

EMIS WEB CCMH SOFTWARE AS A SERVICE AGREEMENT

BETWEEN

- (1) **Egton Medical Information Systems Limited**, a company incorporated in England (with Registration No. 2117205) and having its registered office at Fulford Grange, Micklefield Lane, Rawdon, Leeds, LS19 6BA (the “**Supplier**”); and
- (2) **[FULL CUSTOMER NAME]**, a company incorporated in [England] (with Registration number [Number]) and having its registered office at **[REGISTERED OFFICE ADDRESS]** (the “**Customer**”).

BACKGROUND

- (A) The Supplier has developed and provides a service consisting of remote access to application software at its remote computer location for the purpose of managing healthcare.
- (B) The Customer wishes to use the Supplier's service in its business operations.
- (C) The Supplier has agreed to provide and the Customer has agreed to take and pay for the Supplier's services subject to the terms and conditions of this agreement.

AGREED TERMS

1. INTERPRETATION

- 1.1 The definitions and rules of interpretation in this clause apply in this agreement (save where the context otherwise requires).

Affiliate: means any business entity from time to time controlling, controlled by, or under common control with, either party, whereby a business entity shall be deemed to “*control*” another business entity if it owns, directly or indirectly, in excess of 50% of the outstanding voting securities or capital stock of such business entity, or any other comparable equity or ownership interest with respect to a business entity other than a corporation.

App: means the clinical management application named “EMIS Mobile” that is available via the Apple App store, Google Play Store & Windows App Store and which can (subject to the terms of this Service Schedule and the EULA) be downloaded onto a Mobile Device.

Authorised Users: means those employees and independent contractors of the Customer who are entitled to use: (i) the Software through the Hosting Services under this agreement, as further described in clause 3.2(d).; and (ii) the App.

Business Day: means a day, other than a Saturday, a Sunday, a public holiday or a statutory holiday in England.

Business Go Live: means the date the first Authorised User(s) or Client accesses the Software.

Client: means a single workstation installed with the Software.

Confidential Information: means any information relating to the business of the disclosing party which is not publicly available including, any information specifically designated by the disclosing party as confidential; any information supplied to the disclosing party by any third party in relation to which a duty of confidentiality is owed or arises; and any other information which should otherwise be reasonably regarded as possessing a quality of confidence or as having commercial value in relation to the business of the disclosing party (including the items of information identified as Confidential Information in clause 11).

Configuration Services: means the configuration and related services referred to in clause 2.1 and Schedule 3, to be performed by the Supplier so as to configure the Software so that it conforms (in all material respects) to the Software Specification.

Contract Year: means: (a) a period of 12 months commencing on the Effective Date; and (b) thereafter a period of 12 months commencing on each anniversary of the Effective Date; provided that the final Contract Year shall end on the expiry or termination of the Term.

Customer Data: means the data inputted into the information fields of the Software (or the App) by the Customer, by Authorised Users, or by the Supplier on the Customer's behalf.

Data Protection Legislation: means (i) unless and until the General Data Protection Regulation ((EU) 2016/679) (**GDPR**) is no longer directly applicable in the UK, the GDPR and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR.

Deliverable: means a defined level of functionality or other preset milestone within a particular phase of the Configuration Services, to be more particularly described in the Project Plan.

Effective Date: means the last date of signature of this agreement.

EULA: means the end user licence agreement which governs the use of the App by an Authorised User.

Fees: means the fees payable to the Supplier, as described in Schedule 1.

Hosting Services: means the services that the Supplier provides to allow Authorised Users to access and use the Software, including hosting set-up and ongoing services, as described in Schedule 4.

HSCN: means the Health and Social Care Network, a national broadband network for the National Health Service.

Indexation: means the values identified as “*subject to indexation*” may be adjusted to reflect the effects of inflation after the Effective Date in accordance with the following formula:

Value x (RPI_d / RPI_o)

Where RPI_d is the value of the Retail Prices Index published or determined with respect to the month most recently preceding the date when the provision in question is to be given effect and RPI_o is the value of the Retail Prices Index on the Effective Date

Maintenance and Support: means any error corrections, updates and upgrades that the Supplier may provide or perform with respect to the App, the Software and Hosting Services, as well as any other support or training services provided to the Customer under this agreement, all as described in Schedule 6.

Mobile Device: means an Apple iPad, Samsung Galaxy Tab, Google Nexus 7 or any other mobile device confirmed by the Supplier in writing as being suitable for use in respect of the App.

NHS N3: means the national broadband network for the National Health Service.

Project Plan: means the plan to be developed in the planning stage of the Configuration Services.

Service Commencement Date: means the date of the commencement of the provision of the ordered IT solutions, provided by the Supplier.

Service Levels: means the service levels which apply in respect of the relevant Services (as set out in Schedule 6).

Services: means the Configuration Services, Hosting Services and/or Maintenance and Support as applicable, given the context in which the term is used.

Sites: means the healthcare and other locations detailed at Schedule 7.

Software: means the proprietary software in machine-readable object code form only as described in Schedule 5 (including any error corrections, updates, upgrades, modifications and enhancements to the same provided to the Customer under this agreement).

Software Specification: means the functionality and performance specifications for the Software, as set out in Schedule 5.

Support Hours: has the meaning set out in paragraph 4.2 of Schedule 6.

Supported Environment: means an environment under which the Software is tested and supported as set out in the document entitled 'IF2255 Web Client Requirements' as provided by the Supplier to the Customer (and as may be amended by the Supplier from time to time to reflect changes in third party systems (including, upgrades to Microsoft Windows) or other technologies).

Term: means (subject to any earlier termination in accordance with the terms of this agreement) the period commencing on the Effective Date and ending on the expiry of the later of the Initial Term or any renewal period pursuant to clause 14.

Training Services: means training services to be provided by the Supplier in connection with the Software and other Services.

Virus: means any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; improperly access, 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, time-bombs, protect codes, data destruct keys, Trojan horses, viruses and other similar things or devices.

- 1.2 Clause, schedule and paragraph headings shall not affect the interpretation of this agreement.
- 1.3 A **person** includes an individual, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors or permitted assignees.
- 1.4 A reference to: (i) a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established; (ii) words in the singular shall include the plural and vice versa; (iii) one gender shall include a reference to the other genders; (iv) a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it; (v) **writing** or **written** includes e-mail, (provided that, in respect of the Supplier the same is sent to uk.contracts@optum.com) but not faxes; and (vi) clauses and

schedules are to the clauses and schedules of this agreement; references to paragraphs are to paragraphs of the relevant schedule to this agreement.

- 1.5 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms

2. CONFIGURATION SERVICES

- 2.1 The Supplier shall perform the Configuration Services by reference to the timetable established between the parties in the Project Plan, pursuant to the Schedule 3. The Supplier shall use its reasonable endeavours to meet any performance dates set out in the Project Plan, but any such dates are estimates only, and time for performance by the Supplier shall not be of the essence of this agreement.
- 2.2 In respect of each Deliverable, the Customer and the Supplier may agree a “*Deliverable Sign Off*” process. Within ten (10) days of the Supplier’s delivery to the Customer of any Deliverable, the Customer shall review the relevant Deliverable to confirm that it functions (in all material respects) in accordance with the applicable portion of the Software Specification. If the Deliverable fails in any material respect to conform to the applicable portion of the Software Specification, then the Customer shall give the Supplier a detailed description of any such non-conformance, in writing, within the ten (10) day review period.
- 2.3 The Supplier shall use reasonable endeavours to correct any material error in the relevant Deliverable(s), made known to the Supplier pursuant to clause 2.2, within a reasonable time, following which the Supplier shall re-submit the relevant Deliverable(s) to the Customer, whereupon the terms of clause 2.2 shall apply (in relation to the corrected elements of such Deliverable(s) only).
- 2.4 If the Supplier does not receive any written comments from the Customer within the ten (10) day period described at clause 2.2, or if any Authorised User or Client uses the Software (other than for the purposes of clause 2.2) then the Deliverable shall be deemed to have been accepted by the Customer and to conform with the Software Specification.
- 2.5 The Supplier shall use its reasonable endeavours to ensure continuity of its personnel engaged in delivering the Services (as detailed at Schedule 2), but has the right to replace any of them from time to time where reasonably necessary in the interests of the Supplier’s business.

