

OPTUM HEALTH SOLUTIONS (UK) LIMITED

CLOUD SERVICES AGREEMENT

This Cloud Services Agreement (the “Agreement”) is made as of [start date] (the “Effective Date”), by and between **Egton Medical Information Systems Limited** Fulford Grange Micklefield Lane, Rawdon, Leeds, England, LS19 6BA, England (“Optum”), and [enter counterparty], an company incorporated under the laws of [England and Wales or enter appropriate countries] registered No. [enter registration number], whose registered address is [enter address] (“Customer”).

Customer wishes to obtain certain Software and Services from Optum under the G-Cloud 15 Framework. This Agreement sets forth the Supplier Terms and Conditions (as defined in the G-Cloud 15 Framework) under which Optum will provide the requested Software and Services.

1. Software and Services.

1.1. The following definitions shall apply to this Agreement, including all product schedules referencing this Agreement (the “Schedules”):

- 1.1.1. “**Affiliate**” shall mean a company, which controls, is controlled by or is under common control with a party to this Agreement. For this purpose “control” shall mean majority ownership or having otherwise the power to govern the financial and the operating policies or to appoint the management of an organization.
- 1.1.2. “**Cloud Services**” shall mean any infrastructure management services, hardware installation and maintenance services, hosting and administration services for internet-based applications (including Optum hosting of its Software to provide services), application management services, remote storage, information security, business continuity, or other similar services that Customer obtains from Optum pursuant to this Agreement as specified in a Schedule, but does not include Professional Services.
- 1.1.3. “**Customer Content**” shall mean data, text, audio, video, images or other content that Customer or a Data Source delivers to and runs on the Cloud Services.
- 1.1.4. “**Customer Data**” shall mean any data that Customer, its End Users or a Data Source make available to Optum or which is posted or uploaded by the Customer, its End Users or Data Sources onto the Software in connection with the Services provided under this Agreement, including Personal Data.
- 1.1.5. “**Customer Resources**” shall mean, the Customer Content delivered to Optum by Customer.
- 1.1.6. “**Data**” shall mean all databases, data sets and other collections of information that Customer licenses from Optum pursuant to this Agreement.
- 1.1.7. “**Data Protection Laws**” shall mean the applicable legislation protecting the fundamental rights and freedoms of individuals, in respect of their right to privacy and the processing of their personal data, as amended from time to time, including Regulation (EU) 2016/679, ‘the General Data Protection Regulation’ (“GDPR”), the Data Protection Act 2018 and the Privacy and Electronic Communications Regulations 2003, together with decisions, guidelines, guidance notes and codes of practice issued from time to time by courts, data protection authorities and other applicable Government authorities.
- 1.1.8. “**Data Sources**” shall mean Customer and its administrators, subcontractors, consultants, vendors and other sources of Customer Data to be delivered to Optum.
- 1.1.9. “**Documentation**” shall mean all user manuals and other written specifications distributed to Customer in connection with the Software.
- 1.1.10. “**End User**” shall mean any end user of Software or a Customer Resource.
- 1.1.11. “**Optum Personnel**” means Optum’s employees and its Affiliates, licensors and subcontractors and their respective employees and subcontractors.
- 1.1.12. “**Optum Policies**” shall mean Optum’s Acceptable Use Policy, Privacy Policy, Administration Policy, and any other policy or terms governing the Services that may be delivered by Optum or referenced in or incorporated into this Agreement.
- 1.1.13. “**Optum Security Standards**” means Optum’s security standards as updated by Optum from time to time.

- 1.1.14. “**Optum Systems**” means Optum’s then current data center facilities, servers, networking equipment, and host software systems (e.g., virtual firewalls) that are used to provide the Services.
- 1.1.15. “**Optum Tools**” shall mean any software, documentation, APIs, or other tools that Optum makes available in connection with the Services to allow access to and use of the Services.
- 1.1.16. “**Party**” means Customer or Optum, as applicable.
- 1.1.17. “**Parties**” means Customer and Optum.
- 1.1.18. “**Personal Data**” shall have the meaning given to such term in the Data Protection Laws.
- 1.1.19. “**Professional Services**” shall mean any implementation, integration, configuration, training, analytical, data management, support, maintenance, reporting, consulting and other services that Customer obtains from Optum pursuant to this Agreement as specified in a Schedule.
- 1.1.20. “**Schedule**” shall mean either a Product Schedule or Statement of Work or Call-Off Order under the G-Cloud 15 Framework which sets forth products and/or services purchased, licensed or to which access is provided by Optum to Customer.
- 1.1.21. “**Service Credit**” shall mean a financial credit payable to Customer as further described in a Service Level Agreement.
- 1.1.22. “**Service Level Agreement**” shall mean the agreement for Service Levels for the applicable Cloud Services attached to the applicable Schedule, if any.
- 1.1.23. “**Service Levels**” is defined in the applicable Service Level Agreement.
- 1.1.24. “**Services**” shall mean Professional Services and Cloud Services, as the context dictates, provided by Optum hereunder.
- 1.1.25. [“**Software**” shall mean all computer software programs Optum grants Customer a license or access to pursuant to a Schedule, all updates and revisions to such Software that Optum provides to Customer, and all Documentation provided with such Software.]
- 1.1.26. “**Useable Data**” shall mean complete, readable Customer Data in the format required for the applicable Software or Services product, conforming to the source data standard set forth in a Schedule, and including appropriate documentation, which has been tested and inspected by Optum, and determined to be Useable Data by Optum.
- 1.2. Definitions used in this Agreement will have the same meaning as set out in the Call Off Contract unless expressly amended herein.
- 1.3. When Customer agrees to purchase or receive Professional Services, access Cloud Services or license Software Services or access from Optum pursuant to this Agreement, the parties shall sign an appropriate Schedule to this Agreement. Execution of this Agreement does not bind Customer to any particular Services or Software until the parties execute a written Schedule. Each Schedule shall define the Software and/or Services to be provided to Customer and the prices and terms applicable to them. To the extent the terms of a Schedule conflict with the terms of this Agreement, the terms of the Schedule shall control.
- 1.4. [The following applies to Customer’s right to access and/or use any of the Software:]
- 1.4.1. As of the Effective Date of the applicable Schedule, Optum grants Customer and its End Users a nonexclusive, nontransferable license to access and use the Software for Customer’s and its End Users internal use within UK, pursuant to the terms of this Agreement and the applicable Schedule. Customer and its End Users may access and use the Software only as permitted in the applicable Schedule, and for no other purposes.
- 1.4.2. The Software may only be accessed by End Users who have been properly issued access credentials or a valid password and in accordance with the terms of the applicable Schedule and the Agreement. End Users shall be required to maintain their ID and password or SSO access information in strict confidence and to choose a password and change their passwords from time to time in accordance with Optum’s applicable security policies.
- 1.4.3. In the event that Customer wishes to use a third party as its agent to access the Software or a database of Customer Data produced through use of any Software (if applicable), Optum must approve access by such third party and the third party must sign an appropriate nondisclosure agreement with Customer or with

Commented [SP1]: References to Software should be deleted where third party i.e. non-Optum products are licensed and Optum provides only cloud consultancy services

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Optum. However, Optum's approval is not required for third party contractors that will have only incidental contact with or use of such items. Customer, however, remains responsible for protecting the confidentiality of the Software and Services it obtains from Optum. Except as permitted by this Agreement, Customer shall have no right to allow any person or entity who is not a party to this Agreement or an End User of Customer to access the Software directly or indirectly in any way.

