



INPHASE LIMITED

INPHASE BMS™ Cloud

**END USER LICENCE AGREEMENT
Terms and Conditions**

Agreement Number: _____

Effective Date: _____

Licensee

INDEX**CLAUSE NO****TITLE**

1	DEFINITIONS
2	LICENCE
3	CHARGES
4	TERMS OF PAYMENT
5	DELIVERY
6	ACCEPTANCE
7	USE
8	DOCUMENTATION
9	PROGRAM COPYING
10	PERFORMANCE
11	MAINTENANCE AND SUPPORT
12	MODIFYING
13	OWNERSHIP
14	ASSIGNMENT
15	COPYRIGHT INDEMNITY
16	INDEMNITY AND INSURANCE
17	CONSEQUENTIAL LOSS
18	TERMINATION
19	SOURCE CODING
20	CONFIDENTIALITY
21	FORCE MAJEURE
22	WAIVER
23	TRAINING
24	PUBLICITY
25	ARBITRATION
26	LAW

1. DEFINITIONS

- (i) 'Documentation' shall mean the manual or manuals and other documents associated with the Program supplied by the Licensor to the Licensee.
- (ii) 'Equipment' shall mean the computer or the computers described in Appendix 1 and situated at the location or locations identified in Appendix 1.
- (iii) 'Licence' shall mean this document with its Appendices.
- (iv) 'Licensee' shall be as defined in Appendix 1.
- (v) 'Licensor' shall be as defined in Appendix 1 and shall include the Licensor's legal personal representatives, successors and assigns.
- (vi) 'Program' shall mean the computer program or programs specified in Appendix 1 and shall include any replacements, modifications or additions supplied under this Licence.

2. LICENCE

The Licensor hereby grants to the Licensee a non-exclusive, non-transferable licence to use the Program on the Equipment on the terms and conditions contained herein and for the period specified in Appendix 1 from the date of delivery.

3. CHARGES

The licence and maintenance charges are set out in the Appendices. Once only licence charges shall not be subject to variation. The Licensor shall have the right to vary periodic licence charges or maintenance charges by giving to the Licensee not less than three months written notice in advance of such variation effective at the end of the initial period specified in the Appendices or at any time thereafter. Such variation shall not result in the charges exceeding the Licensor's then current standard scale of charges, or in the absence of a standard scale, such charges as are reasonable in the circumstances.

4. TERMS OF PAYMENT

4.1 Following acceptance under Clause 6, the Licensor shall be entitled to claim payment of those charges specified in the Appendices as due on acceptance. Subsequent charges shall become due for payment at the intervals specified in the Appendices.

4.2 All charges due under the Licence shall be paid by the Licensee either within the period specified in the Appendices from receipt of a correct invoice from the Licensor or by the due date whichever is the later.

4.3 The Licensee reserves the right to withhold payment against any invoice which is not submitted in accordance with the Licence and shall forthwith notify to the Licensor in writing the reasons for withholding payment.

4.4 If the payment of any sum due under the Licence shall be delayed by the Licensee other than in accordance with Sub-Clause 4.3, the Licensor shall be entitled to charge interest at the rate specified in Appendix 1 on the amount of the delayed payment for the period of delay.

5. DELIVERY

The Licensor shall provide access to the Cloud instance or deliver a copy of the Program, in machine readable form, on the media to the location and, if applicable, install the Program by the date, all as specified in Appendix 1. The Documentation shall also be delivered to the location and by the date specified in Appendix 1.

6. ACCEPTANCE

6.1 Acceptance of the Program shall be deemed to take place on delivery or provision of access to the Cloud instance of the Program and Documentation in accordance with Clause 5.

7. USE

7.1 Except as specified as Appendix 1, the Program shall be used only for the Licensee's own data processing and shall not be used to provide a data processing service to any third party whether by way of trade or otherwise.

7.2 The Licensee may use the Program only on the Equipment. If the Program cannot be used because the Equipment or any part thereof is temporarily inoperable, then the Licence will be deemed to apply, without any additional payment to the Licensor but at the Licensee's risk and expense, to the use of the Program on any other compatible equipment until the Equipment becomes operable.

7.3 The Licensee may not transfer the Program permanently to another location or to other equipment without the consent in writing of the Licensor which shall not be unreasonably withheld.

7.4 The Licensee shall follow all reasonable instructions given by the Licensor from time to time with regard to the use of the Program. The Licensee shall permit the Licensor, at all reasonable times at the Licensor's expense, to verify that the use of the Program is within the terms of the Licence.

8. DOCUMENTATION

8.1 The Licensor shall supply to the Licensee those items of the Documentation specified in Appendix 1.

8.2 The Licensee may not make copies of the Documentation without the Licensor's prior written agreement which shall not be unreasonably withheld. At the request of the Licensee the Licensor shall provide such additional copies of the Documentation as the Licensee may reasonably require for the normal operation of his business, at the Licensor's then current standard scale of charges.

9. PROGRAM COPYING

The Licensee may make only such copies of the Program as are necessary for his operational use and security. The Licence applies to such copies as it applies to the Program.

10. PERFORMANCE

The Licensor undertakes that, provided it is operated in accordance with the Licensor's instructions, the Program will perform in accordance with the Licensor's published specification and the Documentation existing at the date of delivery. The Licensor does not guarantee that the Program is free of minor errors not materially affecting such performance. The undertaking given in this clause is in lieu of any condition or warranty express or implied by law as to the quality or fitness for any particular purpose of the Program.

11. MAINTENANCE AND SUPPORT

11.1 A maintenance service shall be provided as specified in Appendix 2 from the date of this agreement and continue as a requisite for this Licence.

11.2 Where the provision of error correction is included in the maintenance service and charge specified in Appendix 2, it shall be conditional upon the Licensee having:

- (i) provided adequate information in respect of any malfunction in the Program,
- (ii) incorporated all amendments issued by the Licensor, and
- (iii) not otherwise changed the Program.

11.3 Where a new issue or update of the Program and/or Documentation or part thereof is released by the Licensor it shall be installed (if applicable) by the Licensor under the maintenance service and accepted and used by the Licensee except where the Licensee elects to retain and use the superseded issue of the Program, in which case the Licensor shall use his best endeavours to provide a maintenance service on terms to be agreed.

