

Bleepa terms and conditions

PARTIES:

- (1) Feedback Medical Limited, a company incorporated in England and Wales under company number 04025026 whose registered office is at 201 Temple Chambers 3-7 Temple Avenue, London EC4Y 0DT, United Kingdom ("**Feedback**"); and
- (2) [Customer name], a company incorporated in England and Wales under company number [number] whose registered office is at [address], United Kingdom ("**Customer**")

Together the "Parties"

These terms and conditions, together with the Quotation (or in the absence of a quotation, the Invoice or other terms and conditions agreed between the Parties in writing) that Feedback has supplied to the Customer ("**Quotation/Invoice**"), form the basis of a legal agreement ("**Agreement**") between the Parties.

BACKGROUND:

- (A) Feedback offers a service which facilitates communication between members of a clinical team through secure instant messaging and exchange of review quality medical images and patient-centric cloud architecture designed for secure storage of patient records ("**Bleepa**"), which incorporate the Software and Documentation as defined below.
- (B) The Customer is able to control which individuals have access to Bleepa, who must be members of the clinical team directly involved in the care of patients ("**Authorised Users**").
- (C) Bleepa is made accessible to Authorised Users via a web application and can be accessed via any internet enabled device including smartphones, tablets, laptops and desktops meeting the Technical Requirements as defined below ("**Device**").

Feedback hereby licences use of Bleepa to the Customer on behalf of itself and its Users and undertakes to perform integration and installation and development services upon and subject to these terms and conditions.

IMPORTANT NOTICE:

- By proceeding with the customer order and commencing use of Bleepa the Customer agrees to this agreement which (together with any special terms set out in the quotation/invoice and/or agreed in writing with Feedback) will bind the Customer to the exclusion of any other terms that the Customer may purport to incorporate (whether on a purchase order or otherwise) or that may be implied through custom, course of dealing, or otherwise.
- These terms and conditions include, in particular, limitations on liability in clause 12 below.

- Feedback disclaims to the maximum extent permitted by law all liability for any loss or damage suffered by the customer or any person, directly or indirectly, as a result of or in connection with any treatment or care decisions made as a result of use of Bleepa. however, Feedback does not exclude or limit its liability for death or personal injury resulting from Feedback's negligence (see clause 12 below).

SCHEDULE 1

Bleepa Software License Terms and Conditions

Definitions

The definitions and rules of interpretation in this clause apply in these terms and to the Agreement, unless the context requires otherwise.

“Access Credentials” means a log in and password used by an Authorised User to access Bleepa;

“Authorised User” shall have the meaning set out above;

“Bleepa” shall have the meaning set out above;

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

“Claim” shall have the meaning set out in clause 7.4;

“Codes of Practice” shall have the meaning set out in paragraph 1.3 of Part A of Appendix 1;

“Commencement Date” means the Effective Date unless otherwise agreed by the parties in writing.;

“Confidential Information” means information, data and material of any nature, which either Party may receive or obtain in connection with the conclusion and/or operation of the Agreement including any procurement process which is:

(a) Personal Data including without limitation which relates to any patient or other service user or his or her treatment or clinical or care history;

(b) designated as confidential by either Party or that ought reasonably to be considered as confidential (however it is conveyed or on whatever media it is stored); and/or

(c) policies and such other documents which either Party may obtain or have access to during the License Term;

“Contracting Authority” means any contracting authority as defined in regulation 3 of the Public Contracts Regulations 2015 (SI 2015/102) (as amended);

“Customer” shall have the meaning set out above;

“Device” shall have the meaning set out above;

“Discloser” shall have the meaning set out in paragraph 1.1 of Part A of Appendix 1;

“Documents or Documentation” means any online or electronic documents or printed materials that Feedback supplies to the Customer or otherwise makes available relating to Bleepa;

“Effective Date” means the earlier of the Commencement Date or the Customer’s Purchase Order date;

“Environmental Regulations” shall have the meaning set out in paragraph 1.3 of Part A of Appendix 1;

“Feedback” shall have the meaning set out above;

“Fees” shall mean all fees and charges as set out in the Quotation/Invoice, including License Fees, Installation Fees and Video Calling Fees (if agreed to be provided in the Quotation/Invoice)

“FOIA” shall have the meaning set out in paragraph 1.3 of Part A of Appendix 1;

“Force Majeure Event” means any event beyond the reasonable control of the Party in question to include, without limitation:

(a) war including civil war (whether declared or undeclared), riot, civil commotion or armed conflict materially affecting either Party’s ability to perform its obligations under this Agreement;

(b) acts of terrorism;

(c) flood, storm or other natural disasters;

- (d) fire;
- (e) epidemic or pandemic;
- (f) unavailability of public utilities and/or access to transport networks to the extent no diligent supplier could reasonably have planned for such unavailability as part of its business continuity planning;
- (g) government requisition or impoundment to the extent such requisition or impoundment does not result from any failure by Feedback to comply with any relevant regulations, laws or procedures (including such laws or regulations relating to the payment of any duties or taxes);
- (h) compliance with any local law or governmental order, rule, regulation or direction applicable outside of England and Wales that could not have been reasonably foreseen;
- (i) industrial action which affects the ability of Feedback to provide the Services, but which is not confined to the workforce of Feedback or the workforce of any Sub-contractor of Feedback;
- and
- (j) a failure in Feedback's and/or the Customer's supply chain to the extent that such failure is due to any event suffered by a member of such supply chain, which would also qualify as a Force Majeure Event in accordance with this definition had it been suffered by one of the Parties.

