

Software Online Services and Support Agreement

between

Salutare Group Ltd

and

Customer

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THIS AGREEMENT is made on [date]

PARTIES

- (1) Salutare Group Limited, a company incorporated in England and Wales under number 12576438 whose registered office is at 1110 Elliott Court, Coventry Business Park, Coventry, CV5 6UB, United Kingdom (**Supplier**); and
- (2) [Insert name of customer], a company incorporated in [England and Wales] under number [insert registered number] whose registered office is at [insert address] (**Customer**),

each of the **Supplier** and the **Customer** being a **party** and together the **Supplier** and the **Customer** are the **parties**.

BACKGROUND

- A The Supplier is creator and licensor of a set of cloud-based software products.
- B The Customer is [insert details of Customer's background/background to the relevant transaction].
- C The Supplier agrees to provide online services, support and maintenance services for certain software on the terms of this Agreement.

THE PARTIES AGREE

1 Definitions and interpretation

1.1 In this Agreement:

Additional Services means any services provided by the Supplier to the Customer other than any of the Support Services or services the Supplier is obliged to provide under the Licence Agreement. Additional Services includes all services provided in respect of all reported Errors to which clause 0 applies or which are otherwise provided by or on behalf of the Supplier under this Agreement outside of the scope of the Support Services;

Authorised Licensees has the meaning set out in the Licence Agreement;

Business Day means a day other than a Saturday, Sunday or bank or public holiday in England;

Charges means the Support Fees, charges for Additional Services and any other charges (including costs and expenses) agreed between the parties as being payable by the Customer under this Agreement;

Commencement Date means the date of this Agreement;

Confidential Information	means all information (whether in oral, written or electronic form) relating to a party's business which may reasonably be considered to be confidential in nature including information relating to that party's technology, know-how, Intellectual Property Rights, assets, finances, strategy, products and customers. All information relating to the Software, the User Manual, the Description and any other technical or operational specifications or data relating to the Software shall be part of the Supplier's Confidential Information;
Description	has the meaning set out in the Licence Agreement;
Error	means a verifiable failure of the Supported Software to materially conform with the Description of which a documented example has been provided by the Customer to the Supplier and which is reproducible by the Supplier;
Error Report Form	means a report of an Error sent from the Customer to the Helpdesk in the form set out in Schedule 4 with all fields adequately completed;
Force Majeure	means an event or sequence of events beyond a party's reasonable control preventing or delaying it from performing its obligations under this Agreement (provided that an inability to pay is not Force Majeure);
Helpdesk	means the helpdesk and related services described in clause Error! Reference source not found.;Error! Reference source not found.;
Initial Term	has the meaning set out in clause 19.1;
Intellectual Property Rights	means any and all copyright, rights in inventions, patents, know-how, trade secrets, trademarks and trade names, service marks, design rights, rights in get-up, database rights and rights in data, semiconductor chip topography rights, utility models, domain names and all similar rights and, in each case: (a) whether registered or not; (b) including any applications to protect or register such rights; (c) including all renewals and extensions of such rights or applications; (d) whether vested, contingent or future; and (e) wherever existing;
Licence Agreement	means [<i>insert details of licence</i>];
month	means a calendar month;

Priority Level	shall be construed in accordance with the table in clause 7.1.1 (and Priority Level 1, Priority Level 2 and Priority Level 3 shall be construed accordingly);
Relief Event	means: (a) any breach of this Agreement or the Licence Agreement by the Customer; or (b) any Force Majeure;
Renewal Period	has the meaning set out in clause 19.1;
Representatives	means the employees, agents, contractors, sub-contractors or other representatives of the relevant person or of any of their direct or indirect sub-contractors (and Representatives of the Customer shall include its Authorised Licensees and other persons duly authorised on its or any of its Authorised Licensees' behalf to use the Supplier Software and/or receive the Support Services and any Representatives of any such person);
Service Credit	the credits which become payable to the Customer by way of a reduction in the Charges or payment where the Service Levels are not achieved, as set out in clause 17 and Error! Reference source not found.;Error! Reference source not found.;
Service Level	the levels of service required of the Supplier as set out in clause 17 and Error! Reference source not found.;Error! Reference source not found.;
Software	has the meaning given in the Licence Agreement;
Supplier Software	has the meaning given in the Licence Agreement, including any Updates or Upgrades to such made available by the Supplier under the Licence Agreement or this Agreement;
Support Fees	means the fees referred to in Part A of Schedule 2;
Support Hours	means the hours between 09.00 am and 5.00 pm local time in London, United Kingdom on Business Days;
Support Services	means the provision of the services to be provided by the Supplier set out in this document;
Supported Software	means, subject to clause 10, the most recent version and release of the Supplier Software (with all Updates and Upgrades applied) provided for use by the Supplier to the Customer under this Agreement or the Licence Agreement;

Target Resolution	shall be construed in accordance with the table in clause 7.1.1;
Target Resolution Time	shall be construed in accordance with the table in clause 7.1.1;
Territory	has the meaning set out in the Licence Agreement;
Update	means a software maintenance update, patch or bug-fix which does not constitute an Upgrade;
Upgrade	means a version or release of software intended to have new or improved functionality or designated by the Supplier as an upgrade;
User Manual	means the latest User Manual (as defined in the Licence Agreement) applicable to the Supported Software made available by the Supplier to the Customer from time to time;
VAT	means United Kingdom value added tax, any other tax imposed in substitution for it[and any equivalent or similar tax imposed outside the United Kingdom]; and
Version	means a version of the relevant Software, defined by version number (eg the number in version 1.x or version 2.x.x) or any other Upgrade designated by the Supplier as a new Version.

