



Subscription Contract



Company Name: _____
Company No.: _____
Registered/Statutory Address: _____

Postcode: _____

Number of Standard Users: _____ Number of Premium Users: _____
Initial Term (months): _____ Annual Subscription: £ _____

Contract Start Date (DD/MM/YY): _____

Special Instructions:

I accept the Timebox terms and conditions (Y/N): _____

Signature:

Name: _____
Title: _____
Date (DD/MM/YY): _____

 Please use recycled paper



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Alphatec Software Ltd, North Barn, Dodford Hill Farm, Brockhall Road, Dodford, Northamptonshire, NN7 4GS
Registered Office: Eastcroft House, 25 Woodhall Road, Wishaw, North Lanarkshire, ML2 8PY. Registered in
Scotland No: 164246

Terms & Conditions

Schedule 1

The Service

Provision of the Timebox™ application residing at alphatec.net and associated Alphatec Software Ltd operated sites ("the Site") that provides a software as a service platform and mobile application to assist organisations in understanding and improving their profitability through the measurement and management of financials, time and costs associated with provision of services, products and projects.

Parties to this Agreement

- 1) **ALPHATEC SOFTWARE LIMITED**, company registration number SC164246, having its registered address at Eastcroft House, Woodhall Road, Wishaw, Lanarkshire, ML2 8PY (**Alphatec**)
- 2) _____, company registration number _____, having its registered address at _____ (the **Client**)

Schedule 2

1. DEFINITIONS

Agreement: this contract;

Alphatec Personnel: means all directors, officers, employees, agents, consultants and contractors of Alphatec and/or of any Sub-Contractor engaged in the performance of its obligations under this Agreement.

Client Personal Data: shall have the meaning given to it in clause 8.

Controller, Processor, Data Subject, Personal Data, Personal Data Breach, Data Protection Officer: shall have the meanings given in the GDPR.

Data Protection Legislation: (i) on and from 25 May 2018, the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy;

Data Protection Impact Assessment: an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.

Data Loss Event: any event that results, or may result, in unauthorised access to Client Personal Data held by Alphatec under this Agreement, and/or actual or potential loss and/or destruction of Client Personal Data in breach of this Agreement, including any Personal Data Breach.

Data Subject Access Request: a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.

DPA 2018: Data Protection Act 2018.

EU: the European Union, which, for the purposes of this Agreement, shall be deemed to include the United Kingdom after any exit event.

GDPR: the General Data Protection Regulation (Regulation (EU) 2016/679).

Law: means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which Alphatec is bound to comply;

LED: Law Enforcement Directive (Directive (EU) 2016/680)

Party: a Party to this Agreement.

Protective Measures: appropriate technical and organisational measures including those that the Client has authorised Alphatec to undertake as listed in Annex 1.

Quarter Day: 1st January, 1st April, 1st July or 1st October in each year of the term.

Sub-processor: any third party appointed to process Client Personal Data on behalf of Alphatec related to this Agreement including those that the Client has authorised as listed in Annex 1.

2. TERMS AND CONDITIONS

2.1. These Terms and Conditions of Use (the "Terms of Use") apply to the Timebox™ application located at "the Site". "The Site" is the property of Alphatec Software Limited ("Alphatec"). By using the Site, you agree to these terms of use; if you do not agree, do not use the site.

2. License Grant & Restrictions

2.1. Alphatec hereby grants the Client a non-exclusive, non-transferable right to use the Service solely for the Client's own internal business purposes, subject to these Terms and Conditions and the agreement of which they form part (together referred to as "the Agreement").

2.2. All rights not expressly granted to the Client are reserved by Alphatec and its licensors. Alphatec reserves the right to grant licenses to use the Service and the Site to any other party or parties provided any such licenses shall not affect the provision of the Service to the Client.

2.3. The Client shall not (i) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Service or the content of the Site (the "Content") in any way; (ii) modify or make derivative works based upon the Service or the Content; (iii) create Internet "links" to the Service or "frame" or "mirror" any Content on any other server or wireless or Internet-based device; or (iv) reverse engineer or access the Site, the Service or the Content in order to (a) build a competitive product or service, (b) build a product using similar ideas, features, functions or graphics of the Service, or (c) copy any ideas, features, functions or graphics of the Service. The Client shall not amalgamate, amend or incorporate the Service or the Content (or any software therein) into or with any other software without the consent of Alphatec.