"Installation Fee" means the fee payable for initial set up and installation of Bleepa (if any) as set out in the Quotation/Invoice;

"Initial License Term" means the initial term of the Bleepa license as set out in the Quotation/Invoice;

"Installation Services" shall have the meaning given to it in clause 2.1;

"Intellectual Property Rights" means all patents, copyright, design rights, registered designs, trade marks, know-how, database rights, confidential formulae and any other intellectual property rights and the rights to apply for patents and trade marks and registered designs;

"Law" means any applicable statute or proclamation, delegated or subordinate legislation, bye-law, order, regulation or instrument as applicable in England and Wales;

"Maintenance Release" means any update, release, or other adaptation or modification of the Software, including any updated Documentation, that Feedback may provide to Customer from time to time during the License Term, which may contain, among other things, error corrections, enhancements, improvements, or other changes to the user interface, functionality, compatibility, capabilities, performance, efficiency, or quality of the Software, but does not include any New Feature(s);

"New Feature(s)" means any new feature(s) or versions of the Software that Feedback may from time to time introduce and market generally as a distinct licensed product (as may be indicated by Feedback's designation of new modules, and/or features and/or functionality or designation of a new version number), and which Feedback may make available to Customer at an additional cost under a separate quotation or other written agreement;

"NHS" means the National Health Service;

"Normal Business Hours" means 9.00am to 5.00pm local UK time, each Business Day and excluding public holidays;

"PACS" means the Picture Archive and Communication System used by the Customer, including any such system specified in the Technical Requirements;

"Party" means the Customer or Feedback as appropriate and Parties means both the Customer and Feedback;

"Patient" means an individual user of the Customer's healthcare services;

"Patient Episode" means each attendance by a Patient for Customer's healthcare services such that a Patient record is generated for that attendance requiring storage in, and access to, a patient-centric cloud architecture designed for secure storage of patient records;

"Process" shall have the meaning given in Appendix 1, together with **"Processing"** and **"Processed"**;

“Quotation/Invoice” shall have the meaning set out above;

“Recipient” shall have the meaning set out in paragraph 1.1 of Part A of Appendix 1;

“Renewal Period” shall have the meaning set out in clause 13.1;

“Services” means Bleepa (including the Software and Documentation), the Installation Services, and the support services set out in clause 9.2;

“Software” means the web application which enables Authorised Users to access the version of Bleepa as notified to the Customer and all software enabling the operation of Bleepa including any patch, or maintenance release that Feedback may supply to the Customer from time to time;

“Staff” means all persons employed or engaged by Feedback to perform its obligations under this Agreement including any sub-contractors and any person employed or engaged by such sub-contractors;

“Sub-contract” means a contract between two or more suppliers, at any stage of remoteness from Feedback in a sub-contracting chain,

made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Agreement;

“Sub-contractor” means a party to a Sub-contract other than Feedback;

“License Fee” means the price for Patient Episodes and Authorised Users as detailed in the quotation, or as may be notified to the Customer in accordance with clause 6.6;

“License Term” shall have the meaning given to it in clause 13.1;

“Technical Requirements” means the technical requirements specified on the second page of the Quotation/Invoice;

Validation Study means any period of use for evaluation purposes set out in a Quotation

“User Content” means any content created, uploaded, issued or shared, in any way, using Bleepa by a Customer and/or Authorised User including both images and text;

“User License” means a user license purchased by the Customer via payment of a License Fee which entitles an individual Authorised User to access and use Bleepa in accordance with this Agreement;

“VAT” means value added tax chargeable under the Value Added Tax Act 1994 or any similar, replacement or extra tax; and

“Virus” means any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of an programme or data including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the experience of users of Bleepa, including without limitation worms, trojan horses, viruses and other similar things or devices.

Validation Study Period means any period of use for evaluation purposes defined in a Validation Study Agreement (if any) between the Parties, being any agreement setting out the terms of evaluation of Bleepa by the parties.

“Video Calling” means an act or instance of communicating with one or more Authorised Users using a Device to transmit and receive both audio and video;

“Video Calling Fees” means the Fees associated with Video Calling as set out in the Quotation (if any).

1 Grant and scope of licence

Installation

1.1 Promptly following the Effective Date, Feedback shall deliver to the Customer, install and/or configure the Software and Bleepa ("**Installation Services**"), provided that the Customer:

1.1.1 provides Feedback with such assistance, information, data and access to the systems owned by the Customer and/or premises as Feedback may reasonably require in order to enable Feedback to perform such Installation Services, including in connection with the transition and integration of Bleepa with the PACS; and

1.1.2 ensures that the Technical Requirements are met.

Licence

1.2 Feedback hereby grants to the Customer a non-exclusive, non-transferable right to permit the Authorised Users during any Validation Study (if applicable) and any License Term to access and use Bleepa for the internal medical purposes of the Customer only, and not for resale, upon and subject to the terms of this Agreement and any additional restrictions set out in the Quotation/Invoice. The Customer may permit Authorised Users to use Bleepa to communicate, exchange or review medical images for medical purposes with licensed users of Bleepa at other organisations.

1.3 The Customer grants to Feedback a non-exclusive, royalty-free, non-transferable licence to:

1.3.1 copy, store and distribute the User Content; and

1.3.2 use any images or any other materials provided by the Customer to Feedback, as necessary for the purposes of providing the Services in accordance with this Agreement.

Authorised User Logins

1.4 The Customer shall create and maintain an up to date list of current Authorised Users ("Authorised Users Register") together with verification details as required by the Customer (which shall include, but not be limited to the name, email address, professional registration number and date of birth of the relevant individuals).

1.5 The Customer shall provide the Authorised Users Register to Feedback as soon as practicable following the Effective Date and within 5 Business Days of Feedback's written request at any time.

1.6 Feedback shall establish a verification process in accordance with the Customer's reasonable requirements and using the verification details provided by the Customer in accordance with clause 2.5.

1.7 Following the completion of such verification process, Feedback shall provide each relevant Authorised User with Access Credentials to enable Authorised Users to access Bleepa.

1.8 The Customer undertakes that:

1.8.1 the number of Authorised Users that the Customer authorises to have access to and use Bleepa shall not exceed the number of User Licenses purchased by the Customer;

1.8.2 the Customer will not allow any User License to be used by more than one individual Authorised User unless such User License has been reassigned in its entirety to another individual

Authorised User (pursuant to clause 2.11.2), in which case the prior Authorised User shall no longer have any right or access to Bleepa; and

1.8.3 it shall ensure that each Authorised User will keep their Access Credentials secure, and that their password forming part of such Access Credentials shall be changed by the

Authorised User on a regular basis or as may be notified to the Customer by Feedback from time to time.