1.2 In this Agreement:

- 1.2.1 a reference to this Agreement includes its schedules;
- 1.2.2 the table of contents, background section and the clause, paragraph, schedule or other headings in this Agreement are included for convenience only and shall have no effect on interpretation;
- 1.2.3 a reference to a 'party' includes that party's successors and permitted assigns;
- 1.2.4 words in the singular include the plural and vice versa;
- 1.2.5 any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;
- 1.2.6 any obligation on the Customer to do (or refrain from doing) any thing shall include an obligation on the Customer to ensure that each of its Representatives do (or refrain from doing) such thing (and the Customer shall be responsible for, and liable to the Supplier for, all acts and omissions of its Representatives as if they were the Customer's own);
- 1.2.7 a reference to 'writing' or 'written' includes any method of reproducing words in a legible and non-transitory form;

- 1.2.8 a reference to legislation is a reference to that legislation as amended, extended, re-enacted or consolidated from time to time except to the extent that any such amendment, extension or re-enactment would increase or alter the liability of a party under this Agreement;
- 1.2.9 a reference to legislation includes all subordinate legislation made from time to time under that legislation; and
- 1.2.10 a reference to any English action, remedy, method of judicial proceeding, court, official, legal document, legal status, legal doctrine, legal concept or thing shall, in respect of any jurisdiction other than England, be deemed to include a reference to that which most nearly approximates to the English equivalent in that jurisdiction.

2 USE OF ONLINE SERVICES

- 2.1 The Salutare One Platform [hereto as "Online Services"] solution is a market-leading, cloud-based subscription service to manage diagnostic testing, ordering, monitoring and referrals. The Supplier agrees to provide the Online Services as is and with any standard upgrades and improvements without an implementation charge for a period set aside in the Service Order Form.
- 2.2 Subject to the terms of this Agreement, the Supplier will use commercially reasonable efforts to provide the Customer the Online Services in accordance with the Software Maintenance and Support Agreement, also referred to as 'the Support Services' in this Contract and which form part of the Services Additional Standard Consulting work that is required on request of the Authority will be agreed to and billed separately from this Contract. The rates and conditions for these are set out below.
- 2.3 The Supplier grants the Customer the right to access and use the Online Services and to install and use the Software included with the Subscription, as described in this Contract. The Supplier reserves all other rights.
- 2.4 The Customer controls access by End Users and is responsible for their use of the Product in accordance with this agreement.

3 RESTRICTIONS AND RESPONSIBILITIES

- 3.1 The Supplier shall own and retain all right, title and interest in and to (a) the Services and Software, all improvements, enhancements or modifications thereto that it has made, (b) any software, applications, inventions or other technology developed by it in connection with Implementation Services or support, and (c) all intellectual property rights related to any of the foregoing. The Supplier and Customer each agree that they will not, directly or indirectly, reverse engineer, decompile, disassemble or otherwise attempt to derive source code, trade secrets or know-how in or underlying any software or technology of the other party.
- 3.2 The Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Services, including, without limitation, modems, hardware, servers, software, operating systems, networking, web servers and the like (collectively, "Equipment").

- 3.3 The Customer grants the Supplier a non-exclusive, non-transferable and royalty-free licence to use the materials, software and Intellectual Property Rights provided or made accessible by or on behalf of the Customer to the Supplier (and to permit any Representative of the Supplier to use the same) to the extent reasonably necessary to enable the Supplier to provide the Support Services and Additional Services and otherwise perform its obligations under this Contract. The Supplier shall acquire no title, right or interest in such Intellectual property belonging to and provided by the Customer.
- 3.4 Customer shall be responsible for maintaining the security of the Equipment, Customer account, passwords (including but not limited to administrative and user passwords) and files, and for all uses of Customer account or the Equipment with or without Authority's knowledge or consent.

4 SERVICE ORDER FORM

Services: <i>Salutare ONE Platform</i> (the "Service(s)") for digitizing ordering (ordercomms), referrals, monitoring and sample collection labels for printing and tracking. Includes the Digital Blood Form for sending links to patients by email or SMS for scheduling blood test appointments and finding orders.)	
Subscription Services Fees: £xxx per month, payable in advance, subject to the terms of Section 4 herein.	Initial Service Term: Three years, renewable
Service Capacity: ONE Platform product with usage limited to xxx patient visits per year. If required, overage fees will be negotiated between the Customer and the Supplier when the threshold of xxx visits are obtained, and the fees will not surpass £0.30 per patient visit.	
Implementation Services: The Supplier will use commercially reasonable efforts to provide Authority the services described in the Implementation Plan in Schedule 10 hereto ("Implementation Services"), and Customer shall pay Salutare any Implementation Fee in accordance with the terms herein. Implementation Fee (one-time): £xxx Salutare agrees to waive the first-time implementation fees. Additional fees and integration work will be negotiated as needed by the parties to this contract.	
Software Support Services: £xxx	

Minimum Support Fees for ONE Platform product. Due annually up front at the start of the Commencement Date.

5 Provision of Support Services

- 5.1 Subject to the provisions of this Agreement and receipt of the applicable Support Fees, the Supplier shall provide the Support Services to the Customer during the Support Hours during the term of this Agreement.
- 5.2 The Supplier shall:
- 5.2.1 ensure that the Support Services are performed with reasonable care and skill;
 - 5.2.2 use its best endeavours to meet any time, including Target Resolution Times, quoted for completion of any part of the Support Services but time shall not be of the essence.
- 5.3 The provision of the Support Services does not imply that the Supplier shall be successful in correcting Errors or that the Supplier shall be able to assist the Customer in achieving any results from the Supported Software which are not technically feasible.
- 5.4 If the Customer fails to comply with any of the provisions set out in clause 13, then the Supplier may (without prejudice to any of its other rights or remedies) suspend the provision of Support Services until such failure has been remedied.
- 5.5 All Support Services shall be within reasonable limits, as determined by the Supplier.
- 5.6 If a reported problem or Error is found upon investigation to be caused by any of the circumstances referred to in clause 0 or to otherwise be outside of the scope of the Support Services the Customer is liable to the Supplier for the charges, time, materials, costs and expenses (if any) incurred in connection with that investigation and any attempt to remedy the Error in accordance with Schedule 2 as an Additional Service.
- 5.7 The Supplier's obligation to provide Support Services is only in respect of the Supported Software and no earlier or other versions, releases, Updates, Upgrades or copies that are not part of the Supported Software.
- 5.8 The Supplier shall be under no obligation to provide any Additional Services in relation to the Supplier Software or otherwise.
- 5.9 Unless otherwise agreed all Additional Services provided by the Supplier shall be deemed provided on, and subject to, the terms of this Agreement. The Supplier may invoice and the Customer shall pay for any Additional Services in accordance with clause 11 and Schedule 2.