- 1.4.4. Customer may make copies of the Software only for backup, archival, disaster recovery, and disaster recovery testing purposes. On each such copy of the Software Customer shall reproduce all notices or legends appearing on the original copy, including the copyright notice. All copies of the Software made or received by Customer can be used only as permitted under this Agreement. At any time within ten (10) days after Optum's written request, Customer shall inform Optum of the number and location of all copies of the Software Customer has made or received.
- 1.4.5. Customer shall not (i) copy, reproduce, modify, or excerpt any of the Software for any purpose other than as expressly permitted under this Agreement; (ii) distribute, rent, sublicense, share, transfer or lease the Software to any person or entity that is not a party to this Agreement or an Affiliate of Customer, or use the Software to provide service bureau or similar services to third parties (unless expressly permitted on a Schedule); or (iii) attempt to reverse engineer or otherwise obtain copies of the source code for the Software or the identity of individual patients or members, Data Sources, persons, payers, or providers reflected in any Data Products.
- 1.4.6. Optum shall furnish to Customer without charge only those updates to or new versions of Software that Optum furnishes without charge to all other licensees for the Software. If Optum notifies Customer that an update supersedes the preceding version, Customer shall have a reasonable time in which to move to the updated version, and thereafter, Optum will have no further obligation to provide maintenance services for the superseded Software versions. When Optum hosts Software for Customer, Optum will use the then-current version of the Software on behalf of Customer.]

1.5. The following applies to Customer's purchase of, or subscription to, any Services:

- 1.5.1. Optum shall use commercially reasonable efforts to perform the Services in accordance with this Agreement, including each Schedule, subject to the terms and conditions of this Agreement. Professional Services may be subject to a project plan agreed by the Parties as part of an Schedule or as part of performance of the Services.
- 1.5.2. Optum will implement reasonable and appropriate measures for the Cloud Services, as reasonably determined by Optum, which are designed to secure Customer Content against accidental or unlawful loss, access or disclosure, in accordance with the Optum Security Standards. Optum may modify the Optum Security Standards from time to time, but will continue to provide at least the same level of security as is described in the Optum Security Standards on the applicable Schedule Effective Date.
- 1.5.3. Optum shall not be liable for any failure to comply with its obligations or duties arising under or in connection with this Agreement to the extent such failure is caused by any failure by Customer to comply with its obligations under this Agreement or other acts or omissions of Customer or Customer personnel or third parties outside of Optum's control.

1.6. Changes.

- 1.6.1. Changes in scope of the Services and/or Customer Resources may require an equitable adjustment to Optum's fees and/or date of performance, and Optum shall not be required to undertake such additional work until the Parties have agreed, in writing, to such adjustment through the change control process set forth in the applicable Schedule.

2. Intellectual Property.

- 2.1. Optum may use Optum Tools to perform Services for Customer. Customer acknowledges and agrees and, shall procure that End Users acknowledge and agree that the Optum Tools, including any modifications, improvements, adaptations, or enhancements thereto or new versions thereof developed by or for Optum, remain the sole property of Optum.
- 2.2. Cloud Services. If applicable to the Cloud Services and set forth in the applicable Schedule:

2.2.1. Service Levels. If applicable to the Cloud Services, Optum shall use commercially reasonable efforts to meet the Service Levels as specified in the applicable Service Level Agreement attached to a Statement of Work or Schedule hereunder.

- a) Measurement. Optum shall implement the measurement tools and procedures required to measure and report Optum performance of the Service Levels. The measurement tools and procedures shall: (a) permit reporting at a level of detail sufficient to verify compliance with the Service Levels; and (b) be subject to audit by Customer or its designee, subject to the terms hereof. Optum shall provide Customer or its designees, as applicable, with information concerning access to such measurement tools and procedures upon request, for inspection and verification purposes.
- b) Exclusive Remedies. If Optum fails to achieve one or more Service Levels to which Service Credits apply, as Customer's sole and exclusive remedies for such failure to achieve Service Levels: (a) Optum shall incur the Service Credits set forth in the applicable Service Level Agreement, and (b) under the circumstances set forth in the applicable Service Level Agreement, Customer shall have the right to terminate the applicable Cloud Service in accordance with such Service Level Agreement. Except as otherwise specified in a Statement of Work, a Service Credit shall be credited by Optum to Customer on the invoice that contains the fees for the month during which the right to such Service Credit arose. Service Credits shall be allocated among the Service Levels and calculated in accordance with the procedure set forth in the applicable Service Level Agreement.

2.2.2. Use.

- a) Customer will comply with the terms of this Agreement, including the Optum Policies, and all laws, rules, and regulations applicable to Customer's/End User's use of the Services. When accessing and using the Cloud Services, Customer agrees that it and its End Users will access the Cloud Services only as authorized by Optum and will comply with the Administration Policy and all security controls, policies, standards, and guidelines which are disclosed to Customer including the Optum Security Standards.
- b) Customer agrees it will not: (i) knowingly introduce any virus or disabling code into the Optum IP; (ii) allow third parties to have access to the Optum IP; (iii) attempt to access any portions of the Optum IP that are not required for Customer's use of the Services under this Agreement; (iv) use the Optum IP in any manner that may damage or impair the Optum IP, Optum, or its Affiliates; or (v) attempt to circumvent or bypass Optum's security procedures for the Optum IP.
- c) Optum's log-in credentials are for Customer's internal use only and Customer may not sell, transfer or sublicense them to any other entity or person, except that Customer may disclose its login credentials to its agents and subcontractors performing work on behalf of Customer.

2.2.3. End Users. Customer is responsible for End Users' use of Customer Resources and the Services. Customer will ensure that all End Users comply with Customer's obligations under this Agreement and that the terms of its agreement with each End User are not inconsistent with this Agreement. If Customer becomes aware of any violation of its obligations under this Agreement by an End User, Customer will immediately suspend access to Customer Resources and the Services by such End User. Except as otherwise specified in a Schedule, Customer is responsible for providing customer service (if any) to End Users.

2.2.4. Ownership of Optum Cloud Services IP.

- a) Customer acknowledges and agrees that the Cloud Services, Optum Systems and Optum Tools, and all other methodologies, processes, procedures, work flows, tools, software, ideas, concepts, know-how, materials and information used by Optum and the Optum Personnel to perform the Cloud Services (except for the Customer Resources), including any modifications, improvements, adaptations, or enhancements thereto or new versions thereof, and all related technology and intellectual property rights remain the sole property of Optum or the applicable Optum Personnel (collectively, "Optum Cloud Services IP"). Optum and the Optum Personnel reserve all rights therein not granted herein.
- b) Subject to the terms and conditions of this Agreement, Optum grants Customer a limited, revocable on termination of the applicable Schedule, non-exclusive, non-sublicensable, non-transferable (except as permitted herein) license to access and use the Cloud Services solely in accordance with this Agreement during the term of each applicable Schedule.

