

Customer Details: (insert full name of hospital & address)	
Start Date:	
Licence Fee:	
Licence Term:	
Indicate whether single or multi Licence and name(s) of departments where use is permitted:	

Signed for and on behalf of the Customer:
Name:
Title:
Date:
The Customer confirms that it wishes to access and use CEMBooks in accordance with the CEMBooks Terms and Conditions and this Customer Order.

CEMBooks Terms and Conditions

To be used in conjunction with the G Cloud 15 framework contract which will form the formal signed contract of agreement.

iEDapps services are supplied to customers on the terms and conditions set out below.

1. Definitions

The following terms shall have the following meanings in these Terms and Conditions:

“CEMBooks” means the software application developed, owned and operated by iEDapps and licensed to the Customer under these Terms and Conditions;

“Customer”, “you”, “yours” means you, the hospital, company or other legal entity identified on the Customer Order and who has applied to use CEMBooks;

“Customer Order” means the order which accompanies these Terms and Conditions and which has been signed by the Customer;

“Customer Data” means any data, information or material provided or submitted by the Customer or one of its Users to CEMBooks;

“Data Protection Legislation” means (i) unless and until it is no longer directly applicable in the United Kingdom, the General Data Protection Regulation ((EU) 2016/679) (“GDPR”) and the Data Protection Act, 2018, regulations and secondary legislation, as amended or updated from time to time, in the United Kingdom and then (ii) any successor legislation to the GDPR or the Data Protection Act 2018 as amended updated or replaced from time to time.

“Force Majeure” means any event which is beyond our reasonable control which means that we are prevented from or delayed in

carrying on our business including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, extreme weather conditions, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to our workforce or that of any of our sub-contractor), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials;

“iEDapps”, “our”, “ours”, “us” and “we” means IED Limited (company registration no. 06842169) of 125 Stocks bank Road Mirfield WF14 0ES;

“Intellectual Property Rights” or “IPR” means patents, rights to inventions, copyright and related rights, topography rights, trademarks, trade names and domain names, rights in get-up, rights in goodwill or to sue for passing off, rights in designs, rights in computer software, database rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights of a similar nature, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which may now or in the future subsist in any part of the world;

“Licence” means the licence to use CEMBooks granted to the Customer under these Terms and Conditions;

“Licence Fee” means the fee payable by the Customer for use of CEMBooks as set out in the Customer Order;

“Licence Term” means the term of the Licence as set determined in accordance with the Customer Order and these Terms and Conditions;

“Outage” means a failure directly and solely associated with us that renders the service unavailable for a period of twenty four (24) hours or more;

“Renewal Date” means the date the Licence Term is due to be renewed which is twelve (12) months after the Start Date and each annual anniversary thereafter.

“Terms and Conditions” means the terms and conditions upon which CEMBooks is licensed to Customers and which are set out in this document;

“Service Credit” means a credit issued by us in respect of an Outage equal to £50 per day for each complete twenty four (24) hour period that the Outage continues;

“Start Date” means the date which the Licence is due to commence and which is specified on the Customer Order;

“User(s)” means those individuals authorised by you to access and use CEMBooks; and

“Website” means the website owned and operated by us www.cembooks.com.

2. Licence

2.1 In consideration for the Customer's agreement to these Terms and Conditions and payment of the Licence Fee, we hereby grant a non-exclusive, non-transferable, worldwide, revocable Licence to the Customer to use CEMBooks for the Licence Term for the Customer's own internal legitimate business purposes.

2.2 The Licence shall commence on the Start Date.

2.3 You are not permitted to (i) license, sublicense, rent, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party CEMBooks in any way other than as expressly set out in these Terms and Conditions; (ii) use, copy, modify or make derivative works based upon CEMBooks (iii) reverse assemble, compile or otherwise translate CEMBooks (iv) embed CEMBooks as an "iframe" or "frame" from within another application; or (v) reverse engineer or access CEMBooks in order to (a) build a competitive product or service, (b) build a product using ideas, features, functions or graphics that are similar to those related to CEMBooks, or (c) copy any ideas, features, functions or graphics of CEMBooks.

2.4 The Customer is not permitted to use CEMBooks to assist in the development of the Customer's own software or that of a third party. The Customer may not use or

copy all or any part of CEMBooks graphical user interface, operating logic or database structure for it to be part of or to develop any software or other product or technology, unless such use or copying is permitted by law.