3. HOSTING SERVICES, MAINTENANCE AND SUPPORT

- 3.1 Subject to clause 3.8, the Supplier shall perform the Hosting Services and Maintenance and Support services. The Service Levels shall apply with effect from the start of the month after the Configuration Services have been satisfactorily completed pursuant to clause 2.
- 3.2 In relation to Authorised Users:
- (a) the Customer’s access to the Hosting Services shall be limited to the agreed number of concurrent Authorised Users able to access the Software at any time (as detailed in Schedule 1);
 - (b) the number of individual concurrent Authorised Users shall be jointly agreed between the Supplier and the Customer and will be subject to a quarterly review;
 - (c) the Supplier will monitor the number of concurrent Authorised Users and shall notify the Customer should the number of concurrent Authorised Users at any time exceed the limit agreed between the parties (such notification shall also set out any additional Fees payable

by Customer under this agreement resulting from such additional concurrent Authorised Users);

- (d) the Customer shall maintain a written list of current Authorised Users of the Software; and
- (e) if the Customer exceeds the agreed number of concurrent Authorised Users (as detailed in Schedule 1) then the Supplier shall not be deemed to be in breach of any failure to meet any of its obligations in relation to Maintenance and Support (including, those set out in Schedule 6) as a result of the increased demand.

3.3 The Customer shall ensure that each Authorised User keeps a secure password for their access to and use of the Software, that such password is changed no less frequently than every ninety (90) days and that each Authorised User keeps their password confidential.

3.4 Without limiting the Supplier's other rights of audit, the Supplier may audit the Customer's use of the Software and request from the Customer the name and password for each Authorised User, which information shall duly be provided by the Customer. Such audit may be conducted no more than once per quarter, at the Supplier's expense, and shall be exercised with reasonable prior notice in a manner so as to not substantially interfere with the Customer's normal conduct of business.

3.5 Should an audit conducted pursuant to clause 3.4 reveal that passwords have been provided to individuals who are not Authorised Users then, without prejudice to the Supplier's other rights, the Customer shall promptly disable such passwords and shall not issue any new passwords to such individuals (unless or until the appropriate charges due in respect of any additional concurrent users have been paid).

3.6 In relation to the Software:

- (a) the Supplier hereby grants to the Customer, on and subject to the terms and conditions of this agreement, a non-exclusive, non-transferable licence to:
 - (i) install the Software on the Clients at the Sites; and
 - (ii) allow Authorised Users to access and use the Software solely for the Customer's internal business purposes;
- (b) the Customer shall
 - (i) configure, connect and design its network and IT infrastructure (including the security and integrity thereof) in accordance with recognised best practice to mitigate the risk of it being a target or a source of disruptions or network defects or attacks, including having in place at all times industry standard encryption software and adequate and appropriate protections against any Virus; and
 - (ii) not store, distribute or transmit any Viruses, or any material through the Hosting Services that is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive; facilitates illegal activity; depicts sexually explicit images; or promotes unlawful violence, discrimination based on race, gender, colour, religious belief, sexual orientation, disability, or any other illegal activities;
- (c) the rights provided under this clause 3.6 are granted to the Customer only, and shall not be considered granted to any Customer Affiliate (or any other third party);
- (d) the Customer shall not:
 - (i) attempt to copy, duplicate, modify, create derivative works from or distribute all or any portion of the Software except to the extent expressly set out in this agreement or as

may be allowed by any applicable law which is incapable of exclusion by agreement between the parties;

- (ii) attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software, except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties;
 - (iii) access all or any part of the Software or Hosting Services in order to build a product or service which competes with the Software and/or the Services;
 - (iv) use the Software or Hosting Services to provide services to third parties or use the Software on Clients other than at the Sites unless otherwise authorised in writing by the Supplier to do so;
 - (v) subject to clause 19.1, transfer, temporarily or permanently, any of its rights or obligations under this agreement;
 - (vi) attempt to obtain, or assist third parties in obtaining, access to the Software, other than as provided under this clause 3.6; or
 - (vii) permit more than the agreed number of concurrent Authorised Users to access and use the Software at any time;
- (e) the Customer shall use reasonable endeavours to prevent any unauthorised access to, or use of, the Software and it shall notify the Supplier promptly of any such unauthorised access or use; and
- (f) the Supplier grants to the Customer a licence of the third party software embodied in the Software allowing the Customer to use the Software as contemplated by this agreement without breaching the rights of the relevant third parties.

3.7 If the Customer wishes to use the Software in an environment which is not a Supported Environment then it shall notify the Supplier in writing and the Customer acknowledges that the Software has not been designed to function within such an environment and that its use within an unsupported environment is at its own risk and that the Software may not function correctly (or at all). The Customer further acknowledges that any timescales or representations made by the Supplier in terms of the Services relate only to the use of the Software within a Supported Environment and that the delivery of the Services may be adversely affected (and the Supplier shall have no liability to the Customer as a result of any delays, clinical risks or failure to support the Software to the extent that such issues are caused by the Customer's system not being a Supported Environment).

3.8 The Customer may access certain third party applications stored on the Supplier's hosted environment, such access and use will be subject to the licencing terms in effect as between the relevant third party and the customer in respect of the same. The Customer acknowledges that such access is provided on an "as is" basis and the Supplier gives no warranties or undertakings in respect of any such third party applications or the Customer's access to, or use of, the same.

3.9 The Customer agrees to contact the Supplier to schedule all Training Services to be delivered no later than 6 months after the Business Go Live date. To the extent that the Training Services have not been fully delivered by that date, the parties agree that they shall be deemed to have been fully delivered and the Customer agrees that it shall be liable to pay the full Fees for the Training Services.

3.10 If the Customer needs to reschedule any of the Training Services, it shall give the Supplier at least 10 days' notice before the scheduled date and, to the extent the Customer gives less notice, it agrees that it shall be liable to pay additional Fees at the Supplier's current daily rate.

4. APP AND MOBILE SERVICES

- 4.1 The Supplier shall use its reasonable endeavours to: (i) make the App available for download by the Customer (through the Authorised Users); (ii) enable the 'soft token' functionality within the Software which enables access to (through entering the soft token into the App) selected patient records held on the Software remotely through the App on their Mobile Device (subject always to the terms governing the Customer's (and Authorised Users') access to and use of the Software and the App).
- 4.2 The Supplier hereby grants to the Customer a non-exclusive, non-transferable licence to use the App in the UK on the terms of this agreement.
- 4.3 The Customer may:
- (a) (acting through the Authorised Users) install and use the App on the Mobile Devices for its internal purposes;
 - (b) receive and use any supplementary software code incorporating "patches" and corrections of errors as may be provided by the Supplier from time to time in respect of the App; and
 - (c) use any documentation (as may be provided by the Supplier from time to time) in support of the use permitted under clause 4.3(a).
- 4.4 Except as expressly set out in this agreement or as permitted by any local law, the Customer shall:
- (a) not copy the App (or any related documentation) except where necessary for the purpose of back-up or operational security;
 - (b) not rent, lease, sub-license, loan, translate, merge, adapt, vary or modify the App (or any related documentation);
 - (c) not make alterations to, or modifications of, the whole or any part of the App (or any related documentation) nor permit the App or any part of it to be combined with, or become incorporated in, any other programs;
 - (d) not disassemble, decompile, reverse engineer or create derivative works based on the whole, or any part, of the App nor attempt to do any such things;
 - (e) maintain accurate and up-to-date records of the Authorised Users using the App;
 - (f) not remove any copyright notice from any copies of the App (or any related documentation); and
 - (g) not provide, or otherwise make available, the App in any form, in whole or in part (including, program listings, object and source program listings, object code and source code) to any person other than Authorised Users (who must download the same via an app store subject to the EULA) (provided that this shall not apply to any third party service providers acting on behalf of the Customer to pre-configure Mobile Devices with a copy of the App (though, for the avoidance of doubt, the Customer shall nevertheless ensure that every Authorised User themselves reads and accepts the terms of the EULA where such persons are not themselves directly installing the App on their Mobile Device)).
- 4.5 The Customer may use the App (through the Authorised Users) to:
- (a) add Customer Data into the defined templates (and which can then be imported into the Software);

- (b) add Customer Data into patients' Care Episodes (Community and Child Health users) to support community services data set (CSDS) data collection;
- (c) add tasks which can then be imported into the Software;
- (d) check appointment schedules and the relevant Authorised User's diary;
- (e) (provided that the Authorised User has an appropriate network connection and the Customer expressly requests this functionality be enabled) search the Customer's patient records held within the Software to identify a specific patient and to then download that patient's details to the App;
- (f) work offline within the App in areas with limited network connectivity, with the ability to reconcile the data with the Software when returning to an area with suitable connectivity; and
- (g) use mapping services to display the locations of appointments in relation both to each other and the current location of the relevant Authorised User. For the avoidance of doubt, the Customer acknowledges that the mapping services are provided by a third party service provider (being Google as at the Effective Date) and that by using the mapping function, the relevant Authorised User will be providing data (in the form of the inputted address details) to that third party service provider and that data will be held by that third party in accordance with their privacy policy.

