



Service Terms & Conditions

1. Interpretation

Opto integrates clinical systems using Integrated Urgent Care CDA and HL7 v2 messaging or via API. It supports bidirectional acknowledgements, priority queues and trust-specific integration engines (TIEs) to ensure safe and reliable data transfer.

1.1 The definitions and rules of interpretation in this clause apply to these Conditions;

Applicable Laws: means all laws and regulations of (i) the United Kingdom, and (ii) the territories and states with lawful jurisdiction over Opto Health's supply of the Services, including Data Protection Legislation.

Authorised Users: those employees, agents and independent contractors of the Customer who work at the Licensed Site and who are authorised to use the Services in accordance with the Contract.

Business Day: any day which is not a Saturday, Sunday or public holiday in the UK.

Business Hours: 9.00am to 5.00pm local UK time, each Business Day.

Conditions: these terms & conditions. **Confidential Information:** information that is proprietary or confidential to either party whether or not the information is labelled or identified as such.

Contract: the contract taking effect between the Supplier and the Customer for the supply of the Services in accordance with the terms of clause 2.

Contract Documents: the terms of the Service Order Form submitted by the Customer and accepted by the Supplier, these Conditions and the other documents incorporated as described in these Conditions.

Contract Price: the price for the provision of the Services and/or the Hardware (if any) as set out in the Service Order Form.

Controller, processor, data subject, personal data, personal data breach: all as defined in the Data Protection Legislation.

Customer: the person, firm or company identified as the Customer in the Service Order Form.

Customer Data: the data inputted by the Customer, Authorised Users, or the Supplier on the Customer's behalf for the purpose of using the Services or facilitating the Customer's use of the Services, which may include personal data.

Data Protection Legislation: (i) the UK General Data Protection Regulation (GDPR)(Regulation (EU) 2016/679) ("GDPR"), the Law Enforcement Directive (LED) (Directive (EU) 2016/680), the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended, and any applicable national implementing Laws as amended from time to time; (ii) the Data Protection Act 2018 to the extent that it relates to processing of personal data and privacy; (iii) all Applicable Laws concerning the processing of personal data and privacy.



Defect: A defect in the Supported Software and any Supported Hardware.

Documentation: the documentation made available to the Customer by the Supplier which sets out a description of the Services and the user instructions for the Services, as the same is amended and updated from time to time by the Supplier in its sole discretion.

Effective Date: the date on which the Supplier provides the Customer with access to the Services (whether through the provision of relevant passwords or otherwise).

Incident: any Vulnerability, Virus or security incident which: (i) may affect the Software or the Services; (ii) may affect the Supplier's network and information systems, such that it could potentially affect the Customer or the Software or the Services; or (iii) is reported to the Supplier by the Customer.

Hardware: the hardware to be provided by the Supplier (if any) as set out in the Service Order Form.

Licensed Site: a site of the Customer specified in a Service Order Form that is accepted by the Supplier for the supply of Services and Hardware hereunder.

Licensing & Support Fee: that element of the Contract Price which relates to licensing of the Software and support of the Supported Software and Supported Hardware.

Modules: modules of functionality within the Software.

Processing: the processing (as that term is defined by Data Protection Legislation) of Relevant personal Data by Opto Health in the provision of the Services.

Relevant Personal Data: Personal Data processed by Opto Health on behalf of the Customer in the provision of the Services, including as set out in the Documentation.

Service Order Form: an order form in terms approved and accepted by the Supplier for the supply by the Supplier of such services and/or hardware as is referred to in the form, incorporating these Conditions.

Services: the services to be provided by the Supplier to the Customer under this Contract (including without limitation access to and use of the Software) as described in the relevant Service Order Form.

Site Subscription: a subscription purchased by the Customer which entitles Authorised Users at a Licensed Site to access and use the Services and the Documentation in accordance with the Contract.

Software: the online software applications made available by the Supplier as part of the Services, including such Modules as are referred to in any Service Order Form accepted by the Supplier.

Supplier: Opto Health Limited (Company No: 13943923), registered in England & Wales at 71-75, Shelton Street, Covent Garden, London, United Kingdom, WC2H 9JQ.

Supported Hardware: any hardware that is identified as being Supported Hardware in any Service Order Form accepted by the Supplier.

Supported Software: the Software and any other third-party software that is identified as being Supported Software in any Service Order Form accepted by the Supplier.



Term: the term of the Contract to operate from the Effective Date until the Expiry Date unless terminated earlier as described in clause 16.1.

Training & Installation Fee: that element of the Contract Price which relates to training and installation services.

Virus means anything 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 any 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 user experience, including worms, trojan horses, viruses and other similar things or devices; and

Vulnerability means a weakness in the computational logic (for example, code) found in software and hardware components that, when exploited, results in a negative impact to confidentiality, integrity, or availability, and the term Vulnerabilities shall be construed accordingly.

