

# Terms and Conditions



## Contents

1. Definitions and Interpretations .....	3
2. Construction.....	4
3. Basis of the Contract .....	5
4. Supply of Services .....	5
5. On-boarding .....	6
6. Off-Boarding.....	6
7. Customer Obligations .....	6
8. Charges and Payment .....	7
9. Intellectual Property Rights .....	8
10. Confidentiality.....	9
11. Freedom of Information .....	11
12. Limitation of Liability .....	11
13. Dispute Resolution .....	12
14. Termination.....	12
15. Consequences of Termination .....	13
16. General.....	14

## 1. Definitions and Interpretations

In these Conditions, the following definitions apply:

**Business Day:** a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

**Charges:** the charges payable by the Customer for the supply of the Services in accordance with Clause 8

**Commencement Date:** has the meaning set out in Clause 3.

**Confidential Information:** Information that falls within the types of information which has been designated as confidential by either Party or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information which relates to the business, affairs, properties, assets, trading practices, Goods/Services, developments, trade secrets, Intellectual Property Rights, know-how, personnel, Clients and suppliers of either Party, all personal data and sensitive personal data within the meaning of the General Data Protection Regulation (EU) 2016/679 and the Commercially Sensitive Information.

**Contract:** the contract between the Supplier and the Customer for the supply of services in accordance with these Conditions.

**Customer:** the person or firm who purchases Services from the Supplier.

**Deliverables:** the deliverables set out in the Order produced by the Supplier for the customer.

**Environmental Information Regulations:** means the Environmental Information Regulations 2004 together with any guidance or codes of practice issued in relation to such legislation;

**FOIA:** means the Freedom of Information Act 2000 and any subordinate legislation made under such Act from time to time together with any guidance or codes of practice issued in relation to such legislation.

**G-Cloud Framework Agreement:** means the framework agreement between the Supplier and the Minister of the Cabinet Office under which the Supplier is authorised to provide certain cloud services.

**Information:** Meaning given under section 84 of the Freedom of Information Act 2000. "Intellectual Property Rights" includes but is not limited to patents, inventions, trademarks, service marks, logos, design rights (whether registrable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade or business names, moral rights and other similar rights or obligations whether registrable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off.

**Intellectual Property Rights:** all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

**Lot 1 Services:** means those services that the Supplier has been appointed to provide under Lot 1 of the G-Cloud Framework Agreement, as described in the Supplier's Service Description.

**Lot 2 Services:** means those services that the Supplier has been appointed to provide under Lot 2 of the G-Cloud Framework Agreement, as described in the Supplier's Service Description.

**Lot 3 Services:** means those services that the Supplier has been appointed to provide under Lot 3 of the G-Cloud Framework Agreement, as described in the Supplier's Service Description.

**Lot 4 Services:** means those services that the Supplier has been appointed to provide under Lot 4 of the G-Cloud Framework Agreement, as described in the Supplier's Service Description.

**Order:** the Customer's order for the Services as set out in the order form in writing.

**Request for Information:** means a request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the Environmental Information Regulations.

**Service Description:** means the description of the cloud services the Supplier can provide for each lot it has been appointed to under the G-Cloud Framework Agreement.

**Services:** the Lot 1 Services, Lot 2 Services, Lot 3 Services and/ or Lot 4 Services, including the Deliverables, supplied by the Supplier to the Customer as set out in the Order.

**Specification:** the Services as specified in the Order.

**Supplier:** Leicestershire Health Informatics Service (LHIS) hosted by Leicestershire Partnership Trust (LPT) Gwendolen House, Gwendolen Road, Leicester, LE5 4QF

## 2. Construction

In these Conditions, the following rules apply:

- a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- a reference to a party includes its personal representatives, successors or permitted assigns;
- a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- any phrase introduced by the terms including, include, in particular or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms;
- any headings to Clauses and Schedules are for convenience only and shall not affect the meaning of these Conditions;
- the schedules form part of these Conditions and any reference to these Conditions includes the schedules; and
- a reference to writing or written includes e-mails.

### 3. Basis of the Contract

The Order constitutes an offer by the Customer to purchase Services in accordance with these Conditions.