12. MODIFYING

The Licensee may not, without the prior written consent of the Licensor, modify the Program or incorporate the Program in programs not provided by the Licensor.

13. OWNERSHIP

- 13.1 Title, copyright and all other proprietary rights in the Program and the Documentation and all parts and copies thereof shall remain vested in the Licensor.
- 13.2 The Licensee shall follow all reasonable instructions given by the Licensor from time to time with regard to the use of trade marks owned by the Licensor and other indications of the property and rights of the Licensor.

14. ASSIGNMENT

Neither party shall assign any of its obligations under the Licence without the prior written consent of the other party, which shall not be unreasonably withheld.

15. COPYRIGHT INDEMNITY

- 15.1 The Licensor shall fully indemnify the Licensee against all damages (excluding consequential damages), costs, charges and expenses arising from or incurred by reason of any infringement or alleged infringement in the United Kingdom of copyright in consequence of the authorised use or possession of the Program or Documentation supplied by the Licensor under the License, subject to the following:-
- (i) the Licensee to promptly notify the Licensor in writing of any alleged infringement of which he has notice
 - (ii) the Licensee must make no admissions without the Licensor's prior consent
 - (iii) the Licensee, at the Licensor's request and expense shall allow the Licensor to conduct any negotiations or litigation and/or settle any claim. The Licensee shall give the Licensor all reasonable assistance. The costs incurred or recovered in such negotiations or settled claim shall be for the Licensor's account.
- 15.2 If at any time an allegation of infringement of copyright is made in respect of the Program, or if in the Licensor's reasonable opinion such an allegation is likely to be made, the Licensor may at his own expense modify or replace the Program so as to avoid the infringement, without detracting from overall performance.

16. INDEMNITY AND INSURANCE

- 16.1 The Licensor shall indemnify and keep indemnified the Licensee, against injury (including death) to any persons or loss of or damage to any property (including the Program) which may arise out of the act, default or negligence of the Licensor, his employees or agents in consequence of the Licensor's obligations under the Licence and against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto, provided that the Licensor shall be not be liable for nor be required to indemnify the Licensee against any compensation or damages for or with respect to injuries or damage to persons or property to the extent that such injuries or damage result from any act, default or negligence on the part of the Licensee his employees or contractors (not being the Licensor or employed by the Licensor).
- 16.2 The Licensee shall indemnify and keep indemnified the Licensor against injury (including death) to any persons or loss of or damage to any property (including the Program) which may arise out of the act, default or negligence of the Licensee, his employees or agents in consequence of the Licensee's obligations under the Licence and against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto, provided that the Licensee shall not be liable for nor be required to indemnify the Licensor against any compensation or damages for or with respect to injuries or damage to persons or

property to the extent that such injuries or damage result from any act, default or negligence on the part of the Licensor his employees or contractors.

16.3 Without thereby limiting their responsibilities under Sub-Clauses 16.1 and 16.2, each party shall insure with a reputable insurance company against all loss of or damage to property and injury to persons (including death) arising out of or in consequence of his obligations under the License and against all actions, claims, demands, costs and expenses in respect thereof, save only as is set out in the exceptions in Sub-Clause 16.4 and Clause 17.

16.4 The liability of the parties under Sub-Clause 16.1 or 16.2 as appropriate, shall exclude damage or injury (other than injury including death resulting from negligence) consequent upon design, formula, specification or advice. Except in respect of injury, including death to a person due to negligence for which no limit applies, the liability of the parties under Sub-Clause 16.1 or 16.2 as appropriate shall not exceed the sums specified in Appendix 1 in respect of any event or series of connected events.

17. CONSEQUENTIAL LOSS

Save as expressly stated elsewhere in the Licence, the Licensor shall not be liable to the Licensee for consequential loss or damage including loss of use or of profit or of contracts.

18. TERMINATION

18.1 The Licensee may terminate the License by giving three months prior written notice to the Licensor to take effect at the end of the initial period specified in the Appendices or such extension of this period as may be agreed. The Licence will renew for a further annual period if notice of termination is not received with three months prior written notice to the end of the prior initial or extended period.

18.2 The Licensor may not terminate the Licence except in the circumstances described in Sub-Clauses 18.3 and 18.4.

18.3 The Licence may be terminated forthwith by either party on written notice if the other party is in breach of the terms of the Licence and, in the event of a breach capable being remedied, fails to remedy the breach within 14 days of receipt of notice thereof in writing.

18.4 Either party may terminate the Licence forthwith on written notice if the other party shall become insolvent or bankrupt or make an arrangement with his creditors or go into liquidation.

18.5 Termination of the Licence shall not prejudice any rights of either party which have arisen on or before the date of termination.

18.6 Within seven days following the date of termination the Licensee shall at the option of the Licensor return or destroy all copies, forms, and parts of the Program and Documentation which are covered by this Licence and shall certify to the Licensor in writing that this has been done.

18.7 The maintenance service specified in Appendix 2 may be terminated by the Licensee if the Licensor is in significant breach of his obligations under Clause 11 and fails to remedy the breach within 14 days of receipt of notice in writing thereof or such longer period as may be reasonable in the circumstances. In the event that the Licensee can demonstrate that such breach has involved him in additional costs then he shall have the right to recover such costs from the Licensor.

19. SOURCE CODING

- 19.1 The Licensor may, at the request of the Licensee and on terms to be agreed, provide to the Licensee a copy of the source coding of the Program together with all necessary associated documentation.
- 19.2 Notwithstanding the provisions of Sub-Clause 19.1, in the event that the Licensor shall become insolvent or bankrupt or go into liquidation, other than a voluntary liquidation for the purpose of reconstruction or amalgamation, the Licensor shall, in so far as he is permitted in law to do so, provide to the Licensee at no additional charge a copy of the source coding of the Program together with all necessary associated documentation.
- 19.4 In the event only that the source coding is provided under the provisions of Sub-Clauses 19.2 the Licensee's use of the source coding shall be restricted to the purpose of maintaining the Program.