6 Support Service

- 6.1 The Supplier shall provide technical advice and assistance during the Support Hours via the Support Service in respect of understanding the operation of the Software in accordance with Part A of Schedule 1.

- 6.2 The Customer must complete an Error Report Form in respect of each request to the Support Service in connection with any Error and provide the Supplier with all information and materials reasonably required by the Supplier for the purpose of investigation, diagnosis and correction of each Error. Unless it otherwise elects, the Supplier is not obliged to provide any Support Service in connection with any Error which has not been reported on a duly completed Error Report Form.
- 6.3 The Support Service may be contacted using the following details (as amended by the Supplier from time to time):

Telephone As appropriate

Email support@salutare.co.uk

Web portal <https://www.salutare.co.uk/support>

7 Error resolution

7.1 The Supplier shall:

- 7.1.1 use reasonable endeavours to provide a Response within the relevant Target Response Time set out in the following table (in descending order of priority):

Priority Level	Error description	Target response	Target Response Time
1 (Critical)	Means an Error rendering the Software entirely non-functional for which is there is no known workaround	Respond with a call or email to begin a patch, workaround or fix to resolve the Error so that it is no longer Priority Level 1	Two hours within support operating hours or within two hours at the start of the next Support operations day.
2 (Severe)	Means an Error that is not a Priority Level 1 Error which results in either: (a) a major feature or function of the Software being unusable for which there is no practical	Respond with a call or email to begin a patch, workaround or fix to resolve the Error so that	One Business Day

workaround; or (b) one or more major feature or function of the Software being unusable without a workaround that would have a severe impact on the work of the Customer in the medium to long term

3 (Minor)	Any other Error, including cosmetic Errors and Errors with a practical workaround	The Supplier shall consider whether the Error shall be resolved in any future Updates made available the Customer	Two Business Days
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7.2 Progress against Target Response Times shall be measured from the Supplier's initial receipt of the completed Error Report. In the event that an Error is resolved such that it becomes a lower Priority Level progress against Target Response Times for the resulting lower Priority Level Error shall be measured separately for the purposes of this Agreement from the Supplier's subsequent receipt of a completed Error Report Form in respect of the lower Priority Level Error.

7.3 In respect of any Target Response Times time shall not be of the essence.

8 On-site support

8.1 On-site support shall NOT be provided except by prior agreement and arrangement of the Supplier and the Customer specified in writing or email.

9 Remote support

9.1 The Supplier shall provide remote support during the Support Hours in accordance with Part D of Schedule 1, subject to the Customer complying with its obligations under Schedule 1 and this Agreement.

10 Obsolete Versions

10.1 The Supplier may (but is not obliged to) elect by written notice to the Customer from time to time that any Version of the Supplier Software shall cease to be Supported Software provided:

10.1.1 the notice referred to in clause 10.1 gives at least 6 months prior written notice to the Customer that the relevant Version of the Supplier Software shall cease to be Supported Software; and

10.1.2 the same Version of the Supplier Software referred to in that notice has been available to the market for at least 1 year.

10.2 A reference to any Version of the Supplier Software ceasing to be Supported Software in any notice served pursuant to clause 10.1 shall be deemed to include all releases, Updates and

Upgrades of such Version of the Supplier Software (whether or not created or made available before or after the date of such notice).

11 Charges

- 11.1 The Support Fees and any other Charges shall be paid by the Customer at the rates and in the manner described in Schedule 2.
- 11.2 The Supplier shall invoice the Customer for all sums due under this Agreement, and the invoices shall be paid within 30 calendar days of the date on the invoice.
- 11.3 The Support Fees and any other Charges payable under this Agreement are exclusive of VAT which shall be payable by the Customer at the rate and in the manner prescribed by law.
- 11.4 Amounts payable to the Supplier under this Agreement shall be paid into the following bank account by electronic funds transfer unless otherwise notified by the Supplier to the Customer in writing in accordance with this Agreement:
- Bank: TSB
Account holder name: SALUTARE GROUP LTD
Sort code: 779169
Account Number: 00009116
- 11.5 The Supplier shall have the right to charge interest on overdue invoices at the rate of **5%** per year above the base rate of **EURIBOR**, calculated from the date when payment of the invoice becomes due for payment up to and including the date of actual payment whether before or after judgment.
- 11.6 If any sum due to the Supplier under this Agreement (other than one which is the subject of a genuine dispute which is notified to the Supplier in writing) is in arrears for more than 30 days after the due date, the Supplier may without prejudice to any other right or remedy suspend (without liability on the Supplier's part) the provision of any or all of the Support Services and/or Additional Services on 15 Business Days' prior written notice until all outstanding sums due to the Supplier by the Customer have been paid in full.

12 Intellectual Property Rights

- 12.1 The Customer shall not acquire in any way any title, rights of ownership, or Intellectual Property Rights of whatever nature in the Software or in any copies of it. All such interests and rights are and shall remain the absolute property of the Supplier or its third party licensors or both (as applicable).
- 12.2 The Intellectual Proprietary Rights and all other proprietary rights in any materials developed, provided or made available by or on behalf of the Supplier under this Agreement (including any modifications or adaptations of the Software) shall remain vested in and be the absolute property of the Supplier or its third-party licensors. The Customer shall (at its sole cost and expense) promptly do (and procure the doing) of all such acts and things as the Supplier may reasonably require for the purpose of preserving or perfecting such vesting.

- 12.3 All Updates, Upgrades and other updates, versions or releases or iterations of Software or the User Manual(s) provided by the Supplier to the Customer under this Agreement shall be deemed part of the Software or User Manual (as appropriate) licensed under (and subject to the terms of) this Agreement or the Licence Agreement.
- 12.4 The Customer grants the Supplier a non-exclusive, non-transferable and royalty-free licence to use the materials, data, software and Intellectual Property Rights provided or made accessible by or on behalf of the Customer to the Supplier or anyone acting on its behalf (and to permit any Representative of the Supplier to use the same) to the extent necessary to enable the Supplier to provide the Support Services and Additional Services and otherwise perform its obligations under this Agreement.

