



SERVICES AGREEMENT

PARTIES:

1. **UP3 SERVICES LIMITED**, a company registered in England with company number 09967591 whose registered office is at The Ministry, 79-81 Borough Road, London SE1 1DN, United Kingdom (**UP3**); and
 2. **XXXXX**, a company registered in **{Country}** with company number **{Number}**, whose registered office is at **{Customer}**,
- each, a **Party** and together, the **Parties**.

EFFECTIVE DATE: **{DATE}**

BACKGROUND:

1. UP3 is an award-winning process automation specialist and a premier partner of ServiceNow, the world's leading digital workflow platform, helping its customers design, deploy and manage ServiceNow applications that can unlock productivity and optimise customer experiences.
2. Together with its Affiliates (as defined below) UP3 creates and provides digital workflow applications that automate operational processes and improve customer experiences.
3. Customer is a healthcare trading charity and not for profit organisation.
4. Customer now wishes to have the benefit of certain services to be provided by UP3, together with a license of associated intellectual property, and UP3 wishes so to provide such services and to license such intellectual property, all as detailed in and upon the terms of this agreement.

TERMS OF BUSINESS:

1. DEFINITIONS & INTERPRETATION

1.1. In this Agreement, wherever the context so permits:

Affiliate: means, in relation to each Party, each and any Subsidiary or Holding Company of that Party and each and any Subsidiary of that Holding Company, in each case whether direct or indirect;

Agreement: means this agreement, comprising of the Background, these Terms of Business and the Schedules, Including the Data Protection Schedule;

Applicable Law: means all local laws, ordinances, codes, regulations, rules, policies, regulations and procedures in the United Kingdom and in any jurisdiction where either Party does business, as may be amended from time to time;

Application/s: means the Out of the Box Applications, Products and the Scoped Applications;

Approval: means prior written approval not to be unreasonably withheld or delayed;

Background IPR: means IPR owned and/or controlled by UP3 which was created either (a) prior to the Effective Date; or (b) on or after the Effective Date but which is not created solely in relation to the Services;

Business Day: means any day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;

Business Hours: means any time between 09.00 and 17.30 BST or GMT (as is applicable at the relevant time) on a Business Day;

Claim: means a claim, or the notification of the intention to make a claim, against a Party seeking to be indemnified under this Agreement which may reasonably be considered likely to give rise to liability to the other Party under the indemnities contained in this Agreement;

Confidential Information: means all information however recorded or preserved which belongs to each Party, Including:

- a. the terms of this Agreement; and
- b. any information that would be regarded as confidential by a reasonable business person relating to the business, affairs, customers, clients, suppliers, plans, intentions, or market opportunities of each Party or any of its Affiliates; the operations, processes, services and product information, know-how, designs, trade secrets or software of each Party or any of its Affiliates; and any information or analysis derived from any such information,

but excluding any information that is or becomes generally available to the public other than as a result of its disclosure by a Party or its representatives in breach of this Agreement, (except that any compilation of otherwise public information in a form not publicly known will nevertheless be treated as confidential information); or was lawfully in the possession of a Party before the information was disclosed to it by the other Party;

Contract Term: has the meaning given in clause 10.1;

Customer Consultant: means any person or entity who is contracted to provide services to Customer, other than UP3 or any of its Affiliates;

Customer IPR: means IPR in relation to the Customer Materials;

Customer Materials: means all data, documents, materials, images, drawings and specifications supplied by or on behalf of Customer to UP3 in connection with the Services;

Data Protection Agreement: means a data protection agreement in substantially the form set out in Schedule 3 to be entered into by the Parties at the same time as this Agreement;

Data Protection Legislation: means all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR; the Data Protection Act 2018 and regulations made under it and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of Personal Data (including, without limitation, the privacy of electronic communications);

Deliverables: means all materials which are supplied by UP3 to Customer under this Agreement, Including those detailed in Schedule 1 and further Including for the avoidance of doubt any Scoped Application which may form part of the Services but excluding for the avoidance of doubt any Product;

Disclosing Party: means a Party which owns Confidential Information of which the Receiving Party is in receipt;

Effective Date: means the date written at the head of this Agreement;

Exclusive IPR: means IPR to be created by UP3 further to the provision of the Services under the terms of this Agreement which is created as unique code on behalf of Customer in order to fulfil one or more Deliverables, excluding for the avoidance of doubt Background IPR and Third-Party IPR;

Exit Plan: means a detailed plan for the orderly transition of the Services (or elements of the same) to Customer or to a Subsequent Supplier, to be prepared by UP3 further to clause 11;

Fees: means the Professional Services Fees, the Managed Support Services Fees and the Managed Development Services Fees;

Force Majeure: means any extraordinary event or circumstance beyond the control of either Party or the Parties preventing or materially hindering them from fulfilling any obligation or obligation as envisaged in this Agreement, Including fire, flood, earthquake, windstorm, epidemic or other natural disaster, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, breaking off of diplomatic relations or similar actions, terrorist attack, civil war, civil commotion or riots, nuclear, chemical or biological contamination or sonic boom, fire, explosion or accidental damage, loss at sea, adverse weather conditions, collapse of structures, failure of infrastructure, plant, machinery, machinery, computers or vehicles, any labour dispute, Including strikes, industrial action or lockouts, non-performance by suppliers or subcontractors, and interruption or failure of any utility service or services;

