

**THIS AGREEMENT** is made on <INSERT DATE>

**BETWEEN:**

**HEALTHCARE CLINICAL INFORMATICS LIMITED** registered in England & Wales under Number 07283256 of 3rd Floor Ormond House 63 Queen Victoria Street London EC4N 4UA (**"HCI Group"**); and

<INSERT CLIENT> whose registered address is <INSERT CLIENT ADDRESS> (**"Client"**).

**BACKGROUND:**

HCI carries on the business of sourcing and supplying consultants to provide services to clients of HCI.

The Client now wishes to establish an agreement with HCI under which a number of services may be delivered upon execution of an appropriate Scope of Work (as defined below) and the appropriate proposal (attached).

**AGREED TERMS:**

**1      Interpretation**

In this Agreement:

**"Charges"** means the charges, fees and any other sums payable by the Client to HCI as set out in the relevant Scope of Work;

**"Confidential Information"** means any commercial, technical, financial and other information of whatever nature and in whatever form whether written, oral, visual, recorded, graphical, electronic or otherwise, which:

- (a) is "Personal Data" (as defined in the Data Protection Act 1998) that relates to any patient or other Client service user or their treatment or clinical or care history;
- (b) is designated as confidential by the relevant party; or
- (c) ought reasonably to be considered as confidential;

**“Consultant Day”** means any day on which the Services are performed by a Relevant Person for the Client for a minimum of eight hours;

**“Deliverables”** means all documents, products and materials developed or provided by (or on behalf of) HCI to the Client as part of providing the Services;

**“Force Majeure”** has the meaning given in clause 0;

**“Key Individual”** means the individual(s) named as the “Key Individual” in the relevant Scope of Work;

**“Premises”** means, where applicable, the premises or location where the Services are to be provided, as set out in the relevant Scope of Work or as otherwise agreed by the parties;

**“Relevant Person”** means any individual employed or engaged by HCI and involved in the provision of the Services, or any of HCI’s agents or contractors or sub-contractors who are involved in the provision of the Services;

**“Services”** means the services to be provided by or through HCI as set out in the relevant Scope of Work, including the provision of Deliverables;

**“Scope of Work”** means the legally binding agreement made between HCI and the Client pursuant to this Agreement for the provision of Services, comprising of a completed document signed by both parties materially in the same form as the document contained in Schedule 1; and

**“Working Day”** means any day other than a Saturday, Sunday or public holiday in United Kingdom.

Any headings in this Agreement shall not affect the interpretation of this Agreement.

A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.

In this Agreement, “includes” and “including” and words of similar effect shall be construed as if they were immediately followed by the words “without limitation”.

## Services

HCI shall ensure that all Services set out in a Scope of Work are provided in accordance with the terms of this Agreement. A Scope of Work may contain additional specific terms agreed by the parties varying or supplementing the terms of this Agreement for the purposes of that Scope of Work only.

The Client acknowledges that HCI may sub-contract the provision of the Services.

### HCI responsibilities

HCI shall, and shall ensure that each Relevant Person shall:

provide the Services with all reasonable skill, care and ability in accordance with the terms of this Agreement and the reasonable instructions of the Client;

not act in any way or perform the Services in any manner which may be derogatory or detrimental to the reputation, image and/or goodwill of the Client;

comply with all applicable legislation and codes of practice relating to diversity, ethnicity, equality, non-discrimination and human rights in force in the United Kingdom; and

ensure that delivery of the Services is covered at all times during the term of this Agreement by a professional indemnity insurance policy with an indemnity limit of at least £2,000,000 (two million pounds) per claim.

### **Client responsibilities**

The Client shall provide HCI and each Relevant Person with such access to the Premises as is necessary for the purposes of providing the Services.

The Client shall:

co-operate with HCI in all matters relating to the Services;

inform HCI of all health and safety rules and regulations and any other reasonable security requirements that apply at the Premises; and

ensure that any and all equipment, systems, cabling or facilities provided by the Client and used directly or indirectly in the supply of the Services is in good working order and suitable for the purposes for which it is used in relation to the Services and conform to all relevant United Kingdom standards or requirements. If HCI's performance of its obligations under this Agreement is prevented or delayed by any act or omission of the Client, its agents, subcontractors, consultants or employees, HCI shall not be liable for any costs, charges or losses sustained or incurred by the Client that arise directly or indirectly from such prevention or delay.

The Client shall not, without the prior written consent of HCI, at any time from the date of this Agreement to the expiry of 12 months after the termination of this Agreement, enter into a contract for services or a contract of employment with any Relevant Person.