- c) Optum may provide Optum Tools for use in connection with Customer's receipt of Cloud Services, for example for purposes of communication regarding service requests and incident response. Such Optum Tools may be identified in a Schedule. As of the applicable Schedule Effective Date, subject to the terms and conditions of this Agreement, Optum grants Customer a limited, revocable on termination of the applicable Schedule, non-exclusive, non-sublicensable, non-transferable (except as permitted herein) license to use the Optum Tools for Customer's internal use within the United States, pursuant to the terms of this Agreement and only for the term of the applicable Schedule Customer may use the Optum Tools only as permitted in the applicable Schedule, and for no other purposes. Additional terms may apply to use of the Optum Tools.
- d) Neither Customer nor any End User may use the Optum Cloud Services IP in any manner or for any purpose other than as expressly permitted by this Agreement. Neither Customer nor any End User may, or may attempt to: (i) copy, reproduce, modify, excerpt, alter, tamper with, repair, or otherwise create derivative works of the Optum IP including any content included in the Cloud Services (except for Customer Content) for any purpose; (ii) distribute, rent, sublicense, share, transfer or lease the Optum Cloud Services IP to any person or entity that is not a Party to this Agreement, or use the Optum Cloud Services IP to provide service bureau or similar services to third parties (unless expressly permitted in a Schedule); (iii) attempt to reverse engineer, disassemble, or decompile or otherwise obtain copies of the source code for the Optum Cloud Services IP; or (iv) access or use the Cloud Services in a way intended to avoid incurring fees or exceeding usage limits or quotas.
- e) If Customer elects to provide any suggestions or feedback to Optum or its Affiliates, Optum and its Affiliates will be entitled to use the suggestions and feedback without restriction. Customer hereby grants a non-exclusive, perpetual and irrevocable, transferable and sublicensable, royalty-free, license to Optum and its Affiliates to use the suggestions and feedback.
- f) Customer acknowledges that Optum is in the business of providing cloud and other services, and that Optum and the Optum Personnel will continue these activities. Notwithstanding anything to the contrary in this Agreement, Optum and the Optum Personnel shall have the right to use in the normal course of their business the general knowledge, know-how, methods, information and procedures developed, learned or observed in the course of providing the Cloud Services.

2.2.5. Continued Provision of Cloud Services.

- a) Force Majeure Events. Optum will maintain a plan covering business continuity in the event of a Force Majeure Event which affects Optum's ability to provide the Cloud Services ("Business Continuity Plan"). Upon a Force Majeure Event, Optum will use commercially reasonable efforts to undertake all applicable actions and precautions under the Business Continuity Plan, and diligently pursue them as necessary to avoid, or if not avoidable, minimize any interruption to the Cloud Services. Except as set forth in the preceding sentence, any failure or delay by Customer or Optum in the performance of its obligations pursuant to this Agreement shall not be deemed a default of this Agreement or a ground for termination hereunder to the extent such failure or delay is caused by a Force Majeure Event. A Force Majeure Event shall not affect Customer's payment obligations hereunder. The Party whose performance is affected by a Force Majeure Event shall immediately notify the other Party by telephone and email (to be confirmed in a notice within five (5) days of the inception of such delay).
- b) Suspension. Optum reserves the right to suspend provision of any Service (i) fifteen (15) days after notice to Customer of nonpayment of any fees owed to Optum under a Statement of Work that are thirty (30) days or more past due, where such breach remains uncured, (ii) immediately if Optum determines in its reasonable discretion that such suspension is necessary to comply with any applicable law, regulation or order of any governmental authority, (iii) immediately if Optum determines in its reasonable business judgment that the performance, integrity or security of any of Optum's services, facilities or property is being adversely impacted or in danger of being compromised, including as a result of Customer's use of the Cloud Services, or (iv) immediately if Customer or any End User is not in compliance with the Optum Policies or Section 6.4 (Customer Warranties and Acknowledgments) or sub Section 8.1 (of Section 8, Limitation of Remedies and Indemnification) of this Agreement. Optum will use commercially reasonable efforts to restore Customer's rights to use and access those portions of the Cloud Services that gave rise to the suspension promptly after Customer has resolved the problem giving rise to the suspension. During any suspension, Customer remains responsible for all fees and charges Customer incurs during the period

of suspension and Customer will not be entitled to any Service Credits under the Service Level Agreements.

- 2.3. All rights, title and interest in patents, copyrights, trademarks and trade secrets subsisting in or in relation to the Software and Services will remain the property of Optum or its licensors, as applicable. Neither Customer nor any End User(s) shall acquire any rights in the Software or Services except the limited right to receive, access and/or use the Software or Services as provided herein and in the Schedules.
- 2.4. In the event that Customer or its End Users provide Optum or its Affiliates, with observations, comments, criticisms, suggested improvements, general concepts, ideas or other feedback related to the Software or Services (collectively "Feedback"), Optum (and its Affiliates) may use the Feedback (including by incorporating it into a product or service) and the Customer hereby grants to Optum (and its Affiliates) a perpetual, nonexclusive, royalty-free, irrevocable license to use the Feedback in such manner, provided that this permission and license does not extend to any third party intellectual property rights.

3. Customer's Responsibilities.

- 3.1. Customer will, and will require its End Users to, provide and maintain all computer hardware, software, communications equipment, and associated peripherals and support necessary to access and use the Software and Services. Any failure to perform by Optum shall not be considered a breach of this Agreement if such failure to perform results from Customer's or its End Users failure to provide the recommended computer hardware, software, communications equipment, and/or associated peripherals and/or support. If a Schedule requires Customer to deliver Customer Data to Optum, Customer shall provide Optum with all Useable Data required, in the format required for the applicable Software or Services. Customer's failure to provide Useable Data shall relieve Optum of all obligations under this Agreement that are contingent upon receipt of Useable Data, until such time as Customer has delivered Useable Data to Optum.
- 3.2. Customer and the Data Sources shall be responsible for their data entry activities, and for the accuracy of any Customer Data delivered to Optum. Customer agrees that the Customer Data it provides to Optum under this Agreement (if any) contains true and accurate data and information, to the best of Customer's knowledge. Optum shall not be responsible for errors in Customer Data or data entry done by Customer or the Data Sources, or for errors in services, programs, hardware, data files, or output Optum provides to or maintains for Customer pursuant to this Agreement, if those Optum errors result from errors in Customer's or the Data Sources' input data, or from Customer's failure to comply with this Agreement. Customer is responsible for obtaining, prior to furnishing any data or information to Optum, any necessary permissions, consents, or releases, including entering into data processing agreements as applicable, which are required by applicable laws and/or regulations for the delivery of Customer Data to Optum and for Optum to use and disclose such Customer Data as set forth under this Agreement or required by law.
- 3.3. During and after the term of this Agreement and, insofar as it concerns Personal Data contained in the Customer Data, subject to any applicable data processing agreements by and between the parties, Optum may use, reproduce, transfer and combine Customer Data and information derived from that data for Optum and its Affiliates' internal operations, including (without limitation) for the purposes of preparing benchmark data and databases, for reporting, and for the testing, development and improvement of its software and services. Optum shall not use, distribute or disclose Customer Data in a manner that would reveal to any third party any Personal Data in a form that allows individual data subjects to be identified from such data (except to enable the Customer and its representatives to access and use Customer Data as part of the Services or in using the Software or otherwise as may be permitted under the applicable data processing agreement between Optum and the Customer).
- 3.4. In the event that Customer uses or accesses any Optum information or communication systems ("**Optum Systems**"), which includes the systems owned and/or operated by Optum and/or Optum's Affiliates, in the course of the parties performing under this Agreement, Customer agrees that it will use such access only as authorized in this Agreement and the applicable Schedule, and for no other purposes, and will comply with all security controls, policies, standards, and guidelines applicable to Optum Systems which are disclosed to Customer as part of a log-in procedure. Customer agrees it will not (i) knowingly introduce any virus or disabling code into the Optum Systems; (ii) allow third parties to have access to the Optum Systems; (iii) attempt to access any portions of the Optum Systems that are not required for Customer's performance under this Agreement; (iv) use the Optum Systems in any manner that may damage or impair the Optum Systems, Optum, or its Affiliates, or (v) attempt to circumvent or bypass Optum's security procedures for the Optum Systems.