1.9 Feedback shall host or procure the hosting of Bleepa on appropriate hardware and infrastructure.

1.10 The Customer shall make such back-ups of the User Content as the Customer considers appropriate.

Changes to Authorised Users

1.11 The Customer shall review the Authorised User Register regularly and in any event at least on a quarterly basis and shall notify Feedback in writing if the Customer wishes to make any of the following changes to the Authorised User Register:

1.11.1 to purchase additional User Licenses up to the number set out in the Quotation;

1.11.2 to transfer any current User License accounts to another individual Authorised User; and/or

1.11.3 to cancel any current User Licenses,
each an “**Authorised User Change**”.

1.12 Feedback shall evaluate each such request for an Authorised User Change and respond to the Customer with approval or rejection of the request. Where Feedback approves the request, Feedback shall activate the additional User Licenses and such accounts shall become billable upon creation, transfer the relevant current User Licenses, or cancel the relevant User Licenses as applicable within 5 Business Days of its approval of the Customer's request.

1.13 Feedback reserves the right to revoke User Licenses at Feedback's reasonable discretion for any violation of this Agreement.

2 Terms of use

2.1 The Customer shall not and the Customer shall procure that the Authorised Users shall not:

2.1.1 provide access to Bleepa to any individual or legal entity other than the Authorised Users without consent in writing from Feedback;

2.1.2 take any steps which shall or may disrupt, interfere with or restrict use of Bleepa by permitted users;

2.1.3 create or develop using Bleepa or upload to, display on or transmit through Bleepa any materials, including without limitation User Content which is or could be considered to be false, offensive, defamatory, threatening, obscene, unlawful, which violate export control laws or which infringe the rights, including but not limited to Intellectual Property Rights, of any other person anywhere in the world;

2.1.4 probe, scan or test the vulnerability of Bleepa or circumvent or hack any user authentication or security controls in respect of Bleepa, or attempt to do so;

2.1.5 reverse compile, disassemble, reverse engineer, decompile, copy, duplicate, modify or adapt any software or other code or scripts forming part of Bleepa (except to the extent permitted by Law) or transmit or attempt to transmit to or via Bleepa any information that contains a Virus;

2.1.6 attempt to obtain, or assist others in obtaining, access to Bleepa except as permitted by this Agreement;

2.1.7 change, modify, delete, interfere with or misuse any files or other data to which access is provided as part of Bleepa other than as expressly permitted;

2.1.8 use Bleepa to access information about patients other than in accordance with applicable General Medical Council guidance and any other related professional guidance; or

2.1.9 share data belonging to patients with Authorised Users outside of the direct care team of the relevant individual patient, including (but not limited to):

- (i) taking screen shots of User Content on Bleepa; and
 - (ii) providing access to patient data on an unlocked personal device that is not in direct observation of the relevant Authorised User.
- 2.2 The Customer shall:
- 2.2.1 provide Feedback with:
 - (i) all necessary cooperation in relation to this Agreement; and
 - (ii) all necessary access to such IT systems and information as may be required by Feedback in order to provide Bleepa;
 - 2.2.2 comply with all applicable Law with respect to activities under this Agreement;
 - 2.2.3 supervise and control use of Bleepa and ensure that Bleepa is used by the Authorised Users in accordance with these terms and conditions and shall be responsible for any Authorised User's breach of these terms and conditions;
 - 2.2.4 ensure that all Authorised Users are properly and sufficiently trained to use Bleepa and understand the scope and limitations of Bleepa as set out in the Documents; and
 - 2.2.5 procure that all Devices used by Authorised Users to access Bleepa meet the Technical Requirements as well as any applicable "Bring Your Own Device" and security policies adopted by the Customer.
- 2.3 If Feedback becomes aware that the Customer or any Authorised User has breached any of its obligations under these terms and conditions, Feedback shall have the right to immediately:
- 2.3.1 suspend access to Bleepa by the Customer or any of the Authorised Users until such breach has been remedied to the satisfaction of Feedback; and/or
 - 2.3.2 remove or procure the removal from Bleepa of any User Content which Feedback in its reasonable discretion deems to be or deems could be interpreted to be in breach of this Agreement, and/or
 - 2.3.3 recover any cumulative lost licence fees arising from the date of the breach.

3 Services

- 3.1 Feedback shall, during the License Term, provide the Services:
 - 3.1.1 in accordance with the provisions of this Agreement;
 - 3.1.2 with reasonable skill and care; and
 - 3.1.3 in accordance with Law relevant to the provision of the Services.
- 3.2 Feedback shall be relieved from its obligations under this Agreement to the extent that it is prevented from complying with any such obligations due to any acts, omissions or defaults of the Customer and/or any Authorised User.

4 Customer responsibilities

- 4.1 The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, Bleepa and, in the event of any such unauthorised access or use, shall promptly notify Feedback.
- 4.2 In the event of any incident which Feedback and/or a regulatory body are required to investigate, the Customer shall at their cost provide Feedback with such assistance, co-operation, information, data and access to the Customer systems and premises as Feedback may reasonably require.
- 4.3 Except as expressly set out in these terms and conditions or the Quotation/Invoice or as permitted by any applicable Law, the Customer undertakes:
 - 4.3.1 not to copy the Software or Documents except where such copying is incidental to normal use of Bleepa, or (in the case of Software provided on physical media or installed on the Customer's own hardware) where it is necessary for the purpose of back-up or operational security;

4.3.2 not to rent, lease, sub-license, loan, translate, merge, adapt, vary or modify the Software or Documents;

4.3.3 not to make alterations to, or modifications of, the whole or any part of the Software, nor permit the Software or any part of it to be combined with, or become incorporated in, any other programs;

4.3.4 not to disassemble, decompile, reverse-engineer or create derivative works based on the whole or any part of the Software nor attempt to do any such thing except to the extent that (by virtue of section 296A of the Copyright, Designs and Patents Act 1988) such actions cannot be prohibited because they are essential for the purpose of achieving inter-operability of the Software with another software program, and provided that the information obtained by the Customer during such activities:

(i) is used only for the purpose of achieving inter-operability of the Software with another software program;

(ii) is not unnecessarily disclosed or communicated without Feedback's prior written consent to any third party; and

(iii) is not used to create any software which is substantially similar to the Software;

4.3.5 to keep all copies of the Software secure and to maintain accurate and up-to-date records of the number and locations of all copies of the Software where installed on Customer hardware; and

4.3.6 to ensure that the Customer's IT and PACS systems are secure in accordance with applicable NHS and legal requirements and operate the latest security software.