Holding Company and Subsidiary: shall have the meanings given in section 1159 of the Companies Act 2006 and a company shall be treated, for the purposes only of the membership requirement contained in subsections 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of (a) another person (or its nominee), whether by way of security or in connection with the taking of security, or (b) its nominee;

Including: means including without limitation;

Indemnified Party: means a Party which is indemnified by the Indemnifying Party under clause 13;

Indemnifying Party: means a Party which indemnifies the Indemnified Party under clause 13;

Industry Best Practice: means the exercise of professionalism, skill, diligence, prudence and foresight to the extent reasonably and ordinarily to be expected from a skilled and experienced person or organisation engaged in the same type of activity in the equivalent context and under the equivalent circumstances;

Initial Period: means the period of thirty-six months, commencing on the Onboarding Commencement Date.

Insolvency Event: means in relation to either Party, an order made or a resolution passed for the winding up of such Party, or an order made for the appointment of an administrator to manage the affairs, business and property of such Party, or the appointment of an administrator or a receiver of any of such Party's assets or undertaking, or circumstances which arise entitling a court of competent authority or a creditor to appoint a receiver or manager the making of a winding-up order, or where such Party takes or suffers any similar or analogous action in consequence of debt, or where an arrangement or composition is made by such Party with its creditors or an application to a court for protection from its creditors or where such Party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business;

IPR: means 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 rights, topography rights, moral rights, rights in confidential information (Including know-how and trade secrets) and any other intellectual property rights and all similar or equivalent rights or forms of protection in any part of the world, in each case whether registered or unregistered and Including all applications for and renewals or extensions of such rights;

Losses: means all losses, liabilities, costs (Including reasonable professional costs), charges, expenses, actions, procedures, claims, demands, damages, fines, penalties and awards;

Managed Development Services: means services provided by UP3 under the terms of this Agreement as a development component of the Managed Support Services, as detailed in Schedule 2;

Managed Development Services Fees: means the fees payable by Customer in respect of the Managed Development Services, payable annually in advance based on a pre-agreed number of days per quarter during the Managed Services Term, as detailed in Schedule 2;

Managed Services Term: has the meaning given in clause 10.2;

Managed Support Services: means services provided by UP3 under the terms of this Agreement in respect of the support and administration of the Platform and the Applications, as detailed in Schedule 2;

Managed Support Services Fees: means the fees payable by Customer in respect of the Managed Support Services which are payable annually in advance throughout the Managed Services Term, based on the resource capacity required to deliver the Managed Support Services, as detailed in Schedule 2;

Onboarding Commencement Date: means the date on which the onboarding process commences, anticipated to be around one month before the go-live of the managed support solution being provided by UP3 further to the Managed Support Services, to be confirmed in writing between the Parties;

Operations Manual: means a manual detailing methodologies and agreed processes and procedures to be utilised between UP3 and Customer in the delivery of the Managed Support Services;

Out of the Box Applications: means applications delivered by ServiceNow as part of its standard offering to customers;

Personal Data: shall have the meaning given in UK GDPR;

Platform: means the platform provided under the terms of a license granted by ServiceNow to Customer;

Products: means applications developed by UP3 to be used by Customer on the Platform, whether supplied by UP3 or by ServiceNow, excluding for the avoidance of doubt any Scoped Application;

Professional Services: means services provided by UP3 under the terms of this Agreement in respect of the implementation of the processes, Platform and Applications, as detailed in Schedule 1;

Professional Services Fees: means the fees payable by Customer in respect of the Professional Services, as detailed in Schedule 1;

Project Initiation Documents, or PID: means the detailed project proposal and/or scoping documents prepared by UP3 and agreed with Customer;

Quarter: means a three-month period during the Managed Services Term, the first such commencing on the Onboarding Commencement Date and each successive three-month period after then;

Receiving Party: means a Party which is in receipt of Confidential Information belonging to the Disclosing Party;

Scoped Applications: means applications which are developed by UP3 in a manner which is bespoke to Customer as part of the Services;

Service Credits: those service credits which are set out in Schedule 2 in relation to the Service Level Agreement, which may be payable further to clause 2.4.

Service Level Agreement/SLA: the agreement as to achievement of Service Levels which is set out in Schedule 2.

Service Levels: those target service levels which are set out in Schedule 2 in relation to the Managed Support Services.

ServiceNow: means ServiceNow, Inc. or any Affiliate;

Services: means the Managed Support Services, the Managed Development Services and the Professional Services;

Subsequent Supplier: means any Customer Consultant which supplies or will supply services which are in part or whole substantially similar to the Services, appointed by Customer in relation to the period immediately following the end of the Contract Term;

Terms of Use: means the terms of use relating to any Product, whether acquired by Customer before the Effective Date or otherwise;

Third-Party IPR: means IPR owned by any third party which is not a Party or an Affiliate of a Party;

Time and Materials: means the applicable day rate, based on an 8 hour working day on Business Days between the hours of 09:00 and 17:30 GMT / BST at the relevant time, which is specified by UP3 for each UP3 consultant supplying Professional Services, multiplied by the number of complete days in which they provide such Professional Services;

TUPE Regulations: means the Transfer of Undertakings (Protection of Employment) Regulations 2006;

UK GDPR: shall have the meaning given in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018;

UP3 Service Provider: means any current or former employee, consultant, freelancer or subcontractor of UP3 who are or have been engaged or involved in the provision of the Services during the Contract Term;

Year: means a period during the Managed Services Term which commences on the last anniversary of the Onboarding Commencement Date and ends twelve months afterwards.