The Order shall only be deemed to be accepted when the Supplier issues written acceptance of the Order at which point and on which date the Contract shall come into existence (Commencement Date).

The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Supplier which is not set out in the Contract.

Any samples, drawings or descriptive matter issued by the Supplier, and any descriptions or illustrations contained in the Supplier's catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.

These Conditions apply to the Contract 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.

Any quotation given by the Supplier shall not constitute an offer and is only valid for a period of Thirty (30) Business Days from its date of issue.

### 4. Supply of Services

The Supplier shall supply the Services to the Customer in accordance with the Specification in all material respects and in a professional manner.

The Supplier shall use all reasonable endeavours to meet any dates specified in the Order, but time shall not be of the essence for performance of the Services.

The Supplier shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.

The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill and in accordance with all applicable UK and European laws and regulations.

In respect of any Services that are Lot 1, 2 or 3 Services:

the Supplier shall provide such services subject to and in accordance with the provisions set out in Schedule 2 – call off terms, of the Framework Contract; and

in the event of any inconsistency between the provisions in the body of the Contract and the provisions of the service, the provisions in Schedule 2 – 'Call off Terms' shall prevail.

## 5. On-boarding

The on-boarding process typically consists of LHis discussing customer requirements to determine:

- The scale and scope of the services.
- Identification of any migration requirements if applicable.
- Project structure and organisation.
- Legislative, reporting and documentation requirements.
- The likely duration of the customer's project.
- LHis will advise on best practice and offer lessons learned as appropriate.

## 6. Off-Boarding

In the rare event that a customer decides to end its requirement for LHis services, LHis will work professionally with the customer to transition its arrangements with the minimum of disruption. Where this requires a substantial commitment LHis reserves the right to charge for this service.

## 7. Customer Obligations

The Customer shall:

- ensure that the terms of the Order and any information it provides in the Specification are complete and accurate;
- comply with any obligations or responsibilities set out in the Order;
- co-operate with the Supplier in all matters relating to the Services;
- provide the Supplier, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by the Supplier;
- provide timely access to the Customer's key personnel to facilitate the provision of the Services;
- provide the Supplier with such information and materials as the Supplier may reasonably require in order to supply the Services, and ensure that such information is accurate in all material respects;
- ensure that any of its premises that need to be accessed for the supply of the Services are kept clean, tidy and properly secure at all times;
- provide the Supplier with copies of any policies, rules, procedures or other information relating to matters such as health and safety and security that are relevant to individuals working on the Customer's premises;
- obtain and maintain all necessary licences, permissions and consents which may be required before the date on which the Services are to start; and
- keep and maintain all materials, equipment, documents and other property of the Supplier (Supplier Materials) at the Customer's premises in safe custody at its own risk, maintain the Supplier



Materials in good condition until returned to the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorisation.

If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (Customer Default):

- the Supplier shall have the right to suspend performance of the Services until the Customer remedies the Customer Default, and shall be relieved it from the performance of any of its obligations to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;
- the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations; and
- the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

## 8. Charges and Payment

The Charges for the Services shall be on a time and materials basis:

- the Charges shall be calculated in accordance with the Supplier's daily fee rates as agreed by the Supplier and the Customer in writing;
- the Supplier's standard daily fee rates for each individual are calculated on the basis of a seven and a half hour day (exclusive of travel and lunch) from 9.00 am to 5.00 pm, the Supplier's normal hours of working, worked on Business Days; and
- the Supplier's premium daily fee rates shall apply to any work carried out on a Business Day outside of the Supplier's normal hours of working; and
- the Supplier shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Services including travelling expenses and subsistence.

The Supplier reserves the right to increase its daily fee rates annually, to take account of inflation.

The Supplier shall invoice the Customer quarterly or annually, typically in advance. The Customer shall pay each invoice submitted by the Supplier:

within thirty (30) days of the date of the invoice; and

in full and in cleared funds to a bank account nominated in writing by the Supplier, and time for payment shall be of the essence of the Contract.

All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable for the time being (VAT). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.

The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit,

set-off or counterclaim against the Supplier in order to justify withholding payment of any such amount in whole or in part. The Supplier may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.

