of any such breach or any subsequent breach of such provision, term or condition.

- 32.4. Any provision of the Contract which is held to be invalid or unenforceable in any jurisdiction shall be ineffective to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable the remaining provisions of the Contract and any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provisions in any other jurisdiction.
- 32.5. Each Party acknowledges and agrees that it has not relied on any representation, warranty or undertaking (whether written or oral) in relation to the subject matter of the Contract and therefore irrevocably and unconditionally waives any rights it may have to claim damages against the other Party for any misrepresentation or undertaking (whether made carelessly or not) or for breach of any warranty unless the representation, undertaking or warranty relied upon is set out in the Contract or unless such representation, undertaking or warranty was made fraudulently.
- 32.6. Each Party shall bear its own expenses in relation to the preparation and execution of the Contract including all costs, legal fees and other expenses so incurred.
- 32.7. The rights and remedies provided in the Contract are independent, cumulative and not exclusive of any rights or remedies provided by general law, any rights or remedies provided elsewhere under the Contract or by any other contract or document. In this Clause 32.7 of this Master Services Agreement, right includes any power, privilege, remedy, or proprietary or security interest.
- 32.8. The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999. A person who is not a party to the Contract shall have no right to enforce any terms of it which confer a benefit on such person. No such person shall be entitled to object to or be required to consent to any amendment to the provisions of the Contract.
- 32.9. The Contract, any variation pursuant to Clauses 32.10 and 32.11 and any document referred to (explicitly or by implication) in the Contract, contain the entire understanding between the Supplier and the Customer relating to the supply of the Goods and the provision of the Services to the exclusion of all previous agreements, confirmations and understandings and there are no promises, terms, conditions or obligations whether oral or written, express or implied other than those contained or referred to in the Contract. Nothing in the Contract seeks to exclude either Party's liability for Fraud.
- 32.10. The Supplier may vary, amend or update the terms of the Contract (including any schedules, annexes or documents incorporated by reference) at any time by giving the Customer not less than thirty (30) days' prior written notice. Any such variation shall take effect automatically at the end of the notice period, unless the Supplier specifies a later effective date in the notice.
- 32.11. The Customer may not vary, amend or modify the Contract without the Supplier's prior written consent, which must be set out in a written instrument signed by an authorised representative of the Supplier. Any attempt by the Customer to vary, amend or modify the Contract other than in accordance with this Clause shall be void and of no effect.
- 32.12. The Contract, and any Dispute or claim arising out of or in connection with it or its subject matter (including any non-contractual claims), shall be governed by, and construed in accordance with, the laws of England and Wales.

- 32.13. Subject to Clause 22 of this Master Services Agreement, the Parties irrevocably agree that the courts of England and Wales shall have non-exclusive jurisdiction to settle any Dispute or claim that arises out of or in connection with the Contract or its subject matter.
- 32.14. All written and oral communications and all written material referred to under the Contract shall be in English.

Schedule 1

1. DEFINITIONS AND INTERPRETATIONS

1.1 DEFINITIONS

In the Contract the following words shall have the following meanings unless the context requires otherwise:

“Actual Services Commencement Date” means the date the Supplier actually commences delivery of all of the Services;

“AI Feature” means any feature, functionality or component of the Services that incorporates, uses, depends on, or employs any machine learning, deep learning, and other artificial intelligence technologies, including statistical learning algorithms, models (including large language models), neural networks, and other artificial intelligence tools or methodologies, all software implementations of any of the foregoing, and related hardware or equipment capable of generating various types of content (including text, images, video, audio, or computer code) based on user-supplied prompts.

“Anti-Slavery Policy” has the meaning given under Clause 19.2.2 of this Master Services Agreement;

“Authorised Provider” means any authorised third party telecommunications provider or other service provider responsible for providing Services and/or Goods (or an element thereof);

“Authorised User” those employees, agents, independent contractors and self-employed partners of the Customer who are authorised by the Customer to use the Services and the Goods pursuant to the Contract;

“Breach Notice” means a written notice of breach given by one Party to the other, notifying the Party receiving the notice of its breach of the Contract;

“Business Continuity Event” means any event or issue that materially impacts the operations of the Supplier and its ability to supply the Goods and/or provide the Services including a pandemic and any Force Majeure Event;

“Business Continuity Plan” means the Supplier’s business continuity plan which includes its plans for continuity of the supply of the Goods and the provision of the Services during a Business Continuity Event;

“Business Day” means any day other than Saturday, Sunday, Christmas Day, Good Friday or a statutory bank holiday in England and Wales;

“Business Hours” means 08:00 to 17:30 on a Business Day.