4.4 The Customer shall hereby defend, indemnify and hold harmless Feedback against claims, actions and proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the breach of the terms of this Agreement by the Customer or any Authorised User, provided that:

4.4.1 the Customer has been given notice of any such claim;

4.4.2 Feedback provides reasonable co-operation to Customer in defence and settlement of such claim at the Customer's expense; and

4.4.3 the Customer is given sole authority to defend or settle the claim.

4.5 The Customer shall ensure that it meets the Technical Requirements on an ongoing basis during the License Term, including the supply of any hardware specified in the Technical Requirements.

5 Charges and payment

5.1 The Customer shall pay each undisputed invoice for Fees received within thirty (30) days of receipt of such invoice. Invoices shall be paid by BACS transfer to the bank account which Feedback notifies to the Customer in writing.

5.2 If the Customer fails to pay any undisputed sum due to Feedback under this Agreement by the due date for payment, without prejudice to any other rights and remedies of Feedback, it:

5.2.1 will have the right to charge interest on the overdue amount at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgement; and

5.2.2 may, without liability to the Customer, disable the Access Credentials for one or more Authorised Users and/or suspend access to all or part of Bleepa. Feedback shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid.

5.3 Feedback shall be entitled to increase the License Fee from the start of any Renewal Period upon thirty (30) days' prior notice to the Customer.

5.4 Feedback shall be entitled to perform a periodic reconciliation (annually or other frequency as agreed by the Parties) to determine if additional fees are payable by the Customer due to Patient Episodes exceeding the Customer's initial contractual commitment

(with a 5% tolerance factor) and/or Authorised Users, with any such additional fees payable in accordance with this Agreement.

6 Intellectual property rights

6.1 The Customer acknowledges that:

6.1.1 all Intellectual Property Rights in Bleepa, the Software and the Documents anywhere in the world belong to Feedback and/or Feedback's licensors;

6.1.2 rights in Bleepa, the Software and the Documents are licensed (not sold) to the Customer; and

6.1.3 the Customer together with its Authorised Users have no rights in, or to, Bleepa, the Software or the Documents other than the right to use them in accordance with these terms and conditions.

6.2 Feedback warrants and undertakes to the Customer that either it owns or is entitled to use and will continue to own or be entitled to use all Intellectual Property Rights used in the development and provision of the Services, excluding the User Content.

6.3 The Customer acknowledges that the Customer shall have no right to have access to the Software in source code form or in unlocked coding or with comments.

6.4 Feedback undertakes at its own expense to defend the Customer or, at its option, settle any claim or action brought against the Customer alleging that the possession, use, development, modification or maintenance of the Services (or any part thereof) in accordance with these terms and conditions infringes the Intellectual Property Rights of a third party ("Claim") and Feedback shall be responsible for any losses, damages, costs (including reasonable legal fees) and expenses incurred by or awarded against the Customer as a result of any such Claim. This clause shall not apply where the Claim in question is attributable to:

6.4.1 possession or use of the Services (or any part thereof) by the Customer other than in accordance with this Agreement;

6.4.2 the use of the Services by the Customer in combination with any hardware or software not supplied or specified by Feedback if the infringement would have been avoided by the use of the Services not so combined;

6.4.3 the use of a non-current release of the Software; and/or

6.4.4 to the extent that the Claim arises directly or indirectly through the possession, use, development, modification or maintenance of any open-source software incorporated into the Software or through the breach of any licence terms relating to any such open-source software.

6.5 If any third party makes a Claim, or notifies an intention to make a Claim against the Customer, Feedback's obligations under clause 7.4 are conditional on the Customer:

6.5.1 promptly giving written notice of the Claim to Feedback, specifying the nature of the Claim in reasonable detail;

6.5.2 not making any admission of liability, agreement or compromise in relation to the Claim without Feedback's prior written consent (such consent not to be unreasonably conditioned, withheld or delayed);

6.5.3 giving Feedback and Feedback's professional advisers access at reasonable times (on reasonable prior notice) to the Customer's premises and the Customer's officers, directors, employees, agents, representatives or advisers, and to any relevant assets, accounts, documents and records within the Customer's power or control, so as to enable Feedback and Feedback's professional advisers to examine them and to take copies (at Feedback's expense) for the purpose of assessing the Claim; and

6.5.4 at Feedback's expense, taking such action as Feedback may reasonably request to avoid, dispute, compromise or defend the Claim.

6.6 If any Claim is made, or in Feedback's reasonable opinion is likely to be made, against the Customer, Feedback may at its sole option and expense:

6.6.1 procure for the Customer the right to continue using the Services (or any part thereof) in accordance with these terms and conditions;

6.6.2 modify the Services so that they cease to be infringing;

6.6.3 replace the Services with non-infringing services; or

6.6.4 terminate the licence granted under this Agreement immediately by notice in writing to the Customer and refund any of the License Fees already paid by the Customer for the current period as at the date of termination (less a reasonable sum in respect of the Customer's use of Bleepa to the date of termination) on deletion or return of the Software and all copies thereof.

6.7 The above provisions constitute the Customer's exclusive remedy and Feedback's only liability in respect of Claims.

6.8 The Customer or the relevant Authorised User shall own all rights title and interest in and to the User Content and the Customer shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the User Content.

6.9 Feedback shall not share any User Content with any third party other than to Authorised Users through Bleepa.

6.10 If Feedback becomes aware that any User Content infringes any Intellectual Property Right belonging to a third party, or of any allegation to such effect, Feedback shall have the right to immediately suspend access to such User Content until it is satisfied that the Customer has made, procured such alterations, modifications or adjustments to the User Content so that it becomes non-infringing.