Any consent given by HCI in accordance with clause 3.3 shall be subject to the Client paying to HCI a sum equivalent to 20% of the then current annual remuneration of such Relevant Person or, if higher, 20% of the annual remuneration to be paid by the Client to that Relevant Person.

### **Key Individuals**

HCI shall provide the Services described in a particular Scope of Work through the relevant Key Individual specified in that Scope of Work.

If the relevant Key Individual is not able to provide the relevant Services for any reason, HCI shall:

advise the Client of that fact as soon as reasonably practicable; and

if practicable, offer to provide the Services through an alternative individual, in which case the Client shall have a right of approval over the proposed replacement (such approval not to be unreasonably withheld or delayed).

The Client acknowledges that HCI will have to replace a Key Individual where such person ceases to be employed by HCI or its relevant sub-contractor, in which case the Client shall have a right of approval over the proposed replacement (such approval not to be unreasonably withheld or delayed).

HCI shall ensure that timesheets recording all time spent on performing the Services in respect of each Consultant Day are completed and submitted to the Client via the HCI online timesheet portal at the end of each week in which the relevant Services are provided. The Client shall promptly review and verify all timesheets submitted to it pursuant to this clause 0.

## **Price and Payment**

Promptly following the completion of discrete Services (or at such other times as are specified in the relevant Scope of Work), HCI shall invoice the Client for the sum of the Charges in respect of the relevant Services.

The Client shall pay each invoice submitted to it under clause 0 within 30 days after the date of the relevant invoice.

The Charges are exclusive of value added tax (VAT) or any equivalent sales tax in any applicable jurisdiction.

If the Client fails to pay any sum properly due and payable (other than any sum disputed in good faith) by the due date for payment, HCI may:

charge interest on the amount of any such late payment at the rate of 5% per annum above the official bank rate set from time to time by the Bank of England, such interest to accrue from the date on which payment was due to the date on which payment is actually made; or

exercise its rights under the Late Payment of Commercial Debts (Interest) Act 1998 in respect of such late payment.

## **Change Control**

If either party wishes to change the scope or provision of the Services, it shall submit details of the requested change to the other in writing and such change shall only be implemented if agreed in writing by both parties acting reasonably.

### **Intellectual Property Rights**

Where any intellectual property rights owned by or licensed to the Client are required to be used in connection with the provision of the Services, the Client hereby grants HCI the right to use the same to the extent necessary for the provision of the Services.

HCI hereby grants the Client a perpetual, irrevocable, non-exclusive right to copy, adapt, publish and distribute the Deliverables within the Client's organisation for the Client's internal business purposes and for the purposes of receiving and using the Services in accordance with this Agreement and for any other purpose specified in the relevant Scope of Work.

HCI shall procure the waiver in favour of the Client of all moral rights relating to the Deliverables.

HCI warrants that the provision of the Services does not and will not infringe any third party's rights, including any third party's intellectual property rights.

HCI shall, at the Client's request and expense, execute all deeds and documents which may reasonably be required to give effect to this clause 0.

## **Data Protection**

In this clause 0, “**Data Subject**”, “**Personal Data**”, “**Process**”, “**Processed**” and “**Processing**” shall have meanings ascribed to them in the General Data Protection Regulation (GDPR).

The Client acknowledges and agrees that Personal Data provided to HCI by, or on behalf of, the Client will be Processed by and on behalf of HCI in connection with this Agreement and warrants that all relevant Data Subjects have given their informed consent for such Personal Data to be Processed by and on behalf of HCI for such purposes.

If any Personal Data belonging to Client personnel or any Client patient are disclosed to HCI or its sub-contractors pursuant to this Agreement, HCI shall ensure that, in relation to such Personal Data:

the Personal Data are Processed only in accordance with instructions from the Client;

the Personal Data are Processed only to the extent, and in such a manner, as is necessary for the performance of HCI’s obligations under this Agreement or as is required by law;

appropriate technical and organisational measures are implemented to protect the Personal Data against unauthorised or unlawful Processing and against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from any unauthorised or unlawful Processing, accidental loss, destruction or damage to the Personal Data and having regard to the nature of the Personal Data which is to be protected;

the Personal Data are not transferred to any country or territory outside the European Economic Area without the prior written consent of the Client;

reasonable steps are taken to ensure that such Personal Data are not unlawfully disclosed or Processed as a result of HCI’s (or its sub-contractor’s) access to such Personal Data; and

such information is provided to the Client regarding HCI’s compliance with clauses 0 to 0 as the Client may from time to time reasonably require to enable it to comply with its obligations as a data controller and, more generally, to ensure that Personal Data relating to Client personnel are appropriately protected.