2.4. User licenses cannot be shared or used by more than one individual User but may be reassigned from time to time to new Users who are replacing former Users who have terminated employment or otherwise changed job status or function and no longer use the Service.

3. Payment of Fees

3.1. Invoices will be issued quarterly in advance or on an annual basis.

3.2. Additional users may be added at any time by the Client and the Client will be charged from the following Quarter Day at the monthly license fee in effect at that time. For the purposes of this Agreement, a "Quarter Day" shall mean 1st January, 1st April, 1st July or 1st October in each year of the term.

3.3. The Client shall pay all fees or charges to Alphatec's nominated bank account by direct debit or standing order within the period of 30 days of issue of the relevant invoice or, if shorter, within the period prior to the commencement of the next term during which the Service is to be provided. Any variation to these invoicing and payment terms will have a 10% surcharge.

- 3.4. Following the Initial Term, Alphatec reserves the right to modify its fees and charges and to introduce new charges upon at least 30 days prior notice to the Client.
- 3.5. Fees for other services will be charged on an as-quoted basis. Alphatec's fees and charges are exclusive of VAT or other applicable sales taxes. Any such taxes shall be paid by the Client at the rate and in the manner prescribed by law.

4. Non-Payment and Suspension

- 4.1. In addition to any other rights granted to Alphatec herein, Alphatec reserves the right to suspend or terminate this Agreement and the Client's access to the Service if the Client fails to make any payment due to Alphatec on or before the due date or is in material breach of the Agreement.
- 4.2. Interest at the rate of 1.5% per month (or the maximum permitted by law, whichever is less) will be charged by Alphatec on any outstanding balance plus all expenses of collection. The Client will continue to be charged for User licenses during any period of suspension. Alphatec reserves the right to impose a reconnection fee in the event the Client is suspended and thereafter request access to the Service.

5. Renewal and Termination

- 5.1. This Agreement shall commence on the Effective Date and shall continue, unless terminated earlier in accordance with this Agreement, for the Initial Term a period of 12 months. The term of the Agreement shall thereafter automatically be extended at the end of the Initial Term for an additional 12 months (renewal date) until either party gives not less than three months' written notice to the other party to expire on a renewal date.
- 5.2. The renewal monthly charge will be equal to the higher of the monthly equivalent of the annual subscription or the then-current number of users times the license fee in effect at the time of renewal.
- 5.3. Renewal invoices shall be produced and sent to the Client thirty days prior to the commencement date for the relevant term.
- 5.4. Either party may at its option terminate the Agreement on giving notice to the other party in the event that: (i) the other party commits a material breach of the Agreement (including, for the avoidance of doubt, the non-payment of any sums due to Alphatec in terms of the Agreement) and (if that breach is remediable) fails to remedy that breach within a period of 7 days after being notified in writing to do so; or (ii) if the Client is insolvent and unable to pay the Client's debts as they fall due or cease to trade. If Alphatec terminates the Agreement in terms of this paragraph it will be under no obligation to repay to the Client any advance payments which the Client has made.

6. Account Information and Data

- 6.1. Alphatec does not own any of the Client Data. The Client, not Alphatec, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all Client Data, and Alphatec shall not be responsible or liable for the deletion, correction, destruction, damage, loss or failure to store any Client Data unless such is caused by or otherwise results from Alphatec's acts or omissions.
- 6.2. In the event this Agreement is terminated (other than by reason of the Client's breach), Alphatec will make available to the Client a file of the Client Data within 30 days of termination if the Client so requests at the time of termination. All Client Data will be automatically deleted 30 days after termination of the agreement.

7. Intellectual Property Ownership

- 7.1. Alphatec alone (and its licensors, where applicable) shall own all right, title and interest, including all related intellectual property rights, in and to the Timebox™ technology, the Site, the Content and the Service and any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by the Client or any other party relating to the Service.

- 7.2. This Agreement is not a sale and does not convey to the Client any rights of ownership in or related to the Site, the Content, the Service, the Timebox™ Technology or the intellectual property rights owned by Alphatec. The Timebox™ name and the Timebox™ logo are trademarks of Alphatec and no right or license is granted to use them.