7 Feedback's responsibilities

7.1 Feedback shall use reasonable endeavours to meet any dates and timescales set out in the Quotation/Invoice and/or otherwise confirmed by Feedback to the Customer in writing, but time shall not be of the essence as regards any such dates and timescales.

7.2 Feedback warrants that it shall use reasonable endeavours to ensure that the Software is able to perform the Services and free from viruses or malicious code. However, Feedback can give no guarantees in this regard and accordingly the Customer must ensure that the Customer has up-to-date anti-Virus software installed on the Customer's hardware and systems at all times.

7.3 Feedback shall use reasonable endeavours to ensure that Bleepa is compliant with the latest applicable industry security standards.

7.4 Feedback shall follow its archiving procedures for User Content as set out in its policy for back-ups as may be applicable from time to time.

7.5 In the event of any loss or damage to User Content, Feedback shall use reasonable commercial endeavours to restore the lost or damaged User Content from the latest back-up of such User Content maintained by Feedback in accordance with the archiving procedure described in clause 8.4. Feedback shall not be responsible for any loss, destruction, alteration or disclosure of User Content caused by any third party (except Sub-contractors).

7.6 The Customer acknowledges that save as expressly provided in these terms and conditions, Bleepa, the Software and the Documents are provided "as is". Feedback does not warrant that the Customer's use of Bleepa will be uninterrupted or error-free. The Customer is responsible for the selection of Bleepa to achieve the Customer's intended results and the Customer acknowledges that Bleepa has not been developed to meet the Customer's individual requirements.

7.7 All other conditions, warranties or other terms which might be implied or incorporated into these terms and conditions or any collateral contract, whether by statute, common law or otherwise, are hereby excluded.

8 Support services and updates

8.1 Feedback shall use commercially reasonable endeavours to make Bleepa available 24 hours a day, seven days a week, during the License Term except for:

8.1.1 planned maintenance during Normal Business Hours; and

8.1.2 unscheduled maintenance performed outside Normal Business Hours, provided that Feedback has used reasonable endeavours to give the Customer at least 6 Normal Business Hours' notice of such maintenance in advance.

8.2 Feedback shall, during the License Term, provide telephone and email support in relation to Bleepa via the number and email address detailed in the Documents during the Normal Business Hours.

8.3 Feedback will, as part of the Services, provide the Customer with all Maintenance Releases as may be released from time to time during the License Term, that Feedback may, in its sole discretion, provide at no additional cost, subject to the Customer and the Authorised Users implementing the updates (as may be required) in accordance with clause 9.4.

8.4 The Customer is responsible at all times for implementing all updates to the Software notified to the Customer during the License Term. Feedback shall not be liable to the Customer for any loss, damage, cost or expense incurred by the Customer as a consequence of any failure by the Customer or any Authorised User to implement any such update.

8.5 The provision of any New Feature(s) shall be the subject of a separate quotation between Feedback and the Customer from time to time.

9 Confidentiality

9.1 The Parties shall comply with the confidentiality provisions set out in Part A of Appendix 1.

10 Data protection

10.1 Where Feedback is Processing Personal Data under or in connection with this Agreement, the Parties shall comply with the data protection provisions set out in Part A of Appendix 1 and the Data Processing Obligations set out in Part B of Appendix 1 unless the Customer imposes its own Data Sharing Agreement in which event the Customer's Data Sharing Agreement shall take precedence over Appendix 1 of these terms.

11 Freedom of Information

11.1 Where the Customer is a Contracting Authority in the UK, the provisions of paragraph 3 of Part A of Appendix 1 apply.

12 Limitation of liability

12.1 The Bleepa service enables secure and efficient communication between clinical personnel in relation to patient images. Feedback does not perform any analysis or verification of the User Content. **Bleepa is not a clinical decision making tool, and is not a substitute for clinical decision making based on interpretation of medical data by the relevant clinical team. Bleepa is not suitable for use in relation to any emergency medical treatment or during any surgical procedure. Authorised Users are responsible for both ensuring the accuracy of the User Content and for the decisions made as a result of review of the User Content.**

12.2 Accordingly, and subject to clause 13.6, Feedback shall have no liability for any treatment or care decisions made as a result of use of Bleepa or for the impact on patients of any such treatment or care decisions.

12.3 Feedback shall not be responsible for:

12.3.1 any delays, delivery failures or any other loss or damage resulting from the transfer of data over communications networks caused by issues relating to the performance of the Customer's IT systems and/or the internet; and/or

12.3.2 poor quality of the images displayed in Bleepa where this is caused by the display capabilities of the relevant Device (including resolution and contrast).

12.4 Feedback shall not under any circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with these terms and conditions for:

12.4.1 loss of profits, sales, business, or revenue;

12.4.2 business interruption;

12.4.3 loss of anticipated savings;

12.4.4 loss or corruption of data or information;

12.4.5 loss of business opportunity, goodwill or reputation; or

12.4.6 any indirect or consequential loss or damage.

12.5 Subject to clause 13.6, the maximum aggregate liability of Feedback under or in connection with the provision of Bleepa and this Agreement whether in contract, tort (including negligence) or otherwise, shall in all circumstances be limited to a sum equal to the total amounts paid or payable by the Customer to Feedback during the twelve (12) months preceding the event giving rise to a claim or, if later, the first twelve (12) months of this Agreement.

12.6 Nothing in this Agreement shall limit or exclude the liability of either Party for:

12.6.1 death or personal injury resulting from such Party's negligence;

12.6.2 fraud or fraudulent misrepresentation; or

12.6.3 any other liability that cannot be excluded or limited by applicable Law.

13 Term and termination

13.1 The Agreement shall, unless otherwise terminated as provided in this clause 13, commence on the Effective Date, and shall continue for the Initial License Term and, thereafter, the Agreement shall be automatically renewed for successive periods of 12 months (each a "**Renewal Period**") unless:

13.1.1 either Party notifies the other Party of termination, in writing, at least ninety (90) days before the end of the Initial License Term or any Renewal Period, in which case the Agreement shall terminate upon expiry of the applicable Initial License Term or Renewal Period; or

13.1.2 otherwise terminated in accordance with these terms and conditions, and the Initial License Term together with any subsequent Renewal Periods shall constitute the "**License Term**".