4.6 The Supplier may, at its discretion and from time to time, add additional functionality to the App. the Supplier may make such features available to the Customer by way of updates to the App.

4.7 For the avoidance of doubt the App will function only in respect of the Software and no other clinical healthcare records system.

4.8 The Customer shall:

- (a) only allow the Authorised User's to use the App in accordance with the terms of this agreement, the EULA and use of the Maintenance and Support services in accordance with the terms of this agreement;
- (b) supervise and control use of the App and ensure that the Authorised Users: (i) are properly trained medical practitioners; (ii) use the App in accordance with the terms of the EULA; and (iii) are registered to use the App (and Maintenance and Support services) by the applicable Customer administrator;
- (c) be responsible for the acts or omissions of the Authorised Users in respect of their use (or mis-use) of the App (and their compliance with the terms of this agreement and the EULA);
- (d) ensure that it puts in place an appropriate mobile device usage policy (which shall include, a requirement that all Mobile Devices on which the App may be installed are encrypted);
- (e) contact the Maintenance and Support helpdesk to register any faults with the App;
- (f) only use the App in accordance with applicable laws and regulations; and
- (g) not (and shall ensure that the Authorised Users shall not) misuse the App, or receipt of the Maintenance and Support services, in any manner.

5. CUSTOMER DATA

- 5.1 The Customer owns all rights, title and interest in and to all of the Customer Data and is solely responsible for the legality, reliability, integrity, accuracy and quality of the Customer Data.
- 5.2 The Supplier shall follow its backup procedures for Customer Data as described in Schedule 4. 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. The Supplier shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party (except any third parties sub-contracted by the Supplier to perform services related to Customer Data maintenance and back-up).
- 5.3 The Supplier shall use reasonable endeavours to achieve an "all standards met" performance level against all requirements in the NHS data security and protection toolkit. If the Supplier has not achieved an "all standards met" performance level by the Effective Date, the Customer may, in its sole discretion, agree a plan with the Supplier to enable the Supplier to achieve an "all standards met" performance level within a reasonable time thereafter.
- 5.4 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 5 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.
- 5.5 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the data controller and the Supplier is the data processor (where data controller and data processor have the meanings as defined in the Data Protection Legislation).
- 5.6 Schedule 8 sets out the scope, nature and purpose of processing by the Supplier, the duration of the processing and the types of Personal Data and categories of Data Subject (both as defined in the Data Protection Legislation). The parties may, from time to time, update Schedule 8 to reflect any changes to the scope of the processing.
- 5.7 Without prejudice to the generality of clause 5.4, the Customer will ensure that it has all necessary rights and notices in place to enable the lawful transfer of the Personal Data to the Supplier for the duration and purposes of this agreement.
- 5.8 The Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under this agreement:
- (a) process that Personal Data on the written instructions of the Customer (unless otherwise required by law);
 - (b) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;
 - (c) take all reasonable steps to ensure the reliability and integrity of personnel who have access to and/or process Personal Data;

- (d) not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
 - (i) the Customer or the Supplier has provided appropriate safeguards in relation to the transfer;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - (iv) the Supplier complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
- (e) assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- (f) notify the Customer without undue delay on becoming aware of a Personal Data breach;
- (g) at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of this agreement unless required by law to store the Personal Data; and
- (h) allow for audits by the Customer or the Customer's designated auditor in respect of the Supplier's data processing activities under this agreement. +

5.9 The Supplier is given general authorisation to engage third-parties to process the Personal Data ("**Sub-Processors**") without obtaining any further written, specific authorisation from the Customer. The Supplier shall complete a written sub-processor agreement with any Sub-Processors which shall include protections substantially similar to those under this agreement. The Supplier is accountable to the Customer for any Sub-Processor in the same way as for its own actions and omissions. A list of the Supplier's material sub-processors as at the later date of 25th May 2018 or the date of this agreement is set out on the Supplier's website (or will otherwise be notified to the Customer). Any objection to an amendment to the list of Sub-Processors may be escalated for discussion within 10 days after receipt of a notification of any change. If the parties are (acting reasonably) unable to resolve the objection and the Supplier informs the Customer that it nevertheless intends to appoint the relevant Sub-Processor then the Customer may either: (i) accept the change; or (ii) terminate this agreement upon written notice within one month of raising the objection (and as the Customer's sole and exclusive remedy, the Supplier will refund any unused prepaid fees). As at the Effective Date the Supplier has appointed, and the Customer has authorised the appointment of Amazon Web Services to provide hosting and related services in connection with the delivery of this Agreement.

5.10 The parties may, acting reasonably, agree to amend this agreement to ensure that it complies with any applicable guidance issued by the Information Commissioner's Office from time to time.

5.11 The Supplier acknowledges that where the Customer is subject to the requirements of the FOIA it shall assist and co-operate with the Customer to enable the Customer to comply with its disclosure obligations under the FOIA. Accordingly the Supplier agrees where applicable:

- (a) that this agreement is subject to the obligations and commitments of the Customer under the FOIA;
- (b) that where the Supplier receives a request for information under the FOIA, it will not respond to such request (unless directed to do so by the data controller to whom the request relates)

and will promptly (and in any event within two (2) Business Days) transfer the request to the Customer;

- (c) that the Customer, acting in accordance with the codes of practice issued and revised from time to time under both section 45 of the FOIA, and regulation 16 of the Environmental Information Regulations 2004, may disclose information concerning the Supplier and this agreement following consultation with the Supplier and having taken its views into account; and
- (d) to assist the Customer in responding to a request for information, by processing 'information' or 'environmental information' (as the same are defined in the FOIA) in accordance with a records management system that complies with all applicable records management recommendations and codes of conduct issued under section 46 of the FOIA, and providing copies of all information requested by the Customer within five (5) Business Days of any such request.

5.12 As at the Effective Date, the Supplier has achieved ISO27001 certification and it shall, at all times during the term of this agreement, act in accordance with the same.

6. SUPPLIER'S OBLIGATIONS

6.1 Subject to clause (b):

- (a) the Supplier warrants that the Services will be performed with reasonable skill and care; and
- (b) if the Services do not conform with the foregoing warranty, the Supplier will, at its expense, use its reasonable endeavours to correct any such non-conformance promptly, or provide the Customer with agreed alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the warranty set out in this clause 6.1. Notwithstanding the foregoing, the Supplier does not warrant that the Customer's use of the Software and the Services will be uninterrupted or error-free.

6.2 The warranty and obligations at clause 6.1 shall not apply to the extent of any non-conformance resulting from: (i) use of the Services contrary to the terms of this agreement or the Supplier's instructions; (ii) modification to (or alteration of) the Services by any party other than the Supplier or the Supplier's duly authorised contractors or agents, or (iii) the use of the Software in any environment which is not a Supported Environment.

6.3 This agreement shall not prevent the Supplier from entering into similar agreements with third parties, or from independently developing, using, selling or licensing materials, products or services which are similar to those provided under this agreement.

7. CUSTOMER'S OBLIGATIONS

7.1 The Customer shall:

- (a) provide the Supplier with:
 - (i) all necessary co-operation in relation to this agreement; and
 - (ii) access to such information as may be reasonably required by the Supplier;in order to render the Services, including (as appropriate) access to Customer Data, security access information and software interfaces to the Customer's other business applications;
- (b) provide such personnel assistance as the Supplier may reasonably require from time to time;

- (c) appoint the Customer's Project Manager (detailed at Schedule 2), who shall have the authority to contractually bind the Customer on all matters relating to this agreement, (and it shall use reasonable endeavours to ensure continuity of the Customer's Project Manager);
- (d) accept emergency and urgent clinical safety releases in respect of the Software on the basis that a risk assessment has been conducted by the Supplier (through accredited clinicians) and it has determined that the functionality used by the Customer poses (or is likely to pose) a risk to patients;
- (e) accept monthly static data updates including terminology, medication and data dictionary files (these updates being a prerequisite for interoperability, safe prescribing and clinical decision support by those customers who use this functionality, but also is key in clinical coding and data dictionary management);
- (f) comply with all applicable laws and regulations with respect to its activities under this agreement;
- (g) carry out, and procure that all Authorised Users carry out, all other Customer responsibilities set out in this agreement or in any of the Schedules or in any agreed Project Plan 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 timetable or delivery schedule set out in this agreement or otherwise agreed as reasonably necessary; and
- (h) comply with any instructions issued by the Supplier pursuant to the Support and Maintenance provisions in Schedule 6.

