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**DATED 1<sup>st</sup> August 2021**

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**(1) Pinnacle Systems Management Limited**

**(2) NHS Midlands and Lancashire CSU**

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**SERVICE LEVEL AGREEMENT**

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**THIS AGREEMENT** is made the day of 1<sup>st</sup> August 2021

**BETWEEN:**

- (1) Pinnacle Systems Management Limited, a company registered in England under number 09286851 whose registered office is at Fulford Grange Micklefield Lane, Rawdon, Leeds, England LS19 6BA (“the Service Provider”); and
- (2) NHS Midlands and Lancashire CSU, Heron House, 120 Grove Road, Stoke-on-Trent, Staffordshire ST4 4LX (“the Service Commissioner”)

**WHEREAS:**

- (1) The Service Provider is engaged in the business of providing services in relation to the provision of web-based clinical record and service management system and has reasonable skill, knowledge, qualifications and experience in that field.
- (2) The Service Commissioner wishes to engage the Service Provider to provide the Services detailed in Schedule 1, subject to, and in accordance with, the terms and conditions of this Agreement.
- (3) The Service Provider has agreed to accept such engagement and shall provide the Services to the Service Commissioner, subject to, and in accordance with, the terms and conditions of this Agreement.
- (4) This agreement is intended to be a Data Processing Agreement, for the purposes of the General Data Protection Regulation 2016 (GDPR) and the Data Protection Act 2018, between the Service Commissioner as a data controller, and the Service Provider as a data processor.

**IT IS AGREED** as follows:

**1. Definitions and Interpretation**

- 1.1. In this Agreement, unless the context otherwise requires, the following expressions have the following meanings:

<b>“Adequate Procedures”</b>	means adequate procedures, as referred to in section 7(2) of the Bribery Act 2010, and any guidance issued by the Secretary of State under section 9 of the Bribery Act 2010;
<b>“Affiliate”</b>	means any person, company, partnership or other entity which directly or indirectly controls or is controlled by a Party and any company of which it is a member and any partnership of a partner;
<b>“Agreement Review”</b>	means a review of this Agreement which shall be conducted in accordance with Clause 8 at the intervals specified in that Clause;
<b>“Anti-Corruption Legislation”</b>	means the Bribery Act 2010 and any other applicable laws and regulations prohibiting public or commercial bribery,

	extortion, kickbacks or other unlawful or improper means of conducting business;
<b>“Associated Persons”</b>	means in relation to a company, a person (including an employee, agent or subsidiary) who performs services for or on that company’s behalf;
<b>“Business Day”</b>	means any day (other than Saturday or Sunday) on which ordinary banks are open for their full range of normal business in the area provided for;
<b>“Commencement Date”</b>	means the date on which this Agreement comes into force pursuant to Clause 2 below;
<b>“Confidential Information”</b>	means, in relation to any Party, information which is disclosed to that Party by a Party pursuant to or in connection with this Agreement (whether orally or in writing or any other medium, and whether or not the information is expressly stated to be confidential or marked as such);
<b>“The System”, “PharmOutcomes” and “Outcomes4Health”</b>	means the system detailed at Schedule 1;
<b>“Data Controller”, “Data Processor”, “processing” and Data Subject</b>	shall have the same meaning as the General Data Protection Regulation (GDPR) (Regulation (EU) 2016/679), and the Data Protection Act 2018  In the case of PharmOutcomes/Outcomes4Health these are: Service Commissioner – Data Controller; Pinnacle Systems Management – Data Processor; Clinical Service Providers – Data Controller and Data Processor.
<b>“Data Protection Legislation”</b>	means the General Data Protection Regulation (GDPR) (Regulation (EU) 2016/679), and the Data Protection Act 2018, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2010 (SI2000/2699), the Electronic Communications Data Protection Directive 2002/58/EC and subsequent amendments, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable laws and regulations relating to processing of personal data and privacy including, where applicable, the guidance and codes of practice issued by the Information Commissioner;