13.2 Without affecting any other right or remedy available to it, either Party may terminate this agreement with immediate effect by giving written notice to the other Party if:

13.2.1 the other Party fails to pay any amount due under this Agreement on the due date for payment and remains in default not less than thirty (30) days after being notified in writing to make such payment;

13.2.2 the other Party commits a material breach of any other term of this Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of thirty (30) days after being notified in writing to do so;

13.2.3 the other Party becomes insolvent or unable to pay its debts as they fall due or become subject to, or takes any steps to invoke, any law, proceedings, procedure or third party action preliminary or relating to its insolvency, winding-up, liquidation, administration or receivership (or any analogous proceedings in any jurisdiction) or any enforcement of any security against such Party, or to a rescheduling, composition or arrangement in respect of any of the Party's debts; or

13.2.4 the other Party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

Consequences of expiry or early termination

13.3 Upon termination of this Agreement for any reason:

13.3.1 all licences granted to the Customer and the provision of all Services to the Customer shall cease;

13.3.2 the Customer must immediately cease accessing Bleepa and notify Authorised Users of the termination of this Agreement; and

13.3.3 the Customer agrees to pay Feedback for the Services which have been performed by Feedback in accordance with this Agreement.

13.4 At the written request of the Customer within ninety (90) days of expiry or earlier termination of this Agreement:

13.4.1 all data (excluding Personal Data), documents and records (whether stored electronically or otherwise) relating in whole or in part to the Services, including without limitation relating to patients or Authorised Users, and all other items provided on loan or otherwise to Feedback by the Customer shall be delivered by Feedback to the Customer provided that Feedback shall be entitled to keep copies to the extent that: (a) the content does not relate solely to the Services; (b) Feedback is required by Law to keep copies; or (c) Feedback was in possession of such data, documents and records prior to the Commencement Date; and

13.4.2 any Personal Data Processed by Feedback on behalf of the Customer shall be returned to the Customer or destroyed in accordance with the relevant provisions of Appendix 1.

13.5 Nothing in this Agreement shall oblige Feedback to retain any of the User Content after ninety (90) days following expiry or termination of this Agreement.

13.6 The expiry or earlier termination of this Agreement shall not affect any obligations which expressly or by implication are intended to come into or continue in force on or after such expiry or earlier termination.

14 Notices

14.1 Any notice given to a Party under or in connection with these terms and conditions shall be in writing to its registered office (if a company) or its principal place of business (in any other case) and shall be treated as having been received:

14.1.1 if delivered by hand within Normal Business Hours when so delivered or, if delivered by hand outside Normal Business Hours, at the next start of Normal Business Hours; or

14.1.2 if sent by first class recorded delivery mail on a normal Business Day, at 9.00 am on the second Business Day subsequent to the day of posting, or, if the notice was not posted on a Business Day, at 9.00 am on the third Business Day subsequent to the day of posting; or

14.1.3 if sent by email, if sent within Normal Business Hours when so sent or, if sent outside Normal Business Hours, at the next start of Normal Business Hours provided the sender has either received an electronic confirmation of delivery or has telephoned the recipient to inform the recipient that the email has been sent.

14.2 This clause does not apply to the service of any proceedings or other documents in any legal action.

15 Force majeure

15.1 Subject to Clause 16.2 neither Party shall be liable to the other for any failure to perform all or any of its obligations under this Agreement nor liable to the other Party for any

loss or damage arising out of the failure to perform its obligations to the extent only that such performance is rendered impossible by a Force Majeure Event.

15.2 Where a Party is (or claims to be) affected by a Force Majeure Event it shall use reasonable endeavours to mitigate the consequences of such a Force Majeure Event upon the performance of its obligations under this Agreement, and to resume the performance of its obligations affected by the Force Majeure Event as soon as practicable.

15.3 Where the Force Majeure Event affects Feedback's ability to perform part of its obligations under the Agreement Feedback shall fulfil all such contractual obligations that are not so affected.

15.4 If either Party is prevented or delayed in the performance of its obligations under this Agreement by a Force Majeure Event, that Party shall as soon as reasonably practicable serve notice in writing on the other Party specifying the nature and extent of the circumstances giving rise to its failure to perform or any anticipated delay in performance of its obligations.

15.5 Subject to service of such notice, the Party affected by such circumstances shall have no liability for its failure to perform or for any delay in performance of its obligations affected by the Force Majeure Event only for so long as such circumstances continue and for such time after they cease as is necessary for that Party, using its best endeavours, to recommence its affected operations in order for it to perform its obligations.

15.6 The Party claiming relief shall notify the other in writing as soon as the consequences of the Force Majeure Event have ceased and of when performance of its affected obligations can be resumed.

16 Other important terms

16.1 The Customer shall permit Feedback to audit the Customer's use of Bleepa and the Customer's compliance with these terms and conditions by permitting Feedback to access the Customer's systems and/or premises upon request in accordance with this clause. Such audit may be conducted no more than once per quarter, at Feedback's expense, and this right shall be exercised with reasonable prior notice (unless Feedback suspects fraud or the Customer's wilful default).

16.2 Feedback may transfer its rights and obligations under these terms and conditions to another organisation, but this will not affect the Customer's rights or Feedback's obligations under these terms and conditions. The Customer may only transfer the Customer's rights or the Customer's obligations under these terms and conditions to another person if Feedback agrees in writing in advance.

16.3 Where Feedback enters into a Sub-contract in respect of any of its obligations under this Agreement relating to the provision of the Services, Feedback shall include provisions in each such Sub-contract, unless otherwise agreed with the Customer in writing, which contain, where applicable, at least equivalent obligations as set out in this Agreement in respect of confidentiality, information security, data protection, Intellectual Property Rights and compliance with Law.

16.4 No variation of these terms and conditions shall be effective unless it is in writing and signed by both parties.

16.5 These terms and conditions and any documents expressly referred to in them constitute the entire agreement between Feedback and supersede and extinguish all previous agreements, promises, assurances, warranties, representations and understandings between Feedback and the Customer, whether written or oral, relating to their subject matter (unless otherwise expressly agreed by Feedback in writing). The Customer agrees that the Customer shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in these terms and conditions or any document expressly referred to in them. The Customer agrees that the Customer shall

have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in these terms and conditions or any document expressly referred to in them.