- 2.5 When using CEMBooks you shall not: (i) send or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs; (ii) interfere with or disrupt the integrity or performance of CEMBooks or the data contained therein, or our Website, servers or networks; (iii) attempt to gain unauthorised access to CEMBooks or its related systems or networks; or (iv) take any action that imposes an unreasonably or disproportionately large load on our system.
- 2.6 The Licence granted to the Customer is personal to the Customer and may not be transferred or assigned in whole or in part without our prior written consent.
- 2.7 A single licence permits use by Users across a single entity within the number of departments specified on the Customer Order. Use across multiple departments is not permitted on a single licence. A department is defined as the primary location where the software is being used, a sub area is a section within the primary location. Customers can purchase more than one single licence
- 2.8 A whole site licence permits unlimited use by Users across an entire organisation.
- 2.9 You are required to ensure that all Users abide by these Terms and Conditions when using CEMBooks and you agree to indemnify us for any loss, damage, cost or expense that we may incur as a result of any failure by a User to abide by these Terms and Conditions.

3. Licence Term

- 3.1 The Licence Term shall commence on the Start Date and continue for the period specified on the Customer Order. At the end of the Licence Term, the Licence Term shall automatically extend for a further twelve (12) month period provided the applicable Licence Fee has been paid and the Licence has not been terminated earlier in accordance with clause 1011.

4. Using CEMBooks

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- 4.1 To use CEMBooks the Customer must create a user account using the login and password details provided by us. We will provide remote support free of charge to assist with set up and to design the key KPI's, escalation and log tags required for the site to function.
- 4.2 The Customer is responsible for all activity occurring under its account and shall abide by all applicable national and foreign laws, treaties and regulations in connection with its use of CEMBooks and the data which it creates, including those related to data privacy, international communications and the transmission of technical or personal data. You shall: (i) notify us immediately of any unauthorised use of any password or account or any other known or suspected breach of security; (ii) report to us immediately and use reasonable efforts to stop immediately any copying or distribution of unlawful content that is known or suspected by the Customer or its Users; and (iii) not impersonate another customer or provide false identity information to gain access to or use CEMBooks.
- 4.3 Users may download the CEMBooks application from the Apple Store/Google play Store free of charge.
- 4.4 We aim to have the Website and CEMBooks available at all times, however, it will be appreciated that, save as set out in clause 7, this cannot be guaranteed or that it will be error free and we cannot accept liability for any issues that this may cause.
- 4.5 We will try to keep disruptions to a minimum but we may suspend CEMBooks from time to time to carry out maintenance and support work.
- 4.6 We cannot guarantee or warrant that CEMBooks will meet the Customer's needs, that the Customer will be able to use CEMBooks in a particular way or obtain particular outputs from the system or the standard of the results arising from using CEMBooks. CEMBooks is a system which captures data; it is not a decision making system and we cannot be held liable for any decisions that you make based on the data which you have inputted to the system. .
- 4.7 Customer Data uploaded to CEMBooks will be stored by us for a period of five (5) years from the date it is uploaded.

IED Limited, 125 Stocks Bank Road Mirfield WF14 OES

www.cembooks.com

Company Reg. No. 06842169 |

5. Software Upgrades and Support

- 5.1 CEMBooks will be supported and maintained by us. We may issue software upgrades from time to time and will notify you of this in advance.
- 5.2 An enquiries form is available on the Website for registration and login issues and we aim to respond to these enquiries within twenty four (24) hours.
- 5.3 On site support may be requested and this will be charged at our current man-day rate plus travel expenses. We will agree the date and time for any on site visit at the time you submit your request.
- 5.4 In line with the implementation pack a named local administrator from the purchasing organisation will be responsible for first line local site support such as document uploading to Rule Book or phone numbers in to phone book. The first line local support may escalate issues which it cannot resolve to the CEMBooks team either via email or phone and will be dealt with in accordance with clause 5.2.
- 5.5 We shall have no obligation to provide the support where faults arise from:
 - 5.5.1 misuse, incorrect use of or damage to the software;
 - 5.5.2 use of CEMBooks on or in combination with any equipment or any software which is not compatible with the software, or any fault in any such equipment or software; or
 - 5.5.3 any failure to install and maintain appropriate security and virus prevention software on the Customer's equipment; or
 - 5.5.4 any breach by the Customer or a User of these Terms and Conditions.