In this Agreement:

- 1.1.1. any reference to any statute, enactment, order, regulation or other similar instrument will be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent statute, enactment, order, regulation or instrument or as contained in any subsequent re-enactment thereof;

- 1.1.2. references to clauses and Schedules are, unless otherwise provided, references to clauses of and Schedules to this Agreement;
- 1.1.3. headings are for convenience only and shall not affect the interpretation of this Agreement;
- 1.1.4. a reference to writing or written includes e-mail or other electronic means of communications, unless stated to the contrary in this Agreement; and
- 1.1.5. unless expressly stated otherwise, if there is any conflict or inconsistency between the documents forming this Agreement then to the extent of such conflict or inconsistency the documents shall have priority in the following order:
 - the main body of this Agreement;
 - the Schedules; and
 - any document incorporated by reference into this Agreement,provided that in the event of conflict or inconsistency between the Data Processing Agreement and any other such document, as regards the subject-matter of the Data Processing Agreement the Data Processing Agreement shall prevail.

2. SERVICES

- 2.1. UP3 will provide the Services Including delivery of the Deliverables to Customer during the Contract Term in accordance with the terms of this Agreement.
- 2.2. The Services and the Deliverables will be supplied in accordance with Industry Best Practice and according to the specifications, timings and costs detailed in Schedules 1 and 2.
- 2.3. Managed Services will be provided within Business Hours only unless otherwise specifically agreed by the Parties.
- 2.4. UP3 will use commercially reasonable efforts to fulfil the Service Level Agreement. Failure to do so shall not constitute a breach of this Agreement but shall have the consequences as to Customer's entitlements to Service Credits which are set out in the Service Level Agreement. Service Credits which are due if any, shall be paid by UP3 to Customer within 30 days of the end of the Quarter to which they relate.
- 2.5. UP3 shall run background checks on all UP3 Service Providers.
- 2.6. UP3 shall take all reasonable precautions to prevent the introduction of any virus or other unauthorised computer programme into its computer systems and it will immediately notify Customer if it becomes aware of any matter or has any reason for concern in this regard.

3. GRANT OF RIGHTS

3.1. UP3 grants to Customer (i) an exclusive license of Exclusive IPR in the Deliverables and (ii) a non-exclusive license of Background IPR in the Deliverables, in each case royalty free except for the due payment of the Fees, provided that:

3.1.1. the licenses of IPR are for the benefit of Customer's own business or the business of its Affiliates only, may not be assigned by Customer but may be sub-licensed by Customer to one or more Affiliates only but not sub-licensed to any other third party; and

3.1.2. the licenses of IPR are subject to due fulfilment by Customer of its obligations under this Agreement and will automatically terminate in the event that UP3 exercises its right to terminate under clause 10.3 but are otherwise irrevocable and perpetual.

3.2. Customer grants to UP3 a non-exclusive royalty free license of Customer IPR, provided that:

3.2.1. the license is limited to the extent necessary to enable UP3 to fulfil its obligations under this Agreement only and may not be sub-licensed or assigned by UP3 whether to any Affiliate or to any third party; and

3.2.2. the license will in any event terminate upon the expiry of the Contract Term or termination of this Agreement for any reason.

4. CUSTOMER MATERIALS AND OTHER UP3 OBLIGATIONS

4.1. Customer Materials are the exclusive property of Customer and UP3 shall assert no rights over them nor deal with them in any way except in order to provide the Services as envisaged in this Agreement.

4.2. While they are in UP3's custody UP3 shall take all reasonable steps required to keep Customer Materials secure, including as required by the provisions of Schedule 3 (Data Protection).

4.3. At the end of the Contract Term UP3 shall return all Customer Materials then in its possession to Customer, or delete them, as Customer shall reasonably require.

4.4. UP3 shall comply with Customer's policies and procedures, codes of conduct and the like which are relevant to the provision of the Services provided that they have been notified to UP3 either prior to the Effective Date or, if notified subsequently UP3 has agreed that compliance will not require UP3 to incur material additional expenditure or otherwise be onerous.

4.5. If Customer reasonably believes that a UP3 Service Provider working at Customer's premises is failing to comply with the requirements of clause 4.4, Customer and UP3 will discuss in good faith how to rectify the situation and if no other solution can be found UP3 will replace the Service Provider in question.

5. PAYMENT

- 5.1. In consideration for the performance of the Services by UP3, Customer shall pay the Fees as detailed in Schedules 1 and 2.
- 5.2. Subject to prior Approval by Customer, Customer shall pay all out of pocket expenses incurred by UP3 in performing the Services, which will be charged by UP3 without any mark-up and which will be invoiced monthly in arrears accompanied by such reasonable supporting information to enable the Customer to verify their accuracy.
- 5.3. Fees and expenses are exclusive of VAT which will be added at the applicable rate or rates.
- 5.4. UP3 will issue invoices by email or as otherwise agreed with Customer, in customary form and in compliance with Applicable Law, following receipt of which Customer shall pay any undisputed invoice in full and without set-off or deduction of any kind whatsoever, by electronic bank transfer unless otherwise agreed, no later than thirty days from the date of the invoice. If Customer raises a good faith dispute as to any invoice, it shall (a) promptly detail to UP3 what it considers is the basis for such dispute, (b) shall duly pay any undisputed element of such invoice, and (c) shall engage in good faith discussions with UP3 with the intention that such dispute shall be settled between the Parties and the agreed payment made, no later than 45 days after the issue date of such invoice.
- 5.5. If Customer fails to make payment by the due date UP3 may, without prejudice to any other rights it may have Including under clause 10 , suspend provision of the Services and/or charge interest at the rate of 5% above the base rate of UP3's bank from time to time, such interest to accrue on a daily basis whether before or after judgment until such invoice has been settled in full.