16.6 If Feedback fails to insist that the Customer performs any of the Customer's obligations, or if Feedback does not enforce its rights against the Customer, or if Feedback delays in doing so, that will not mean that Feedback has waived its rights against the Customer and will not mean that the Customer does not have to comply with those obligations. If Feedback waives a default by the Customer, Feedback will only do so in writing, and that will not mean that Feedback will automatically waive any later default.

16.7 Each of the terms of these terms and conditions operates separately. If any court or competent authority decides that any of them are unlawful or unenforceable, the remaining terms will remain in full force and effect.

16.8 These terms and conditions, their subject matter and formation (and any non-contractual disputes or claims) are governed by the laws of England and Wales.

16.9 Each Party irrevocably agrees to the exclusive jurisdiction of the courts of England in respect of any disputes that arise under or in connection with these terms and conditions or their subject matter or formation, save that Feedback may commence proceedings in any jurisdiction in which the Customer operates if Feedback elects to do so.

Appendix 1 - Part A

Information and data provisions

1 Confidentiality

1.1 In respect of any Confidential Information it may receive directly or indirectly from the other Party ("Discloser") and subject always to the remainder of paragraph 1, each Party ("Recipient") undertakes to keep secret and strictly confidential and shall not disclose any such Confidential Information to any third party without the Discloser's prior written consent provided that:

1.1.1 the Recipient shall not be prevented from using any general knowledge, experience or skills which were in its possession prior to the Commencement Date;

1.1.2 the provisions of paragraph 1.1 shall not apply to any Confidential Information:

(i) which is in or enters the public domain other than by breach of this Agreement or other act or omissions of the Recipient;

(ii) which is obtained from a third party who is lawfully authorised to disclose such information without any obligation of confidentiality;

(iii) which is authorised for disclosure by the prior written consent of the Discloser;

(iv) which the Recipient can demonstrate was in its possession without any obligation of confidentiality prior to receipt of the Confidential Information from the Discloser; or

(v) which the Recipient is required to disclose purely to the extent to comply with the requirements of any relevant stock exchange; and

1.2 nothing in paragraph 1 of this Appendix 1 shall prevent or restrict the disclosure of User Content to Authorised Users through Bleepa.

1.3 Where the Customer is a Contracting Authority, nothing in this paragraph 1 shall prevent the Recipient from disclosing Confidential Information where it is required to do so by judicial, administrative, governmental or regulatory process in connection with any action, suit, proceedings or claim or otherwise by applicable Law, including the Freedom of Information Act 2000 ("FOIA"), Codes of Practice on Access to Government Information, on the Discharge of Public Authorities' Functions or on the Management of Records ("Codes of Practice") or the Environmental Information Regulations 2004 ("Environmental Regulations").

1.4 Feedback may disclose the Customer's Confidential Information, and any other information provided to Feedback by the Customer in relation this Agreement, to Feedback's Staff or professional advisors who are directly involved in the performance of or advising on the Feedback's obligations under this Agreement. Feedback shall ensure that such Staff or professional advisors are aware of and shall comply with the obligations in paragraph 1.1 as to confidentiality and that all information, including Confidential Information, is held securely, protected against unauthorised use or loss and, at the Customer's written discretion, destroyed securely or returned to the Customer when it is no longer required. Feedback shall not, and shall ensure that the Staff do not, use any of the Customer's Confidential Information received otherwise than for the purposes of performing Feedback's obligations in this Agreement.

1.5 Paragraph 1 shall remain in force:

- 1.5.1 without limit in time in respect of Confidential Information which comprises Personal Data; and
- 1.5.2 for all other Confidential Information for a period of three (3) years after the expiry or earlier termination of this Agreement unless otherwise agreed in writing by the Parties.

2 Data protection

2.1 Feedback and the Customer shall ensure that Personal Data is safeguarded at all times in accordance with the Law, and this obligation will include (if transferred electronically) only transferring Personal Data:

- 2.1.1 if essential, having regard to the purpose for which the transfer is conducted; and
- 2.1.2 that is encrypted in accordance with any applicable international data encryption standards for healthcare, and as otherwise required by those standards applicable to the Customer under any Law (this includes, data transferred over wireless or wired networks).

2.2 Where, as a requirement of this Agreement, Feedback is Processing Personal Data relating to patients and/or Bleepa Authorised Users as part of the Services, Feedback shall:

- 2.2.1 complete and publish an annual information governance assessment using the NHS information governance toolkit;
- 2.2.2 nominate an information governance lead able to communicate with Feedback's board of directors, who will be responsible for information governance and from whom Feedback's board of directors will receive regular reports on information governance matters including, but not limited to, details of all incidents of data loss and breach of confidence;
- 2.2.3 report all incidents of data loss and breach of confidence in accordance with Department of Health and Social Care and/or the NHS England and/or Health and Social Care Information Centre guidelines; and
- 2.2.4 comply with its obligations under the NHS Care Records Guarantee (being the rules which govern information held in the NHS Care Records Service, which is the electronic patient/service user record management service providing authorised healthcare professionals access to a patient's integrated electronic care record).

2.3 Where any Personal Data is Processed by any Sub-contractor of Feedback in connection with this Agreement, Feedback shall procure that such Sub-contractor shall comply with the relevant obligations set out in Appendix 1, as if such Sub-contractor were Feedback.

3 Freedom of Information

3.1 This paragraph 3 of Appendix 1 applies where the Customer is a Contracting Authority in the UK.

3.2 Feedback shall assist and cooperate with the Customer to enable it to comply with its disclosure obligations under the FOIA, Codes of Practice and Environmental Regulations.

3.3 Feedback shall assist the Customer in responding to a request for information, and shall provide copies of all information requested by the Customer within five (5) Business Days of that request and without charge.