6. Fees and Payment

- 6.1 The Licence Fee is displayed on the Customer Order. An invoice will be issued to the Customer detailing the applicable Licence Fee. Invoices for all other charges will be issued upon occurrence of the charge. All invoices must be paid by bank

transfer within thirty one (31) days of the date of the invoice.

- 6.2 Unless agreed otherwise with the Customer, Licence Fees are payable annually in advance by bank transfer to our bank account. One month prior to the Renewal Date we will issue an invoice for the applicable Licence Fee which must be paid prior to the Renewal Date.
- 6.3 Failure to pay on time will result in a late payment charge of £1,250 plus VAT per month for each month or part of a month in which an invoice remains unpaid. We reserve the right to suspend your use of CEMBooks in the event of late payment.
- 6.4 The Customer agrees to do all things necessary to expedite payment including issuing a purchase order number on our request.
- 6.5 The Customer shall not be entitled to make any deduction from any amount due from it to us nor shall the Customer be entitled to exercise any right of set-off except that in the event that the Customer has a bona fide dispute as to the amount of any invoice issued by us which it has informed us of in writing within fourteen (14) days of the date of invoice, then the Customer shall be entitled to withhold payment of the amount which it genuinely disputes only pending resolution of that dispute. Following resolution of such dispute, the Customer shall pay us within seven (7) days the full amount which it agrees or is ordered to pay.
- 6.6 If we are not paid an invoice on time we may instruct a debt collection agency or law firm to collect any amounts owing (including any interest and/or late payment charges). In such circumstances the Customer will be liable to pay an additional sum to us which will not exceed the reasonable costs that we may have to pay the debt collection agency or law firm, who will add the sum to the outstanding debt.
- 6.7 All fees charged to the Customer shall be subject to value added tax at the appropriate rate.

7. Uptime Guarantee

- 7.1 We are happy to offer all of our customers an uptime guarantee of 99%. In the event of a service failure we will notify you and keep you updated about progress every

twelve (12) hours until such time as normal service is resumed.

- 7.2 To receive a Service Credit for an Outage, the Customer must submit a request to us in writing not later than five (5) calendar days after the last day of the month in which the Outage occurred. Each request must include the following information: (i) Customer's name; (ii) Customer's contact name, email and telephone information; (iii) date and beginning and end time(s) of an Outage(s); and (iv) a brief description of the characteristics of the Outages. The Customer acknowledges and agrees that such Service Credits will be based on our own measures of core performance of CEMBooks (acting reasonably). If the unavailability Outage is confirmed by us, then a Service Credit will be applied to the next Licence Fee payable by the Customer after receipt of the Customer's request. Service Credits do not entitle the Customer to a refund, are not refundable and can be used only towards future billing charges. Service Credits are exclusive of any applicable taxes charged to the Customer or collected by us and are the Customer's sole and exclusive remedy with respect to any failure or deficiency in the availability of CEMBooks. All requests for credit are calculated monthly and must be submitted to us within ten (10) days of the beginning of each month in respect of the prior period.
- 7.3 An Outage period begins upon the earlier of: (i) the Customer reporting a malfunction in CEMBooks that is verified by us; or (ii) us detecting a malfunction, where, in either case, the malfunction is solely due to a failure in the CEMBooks system. An Outage period ends when the service is fully operational. This uptime guarantee does not apply to downtime caused by your third party suppliers such as your telecommunication provider or Force Majeure events. Nor does it apply to any circumstance or event which is due to you, any User or your employees or agents acts or omissions.
- 7.4 The provisions of this uptime guarantee, including the applicability of Service Credits contemplated above, are subject to the following conditions and limitations:
- 7.4.1 The aggregate monetary amount of Service Credits is limited to the Licence Fee (excluding any variable charges); and

- 7.4.2 No credits will be given for failures which are due to scheduled or emergency maintenance and repairs or faults or delays in CEMBooks which have been reported by the Customer but have not been verified by us or which are not capable of verification.

8. Confidentiality

- 8.1 We hereby undertake to take all reasonable steps to keep confidential any information relating to the Customer which we obtain during the course of the Licence where such information is of a confidential or commercially sensitive nature. This obligation of confidentiality does not extend to any information which (i) is in the public domain, (ii) was in our possession prior to the Start Date or (iii) was disclosed by a third party not acting in breach of a confidentiality obligation.