“Charges” means the price exclusive of VAT that is payable to the Supplier by the Customer under all applicable Quotations for the full and proper performance by the Supplier of its obligations under the Contract;

“Competitively Sensitive Information” means any information the disclosure of which could reasonably be expected to provide a competitive advantage to a competitor of the Supplier, including (but not limited to) pricing structures, cost data, profit margins, business strategies, product roadmaps, customer lists, technical methodologies, source code, algorithms, architectures, designs, trade secrets, internal processes, or other non-public operational, commercial or financial information.”

“Confidential Information” means information, data and material of any nature (whether written, oral, visual, electronic or in any other form) disclosed by one party (**“Discloser”**) to the other party (**“Recipient”**) in connection with the Contract, including, without limitation:

- a) Personal Data and Sensitive Data;
- b) business, financial, technical, operational, commercial or strategic information;
- c) trade secrets, know-how, software, source code, algorithms, specifications, designs, drawings, and documentation;
- d) information relating to patients, healthcare professionals, employees, contractors, or any third parties associated with the Discloser;
- e) any reports, analyses, compilations, studies or other material prepared by the Recipient that contain or reflect such information;
- f) designated as confidential by either party or that ought reasonably to be considered as confidential (however it is conveyed or on whatever media it is stored); and/or
- g) such other documents which the Supplier may obtain or have access to through the Customer’s intranet;

and excludes any information set out in Clause 28.1.2 of this Master Services Agreement;

“Contract” means the binding agreement between the Customer and the Supplier for the supply of the Goods and/or Services, which comes into effect upon the Supplier’s acceptance of the Customer’s Offer in accordance with Clause 2.3, and comprises of the documents listed under Clause 3.1;

“Contracting Customer” means any contracting Customer as defined in Regulation 2(1) of the Public Contracts Regulations 2015 (SI2015/102) (as amended), other than the Customer;

“Controller” shall have the same meaning as set out in the UK GDPR;

“Convictions” means, other than in relation to minor road traffic offences, any previous or pending prosecutions, convictions, cautions and binding-over orders (including any spent convictions as contemplated by section 1(1) of the Rehabilitation of Offenders Act 1974 or any replacement or amendment to that Act);

“Customer” means the Customer named on the form of Contract on the first page;

“Customer Input” means any information, material, text, prompt, images, data, patient data or customer data: (a) inputted, entered, submitted, transferred or transmitted into or through the Service, or otherwise provided or made available by the Customer or any Authorised User, or (b) collected, downloaded, or otherwise received via the Service by, for or on behalf of the Customer or any Authorised User.

“Customer’s Obligations” means the Customer’s further obligations, if any, referred to in the Contract;

“Data Protection Legislation” means the Data Protection Act 2018 and the UK GDPR and any other applicable laws of England and Wales relating to the protection of Personal Data and the privacy of individuals (all as amended, updated, replaced or re-enacted from time to time);

“Data Protection Protocol” means the data protection protocol set out in the relevant Information and Data Schedule, and featured in the Trust Centre (as amended from time to time in accordance with its terms);

“Defective Goods” has the meaning under Clause 6.7 of the Master Services Agreement;

“Dispute(s)” means any dispute, difference or question of interpretation or construction arising out of or in connection with the Contract, including any dispute, difference or question of interpretation relating to the Goods and/or Services, any matters of contractual construction and interpretation relating to the Contract, or any matter where the Contract directs the Parties to resolve an issue by reference to the Dispute Resolution Procedure;

“Dispute Notice” means a written notice served by one Party to the other stating that the Party serving the notice believes there is a Dispute;

“Dispute Resolution Procedure” means the process for resolving Disputes as set out in Clause 22.22 of the Master Services Agreement. For the avoidance of doubt, the Dispute Resolution Procedure is subject to Clause 31.2 of the Master Services Agreement;