20. CONFIDENTIALITY, FREEDOM OF INFORMATION and GDPR CLAUSE

- 20.1 The Licensee shall keep confidential the Program and the Documentation or any part thereof and shall not disclose the same to any third party without prior written consent of the Licensor other than under the requirements of the Freedom of Information Act 2000 and in accordance with the procedures set out below.
- 20.2 The Licensor's consent referred to in Sub-Clause 20.1 shall not unreasonably be refused if it is required to enable the Licensee to disclose (under conditions of confidentiality satisfactory to the Licensor) the Program and/or the Documentation or any part thereof to a third party for the performance of services for the Licensee.
- 20.3 The Licensor and the Licensee shall keep confidential the Licence and all other information of the other party designated as 'confidential' obtained under or in connection with the procurement of the Licence or use of the Program and shall not divulge the same to any third party other than under the requirements of the Freedom of Information Act 2000 and in accordance with the procedures set out below, without the prior written consent of the other party excepting that either party may include the other party in a list of clients or suppliers.
- 20.4 The provisions of this Clause shall not apply to:-
- (i) any information in the public domain otherwise than by breach of this Licence,
 - (ii) information in the possession of the receiving party thereof before divulgence as aforesaid, and
 - (iii) information obtained from the third party who is free to divulge the same.
- 20.5 The Licensor and the Licensee shall divulge confidential information only to those employees who are directly involved in the Licence or use of the Program and shall ensure that such employees are aware of and comply with these obligations as to confidentiality.
- 20.6 The obligations of both parties as to disclosure and confidentiality shall come into effect on the signing of the Licence and shall continue in force notwithstanding the termination of the Licence.
- 20.7 "FOIA" means the Freedom of Information Act 2000 or any subsequently enacted or published updates or statutory replacements.

"FOIA Exemption" means any applicable exemption to the FOIA including, but not limited to, confidentiality (Section 41 FOIA), trade secrets (Section 43 FOIA) and prejudice to commercial interests (Section 43 FOIA).

"Exempted Information" means any information or category of information, document, report, contract or other material containing information relevant to this Agreement that has been identified by the Licensor as potentially falling within an FOIA Exemption and listed as such in any Schedule attached to this agreement (or subsequently notified as such by the Licensor to the Licensee).

Exempted Information shall include:

- The copyright program code, under Section 43 FOIA trade secrets and prejudice to commercial interests
- The copyright program manuals and materials, under Section 43 FOIA trade secrets and prejudice to commercial interests
- The commercial details of Appendix 1, under section 43 Commercial interests
- The copyright technical specification of the product, including descriptions provided in any Tender document to the Licensee under Section 43 FOIA trade secrets and prejudice to commercial interests

20.8.1. The Licensor recognises that if the Licensee is subject to legal duties which may require the release of information under FOIA or the Environmental Information Regulations 1992 or any other applicable legislation or statutory codes governing access to information and that the Licensee may be under an obligation to provide information on request. Such information may include matters relating to, arising out of or under this Agreement in any way.

20.8.2. The Licensor is responsible for identifying any information that he believes to be exempted and producing a Schedule of such information to the Licensee at the time the Agreement is entered into (or subsequently notifying the Licensee of any addition to the Schedule). The Schedule must include the ground of FOIA exemption which is relevant to each element of the exempted information.

20.8.3 Notwithstanding anything in this Agreement to the contrary, in the event that the Licensee receives a request for information under the FOIA or any other applicable legislation governing access to information, the Licensee shall be entitled to disclose all information and documentation (in whatever form) as necessary to respond to that request if such disclosure is required by the FOIA or other applicable legislation governing access to information, provided that if any requested information is or may be Exempted Information, the Licensee shall forthwith notify the Licensor and indicate its intended response and shall give the Licensor not less than 10 working days in which to provide its opinion and shall not disclose the information requested before the period of 10 working days has expired, and shall not disclose that information at all if in the opinion of the Licensee (acting reasonably) in the circumstances an exemption is, or may be applicable in accordance with the relevant section of the FOIA .

20.8.4. In the event that the Licensee incurs any costs, including but not limited to external legal costs, in seeking to maintain the withholding of any information identified by the Licensor as potentially exempt, including but not limited to responding to information notices or lodging appeals against a decision of the Information Commissioner in relation to disclosure, the Licensor shall indemnify the Licensee should a court determine that the relevant information ought not reasonably to have been withheld.

- 20.8.5 In any event provided that the Licensee has acted in accordance with its contractual obligations the Licensee shall not be liable for any loss, damage, harm or other detriment however caused arising from the disclosure (pursuant to the obligations of the FOIA or other applicable legislation governing access to information) relating to this Agreement.
- 20.8.6 The Licensor will assist the Licensee to enable the Licensee to comply with its obligations under FOIA or other applicable legislation governing access to information. In the event that the Licensee receives a request for information under the FOIA or any other applicable legislation governing access to information, and requires the Licensor's assistance in obtaining the information that is the subject of such request or otherwise, the Licensor will respond to any such request for assistance from the Licensee for up to 2 man-hours free of charge and up to a maximum of 18 man-hours at a charge to the Licensee of costs incurred by the Licensor and promptly and in any event within 10 days of receiving the Licensee's request.
- 20.8.7. Without prejudice to the obligations of the Licensee set out above and to the rights of the Licensor under this agreement , the decision of the Licensee to confirm or deny that the information requested is held by the Licensee, or to disclose the information, shall be final, unless directed by an Order of an English Court .
- 20.8.8 EXEMPTED INFORMATION SCHEDULE
Exempted Information shall include:
- The copyright program code, under Section 43 FOIA trade secrets and prejudice to commercial interests
 - The copyright program manuals and materials, under Section 43 FOIA trade secrets and prejudice to commercial interests
 - The commercial details of Appendix 1, under section 43 Commercial interests
 - The copyright technical specification of the product, including descriptions provided in any Tender document to the Licensee under Section 43 FOIA trade secrets and prejudice to commercial interests
- 20.9 Licensor shall comply with any requirements under the General Data Protection Regulation and Data Protection Act 2018 and shall duly observe all obligations under the data protection laws, which arise in connection with the Agreement.
- 20.10 Notwithstanding the general obligation in condition 20.9 or this clause where Licensor is processing Personal Information as a Data Processor for the Licensee who acts as the data controller, Licensor shall ensure that it has in place appropriate technical and contractual measures to ensure the security of Personal Information (and to guard against unauthorised or unlawful processing of the Personal Information and against accidental loss or destruction of, or damage to, the Personal Information) in compliance with GDPR and Data Protection Act 2018. Licensor will
- (i) only act on the written instructions of the Licensee as controller (unless required by law to act without such instructions);
 - (ii) ensure that people processing the data are subject to a duty of confidence;
 - (iii) take appropriate measures to ensure the security of processing;
 - (iv) only engage a sub-processor with the prior consent of the data controller and a written contract;
 - (v) assist the data controller in providing subject access and allowing data subjects to exercise their rights under the GDPR;
 - (vi) assist the Licensor as data controller in meeting its GDPR obligations in relation to the security of processing, the notification of personal data breaches and data protection impact assessments;