13 Customer's obligations

- 13.1 The Customer undertakes to:
- 13.1.1 provide the Supplier (at no charge to the Supplier) with all necessary information, facilities and support reasonably required by the Supplier for the performance of its obligations to the Customer under this Agreement including adequate office accommodation, a secure work space and telephone services at the Customer's premises, access to the applicable computers, software, information, data, hardware and systems of the Customer and full access to the areas and premises in which the Support Services and/or Additional Services are to be performed;
 - 13.1.2 notify the Support Service as soon as is reasonably practicable on becoming aware of an Error in the Supported Software or of any proposed material change to the Customer's operating system or of any other circumstances which might materially affect the operation of the Supported Software;
 - 13.1.3 ensure that remote access is installed and operated in conjunction with relevant systems at the Customer's own cost and expense, for the purpose of assisting the Supplier in its provision of the Support Services;
 - 13.1.4 comply at all times with its obligations and the restrictions in the Licence Agreement;
 - 13.1.5 ensure that all applications, data, interfaces, tools, software, hardware and equipment within its (or any of its Representatives') control, used in conjunction with the Supported Software, are properly maintained;
 - 13.1.6 ensure that the use, copying or modification of all computers and operating systems and any other hardware or software which the Supplier (or any of its Representatives) is asked or permitted to undertake in connection with any of the Additional Services or Support Services does not infringe any Intellectual Property Right or other right of any third party;
 - 13.1.7 provide remote access to its systems as required by this Agreement;
 - 13.1.8 ensure that its Representatives co-operate fully with the Supplier in relation to the provision of the Support Services and any Additional Services;

- 13.1.9 ensure the health and safety of the Supplier's Representatives while they are at the Customer's (or any Customer Representative's) premises;
- 13.1.10 at all times use the Supported Software in accordance with the User Manual and the Supplier's reasonable directions as to the operation of the Supported Software;
- 13.1.11 ensure it maintains at all times secure backups of all data, information and software used by or in the custody or control of the Customer or any of its Representatives;
- 13.1.12 ensure that the Software is used in a proper manner by competent trained persons only or by persons under their supervision;
- 13.1.13 not request or permit or require anyone other than the Supplier to provide any Support Service in respect of the Software;
- 13.1.14 be fully responsible for all applications, data, interfaces, hardware and equipment within its (or any of its Representatives') control unless agreed otherwise;

Support Services exclusions

- 13.2 The Supplier is not obliged to provide Support Services in respect any Error resulting from, or contributed to by, any of the following:
 - 13.2.1 any breach by the Customer of this Agreement (including clause 13) or of the Licence Agreement;
 - 13.2.2 any modification, repair or addition to the Software made by any person other than the Supplier (or any person authorised by the Supplier in writing);
 - 13.2.3 any fault in any equipment or in any software used in conjunction with the Software;
 - 13.2.4 failure or fluctuation of electrical supplies, inadequate cooling, fire, flood, accidents or other natural disasters;
 - 13.2.5 installation or use of the Software other than for the purposes for which it is intended;
 - 13.2.6 installation or use of the Software with other software or on equipment with which it is incompatible (unless the Supplier recommended or required the use of that other software or equipment);
 - 13.2.7 incorrect operation or use of the Software (including any failure to follow the User Manual);
 - 13.2.8 the Customer's (or any Customer Representative's) negligent act or omission;
 - 13.2.9 attempted repair, rectification or maintenance by any person other than the Supplier or a third party authorised by the Supplier;
 - 13.2.10 failure to notify the Supplier of any error within a reasonable period of time of it first occurring; or

- 13.2.11 the failure by the Customer to implement any Update or Upgrade to the Software recommended and made available by the Supplier.

14 Updates and Upgrades

- 14.1 Unless otherwise agreed in writing, the Customer shall be entitled to receive Updates or Upgrades to the Software for the duration of this signed Agreement.
- 14.2 The provisions of clause 14.1 do not apply to any Updates provided by the Supplier pursuant to its express obligations under this Agreement or the Licence Agreement.

15 Data protection

The Customer warrants and undertakes to the Supplier that it shall ensure the Error Report Forms and all other data transferred or made available to the Supplier (or anyone acting on its behalf) under or in connection with this Agreement (**Customer Data**) do not contain any personal data as defined under any applicable law from time to time. The Customer shall indemnify, keep indemnified and hold harmless the Supplier against all losses, damages, costs and expenses sustained or incurred by the Supplier in connection with any breach by the Customer of this clause or any liability under any data protection laws arising from the processing of any Customer Data.

16 Records and audit

- 16.1 The Customer shall allow and procure for the Supplier (and any authorised representatives of the Supplier) access to its premises and the premises of the Customer's Representatives to:
- 16.1.1 inspect the equipment on which the Software is installed or on which the Supplier reasonably believes the Software might be installed; and
- 16.1.2 to audit (and take copies of) the relevant records of the Customer and the Customer's Representatives,
- in each case to the extent necessary to verify that the Customer is in compliance with its obligations under this Agreement.
- 16.2 Unless otherwise agreed in writing, the inspection referred to in clause 16.1 shall be undertaken:
- 16.2.1 during the Customer's normal business hours on Business Days;
- 16.2.2 subject to the provision by the Supplier of a minimum of five Business Days' notice; and
- 16.2.3 not more than three times in any calendar year.
- 16.3 At the Supplier's option, the audit and inspection referred to in clause 16.1 may be undertaken by way of remote access or by way of physical attendance at any premises where the Customer (or any of the Customer's Representatives) locates its computer equipment.

16.4 The Customer shall, at its own cost, provide all reasonable assistance and cooperation to the Supplier in conducting any inspection or audit undertaken under this clause 16. The Supplier shall comply with the Customer's reasonable directions in order to minimise disruption to the Customer's business and to safeguard the confidentiality of the Customer's Confidential Information.

16.5 The provisions of this clause 16 shall survive termination or expiry of this Agreement for a period of 12 months.

17 Service Levels and Service Credits

17.1 Subject to clause 22, the Supplier shall perform the relevant Support Services to meet or exceed the Service Levels, failing which it shall pay the Service Credits.

17.2 Service Credits shall be the Customer's sole and exclusive remedy in respect of any failure to achieve the Service Levels.

17.3 Service Credits shall be applied as a deduction against the Customer's next monthly invoice, or (if there are insufficient Charges to deduct from) paid to the Customer following the date of the final monthly invoice.