“DOTAS” means the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HM Revenue and Customs of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to National Insurance Contributions by the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012, SI 2012/1868 made under s.132A Social Security Administration Act 1992;

“EEA” means the European Economic Area;

“Effective Date” means the date on which the Supplier accepts the Customer’s Offer to purchase the Goods and/or Services pursuant to Clause 2.3;

“eProcurement Guidance” means the NHS eProcurement Strategy available via: <http://www.gov.uk/government/collections/nhs-procurement> together with any further Guidance issued by the Department of Health and Social Care in connection with it;

“Equality Legislation” means any and all legislation, applicable guidance and statutory codes of practice relating to equality, diversity, non-discrimination and human rights as may be in force in England and Wales from time to time including, but not limited to, the Equality Act 2010, the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 and the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002 (SI 2002/2034) and the Human Rights Act 1998;

“EU References” shall have the meaning given to the term in Clause 2.13 of this Schedule 1;

“Exit Day” shall have the meaning in the European Union (Withdrawal) Act 2018;

“Force Majeure Event” means any event beyond the reasonable control of the Party in question to include, without limitation:

- a) war including civil war (whether declared or undeclared), riot, civil commotion or armed conflict materially affecting either Party’s ability to perform its obligations under the Contract;

- b) acts of terrorism;
- c) flood, storm or other natural disasters;
- d) fire;
- e) unavailability of public utilities and/or access to transport
- f) networks to the extent no diligent supplier could reasonably have planned for such unavailability as part of its business continuity planning;
- g) government requisition or impoundment to the extent such requisition or impoundment does not result from any failure by the Supplier to comply with any relevant regulations, laws or procedures (including such laws or regulations relating to the payment of any duties or taxes) and subject to the Supplier having used all reasonable legal means to resist such requisition or impoundment;
- h) compliance with any local law or governmental order, rule, regulation or direction applicable outside of England and Wales that could not have been reasonably foreseen;
- i) industrial action which affects the ability of the Supplier to supply the Goods and/or to provide the Services, but which is not confined to the workforce of the Supplier or the workforce of any Sub-contractor of the Supplier; and
- j) a failure in the Supplier's and/or Customer's supply chain to the extent that such failure is due to any event suffered by a member of such supply chain, which would also qualify as a Force Majeure Event in accordance with this definition had it been suffered by one of the Parties,
- k) but excluding, for the avoidance of doubt, any event or other consequence arising as a result of or in connection with the withdrawal of the United Kingdom from the European Union;

"Fraud" means any offence under any law in respect of fraud in relation to the Contract or defrauding or attempting to defraud or conspiring to defraud the government, parliament or any Contracting Customer;

"General Anti-Abuse Rule" means:

- a) the legislation in Part 5 of the Finance Act 2013; and
- b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions;

"Good Industry Practice" means the exercise of the degree of skill, care and diligence that would reasonably be expected of a competent and experienced supplier or service provider engaged in the manufacture or supply of goods and/or the provision of services similar to the Goods and Services under the same or similar circumstances, taking into account any applicable guidance, codes of practice, policies, advice and industry alerts issued by relevant trade associations and any applicable regulator or competent authority.

"Goods" means all goods, materials or items that the Supplier is required to supply to the Customer under the Contract (including, without limitation Hired Goods), unless the context otherwise requires;

“Halifax Abuse Principle” means the principle explained in the CJEU Case C-255/02 Halifax and others;

“Handover Period” has the meaning given to it under Clause 18.6 and is a period not exceeding thirty (30) calendar days from the date of termination of the Contract;

“Hired Goods” means any Goods identified as being supplied to the Customer on a hire, rental, or temporary-use basis, whether or not separately identified as such in the Quotation.

“Implementation Requirements” means the implementation and mobilisation requirements (if any), as may be set out in the applicable Quotation, Service Schedule and/or otherwise as part of the Contract, which the Parties must comply with as part of implementing or installing the Services;

“Information and Data Schedule” means the information governance and data protection schedule applicable to the Services provided under the Contract, as annexed to the applicable Service Schedule, which sets out the relevant data protection provisions that apply to the Services, as amended from time to time in accordance with its terms;

“Initial Term” has the meaning given to it under Clause 1.