- (vii) delete or return all personal data to the Licensor as controller as requested at the end of the contract; and
- (viii) submit to audits and inspections, provide the controller with information it needs to ensure that they are both meeting their Article 28 obligations;
- (ix) tell the controller immediately if it is asked to do something infringing the GDPR or other data protection law of the EU or a member state;
- (x) promptly notify the Client of any breach of the security measures required to be put in place pursuant to condition 10.7; and
- (xi) ensure it does not knowingly or negligently do or omit to do anything which places the Client in breach of the Client's obligations under data protection laws,
- (xii) define the Type of Personal Data and the Categories of Data Subjects in Appendix 1,

where any INPHASE services time required shall be subject to charges payable by the data controller at the standard rate.

21. FORCE MAJEURE

Neither party shall be liable for failure to perform its obligations under the Licence if such failure results from circumstances beyond the party's reasonable control.

22. WAIVER

No delay, neglect or forbearance on the part of either party in enforcing against the other party any term or condition of the Licence shall either be or be deemed to be a waiver or in any way prejudice any right of that party under the Licence.

23. TRAINING

The Licensor shall provide instruction in the use of the Program for the Licensee's personnel as specified in Appendix 1. Charges shall be made for such instruction as specified in Appendix 1 and the Licensee shall be responsible for paying any travel or living expenses.

24. PUBLICITY

Neither party shall without the prior written consent of the other advertise or publicly describe any details of the services the Licensor is providing to the Licensee, excepting that either party shall be entitled to include the other party in a list of clients or suppliers.

25. ARBITRATION

Any dispute or difference which may arise between the Licensee and the Licensor in connection with or arising out of the Licence may, by agreement of both parties, be resolved in arbitration, in which event such dispute or difference shall be referred to a single arbitrator to be agreed between the Licensee and the Licensor or, failing such agreement within fourteen days, to be nominated by the President for the time being of the British Computer Society.

26. BRIBERY

"The Licensee may terminate this Agreement and recover all its loss if the Licensor, its employees or anyone acting on the Licensor's behalf do any of the following things:

- a) Offer, give or agree to give to anyone any inducement or reward in respect of this or any other Licensee Agreement (even if the Licensor does not know what has been done); or
- b) commit an offence under the Prevention of Bribery Act 2010 or Section 117(2) of the Local Government Act 1972; or
- c) commit any fraud in connection with this or any other Licensee Agreement whether alone or in conjunction with Licensee members or employees.

Any clause limiting the Licensor's liability shall not apply to this clause."

27. LAW

Unless otherwise agreed in writing between the parties, the Licence shall be subject to and construed and interpreted in accordance with English Law.

End User Licence Agreement APPENDIX 1 To Agreement xxxxBMSHxxxx

LICENCE INFORMATION (EXCLUDING MAINTENANCE SERVICE)

1. Licensee (Clause 1.iv)

2. Licensor (Clause 1.v)

InPhase Limited, The Manor House. Sefton Park. Stoke Poges, Buckinghamshire,SL2 4JS

3. Title or Description of Program(s) (Clause 1.vi)

1 x InPhase Web Server instance

Nnn x InPhase Web Named User

Or

Unlimited x Windows PC, Tablet, or smart phone, IOS iPad or iPhone devices for the organisations, locations and services of the Licensee at the time of the Agreement, subject to review if significant changes (greater than 10%) to the numbers of staff are made during the term of the Licence.

Non-named user Licences	Number
Published Book Viewers	-
Named Users logging into the software	
Data Entry	-
Enterprise	-
Reporter	-
Manager	-
Administrator	-
Server Software	
InPhase Server	-
InPhase Data Mart	-
Options	Yes/No
Bing Maps	Yes/No
Project Matrix	Yes/No
Risk Matrix	Yes/No
Resourced Objectives	Yes/No
Live Connect API	Yes/No
Perfect Ward API	Yes/No
My InPhase	Yes/No
Crisis Action Management	Yes/No
Question Manager	Yes/No
InPhase Designer	Yes/No
InPhase Administrator	Yes/No
Apps	
PMO Project and Programme	Yes/No
Quality Oversight compliance	Yes/No

CQC, NICE, CAS, NHSI, Policy Management National Clinical Audit Management,	
Incident Oversight comprising Incidents, Complaints, Claims	Yes/No
Risk Registers Oversight	Yes/No
Performance Oversight Dashboards	Yes/No
Audit Oversight and Audit Design Manager	Yes/No
Planning & Performance Management	Yes/No
Board Assurance Framework	Yes/No
NHS Premise Assurance Model	Yes/No
Action Plan Management	Yes/No
Fire Plan Performance Project & Risk	Yes/No

4. Make, Type or serial Number of Equipment (Clause 1.ii)

1 x Windows Server

nnn x Windows PC, Tablet, or smart phone, IOS iPad or iPhone devices

OR

Unlimited x Windows PC, Tablet, or smart phone, IOS iPad or iPhone devices for the organisations, locations and services of the Licensee at the time of the Agreement, subject to review if significant changes (greater than 10%) to the numbers of staff are made during the term of the Licence.

5. Address of Location(s) (Clauses 1.ii, 5 and 7.3)

Server: INPHASE provided hosted server on back-to-back terms provided by the Data Centre hosting company from time to time in use currently Microsoft Azure North Europe.
Desktop client; offices or other authorised locations of the Licensee

6. (a) Date of Delivery (Clause 5)

To be arranged by commissioning of site and provision of access

(b) Date of Installation (if applicable)(Clause 5)

Not applicable

7. Type of Media (Clause 5)

CD or electronic

8. Documentation (Clause 8.1)

On-line

9. Period of Licence (Clause 2)

For a minimum Initial Period of ____ times 52 weeks commencing from date of this agreement and thereafter for successive periods of 52 weeks unless terminated by either party in accordance with clause 18, Licence will terminate at the next anniversary date.