<b>“Fees”</b>	means the fees payable by the Service Commissioner to the Service Provider in accordance with Clause 6 and Schedule 2;
<b>“ICO”</b>	means the Information Commissioner’s Office
<b>“Intellectual Property Rights”</b>	means any and all patents, rights in inventions, rights in designs, trademarks, trade and business names and all associated goodwill, rights to sue for passing-off or for unfair competition, copyright, moral rights and related rights, rights in databases, topography rights, domain names, rights in information (including know-how and trade secrets) and all other similar or equivalent rights (subsisting now or in the future) in any part of the world, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights for their full term;
<b>“Law”</b>	means any applicable law, statute, bye-law, regulation, order, regulatory policy, guidance or industry code, rule of court or directives or requirements of any regulatory body or delegated subordinate legislation or notice of any regulatory body;
<b>“Location”</b>	shall mean the locations detailed at Schedule 1;
<b>“Modifications”</b>	means any update to The System which correct faults issued by the Service Provider in its sole discretion from time to time but which does not add functionality or otherwise amend or upgrade The System;
<b>“Performance Report”</b>	means a report detailing the performance of the Services in relation to the Service Levels, prepared in accordance with the provisions of Schedule 3;
<b>“Personal Data”</b>	shall have the meaning set out in the GDPR, and the Data Protection Act 2018
<b>“Security Measures”</b>	means the security measures set out in Clause 29.
<b>“Services”</b>	means the provision of The System to the Service Commissioner during the Term, as described in Schedule 1, in accordance with the terms and conditions of this Agreement;
<b>“Service Levels”</b>	means the agreed levels to which the Service Provider’s performance in providing the Service must adhere as set out Schedule 3;
<b>“Service Commissioner Data”</b>	all data or information, in whatever form (including images, still and moving, and sound recordings) from the Service Commissioner;
<b>“Service Provider’s Representative”</b>	means the nominated individual who shall be responsible for liaising with the Service Commissioner’s Representative in

accordance with Clause 8, or such other person who the Service Provider may from time to time nominate;

**“Service Provider’s Management Representative”** means the nominated individual who shall be responsible for liaising with the Service Commissioners’ Management Representative in accordance with Clause 8, or such other person who the Service Provider may from time to time nominate;

**“Service Provider’s Performance Representative”** means the nominated individual who shall be responsible for the monitoring of the provision of the Services in accordance with the Service Levels under Clause 9, or such other person who the Service Provider may from time to time nominate;

**“System Users”** means the users of The System recording service provisions.

**“Term”** means the term of this Agreement as set out in Clause 2.

1.2. Unless the context otherwise requires, each reference in this Agreement to:

1.2.1. “writing” includes a reference to any communication effected by electronic or facsimile transmission or helpdesk support ticket;

1.2.2. a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;

1.2.3. “this Agreement” is a reference to this Agreement and each of the Schedules as amended or supplemented at the relevant time;

1.2.4. a Schedule is a schedule to this Agreement; and

1.2.5. a Clause or paragraph is a reference to a Clause of this Agreement (other than the Schedules) or a paragraph of the relevant Schedule.

1.2.6. a "Party" or the "Parties" refer to the parties to this Agreement.

1.3. The headings used in this Agreement are for convenience only and shall have no effect upon the interpretation of this Agreement.

1.4. Words denoting the singular shall include the plural and vice versa, words denoting a gender shall include all genders and words denoting persons shall include corporations and all other legal entities.

## **2. Term of Agreement**

2.1. This Agreement shall come into force on the agreed Commencement Date shown in Schedule 2 and shall continue in force from that date for an initial term listed in Schedule 2, subject to the provisions of Clauses 8 and 12.

2.2. Subject to the Agreement Review provisions of Clause 8, the Term of this Agreement may be renewed (any renewal period shall thereafter be defined as part of the Term).

## **3. Service Provider’s Obligations**

3.1. The Service Provider shall provide the Services to the Service Commissioner in accordance

with the provisions of Clause 7, and in accordance with the required Service Levels set out in Schedule 3.

- 3.2. The Service Provider shall perform its obligations under this Agreement in a reasonable and timely manner in accordance with the provisions of this Agreement and shall exercise proper professional skill, care and diligence in the performance of the Services.
- 3.3. The Service Provider shall provide the Service Commissioner with such information and advice in connection with the Services and the provision thereof as the Service Commissioner may, from time to time, reasonably require both before and during the provision of the Services.
- 3.4. The Service Provider shall use its reasonable endeavours to keep the Service Commissioner informed of any special requirements (including, but not limited to, legislative requirements) applicable to the rendering of the Services. To the extent necessary and appropriate, the Service Provider shall take steps as soon as reasonably possible to comply with any such requirements. These steps shall not otherwise alter this Agreement in any way, subject to each Party's right under sub-Clause 8.4 to request a meeting to review such changes.
- 3.5. Subject to its obligations to comply with the Service Levels, the Service Provider shall use reasonable endeavours to ensure that the Services shall be uninterrupted or error-free. During the Term of this Agreement, the Service Commissioner shall promptly notify the Service Provider in writing in the event that there is a fault with The System (providing as much detail of the fault as possible) and the Service Provider shall act in accordance with clause 3.2 to try to resolve that fault. The Service Provider may provide any Modifications that it deems appropriate to fix that fault to the Service Commissioner at no additional cost to the Service Commissioner.