1.2 The terms, "Commission", "Controller", "Data Subject", "Member State", "Personal Data", "Personal Data Breach", "Process", "Processor" and "Supervisory Authority" shall have the same meaning as in the GDPR.

1.3 The word "include" shall be construed to mean include without limitation, and cognate terms shall be construed accordingly.

2.Contract Information

2.1 A Contract will be formed between the Supplier and the Customer upon the terms of the Contract Documents, by either:

- the Customer submitting a signed Service Order Form which is accepted by the Supplier counter-signing the Service Order Form; or
- the Customer submitting a signed Service Order Form electronically, which is deemed accepted by the Supplier providing the Customer with access to the Services and/or delivering the Hardware referred to in the Service Order Form.

2.2 The Contract Documents shall apply to and be incorporated into the Contract and prevail

- in the event of any conflict or inconsistency between the Contract Documents and any terms or conditions contained, or referred to, in any correspondence between the parties, the Customer's purchase order, confirmation of order, acceptance of a quotation or specification or any other document supplied by the Customer, or
- any terms or conditions implied by law, trade custom, practice or course of dealing.

2.3 In the event of any inconsistency between the terms of the Service Order Form and these Conditions, the terms of the Service Order Form will prevail.



3. Site Subscription

3.1 Subject to the Customer purchasing a Site Subscription for each Licensed Site at which the Services will be used in accordance with these Conditions, the Supplier hereby grants to the Customer a non-exclusive, non-transferable right to permit the Authorised Users at each Licensed Site to use the Services and the Documentation during the Term solely for the Customer's internal business operations.

3.2 In relation to the Authorised Users, the Customer undertakes that:

- it will not permit or allow the Services (including the Software) to be used at or in relation to any site other than a Licensed Site;
- if any of the audits referred to in clause 9.4.2 reveal the Services have been used otherwise than in accordance with these Conditions, then without prejudice to the Supplier's other rights, the Customer shall promptly ensure compliance with such terms and pay the Supplier's costs in carrying out the audit; and
- if any of the audits referred to in clause 9.4.2 reveal that the Customer has underpaid the true Contract Price to the Supplier, the Customer shall pay to the Supplier an amount equal to such underpayment within 10 Business Days of the date of the relevant audit, together with the Supplier's costs in carrying out the audit.

3.3 The Customer shall not under any circumstances access, store, distribute or transmit any data (of any description), code, executable files, viruses, or any other material (together "material") during the course of its use of the Services that:

- is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
- facilitates illegal activity;
- depicts sexually explicit images;
- promotes violence;
- is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability, or any other such discrimination; or
- causes or is likely to cause damage or injury to any person or property, and

the Supplier reserves the right, without liability to the Customer, to disable the Customer's access to any material that breaches the provisions of this clause.

3.4 Where the Services include hosting of the Software, the Customer acknowledges that the Supplier has no control over any material hosted by it and does not monitor such material. The Supplier reserves the right to remove any material hosted by it which the Supplier reasonably suspects is within the scope of the description of material referred to in clause 3.3.

3.5 The Customer undertakes and shall procure that it shall not (and shall not permit):

- except as may be required by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under this Contract:
 - attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software and/or Documentation (as applicable) in any form or media or by any means; or
 - attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; or
- access all or any part of the Services and Documentation in order to build a product or service which replaces or competes directly or indirectly with the Services and/or the Documentation; or
- use the Services and/or Documentation to provide services to third parties; or
- license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Documentation available to any third party except the Authorised Users; or
- attempt to obtain, or assist third parties in obtaining, access to the Services and/or Documentation.



3.6 The Customer shall use all reasonable endeavours, including technical and organisational measures, to prevent any unauthorised access to, or use of, the Services and/or the Documentation and, in the event of any such unauthorised access or use, will promptly notify the Supplier.

4. Additional Site Subscriptions & Modules

4.1 The Customer may, from time to time during the Term, request additional Site Subscriptions for further Licensed Sites, or further Modules, by submitting to the Supplier a further Service Order Form. Subject to the Supplier accepting the Service Order Form in accordance with clause 2.1, the Supplier shall (as appropriate) grant access to the Services and the Documentation to the Authorised Users at such further Licensed Sites, or grant access to such further Modules, in accordance with these Conditions. The Supplier shall charge (and the Customer will pay) the Contract Price applicable to such further Licensed Sites and/ or Modules (as applicable) in accordance with clause 11.

5. Services

5.1 The Supplier shall, during the Term, provide the Services and make available the Documentation to the Customer on and subject to the terms of the Contract.

5.2 The Supplier shall use commercially reasonable endeavours to make the Services available 24 hours a day, seven days a week, except for:

- planned maintenance carried out during the maintenance window of 2.00am – 4.00am site local time; and
- unscheduled maintenance performed outside Business Hours, provided that the Supplier has used reasonable endeavours to give the Customer at least 6 Business Hours' notice in advance.