6. OTHER OBLIGATIONS OF CUSTOMER

- 6.1. Customer shall supply to UP3 such data and information Including access to Customer Materials and at such times as are reasonably requested by UP3 in order for UP3 to provide the Services as envisaged in this Agreement.
- 6.2. Customer shall take all reasonable precautions to prevent the introduction of any virus or other unauthorised computer programme into its computer systems and it will immediately notify UP3 if it becomes aware of any matter or has any reason for concern in this regard.
- 6.3. In order to enable the delivery of the Services, Customer shall timely provide to UP3 such responses, approvals and resources as are set out in the Schedules and/or as are agreed to in writing (Including via email) from time to time with Customer's designated project manager or other nominated executives.
- 6.4. If and to the extent that a failure by Customer to fulfil its obligations, Including those referred to in clause 6.3, materially hinders, delays or prevents UP3 from fulfilling any aspect of the Services, UP3 shall not be held liable for any such non-fulfilment and shall be entitled to receive the Fees notwithstanding such non-fulfilment, provided that UP3 shall promptly notify Customer if it considers that this scenario may arise or has arisen, and if so requested, UP3

shall provide reasonable assistance to Customer to remedy the failure such that fulfilment of the Services in question can be resumed.

7. WARRANTIES

7.1. Each Party hereby warrants, represents and undertakes to the other that:

7.1.1. it has the power and authority to enter into this Agreement and to carry out all of its obligations under this Agreement;

7.1.2. it has obtained and will at its own cost maintain throughout the Contract Term all permissions, licences and consents necessary to carry out all of its obligations under this Agreement Including:

7.1.2.1. irrevocable waivers of any moral rights to which any individual may at any time be entitled in the IPR licensed by it under this Agreement; and

7.1.2.2. as regards its use of Third-Party IPR, Including all such licenses as are required by each Party from ServiceNow;

7.1.3. it will comply at all times with Applicable Law in carrying out its obligations under this Agreement; and

7.1.4. the grant of rights by it further to clause 3 will not infringe the rights of any third party.

7.2. Each Party undertakes to the other that it shall not take nor cause or permit to be taken any step which would challenge or be inconsistent with the IPR of the other Party.

7.3. UP3 hereby warrants, represents and undertakes to Customer that it shall fulfil the terms of any warranty given in Schedule 1 as to implementation of the Applications during the term stated for such implementation warranty.

8. CONFIDENTIALITY

8.1. All Confidential Information belonging to the Disclosing Party of which the Receiving Party is in receipt will be treated by the Receiving Party as confidential and will be used by the Receiving Party only as required for the performance of the Receiving Party's obligations under this Agreement.

8.2. The Receiving Party will not disclose nor cause nor permit the disclosure of Confidential Information without the Approval of the Disclosing Party except:

8.2.1. to those of its employees, officers, advisors, freelancers or subcontractors who need to access the Confidential Information for the purposes of this Agreement; and

8.2.2. as may be required under any Applicable Law, court order or any competent governmental or regulatory authority.

8.3. If the Receiving Party allows access to Confidential Information belonging to the Disclosing Party further to clause 8.2.1, it shall ensure that any such recipient is made aware of the

Receiving Party's obligations of confidentiality under this Agreement, and shall be responsible for ensuring the compliance with such obligations by such recipient or recipients.

8.4. The provisions of this clause 8 shall continue in force for a period of three years after the expiry or termination of the Contract Term.

9. DATA PROTECTION

9.1. Capitalised terms used in this clause 9 and not otherwise defined shall have the meanings given to them in the Data Protection Agreement.

9.2. For the purposes of Data Protection Legislation, Customer shall be the Controller and UP3 shall be the Processor in respect of any Personal Data supplied to UP3 by Customer.

9.3. Customer and UP3 shall enter into the Data Protection Agreement.

10. CONTRACT TERM, MANAGED SERVICES TERM AND TERMINATION

10.1. The Contract Term of this Agreement shall commence on the Effective Date and shall continue until the expiry or earlier termination of the Managed Services Term.

10.2. The Managed Services Term shall commence on the Onboarding Commencement Date and shall continue through the Initial Period, after which it shall be renewed for subsequent periods of a minimum of one Year unless either Party serves notice of termination upon the other Party no later than three months before the expiry date of the Initial Period or the then current renewal period (as the case may be), such notice to take effect on such expiry date.