8. Data Protection

- 8.1. This clause 8 shall apply to the Processing of Personal Data by Alphatec on behalf of the Client (the “**Client Personal Data**”). The Parties acknowledge that for the purposes of the Client Personal Data, under the Data Protection Legislation the Client is the Controller and Alphatec is the Processor. If there are other Controllers, the Client will identify and inform Alphatec of any such other Controllers prior to providing their Personal Data. The only processing that Alphatec is authorised to do by the Client is listed in Annex 1 and Alphatec shall not determine the purposes for the processing of Client Personal Data.

- 8.2. The Client has access through the service to respond to all requests relating to Client Personal Data. Alphatec will assist in any changes that restrict the Client from accessing the relevant data to this subject; however any such assistance in extracting accessible data shall be chargeable.

- 8.3. Alphatec shall notify the Client immediately if it considers that any of the Client's instructions infringe the Data Protection Legislation.

- 8.4. Alphatec is not responsible for determining the requirements of laws applicable to Client's business or that Alphatec's provision of the Services meet the requirements of such laws. However, if requested to do so by the Client, Alphatec shall provide its reasonable assistance (at the Client's cost) to the Client in the preparation of any Data Protection Impact Assessment. As between the parties, the Client is responsible for the lawfulness of the Processing of the Client Personal Data. The Client represents and warrants that it:

- (a) has complied with the requirements of the right to be informed under the Data Protection Legislation, including where required to inform data subjects that their Personal Data will be passed to Alphatec for the purposes of the provision of the Services and has obtained explicit consent to do so from such Data Subjects where required under the Data Protection Legislation;
- (b) has the right under Data Protection Legislation to instruct Alphatec to process the Client Personal Data; and
- (c) will not use the Services in conjunction with Personal Data to the extent that doing so would violate applicable Data Protection Legislation,

and the Client will indemnify Alphatec for any cost, charge, damages, expenses or loss arising from a breach by the Client of this clause 8.4.

- 8.5. Alphatec shall, in relation to any Client Personal Data processed in connection with its obligations under this Agreement:

- (a) process that Client Personal Data only in accordance with Annex 1, unless otherwise agreed between the parties and/or Alphatec is required to do otherwise by Law. If it is so required by Law, Alphatec shall promptly notify the Client before processing the Client Personal Data unless prohibited by Law;
- (b) ensure that it has in place Protective Measures as appropriate to protect against a Data Loss Event having taken account of the:
 - (i) nature of the data to be protected;
 - (ii) harm that might result from a Data Loss Event;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;
- (c) ensure that:

- (i) Alphatec Personnel do not process Client Personal Data except in accordance with this Agreement (with reference to Annex 1);
- (ii) it takes all reasonable steps to ensure the reliability and integrity of any Alphatec Personnel who have access to the Client Personal Data and ensure that they:
 - a. are aware of and comply with Alphatec's duties under this clause 8;
 - b. are subject to appropriate confidentiality undertakings with Alphatec or any Sub-processor;
 - c. are informed of the confidential nature of the Client Personal Data and do not publish, disclose or divulge any of the Client Personal Data to any third party unless directed in writing to do so by the Client or as otherwise permitted by this Agreement; and
 - d. have undergone training in the use, care, protection and handling of Client Personal Data.
- (d) not transfer Client Personal Data outside of the EU unless authorised in Annex 1 and/or the prior written consent of the Client has been obtained and the following conditions are fulfilled:
 - (i) the transfer is to a country determined by the EU (in accordance with GDPR Article 45) as having an adequate level of data protection;
 - (ii) the Client or Alphatec has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37);
 - (iii) the Data Subject has enforceable rights and effective legal remedies;
 - (iv) Alphatec complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its reasonable endeavours to assist the Client in meeting its obligations); and
 - (v) Alphatec complies with any instructions detailed in Annex 1 with respect to the processing of the Client Personal Data;
- (e) at the written direction of the Client, delete or return Client Personal Data (and any copies of it) to the Client on termination of the Agreement unless Alphatec is required by Law to retain the Client Personal Data.