5.3 As part of the Services, the Supplier will provide the installation and training services as further described in the Documentation.

Support

The Supplier will provide support services for the Supported Software and Supported Hardware in accordance with the provisions of this clause 6:

6.1 The support services will commence upon the Effective Date and will be provided for the Term.

6.2 The Supplier shall ensure that support services are available during Business Hours to support the Supported Software and any Supported Hardware, by endeavouring to:

- remedy Defects pursuant to clause 6.3(c) below and
- provide advice on the use of the Supported Software and any Supported Hardware.

6.3 The Supplier shall use commercially reasonable endeavours to remedy Defects notified to it by the Customer in a timely manner appropriate to the seriousness of the circumstances in accordance with the following procedure:

- The Customer shall promptly notify the Supplier of all Defects;
- Within the time periods set out in the Documentation, the Supplier shall acknowledge receipt of the notification and shall determine, in consultation with the Customer, how seriously the Defect affects the Customer's operations and attribute a priority to the resolution of the Defect;
- Depending on the priority attributed to the Defect, the Supplier shall start work on remedying the Defect, and shall use commercially reasonable endeavours to remedy the Defect, within the response times and resolution times identified in the Support Documentation (Support Plan and Support Guide), and shall keep the Customer informed of progress towards remedying of the Defect.



6.4 The support services do not include support for the following which, if requested by the Customer, may be provided by the Supplier in its absolute discretion subject to payment by the Customer for the provision of such services at the Supplier's usual charge out rate from time to time:

- support and/or diagnosis of problems associated with anything other than the Supported Software and the Supported Hardware;
- defects caused directly or indirectly by operator error, neglect or misuse, malicious or unauthorised access, or fire, flood or criminal damage;
- the cost of replacement hardware or parts (including without limitation consumable items) which will be charged to the Customer at the Supplier's usual prices for such hardware or parts, which are available on request, and any parts or hardware replaced by the Supplier will become the Supplier's property;
- failure or inadequacy of power supply;
- defects arising from repairs or modifications to the Supported Software or Supported Hardware by any third party without the Supplier's prior written consent; or
- failure to maintain or operate the Supported Software and/or Supported Hardware in accordance with the relevant manufacturer's and/or licensor's instructions (including without limitation to the Documentation), or failure to follow the Supplier's reasonable instructions.

6.5 Support will be provided predominantly over the email. The Supplier's employees/agents will attend any Licensed Site for the purposes of providing the support Services only whenever it is reasonably necessary (in the Supplier's reasonable opinion). The Supplier reserves the right to charge the Customer for attendance at any Licensed Site which is caused by any of the reasons set out in clause 6.4.

7. Hardware

7.1 The Customer acknowledges that the Supplier is not a manufacturer of Hardware and as such the Supplier excludes all warranties and implied conditions relating to the supply of Hardware to the fullest extent permitted by law. The Supplier will nevertheless endeavour to pass on any warranties provided by third party manufacturers to the extent that it is lawfully entitled to do so.

7.2 Ownership of the Hardware will not pass to the Customer until the Supplier has received in cleared funds all sums due to it in respect of the Hardware.

7.3 Time for delivery of the Hardware will not be of the essence of the Contract.

7.4 Delivery will occur upon delivery of the Hardware to the relevant Licensed Site.

7.5 Hardware is at the risk of the Customer as from the time of delivery pursuant to clause 7.4 above.



8. Customer Data & Security

8.1 The Customer shall own all rights, title and interest in and to all of the Customer Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Customer Data.

8.2 Where the Services include the hosting of Software, the Supplier shall follow its standard archiving procedures for Customer Data as set out in the Documentation. In the event of any loss or damage to Customer Data, the Customer's sole and exclusive remedy shall be for the Supplier to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by the Supplier in accordance with the archiving procedure described in the Documentation. Subject to the Supplier complying with its obligations under clause 9.3(b), the Supplier shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party (except those third parties sub-contracted by the Supplier to perform services related to Customer Data maintenance and back-up). Where, or to the extent that, the Services do not include hosting, the Customer acknowledges that the Supplier has no obligation to back-up/archive Customer Data and the Customer will be required to provide its own back-up/archiving of the Customer Data.

8.3 The Supplier shall, in providing the Services, comply with its privacy policy relating to the privacy and security of the Customer Data as may be notified to the Customer from time to time, as such document may be amended from time to time by the Supplier in its sole discretion.

8.4 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.

8.5 The parties acknowledge that:

- if the Supplier processes any personal data on the Customer's behalf when performing its obligations under this Contract, the Customer is the controller and the Supplier is the processor for the purposes of the Data Protection Legislation;
- the purpose of processing any such personal data by the Supplier is the provision of the Services as specified in the Contract; and
- the Data Processing Terms appearing in Appendix B shall apply to Supplier's processing of the personal data on Customer's behalf.