9. Intellectual Property Rights

- 9.1 All Customer Data stored by the Customer on CEMBooks belongs to the Customer absolutely. We have no rights over such data.
- 9.2 All IPR arising in CEMBooks (including any such rights in the Website) are either owned by or licensed to us and nothing in these Terms and Conditions shall transfer any ownership rights to the Customer.
- 9.3 Notwithstanding the provisions of clause 9.2, the Customer has a limited right to use CEMBooks in accordance with the terms of the Licence granted under clause 2.

10. Data Protection

- 10.1 For the purposes of this clause, "Data Controller", "Data Processor", "Personal Data" and "Data Subject" shall have the same meaning as is given to those terms in the Data Protection Legislation.
- 10.2 Where, during the course of providing any of our services to the Customer under these Terms and Conditions, we are required to process any Personal Data supplied to it from the Customer or a User then the following provisions shall apply:
- 10.2.1 Both parties shall comply with the applicable requirements of the Data Protection Legislation;
- 10.2.2 The Customer is the Data Controller in respect of all Personal Data which may be processed by us. The Customer appoints us to act as a Data Processor in respect of such Personal Data for the purposes of licensing CEMBooks under these Terms

and Conditions. The Customer hereby warrants that it is authorised by the owner of the Personal Data to appoint us as a Data Processor and to process the Personal Data in accordance with these Terms and Conditions;

10.3 Without prejudice to the generality of clause 10.2.1, we shall in relation to any Personal Data processed in connection with the performance by us of our obligations under these Terms and Conditions, use our reasonable commercial endeavours to:

10.3.1 process that Personal Data only on the written instructions of the Customer unless we are required by any applicable law to otherwise process the Personal Data;

10.3.2 ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;

10.3.3 ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and

10.3.4 not transfer any Personal Data outside of the European Economic Area without first taking appropriate safeguards in relation to the transfer;

10.3.5 assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

10.3.6 notify the Customer without undue delay on becoming aware of a Personal Data breach;

10.3.7 at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the Licence unless required by law to retain the Personal Data; and

10.3.8 maintain such records as may be reasonably necessary to demonstrate its compliance with this clause and allow for audits by the Customer or the Customer's designated auditor.

10.4 Should we appoint a third party to process any Personal Data under these Terms and Conditions, we shall notify the Customer of this fact and we shall ensure that such third party processor is obliged to comply with obligations which are at least equivalent to and no less onerous than the obligations set out in this clause 10.

10.5 CEMBooks data is encrypted and transmitted via http web services and hosted on a UK based virtual server hosted by Amazon Web Services. Mobile access allows login via stored credentials requiring two factor authentication and is secured within the device keychain. The mobile data is encrypted and sandboxed.

11. Termination

11.1 You may terminate the Licence at anytime by giving us ninety (90) days' notice in writing. No refund will be paid of any Licence Fees which have been paid in advance.

11.2 We may terminate the Licence immediately if the Customer fails to pay any sum due to us under these Terms and Conditions by its due date and such sum remains unpaid for fourteen (14) days after notice has been given to the Customer that such sum has not been paid.

11.3 We may terminate the Licence immediately by notice in writing to the Customer if the Customer:

11.3.1 commits a material breach of these Terms and Conditions which is incapable of remedy or, if capable of remedy, fails to remedy the breach within thirty (30) days of receipt of a written notice setting out the breach and indicating that failure to remedy the breach may result in termination of the Licence; or

11.3.2 becomes the subject of a voluntary arrangement under section 1 of the Insolvency Act 1986, or is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986, or notice has been received of a pending appointment of or the appointment of a receiver, manager, administrator or administrative receiver over all or any part of its undertaking, assets or income or any other similar relief (other than in respect of solvent reconstruction or amalgamation), intends to pass or has passed a resolution for its winding-up, or has a petition presented to

any court for its winding up or bankruptcy or for an administration order, or has ceased or threatened to cease to trade; or

11.4 a Force Majeure event lasts for a period of at least three (3) consecutive months, which affects our ability to fulfil our obligations under these Terms and Conditions.

11.5 Save as provided in this clause 10, any termination of the Licence for any reason whatsoever shall not affect the accrued rights and liabilities of either party.