10.3. Without affecting any other rights or remedies such Party may have, either Party may terminate this Agreement by giving notice to the other Party effective on the date specified in such notice if:

10.3.1. the other Party has committed a material breach of this Agreement and, in the event that the breach is capable of being remedied, it has failed to remedy the breach within 14 days of being notified of the breach; or

10.3.2. the other Party has repeatedly breached this Agreement (whether of the same or different contractual provisions) in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention, or ability, to perform this Agreement; or

10.3.3. the other Party has suffered an Insolvency Event; or

10.3.4. in the case of termination by UP3, Customer has committed a breach or repeated breaches of the Terms of Use which, if they were a breach or breaches of this Agreement, would entitle UP3 to terminate under clause 10.3.1 or 10.3.2 as the case may be.

- 10.4. Either Party may terminate this Agreement giving notice to the other Party further to clause 28 (Force Majeure).
- 10.5. Termination of this Agreement shall not release either Party from any liability which has accrued at or before the date of termination nor adversely affect in any way the survival of any other right or obligation of either Party stated in this Agreement as continuing notwithstanding such termination.
- 10.6. On termination or expiry of this Agreement other than where UP3 has exercised its right to termination further to clause 10.3:
- 10.6.1. UP3 shall immediately deliver to the Customer all Deliverables which are complete or partially complete at such time;
- 10.6.2. within 30 days, UP3 shall provide Customer with a refund of any Fees which have been paid in advance, the refund to be pro-rated based on time elapsed relative to time yet to come after such expiry or termination.

11. EXIT PLAN

- 11.1. The following provisions shall apply upon expiry or termination of this Agreement in any circumstances other than where UP3 has exercised its right to termination further to clause 10.3:
- 11.2. Upon reasonable request by Customer not less than 3 months prior to the expiry or termination date, UP3 will prepare an Exit Plan, the costs of preparing and implementing the Exit Plan to be first specified by UP3 and if agreed by Customer to be charged as a Professional Service, such Exit Plan to be implemented by UP3 upon the expiry or termination date.
- 11.3. As part of the Exit Plan UP3 will provide all reasonable co-operation with Customer or a Subsequent Supplier as the Customer may reasonably request, including as regards to transferring Customer Materials and Customer Confidential Information which are in the custody or possession of UP3, provided that any Subsequent Supplier has first executed an NDA in form reasonably satisfactory to UP3.

12. TUPE REGULATIONS

- 12.1. Customer warrants, undertakes and represents to UP3 that the conditions set out in paragraph 3(3)(a) of the TUPE Regulations shall not apply and accordingly that there shall be no relevant transfer, for the purposes of the TUPE Regulations or otherwise, consequent on or as a result of the execution of this Agreement or the commencement of the Services.
- 12.2. UP3 warrants, undertakes and represents to Customer that the conditions set out in paragraph 3(3)(a) of the TUPE Regulations shall not apply and accordingly that there shall be no relevant transfer, for the purposes of the TUPE Regulations, or otherwise consequent on or as a result of the expiry or termination of this Agreement or the cessation of the Services.

13. INDEMNITY

- 13.1. Always subject to the limitations and exclusions set out in clause 14, each Party hereby indemnifies and shall keep indemnified the other Party against any and all Losses arising out of or in connection with any Claim made against the Indemnified Party by a third party arising out of or in connection with this Agreement to the extent that such claim arises out of the breach of this Agreement by the Indemnifying Party.
- 13.2. Liability under the indemnities in this Agreement is conditional on the Indemnified Party discharging the obligations contained in this clause 13.2. If any third party makes a Claim, the Indemnified Party will:
- 13.2.1. as soon as reasonably practicable, give written notice of the Claim to the Indemnifying Party specifying the nature of the Claim in reasonable detail;
 - 13.2.2. not make any admission of liability, agreement or compromise in relation to the Claim without the Approval of the Indemnifying Party;
 - 13.2.3. give the Indemnifying Party and its professional advisers all reasonable assistance, information and access to documents, records and relevant personnel to the extent it is within the power or control of the Indemnified Party, so as to enable the Indemnifying Party and its professional advisers to examine them and to take copies (at the Indemnifying Party's expense) for the purpose of assessing the Claim;
 - 13.2.4. take all steps necessary to enable the Indemnifying Party, at its own cost, to conduct all negotiations and proceedings and to cause the Indemnified Party to defend or settle the Claim, always provided that the Indemnifying Party will obtain the Indemnified Party's Approval for any such settlement terms.
- 13.3. Notwithstanding anything to the contrary in this Agreement or otherwise, the Indemnified Party will not be entitled to indemnity in respect of any Losses which it could reasonably mitigate or have mitigated.

14. LIMITATION OF LIABILITY

- 14.1. Neither Party shall be liable to the other for or in relation to any indirect or consequential losses, exemplary, punitive or special damages, business interruption, or loss of profit, loss of reputation, goodwill or opportunities, whether the Party which has suffered loss has been informed of the possibility of such damages or not and regardless of the form of act or omission, whether in contract, tort, strict liability or otherwise.
- 14.2. Subject to clauses 14.3 and 14.4, the liability of each Party is limited to a sum equal to the Fees paid by Customer to UP3 in the twelve months prior to the date in which such liability arises, or where the liability arises in the first twelve months from the Effective Date, the estimated sum of Fees that will be paid and/or payable in the first twelve months of this Agreement.

14.3. The liability of each Party in respect of any breach relating to (i) the other Party's IPR, (ii) Confidential Information, (iii) the warranties given in clause 12, or (iv) of the Data Protection Agreement, is limited to £2m (two million pounds sterling).