## 9. Intellectual Property Rights

Leicestershire Health Informatics Service (LHIS), hosted by Leicestershire Partnership Trust (LPT) have full title guarantee on all Intellectual Property Rights (IPR) in any material which is generated by LHIS and delivered to the client in the performance of the Services at any time during the continuation of this Contract, and client shall waive all moral rights relating to such material.

LHIS and their sub-contractors shall not disclose any specifications, plans, instructions, drawings, patents, models or other information obtained pursuant to or by reason of this SLA, without the written permission of the client.

The provisions of this Condition shall apply during the continuance of this SLA and after its termination howsoever arising, without limitation of time.

All inventions, discoveries, intellectual property, technical communications, and records originated or prepared by LHIS pursuant to this SLA including papers, reports, charts, computer programs, and other Documentation of improvements thereto, and including LHIS's administrative communications and records related to this SLA [collectively, the "Work Product"], shall be LHIS's exclusive property. The provisions of this sub-section may be revised in a Statement of Work

Software and other materials developed or otherwise obtained by or for LHIS or its affiliates independently of this SLA or the applicable purchase order ["Pre-Existing Materials"] do not constitute Work Product. If LHIS creates derivative works from Pre-Existing Materials, the elements of such derivative works created pursuant to this contract constitute work products, but other elements do not. Nothing in this chapter will be construed to interfere with LHIS's or its affiliates' ownership of Pre-Existing Materials

The ideas, concepts, know-how, or techniques relating to data processing, developed during the course of this SLA by LHIS or jointly by the LHIS and the client, may be used by LHIS without obligation of notice or accounting.

This SLA shall not preclude the LHIS from developing materials outside this SLA which are competitive, irrespective of their similarity to materials which might be delivered to the client pursuant to this SLA.

The Client agrees that all material appropriately marked or identified in writing as proprietary and furnished hereunder are provided for the Client's exclusive use for the purposes of this SLA only. All such proprietary data shall remain the property of the LHIS. The Client agrees to take all reasonable steps to ensure that such proprietary data are not disclosed to others, without prior written consent of LHIS.

LHIS will ensure, prior to disposing of any media, that any licensed material contained thereon have been erased or otherwise destroyed.

LHIS agrees that it will take appropriate action by instruction, agreement, or otherwise with its employees or other persons permitted access to licensed software and other proprietary data to satisfy its obligations under this SLA with respect to use, copying, modification, protection, and security of proprietary software and other proprietary data.





## 10. Confidentiality

A party (Receiving Party) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Receiving Party by the other party (Disclosing Party), its employees, agents or subcontractors, and any other confidential information concerning the Disclosing Party's business or its products or its services which the Receiving Party may obtain. The Receiving Party shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Receiving Party.

Section 10 shall not apply to any information which:

- is in or enters the public domain other than by breach of this Clause or any other actions or omissions of the Receiving Party;
- is obtained from a third party who is lawfully authorised to disclose such information; is authorised for release by the prior written consent of the Disclosing Party;
- is required to be disclosed pursuant to a legal obligation, including any requirement for disclosure under the FOIA or the Environmental Information Regulations.

Each Party:

(a) Shall treat all Confidential Information belonging to the other Party as confidential and safeguard it accordingly; and

(b) shall not disclose any Confidential Information belonging to the other Party to any other person without the prior written consent of the other Party, except to such persons and to such extent as may be necessary for the performance of the SLA or except where disclosure is otherwise expressly permitted by the provisions of this SLA.

LHIS shall take all necessary precautions to ensure that all Confidential Information obtained from the Client in connection with the SLA:

(a) is given only to such of the Staff and sub-contractors engaged to advise it in connection with the SLA as is strictly necessary for the performance of the SLA and only to the extent necessary for the performance of the SLA:

(b) is treated as confidential and not disclosed (without prior Approval) or used by any Staff or sub-contractors otherwise than for the purposes of the SLA.

LHIS shall ensure that Staff or sub-contractors are aware of the Contractor's Confidentiality obligations under this SLA. Where it is considered necessary in the opinion of the Authority, LHIS shall ensure that Staff or sub-contractors sign a confidentiality undertaking before commencing work in connection with the SLA.