8. CHARGES AND PAYMENT

- 8.1 The Customer shall pay the Fees in accordance with the terms of this agreement.
- 8.2 All amounts and Fees stated or referred to in this agreement are exclusive of value added tax, which shall be added to the Supplier's invoice(s) at the appropriate rate.
- 8.3 Where, in the relevant year, Indexation would result in an increase to the Fees then they shall be subject to Indexation on 1st April 2025 and annually on the 1st April thereafter.
- 8.4 Commencing on whichever is the later of the Effective Date or the Service Commencement Date, the Supplier shall invoice the Customer at the applicable frequency detailed in Schedule 1 in advance for all annual Fees set out in Schedule 1 for all Services performed by the Supplier during the appropriate period. Each invoice is due and payable no later than thirty (30) days after the invoice date.
- 8.5 The Configuration and Deployment Fees, as described in Schedule 1, are payable in line with the milestone dates detailed in Schedule 9. Fees in relation to Training may be payable as agreed with the Customer based on delivery of the relevant Training (provided always that: (i) the Supplier will not be obliged to deliver Training unless and until the parties agree payment terms; and (ii) if Training takes place in the absence of any agreement then payment will be due immediately following delivery of the Training).
- 8.6 If the Supplier has not received payment of the Fee(s) by the due date then (without prejudice to any other rights and remedies of the Supplier):
 - (a) the Supplier shall be under no obligation to provide any or all of the Services while the Fee(s) or invoice(s) concerned remain unpaid; and
 - (b) interest shall accrue on such due amounts at a rate equal to four percentage points a year above the Bank of England's base rate as at the date the relevant invoice was issued,

commencing on the due date and continuing until fully paid, whether before or after judgment.

9. CHANGE CONTROL

- 9.1 The parties shall meet at least once every year to discuss matters relating to this agreement. If either party wishes to materially change the scope of the Services (including any request for additional hosting services), it shall submit details of the requested change to the other in writing.
- 9.2 If either party requests a change to the scope or performance of the Services (or otherwise in relation to this agreement), the Supplier shall, within a reasonable time, provide a written estimate to the Customer of:
- (a) the likely time required to implement the change;
 - (b) any variations to the Fees arising from the change;
 - (c) the likely effect of the change (if any) on the Project Plan; and
 - (d) any other impact of the change on the terms of this agreement.
- 9.3 If the Supplier requests a change to the scope of the Services, the Customer shall not unreasonably withhold or delay consent to it (provided always that the Supplier may change the scope of the Services at any time (without obtaining the Customer's agreement), to the extent necessary to reflect any change in applicable law (or if it identifies that a change is required to address concerns relating to patient safety or data privacy)).
- 9.4 If the Customer requests a change to the scope of the Services, the Supplier shall have no obligation to implement such change unless and until the parties have agreed in writing the necessary variations to the Fees, the Project Plan and any other relevant terms of this agreement to take account of any such change.

10. PROPRIETARY RIGHTS

- 10.1 The Customer acknowledges and agrees that the Supplier (and/or its licensors) owns all intellectual property rights subsisting in the App, the Software and the Services. Save as expressly stated herein, this agreement does not grant the Customer 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 App, the Software, Services or any related documentation.
- 10.2 The Supplier warrants that it has all the rights in relation to the App and the Software that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this agreement.

11. CONFIDENTIALITY

- 11.1 Each party may be given access to Confidential Information belonging to the other party in order to perform its obligations under this agreement. A party's Confidential Information shall not be deemed to include information that:
- (a) is or becomes publicly known other than through any act or omission of the receiving party;
 - (b) was in the receiving party's lawful possession before the relevant disclosure;
 - (c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure;
- or

- (d) is independently developed by the receiving party, which independent development can be shown by written evidence.
- 11.2 Each party shall hold the other's Confidential Information in confidence and not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation and performance of this agreement.
- 11.3 Each party may disclose the other party's Confidential Information (for the purposes set out in clause 11.2):
 - (a) to its employees, officers, Affiliates, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under this agreement. Each party shall ensure that its employees, officers, Affiliates, representatives, subcontractors or advisers to whom it discloses the other party's Confidential Information comply with this clause 11; and
 - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 11.4 Each party shall take 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 agreement.
- 11.5 Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party (save where that third party is an Affiliate, representative, subcontractor or adviser of the relevant party).
- 11.6 The Customer acknowledges that the App, the Software, the results of any performance tests of the App, the Software and the Services form part of the Supplier's Confidential Information.
- 11.7 The Supplier acknowledges that the Customer Data is the Confidential Information of the Customer.

12. INDEMNITY

- 12.1 The Customer shall defend, indemnify and hold harmless the Supplier its officers, directors and employees against claims, actions, proceedings, losses, damages, expenses and costs (including court costs and reasonable legal fees) arising out of or in connection with the Customer's use of the App, the Software or Services, provided that:
 - (a) the Customer is given prompt notice of any such claim;
 - (b) the Supplier provides reasonable co-operation to the Customer in the defence and settlement of any such claim, at the Customer's expense; and
 - (c) the Customer is given sole authority to defend or settle the claim.
- 12.2 The Supplier shall defend the Customer, its officers, directors and employees against any claim that the App, the Software (but not any third party software) infringes any United Kingdom patent effective as at the Effective Date, copyright, database right or right of confidentiality, and shall indemnify the Customer for any amounts awarded against the Customer in final judgment or settlement of such claims, provided that:
 - (a) the Supplier is given prompt notice of any such claim;
 - (b) the Customer provides reasonable co-operation to the Supplier in the defence and settlement of any such claim, at the Supplier's expense; and

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

12.3 In the defence or settlement of a claim pursuant to clause 12.2, the Supplier may obtain for the Customer the right to continue using the App, the Software, replace or modify the Software so that it becomes non-infringing or, if such remedies are not reasonably available, terminate this agreement without any further liability to the Customer.

12.4 The Supplier shall have no liability pursuant to clause 12.2 if the alleged infringement is based on:

- (a) a modification of the App or the Software by anyone other than the Supplier (or a third party acting on its behalf);
- (b) the Customer's use of the App or the Software in a manner contrary to any instructions given to the Customer by the Supplier;
- (c) the Customer's use of the App or the Software contrary to the terms of this agreement;
- (d) the Customer's maintenance of the App or the Software (or any part thereof) other than in accordance with the terms of this agreement;
- (e) use of a non-current version of the App or the Software; or
- (f) the Customer's use of the App or the Software after notice of the relevant (alleged or actual) infringement from the Supplier or any appropriate authority.

12.5 Nothing in this clause 12 shall restrict or limit each party's general obligation at law to mitigate a loss which it may suffer or incur as a result of a matter that may give rise to a claim under an indemnity.

12.6 Clauses 12.2, 12.3 and 12.4 state the Customer's sole and exclusive rights and remedies, and the Supplier's entire obligations and liability, in respect of any claim of patent, copyright, database or right of confidentiality infringement.

13. LIMITATION OF LIABILITY

13.1 This clause 13 sets out the entire financial liability of the Supplier (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:

- (a) any breach of this agreement;
- (b) any use made by the Customer of the App, the Services, the Software, the Deliverables or any part of them; and
- (c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with this agreement.

13.2 Except as expressly and specifically provided in this agreement:

- (a) the Customer assumes sole responsibility for results obtained from the use of the App, the Software and the Services 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; and
- (b) 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 this agreement.

- 13.3 Nothing in this agreement limits or excludes the liability of the Supplier for:
- (a) death or personal injury caused by the Supplier's negligence;
 - (b) fraud or fraudulent misrepresentation; or
 - (c) any other liability which cannot be limited or excluded by applicable law.
- 13.4 Subject to clause 13.3, the Supplier shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise, for any:
- (a) loss (whether direct or indirect) of revenue or profits;
 - (b) loss (whether direct or indirect) of business opportunity;
 - (c) loss (whether direct or indirect) of goodwill or injury to reputation;
 - (d) loss (whether direct or indirect) of anticipated savings;
 - (e) loss (whether direct or indirect) of, or corruption to, any data or information; and/or
 - (f) indirect, consequential or special loss or damage,
- in each case arising out of or in connection with this agreement.
- 13.5 Subject to clause 13.3 and clause 13.4, the Supplier's (and its Affiliates and sub-contractors) total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, equity, restitution or otherwise, arising out of or in connection with this agreement in respect of all claims (including, under any indemnities) arising in any Contract Year will be limited to a sum equal to one hundred and twenty percent (120%) of the total Fees paid and/or due to be paid by the Customer under this agreement in that Contract Year (or in respect of any and all claims arising after this agreement has terminated or expired, a sum equal to one hundred and twenty percent (120%) of the Fees paid and/or due to be paid in the final Contract Year of this agreement).