8.6 Without prejudice to the generality of clause 8.5, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to the Supplier for the duration and purposes of this Contract so that the Supplier may lawfully use, process and transfer the personal data in accordance with this Contract on the Customer's behalf.

8.7 The Supplier warrants that the information in the Documentation on the security of its network and information systems is up to date and accurate and that it will update the Customer if there are any changes to such information.

8.8 The Supplier shall notify the Customer promptly after it becomes aware of any Incident, and respond promptly to all queries and requests for information from the Customer about any Incident, whether discovered by the Supplier or the Customer, in particular bearing in mind the extent of any reporting obligations the Customer may have under the Network and Information Systems Regulations 2018 (NIS Regulations) (where applicable) and Data Protection Legislation and that the Customer may be required to comply with statutory or other regulatory timescales.



8.9 The Supplier agrees to reasonably co-operate with the Customer in relation to

- all aspects of its compliance with the NIS Regulations (if applicable);
- any requests for information, or inspection, made by any regulator (including in connection with the NIS Regulations);
- any request for information made in respect of any of the information provided in the Documentation; and
- any Incident.

8.10 Opto Health will provide Customer with such operational data as is reasonably requested by Customer to permit it to undertake a persistent clinical evaluation of the effectiveness of the Software (Clinical Evaluation Data). Customer will provide Opto Health with such Customer Data as is required to generate the Clinical Evaluation Data. To the extent such Customer Data and the Clinical Evaluation Data is personal data, this shall be processed by Opto on Customer's behalf in accordance with Opto Health's Data Processing Terms. However, to the extent Clinical Evaluation Data is not personal data, Customer will grant Opto Health a non-exclusive, irrevocable license to use that data for Opto Health's own purposes. The list of required Data fields from the Customer is included at Appendix B.

9. Supplier's Obligations

9.1 The Supplier will perform the Services in accordance with the Documentation and with reasonable skill and care.

9.2 The Supplier's obligation pursuant to clause 9.1 shall not apply to the extent any non-conformance is caused by use of the Services in a manner contrary to the Supplier's instructions, or the Documentation, or modification or alteration of the Services by any person other than the Supplier or the Supplier's duly authorised contractors or agents. If the Services do not conform, the Supplier will, at its expense, without prejudice to the Customer's other rights and remedies, correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance subject to the Customer's approval. Notwithstanding the foregoing, the Supplier:

- does not warrant that the Customer's use of the Services will be uninterrupted or error-free; and
- is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

9.3 The Supplier warrants and undertakes that:

- it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this Contract;
- it will comply with all applicable laws and regulations with respect to its obligations under this Contract;
- it will co-operate with the Customer in all matters relating to the Contract; and
- it will notify the Customer in writing immediately upon the occurrence of a change of control of the Supplier.



10. Customer's Obligations

The Customer shall:

- provide the Supplier with:
 - all necessary co-operation in relation to this Contract;
 - all access to systems, premises, data, personnel, together with such other integrations, licenses, and other requirements as shall be identified in the Documentation relating to the Customer's deployment of the Services; and
 - all necessary access to such information as may be required by the Supplier; in order to render the Services;
- comply with all applicable laws and regulations with respect to its activities under this Contract;
- carry out all other Customer responsibilities set out in these Conditions in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the parties, the Supplier may adjust any agreed timetable or delivery schedule as reasonably necessary;
- ensure that the Authorised Users use the Services and the Documentation in accordance with these Conditions and shall be responsible for any breach of the Contract by an AuthorisedUser or any other officer, employee or agent of the Customer;
- obtain and shall maintain all necessary licences, consents, and permissions necessary for the Supplier, its contractors and agents to perform their obligations under this Contract;
- ensure that its network, systems and working environment comply with the relevant specifications provided by the Supplier from time to time;
- be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to the Supplier's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet; and
- maintain as confidential all passwords relating to the Software and the Services.

11. Charges & Payment

11.1 The Customer shall pay the Contract Price to the Supplier for the Services in accordance with this clause 11 and the Service Order Form.

11.2 The Supplier shall invoice the Customer for payment of the Contract Price at the time the Contract Price is expressed to be payable as set out in the Service Order Form or as otherwise agreed with the Customer. Where the Supplier submits an invoice to the Customer in accordance with Clause 11.2, the Customer will consider and verify that invoice in a timely fashion. The Customer shall pay the Supplier any sum due under such invoice no later than a period of thirty (30) days from the date of which the Customer has determined that the invoice is valid and undisputed.

11.3 If the Supplier has not received payment on the due date, without prejudice to any other rights and remedies of the Supplier:

- the Supplier may, without liability to the Customer, disable the Customer's password, account and access to all or part of the Services and the Supplier shall be under no obligation to provide any or all of the Services while any element of the Contract Price remain unpaid; and
- interest shall accrue on such due amounts at an annual rate equal to 5% over the then current base lending rate of the Supplier's bankers in the UK commencing on the due date and continuing until fully paid, whether before or after judgment.