11.6 In the event of non-payment of Licence Fees when due or in the event that we discover that the Customer is using CEMBooks in violation of the applicable licensing terms, we may, in addition to pursuing other remedies available hereunder, suspend performance of all performance obligations and disable the Customer's use of CEMBooks.

11.7 In the event of termination of the Licence for whatever reason, the Customer will no longer be entitled to access CEMBooks.

11.8 Where the Licence has been terminated for reasons other than the Customer's default then we will provide the Customer with access for a limited period to access and download the Customer Data. Following this period (and immediately following termination in all other cases) we shall delete all Customer Data held on CEMBooks.

12. Disclaimer of Warranties and Limitation of Liability

12.1 Our entire liability to the Customer for all claims in the aggregate arising from its use of CEMBooks or otherwise under these Terms and Conditions shall be limited to the amount of any actual direct damages of up to the annual Licence Fee paid under these Terms and Conditions. We do not offer any warranty in relation to the suitability or otherwise of CEMBooks or that it will be fit for purpose or of merchantable quality. Apart from any other warranty set out in these Terms and Conditions we disclaim any and all liability to the Customer for CEMBooks to the fullest extent permissible under applicable law. In no circumstances will we accept liability for loss of or damage to data, special, incidental or indirect damages or for any economic

consequential damages or lost profits, business, revenue, goodwill or anticipated savings arising from your use of CEMBooks. We do not accept any liability for interruption to business or damage to or loss of information however that interruption, damage or loss is caused.

12.2 The Customer is responsible for maintaining the security of its data. Customer Data held on CEMBooks will be backed up by us on a regular basis using specialist server managers and the Customer hereby consents to such practice. It is the Customer's responsibility to ensure that login and password details are kept secure. We shall not be liable for any loss of Customer Data.

12.3 We cannot guarantee that CEMBooks (i) will be free of faults or interruptions, without interruption, timely or secure to the extent CEMBooks may be affected by events or factors we cannot control, such as lack of network capacity, physical obstructions or atmospheric conditions; (ii) all program defects will be corrected; and (iii) CEMBooks will operate with any hardware, software, system or data not identified in the application process.

12.4 We shall not be held liable for any failure or delay in CEMBooks or making CEMBooks available where such failure arises as a result of Force Majeure. For the avoidance of doubt, we shall not be held liable for the delays or failure in performance of web hosting providers or other telecommunication providers.

12.5 Nothing in the Terms and Conditions shall limit or exclude the liability of either party in respect of either fraud or fraudulent misrepresentation, or death or personal injury arising from its negligence or the negligence of its employees, agents or contractors.

13. General

13.1 We may assign, transfer novate or subcontract any part or parts of these Terms and Conditions, or the CEMBooks system without the requirement to obtain the consent of the Customer. The Customer may not assign, transfer or subcontract any part of its obligations and benefits under these Terms and Conditions without our written consent which will not be unreasonably withheld or delayed.

- 13.2 Save where the Customer notifies us otherwise in writing, the Customer hereby consents to our use of the Customer name and logo on any testimonial page of our Website or any marketing and promotional literature produced by us to promote CEMBooks.
- 13.3 These Terms and Conditions and the Customer Order shall constitute the entire agreement between the parties for the provision of CEMBooks. No other terms, statements representations or promises whether expressed or implied shall form part of these Terms and Conditions.
- 13.4 If any term or condition of these Terms and Conditions shall be deemed invalid, illegal or unenforceable, the parties hereby agree that such term or condition shall be deemed to be deleted and the remainder of these Terms and Conditions shall continue in force without such term or condition. From time to time it may be necessary to update or vary these Terms and Conditions and in such circumstances we will write to you in advance to notify you of the changes.
- 13.5 These Terms and Conditions shall be governed by and construed in accordance with the laws of England and Wales. The parties hereto submit to the exclusive jurisdiction of the courts of England and Wales.
- 13.6 No delay or failure on the part of either party to enforce its rights or remedies under these Terms and Conditions shall constitute a waiver on its part of such rights or remedies unless such waiver is confirmed in writing.
- 13.7 Any notice or other information required or authorised by these Terms and Conditions to be given by either party to the other may be given by hand or sent by first class pre-paid post to the other party at the registered office address of that party.
- 13.8 The parties agree that the Contracts (Rights of Third Parties) Act 1999 does not apply to this agreement and nothing in the Terms and Conditions shall be deemed to confer any benefit or right on any person or entity other than the parties to this agreement.