14. TERM AND TERMINATION

- 14.1 This agreement shall commence on the Effective Date and shall continue for the period of [] years from the Service Commencement Date ("Initial Term"), unless otherwise terminated as expressly provided for in this agreement. After the Initial Term, this agreement shall automatically renew for yearly periods, unless either party gives notice terminating this agreement, in writing, at least ninety (90) days before the end of the then current term of this agreement.
- 14.2 Without prejudice to any other rights or remedies to which the parties may be entitled, either party may terminate this agreement without liability to the other if:
- (a) the other party fails to pay any undisputed amount due under this agreement on the due date for payment and it remains in default not less than ten (10) business days after being notified in writing to make such payment;
 - (b) the other party commits a material breach of any of the terms of this agreement provided, if such a breach is remediable, the party in breach fails to remedy that breach within thirty (30) days of that party being notified in writing of the breach;
 - (c) the other party becomes insolvent, is the subject of a petition for creditor protection or a petition in bankruptcy or of any other proceedings under bankruptcy, insolvency or similar laws or makes an assignment for the benefit of creditors (or any event occurs, or proceeding

is taken, with respect to the other party that has an effect equivalent or similar to any of the events mentioned in this clause); or

- (d) there is a change of control of the other party (within the meaning of section 840 of the Income and Corporation Taxes Act 1988) in circumstances where the other party comes under the (direct or indirect) control of an entity which is a competitor of the first party or the change is (in the first party's reasonable opinion) likely to have a material adverse impact on the other party's financial standing or its ability to perform its obligations under this agreement.

14.3 On termination of this agreement for any reason:

- (a) all licences granted under this agreement shall immediately terminate;
- (b) each party shall return and make no further use of any equipment, property, materials and other items (and all copies of them) belonging to the other party;
- (c) within fifteen (15) days of the effective date of termination, the Supplier shall return to the Customer the then most recent back-up of the Customer Data in the Supplier's possession, either in its then current format or in an industry standard format nominated by the Customer (in which event the Customer will reimburse the Supplier's reasonable data conversion expenses), save that the Supplier may keep one copy of any such data or information for a period of up to twelve (12) months to comply with its obligations under clause 14.3(d);
- (d) the Customer shall for a period of twelve (12) months following termination of this agreement be entitled to require access to Customer Data held by the Supplier (in which event the Customer will reimburse the Supplier's reasonable expenses incurred in providing such access); and
- (e) 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 (including, clause 10, clause 11, clause 12 and clause 13), shall not be affected or prejudiced.

15. FORCE MAJEURE

The Supplier shall have no liability to the Customer under this agreement if it is prevented from or delayed in performing its obligations under this agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, strikes, lock-outs or other industrial disputes, failure of a utility service or transport or telecommunications network, act of God, epidemic, pandemic, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors. The Supplier shall notify the Customer of any such event and, if known, its expected duration.

16. WAIVER

- 16.1 A waiver of any right under this agreement is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and to the circumstances for which it is given.
- 16.2 Unless specifically provided otherwise, rights arising under this agreement are cumulative and do not exclude rights provided by law.

17. SEVERANCE

- 17.1 If any provision (or part of a provision) of this agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

- 17.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

18. ENTIRE AGREEMENT

- 18.1 This agreement, and any documents referred to in it, constitute the whole agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover.
- 18.2 Each party acknowledges and agrees that in entering into this agreement 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 this agreement or not) relating to the subject matter of this agreement, other than as expressly set out in this agreement.

19. ASSIGNMENT

- 19.1 The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this agreement.
- 19.2 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 this agreement.

20. NO PARTNERSHIP OR AGENCY

Nothing in this agreement is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

21. COUNTERPARTS

This agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of this agreement, but all the counterparts shall together constitute the same agreement. No counterpart shall be effective until each party has executed at least one counterpart.

22. THIRD PARTY RIGHTS

This agreement does not confer any rights on any person or party (other than the parties to this agreement and (where applicable) their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

23. NOTICES

- 23.1 Any notice required to be given under this agreement shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its address first set out in this agreement (and, in respect of notices to the Supplier, shall be marked for the attention of Legal Counsel), or such other address as may have been notified by that party for such purposes, or by email (to, in respect of the Supplier, uk.contracts@optum.com and for the Customer, to such email address as it may nominate).

- 23.2 A notice delivered by hand or email shall be deemed to have been received when delivered (or if delivery is not between 9.00am to 5.00pm on a Business Day, at 9:00am on the first Business Day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post.

24. CONFLICT

If there is an inconsistency between any of the provisions of the main body of this agreement and the Schedules, the provisions of the main body of this agreement shall prevail.

25. GOVERNING LAW AND JURISDICTION

- 25.1 This agreement and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by, and construed in accordance with, the law of England.
- 25.2 The parties irrevocably agree that the courts of England have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

26. CORRUPT GIFTS AND PAYMENTS

- 26.1 For the purposes of this agreement the term “**Prohibited Act**” means:
- (a) committing an offence under any applicable law creating offences in respect of bribery or fraudulent acts;
 - (b) defrauding or attempting to defraud; or
 - (c) offering, giving or agreeing to give to any person employed by or otherwise associated with the Supplier any gift or consideration of any kind as an inducement or reward for:
 - (i) doing or not doing (or for having done or not having done) any act in relation to the creation or performance of this agreement;
 - (ii) showing or not showing favour or disfavour to any person in relation to this agreement; or
 - (iii) entering into this agreement where commission has been paid or has been agreed to be paid by the Supplier or on its behalf, or to its knowledge, unless before the relevant agreement is entered into particulars of any such commission and of the terms and conditions of any such agreement for the payment of such commission have been disclosed in writing to the Supplier.
- 26.2 The Customer shall ensure that any person associated with the Customer in connection with this agreement shall refrain from committing, facilitating, encouraging or allowing a Prohibited Act. The Customer shall be responsible and directly liable for any such Prohibited Act carried out by any person associated with the Customer in connection with this agreement.



CONFIDENTIAL

IN WITNESS WHEREOF this agreement, is executed as follows:

SIGNED for and on behalf of Egton Medical Information Systems Limited

Signature:	
Print Full Name:	
Job Title:	
Date:	

SIGNED for and on behalf of [Party 2]

Signature:	
Print Full Name:	
Job Title:	
Date:	

Schedule 1 Fees

1. SOFTWARE AS A SERVICE FEE

- 1.1 The Fees shall comprise, where specified below, all, some, or any of the Software As A Service Fee(s), Support Fee(s) and the Configuration and Deployment Fee(s).
- 1.2 Fees are non-refundable.
- 1.3 All additional Authorised Users (above those provided for in the table below) identified between invoicing periods will be added to the next annual invoice.

Table 1: Software As A Service Fees: Authorised Users

Service	Invoicing Frequency	Unit price (per annum)	Total units ordered	Total (per annum)
EMIS Web [with Patient Tracking] Service including - Software Licence - Annual Maintenance - App Licence	Annually	£ [INSERT]	[xxx Authorised Users]	£ [INSERT]
Support	Annually	£ [INSERT]	N/A	£ [INSERT]
Hosting Service	Annually	£ [INSERT]	N/A	£ [INSERT]
Pathology Links Configuration	Annually	£	N/A	£
Community Access to Spine - PDS	Annually	£	N/A	£
Community Access to Spine – Summary Care Record Viewer (SCRv)	Annually	£	N/A	£
Patient Tracking	Annually	£ INSERT	[INSERT X] locations	£ [INSERT]
Manchester Triage	Annually	£2,000.00	[INSERT X] locations	£ [INSERT]
TOTAL				£

The Fees detailed at Table 1 are based on the agreed support model detailed at Schedule 6.