Appendix 1 - Part B

Data processing obligations

1 Definitions

In this Appendix the following words shall have the following meanings unless the context requires otherwise:

“Controller” shall have the same meanings as set out in the GDPR;

“Data Loss Event” means any event that results, or may result, in unauthorised access to Personal Data held by the Feedback under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach;

“Data Protection Impact Assessment” means an assessment by the Controller of the impact of the envisaged Processing on the protection of Personal Data;

“Data Protection Legislation” means the Data Protection Act 2018; the GDPR (as applicable) and any applicable Law relating to the protection of personal data and the privacy of individuals (all as amended, updated or re-enacted from time to time);

“Data Protection Officer” and **“Data Subject”** shall have the same meanings as set out in the GDPR;

“Data Subject Access Request” means 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.

“Data Sharing Agreement” means any agreement made between Customer and Feedback setting out data processing obligations which is supplemental to and shall take precedence over this Appendix 1.

“GDPR” means the General Data Protection Regulation (Regulation (EU) 2016/679);

“Personal Data” shall have the same meaning as set out in the GDPR;

“Personal Data Breach” shall have the same meaning as set out in the GDPR;

“Process” shall have the same meaning as set out in the GDPR. Processing and Processed shall be construed accordingly;

“Processor” shall have the same meaning as set out in the GDPR;

“Protective Measures” means appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, 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 such measures adopted by it;

“Appendix” means this Appendix 1;

“Sub-processor” means any third party appointed to Process Personal Data on behalf of the Feedback related to this Agreement.

2 Data protection

2.1 If the Customer transfers Personal Data to Feedback to Process in the course of providing the Services, the parties intend that the Customer will be the Controller and Feedback will be a Processor in relation to such personal data.

2.2 The Customer warrants that:

- 2.2.1 it is entitled to transfer such Personal Data to Feedback to lawfully allow Feedback to process the Personal Data in accordance with the Agreement; and
- 2.2.2 it will Process the Personal Data in compliance with all applicable Law.
- 2.3 For the purposes of this Agreement:
 - 2.3.1 the types of Personal Data being Process are Authorised Users' verification details (including, name, email address, professional registration number, date of birth) and patient medical images, names and health data and categories of Data Subjects are Authorised Users and patients of the Customer.
 - 2.3.2 the nature/purpose of the Processing is to enable Feedback to carry out the Services (which form the subject matter of the Processing) and the duration of the Processing shall be the License Term.
- 2.4 Feedback shall notify the Customer immediately if it considers that any of the Customer's instructions infringe the Data Protection Legislation.
- 2.5 Feedback shall provide all reasonable assistance to the Customer in the preparation of any Data Protection Impact Assessment prior to commencing any Processing.
- 2.6 Feedback shall, in relation to any Personal Data Processed in connection with its obligations under this Agreement:
 - 2.6.1 Process that Personal Data only in accordance with the Data Processing Table in this Appendix, unless Feedback is required to do otherwise by Law. If it is so required Feedback shall promptly notify the Customer before Processing the Personal Data unless prohibited by Law;
 - 2.6.2 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;
 - (i) harm that might result from a Data Loss Event;
 - (ii) state of technological development; and
 - (iii) cost of implementing any measures;
 - 2.6.3 ensure that :
 - (i) Feedback Personnel do not Process Personal Data except in accordance with this Agreement (and in particular in accordance with paragraph 4.3 of this Appendix);
 - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Feedback Personnel who have access to the Personal Data and ensure that they:
 - (A) are aware of and comply with Feedback's duties under this Appendix
 - (B) are subject to appropriate confidentiality undertakings with Feedback or any Sub-processor; and
 - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Customer or as otherwise permitted by this Agreement,
 - 2.6.4 not transfer Personal Data outside of the United Kingdom unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:

- (i) the Customer or Feedback has provided appropriate safeguards in relation to the transfer (whether in accordance with Article 46 of the GDPR or Article 37 of the Law Enforcement Directive (Directive (EU) 2016/680)) as determined by the Customer;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) Feedback 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 best endeavours to assist the Customer in meeting its obligations); and
 - (iv) Feedback complies with any reasonable instructions notified to it in advance by the Customer with respect to the Processing of the Personal Data;
- 2.6.5 at the written direction of the Customer, delete or return Personal Data (and any copies of it) to the Customer on termination or expiry of the Agreement unless Feedback is required by Law to retain the Personal Data.
- 2.7 Subject to paragraph 4.6 of this Appendix, Feedback shall notify the Customer immediately if it:
 - 2.7.1 receives a Data Subject Access Request (or purported Data Subject Access Request);
 - 2.7.2 receives a request to rectify, block or erase any Personal Data;
 - 2.7.3 receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
 - 2.7.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data Processed under this Agreement;
 - 2.7.5 receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
 - 2.7.6 becomes aware of a Data Loss Event.
- 2.8 Taking into account the nature of the Processing, Feedback shall provide the Customer with reasonable assistance including:
 - 2.8.1 such assistance as is reasonably requested by the Customer to enable the Customer to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation; and
 - 2.8.2 assistance as requested by the Customer following any Data Loss Event; and
 - 2.8.3 assistance as requested by the Customer with respect to any request from the Information Commissioner's Office.
- 2.9 Feedback shall maintain records and information to demonstrate its compliance with this Appendix.
- 2.10 Feedback shall allow for audits of its Processing activity by the Customer or the Customer's designated auditor.
- 2.11 Save for any Sub-Processor referred to in the Documents, before allowing any Sub-processor to Process any Personal Data related to this Agreement, Feedback will:
 - 2.11.1 notify the Customer in writing of the intended Sub-processor and Processing;
 - 2.11.2 obtain the written consent of the Customer;

- 2.11.3 enter into a written agreement with the Sub-processor which give effect to the terms set out in this Appendix such that they apply to the Sub-processor; and
 - 2.11.4 provide the Customer with such information regarding the Sub-processor as the Customer may reasonably require.
- 2.12 Feedback shall remain fully liable for all acts or omissions of any Sub-processor.
- 2.13 Any change or other variation to this Appendix shall only be binding once it has been agreed in writing and signed by an authorised representative of both Parties.
- 2.14 Feedback shall enter into a Data Sharing Agreement at the request of the Customer.