11.4 All amounts and fees stated or referred to in the Contract Documents shall, unless otherwise stated, be payable in pounds sterling, are non-cancellable and non-refundable, and are exclusive of value added tax, which shall be added to the Supplier's invoice(s), and paid by the Customer, at the applicable rate.



11.5 The Supplier shall be entitled to increase the Licensing & Support Fee upon each anniversary of the Effective Date upon giving not less than 90 days' prior notice to the Customer, and upon any such increase becoming effective each relevant Service Order Form shall be deemed to have been amended accordingly.

12. Proprietary Rights

12.1 The Customer acknowledges and agrees that the Supplier and/or its licensors own all intellectual property rights in the Services and the Documentation. Except as expressly stated herein, the Supplier does not grant the Customer or any other person any rights to, or in, patents, copyrights, database rights, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Services or the Documentation.

12.2 The Supplier confirms that it has all the rights in relation to the Services and the Documentation that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of the Contract.

13. Confidentiality

13.1 Each party shall, during the Term and thereafter, keep confidential, and shall not use for its own purposes (other than in the implementation of this Contract), nor without the prior written consent of the other disclose to any third party (except its professional advisors or as maybe required by any law or any legal or regulatory authority), any Confidential Information which may become known to such party from the other party and which relates to the other party or its business, financial affairs, prospects, customers or suppliers unless that information is public knowledge or already known to such party at the time of disclosure, or subsequently becomes public knowledge other than by breach of this Contract, or subsequently comes lawfully into the possession of such party from a third party. Each party shall use its reasonable endeavours to prevent the unauthorised disclosure of any such Confidential Information.

13.2 A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause 13.2, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.

13.3 For the avoidance of any doubt, the terms of this Contract and the Documentation, and details of the Services (including without limitation all passwords to access the Software) constitute the Supplier's Confidential Information and the Supplier acknowledges that the Customer Data is the Confidential Information of the Customer.

13.4 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this Contract.

14. Indemnity

14.1 The Customer shall defend, indemnify and hold harmless the Supplier against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Customer's use of the Services and/or Documentation.

14.2 The Supplier shall, subject to clause 14.5, defend the Customer, its officers, directors and employees against any claim that the Services or Documentation infringes any patent effective as of the Effective Date, copyright, trade mark, database right or right of confidentiality, registered or applicable in the United Kingdom or the jurisdiction in which the Services are provided, and shall indemnify the Customer for any amounts awarded against the Customer in judgment or settlement of such claims, provided that:

- the Supplier is given prompt notice of any such claim;
- the Customer provides reasonable co-operation to the Supplier in the defence and settlement of such claim, at the Supplier's expense; and



- the Supplier is given sole authority to defend or settle the claim.

14.3 In the defence or settlement of any claim, the Supplier may procure the right for the Customer to continue using the Services, replace or modify the Services so that they become non-infringing or, if such remedies are not reasonably available, terminate this agreement on 2 (two) Business Days' notice to the Customer without any additional liability or obligation to pay liquidated damages or other additional costs to the Customer.

14.4 In no event shall the Supplier, its employees, agents and sub-contractors be liable to the Customer to the extent that the alleged infringement is based on:

- a modification of the Services or Documentation by anyone other than the Supplier; or
- the Customer's use of the Services or Documentation in a manner contrary to the instructions given to the Customer by the Supplier (including without limitation in the Documentation); or
- the Customer's use of the Services or Documentation after notice of the alleged or actual infringement from the supplier or any appropriate authority.

14.5 The foregoing states the Customer's sole and exclusive rights and remedies, and the Supplier's (including the Supplier's employees', agents' and sub-contractors') entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.

15. Limitation of Liability

15.1 Subject to the provisions of clause 14, this clause 15 sets out the Supplier's entire financial liability to the Customer in respect of any liability arising under or in connection with this Contract including but not limited to liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

15.2 Except as expressly and specifically provided in these Conditions:

- the Customer assumes sole responsibility for results obtained from the use of the Services and the Documentation by the Customer, and for conclusions drawn from such use. The Supplier shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to the Supplier by the Customer in connection with the Services, or any actions taken by the Supplier at the Customer's direction;
- all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from the Contract; and
- the Services and the Documentation are provided to the Customer on an "as is" basis.

15.3 Nothing in these Conditions excludes the liability of the Supplier for death or personal injury caused by the Supplier's gross negligence or for fraud, or other liability which cannot be excluded by law.