8.6. Subject to clause 8.8, to the extent permitted by Law, Alphatec shall notify the Client within 2 working days if it:

- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
- (b) receives a request to rectify, block or erase any Client Personal Data;
- (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
- (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Client Personal Data processed under this Agreement; or
- (e) receives a request from any third party for disclosure of Client Personal Data where compliance with such request is required or purported to be required by Law;

8.7. Alphatec shall notify the Client without undue delay as soon as reasonably practicable as it becomes aware of a Data Loss Event.

8.8. It is Alphatec's obligation to notify under clause 8.6 but the Client shall be responsible to respond to such requests of Data Subjects. If a Data Subject brings a claim directly against Alphatec for a violation of their Data Subject rights, the Client will indemnify Alphatec for any cost, charge, damages, expenses or loss arising from such a claim, to the extent that Alphatec has notified the Client about the claim and given the Client the opportunity to cooperate with Alphatec in the defence and settlement of the claim.

8.9. Upon reasonable notice and at the cost of the Client, Alphatec shall allow for audits of its Data Processing activity by the Client or the Client's designated auditor provided that the Client shall ensure that any individual auditing of the

Services is appropriately skilled and the Client shall be responsible for any loss or damage to Alphatec resulting from the acts or omissions of any such individual during such audit.

8.10. Before allowing any Sub-processor to process any Client Personal Data related to this Agreement, Alphatec must:

- (a) notify the Client in writing of the intended Sub-processor and processing; and
- (b) obtain the written consent of the Client (provided that any Sub-processors listed in Annex 1 shall be deemed to be so authorised).

8.11. Alphatec shall remain fully liable for all acts or omissions of any Sub-processor.

8.12. Alphatec may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).

8.13. The Parties shall take account of any guidance issued by the Information Commissioner's Office. The Client may on not less than 30 Working Days' notice to Alphatec amend this clause 8 to ensure that it complies with any guidance issued by the Information Commissioner's Office subject to the written consent of Alphatec (not to be unreasonably withheld, delayed or conditioned. Alphatec accepts and acknowledges that it shall not be reasonable to withhold consent where failure to make such requested changes will render this Clause 8 incompatible with the Data Protection Legislation

9. Third Party Interactions

9.1. The Site may contain links to other independent third-party Web sites ("Linked Sites"). These Linked Sites are provided solely as a convenience to our visitors. Such Linked Sites are not under Alphatec's control, and Alphatec is not responsible for and does not endorse the content of such Linked Sites, including any information or materials contained on such Linked Sites. The Client will need to make the Client's own independent judgment regarding the Client's interaction with these Linked Sites.

10. Representations & Warranties

10.1. Each party represents and warrants that it has the legal power and authority to enter into this Agreement. Alphatec will provide the Service in a manner consistent with general industry standards reasonably applicable to the provision thereof.

10.2. The Site, the Service and the Content are provided to the Client on an "as-is" basis.

10.3. Alphatec warrants that it shall employ security measures at all times which are at least equivalent to those measures which Alphatec has in place at the date of this Agreement.

10.4. The Client represents and warrants that the Client has not falsely identified itself nor provided any false information to gain access to the Service and that the Client's billing information is correct. This Agreement sets out the full extent of Alphatec's obligations and liabilities in respect of the provision of the Service. All other conditions, warranties and representations concerning the provision of the Service which might otherwise be implied in this Agreement are expressly excluded.

10.5. The Client agrees to indemnify Alphatec against any proven foreseeable and fully mitigated demands, loss, liability, claims or expenses (including legal fees and expenses), made against Alphatec by any third party due arising directly out of the Client's misuse of the Site or the Client's Data.

11. Limitation of Liability

- 11.1. Except where prohibited by law, in no event will Alphatec be liable to the Client for any indirect, consequential, exemplary, incidental or punitive damages, including lost profits or other forms of economic loss, even if Alphatec has been advised of the possibility of such damages.
- 11.2. If, notwithstanding the other provisions of the Agreement, either party is found to be liable to the other for any damage or loss arising under or in connection with this Agreement, that party's liability shall in no event exceed the total of any subscription or similar fees with respect to any service or feature of or on the Site paid by the Client on or before the due date in the 12 months prior to the date of the initial claim made against Alphatec provided that this liability cap shall not apply to any damage or loss arising under or in connection with the Client's infringement of Alphatec's intellectual property rights.