#### **4. Exclusivity**

- 4.1. During the Term of this Agreement neither Party nor any of its Affiliates shall induce solicit or entice, or endeavour to induce, solicit or entice away from the other Party or employ any person who at any time during the Term is employed by the other Party or who is a consultant to the other Party and with whom the first Party has come into contact as a result of this Agreement or this Project. If a Party is in breach of this clause 4.1 then, without limiting any other right or remedy which the other Party may have pursuant to such breach, the Party in breach shall reimburse such other Party in respect of all charges, fees, costs and expenses reasonably paid by that Party to any recruitment agencies or other third parties in consideration of the provision by such agency or third party of recruitment services for the purpose of the recruitment of a replacement for the employee so enticed or solicited.
- 4.2. Nothing in this Agreement shall prevent the Service Commissioner from appointing or procuring the provision by a third party of any services the same as or similar to the Services.

#### **5. Service Commissioners' Obligations**

- 5.1. The Service Commissioner shall provide the Service Provider with such information in connection with the Services and the provision thereof as the Service Provider may, from time to time, reasonably require both before and during the provision of the Services.
- 5.2. The Service Commissioner shall perform their obligations under this Agreement in a reasonable and timely manner in accordance with the provisions of this Agreement.
- 5.3. The Service Commissioner shall use reasonable endeavours to keep the Service Provider

informed of any special requirements (including, but not limited to, legislative requirements) applicable to the rendering of the Services. To the extent necessary and appropriate, the Service Provider shall (as under sub-Clause 3.4) promptly take steps to comply with any such requirements. These steps shall not otherwise alter this Agreement in any way, subject to each Party's right under sub-Clause 8.4 to request a meeting to review such changes.

## **6. Fees, Payment and Records**

- 6.1. The Service Provider shall invoice the Service Commissioner for the amounts detailed under Licence Fees in Schedule 2 as consideration for the Services provided by the Service Provider and for the licence of The System in accordance with the terms and conditions of this Agreement.
  - 6.1.1. The Service Provider shall invoice the Service Commissioner in respect of any services as referred to in paragraphs 1 and 2 of Schedule 2 that it provides to the Service Commissioner (which services shall be carried out by the Service Provider with reasonable skill and care and in accordance with all good industry practice) following the proper provision of those services.
- 6.2. All payments required to be made pursuant to this Agreement by the Service Commissioner shall be made within thirty days of receipt of the relevant invoice in sterling in cleared funds to such bank in England as the Service Provider may from time to time nominate.
- 6.3. All Fees are exclusive of value added tax, which the Service Provider shall add to its invoices at the appropriate rate.
- 6.4. The Service Commissioner shall be entitled to set-off, withhold or deduct any liability of the Service Provider to the Service Commissioner against any liability of the Service Commissioner to the Service Provider, whether or not such liability is present or future, liquidated or unliquidated, and whether or not such liability arises under this Agreement.
- 6.5. Where any payment pursuant to this Agreement is required to be made on a day which is not a Business Day, it may be made on the next following Business Day.
- 6.6. If the Service Commissioner fails to pay on the due date any amount which is payable to the Service Provider pursuant to this Agreement then, without prejudice to and notwithstanding Clause 12.3, that amount shall bear interest from the due date until payment is made in full, both before and after any judgment, at a rate of 2% per annum over the Bank of England base rate from time to time in force.

## **7. Provision of the Services**

- 7.1. The Service Provider shall, throughout the Term, provide the Services to the Service Commissioner in accordance with the terms and conditions of this Agreement, including the Service Levels as specified in Schedule 3.
- 7.2. The Service Provider shall provide the Services only as specified in Schedule 1 unless otherwise agreed in writing by the Service Commissioner.
- 7.3. The Service Provider shall be responsible for ensuring that it complies with all statutes, regulations, byelaws, standards, codes of conduct and any other rules relevant to the provision of the Services.
- 7.4. The Service Provider shall use reasonable endeavours to ensure that the manner in which it provides the Services does not have any adverse effect on the name, reputation, image or business of the Service Commissioner.