17.4 In no event shall the amount of Service Credits credited (and/or paid) to the Customer with respect to all Service Level defaults occurring in a single month under this Agreement exceed: 50% of the total contract value of the Support Agreement

17.5 In no event shall the amount of Service Credits credited (and/or paid) to the Customer with respect to all Service Level defaults occurring in any 12 month period under this Agreement exceed: 20% of the total contract value of the Support Agreement

17.6 Where a sum is expressed to be payable as a Service Credit the parties agree that:

17.6.1 the Customer has a legitimate interest in ensuring that it can recover losses suffered as a result of the Supplier's failure to meet the relevant Service Level; and

17.6.2 the Service Credits set out in this Agreement are not out of all proportion to such interest.

18 Limitation of liability

18.1 The extent of the Supplier's liability under or in connection with this Agreement (regardless of whether such liability arises in tort, contract or in any other way and whether or not caused by negligence or misrepresentation or arising under any indemnity) shall be as set out in this clause 18.

18.2 Subject to clause 18.7, the Service Credits (if any) shall be the Customer's sole and exclusive financial remedy howsoever arising (whether in contract, negligence or otherwise) under or in connection with this Agreement for any default in or failure to provide any of the Support Services in accordance with this Agreement.

- 18.3 Subject to clauses 18.4 and 18.7, the Supplier's total aggregate liability howsoever arising under or in connection with this Agreement (including for all Service Credits) shall not exceed £100,000 in respect of any one claim or series of related claims.
- 18.4 Subject to clause 18.7, the Supplier's total aggregate liability howsoever arising under or in connection with this Agreement (including for all Service Credits) shall not exceed an overall limit of the greater of:
- 18.4.1 £25,000; or
 - 18.4.2 one and a half times the total amounts paid under this Agreement.
- 18.5 Subject to clause 18.7, the Supplier shall not be liable for consequential, indirect or special losses.
- 18.6 Subject to clause 18.7, the Supplier shall not be liable for any of the following (whether direct or indirect):
- 18.6.1 loss of profit;
 - 18.6.2 loss or corruption of data;
 - 18.6.3 loss or corruption of software or systems;
 - 18.6.4 loss or damage to equipment;
 - 18.6.5 loss of use;
 - 18.6.6 loss of production;
 - 18.6.7 loss of contract;
 - 18.6.8 loss of opportunity;
 - 18.6.9 loss of savings, discount or rebate (whether actual or anticipated); and/or
 - 18.6.10 harm to reputation or loss of goodwill.
- 18.7 Notwithstanding any other provision of this Agreement, the Supplier's liability shall not be limited in any way in respect of the following:
- 18.7.1 death or personal injury caused by negligence;
 - 18.7.2 fraud or fraudulent misrepresentation; or
 - 18.7.3 any other losses which cannot be excluded or limited by applicable law.
- 18.8 Other than as expressly set out in this Agreement, all warranties, conditions, terms, undertakings or obligations whether express or implied and including any implied terms relating to quality, fitness for any particular purpose, reasonable care and skill or ability to achieve a particular result are excluded to the fullest extent allowed by applicable law.

19 Term and termination

- 19.1 Unless terminated earlier in accordance with this clause 19.1, this Agreement shall continue from the Commencement Date for **3 years** (the **Initial Term**). On expiry of the Initial Term, this Agreement shall automatically renew for further periods of **1 year** (each a **Renewal Period**) for a maximum of 6 years in total unless either party notifies the other in writing not less than **3 months** prior to the expiry of the Initial Term or current Renewal Period (as appropriate) that it wishes to terminate this Agreement for convenience under this clause 19.1 (the **Cancellation Notice**). If a Cancellation Notice is served in accordance with this clause 19.1, this Agreement shall terminate at the end of the relevant Initial Term or Renewal Period in which such notice was served.
- 19.2 Either party may terminate this Agreement at any time by giving notice in writing to the other party if:
- 19.2.1 the other party commits a material breach of this Agreement and such breach is not remediable;
 - 19.2.2 the other party commits a material breach of this Agreement which is not remedied within **20 Business Days** of receiving written notice of such breach; or
 - 19.2.3 the other party has failed to pay any amount due under this Agreement on the due date and such amount remains unpaid within **20 Business Days** after the other party has received notification that the payment is overdue.
- 19.3 Any breach by the Customer of clause [3] of the Licence Agreement shall be deemed a material breach of this Agreement by the Customer which is not remediable.
- 19.4 The Supplier's obligations under this Agreement are dependent on the continuation of the Licence Agreement to use the Supported Software. If the Licence Agreement is terminated for any reason the Supplier's obligation to provide Support Services (or perform any other obligations under this Agreement) shall cease automatically on the occurrence of that event and the Supplier may immediately terminate this Agreement by written notice.
- 19.5 The Supplier may terminate this Agreement at any time by giving notice in writing to the Customer if the Customer:
- 19.5.1 stops carrying on all or a significant part of its business, or indicates in any way that it intends to do so;
 - 19.5.2 is unable to pay its debts either within the meaning of section 123 of the Insolvency Act 1986 or if the Supplier reasonably believes that to be the case;
 - 19.5.3 becomes subject to a moratorium under Part A1 of the Insolvency Act 1986;
 - 19.5.4 becomes the subject of a company voluntary arrangement under the Insolvency Act 1986;
 - 19.5.5 becomes subject to a restructuring plan under Part 26A of the Companies Act 2006;

- 19.5.6 becomes subject to a scheme of arrangement under Part 26 of the Companies Act 2006;
 - 19.5.7 has a receiver, manager, administrator or administrative receiver appointed over all or any part of its undertaking, assets or income;
 - 19.5.8 has a resolution passed for its winding up;
 - 19.5.9 has a petition presented to any court for its winding up or an application is made for an administration order, or any winding-up or administration order is made against it;
 - 19.5.10 is subject to any procedure for the taking control of its goods that is not withdrawn or discharged within **5 Business Days** of that procedure being commenced;
 - 19.5.11 has a freezing order made against it;
 - 19.5.12 is subject to any recovery or attempted recovery of items supplied to it by a supplier retaining title to those items;
 - 19.5.13 is subject to any events or circumstances analogous to those in clauses 19.5.1 to 19.5.12 in any jurisdiction;
- 19.6 The right of the Supplier to terminate the Agreement pursuant to clause 19.5 shall not apply to the extent that the relevant procedure is entered into for the purpose of amalgamation, reconstruction or merger (where applicable) where the amalgamated, reconstructed or merged party agrees to adhere to this Agreement.