15.4 Subject to clause 15.2 and clause 15.3:

- the Supplier shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any
 - loss of profits;
 - loss of business,
 - depletion of goodwill and/or similar losses or
 - loss or corruption of data or information, or
 - pure economic loss, or
 - for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this Contract; and
- the Supplier's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Contract shall be limited to:



- Subject to clause 15.4 (iii) for any matter that is covered by the Supplier's insurance policy, the sum of [£2,000,000];
- for any other matter, the total Contract Price paid by the Customer during the 24 months immediately preceding the date on which the claim arose; and
- for each data liability claim as a result of a breach of personal data legislation, the sum of [£ 2,000,000].

16. Term & Termination

16.1 The Contract shall commence on the Effective Date and continue for the Term, unless otherwise terminated earlier in accordance with the remaining provisions of this clause 16.

16.2 Without prejudice to any other rights or remedies to which the parties may be entitled, either party may terminate this Contract without liability to the other if:

- the other party commits a breach of any of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach;
- an order is made or a resolution is passed for the winding up of the other party, or an order is made for the appointment of an administrator to manage the affairs, business and property of the other party, or documents are filed with a court of competent jurisdiction for the appointment of an administrator of the other party, or notice of intention to appoint an administrator is given by the other party or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a receiver is appointed of any of the other party's assets or undertaking, or if any other person takes possession of or sells the other party's assets, or the other party makes any arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way, or anything analogous to the foregoing in any jurisdiction; or
- the other party ceases, or threatens to cease, to trade.

16.3 On termination of this Contract for any reason:

- all licences granted under this Contract shall immediately terminate and the Supplier will cease the provision of all Services;
- each party shall return and make no further use of any equipment, property, Hardware, Documentation and other items (and all copies of them) belonging to the other party;
- the Supplier may destroy or otherwise dispose of any of the Customer Data in its possession unless the Supplier receives, no later than ten days after the effective date of the termination of this Contract a written request for the delivery to the Customer of any Customer Data held by the Supplier. The Customer shall pay all reasonable expenses incurred by the Supplier in returning or disposing of Customer Data, which the Supplier will do within a reasonable time; and
- the accrued rights of the parties as at termination, or the continuation after termination of any provision expressly stated to survive or implicitly surviving termination shall not be affected or prejudiced.

17. Force Majeure

The Supplier shall have no liability to the Customer under the Contract if it is prevented from or delayed in performing the Services by acts, events, omissions or accidents beyond its reasonable control, including strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors. If any force majeure event continues in existence for a period of 60 days or more, either party may give the other party written notice of its intention to terminate the Contract at the expiry of 30 days from the date of such notice, unless in the meantime the force majeure event has ended.



18. General

18.1 A waiver of any right under the Contract Documents is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and the circumstances for which it is given.

18.2 If any provision (or part of a provision) of the Contract Documents are found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions will remain in force. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, that provision will apply with whatever modification is necessary to make it valid, enforceable and legal.

18.3 Each of the parties acknowledges and agrees that, in entering into the Contract it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to the Contract or not) relating to its subject matter other than as expressly set out in the Contract Documents.

18.4 The Supplier may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract. The Customer may not assign, transfer, charge, sub-contract or deal in any manner with all or any of its rights or obligations under the Contract without the prior written consent of the Supplier.

18.5 The contract is made for the benefit of the parties to it and (where applicable) their successors and permitted assigns and is not intended to benefit, or be enforceable by, anyone else.

18.6 Notice given under the Contract shall be in writing and delivered by hand, sent by pre-paid first-class post or recorded delivery, or sent by email to the other party using the relevant details given in the Service Order Form (or such other details as the relevant party may notify to the other party from time to time). A notice is deemed to have been received, if delivered personally, at the time of delivery, in the case of email, at the time of transmission, in the case of pre-paid first class post or recorded delivery, 48 hours from the date of posting and, if deemed receipt under this clause is not within Business Hours, at 9.00am on the first Business Day following delivery.

18.7 The Supplier may refer to the Customer in its publicity material as being a client of the Supplier.

18.8 No variation of any of the Contract Documents shall be valid unless it is in writing and signed by each of the parties.

18.9 The Contract is governed by English law and the parties hereby submit to the exclusive jurisdiction of the English Courts.



Appendix A - Data Processing Terms

The Opto Health Digital Triage Platform processes personal data on behalf of emergency departments and other customers who use the platform to support their services. The purpose of these Data Processing Terms is to ensure the contractual arrangements between us in respect of that data processing, meet the strict requirements of Data Protection Legislation. These requirements mean this document must record specific contractual arrangements and instructions.

These Data Processing Terms form part of, and are incorporated into, your Opto Health Service Order Form and Terms and Conditions ("Principal Agreement"). Words and phrases in these Data Processing Terms have the same meaning as in the Principal Agreement (unless otherwise indicated).