10. Licence Charges (Clauses 3 & 4)

11. Terms of Payment (Clause 4)

Payment shall be within 30 days from receipt of a correctly rendered invoice. The rate of interest to be charged in the event of delays in payment shall be 4% per annum above Barclays Bank Plc base rate.

12. Training (Clause 23)

Separately arranged

13. Indemnity and Insurance (Clause 16)

Other than for liability regarding death, injury or breach of copyright and IPR for which neither party limits liability, the liability of either party to the other under Sub-Clauses 16.1 and 16.2 in respect of any one event or series of connected events shall not exceed £1,000,000.

14. Special Use - if applicable (Clause 7.1)

Not applicable

End User Licence Agreement APPENDIX 2 To Licence xxxxBMSHxxxx

MAINTENANCE SERVICE

1. Description of Maintenance Services to be Provided (Clause 11)

- a) Licence continuation
- b) Error Correction in accordance with INPHASE Support Process and standards as updated from time to time
- c) Updates and New Releases
- d) Documentation Amendments
- e) Enhancements
- f) Telephone Hot-line support 9.00 a.m. to 5.30 p.m. UK time Monday to Friday excluding UK Bank and Public Holidays.

2. Maintenance Period (clause 11)

For a minimum Initial Period of three times 52 weeks commencing from date of this agreement and thereafter for successive periods of 52 weeks unless terminated by either party in accordance with clause 18. Maintenance will terminate at the next anniversary date.

3. Maintenance Charges (Clauses 3 & 4)

Included in the Licence charge plus applicable taxes payable for each period of 52 weeks on or prior to the first day of the 52 week period, fixed for the Initial Period of 3 years and variable thereafter in accordance with clause 3.

4. Maintained Hosted Server

Hosting Server and Services configuration is as follows:

On-site back-up and 14 day retention
Standard Monitoring
Enhanced Monitoring

Managed Firewall and device monitoring, security events alerting portal
Microsoft Windows Server Licence
Microsoft SQL Server Licence
Up to 20 GB disc space

End User Licence Agreement

Amendment Schedule 1 To Agreement xxxxBMSHxxxx

Amendments

The following amendments are made to the End User Licence Agreement, where the following clauses shall be considered as if included in the main body of the Agreement and shall replace or amend any conflicting terms or conditions within the Agreement.

There are no current amendments on this Licence

INPHASE BMS

INPHASE Maps feature Bing Maps base layer Licence

From INPHASE BMS version 14 – Vector released 1 January 2015 the following Licence Terms apply to the use of the INPHASE BMS Maps feature use of Bing Maps base layer.

If you do not agree with these Terms of Licence ADVISE INPHASE IMMEDIATELY and do not use the Bing Maps Key provided below to activate the Bing Maps base layer feature in INPHASE BMS.

End User	Bing Key

MICROSOFT BING MAPS END USER MINIMUM TERMS

Applicable from 1 January 2015 to INPHASE BMS software Maps feature.

END USER MINIMUM TERMS: LIGHT KNOWN USER APPLICATIONS These license terms (“End User Minimum Terms”) are an agreement between

Inphase Ltd (“Bing Maps Licensor”) governing the software application or suite of applications [INPHASE BMS Maps feature] (“Bing Maps Application”) with which

[End User] (“End User” or “you”) acquired use of the Microsoft Bing Maps Services (“Services”). Please read them.

Microsoft has licensed the Services to Bing Maps Licensor. By using the Bing Maps Application, you accept these terms. If you do not accept them, do not use the Bing Maps Application.

Definitions.

“Asset” means one of any of the following classes: vehicle, device or other mobile object.

“Content” means the maps, images and other data and third party content that Bing Maps Licensors are authorized to access via the Services.

“Known User” means an End User that is provisioned and/or authenticated by Bing Maps Application, for example through the use of usernames, passwords, digital certificates, unique IDs, smart cards, or other identification technology.

“Known User SLs” means single user Subscription Licenses accessed by Bing Maps Licensor's authenticated employees and/or End Users' authenticated employees on Bing Maps Licensor's extranet or End User's private intranet, in order to access and display maps and related information in a Bing Maps Application.

“Services” means the Bing Maps Platform APIs to be provided by Microsoft.

“Subscription License” or “SL” means a subscription license (e.g., Known User SL, Mobile Asset Management SL, or Mobile Asset Management for Consumer SL) that may be granted pursuant to an agreement between Licensor and End User, with the license rights further granted in a Bing Maps Distributor Service Order.

License. Bing Maps Licensor provides you a license to access the Services from within the Bing Maps Application provided by Bing Maps Licensor only.

Light Known Users. You must acquire the appropriate Subscription License (SL) for each Light Known User that accesses the Bing Maps Application. Light Known Users are permitted to access the Bing Maps Application for the purpose of displaying maps and related maps in a Bing Maps Application.

You have acquired 5 (unless otherwise specified in writing) Light Known User SLs for use solely within the Bing Maps Application supplied by Bing Maps Licensor.

These Known User SLs are valid for the term of your agreement with Bing Maps Licensor, which may not exceed one year.

Additional Restrictions for Light Known Users

Light Known User may overlay administrative boundaries or other map content provided in the Bing Maps Application, provided that you do not use the Bing Maps Application for:

- (1) loading additional map content layers of any kind;
- (2) editing or creating map content. For avoidance of doubt, simple annotations such as a line, arrow, polygon or circle to highlight an area are allowed and not considered to be map content under this restriction; and
- (3) executing any spatial query other than proximity (find the nearest), point-in-polygon, distance between two points or as provided by the find and route services. For avoidance of doubt, Bing Maps Application may not perform Geofences, buffers or query a spatially enabled database.