20 Consequences of termination

- 20.1 The Customer shall ensure that it backs up its data regularly and extracts it from the Software prior to the termination or expiry of this Agreement. The Supplier shall not be obliged to provide the Customer with any assistance extracting or recovering data whether during or after the term of this Agreement.
- 20.2 Termination or expiry of this Agreement shall not affect any accrued rights and liabilities of either party at any time up to the date of termination or expiry and shall not affect any provision of this Agreement that is expressly or by implication intended to continue beyond termination.
- 20.3 The provision of clauses 1, 11 to 13 (inclusive), 141 to 163 (inclusive), 185 and 207 to 385 (inclusive) shall continue in full force after termination or expiry of this Agreement.

21 Confidentiality

- 21.1 The Customer shall maintain the confidentiality of the Supplier's Confidential Information and shall not without the prior written consent of the Supplier, disclose, copy or modify the Confidential Information (or permit others to do so) other than as necessary for the exercise of its rights and performance of its obligations under this Agreement.
- 21.2 The Customer undertakes to:

- 21.2.1 disclose the Supplier's Confidential Information only to those of its officers, employees, agents and contractors to whom, and to the extent to which, such disclosure is necessary for the purposes contemplated under this Agreement; and
- 21.2.2 procure that such persons are made aware of and agree in writing to observe the obligations in this clause 218.
- 21.3 The Customer shall give notice to the Supplier of any unauthorised misuse, disclosure, theft or loss of the Supplier's Confidential Information immediately upon becoming aware of the same.
- 21.4 The Customer shall indemnify, keep indemnified and hold harmless the Supplier from and against any losses, claims, damages, liabilities, costs (including legal and other professional fees) and expenses incurred as a result of or in connection with any breach by the Customer of this clause 218.
- 21.5 The provisions of this clause 218 shall not apply to information which:
 - 21.5.1 is or comes into the public domain through no fault of the Customer, its officers, employees, agents or contractors;
 - 21.5.2 is lawfully received by the Customer from a third party free of any obligation of confidence at the time of its disclosure;
 - 21.5.3 is independently developed by the Customer, without access to or use of the Supplier's Confidential Information; or
 - 21.5.4 is required by law, by court or governmental or regulatory order to be disclosed provided that the Customer, where possible, notifies the Supplier at the earliest opportunity before making any disclosure.
- 21.6 The obligations under this clause 218 shall survive the termination or expiry of this Agreement for a period of ten years.

22 Relief

- 22.1 The Supplier shall not be liable:
 - 22.1.1 for any breach, delay or default in the performance of this Agreement;
 - 22.1.2 for any failure to achieve any Service Level(s); and
 - 22.1.3 to pay Service Credits,
- to the extent the same (or the circumstances giving rise to the same) arises or was contributed to by any Relief Event.

23 Dispute resolution

- 23.1 Any dispute arising between the parties out of or in connection with this Agreement shall be dealt with in accordance with the provisions of this clause 230.

- 23.2 The dispute resolution process may be initiated at any time by either party serving a notice in writing on the other party that a dispute has arisen. The notice shall include reasonable information as to the nature of the dispute.
- 23.3 The parties shall use all reasonable endeavours to reach a negotiated resolution through the following procedures:
- 23.3.1 Within five Business Days of service of the notice, the managers of the parties shall meet to discuss the dispute and attempt to resolve it.
- 23.3.2 If the dispute has not been resolved within five Business Days of the first meeting of the managers, then the matter shall be referred to the chief executives (or persons of equivalent seniority). The chief executives (or equivalent) shall meet within seven days to discuss the dispute and attempt to resolve it.
- 23.4 The specific format for the resolution of the dispute under clause 23.3.1 and, if necessary, clause 23.3.2 shall be left to the reasonable discretion of the parties, but may include the preparation and submission of statements of fact or of position.
- 23.5 Until the parties have completed the steps referred to in clause 23.3, and have failed to resolve the dispute, neither party shall commence formal legal proceedings or arbitration except that either party may at any time seek urgent interim relief from the courts or emergency arbitrator relief.

24 Entire agreement

- 24.1 This Agreement constitutes the entire agreement between the parties and supersedes all previous agreements, understandings and arrangements between them in respect of the subject matter of this Agreement, whether in writing or oral.
- 24.2 Each party acknowledges that it has not entered into this Agreement in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in this Agreement.
- 24.3 Nothing in this Agreement shall limit or exclude any liability for fraud.

25 Notices

- 25.1 Any notice given by a party under this Agreement shall be:
- 25.1.1 in writing and in English;
- 25.1.2 signed by, or on behalf of, the party giving it (except for notices sent by email); and
- 25.1.3 sent to the relevant party at the address set out in clause 25.3.
- 25.2 Notices may be given, and are deemed received:
- 25.2.1 by hand: on receipt of a signature at the time of delivery;

25.2.2 by Royal Mail International Tracked & Signed post: at 9.00 am on the fourth Business Day after posting; and

25.2.3 by email: on receipt of a delivery receipt email from the correct address.

25.3 Notices shall be sent to:

25.3.1 Salutare Group LTD for the attention of Chris Dial , CEO at:

1 Hadley Hurst Cottages
Hadley Common
Barnet
Herts
EN5 5QF
United Kingdom

chris@salutare.co.uk; and

copied to Kevin Moore at kevin@salutare.co.uk;

25.3.2 *[insert name of the Customer]* [for the attention of *[insert name and/or position]*] at:

[insert address]

[[insert email address]]; and OR .]

[copied to [insert name] at [insert address].]

25.4 Any change to the contact details of a party as set out in clause 25.3 shall be notified to the other party in accordance with clause 25.1 and shall be effective:

25.4.1 on the date specified in the notice as being the date of such change; or

25.4.2 if no date is so specified, seven Business Days after the notice is deemed to be received.

25.5 This clause does not apply to notices given in legal proceedings or arbitration.

26 Announcements

26.1 Subject to clause 26.2, no announcement or other public disclosure concerning this Agreement, the performance or non-performance of the any of it, or any of the matters contained in this Agreement shall be made by, or on behalf of, the Customer without the prior written consent of the Supplier.