- 3.5. Customer acknowledges that any interpretation, implementation or use of the Professional Services, or decisions based on Optum's recommendations, are solely and exclusively at Customer's discretion. Customer will be responsible for the decisions it makes and actions it takes using the recommendations and best practices provided as part of the Professional Services, and Optum is not responsible for any action of, or failure to act by, Customer in reliance upon the Professional Services or information provided as part of the Professional Services. Moreover, in no event will the Professional Services be construed as the provision of legal, financial, regulatory or compliance advice by Optum, and Customer shall consult with its own attorneys and advisors for any legal, financial, regulatory, or compliance advice. In addition to the above, Optum may rely, without further diligence, inquiry or investigation, on the business or medical records and other written information, any data, or other material provided to Optum by Customer or a third party (collectively, for purposes of this Section, the "Information"). Optum will not be liable or responsible for any errors, omissions, illegible text or false or misleading statements contained in any Information.
4. Customer Resources.
- 4.1. Customer shall deliver the Customer Content (collectively or individually, "Customer Resources") to Optum. The Parties will agree in each Schedule on the delivery methods.
- 4.2. Customer is solely responsible for determining the scope of configuration of the Customer Resources for use of the Services. Customer will keep Optum timely informed Customer shall ensure all End Users' compliance with the terms and conditions of this Agreement and any Schedule (whether or not End Users' compliance is expressly noted as being required or not in any particular section of this Agreement or any Schedule) and shall assume all responsibility and liability with respect to use of the Software and/or Services by End Users other than liability arising from a breach by Optum or its licensors of this Agreement or the applicable Schedule. Any breach of this Agreement or the applicable Schedule(s) by End Users shall be deemed a breach by Customer.
- 4.3. In order to access the Software, Customer shall provide all equipment and software (including the latest version of any updates or supplemental information one of which Customer becomes aware and that are material to Optum's performance of the Services.
- 4.4. Except as specified as a Service in a Schedule, Customer is solely responsible for the development, content, operation, maintenance, and use of Customer Resources.
- 4.5. Customer shall be responsible for data back-up and virus protection for computer operations at Customer or third party facilities and on Customer or third party devices.
- 4.6. Customer hereby grants Optum and the Optum Personnel all necessary rights and licenses to use Customer Resources made available by Customer to Optum. Customer represents and warrants that it has the right to grant such rights and licenses for the use as contemplated herein.
- 4.7. Customer and the Data Sources shall be responsible for their data entry activities, and for the accuracy of any Customer Content delivered to Optum. Customer agrees that the Customer Content it provides to Optum under this Agreement (if any) contains true and accurate data and information, to the best of Customer's knowledge. Optum shall not be responsible for errors in Customer Content or data entry performed by Customer or the Data Sources, or for errors in services, programs, hardware, data files, or output Optum provides to or maintains for Customer pursuant to this Agreement, if those Optum errors result from errors in Customer's or the Data Sources' input data, or from Customer's failure to comply with this Agreement.
- 4.8. At Customer's expense, Customer is responsible for obtaining all consents and governmental approvals that are necessary for Customer to receive the Services and perform its obligations under this Agreement, and, prior to furnishing any Customer Resources to Optum, all consents and governmental approvals that are necessary for Optum and the Optum Personnel to access, use, host, store, transmit, disclose and otherwise interact with the Customer Resources ("Required Consents").
- 4.9. Ownership of Customer Resources. Optum acknowledges and agrees that the Customer Resources remain the sole property of Customer and its licensors. Customer and its licensors reserve all rights not granted herein.
5. Prices and Payment.
- 5.1. Customer shall pay Optum for the use of the Software and for the Services in the amounts set forth on each Schedule. Customer shall pay all applicable sales, use, and any other taxes (other than Optum's income taxes), however designated, which are collected or levied on account of this Agreement, unless Customer is exempt from such taxes and provides Optum with appropriate documentation of the exemption. Where value added tax is chargeable, Optum

shall add the amount of tax to the invoice issued to the Customer and the Customer shall pay such tax amounts against the issuing of a VAT receipt.

- 5.2. Customer shall pay Optum for any additional billable services, which Customer requests and Optum performs and which are not specified in any Schedules, at Optum's then-current time and materials rates. In the event Optum provides such additional billable services, Customer will reimburse Optum for all reasonable out of pocket expenses incurred in performing such additional billable services, with prior authorization from Customer, including transportation, hotel accommodations, meals, telephone calls, and overnight couriers. Optum will provide copies of receipts for any expenses over £25 at Customer's request. Expenses reimbursed under this Clause are not refundable by Optum to Customer for any reason. All invoices will be stated in and all payments made in UK pounds sterling.
- 5.3. Customer agrees to pay all fees and expenses invoiced by Optum within thirty (30) days after the date of each invoice. Undisputed payments not received by the due date shall bear interest at a rate equal to the lesser of one and one-half percent (1½ %) per month, or the maximum rate allowed by law. Upon reasonable notice to Customer, Optum shall have the right to inspect and audit Customer's records relating to this Agreement, to confirm the calculation of fees due under this Agreement and Customer's compliance with this Agreement. Optum agrees to hold such records in confidence. Such audits shall occur no more often than once per year, and shall be conducted with the least interruption to Customer's normal business operations as feasible.

6. Warranties and Limitation of Warranties.

6.1. Optum warrants to Customer that:

- 6.1.1. Optum has the right to grant access to and license the Software to Customer and to provide access to the Cloud Services to Customer. All rights in patents, copyrights, trademarks and trade secrets encompassed in the Software, Services and Data Products will remain in Optum or its licensors, as applicable. Customer does not obtain any rights in the Software, Cloud Services except the limited right to use the Software and/or access the Cloud Services as provided herein and in the Schedules.