Table 2: Deployment and Configuration Fees

The fees detailed in the table below shall be one time payable fees and invoiced in accordance with the milestone dates at Schedule 9:

Service	Unit price	Total units ordered	Total
Service Implementation	£650.00	[INSERT] Days	£ [INSERT]
Project Management Service	£ [INSERT]	[INSERT] Days	£ [INSERT]
Engineering Services	£ [INSERT]	[INSERT] Days	£ [INSERT]
Training Services	£650.00	[INSERT] Days	£ [INSERT]
Total Deployment and Configuration Fees			£ [INSERT]

Training Services: As provided for in clauses 3.9 and 3.10, the Customer shall be liable to pay the Supplier for any Training Services which have been rescheduled by the Customer with less than 10 days' notice. Any Training Services which have not been taken within 6 months of Business Go Live and such Training Services shall be deemed to have been delivered.



Schedule 2 Personnel

1. SUPPLIER

1.1 The Supplier shall provide personnel for the following roles:

Account Director	[INSERT NAME]
Billing Contact	Accounts and Finance

2. CUSTOMER

2.1 The Customer shall provide personnel for the following roles:

Project Manager	[INSERT NAME]
Billing Contact	[INSERT NAME]

Schedule 3 Configuration Services

1. PROJECT PLAN & TIMETABLE

The Supplier shall agree the Project Plan in co-operation with the Customer during this stage of the Configuration Services. The Project Plan shall detail all Deliverables, pre-deployment planning and preparation, deployment phases, training and implementation.

The Supplier and the Customer shall agree a date for commencement of deployment. If the parties cannot agree on a date for commencement of deployment, then the date shall be 6 months from the Effective Date.

2. PROJECT MANAGEMENT

The Supplier will use the principles of PRINCE2 Methodology to manage the project supported by project plans. The Supplier's Project Manager shall act as coordinator for all aspects of the implementation. The Supplier's Project Manager will be responsible for all Deliverables and will liaise with the Customer's Project Manager to ensure that project deadlines are met, resources are allocated accordingly and quality procedures and recommendations are implemented. Project management will include some or all of the following:

- implementation planning;
- ensure requirements are gathered and analysed in line with the functionality;
- ensure the Customer's reporting requirements are gathered and analysed in line with the functionality;
- organisation / service structures;
- sharing agreements; and
- training planning.

Project management is scalable depending on the scope of the project.

3. DESIGN

The Supplier shall develop a configuration of hosting servers designed to provide access to the Software.

4. IMPLEMENTATION

The Supplier and the Customer shall co-operate in implementing the Services in accordance with the deployment, implementation and training provisions of the Project Plan.

5. TRAINING

In accordance with the implementation and roll out provisions of the Project Plan, training will be provided by the Supplier using a variety of learning methods as agreed with the Customer in Schedule 1. Training will be delivered in accordance with the Project Plan. The Supplier shall provide learning materials to the Customer to support training delivery allowing proper use, operation and management of the system.

6. ROLLOUT

The Supplier and the Customer shall co-operate in rolling out the Services to the Customer's Authorised Users in accordance with the roll-out provisions of the Project Plan.

Schedule 4 Hosting Services

1. **HOSTING SET-UP**

The set-up phase of the Hosting Services includes those services provided by the Supplier (or its sub-contractors) to support EMIS Web.

2. **INSTALLATION AND CONFIGURATION**

The Supplier shall install and configure the hosting equipment to provide access to the Software.

3. **FACILITY**

The dual data centre solution operates across two data centres that are over ten (10) miles apart and operate on independent electrical and fibre services. In the event of a primary site failure advice would be given to access the secondary site via the support desk.

The underlying infrastructure on which the software operates is built using a combination of virtual and physical servers across both sites.

4. **HSCN CONNECTIVITY**

Access to the Hosting Services is via HSCN connectivity.

The Customer shall make its own arrangements at its own cost for HSCN access in order to access the Hosting Service.

5. **MONITORING SERVICES**

The Supplier shall provide, twenty four (24) hours a day and seven (7) days a week, monitoring of the Service from either data centre.

6. **BACK-UP AND RECOVERY SERVICES**

The Supplier shall perform scheduled back-ups. If the Customer requests a data restore, the supplier will restore the most recent available back-up to the data centre. These requests cannot be made more than once in every three (3) months.

Schedule 5 Software Specification – EMIS WEB

1. The Software consists of the following components:

Core Module	Sub Module	Functions	EMIS Mobile Functions
Care Record	Care Record Summary	A condensed one page summary of key clinical events including EPR record sharing contributors; problems; medication; allergies; planned events; last four clinical contacts including clinician details, location and date; health status entries.	- A condensed one page summary of key clinical events including EPR record sharing contributors; problems; medication; allergies; planned events; last four clinical contacts including clinician details, location and date; health status entries. - View patient warnings - View any available shared data
	Consultations	- View all consultation/contact history and search/filter on various parameters including coded entries, date, user, job category and organisation. - Add new, edit and review consultations/contacts. - Add consultations/contacts for multiple problems. - View various decision support tools including Mentor/PILS. - Care record configuration for individual or organisation wide style and type settings. - Confidentiality policy settings.	- View last 1 year consultation/contact history. - View all shared consultations upon completing consent reasons. - Add new consultations including date/time, duration, consulter, consultation type, quick notes and templates. If enabled, care episode, RTT status, contact and subject.
	Medication	- View full patient prescribing history. - Add new acute/repeat/automatic medication. - Issue standard/private prescriptions.	- View full patient prescribing history - Add new acute/repeat/automatic medication

Core Module	Sub Module	Functions	EMIS Mobile Functions
		- Link medication to specific problems. - Review patient medication compliance. - Add adverse drug reactions and view clinical safety warnings - Use standard/individual user formulary. - Access the British National Formulary (BNF). - Create bespoke local mixtures.	
	Problems	- View all active, past, significant and minor problems. - Link problems to specific medication. - Group, combine and evolve problems and amend problem status. - Add reviews.	View all active, past, significant and minor problems
	Investigations	- View all values and laboratory reports for a patient. - Filter and search on results - Tabular and graphical trends.	- View all values and laboratory reports for a patient. - Tabular and graphical trends.
	Care History	Display all clinical events in chronological order including Non Value Data, Allergies, Health Status, Family History and Immunisations; a clinical event refers to data entered from any care record screen excluding medication.	Display all clinical events including Non Value Data, Allergies, Health Status, Family History and Immunisations; a clinical event refers to data entered from any care record screen excluding medication.
	Diary	Displays all active diary entries, planned events, tasks, outstanding test requests, appointments due, unfilled pathology reports.	Displays all active diary entries, planned events, and appointments due

Core Module	Sub Module	Functions	EMIS Mobile Functions
		Also includes all completed tasks, appointment history and completed test requested.	
	Documents	View, search and filter all attached documents.	View last 2 years documents.
	Referrals	- Allows the user to create and manage inbound and outbound referrals. - Displays all referrals recorded in a patient's care record with a detailed view including associated referral activity. - Direct access to Episode Management screen.	Displays all referrals recorded in a patient's care record.
	Care Plans	- Create, edit, review, and end Care Plans. - Agree "Goals" and "Targets" with patient. - Agree and assign "Actions" which help the patient achieve the end goals. - Allows the periodic "Review" of Care Plans to monitor progress and update the plan.	
	Care Plan Manager	- Add, draft, edit and delete Care Plan Masters and goals to aid in standardisation. - Configure outcomes and reasons which are then attached to Care Plans. - Import and Export Care Plan Masters.	
Summary Care Record (SCR) Viewer	SCR Viewer	View Summary Care Records held on the NHS spine	

Core Module	Sub Module	Functions	EMIS Mobile Functions
Workflow Manager	Workflow Manager	An electronic organiser for local document management; task management; pathology results.	
Appointment s	Appointment Book	- View, book and cancel appointments/visits. - Configure the appointment book/visit lists at both organisation and user level. - Manage multiple staff appointment books/visit lists for multiple clinic types. - Add scheduled patient appointments via the Assignment List to named clinicians' diaries. If the organisation offers speciality services an appointment 'schedule' can be generated for patients who need regular repeat appointment (e.g. twice a week for the next six weeks) - The patient schedules for each day are then combined into an assignment list which can be used to book the actual appointments into the appointment book.	- View and book appointments/visits. - View appointments allocated to your session - View patients location on a map (if maps are enabled on the device) - Message/voice call in iOS platform only if patient details exist - View and book patient appointment schedules
	Week Templates	- Create diary and weekly templates for regular appointments/visit lists to store for future use. - Session types include 'timed sessions' defined duration, 'untimed sessions' allocated sequentially, 'list sessions' allocated to different session holder), and 'non-clinical sessions' not divided into appointment slots, 'group session' when	