## **Confidentiality**

Where one party (the “**Receiving Party**”) receives Confidential Information from the other (the “**Disclosing Party**”), whether directly or indirectly, pursuant to this Agreement, the Receiving Party shall:



treat all Confidential Information as confidential by ensuring or procuring that, whilst in its possession, control and power, the Confidential Information of the other party shall be maintained reasonably secure;

not divulge or communicate or, through any failure to exercise due care and diligence, cause any unauthorised disclosure of it in whole or in part to any person, company, business entity or other organisation except as permitted by this Agreement or with the prior written consent of the Disclosing Party; and

not use the Confidential Information or any part of it in any way which is likely to be detrimental to the Disclosing Party.

The restrictions set out in clause 0 shall not apply to any Confidential Information which:

can be demonstrated by documentary evidence to have been at the time of disclosure already known to or in the possession of the Receiving Party free from obligation of confidence or any other restriction as to use or disclosure;

is subsequently independently developed by employees, agents or sub-contractors of the Receiving Party without access to the Confidential Information supplied;

is lawfully and without any restriction as to its use or disclosure subsequently received by the Receiving Party from a third party who does not owe any duty of confidence to the Disclosing Party;

has been already, or subsequently becomes, published or available to the public generally otherwise than through a breach of a duty of confidentiality owed to the Disclosing Party; or

is produced or disclosed pursuant to applicable laws, regulations or a court order, provided that the Receiving Party has given the Disclosing Party reasonable notice in writing of such required production or disclosure so that the Disclosing Party has had an opportunity to defend or apply to limit or protect such Confidential Information from production or disclosure and the restrictions shall not apply to the production or disclosure of that Confidential Information to the extent only that it is so required to be produced or disclosed.

The Client's obligations under this clause 0 are subject to any obligation to disclose information (which may include Confidential Information) under the Freedom of Information Act 2000 or equivalent legislation ("FOIA").

Where the Client receives a request for information under FOIA (a "**Request for Information**") which relates in any way to HCI's Confidential Information, it shall, as soon as practicable after receipt and in any event within five Working Days after receiving such Request for Information:

inform HCI of such request for information; and

notify HCI in writing whether the information requested falls within a class of information included in the Client's publication scheme and, if not so included, whether:

the Client considers that any of the exemptions under FOIA which would entitle it to refuse to disclose the information apply to the information requested; and

even where the Client considers that one or more of the exemptions apply, whether the Client intends to disclose the information in response to the Request for Information.

If the Client notifies HCI in accordance with clause 0 that it intends to disclose the information, it shall not disclose such information until the expiry of a period of 15 Working Days after the date of receipt by the Client of the Request for Information, and during this period the Client shall accept representations from and consult with HCI with respect to the applicability to HCI's Confidential Information of any of the exemptions from the requirement to disclose it under FOIA.

Subject to the notification and consultation provisions of clauses 0 and 0, the Client shall be responsible for determining at its absolute discretion whether the Confidential Information and/or any other information:

is exempt from disclosure in accordance with the provisions of FOIA; or

is to be disclosed in response to a Request for Information,

and in no event shall HCI respond directly to a Request for Information unless expressly authorised to do so by the Client.

HCI acknowledges that the Client may nevertheless, acting in accordance with FOIA and applicable guidance, be obliged to disclose HCI's Confidential Information following consultation with HCI, in which case the Client shall notify HCI of that decision at least two Working Days before such disclosure where permissible, or otherwise as soon as permissible after any such disclosure.

The provisions of this clause 0 shall survive the expiry or termination of this Agreement however arising.

## **Liability**

Nothing in this Agreement shall exclude or restrict the liability of either party to the other for death or personal injury resulting from negligence or for fraudulent misrepresentation or in any other circumstances where liability may not be limited under any applicable law.

Subject to clause 0:

HCI shall not be liable for:

loss of profits; or

loss of business; or

depletion of goodwill and/or similar losses; or

loss of anticipated savings; or

loss of goods; or

loss of contract; or

loss of use; or

loss of corruption of data or information; or

any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses; and

HCI's total liability in respect of any one claim or series of linked claims, whether in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance or contemplated performance of this Agreement, shall be limited to the greater of £1,000 and the sums paid for the Services in the 12 months immediately preceding the relevant claim.

## **Force Majeure**

Neither party shall be liable to the other as a result of any delay or failure to perform its obligations under this Agreement if and to the extent such delay or failure is caused by an event or circumstance beyond the reasonable control of that party which by its nature could not have been foreseen by that party (or if it could have been foreseen was unavoidable) ("**Force Majeure**").