- 6.1.2. Software Warranty. The Software will perform substantially in accordance with the applicable Documentation for the licensed release. If the Software fails to perform in accordance with the Documentation within ninety (90) days after the initial delivery of the first licensed release of the Software to Customer, Customer shall notify Optum in writing prior to the expiration of such ninety- (90) day period, and Optum shall repair or replace the Software. If Optum is unable to repair or replace the Software after receipt of such notification from Customer, upon Customer's request Optum will refund the license fees Customer paid for such Software (if any), and the license to use such Software shall be deemed to be terminated.

- a) Neither Optum nor its licensors warrant that the Software will be error-free or be provided (or be available) without interruption or meet Customer's business or operations purposes. Access to the Software is provided to Customer for informational purposes only.

6.1.3. Service Warranties.

- a) Cloud Services will perform substantially in accordance with the applicable Documentation for ninety (90) days or for the duration set forth in the applicable Schedule.
- b) Professional Services will be performed in a professional and workmanlike manner. If the Professional Services provided are not performed as warranted, Customer must promptly provide written notice to Optum that describes the deficiency in the Services.
- c) Each Optum employee, agent and/or subcontractor assigned to perform any Professional Services shall have appropriate skill, training, and experience to perform the Professional Services. The Professional Services will be performed in a competent and professional manner, and Optum's employee, agent and/or subcontractor will observe any working rules of Customer, while on Customer's premises to the extent conveyed to Optum by Customer. Optum agrees to reperform any Professional Services not in compliance with this warranty that are brought to its attention in writing within thirty (30) days after those Professional Services are delivered to Customer.
- d) For any breach of any Services warranty, Customer's exclusive remedy and Optum's entire liability shall be the correction of the deficient Services that caused the breach of the warranty.

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6.1.4. [The Software,] Cloud Services and any medium by which they are delivered to Customer do not contain any virus or any other contaminant or disabling devices. This sub-clause does not apply to disabling code used to terminate an evaluation or trial period for Software, or to deactivate the Software or Cloud Service on the expiry of a licence or subscription term or any code, protocol or devices designed to protect the Software or Cloud Service against unlawful use or access or against abuse or to protect privacy and confidentiality of data or to regulate access rights;

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6.1.5. The warranties as detailed in 6.1.1 thru 6.1.5 above are void if Customer modifies the Software, Cloud Services, if Customer uses the Software or Services in any manner that is not allowed under this Agreement, or if Customer allows unauthorised persons to use the Software or Services.

6.2. Except as expressly provided in this Agreement, Optum and its licensors make no warranties, covenants or representations relating to the Software or the Services, express or implied, and specifically disclaim any that may be implied by this Agreement, by custom or by law or otherwise including any implied warranties or representations which is not expressly set out herein, including in regard to title, quality, merchantability and fitness for a particular purpose or non-infringement of third party patent, trademark, copyright or other intellectual property rights.

6.3. Except as expressly provided in this Agreement, OPTUM AND ITS LICENSORS MAKE NO WARRANTIES OR REPRESENTATIONS UNDER OR RELATING TO THIS AGREEMENT, AND DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT AND WARRANTIES ARISING OUT OF COURSE OF PERFORMANCE, COURSE OF DEALING OR TRADE USAGE. OPTUM DOES NOT WARRANT THAT ANY SERVICES ARE OR WILL BE ERROR-FREE, THAT THEY WILL OPERATE WITHOUT INTERRUPTION, THAT DEFECTS WILL BE CORRECTED, THAT THE SERVICES WILL CORRECTLY PROCESS DATA AND INFORMATION, OR THAT THEY WILL FUNCTION CORRECTLY WITH ANY OTHER SOFTWARE OR HARDWARE. CUSTOMER ACKNOWLEDGES AND AGREES THAT OPTUM IS NOT RESPONSIBLE FOR AND WILL HAVE NO LIABILITY FOR ANY HARDWARE, SOFTWARE OR OTHER ITEMS OR ANY SERVICES PROVIDED BY ANY PERSONS OTHER THAN OPTUM. Optum shall not be responsible for the accuracy of any advice given to Customer in performing the Services where such advice was based on information supplied by the Customer or third parties. Responsibility for decisions taken by Customer on the basis of the advice given by Optum remains with Customer.

6.4. Customer Warranties and Acknowledgments.

6.4.1. Customer represents and warrants to Optum that Customer has (i) the rights to license the Customer Resources to Optum and to deliver all Customer Resources delivered to Optum and (ii) it has full power and authority to enter into this Agreement.

6.4.2. Customer acknowledges and agrees that any interpretation, implementation or use of the Software and/or Services, or decisions based on Optum's recommendations, are solely and exclusively at Customer's and End Users' discretion. Customer is ultimately and solely responsible for the decisions it and the End Users make and actions it and the End Users take using the Software and/or Services, and Optum is not responsible for any action of, or failure to act by, Customer or any End User in reliance upon the Software and/or Services.

6.4.3. Company represents and warrants that (i) it has the authority to enter into this Agreement on behalf of itself and its Practices, and (ii) it has reported all potential conflicts of interest to Optum, if applicable, and that there are no other relevant facts or circumstances which would give rise to a conflict of interest in Company's execution of or participation under this Agreement, including, but not limited to, financial interests, or conflicting arrangements or affiliations. Customer acknowledges and agrees that it will avoid any situation that causes or appears to cause a conflict of interest with respect to its participation under this Agreement. Customer further agrees that it shall make an immediate and full disclosure, in writing, to Optum of any new potential or actual conflict of interest or the existence of any facts that may impact the Customer's ability to participate under this Agreement.

7. Data Protection.

7.1. Each party shall comply with their obligations under Data Protection Laws.

7.2. Insofar as Optum processes any Personal Data on behalf of the Customer in connection with the provision of the Software or Services under this Agreement, the Customer shall be deemed the data controller and Optum shall be deemed a data processor (or, as the case may be, sub-processor) for the purpose of Data Protection Laws. For the

purposes of carrying out the processing activities required under this Agreement (the “**Processing Activities**”), such Processing Activities shall be governed by the data processing agreement between the parties.

- 7.3. Insofar as the Customer makes available to Optum (including by uploading onto the Software or Service) any Personal Data, the Customer warrants and represents to Optum that: (i) all necessary data subject consents have been obtained for the provision of such Personal Data to Optum and the Customer retains full records of such consents, (ii) the Customer’s use of the Personal Data through the Service is for lawful purposes which have been disclosed to data subjects in accordance with the Data Protection Laws, (iii) the Customer shall ensure that all Personal Data processed through the Service and/or the Software are kept accurate and up-to-date and that its shall only be kept on the Service or the Software for as long as it is required for the lawful purposes for which it is so held, (iv) any patient data or medical records included in such Personal Data will be pseudonymised before being made available to Optum or uploaded to the Software or Service such as to prevent the identification of patients, (v) insofar as any Personal Data made available to Optum is processed by the Customer as a processor on behalf of a third party data controller (or third party processor), the data controller has authorised the processing of the data by Optum in accordance with this Agreement and the applicable Schedule.
- 7.4. Subject to such additional or other provisions set out in any data processing agreement between the parties, in processing Personal Data on behalf of the Customer, Optum shall: (i) process such Personal Data on the instructions of the Customer and for that purpose the Customer instructs Optum to use such Personal Data as required for the performance of Optum’s obligations and delivery of the Services and insofar as required to exercise Optum’s rights under this Agreement; (ii) not transfer such personal data to any location outside the European Economic Area except in accordance with adequate safeguards as required by the Data Protection Laws; and (iii) implement appropriate technical and organisational measures to protect such Personal Data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access.
- 7.5. Each party, at the other party’s reasonable request, shall, so far as reasonably possible given the purpose of the processing, assist the requesting party in ensuring compliance with the requesting party’s obligations under the Data Protection Laws.
- 7.6. The Customer authorizes Optum to appoint sub-processors for the purpose of delivering the Software or Services including for the purpose of hosting the Software or Services and storing any Personal Data included in the Customer Data.
8. Limitation of Remedies and Indemnification.