12. Force Majeure

- 12.1. Neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure results from events, circumstances or causes beyond its reasonable control. In such circumstances the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed provided that if the period of delay or non-performance continues for 6 weeks, the party affected may terminate this Agreement by giving 14 days' written notice to the other party.

13. Internet Delays

- 13.1. The Service may be subject to limitations beyond the control of Alphatec. Alphatec is not responsible for any such limitations.

14. Modification to Terms

- 14.1. Alphatec reserves the right to modify these Terms and Conditions or its policies relating to the Service at any time, effective 30 days after notification to the Client. Continued use of the Service after any such notification shall constitute the Client's consent to such changes.

15. Assignment

- 15.1. This Agreement may not be assigned by the Client without the prior written approval of Alphatec but may be assigned without the Client's consent by Alphatec to (i) a member of the same group of companies as Alphatec, (ii) an acquirer of the assets of Alphatec, or (iii) a successor to Alphatec by merger.

16. Governing Law

- 16.1. This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall (i) if the Client is a company registered in England, be governed by and construed in accordance with the law of England and Wales and the courts of England shall have exclusive jurisdiction; or (ii) if the Client is a company registered in a jurisdiction other than England, be governed by and construed in accordance with the law of Scotland and the courts of Scotland shall have exclusive jurisdiction.

17. Miscellaneous

- 17.1. If any provision of the Agreement is found to be invalid, unenforceable or illegal, the other provisions shall remain in force. If any such provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.
- 17.2. Failure by Alphatec to enforce or exercise any of its rights shall not affect Alphatec's rights or be deemed to be a waiver or forfeiture of such rights.
- 17.3. Alphatec actively and aggressively enforces its intellectual property rights to the fullest extent of the law. Alphatec works closely with the Business Software Alliance (BSA) and the Software Information Industry Association (SIIA) to combat software piracy worldwide.

18. Confidentiality

- 18.1. The Client will use the Site to store confidential data and information ("Data"). Alphatec will not view, share, distribute, print, or reference any such Data except as required by law or for specific technical support purposes.
- 18.2. Any information the Client provides will be treated in accordance with the Data Protection Act 2018, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and any implementing and/or amending legislation that may be adopted from time to time.
- 18.3. Information stored on the Site is used solely to provide the Service to the Client. Alphatec will at no time use this information for marketing or promotional purposes. Unless Alphatec is required to do so by law, email addresses and any Client Data will at no time be distributed or shared with third parties.
- 18.4. The Client accepts that it is responsible for maintaining the confidentiality and security of their user registration, account ID and password.

Annex 1

Processing, Personal Data and Data Subjects

1. Alphatec shall consider complying with any written instructions with respect to processing by the Client.
2. The Client accepts that it is responsible for providing appropriate written instructions with respect to processing by Alphatec
3. Any such further instructions shall be incorporated into this Annex.

Subject matter and duration of processing

The subject matter of the processing:

Provision of the Timebox™ application residing at alphatec.net that provides a software as a service platform for time and expenses in relation to business activity and associated information.

The duration of processing is determined in Clause 8.5(e) of this Agreement.

Nature and purpose of the processing

The use of the Service to record, organise, structure, store, retrieve, amend and delete information for the purposes below.

The purposes of the processing are:

- 1 The administration of records relating to time, costs, income and expenses
- 2 The administration of records relating to project resourcing and structure
- 3 User information to enable the tracking and reporting by employee, consultant or other class of user

Type of personal data

Personal information

- Names, Email Address, User Reference
- Information relating to the cost of resources such as apportioned salary and overheads
- Expenses related to an individual
- Time and Attendance, including sickness

Categories of data subject

- Employees
- Any other parties added as a user to the application

Authorised Protective Measures

Ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it

The Client will have policies in place for the processing of data subject rights exercised under the Data Protection Legislation.

If the Client requires Alphatec to delete data in accordance with these policies the Client agrees this will be undertaken at the standard daily rate.

Authorised Sub-processors

Amazon S3 Data Servers in the UK (AWS) are used for the secure storage of document and image uploads from the application. These documents may contain Personal Data.