### **Commencement Date and Term**

This Agreement shall come into force on the date of this Agreement and shall continue in full force and effect until terminated in accordance with clause 0.

Each Scope of Work shall commence on the commencement date specified in the particular Scope of Work and shall continue in full force and effect until the Services and Deliverables required by that Scope of Work are completed or for such other period as specified in the particular Scope of Work, unless terminated earlier in accordance with clause 0.

### **Termination**

Either party may give notice in writing to the other terminating this Agreement by providing 30 days' written notice.

Either party may give notice in writing to the other terminating this Agreement with immediate effect if:

the other party commits any material breach of any of the terms of this Agreement and that breach (if capable of remedy) is not remedied within 30 days of notice being given requiring it to be remedied (and where such breach is not capable of remedy, the terminating party shall be entitled to terminate the Agreement with immediate effect);

the other party becomes (or, in the reasonable opinion of the terminating party, is at serious risk of becoming) insolvent or unable to pay its debts as they fall due; or

the performance of the Services is delayed, hindered or prevented by circumstances of Force Majeure for a period in excess of 28 days.

Any right to terminate this Agreement shall also be construed as a right to terminate one or more individual Scope of Work and this clause 0 shall be construed accordingly. Unless the parties agree otherwise, termination of this Agreement shall also result in the termination of any ongoing Scope of Work(s).

Termination of this Agreement, however it arises, shall not affect or prejudice the accrued rights of the parties as at termination or the continuation of any provision expressly stated to survive, or implicitly surviving, termination.

### **Governing Law and Dispute Resolution Procedure**

This Agreement and any dispute or claim (including any non-contractual dispute or claim) arising out of or in connection with it or its subject matter, shall be governed by, and construed in accordance with, the laws of the United Kingdom

The parties irrevocably agree that the courts of the United Kingdom shall have exclusive jurisdiction to settle any dispute or claim (including any non-contractual dispute or claim) that arises out of or in connection with this Agreement or its subject matter.

### **General**

No variation of this Agreement shall be valid unless it is in writing and signed by or on behalf of each of the parties.

A waiver of any right under this Agreement is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and the circumstances for which it is given.

Nothing in this Agreement is intended to, or shall operate to, create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power) and neither party shall incur any expenditure in the name of or for the account of the other.

This Agreement does not create any rights or benefits enforceable by any person not a party to it (within the meaning of The Contracts (Rights of Third Parties) Act 1999).

This Agreement constitutes the whole agreement between the parties and supersedes any previous agreement, understanding or arrangement between them relating to the subject matter of this Agreement.

This Agreement may be executed in counterparts, each of which when executed shall constitute a duplicate original, but all counterparts shall together constitute the one agreement. Where this Agreement is executed in counterparts, following execution the Client must promptly deliver the counterpart the Client has executed to HCI. Transmission of an executed counterpart of this Agreement by email in PDF, JPEG or other agreed format shall take effect as delivery of an executed counterpart of this Agreement.

Notice given under this Agreement shall be in writing, sent for the attention of the relevant person named below and to the address given on the front page of this Agreement (or such other address or person as the relevant party may notify to the other party) and, subject to clause 0, shall be delivered either personally, by courier, by pre-paid, first-class post or by recorded delivery. A notice is deemed to have been received: if delivered personally, at the time of delivery; in the case of pre-paid first class post, recorded delivery or courier, 48 hours after the date of posting. If deemed receipt under this clause 0 is not between the hours of 09:00 to 17:30 UK time on a Working Day the notice will be deemed to be received at 09:00 on the first Working Day following delivery. To prove service of notice, it is sufficient to prove that the envelope containing the notice was properly addressed and posted or handed to the courier.

A notice may be served by email and if no “out of office auto-reply” is received by the sender within one hour of transmission the notice will be deemed to have been delivered:

on the same Working Day if transmitted prior to 5:00pm on a Working Day in the recipient’s time zone; or

on the next Working Day if transmitted at or after 5:00pm in the recipient’s time zone.

The email addresses for service of any notices under clause 0 are as set out below until such time as either party notifies the other in writing of any change:

for HCl: <INSERT EMAIL>

for Client: <INSERT EMAIL>

**IN WITNESS** whereof the parties or their duly authorised representatives have entered into this Agreement on the date set out above.

Signed by <INSERT NAME> on behalf of )  
**HEALTHCARE CLINICAL INFORMATICS LIMITED** )  
)

Signed by <INSERT CLIENT CONTACT> on behalf )  
of <INSERT CLIENT> )