8.1. This clause 8.1 limits the parties’ liability to each other in actions between the parties brought under or in connection with this Agreement or any Schedules, either for breach of contract, misrepresentation, tort or under any other cause of action including for negligence (except under an express indemnity). Accordingly:

8.1.1. Subject to sub-clauses (8.1.3) and (8.1.4) below, each party’s maximum liability to the other party arising out of or in connection with this Agreement or the provision of the Services [or use of the Software], arising from a single event or a series of related events, shall not exceed an amount equal to the amount Customer has paid or that is payable to Optum under the Schedule at issue for the 12-month period immediately prior to the event giving rise to the cause of action.

8.1.2. Subject to clause (8.1.4) below, neither party nor the third party vendors of products embedded in the Software shall be responsible under or in connection with this Agreement or the provision of the Services or use of the Software for any indirect, incidental, special or consequential damages, including, without limitation, the use of or inability to use the Software or Services, any damage or loss of use of any property and any cost of recovering lost or corrupted data or of reprogramming, or the cost of procuring substitute Services or, Software, loss of data, loss of revenue, loss of customers or clients, loss of goodwill or reputation, loss of profits, any interruption or loss of service, or any loss of business, howsoever caused, or arising in any manner from this Agreement or any Schedule and the performance or non-performance of obligations hereunder.

OR

Subject to clause (8.1.4) below, shall be responsible under or in connection with this Agreement or the provision of the Services for any indirect, incidental, special or consequential damages, including, without limitation, the use of or inability to use the Services, any damage or loss of use of any property and any cost of recovering lost or corrupted data or of reprogramming, or the cost of procuring substitute Services, loss of data, loss of revenue, loss of customers or clients, loss of goodwill or reputation, loss of profits, any interruption or loss of service, or

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any loss of business, howsoever caused, or arising in any manner from this Agreement or any Schedule and the performance or non-performance of obligations hereunder.

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8.1.3. Notwithstanding the above, clause 8.1 does not limit (a) the parties' obligations to each other under the indemnity obligations as set forth in Clauses 8.2 or 8.3 of this Agreement, (b) the liability either party may have to the other party for breach of clauses 7 (Data Protection) or 9 (Confidentiality) of this Agreement, (c) Customer's liability to Optum for failure to pay amounts due under this Agreement or any Schedule, or (d) any claims with respect to use of the Customer Resources or Customer's other Confidential Information.

8.1.4. Notwithstanding the above or anything to the contrary in this Agreement, nothing in this Agreement or any Schedule shall operate to exclude or restrict a party's liability for: (i) death or personal injury resulting from that party's negligence, or (ii) fraud or fraudulent misrepresentation, or (iii) for any other liability that cannot be limited or excluded by law.

8.2. When a third party sues Customer or a governmental agency assesses a fine or penalty against Customer, Optum agrees to indemnify Customer and keep it indemnified against all third-party claims, damages and liabilities (including reasonable legal costs) resulting from a claim that any Software (insofar as it is owned by Optum) infringes a patent or copyright valid in the United Kingdom; provided that Customer gives Optum prompt, written notice of any such claim, sole control of the defense and settlement of such claim, and all reasonable assistance to defend such claim. Customer shall not agree to settle the claim without Optum's written consent, provided that such consent is not unreasonably withheld, conditioned or delayed. Optum shall have no obligations under this clause if such claims, damages and liabilities result from Customer's breach of this Agreement or Customer's unauthorised or inappropriate use of or modifications to the Software or Services. This indemnification provision shall not be deemed to waive or limit any other rights.

9. Confidentiality.

9.1. Each party acknowledges that in the course of performing under this Agreement, or in the course of discussing or negotiating Schedules or future agreements between the parties, each party may learn confidential, trade secret, or proprietary information concerning the other party or third parties to whom the other party has an obligation of confidentiality ("Confidential Information"). Without limiting the foregoing, Optum's Confidential Information shall include, without limitation, the terms of this Agreement, financial information and employee information; information regarding Optum products, marketing plans, business plans, customer names and lists, the Software, Services and Documentation; reports generated by or for Optum; Optum's methods of database creation; Optum's translation, standardization, enhancement, and health data analysis techniques, health data reporting and profiling methods and formats; software tools for report creation, distribution and retrieval; and associated algorithms, developments, improvements, know-how, code (object and source), programs, software architecture, technology and trade secrets. Without limiting the foregoing, Customer's Confidential Information shall include information regarding Customer's business, Customer Data and any Personal Data included in the Customer Data.

9.2. Each party agrees (and Customer shall procure that the End Users agree) that (a) it will use the other party's Confidential Information only as may be necessary in the course of performing duties, receiving services or exercising rights under this Agreement; (b) it will treat such information as confidential and proprietary; (c) it will not disclose such information orally or in writing to any third party without the prior written consent of the other party; (d) it will take all reasonable precautions to protect the other party's Confidential Information; and (e) it will not otherwise appropriate such information to its own use or to the use of any other person or entity. Without limiting the foregoing, each party agrees to (and, specifically, Customer will require End Users to) take at least such precautions to protect the other party's Confidential Information as it takes to protect its own Confidential Information. Each party is solely responsible for all use of the other party's Confidential Information by anyone who gains access to the Confidential Information under such party's authorization (including, but not limited to, End Users). Upon termination or expiration (without renewal) of this Agreement, each party will return to the other party or certify as destroyed all tangible items containing any of the other party's Confidential Information that are held by that party or its employees, agents or contractors, other than information required to be retained for archival purposes or which a party is entitled to continue using after termination of this Agreement under this Agreement or any other agreement between the parties. Each party agrees to notify the other party if it becomes aware of any unauthorised use or disclosure of the other party's Confidential Information.

- 9.3. Nothing in this Agreement shall prohibit any party from disclosing, or permitting the disclosure of, the other party's Confidential Information if such party is compelled to disclose such Confidential Information by judicial or administrative process or, in the opinion of such party's legal counsel, by other requirements of applicable law or regulation.
- 9.4. Nothing in this Agreement shall be construed to restrict disclosure or use of information that (a) was in the possession of or rightfully known by the recipient, without an obligation to maintain its confidentiality, prior to receipt from the other party; (b) is or becomes generally known to the public without violation of this Agreement; (c) is obtained by the recipient in good faith from a third party having the right to disclose it without an obligation of confidentiality; or (d) is independently developed by the receiving party without reference to the other party's Confidential Information.