“Installation Services” means the installation and commissioning services set out in the Contract (including, without limitation, the applicable Service Schedule and/or the Quotation);

“Intellectual Property Rights” means patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, 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.

“KPI” means the key performance indicators as set out in the applicable Service Schedule;

“Law” means any applicable legal requirements including, without limitation:

- a) Any applicable statute or proclamation, delegated or subordinate legislation, bye-law, order, regulation or instrument as applicable in England and Wales;
- b) Any applicable European Union obligation, directive, regulation, decision, law or right (including any such obligations, directives, regulations, decisions, laws or rights that are incorporated into the law of England and Wales or given effect in England and Wales by any applicable statute, proclamation, delegated or subordinate legislation, bye-law, order, regulation or instrument);
- c) any enforceable community right within the meaning of section 2(1) European Communities Act 1972;
- d) any applicable judgment of a relevant court of law which is a binding precedent in England and Wales;
- e) requirements set by any regulatory body as applicable in England and Wales;

- f) any relevant code of practice as applicable in England and Wales; and
- g) any relevant collective agreement and/or international law provisions (to include, without limitation, as referred to in (a) to (f) above);

“Losses” all damage, loss, liabilities, claims, actions, costs, expenses (including the cost of legal and/or professional services) proceedings, demands and charges whether arising under statute, contract or at common law;

“Net Zero and Social Value Commitments” means the Supplier’s net zero and social value commitments, each as set out in the applicable Service Schedule;

“Net Zero and Social Value Contract Commitments” shall have the meaning given in Clause 21.1 of the Master Services Agreement;

“NHS” means the National Health Service;

“Occasion of Tax Non-Compliance” means:

- a) any tax return of the Supplier submitted to a Relevant Tax Customer on or after 1 October 2012 is found on or after 1 April 2013 to be incorrect as a result of:
 - i) a Relevant Tax Customer successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;
 - ii) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Customer under the DOTAS or any equivalent or similar regime; and/or
- b) any tax return of the Supplier submitted to a Relevant Tax Customer on or after 1 October 2012 gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Effective Date or to a civil penalty for fraud or evasion;

“Offer” has the meaning given to it under Clause 2.2;

“Party” means the Customer or the Supplier as appropriate and Parties means both the Customer and the Supplier;

“Personal Data” shall have the same meaning as set out in the UK GDPR;

“Premises and Locations” means the Customer’s premises, and the locations within those premises, identified in the applicable Quotation or otherwise agreed in writing by the Parties for the purpose of making the Services available or providing the Goods.

“Process” shall have the same meaning as set out in the UK GDPR. Processing and Processed shall be construed accordingly;

“Purchase Order” means the purchase order required by the Customer’s financial systems, if a purchase order is referred to in the Quotation;

“Quotation” means a quotation prepared and issued by the Supplier setting out the Goods, Hired Goods and/or Services to be supplied, which has been signed by or on behalf of the Customer and subsequently accepted by the Supplier in accordance with Clause 2.3.

“Rejected Goods” has the meaning given to it under Clause 6.2 of the Master Services Agreement;

“Relevant Tax Customer” means HM Revenue and Customs, or, if applicable, a tax Customer in the jurisdiction in which the Supplier is established;

“Requirement to Recall” has the meaning given under Clause 6.10 of the Master Services Agreement;

“Sensitive Data” means the types of data set out in Article 9(1) and 10 of the UK GDPR;

“Services” means the services set out in the Contract (including, without limitation, the applicable Service Schedule), which shall include, without limitation, any Installation Services;

“Service Output” means any and all information, data, materials, content, text, images, audio, video, software code, works, expressions, communications, notes, reports, or other outputs, whether in tangible or intangible form, that are generated, derived, produced or otherwise created, in whole or in part, by or through the use of any AI Feature.

“Service Schedule” means the document made available by the Company which forms part of the Contract and sets out the service-specific terms applicable to the Services specified in an Order Form;

“Slavery Act” has the meaning given in Clause 19.2.1 of the Master Services Agreement;

“Staff” means all persons employed or engaged by the Supplier to perform its obligations under the Contract, excluding any sub-contractors and excluding any person employed or engaged by such sub-contractors;

“Step In Rights” means the step in rights, if any, referred to in the Service Schedule.