14.4. Nothing in this Agreement will limit or exclude either Party's liability for:

14.4.1. any losses relating to death or personal injury caused by the negligence of that Party, its employees, freelancers or subcontractors;

14.4.2. any losses relating to any fraud or fraudulent act of such Party; or

14.4.3. any other liability to the extent that the same cannot be excluded or limited under Applicable Law.

15. INSURANCE

UP3 will maintain with a reputable insurer at all times during the Contract Term a policy of insurance including £5m general and professional indemnity cover and shall upon request provide evidence of such to the other party.

16. NON-SOLICITATION AND NON-CIRCUMVENTION

16.1. During the Contract Term and for a period of 12 months thereafter neither Party shall directly or indirectly solicit for employment, employ, contract with, nor engage the services of or solicit business from or otherwise retain any employees, freelancers, consultants or subcontractors of the other Party who have been involved in the subject-matter of this Agreement during the previous 24-month period, provided that neither Party shall be restricted from any general solicitation such as an advertisement not directed specifically at such employees, freelancers, consultants or subcontractors.

16.2. In the event that either Party breaches clause 16.1, such Party agrees to pay the other Party as liquidated damages for such breach an amount equivalent to 12 months remuneration of such employee, freelancer, consultant or subcontractor, calculated on a full-time basis whether or not such person in fact works or has worked full-time for either Party.

16.3. During the Contract Term and for a period of 12 months thereafter Customer shall not, nor shall seek to, directly or indirectly circumvent UP3 by entering into any discussion, arrangement or agreement with any UP3 Service Provider (provided that in the case of a UP3 subcontractor, UP3 has notified Customer or Customer is otherwise aware of UP3's relationship with such subcontractor), in each case without prior agreement with UP3.

17. PUBLICITY

17.1. Neither Party shall, without the prior written consent of the other Party, make any disclosure or issues any press release regarding any matter connected with this Agreement, save that UP3 may refer to Customer as a client in its marketing.

17.2. Neither Party will use any logo or other trademark belonging to the other Party without the prior written Approval of such Party.

18. ASSIGNMENT AND SUBCONTRACTING

- 18.1. Save as expressly set out herein, neither Party may assign, transfer, charge, sub-license or deal in any other manner with this Agreement without the other Party's Approval.
- 18.2. UP3 may subcontract parts (but not the whole) of its obligations under this Agreement provided that:
 - 18.2.1. It shall upon reasonable request by Customer inform Customer fully and transparently of any such subcontracting; and
 - 18.2.2. UP3 shall be responsible for any acts or omissions of any such subcontractors as if such acts or omissions were committed or omitted (as the case may be) by itself.

19. NO PARTNERSHIP

- 19.1. Nothing in this Agreement is intended to create a partnership or the relationship of principal and agent or employer and employee between the Parties.

20. VARIATION

- 20.1. No variation of this Agreement shall be effective unless it is in writing and signed by the Parties.

21. THIRD PARTY RIGHTS

- 21.1. A person who is not a Party may not enforce any of the terms of this Agreement under the Contracts (Rights of Third Parties) Act 1999.

22. SURVIVAL

- 22.1. The provisions of clauses 3, 5, 6, 7, 12, 13, 14, 22, 23, 24, 25, 26 and 29 shall survive the expiry or termination of this Agreement, as well as any other clause or part of this Agreement which is intended or stated to so survive.

23. SEVERABILITY

- 23.1. If any provision of this Agreement or any part of any provision is determined to be partially void or unenforceable by any court or body of competent jurisdiction, it will be void or unenforceable to that extent only and the validity and enforceability of any of the other provisions or the remainder of any such provision will not to be affected. If any clause is rendered void or unenforceable, whether wholly or in part, the Parties will endeavour in good faith to achieve the intended result in an alternative legally effective manner.

24. ENTIRE AGREEMENT

- 24.1. This Agreement, together with the documents referred to in it, constitutes the entire understanding between the Parties relating to the subject matter of this Agreement and,

unless expressly stated otherwise in this Agreement, supersedes all prior representations, writings, negotiations or understandings relating to the subject matter of this Agreement.

- 24.2. Except in respect of any fraudulent misrepresentation made by a Party, each Party acknowledge that they have not relied on any representations, writings, negotiations or understandings, whether express or implied, (other than as set out in this Agreement) in entering into this Agreement.

25. WAIVER

- 25.1. No delay, neglect, or forbearance on the part of either Party in enforcing against the other Party any term of this Agreement will be deemed to be a waiver nor will prejudice any right of that Party under this Agreement.
- 25.2. The rights and remedies provided by this Agreement are cumulative and (except as otherwise provided in this Agreement) are not exclusive of any rights or remedies provided at law or in equity.

26. FURTHER ASSURANCE

- 26.1. Each Party will, and will use all reasonable efforts to procure that any relevant third party will, take all such steps, perform such acts and execute and deliver such documents as may reasonably be required for the purpose of giving full effect to this Agreement.

27. NOTICES

- 27.1. Any notice required to be given under this Agreement, shall be in writing and shall be delivered by first-class post or commercial courier to the address set out for each Party at the head of this Agreement, or by email to:

UP3: hello@UP3.co.uk

Customer: {Contact}

or as otherwise specified by the relevant Party by notice in writing to the other Party.