10. Term and Termination.

- 10.1. **Term.** Subject to termination provisions of this Agreement and unless agreed otherwise within the Order Form or Call-Off Contract, this Agreement continues until the later of (a) five (5) years after the Effective Date or (b) the expiration of all Schedules to this Agreement and all clauses of this Agreement (including the Schedules) relating to confidentiality, Personal Data, ownership of intellectual property, indemnification, non-solicitation, and limitations of liability shall survive termination or expiration of this Agreement. Upon termination or expiration of this Agreement, Customer shall, within thirty (30) days, return all copies of all Software, Documentation and related user materials (if any) to Optum. With Optum's consent, Customer may certify that it has ceased using and has destroyed the [Software and Documentation], rather than return them.
- 10.2. Failure by either party (the "**Breaching Party**") to comply with any material provision of this Agreement shall entitle the other party (the "**Non-breaching Party**") to give notice of breach to the Breaching Party specifying the nature of the breach and requiring the Breaching Party to cure such breach within thirty (30) days of such notice. If the Breaching Party disagrees with the existence, extent, or nature of the breach, the parties shall use reasonable, good faith efforts to resolve the dispute within thirty (30) days, and each party shall proceed diligently with the performance of this Agreement pending the resolution of any dispute. If (i) such breach is not cured within such thirty (30) day period after the receipt of such notice or (ii) the parties have not otherwise resolved the breach during such thirty (30) day period, the Non-breaching Party may terminate the Schedule that was breached or the Agreement (if the breach related to all Schedules then in effect), by delivering a second notice to the Breaching Party, specifying a termination date. The termination date may be immediate upon delivery of the second notice or up to ninety (90) days after the second notice as determined by the Non-breaching Party and indicated in the notice of termination.
- 10.3. Notwithstanding any provision contained in this Agreement to the contrary, a party to this Agreement may terminate this Agreement, upon written notice to the other party:
- 10.3.1. An order, judgment or decree is entered, without the application, approval or consent of the other party, by any court of competent jurisdiction, approving a petition seeking reorganization or appointing a receiver of such company or substantially all of the assets of such company, and such order, judgment or decrees continues unstayed and in effect for any period of sixty (60) consecutive days; or
- 10.3.2. If the other party (i) suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986; or (ii) commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation or solvent reconstruction; or (iii) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation or solvent reconstruction; or (iv) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party; or (v) a person becomes entitled to appoint or has appointed a receiver or administrative receiver over any of the assets of the other party; or (vi) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within fourteen (14) days; or (vii) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in (i) to (vi) above; or (viii) the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or

10.3.3. If any license or other registration permitting a party to operate is revoked or suspended by order of the appropriate agency and such order continues unstayed and in effect for a period of ninety (90) days provided such loss is not the result of the terminating party's performance or failure to perform under this Agreement.

11. General.

- 11.1. This Agreement constitutes the entire understanding between the parties and supersedes all prior proposals, communications and agreements between the parties relating to its subject matter. No amendment, change, or waiver of any provision of this Agreement or terms on any purchase order or other document will be binding unless in writing and signed by both parties. Terms of a purchase order or other ordering or shipping document do not modify, amend, or add to the terms of this Agreement, and shall have no effect.
- 11.2. The rights and remedies herein provided are cumulative with and not exclusive of any right or remedies provided by law.
- 11.3. In the event one or more of the provisions of this Agreement are found to be invalid, illegal or unenforceable by a court with jurisdiction, the remaining provisions shall continue in full force and effect.
- 11.4. A person who is not a Party to this Agreement shall have no rights to enforce the provisions of this Agreement under the Contracts (Rights of Third Parties) Act 1999.
- 11.5. Optum may use subcontractors to perform under this Agreement, but Optum shall remain responsible for its obligations under this Agreement.
- 11.6. Nothing in this Agreement shall create, or be deemed to create, a partnership or joint venture between the parties. Except as expressly provided herein, this Agreement shall not be construed as giving rise to the relationship of principal and agent or to any authority by a party to represent or act on behalf the other. Nothing in this Agreement shall be deemed to grant a party a right to use the other party's name or trade marks and no such right shall be inferred.
- 11.7. Neither party may assign or transfer this Agreement or any of the rights or licenses granted under it without the other party's express, prior written consent, which shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the forgoing, either party may assign this Agreement in connection with any merger, consolidation or sale of all or substantially all of its stock or assets.
- 11.8. Any notices permitted or required under this Agreement shall be in writing and will be sent by certified post, postage prepaid, return receipt requested, or by facsimile transmission or overnight courier service, addressed to the party as set forth below, or at a different address as a party has notified the other party in writing.
- | | | | |
|---|-----------------|-----------|-----------------|
| Optum: | General Counsel | Customer: | General Counsel |
| Egton Medical Information Systems Limited | | | [Address 1] |
| Fulford Grange Micklefield Lane, Rawdon, | | | |
| Leeds, England, LS19 6BA, England | | | [Address 2] |
- 11.9. Neither Customer nor Optum will disclose the financial terms of this Agreement to any other party, except to a party's accountants, attorneys, consultants and agents, or as agreed by the parties or as compelled by court order.
- 11.10. The obligations of the parties under this Agreement shall be suspended, to the extent a party is hindered or prevented from complying therewith because of labor disturbances (including strikes or lockouts), acts of war, acts of terrorism, vandalism or other aggression, acts of God, fires, storms, accidents, governmental regulations, change of law, failure of Internet access or service or other telecommunications disruptions, or any other cause whatsoever beyond a party's reasonable control. In addition, Optum's failure to perform under this Agreement shall be excused, and shall not be cause for liability or termination, if such failure to perform is due to Customer undertaking actions or failing to undertake actions required by this Agreement or so that Optum is or would be prohibited by law from performing any covenant, condition or agreement contained in this Agreement.
- 11.11. Each party agrees that in performing under this Agreement it shall (a) conduct business in conformance with sound ethical standards of integrity and honesty and in compliance with all applicable laws; (b) conduct business in such a way as to not give the appearance of impropriety, even when the behavior or activity is in compliance with the law; and (c) not achieve business results by illegal act or unethical conduct.

11.12. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall be considered one and the same agreement. Additionally, electronic or digital signatures shall be accepted as a valid and legally binding, equivalent to a handwritten signature by a person with the intent to sign this Agreement.

11.13. This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) or any Schedule, shall be governed and construed in accordance with the laws of England and Wales and the parties agree that any dispute or claim arising out of or in connection with this Agreement and any Schedule shall be subject to the exclusive jurisdiction of the courts of England and Wales.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

EGTOM MEDICAL INFORMATION SYSTEMS LTD

[PRIMARY COUNTERPARTY]

Signature: _____

Signature: _____

Print name: _____

Print name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Optum Contract No:

OPTUM PROFESSIONAL SERVICES SCHEDULE

This Schedule (“**Schedule**”) is entered into pursuant to the Cloud Services Agreement the Agreement, between Optum Health Solutions (UK) Limited (“**Optum**”) and **[INSERT CUSTOMER NAME]** (“**Customer**”). All capitalised terms not otherwise defined in this Schedule shall have the meanings assigned to them in the Agreement. Unless modified herein, all terms in the Agreement shall remain unchanged and in full force and effect. This Schedule is entered into as of **[INSERT START DATE]** (the “**Effective Date**”).