“Sub-contract” means a contract between two or more suppliers, at any stage of remoteness from the Supplier in a sub-contracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of the Contract;

“Sub-contractor” means a party to a Sub-contract other than the Supplier;

“Supplier” means the supplier named on the form of Contract on the first page;

“Supplier Personnel” means any employee, agent, consultant and/or contractor of the Supplier or Sub-contractor who is either partially or fully engaged in the performance of the Services;

“Supplier Website” means the Supplier’s Website available at URL: <https://www.x-on.co.uk/>;

“Supply of Goods Commencement Date” means the estimated date on which supply of the Goods is intended to commence, as specified in the Quotation or applicable Service Schedule;

“Target Services Commencement Date” means the estimated date on which delivery of the Services is intended to commence, as specified in the Quotation or applicable Service Schedule.

“Term” has the meaning given to it in Clause 1.3;

“Termination Sum” has the meaning given in the applicable Service Schedule;

“Trust Centre” has the meaning given to it under Clause 3.2.

“TUPE” means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (2006/246) and/or any other regulations or other legislation enacted for the purpose of implementing or transposing the Acquired Rights Directive (77/187/EEC, as amended by Directive 98/50 EC and consolidated in 2001/23/EC) into English law;

“UK GDPR” has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018; and

“Update” means in relation to any Goods or software provided as part of the Services means a version of such item which has been produced primarily to overcome defects in, or to improve the operation of, that item;

“VAT” means value added tax chargeable under the Value Added Tax Act 1994 or any similar, replacement or extra tax.

2. REFERENCES

- 2.1 References to any Law shall be deemed to include a reference to that Law as amended, extended, consolidated, re-enacted, restated, implemented or transposed from time to time.
- 2.2 References to any legal entity shall include anybody that takes over responsibility for the functions of such entity.
- 2.3 References in the Master Services Agreement to a “Schedule”, “Appendix”, “Paragraph” or to a “Clause” are to schedules, appendices, paragraphs and clauses of this Master Services Agreement, unless expressly stated to be a “Schedule”, “Appendix”, “Paragraph” or a “Clause” to the applicable Service Schedule.
- 2.4 References in the Contract to a day or to the calculation of time frames are references to a calendar day unless expressly specified as a Business Day.
- 2.5 Unless set out in the Quotation as a chargeable item, the Supplier shall bear the cost of complying with its obligations under the Contract.
- 2.6 The headings are for convenience only and shall not affect the interpretation of the Contract.
- 2.7 Words denoting the singular shall include the plural and vice versa.
- 2.8 Where a term of the Contract provides for a list of one or more items following the word “including” or “includes” then such list is not to be interpreted as an exhaustive list. Any such list shall not be treated as excluding any item that might have been included in such list having regard to the context of the contractual term in question. General words are not to be given a restrictive meaning where they are followed by examples intended to be included within the general words.
- 2.9 Where a document is required under the Contract, the Parties may agree in writing that this shall be in electronic format only.
- 2.10 Where there is an obligation on the Customer to procure any course of action from any third party, this shall mean that the Customer shall use its reasonable endeavours to procure such course of action from that third party.

- 2.11 Any Breach Notice issued by a Party in connection with the Contract shall not be invalid due to it containing insufficient information. A Party receiving a Breach Notice (“Receiving Party”) may ask the Party that issued the Breach Notice (“Issuing Party”) to provide any further information in relation to the subject matter of the Breach Notice that it may reasonably require to enable it to understand the Breach Notice and/or to remedy the breach. The Issuing Party shall not unreasonably withhold or delay the provision of such further information as referred to above as may be requested by the Receiving Party but no such withholding or delay shall invalidate the Breach Notice.
- 2.12 Any terms defined as part of a Schedule or other document forming part of the Contract shall have the meaning as defined in such Schedule or document.
- 2.13 Any reference in the Contract which immediately before Exit Day was a reference to (as it has effect from time to time):
- 2.13.1 any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement (“EU References”) which is to form part of domestic law by application of section 3 of the European Union (Withdrawal) Act 2018 shall be read on and after Exit Day as a reference to the EU References as they form part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018 as modified by domestic law from time to time; and
- 2.13.2 any EU institution or EU Customer or other such EU body shall be read on and after Exit Day as a reference to the UK institution, Customer or body to which its functions were transferred.