26.2 If the Customer is required to make an announcement or other public disclosure concerning this Agreement or any of the matters referred to in clause 26.1 by law, any court or any governmental, regulatory or supervisory authority (including any recognised investment exchange) or any other authority of competent jurisdiction, it may do so but shall:

- 26.2.1 notify the Supplier as soon as is reasonably practicable upon becoming aware of such requirement to the extent it is permitted to do so by law, by the court or by the authority requiring the relevant announcement or public disclosure;
- 26.2.2 make the relevant announcement or public disclosure after consultation with the Supplier so far as is reasonably practicable; and
- 26.2.3 make the relevant announcement or public disclosure after taking into account all reasonable requirements of the Supplier as to its form and content and the manner of its release, so far as is reasonably practicable.

27 Variation

No variation of this Agreement shall be valid or effective unless it is in writing, refers to this Agreement and is duly signed or executed by, or on behalf of, each party.

28 Assignment and sub-contracting

- 28.1 The Supplier may at any time assign, sub-contract, transfer, mortgage, charge, declare a trust of or deal in any other manner with any or all of its rights or obligations under this Agreement, provided that it gives prior written notice to the Customer.
- 28.2 Except as expressly permitted by this Agreement, the Customer shall not assign, transfer, sub-licence, mortgage, charge, declare a trust of or deal in any other manner with any or all of its rights or obligations under this Agreement (including any licence rights granted), in whole or in part, without the Supplier's prior written consent.

29 Set off

Each party shall pay all sums that it owes to the other party under this Agreement without any set-off, counterclaim, deduction or withholding of any kind, save as may be required by law.

30 No partnership or agency

The parties are independent and are not partners or principal and agent and this Agreement does not establish any joint venture, trust, fiduciary or other relationship between them, other than the contractual relationship expressly provided for in it. Neither party shall have, nor shall represent that it has, any authority to make any commitments on the other party's behalf.

31 Severance

- 31.1 If any provision of this Agreement (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of this Agreement shall not be affected.
- 31.2 If any provision of this Agreement (or part of any provision) is or becomes illegal, invalid or unenforceable but would be legal, valid and enforceable if some part of it was deleted or modified, the provision or part-provision in question shall apply with such deletions or modifications as may be necessary to make the provision legal, valid and enforceable. In the

event of such deletion or modification, the parties shall negotiate in good faith in order to agree the terms of a mutually acceptable alternative provision.

32 Waiver

- 32.1 No failure, delay or omission by either party in exercising any right, power or remedy provided by law or under this Agreement shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right, power or remedy.
- 32.2 No single or partial exercise of any right, power or remedy provided by law or under this Agreement shall prevent any future exercise of it or the exercise of any other right, power or remedy.
- 32.3 A waiver of any term, provision, condition or breach of this Agreement shall only be effective if given in writing and signed by the waiving party, and then only in the instance and for the purpose for which it is given.

33 Compliance with law

- 33.1 Each party shall comply with all applicable laws and shall maintain such authorisations and approvals as required from time to time to perform their obligations under or in connection with this Agreement.
- 33.2 Without prejudice to the generality of clause 33.1, the parties shall comply with all applicable laws, rules, and regulations governing export of goods, software and information that apply to the Software and the User Manual, and shall not export or re-export, directly or indirectly, separately or as a part of a system, the Software or the User Manual to any country for which an export licence or other approval is required, without first obtaining such licence or other approval. The Customer shall be solely responsible for ensuring its access, importation or use of the Software or User Manual in or into any part of the Territory complies with all export laws.

34 Conflicts within agreement

If there is a conflict between the terms contained in the main body of this Agreement and the terms of the schedules, the terms of the main body of the Agreement shall prevail.

35 Costs and expenses

Unless otherwise agreed in this Agreement, each party shall pay its own costs and expenses incurred in connection with the negotiation, preparation, signature and performance of this Agreement.

36 Third party rights

A person who is not a party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its provisions.

37 Governing law

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

38 Jurisdiction

Subject to clause 23, the parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, this Agreement, its subject matter or formation (including non-contractual disputes or claims).

AGREED by the parties on the date set out at the head of this Agreement

Signed by Christopher Alan Dial	
for and on behalf of	Director
SALUTARE GROUP LTD	

And

Signed by [<i>insert full name of director/authorised signatory</i>]	
for and on behalf of	[Director OR Authorised signatory]
[<i>insert name of the Customer</i>]	

SCHEDULE 1

SUPPORT SERVICES

Part A

Support Service

The Salutare Support Service will be available during the following times:

Normal Business hours of Mon-Sat, 8AM to 6PM

excluding UK national holidays

To respond to Critical [Tier 3] and Severe [Tier 2] Errors. Salutare expects the Customer to address and solve Minor [Tier 1] errors that occur during the operation of the software, unless it can be deemed to be a Critical or Severe Error.

Part B

Error correction

Salutare Support Services will respond to errors reported to Salutare using the Error Report Form within the designated Target Response Times. Such error correction may include and is not limited to:

- Software version updates
- Configuration changes
- Hotfix updates

Part C

On-site support

In general, Salutare Support Services will not provide on-site support except under prior arrangement with the Customer.

Part D

Remote Support

In most cases, Salutare Support Service will provide help and assistance via remote support using email, SMS, video conferencing, or other remote telecommunications methods. This includes:

- Remote desktop access to update or make changes to software
- Configuration changes, e.g. local printers or laser scanning equipment

Part E

Other services

Other consultancy and training is available on request and additional terms.

SCHEDULE 2
SUPPORT FEES AND OTHER CHARGES

Part A
Support Fees

Support fees will be charged as follows:

-

LOCATION	INCREMENT	INTERVAL	RATE
SITES	ALL	MONTHLY	£xxx

Locations supported UNDER THIS CONTRACT

- [XXX]

Part B
Charges for Additional Services

If at the request of the Customer or in any of the circumstances described in clause 5.6 the Supplier provides Additional Services the Supplier may charge the Customer for such Additional Services in accordance with the following time and material charges.