1. Processing of Relevant Personal Data

1.1 The Parties acknowledge and agree that:

- Opto Health shall Process Relevant Personal Data as Processor on behalf of the Customer for the purposes described in these Data Processing Terms and only in accordance with the lawful, documented instructions of Customer, except where otherwise required by Applicable Law;
- where applicable, the Customer is the Data Controller of the Relevant Personal Data;
- the Customer (i) has complied (and will continue to comply) with all Applicable Laws, (ii) shall be responsible for ensuring that the Customer has and will continue to have, the right to transfer, or provide access to the Relevant Personal Data to Opto Health for any Processing in accordance with the terms of these Data Processing Terms, and (iii) has provided adequate information to Data Subjects in connection with the Processing of the Relevant Personal Data by Opto Health;
- The customer is solely responsible for configuring its use of (i) the Services and (ii) the Relevant Personal Data, and such configuration and Relevant Personal Data will determine the Processing operations of the Services;
- The customer shall, in its use of the Services, Process Relevant Personal Data in accordance with the requirements of all Applicable Laws.

1.2 The customer instructs Opto Health to Process Relevant Personal Data:

- to perform the Services pursuant to the Principal Agreement;
- pursuant to Customer's other reasonable documented instructions consistent with the terms of the Principal Agreement;
- for the purposes of anonymising the Relevant Personal Data (and Relevant Personal Data that has been anonymised shall no longer be Relevant Personal Data pursuant to these Data Processing Terms);
- as may be required by Applicable Laws, provided that Opto Health shall have informed Customer of the same before Processing, unless prohibited to do so on important grounds of public interest.

1.3 Opto Health shall not otherwise Process Relevant Personal Data as Processor on behalf of the Customer and Opto Health shall immediately inform the Customer if, in its opinion, an instruction infringes Applicable Law.

1.4 The Relevant Personal Data to be Processed (including the type of Personal Data it comprises), the duration of such Processing, the nature and purpose of the Processing and the categories of relevant Data Subjects are determined by the Customer through its use of the Services.

1.5 Opto Health shall ensure that persons authorised by it to have access to the Relevant Personal Data:

- comply with Applicable Laws in the context of their duties to Opto Health; and
- are subject to confidentiality undertakings or professional or statutory obligations of confidentiality.



1.6 Taking into account:

- the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, Opto Health shall in its role as a Processor of Relevant Personal Data and with respect to Relevant Personal Data, implement appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as applicable, the measures referred to in Article 32(1) of the GDPR; and
- the nature of the Processing, Opto Health shall assist Customer by implementing appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Customer's obligations to respond to requests to exercise Data Subject rights under the Applicable Laws.

1.7 Upon termination of the Principal Agreement, and after a period of six (6) months, Opto Health shall delete all copies of Relevant Personal Data, provided:

- the Customer may in its absolute discretion by written notice to Opto Health within thirty (30) days of termination require Opto Health to (a) return a complete copy of all Relevant Personal Data to the Customer by secure file transfer in such format as is reasonably notified by the Customer; and (b) delete all other copies of Relevant Personal Data Processed by Opto Health;
- Opto Health may retain Relevant Personal Data to the extent required by Applicable Laws and only to the extent and for such period as required by Applicable Laws; and
- Opto Health's obligations to delete Relevant Personal Data will be met by the anonymisation of Relevant Personal Data.

1.8 Opto Health shall make available to the Customer on request, and subject to the confidentiality obligations in the Principal Agreement, all information reasonably necessary to demonstrate Opto Health's compliance with these Data Processing Terms, and shall allow for use of such information in connection with any Audits (as defined in clause 4 below) or an audit (by a party that is not a Opto Health competitor) that is otherwise permitted under the Principal Agreement which shall be subject to the terms and restrictions relevant to such audit.

2. Assisting the Customer in its compliance

2.1 With respect to Relevant Personal Data Processed by Opto Health, it shall provide reasonable assistance to the Customer in meeting Customer's compliance with the following obligations, to the extent required under Applicable Laws:

- notification of a Personal Data Breach to a Supervisory Authority;
- communication of a Personal Data Breach to the Data Subject
- carrying out a data protection impact assessment to the extent Customer does not otherwise have access to the relevant information, and to the extent such information is available to Opto Health; and
- consultation with the Supervisory Authority.

2.2 In respect of clauses above, Opto Health shall notify Customer without undue delay upon it becoming aware of any Personal Data Breach affecting Relevant Personal Data.

3. Sub-processors

3.1 Subject to clause 5.1, the Customer hereby authorises Opto Health to engage Opto Health Affiliates and third-party sub-processors (collectively "Sub-processors") to Process Relevant Personal Data on Opto Health's behalf. The Sub-processors currently engaged by Opto Health and authorised by Customer are listed in the Documentation.



3.2 Opto Health may, by giving no less than ten (10) calendar days' notice to the Customer add or make changes to the Sub-processors. Customer may object in writing to the appointment of any new Sub-processor, provided such objection is made within ten (10) calendar days after the notification published by Opto Health in accordance with clause 3.1 above. In the event Customer objects, Opto Health shall work with Customer in good faith to make available a commercially reasonable change in the provision of the Services which avoids the use of the proposed Sub-processor.