General Restrictions: Microsoft does have some restrictions on your use of the Bing Maps Application supplied by Bing Maps Licensor. In using the Services provided with the Bing Maps Application, you may not:

(a) Upload or incorporate any content to the Services via the Bing Maps Application, or use the Bing Maps Application to display or use any content:

- for which you do not have all necessary permissions from the copyright holder(s);
- which includes nudity or is obscene, indecent, pornographic;
- which is intended to exploit minors in any way;
- which incites, advocates, or expresses hatred, bigotry, racism, or gratuitous violence; or
- which is intended to threaten, stalk, defame, defraud, degrade, victimize, or intimidate an individual or group of individuals for any reason, including on the basis of age, gender, disability, ethnicity, sexual orientation, race, or religion, or to incite or encourage anyone else to do so.

(b) Copy, store, archive, or create a database of the Content.

(c) Use Content, including geocodes, other than in conjunction with the Bing Maps Application.

(d) Present or alert a Known User to individual maneuvers of a route in any way that is synchronized with the Known User's sensor-based position along the route (e.g. turn by turn navigation that tracks Known User's position using GPS and communicates a maneuver as the Known User approaches the location for such maneuver).

(e) Change, obscure, or minimize any logo, trademark, copyright or other notice of Microsoft or its suppliers, or digital watermarks in the Content; except that we may make alternative logo, trademark and copyright attribution requirements available for use with small maps or on small devices; if available you will find them here: <http://go.microsoft.com/fwlink/?LinkID=229258>.

(f) Use the Services for business asset tracking, fleet management, or dispatch including, without limitation, to monitor or track the location or movement of Asset(s), including to provide guidance based on the position or routing of multiple objects tracked using GPS or other sensor-generated methods.

(g) Use Content other than in combination with the Services and not separately.

- (h) Use Content that consists of points of interest data to generate sales leads information in the form of ASCII or other text-formatted lists of category-specific business listings which (i) include complete mailing address for each business; and (ii) contain a substantial portion of such listings for a particular country, city, state or zip code region.
- (i) Transmit, sell, license or deliver any infringing, defamatory, offensive, or illegal products, services or materials.
- (j) Violate any applicable U.S. Export Administration Regulations or End User, end-use and destination restrictions issued by U.S. and other governments. The Services are subject to U.S. export jurisdiction.
- (k) Use the Services in any way that threatens the integrity, performance or reliability of the Services including performance or stress testing, or in any manner that works around any technical limitations in the Services.
- (l) Syndicate, redistribute, resell or sublicense access to the Services or Content on a standalone basis.
- (m) Falsify or alter any unique referral identifier in, or assigned to, a Bing Maps Application, or otherwise obscure or alter the source of queries coming from a Bing Maps Application.
- (n) Reverse engineer, decompile or disassemble the Services, except and only to the extent that applicable law expressly permits, despite this limitation.
- (o) Integrate road maps from the Services with road maps supplied by any third party. You may not replace aerial imagery from the Services with imagery supplied by any other mapping platform.
- (p) Use the Services or Content with a vehicle's dashboard, or a device connected to a vehicle's dashboard, systems or sensors, except that the device may be connected to the vehicle power source for charging purposes.
- (q) Use bird's eye aerial imagery (if it is made available through the Bing Maps Platform APIs) to reveal latitude, longitude, altitude or other metadata.
- (r) Save, download, print, distribute, transmit or manipulate bird's eye imagery, or offer others that ability, through your Bing Maps Application.
- (s) Use bird's eye imagery of the United States, Canada, Mexico, New Zealand, Australia, and/or Japan if you are a government entity.
- (t) Use Content from Ordnance Survey.

Intellectual Property and Reservation of Rights. All rights to the Services and the Content, including rights of use, not specifically granted under these End User Minimum Terms or your agreement with Bing Maps Licensor are reserved by Microsoft and its suppliers. Except as set forth in your agreement with your Bing Maps Licensor, these End User Minimum Terms do not grant Microsoft any right or license to any Bing Maps Application or your intellectual property, including intellectual property that you licensed from third parties. Except for material that Microsoft may license to you, Microsoft does not claim ownership of the content you post or otherwise provide to us, which is hosted by Microsoft or a third party hosting provider on Microsoft's behalf, related to the Services (called a "Submission"). However, by posting or otherwise providing your Submission (and for the avoidance of doubt, where Microsoft hosts content on your behalf including by a third party hosting provider, this constitutes a Submission, but where you host or a third party hosts content on your behalf, other than Microsoft or a third party hosting provider on behalf of Microsoft, this does not constitute a Submission), you are granting to Microsoft free permission to use, copy, distribute, display, publish, transcode and otherwise modify your Submission, each in connection with the Services, and sublicense these rights to others in order to provide the Services. For every Submission you make, you must have all rights necessary for you to grant the permissions in this section.

Additional Rights and Restrictions for End Users

- (i) **Support or SLA.** Microsoft does not provide any support or SLA directly to End Users for Bing Maps Application provided to End User by Bing Maps Licensor.
- (ii) **Termination Rights.** Microsoft reserves the right terminate access to the Bing Maps Application to any End User who is in breach of any restriction included in these End User Terms or Bing Maps Licensor's terms with End User related to use of the Services, and who fails to cure such breach within thirty (30) days after written notice thereof.
- (iii) **No Warranty by Microsoft to End Users.** Microsoft does not make any representation or warranty (express, implied, statutory, or otherwise) with respect to the Services or otherwise.

EXHIBIT D

LICENSED USE CASES

The following are the Licensed Use Cases for Subscription Licenses purchased for use with the Bing Maps Applications. All definitions have the meanings set forth in the Bing Maps Licensor Service Order.

1.2 Light Known User.

Bing Maps Licensor will use the Services provided under this Bing Maps Licensor Service Order in a Bing Maps Application that is accessed by Bing Maps Licensor's authenticated employees and/or End Users' authenticated employees on Bing Maps Licensor's extranet or End User's private intranet, in order to access and display maps and related information in a Bing Maps Application. Bing Maps Application may be accessed via a web browser or an installed client, provided that functionality provided in the user interface and authentication of Known Users is strictly controlled by Bing Maps Licensor in order to comply with this Bing Maps Licensor Service Order.