- 27.2. Any notice shall be deemed to have been duly received:
- 27.2.1. if sent by pre-paid first-class post, at 9.00 am on the second Business Day after posting; or
- 27.2.2. if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or
- 27.2.3. if sent by email, on the Business Day of sending.

28. FORCE MAJEURE

- 28.1. A Party whose performance is prevented, restricted or interfered with by an event of Force Majeure will not be in breach of this Agreement provided that such Party:

28.1.1. provides the other Party with prompt written notice describing the event of Force Majeure; and

28.1.2. resumes performance of its obligations as soon as reasonably possible.

28.2. If the scheduled time of delivery of performance by a Party subject to an event of Force Majeure Event is or will be delayed for more than 90 days after the scheduled date, the other Party may terminate this Agreement without effect on the rights of the Parties in respect of any breach of this Agreement occurring before such termination.

29. GOVERNING LAW AND JURISDICTION

29.1. This Agreement and any dispute or claim arising out of or in connection with it, its subject matter or formation (including non-contractual disputes or claims) will be governed by and construed in accordance with the laws of England and Wales.

29.2. In the event of a dispute arising out of or relating to this Agreement, including any question regarding their existence, validity or termination, the courts of England and Wales will have exclusive jurisdiction.

Signed by the duly authorised representatives of the Parties on the respective dates set out below, to take effect on the Effective Date:

UP3 SERVICES LIMITED

{Customer}

Authorised Signature

Authorised Signature

Name

Name

Date

Date



SCHEDULE 1

PROFESSIONAL SERVICES & IMPLEMENTATION

NOT PROVIDED

SCHEDULE 2

Managed Support and Development Services
Proposal:

NOT PROVIDED

SCHEDULE 3

DATA PROCESSING AGREEMENT

This Data Processing Agreement (this "Agreement") dated as of [DATE] ("Effective Date") is made by and between Nuffield Health ("Controller") and UP3 Services Limited ("Processor"), and supplements the services agreement made between Controller and Processor and dated 5th June, 2025 ("Service Agreement") with respect to the subject matter hereof.

1. In this Agreement, "**Data Protection Laws**" means all laws, regulations, regulatory requirements, guidance and codes of practice, including UK GDPR and Regulation (EU) 2016/679 (also known as the General Data Protection Regulation or **GDPR**), applicable to the processing of Personal Data (as amended and/or replaced from time to time); and the terms "**Personal Data**", "**Processor**", "**Data Subject**", "**process**", and "**Controller**" are as defined in the Data Protection Laws.
2. [CUSTOMER] shall be the Controller and UP3 Services Limited shall be the Processor in respect of Personal Data processed by the Processor on Controller's behalf in performing its obligations under this Agreement ("Personal Data").
3. The Controller shall be solely responsible for determining the purposes and means for which and the manner in which Personal Data are, or are to be, processed, which will be consistent with the Service Agreement. Where the Processor processes Personal Data on behalf of the Controller, the Processor shall, in respect of such Personal Data:
 - a. act only on written instructions and directions from the Controller;
 - b. immediately notify the Controller if, in the Processor's opinion, any instruction or direction from the Controller infringes the Data Protection Laws;
 - c. not process Personal Data for any purpose other than and only to the extent necessary for the performance of the Service Agreement;
 - d. not disclose Personal Data to any employee, director, agent, contractor or affiliate of the Processor or any third party except as required under the Service Agreement; to comply with applicable law; or with the Controller's prior written consent;
 - e. implement appropriate technical and organisational measures as are set out in in Exhibit B:
 - i. to protect the security and confidentiality of Personal Data;
 - ii. to protect Personal Data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure, access, or processing; and
 - iii. as required under Data Protection Laws to ensure a level of security appropriate to the risk, including as appropriate: (a) the pseudonymisation and encryption of Personal Data; (b) the ability to ensure the ongoing

confidentiality, integrity, availability, and resilience of processing systems and services; (c) the ability to restore the availability and access to Personal Data in a timely manner; and (d) a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring and maintaining the security of processing Personal Data;

- f. notify the Controller without undue delay of any request made by a Data Subject under Data Protection Laws in relation to or in connection with Personal Data and, if reasonably required by the Controller, permit the Controller to handle such request and at all times give reasonable cooperation with and assistance to the Controller in regards to its compliance with its obligations under the Data Protection Laws in relation to such Data Subject requests, including where Data Subjects exercise their rights to (i) access, rectify or erase Personal Data; (ii) restrict or object to the processing of Personal Data; or (iii) portability of Personal Data. If the Controller elects not to handle any Data Subject request received by the Processor, the Processor shall comply with such request. In all cases, (i) the Processor may charge the Controller for its reasonable time costs in complying with the above, and (ii) the Processor shall provide a copy to the Controller of all Personal Data which it does so disclose; and
 - g. process Personal Data in accordance with the specified duration, purpose, type and categories of Data Subjects as set out in Exhibit A.
4. The Processor shall without undue delay and in any event within 24 hours of becoming aware, promptly notify the Controller in writing of any actual or suspected accidental, unlawful or unauthorised destruction, loss, alteration, access to, disclosure of or processing of Personal Data or security breach ("Incident"). Such notice shall include reasonable details of the Incident including without limitation: (i) a description of the Incident; (ii) likely consequences of the Incident; (iii) the number of Data Subjects affected, number of records affected and the types of records affected; and (iv) the measures taken or proposed to be taken to address the Incident, including measures to mitigate possible adverse effects. The Processor shall give all reasonable cooperation with any investigation regarding the Incident and take all necessary measures to limit further unauthorised disclosure of or unauthorised processing of Personal Data in connection with the Incident. Each of the Processor and Controller shall bear their own costs in this regard.
5. The Processor shall cooperate and provide the Controller with such reasonable assistance as the Controller requires in relation to any complaints made by Data Subjects or investigations or enquiries made by any competent authority relating to the Controller's or the Processor's obligations under the Data Protection Laws. Each of the Processor and Controller shall bear their own costs in this regard.
6. In relation to Personal Data processed by the Processor under this Agreement, the Processor shall co-operate with the Controller to the extent reasonably necessary to enable the Controller to adequately discharge its responsibility as a data controller under the Data Protection Laws, including without limitation that the Processor shall cooperate and provide the Controller with such reasonable assistance as the Controller requires in relation to preparation of data protection impact assessments to the extent required under the Data Protection Laws, provided that the Processor may charge the Controller for its reasonable time costs in complying with the above.