3.3 Opto Health shall ensure that Sub-processors authorised by it to Process Relevant Personal Data are subject, in a written contract, to the substantially the same obligations as are imposed on Opto Health by these Data Processing Terms and, in that connection, are subject to appropriate obligations of confidentiality, including to the extent applicable the implementation of appropriate technical and organisational measures.

4. Audit Rights

4.1 Subject to clause 1.8 the Customer shall give Opto Health reasonable prior written notice of any audit or inspection to be conducted under these Data Processing Terms and shall make reasonable endeavours to avoid causing (or, if it cannot avoid, to minimise) any damage, injury or disruption to Opto Health's premises, equipment, personnel, and business while its personnel are on those premises in the course of such audit or inspection.

4.2 Opto Health need not give access to its premises for the purposes of such audit or inspection more than once in any calendar year, except for any additional audits or inspections which Customer is required to carry out under Applicable Laws, a Supervisory Authority or any similar regulatory authority responsible for the enforcement of data protection laws in any country or territory.

4.3 Customer and Opto Health will discuss and agree in advance on the reasonable start date, scope, and duration of any security and confidentiality controls applicable to any audit or inspection; and Opto Health reserves the right to charge a fee (based on Opto Health's reasonable costs) for any such audit. Opto Health will provide further details of any applicable fee and the basis of its calculation to Customer in advance of such audit or inspection. "Audit" is defined as an audit that strictly meets the requirements set forth in this clause 4.

5. Restricted Transfers

5.1 Opto Health shall not be permitted to make any Restricted Transfer of Relevant Personal Data unless such transfer is protected by appropriate safeguards, including (where applicable) pursuant to Article 46 of the GDPR.

5.2 Where it is a requirement of Applicable Laws that Relevant Personal Data must be stored or hosted in a specified jurisdiction, that will be indicated in the Service Order Form and Opto Health will only store or host Relevant Personal Data in that jurisdiction save to the extent that it may be processed or a copy stored or hosted in another jurisdiction provided the requirements of Applicable Laws have been met.

6. Limitation of Liability

6.1 Each party's liability, taken together in the aggregate, arising out of or related to these Data Processing Terms, whether in contract, tort or under any other theory of liability, is subject to the "Limitation of Liability" section of the Principal Agreement, and any reference in such section to the liability of a party means the aggregate liability of that party under the Principal Agreement and these Data Processing Terms.

6.2 For the avoidance of doubt, Opto Health's total liability for all claims from the Customer arising out of or related to the Principal Agreement and these Data Processing Terms shall apply in the aggregate for all claims under both the Principal Agreement and these Data Processing Terms and, in particular, shall not be understood to apply individually and severally.



7. General terms

7.1 In the event of inconsistencies between the provisions of these Data Processing Terms and any other agreements between the parties, the provisions of these Data Processing Terms shall prevail provided that nothing in these Data Processing Terms reduces Customer's or Opto Health's obligations under the Principal Agreement in relation to the Processing of Relevant Personal Data.

7.2 Should any provision of these Data Processing Terms be invalid or unenforceable, then the remainder of these Data Processing Terms shall remain valid and in force. The invalid or unenforceable provision shall be either (i) amended as necessary to ensure its validity and enforceability, while preserving the Parties' intentions as closely as possible or, if this is not possible, (ii) construed in a manner as if the invalid or unenforceable part had never been contained therein.



Appendix B - Required Data Fields

Age - Used to ensure pathway scoring performs appropriately across age groups, particularly for paediatric, working-age, and older adult populations where risk profiles differ.

Sex - Enables validation that scoring does not under- or over-estimate risk for sex-specific presentations (e.g. abdominal pain, cardiac symptoms).

Gender - Where recorded, supports inclusive monitoring and ensures pathway performance is equitable across all patients.

Reference Number (Pseudonymised Encounter ID) - Allows Opto to safely link pathway data with clinical outcomes without using identifiable patient information.

Time to Clinical Assessment - Used to assess operational performance and identify whether pathway scoring correlates with delays to clinical assessment that could impact safety.

Discharge Outcome (e.g. admitted / sent home / SDEC / UTC) - Actual clinical outcome, supporting validation of pathway accuracy and flow decisions.

Was the Acuity Score Changed? (Yes / No) - Identifies cases where clinicians overrode or adjusted the pathway score, helping highlight potential over- or under-triage and areas for pathway refinement.

Final Diagnosis - Acts as the clinical “gold standard” against which pathway scoring can be retrospectively assessed for appropriateness and safety.

Clinical Incidents Related to Triage - Supports ongoing safety monitoring and helps identify any adverse events associated with pathway use.

Serious Incident / Datix Reference (Pseudonymised) - Enables formal governance review and learning where significant safety concerns have been identified, without sharing patient-identifiable data.