(a) **Additional License Rights and Restrictions.**

- (i) Bing Maps Licensor is granted the number of Known User Subscription Licenses (SLs) reported and paid for by Bing Maps Licensor.
- (ii) Bing Maps Licensor's Bing Maps Application may not exceed 25,000 total forward or reverse geocoding transactions, sessions or routing requests within any 24 hour period. Bing Maps Application may not exceed 5 million total forward or reverse geocoding transactions, sessions or routing requests per year. Should Licensor report more than 5000 Light Known User SLs, upon such reporting, these limits will be increased at the rate of 10 requests per Light Known User within any 24 hour period and 1000 requests per Light Known User per year, for each Light Known User SL above 5,000. Such increased limits will continue for the duration that Bing Maps Licensor reports more than 5000 Light Known User SLs.
- (iii) Bing Maps Application may only overlay administrative boundaries or other map content subject to Section 1.2(p) of the TOU provided that the Bing Maps Application's user interface prevents End Users from:
 - loading additional map content layers of any kind;
 - editing or creating map content. For avoidance of doubt, simple annotations such as a line, arrow, polygon or circle to highlight an area is allowed and not considered to be map content under this restriction; and

- executing any spatial query other than proximity (find the nearest), point-in-polygon, distance between two points or as provided by the find and route within the Services. For avoidance of doubt, Bing Maps Application may not perform Geofences, buffers or query a spatially enabled database.

INPHASE LIMITED

PEOPLE-TIME AGREEMENT

CLIENT _____

Agreement Number:

_____MT_____

Effective Date of this Agreement:

1. DEFINITIONS

(i) "Client" shall mean:
As defined in the Appendix.

(ii) INPHASE shall mean:
INPHASE Limited, The Manor House, Sefton Park, Stoke Poges, Buckinghamshire, SL2 4JS

(iii) "Software" shall mean any software application code developed by INPHASE including both application and code developed specifically during the course of this Agreement and any previously existing application code provided to the Client under this People Time agreement.

2. UNDERTAKINGS

2.1 INPHASE undertakes to provide consultancy skills for the tasks outlined in the Appendix at the rates specified in the Appendix or for the time-period or the duration specified in the Appendix.

2.2 INPHASE undertakes that all work shall be carried out in accordance with best practise, and shall execute the consultancy with care, skill and diligence.

2.3 Documentation of the work carried out shall be to the level in the Appendix.

2.4 Client shall provide INPHASE consultant(s) suitable facilities for working at any premises belonging to the Client where consultancy must be carried out at Client premises.

2.5 If applicable INPHASE shall deliver a copy of any Software, in machine readable form, on the media to the location and, if applicable install the Software by the date, all as specified in the Appendix. The Documentation shall also be delivered to the location and by the date specified in Appendix 1.

3. CHARGES

3.1 Consultancy charges shall be as set out in the Appendix, and shall be on a time and expenses basis unless expressly stated otherwise. Expenses shall include all reasonable travel and subsistence expenses necessitated exclusively as a consequence of this Agreement.

4. DELIVERY

4.1 All services under this contract and its amendments are for delivery on the dates specified below, or where no dates are specified, within 12 months of their order being the date of this Agreement or applicable Amendment. In the event that the Client does not make arrangements to take delivery of all or part of the services purchased under this contract within 12 months of their order, such services will expire and will be treated as delivered under the terms of this agreement.

5. TERMS OF PAYMENT

5.1 All charges due under the Agreement as specified in the Appendix shall be paid by the Client either within the period specified in the Appendix from the receipt of a correct invoice from INPHASE or by the due date whichever is the later.

5.2 If the payment of any sum due under the Agreement shall be delayed by the Client, INPHASE shall be entitled to charge interest at 4% above Barclays Bank Plc base rate on the amount of the delayed payment for the period of delay.

6. INDEMNITY AND INSURANCE

6.1 Both parties shall indemnify and keep indemnified the other party, against injury (including death) to any persons or loss of or damage to any property (including the Program) which may arise out of the act, default or negligence of either party, up to a limit of £1,000,000, such limit shall not apply to injury or death or breach of copyright or IPR.

7. COPYRIGHT INDEMNITY

7.1 INPHASE shall fully indemnify the Client against damages (excluding consequential damages), costs, charges and expenses arising from or incurred by reason of any infringement or alleged infringement in the United Kingdom of copyright in consequence of the authorised use or possession of the Software or Documentation supplied by INPHASE under this Agreement, subject to the following:-

- (i) the Client promptly notify INPHASE in writing of any alleged infringement of which he has notice
- (ii) the Client must make no admissions without INPHASE's prior consent
- (iii) the Client, at INPHASE's request and expense shall allow INPHASE to conduct any negotiations or litigation and/or settle claim. The Client shall give INPHASE all reasonable assistance. The costs incurred or recovered in such negotiations or settled claim shall be for INPHASE's account.

7.2 If at any time an allegation of infringement of copyright is made in respect of the Software, or if in INPHASE's reasonable opinion such an allegation is likely to be made, INPHASE may at its own expense modify or replace the Software so as to avoid the infringement, without detracting from overall performance, INPHASE making good to the Client any loss of use during modification or replacement.

8. OWNERSHIP

8.1 Title, copyright and all other propriety rights in any Software and Documentation and all parts and copies thereof shall remain vested in INPHASE.

8.2 The Client is granted an irrevocable right to use any Software and Documentation not covered by other agreements for their own purposes, but not to re-assign, sell, licence or make available in any other fashion the Software to any other party, without the written consent of INPHASE.

9. CONSEQUENTIAL LOSS

9.1 INPHASE shall not be liable to the Client for consequential loss or damage including loss of use or of profit or of contracts.

10. CONFIDENTIALITY AND GDPR

10.1 The Client shall keep confidential the Software and the Documentation or any part thereof and shall not disclose the same to any third party without the prior written consent of INPHASE.

10.2 The client and INPHASE shall keep confidential all information of the other party designated as 'confidential' obtained under or in connection with Agreement and shall not divulge the same to any third party without prior written consent of the other party.

10.3 The provisions of this Clause shall not apply to :-

(i) any information in the public domain otherwise than by breach of this Agreement.

(ii) information in the possession of the receiving party thereof before divulgence as aforesaid.

(iii) information obtained from a third party who is free to divulge the same.