LHIS shall not use any Confidential Information it receives from the Client other than for the purposes of the SLA.

The provisions of Clauses shall not apply to any Confidential Information received by one Party from the other:

(a) Which is or becomes public knowledge (otherwise than by breach of this Condition);

(b) Which was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party;

(c) Which is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;

(d) Is independently developed without access to the Confidential Information; or

(e) Which must be disclosed pursuant to a statutory, legal or parliamentary obligation placed upon the Party making the disclosure, including any requirements for disclosure under the FOIA, or the Environmental Information Regulation.

Nothing in this Condition shall prevent the Client:

(a) Disclosing any Confidential Information for the purpose of:

(b) Disclosing any Confidential Information obtained from the Contractor:

(i) To any other Contracting Authority. All Contracting Authorities receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other Contracting Authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any Contracting Authority; or

(ii) to any person engaged in providing any services to the Client for any purpose relating to or ancillary to the Contract; provided that in disclosing information under sub-paragraph (b) the Client discloses only the information which is necessary for the purpose concerned and requires that the information is treated in confidence and that a confidentiality undertaking is given where appropriate.

Nothing in this Condition shall prevent either Party from using any techniques, ideas or know-how gained during the performance of the Contract in the course of its normal business, to the extent that this does not result in a disclosure of Confidential Information or an infringement of Intellectual Property Rights.

In the event that LHS fails to comply with this Condition, the Client reserves the right to terminate the Contract by notice in writing with immediate effect.

The provisions under this Condition are without prejudice to the application of the Official Secrets Acts 1911 to 1989 to any Confidential Information.

LHS agrees to:

Process the Personal Data only in accordance with the written instructions of the Client and not further or otherwise

Implement appropriate technical and organisational measures against unauthorised or unlawful Processing of the Personal Data, and against accidental loss or destruction of or damage to the Personal Data having regard to the sensitive nature of the Personal Data and the likely consequences to individuals in the event of any loss of, or damage to or any unlawful or unauthorised Processing of such Personal Data. LHS has agreed, as a minimum to implement the following measures:

## 11. Freedom of Information

Each party acknowledges that the other party is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and co-operate with the other party to enable that party to comply with its information disclosure obligations.

Each party shall:

- where it receives a Request for Information under FOIA relating to the Contract, liaise with the other party as to the contents of any response before a response is issued and promptly provide a copy of the request and any response to the other party;
- provide the other party with a copy of all information relevant to a Request for Information in its possession or control within five (5) Business Days (or such other period as the other party may specify, acting reasonably) of the other party's request;
- provide all assistance reasonably requested by the other party to enable that party to respond to a Request for Information within the time for compliance prescribed by the FOIA and/or the Environmental Information Regulations.

## 12. Limitation of Liability

Nothing in these Conditions shall limit or exclude the Supplier's liability for:

- death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
- fraud or fraudulent misrepresentation; or
- breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

Subject to section 10:

- the Supplier shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract;
- subject to any financial limits specified in the Order, the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, in any year of the Contract, shall in no circumstances exceed a sum equal to 125% of the total
- Charges payable by the Customer in the year of the Contract in which the liability arises, as calculated as at the date of the event giving rise to the claim under consideration.

The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

## 13. Dispute Resolution

Any disputes or differences arising in relation to the Contract shall be referred in the first instance to:

- the allocated Customer Relationship Manager of the Supplier; and
- the Customer employee responsible for the day-to-day management of the Contract on behalf of the Customer.

If the persons identified above are unable to resolve the dispute or difference, it shall be referred to:

- the Service Delivery Manager of the Supplier; and the equivalent senior manager of the Customer;
- who shall meet and attempt to settle the dispute, in good faith, within 20 Business Days.

If the persons appointed above are unable to resolve the dispute within 20 Business Days then the parties shall submit the dispute to mediation by the Centre for Effective Dispute Resolution (CEDR) under the Model Mediation Procedure and if, under the Model Mediation Procedure the parties do not agree as to the mediator nominated by CEDR then CEDR shall in its discretion appoint a mediator.