Core Module	Sub Module	Functions	EMIS Mobile Functions
		patient details do not need to be recorded.	
	Planner	- Schedule the organisation's sessions as far in advance as required. - Assign session and week templates to specific session holders' diaries.	•
	Holidays & Closures	Record staff holidays and organisation closures.	•
	Appointment Reporting	- Create and manage reports based on appointment activity including wait/consulting times, slot types, slot statuses, date parameters, session holders. - Report on past, present and future appointment book data.	•
Electronic Referral Service (ERS)	ERS Provider	- Upload appointment sessions to the spine to allow referring organisations to book directly via ERS on the NHS spine - Action appointments that are booked through Workflow Manager and assign to Patient Administration lists, if required	•
Registration	Registration	- Register new patients via Patient Trace if sharing agreement in place. - Amend registration details. - Record patient contacts including relationship to the patient and next of kin details.	- Search all patients registered with your organisation - Add unscheduled patients and records to your appointment book - View patient contacts including relationship to the patient and next of kin details.
	PDS	Personal Demographic Service (NHS Spine)	•

Core Module	Sub Module	Functions	EMIS Mobile Functions
		Trace and Retrieval service Search and register patient directly from the Spine	
	Carers	Adding and allocating carers to patients.	View patient carers
	Professional Contacts	Adding and allocating contact details of other professionals involved in the patients care	
Patient Administration	Patient Administration	- Enables an organisation to manage patients through the whole care process: from referral, to treatment, to discharge. - As a patient moves through the care process, they automatically move from list to list; services can use all or a selection of these lists, depending on their workflows. - There are a number of standard patient administration workflows available to suit different requirements.	
	Episode Management	- The Episode Management module has been developed to enable organisations to collect information to be used for the CSDS. - In accordance with the local Information Standards Notice (ISN) for CSDS, Episode Management captures the following key information: - Personal and Demographic - Service Referrals - Care Activities - Indirect Patient Activities	

Core Module	Sub Module	Functions	EMIS Mobile Functions
		○ Onward Referrals ○ Group Sessions ○ Non Patient Activities	
Bed Management	Bed Management	• Create a visualisation of a ward and assign patients to a bed with the following functionality: ○ Ward Creator ○ Ward View ○ Waiting List ○ Empty Bed Status • Transfer	•
Reporting	Population Reporting	• Enables users to create and run local searches and reports. • Create aggregate reports to compile statistical trends. • Features a library containing a selection of pre-defined searches and features. • Searches and reports can be scheduled to run on a user defined recurrence basis. • Reports can be exported to Excel, CSV and HTML.	•
	Enquiry Manager	• Creating reports based on local queries.	•
	FP34D Reports	• The standard report gathers information based on prescription issues of vaccines made through the patients' prescribing record. These reports can be run for a specific month.	•
	Batch Data Manager	• Assists users in adding clinical codes, running protocols and performing set calculations against a targeted group of patients identified within	•

Core Module	Sub Module	Functions	EMIS Mobile Functions
		a search population, on an admin list, or within an appointment list.	
Configuration	Organisation Configuration	Manages set up and configuration of the local EMIS Web organisation, users, role based access control (RBAC) including local role profiles, teams, locations and services.	
	Data Sharing Manager	- Allows the organisation to share and view data with other external organisations including patient demographics and/or specific care record modules, tasks, appointments, coded datasets and/or users assigned to specific job categories. - Electronic sharing agreements can be activated and deactivated locally from within this module. - A data sharing agreement can be created that only shares a patient's demographic information between participating organisations to streamline the registration process. The information shared contains names, Date of birth, Sex, NHS/CHI number, Address, Telephone numbers, Registered/Usual GP, Dispensing status, plus other additional demographics including Ethnicity. - Care record sharing allows organisations to share specific modules of clinical data from the care record module within EMIS Web i.e. Care Record Summary, Consultations,	

Core Module	Sub Module	Functions	EMIS Mobile Functions
		Medication, Problems, Investigations, History, Diary, Documents, Referrals, Care Plans. The sharing agreement can include a 'point of contact consent' indicator to record patient consent during a clinical contact. • A task sharing agreement allows users from one organisation to assign tasks to a team/user in a different organisation. • An appointment sharing agreement will allow users in an organisation to book appointments in another organisation. • Patients can opt out of global sharing at any time.	
	Confidentiality Policy Manager	• Restrict access to flagged data items for specific work groups of users. • Policies can be applied to patients' entire records or individual items/events within the records.	•
	Formulary Manager	• Create drug formularies for different kinds of users. • A formulary is a list of medication used to populate the preferential display, which serves as a guideline for the selection of medication when prescribing. • Formularies can be created using a blank formulary, using all generic preparations in the system, all preparations issued in the last 6 months or	•

Core Module	Sub Module	Functions	EMIS Mobile Functions
		based on a pre-existing formulary.	
	Template Manager	• Create, edit and maintain clinical templates, protocols and document templates. • Clinical templates are used to improve consistency and efficiency in data entry by guiding users through a pre-defined pro-forma. • Document or word templates work together with the integrated 'mail merge' functionality to populate standard documents and letters with clinical, activity and demographic data held within the EPR. • A protocol contains a series of decisions and actions allowing the system to automatically determine the outcome of the decision or to prompt users to select an answer. Protocols can be used to add data, medication, consultations, add referrals and add or cancel diary entries. They can also be used to book an appointment, launch a template, additional protocol or protocol alert and launch a document.	• Use mobile templates created in EMIS Web's template manager and add them to patient records.
	Concepts Manager	• Concepts are decision making tools that enable you to automate decision making processes. A concept is a named patient characteristic that is re-usable throughout a protocol or template. These are based on clinical codes, medication courses and issues, diary items and	•

Core Module	Sub Module	Functions	EMIS Mobile Functions
		based on existing concepts. Concepts are used in collections and rarely operate on their own. A collection is a list of concepts that can be used by a protocol (or other application components) to make a decision.	
System Tools	Scanning and Documents	- Scan documents or images and save them in EMIS Web. - Attach documents to medical records and code or annotate the document. - Link documents to problems or referrals. - Find past documents stored in the system.	•
	Audit Trails	- Audits user activity within patient records by event, date and action. - Users cannot edit or delete audit trail entries and so provide useful information for data integrity, governance and training. - System audits can be run to monitor non patient specific events eg. Editing templates, modified appointment sessions etc.	•
	Prescription printing	- Reprint one or more prescriptions – reprint any prescriptions that have been issued in the last 24 hours. - Print stored prescriptions – print all recently stored prescriptions. You can print all for a particular user or you can print selected prescriptions.	•

Core Module	Sub Module	Functions	EMIS Mobile Functions
		Print prescriptions for an automatic prescription group – print all prescriptions assigned to a particular prescription group; for example, all prescriptions assigned to a particular nursing home.	
	Patient Archive	Management of archived patients.	
	EMAS Manager	The EMIS Web Messaging Application Services can be activated if an organisation wishes to receive managed referrals, activate Partner API, activate inbound documents, external pathology results etc.	
	Non-Patient Data Transfer	Allows current LV/PCS organisations to transfer existing clinical templates, appointment data and schedules to EMIS Web prior to EMIS Web go-live.	
External Links	Mentor Online	Reference site and knowledge base containing clinical resources and guidelines, PILs, and DILs.	
	Patient UK	Patient.info is one of the most trusted medical resources in the UK, supplying evidence based information on a wide range of medical and health topics to patients and health professionals.	
Mobile only functionality	EMIS Mobile		Continue to use the applications whilst offline and synchronise entered data once the device has internet access.

Core Module	Sub Module	Functions	EMIS Mobile Functions
			Pending items can be edited or deleted.
Patient Tracking	Patient Tracking	- Supports healthcare services delivering unscheduled care. - Allows healthcare professionals to track and manage the delivery of care for patients.	
Manchester Triage	Manchester Triage	- Optum authored licensed content supporting the use of Manchester Triage acuity assessment. - Manchester Triage to provide training on the methodology.	

Schedule 6 Service Levels - Maintenance and Support

1. TRAINING

The Supplier shall provide Training to such number of the Authorised Users as are specified in, and are otherwise in accordance with, the Project Plan.