10.4 The client and INPHASE shall divulge confidential information only to those employees who are directly involved in the activities of this Agreement or use of the Software and shall ensure that such employees are aware of and comply with these obligations as to confidentiality.

10.5 The obligations of both parties as to disclosure and confidentiality shall come into effect on the signing of the Agreement and shall continue in force notwithstanding the termination of the Agreement.

10.6 INPHASE shall comply with any requirements under the General Data Protection Regulation and Data Protection Act 2018 and shall duly observe all obligations under the data protection laws, which arise in connection with the Agreement.

10.7 No personal data or special category data is anticipated to be processed in relation to this Agreement. Notwithstanding the general obligation in condition 10.6 and this clause where INPHASE is processing Personal Information as a Data Processor for the Client who acts as the data controller, INPHASE shall ensure that it has in place appropriate technical and contractual measures to ensure the security of Personal Information (and to guard against unauthorised or unlawful processing of the Personal Information and against accidental loss or destruction of, or damage to, the Personal Information) in compliance with GDPR and Data Protection Act 2018. INPHASE will

(i) only act on the written instructions of the Client as controller (unless required by law to act without such instructions);

(ii) ensure that people processing the data are subject to a duty of confidence;

(iii) take appropriate measures to ensure the security of processing;

- (iv) only engage a sub-processor with the prior consent of the data controller and a written contract;
- (v) assist the data controller in providing subject access and allowing data subjects to exercise their rights under the GDPR;
- (vi) assist the data controller in meeting its GDPR obligations in relation to the security of processing, the notification of personal data breaches and data protection impact assessments;
- (vii) delete or return all personal data to the controller as requested at the end of the contract; and
- (viii) submit to audits and inspections, provide the controller with information it needs to ensure that they are both meeting their Article 28 obligations;
- (ix) tell the controller immediately if it is asked to do something infringing the GDPR or other data protection law of the EU or a member state;
- (x) promptly notify the Client of any breach of the security measures required to be put in place pursuant to condition 10.7; and
- (xi) ensure it does not knowingly or negligently do or omit to do anything which places the Client in breach of the Client's obligations under data protection laws,

where any INPHASE services time required shall be subject to charges payable by the Client at the standard rate.

11. EMPLOYMENT

11.1 No master and servant relationship will be deemed to exist between the Client and any employee of INPHASE.

11.2 The client and INPHASE indemnify each other against injury to or death of any of their employees caused by any act or omission of the other party for which either is liable as employer or his representative, and will on request give evidence of adequate insurance with a reputable company against such risks

11.3 Until six (6) months after completion of the Service or termination of this agreement whichever is later, neither party will solicit the employment of any employee of the other party who has been engaged in connection with this Service. Liquidated damages for breach of this provision will be equal to the gross salary of that employee for six (6) months.

12. FORCE MAJEURE

12.1 Neither party shall be liable for failure to perform its obligations under this Agreement if such failure results from circumstances beyond the party's reasonable control.

13. WAIVER

13.1 No delay, neglect or forbearance on the part of either party in enforcing against the other party any term or condition of the Agreement shall either be or be deemed to be a waiver or in any way prejudice any right of that party under the Agreement.

14. TRAINING

14.1 INPHASE shall provide instruction in the use of any Software for the Client's personnel as specified in the Appendix.

15. PUBLICITY

15.1 Neither party shall, without prior written consent of the other party, advertise or publicly announce any details of the services that INPHASE is providing to the Client, excepting that either party shall be entitled to include the other party in a list of clients or suppliers.

16. ARBITRATION

16.1 Any dispute or difference which may arise between INPHASE and the Client in connection with or arising out of this Agreement may, by agreement of both parties, be resolved in arbitration, in which event such dispute or difference shall be referred to a single arbitrator to be agreed between INPHASE and the Client or, failing such agreement within fourteen days, to be nominated by the President for the time being of the British Computer Society.

17. LAW

The Agreement shall be subjected and construed and interpreted in accordance with English Law and shall be subject to the jurisdiction of the Courts of England.

Consultancy People-Time Agreement
Appendix 1 Agreement Number: ___MT

Client

1. Consultancy Task(s)

2. Consultancy Rates

£xxxxx per day discounted to £xxxxx per day

3. Consultancy Duration

xx days or as directed by the Client

4. Type of media

Hosted

5. Date of Delivery

To be arranged with Client

6. Documentation

To be provided.

7. Training

Included

8. Any Other Services and All Fees Due

xx Days implementation services

x days Training

Total xx days Total Initial Fee of £xxxxxxx plus VAT and business expenses as below.

9. Payment Terms

a) Payment for 100% of the Total Initial fees of this agreement appendix shall be invoiced on agreement, and payment shall be within 30 days from receipt of a correct invoice or prior to the start date of the consultancy, whichever is earlier. Subsequent invoices will be provided monthly at the end of the month in which the service is provided, payable within 14 days of the date of invoice.

b) The rate of interest to be charged by INPHASE to the Client in the event of delays in payment shall be 4% per annum above Barclays Bank Plc base rate.

c) Expenses for business travel and subsistence will be charged as incurred. INPHASE Consultants will deliver consulting at INPHASE offices in Stoke Poges, or at customer's premises. Where the customer chooses to have delivery at customer premises, reasonable travel time to customer premises is charged as expense at a reduced rate as follows: up to 2 hours travel free of charge, for additional time over 2 hours, either by a reduction in delivery hours, or at an additional charge at a rate of 50% of the hourly rate. INPHASE will use best endeavors to meet the customers preferred structure of delivery dates, and consultant, however, single day assignments involving substantial travel time may not be feasible and INPHASE may substitute one Consultant for another of a similar or higher grade at any time.

d) Re-arrangement of Agreed Date of Delivery

No fee for re-arrangement with more than 28 days notification,

10% of the related man-time fee for postponement or cancellation of a planned date with 28 calendar days or less notification,

50% of the related man-time fee (including any travel and other expenses unavoidably incurred) for postponement or cancellation of a planned date with 5 working days notification or less,

100% of the related man-time fee (including any travel and other expenses unavoidably incurred) for postponement or cancellation of a planned date with 3 working days or less notification.

All man-time will be considered delivered within 12 months of the Amendment for contractual purposes whether physically delivered or not.

e) VAT will be added at the prevailing rate.