1. SERVICES

1.1 Customer agrees to retain Optum to perform the Services and, if applicable, provide the deliverables as set forth in this Schedule and Optum agrees to furnish the Services and deliverables according to this Schedule and the Agreement.

1.2 Unless specifically prohibited in the Agreement, Optum, at its discretion, may exchange or replace personnel performing the Services with other personnel with similar skills and at similar rates.

1.3 Customer acknowledges and agrees that any interpretation, implementation or use of the Services or deliverables, or decisions based upon the Services or deliverables, are solely and exclusively at Customer’s discretion. Customer is ultimately and solely responsible for the decisions it makes and actions it takes using the recommendations and best practices provided as part of the Services, and Optum is not responsible for any action of, or failure to act by, Customer in reliance upon the deliverables or information provided as part of the Services. Moreover, in no event shall the Services be construed as the provision of legal, financial, regulatory or compliance advice by Optum, and Customer shall consult with its own attorneys and advisors for any legal, financial, regulatory, or compliance advice. In addition to the above, Customer acknowledges and agrees that in performing Services, Optum shall be entitled to rely, without further diligence, inquiry or investigation, on written information, data, or other material provided to Optum by Customer or a third party (collectively, for purposes of this clause, the “Information”). Optum shall not be liable or responsible for any errors, omissions, illegible text or false or misleading statements contained in any Information.

2. FEES, INVOICING AND PAYMENTS

2.1 Customer shall pay Optum for the Services in the amounts set forth in the applicable Call Off Contract. Customer shall pay Optum for any additional billable services, which Customer requests and Optum performs and which are agreed upon in accordance with the Change Management process set forth in clause 6 (Change Management) of this Schedule, at Optum's specified time and materials rates. Customer will reimburse Optum for all reasonable out of pocket expenses incurred in performing the Services in accordance with the Agreement.

2.2 Not Used

2.3 Optum and Customer agree, unless otherwise expressly stated in the Agreement, that all Services shall be provided on a time and material basis at Optum’s applicable SFIA rates as described below.

2.4 Pricing for the Services and deliverables takes into account the following considerations:

- The Services will be priced on a bespoke basis which will vary depending on the Customer’s specific scope requirements and the size and complexity of the Customer’s organization.
- The pricing is based on Optum’s applicable SFIA rates which are found in the Rate Card available to download from the Digital Marketplace.
- Optum will invoice Customer monthly in arrears based on the days worked in the prior calendar month. Valid invoices will be payable within 30 days from the date of the applicable invoice in accordance with the Agreement.
- Prices are excluding VAT.
- Optum is entitled to increase its fees upon 90 days prior written notice. Any variation shall take effect on the expiry of the period of notice.

2.5 **Delays Affecting Estimated Fees.** Customer understands that delays caused in scheduling meetings, changes in the objectives or scope of the project and/or new information acquired during the course of the Services, may impact Optum's ability to deliver the Services within the quoted or estimated fees (the "Estimated Fees"). If either Customer or Optum becomes aware of circumstances that are likely to cause the Estimated Fees to be exceeded, the change management process set forth in clause 6 (Change Management) below will be promptly initiated and the parties will negotiate a mutually acceptable variation modifying the description of the Services and/or the Estimated Fees.

3. WARRANTIES

3.1 Except as expressly provided in Agreement, Optum makes no warranties or representations relating to the Services or deliverables, express or implied, and specifically disclaims the warranties of satisfactory quality, merchantability and fitness for a particular purpose.

4. CUSTOMER INDEMNIFICATION

In addition to the indemnitees set forth in clauses 8.3 and 8.4 of the Agreement, when a third party sues Optum or a governmental agency assesses a fine or penalty against Optum, Customer agrees to defend Optum against and hold Optum harmless from all third-party claims, damages and liabilities resulting from (a) use of Customer Data by any third party to whom Customer has directed Optum to deliver such data; or (b) or Customer's business decisions made after use of the Services or the deliverables; or (c) Customer's breach of this Schedule; provided that Optum gives Customer prompt, written notice of any such claim, and all reasonable assistance to defend such claim. Optum shall not agree to settle the claim without Customer's written consent, provided that such consent is not unreasonably withheld, conditioned or delayed. Customer shall have no obligation under this clause 4 if such claims, damages and liabilities result from Optum's breach of this Schedule or the Agreement. This indemnification provision shall not be deemed to waive or limit any other rights.

5. NON-SOLICITATION

During the term of these Terms and Conditions and for a period of 12 months thereafter, neither Customer nor Optum will directly or indirectly solicit or seek to procure the employment of: (A) in the case of Customer, any Optum personnel directly engaged in the provision of the Services; and (B) in the case of Optum, any Customer personnel working directly with Optum in the provision of the Services. Customer shall not use Optum's Confidential Information or other information gained through the provision of the Services to solicit Optum's personnel. Nothing herein shall prohibit a party from employing or soliciting any personnel of the party who independently responds to a public advertisement or general solicitation (such as newspaper advertisement or internet posting) not specifically targeting such person.

6. CHANGE MANAGEMENT

Changes in Services scope, schedule or timeline require a change request and may result in a new or revised scope of the Services and associated fees. All requests to change project scope will use the following procedure. Either Optum or Customer may initiate a change of scope request in writing, specifying the description of the proposed change. The impact on costs, staffing, workloads, and schedule will be documented by Optum. Optum may also specify the date before which Customer must respond to avoid uncontrolled impacts on the project plan. If the change of scope is approved by both parties, Optum will revise the scope of the Services and budget as needed and schedule the work to commence accordingly. Any change to the Services or any other variation to this Schedule shall only be binding once the change of scope request form has been agreed to in writing and signed by an authorized representative of Customer and Optum. Optum will not commence work on the change request without Customer's express written approval.

7. GENERAL

7.1 Any notices permitted or required under this Schedule shall be in writing and delivered in accordance with clause 11.8 of the Agreement.

7.2 Each party agrees that in performing under this Schedule it shall (a) conduct business in conformance with sound ethical standards of integrity and honesty and in compliance with all applicable laws; (b) conduct business in such a way as to not give the appearance of impropriety, even when the behavior or activity is in compliance with the law; and (c) not achieve business results by illegal act or unethical conduct.

8. TERM AND TERMINATION

This Schedule shall continue until (i) completion of the Services; or (ii) payment in full of all Services fees has been made to Optum by Customer in accordance with clause 2 (Fees, Invoicing and Payments) whichever occurs later, unless earlier terminated or completed pursuant to this Schedule or pursuant to the Call-Off Contract (the “**Term**”). Notwithstanding the foregoing, Optum may terminate this Schedule for its convenience upon delivery of 14 days prior written notice.

EGTON MEDICAL INFORMATION SYSTEMS LTD [CUSTOMER NAME]

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Optum Contract No.