ROLE	DESCRIPTION	SITE	INTERVAL	RATE
SENIOR ENGINEER	Deployment Development	or Remote or Onsite	DAILY	£1100
ENGINEER	Deployment	Remote or Onsite	DAILY	£900
ALL	Travel and expenses	Onsite	-	Any reasonable expenses to be charges to the Customer to be notified and approved by the Customer in advance

SCHEDULE 3

ONLINE SERVICES SUPPORT AGREEMENT

The Salutare relevant applications will be deployed according to mutually agreeable schedule.

SERVICE COMMENCEMENT

FAULT CLASSIFICATION AND SERVICE LEVELS

All faults will be reasonably assigned a fault classification as set out below.

1.1 Severity 1 – Critical/Emergency (Level 1) Serious.

1.1.1 Definition:

- Complete failure of the system to function
- Processing is not possible, resulting in significant business impact
- Loss of significant system functionality
- Corruption of software databases which require service affecting corrective actions
- Loss of access for maintenance or recovery actions

1.1.2 Response Time: 4 hours

Report Requirements: Supplier will provide Customer with hourly updates on the progress of fault resolution until the fault is resolved. The Supplier will also provide an Incident Report ("IR") within 24 hours of the fault resolution.

Condition: Customer must make the relevant staff available to interact with Supplier during the resolution time of the level 1 incident.

1.1.3 Resolution Time: 24hours

1.1.4 Service Credits: 2% of monthly service charge for every hour with no resolution within normal operations hours.

1.2 Severity 2 – Urgent (Level 2) Inconvenient.

1.2.1 Definition:

- Partial restriction in system functionality
- Processing is possible with some business impact

- Short outages whose duration accumulates to greater than 6 minutes in any 24-hour period or that continue to repeat over longer periods
- Significant degradation of access for maintenance or recovery operations
- Any Complaint by Customer
- Content not available

1.2.2 Response Time: 12 hours

Report Requirements: The Supplier will provide Customer with updates every 2 hours on the progress of fault resolution until the fault is resolved. The Supplier will also provide an IR within 48 hours of the fault resolution.

1.2.3 Resolution Time: 48 hours

1.2.4 Service Credits: 1% of monthly service charge
for every day with no resolution within normal operations hours.

1.3 Severity 3 – Minor (Level 3) Annoyance.

1.3.1 Definition:

Other faults within the system which do not meet the criteria defined for Critical/Emergency or Major faults. Reporting problem will fall under this severity level.

Any request for new features or changes in the existing features will not be reported under any of the above fault classifications. Any such requests or changes will follow a change request process mutually agreed between Customer and Supplier.

1.3.2 Response Time: 48 hours

Report Requirements: The Supplier will provide Customer with a reasonable progress update and an IR when the fault is resolved. Fixes for minor faults in software may be included in the next release of the software if such release is anticipated within a reasonably short period (once every quarter).

1.1.3 Resolution time: 5 days

1.2.4 Service Credits: none

SERVICE PERFORMANCE

Service performance and outages will be registered and monitored by Supplier using its fault management system.

1.1 Service Availability of the Salutare ONE Platform Product

1.1.1 Supplier shall ensure that the Application and/or Service will be fault-free up to 99.9% and that the Service is continuously available and will do its reasonable commercial efforts to correct reported faults and make the Service available as soon as it reasonably can. It shall ensure that a business hours [M-F, 8 AM to 6 PM] help desk support in case of an absolute shut down or maintenance. For all other problems related to the Service the help desk support will be available only during working hours.

1.1.2 Supplier shall ensure that a backup infrastructure is maintained for continuity of Service and recovery of data in case of Service disruption.

1.1.3 Supplier shall provide standard support during 8AM to 6PM local time Monday to Friday. In case of receipt of a trouble report, it would attend to and respond to Customer regarding the time required to fix the problem.

Scheduled maintenance will be notified in advance by email with the agreed point of Customer contact. Supplier will endeavour to conclude this planned maintenance in the event of a need to utilize the platform outside the Availability Window. Availability Window is a measure of the time that the Customer can use the Platform.

CUSTOMER DEPENDENCIES AND HOSTING ENVIRONMENT

2. Customer shall be responsible at its expense for providing the following:
 - 2.1. Continuous Internet connectivity of agreed capacity to Supplier Hosting Web Service.
 - 2.2. Right to use licenses for all interfaces from third parties that the system will integrate with.
 - 2.3. Design, maintenance, and enforcement of appropriate and reasonable security and other safeguards and policies relative to network use and access, fraud detection and loss control, business continuity, and data back-up and protection.
 - 2.4. Properly allocated, managed, and maintained virtual server infrastructure and tools for hosting the Salutare ONE Platform application when the Customer chooses to host on their own private cloud infrastructure.
 - 2.5. Access to any internal network, private cloud, or other infrastructure that the Supplier's staff reasonably need in order to install, upgrade, update, monitor, or repair the system.

SERVICE CREDITS

3. Subject to 3.5 below, Service Credits shall be the Customer's sole and exclusive remedy in respect of any failure to achieve the Service Levels.
 - 3.1. Service Credits shall be applied as a deduction against the Customer's next monthly invoice, or (if there are insufficient Charges to deduct from) paid to the Customer following the date of the final monthly invoice.
 - 3.2. In no event shall the amount of Service Credits credited (and/or paid) to the Customer with respect to all Service Level defaults occurring in a single month under this Agreement exceed: 50% of the total contract value of the Support Agreement

- 3.3. In no event shall the amount of Service Credits credited (and/or paid) to the Customer with respect to all Service Level defaults occurring in any 12 month period under this Agreement exceed: 20% of the total contract value of the Support Agreement
- 3.4. Where a sum is expressed to be payable as a Service Credit the parties agree that:
 - 3.4.1. the Customer has a legitimate interest in ensuring that it can recover losses suffered as a result of the Supplier's failure to meet the relevant Service Level; and
 - 3.4.2. the Service Credits set out in this Agreement are not out of all proportion to such interest.
- 3.5. Persistent failure in the opinion of the Customer of achieving the Service Levels over a period of three months shall give the Customer the right to terminate the Contract without incurring any costs.

SCHEDULE 4
ERROR REPORT FORM

SALUTARE ONE Platform
ERROR REPORT

Submitted by	
Date and time	
Location	
Version	
Error title	
Error description	