To initiate mediation, either party may give notice in writing (a Mediation Notice) to the other requesting mediation of the dispute and shall send a copy thereof to CEDR asking them to nominate a mediator. The mediation shall commence within thirty (30) days of the Mediation Notice being served. Neither party will terminate such mediation until each of them has made its opening presentation and the mediator has met each of them separately for at least one hour. Thereafter paragraph 14 of the Model Mediation Procedure will apply (or the equivalent paragraph of any other model mediation procedure agreed by the parties). Neither party through mediation will commence legal proceedings against the other until thirty (30) days after such mediation of the dispute in question has failed to resolve the dispute. The parties will co-operate with any person appointed as mediator providing him with such information and other assistance as he shall require and will pay his costs, as he shall determine or in the absence of such determination such costs will be shared equally.

In no event shall the provisions of this prevent either party from seeking interim relief in respect of any dispute or difference.

## 14. Termination

Without limiting its other rights or remedies, each party may terminate the Contract with immediate effect by giving written notice to the other party if:

- the other party commits a material breach of the Contract and (if such a breach is remediable) fails to remedy that breach within [thirty (30)] days of that party being notified in writing of the breach;
- the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;

- the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;
- a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- the other party (being an individual) is the subject of a bankruptcy petition or order;
- a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within fourteen (14) days;
- an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company);
- a floating charge holder over the assets of that other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
- a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- any event occurs or proceeding is taken with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events detailed in this section
- the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or
- the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

Without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer undergoes a change of control (with “control” as defined by Section 450 of the Corporation Tax Act 2010).

Without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract on the due date for payment.

Without limiting its other rights or remedies, each party shall have the right to terminate the Contract by giving the other party [six months’] written notice.

Without limiting its other rights or remedies, the Supplier shall have the right to suspend provision of the Services under the Contract or any other contract between the Customer and the Supplier if the Customer fails to adhere to the conditions outlined in this document or the Supplier reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.

## 15. Consequences of Termination

On termination of the Contract for any reason:

- the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- the Customer shall return all of the Supplier Materials and any Deliverables which have not been fully paid for. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;
- the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- Clauses which expressly or by implication have effect after termination shall continue in full force and effect.

## 16. General

### Force majeure:

For the purposes of this Contract, Force Majeure Event means an event beyond the reasonable control of the Supplier including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

The Supplier shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.

If the Force Majeure Event prevents the Supplier from providing any of the Services for more than twelve (12) weeks, the Supplier shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Customer.

### Assignment and subcontracting:

Subject to the above, the rights and obligations granted in or arising under the Contract are personal to such party and may not be assigned, transferred or dealt with in any other manner without the prior written consent of the other party, not to be unreasonably withheld or delayed.

The Supplier may sub-contract any of its obligations under the Contract to any third party or agent. Any sub-contract entered into by the Supplier shall not relieve it from its obligations under the Contract.

### Notices:

Any notice or other communication required to be given to a party under or in connection with this Contract shall be in writing and shall be delivered to the other party personally or sent by prepaid first-class post, recorded delivery or by commercial courier, at its registered office (if a company) or (in any other case) its principal place of business, or sent by fax to the other party's main fax number or sent by e-mail to any e-mail address specified in the Order.

Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at the address referred to above or, if sent by pre-paid first-class post or



recorded delivery, at 10.00 am on the second Business Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed, or if sent by fax, on the next Business Day after transmission or if sent by e-mail, on acknowledgement of receipt.

This Clause shall not apply to the service of any proceedings or other documents in any legal action.

Waiver:

A waiver of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

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

Severance:

If a court or any other competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.

If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

Further assurance:

Each party shall, and shall use reasonable endeavours to procure that any necessary third party shall, execute and deliver such documents and perform such acts as may reasonably be required for the purpose of giving full effect to the Contract.

No partnership:

Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

Third parties:

A person who is not a party to the Contract shall not have any rights under or in connection with it.

Variation:

Except as set out in these Conditions, any variation, including the introduction of any additional terms and conditions, to the Contract, shall only be binding when agreed in writing and signed on behalf of both parties.

Governing law and jurisdiction:

This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

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Informatics Service (LHIS)



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