7. The Processor shall provide such co-operation as the Controller reasonably considers to be necessary to enable the Controller to audit and verify the Processor's compliance with this Agreement from time to time. Such co-operation may include helping the Controller to carry out risk assessments of the Processor's data processing operations, in particular providing information about, and permitting the Controller to inspect, those operations. The Processor may charge the Controller for its reasonable time costs in complying with the above
8. Any Personal Data processed by the Processor or any sub-processor pursuant to this Agreement shall not be exported outside the European Economic Area and/or the UK..
9. On termination or expiry of this Agreement, at the Controller's request, the Processor shall delete or return to the Controller all Personal Data processed on behalf of the Controller, and the Processor shall delete existing copies of such Personal Data except where necessary to retain such Personal Data strictly for the purposes of compliance with applicable law.
10. The Controller consents to the appointment by the Processor of sub-processors to process Personal Data, upon the terms of this paragraph 10. The Processor shall make available a list of such sub-processors upon request by the Controller from time to time. Such consent is conditional on the Processor having executed a written contract with each such sub-processor which contains terms for the protection of Personal Data which are no less protective than the terms set out in this Agreement. The Processor shall remain liable to the Controller for the performance of the sub-processor's obligations under Data Protection Laws or any acts or omissions of the sub-processor. If after the date of this Agreement the Processor wishes to appoint another sub-processor upon the same basis as above, it shall so notify the Controller which may object to such appointment within 30 days of such notification, in which event the Controller and the Processor will reasonably agree any commercially reasonable changes to the Service Agreement to avoid the processing of Personal Data by such sub-processor.
11. The Processor shall ensure that any of the Processor's personnel who have access to Personal Data are bound by confidentiality obligations in respect of access, use or processing of such Personal Data. The Processor undertakes to provide training as necessary from time to time to the Processor's personnel with respect to the Processor's obligations in this Agreement to ensure that such personnel are aware of and comply with such obligations.

{Customer}	UP3 SERVICES LIMITED
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: Director

EXHIBIT A

DATA PRIVACY SCHEDULE

Subject-matter of the Processing

Professional and Managed Services provided by the Processor to the Controller, as detailed in the Service Agreement.

Duration of the Processing

Not to exceed the term of the Service Agreement.

Nature and purpose of the Processing

The Processor may receive, access or download the Controller's Personal Data only within the ServiceNow Platform. The Processor shall process such Personal Data as required to provide the Services in accordance with the Service Agreement.

Type of Personal Data

The Personal Data may include, but is not limited to, identification data including full name, address, email address, phone number, PayPal account details and such other data which in each case may be provided by customers of the Controller, and identification data including full name, email address and phone number which may be provided by employees of the Controller, and in each case transferred to the Processor for processing under the terms of the Service Agreement.

Special categories of data (if relevant)

Customers of the Controller may provide details of their health if they felt it was relevant to their communications with the Controller.

Categories of Data Subjects

Customers and employees of the Controller.

EXHIBIT B

TECHNICAL AND ORGANISATIONAL MEASURES

The Processor shall implement appropriate technical and organisational measures, designed to protect Personal Data against accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data. Such security measures shall align with industry practices for information security under the principles set out in the UK GDPR and such other security requirements that similar data processors are required to comply with under applicable privacy laws.

Such measures shall include:

1. The Processor shall access Personal Data belonging to the Controller only within the ServiceNow platform, solely to the extent that such is necessary in order to perform the Services.
2. No such Personal Data shall be exported from the ServiceNow platform.
3. Access to the Controller's instance of the ServiceNow platform will be controlled by the Processor's Service Manager and will be limited to Processor employees delivering support services on behalf of the Controller. Access would be immediately deactivated if they were re-assigned to other duties.
4. Access to the ServiceNow platform is password controlled.
5. Auditing of user accounts is activated by default in ServiceNow, meaning that user interactions are logged including access to the platform, the timing of such access, and any changes made to any field. When an account is deactivated this is also logged.
6. All Processor employees are trained in the Processor IT Security and Data Protection policies, which policies are reviewed and updated annually by the Processor's IT Manager and Data Protection Officer. All Processor employees must review and sign their understanding and compliance with these policies on joining the Processor and annually thereafter. The Processor IT Security Policy contains mandatory rules as to password length and complexity as well as detailed provisions regarding the Processor's overall security regime.