2. MAINTENANCE EVENTS

- 2.1 Save in the case of emergency, maintenance of the hosting equipment, facility, Software or other aspects of the Hosting Services that may require interruption of the Hosting Services ("**Maintenance Events**") shall not be performed during Support Hours, except in the scenario where 24hr Support Hours have been selected by the Customer and this is therefore unavoidable. The Supplier may interrupt the Services to perform scheduled maintenance outside Support Hours, or otherwise as necessary should the Customer have selected 24hr Support Hours. The Supplier may also interrupt the Hosting Services at any time for emergency maintenance. Any Maintenance Events which occur during Support Hours, save where 24hr Support Hours have been selected by the Customer, shall be considered downtime for the purpose of service availability measurement. The Supplier shall at all times endeavour to keep any service interruptions to a minimum.
- 2.2 The Supplier will agree a 1 hour monthly maintenance window for the maintenance of the Hosted Service (including firmware, service packs and WSUS updates). This excludes patching of EMIS Web Software and its peripheral services. Patching of EMIS Web updates will be carried out as necessary and this will be agreed in advance with the Customer via agreed operational change processes.

3. MAINTENANCE

- 3.1 Maintenance includes all regularly scheduled error corrections, software updates and those upgrades limited to improvements to features described in the Software Specification or otherwise deemed by the Supplier to be necessary or advantageous.
- 3.2 The Supplier shall maintain and update the Software and the App from time to time. Should the Customer, acting reasonably, consider that the Software or the App includes a defect, the Customer will file an error report with the Supplier detailing the same. During maintenance periods, the Supplier may, at its discretion, upgrade versions, install error corrections and apply patches to the hosted systems. The Supplier shall use its reasonable endeavours to avoid unscheduled downtime for Software or App maintenance.
- 3.3 All changes to the live environment will follow the agreed internal change processes; the Supplier will communicate to the Customer any changes which require a service outage.
- 3.4 Software Upgrades:
- (a) The Customer acknowledges that it is important that the Software is upgraded with the latest software upgrade or patch where appropriate. The Supplier will make relevant upgrades or patches (e.g service packs, firmware, bug fixes etc.) available to the Customer from time to time.
 - (b) The Supplier will provide the Customer with release notes for the upgrade or patch in advance of the update.
 - (c) Mandatory MKB (drug and code) updates must be promptly accepted and implemented by the Customer.

- (d) Patching of EMIS Web software will be carried out as necessary. Patching notifications will be sent to the Customer in advance of patching taking place.

4. SUPPORT SERVICES

- 4.1 The Supplier shall provide the Customer with support services. Authorised Users and Customer personnel named in paragraph 2.1 of Schedule 2 (together, the **CSRs**) shall be authorised to contact the Supplier to request support services. The Supplier shall provide support services to that specified set of CSRs. The Supplier shall make available Supplier support consultants (**SSCs**). The SSCs shall handle support calls from the CSR's so as to maintain continuity of knowledge of the Customer's account history.
- 4.2 The Supplier shall issue customer database numbers to the CSRs, which will allow those CSRs to access Supplier support. The Supplier's support function shall accept voicemail, e-mail and web form-based incident submittal (from CSRs with valid Customer database numbers) twenty four (24) hours a day, seven (7) days a week. The Supplier's support call centre shall accept calls for (English language) telephone support during Support Hours and days as defined below and agreed in Schedule 1 ("**Support Hours**"):

Standard Support Hours:

- (a) 7.30am to 7pm Local UK time each Monday to Friday
 - (b) 8am to 1pm Local UK time each Saturday
 - (c) 8am to 4pm Local UK time each Bank Holiday
- 4.3 All incidents reported to the Supplier's support function will be logged during Support Hours.
- 4.4 The Supplier's support function will use its reasonable efforts to resolve each incident, in accordance with the relevant target resolution time as described in this Schedule related to the relevant severity level for that incident. The target resolution time counter will only run during the Support Hours. Incidents will be closed once resolved, or where a suitable work around has been provided. The target resolution time counter will also be paused should one of the following situations occur: (i) the minimum data set required to diagnose the issue is not available; (ii) the Customer's end user is unavailable and attempts have been made on more than two (2) occasions to make contact; or (iii) there is no acceptable remote access to the affected system.
- 4.5 The Supplier's support function will determine the severity of any reported defect, applying the following criteria:

Severity	Description	Target Resolution Time (measured during Support Hours only)
Severity 1	EMIS Web Service is unavailable for all users	Four (4) hours
Severity 2	Individual EMIS Web service unavailable	Eight (8) hours
Severity 3	Core/Clinical module failure	Fifty (50) hours
Severity 4	Non-core module failure	One hundred and twenty (120) hours

Severity 5	Faults of a cosmetic nature or which are otherwise not material	Potential future release if the Supplier accepts that a fault exists.
-----------------------	---	---

- 4.6 In respect of each Severity 1 or Severity 2 incident the Supplier shall follow its 'Major Incident Process', which details the internal operating procedures undertaken to bring together the resources necessary to resolve the relevant incident. The Supplier shall provide regular updates and it shall notify the Customer once the relevant incident has been resolved. The Supplier shall create a report detailing the findings of a root cause investigation into the relevant incident which will be made available to the Customer (upon request) within 10 Business Days.

5. SERVICE AVAILABILITY

The Supplier shall provide at least 99.5% or uptime service availability level during Support Hours. This availability refers to client software being able to connect to the software from the Supplier's NHS N3 data centre access point. It does not include the external NHS N3 network as the Customer is responsible for its own NHS N3 access.

The Supplier is currently working with NHS Digital on the transition from NHS N3 to HSCN. However, the design of the networks permits connectivity between NHS N3 and HSCN networks. If the Supplier hosts a service in their N3 data centres it will be accessible from both NHS N3 and HSCN connected organisations. Once the Supplier has an HSCN connection, then hosted service will again be accessible from both NHS N3 and HSCN connected organisations.

Service availability shall be represented as a percentage, calculated as follows:

$$\frac{\text{Number of hours in the month} - \text{Severity 1 failure time in Support Hours}}{\text{Number of hours in the month}} \times 100$$

Availability measurement begins on the first day of each calendar month.

Availability does not include Maintenance Events as permitted by paragraph 2.1 of Schedule 6. Availability also excludes Customer caused or third party caused outages or disruptions attributable in whole or in part to force majeure events within the meaning of clause 15.



CONFIDENTIAL

Schedule 7 Sites

The Sites are as follows:

Name of Site	Site Address	Patient Tracking
[INSERT]	[INSERT]	[Y/N]
[INSERT]	[INSERT]	[Y/N]
[INSERT]	[INSERT]	[Y/N]
[INSERT]	[INSERT]	[Y/N]
[INSERT]	[INSERT]	[Y/N]
[INSERT]	[INSERT]	[Y/N]
[INSERT]	[INSERT]	[Y/N]
[INSERT]	[INSERT]	[Y/N]
[INSERT]	[INSERT]	[Y/N]
[INSERT]	[INSERT]	[Y/N]

Schedule 8 Processing, Personal Data and Data Subjects

1. Processing by the Supplier
 - 1.1 Subject matter of the processing: the solution is a hosted flexible electronic patient record system which enables users to create, view and edit a patient's care record.
 - 1.2 Nature: such processing as is necessary to enable the Supplier to provide the services and solutions provided for under this agreement (which may include, from time to time: collecting, recording, organising, structuring, storing, adapting and altering, retrieving, consulting, using, disclosing by transmission, dissemination or otherwise making available, combining, restricting access to, erasing or destroying of data). Data captured by each user is hosted by or on behalf of the Supplier. The data is made available to the user through an HSCN/N3 facing client.
 - 1.3 Purpose of processing: for the purposes of delivering the services and meeting other obligations specified in this agreement.
 - 1.4 Duration of the processing: for the term of this agreement (together with the delivery of any post-termination obligations including any back-up copies of data created through the delivery of the relevant services).
2. Types of Personal Data: the solution enables users to record demographic information including (without limitation) name, address, date of birth, gender, religion, phone numbers, previous family name, next of kin, marital status, children, usual GP, Hospital Number, NHS Number, CHI Number, GHA Number, medical records including any scanned images, x-rays, pathology reports or documents.
3. Categories of Data Subject: patients, members of the patient's family, system users both clinical and non-clinical staff (including those of associated entities or third party suppliers).



Schedule 9 Contract Milestones and High Level Plan

Table 1 Milestones

Milestone No	Milestone	Milestone Details	Target Date	Value

Table 1 above sets out the target milestone dates in respect of the first year of this agreement by which the Supplier will achieve the relevant milestones (and the payments which are associated with the achievement of each milestone detailed above). The Supplier may invoice the Customer in respect of the relevant Fees due on the milestone dates set out above (save that where the delivery of a milestone is delayed due to some act or omission on the part of the Customer then the Supplier may issue the relevant invoice on the date specified above (notwithstanding that the target milestone date for delivery will nevertheless be revised on an equitable basis to reflect the delay)).

Table 2 High Level Plan