## **8. Service and Agreement Monitoring**

- 8.1. The Service Commissioner and the Service Provider may arrange meetings between the Service Commissioners' Representative and the Service Provider's Representative from time to time by teleconference in order to discuss the provision of the Services in accordance with the Service Levels, where necessary.
- 8.2. The Service Commissioner and the Service Provider may arrange meetings by teleconference between the Service Commissioners' Management Representative and the Service Provider's Management Representative when required in order to discuss matters arising out of meetings held pursuant to sub-Clause 8.1 and any other matters including, but not limited to, those relating to the provision of the Services and the Service Levels.
- 8.3. No later than 3 months prior to the end of the current Term of this Agreement, the Service Commissioners' Management Representative and the Service Provider's Management Representative shall conduct an Agreement Review during which the continuance and renewal of this Agreement shall be determined. In the event that a renewal of the Agreement is agreed upon in writing and signed by all Parties, the provisions of sub-Clause 2.2 shall apply.
- 8.4. Notwithstanding the provisions of sub-Clause 8.2, in the event that changes to this Agreement are required due to circumstances including, but not limited to, legislative or regulatory change, any Party shall have the right to call for an immediate Agreement Review to discuss the necessary changes and action to be taken. Any changes agreed upon during such Agreement Reviews shall not be effective unless evidenced in writing and signed by the duly authorised representatives of the Service Commissioner and the Service Provider.

## **9. Performance Management and Monitoring**

For the purposes of monitoring and managing performance under this Agreement the Parties shall respectively appoint the Service Commissioners' Performance Representative and the Service Provider's Performance Representative (each a "Performance Representative" for the purposes of this Clause 9). It shall be the responsibility of the Performance Representatives to ensure that the Services are provided in accordance with the Service Levels and the terms and conditions of this Agreement.

## **10. Confidentiality**

- 10.1. Each Party undertakes that, except as provided by sub-Clause 10.2 or as authorised in writing by the disclosing Party, it shall, at all times during the continuance of this Agreement and after its termination:
  - 10.1.1. keep confidential all Confidential Information;
  - 10.1.2. not disclose any Confidential Information to any other person;
  - 10.1.3. not use any Confidential Information for any purpose other than as contemplated by and subject to the terms and conditions of this Agreement;
  - 10.1.4. not make any copies of, record in any way or part with possession of any Confidential Information; and
  - 10.1.5. ensure that none of its directors, partners, officers, employees, agents or advisers does any act which, if done by that Party, would be a breach of the provisions of sub-clauses 10.1.1 to 10.1.4 above.
- 10.2. Each Party may:



10.2.1. disclose any Confidential Information to:

- 10.2.1.1. any sub-contractor or supplier of that Party;
- 10.2.1.2. any governmental or other authority or regulatory body; or
- 10.2.1.3. any employee or officer of that Party or of any of the aforementioned persons, parties or bodies;

10.2.2. to such extent only as is necessary for the purposes contemplated by this Agreement, or as required by law, and in each case subject to that Party first informing the person, party or body in question that the Confidential Information is confidential and (except where the disclosure is to any such body as is mentioned in sub-Clause 10.2.1.2 above or any employee or officer of any such body) obtaining and submitting to the other Party a written undertaking from the person in question, as nearly as practicable in the terms of this Clause 10, to keep the Confidential Information confidential and to use it only for the purposes for which the disclosure is made;

10.2.3. such extent only where aggregated and anonymised information are used for the purposes of analysis, performance and good practice; and

10.2.4. use any Confidential Information for any purpose, or disclose it to any other person, to the extent only that it is at the date of this Agreement, or at any time after that date becomes, public knowledge through no fault of that Party, provided that in doing so that Party does not disclose any part of that Confidential Information which is not public knowledge.

10.3. The provisions of this Clause 10 shall continue in force in accordance with their terms, notwithstanding the termination of this Agreement for any reason.

## **11. Intellectual Property Rights**

11.1. No Intellectual Property Rights transfer from any Party to any other Party under this Agreement. Without limitation, the Service Provider retains ownership of any and all Intellectual Property Rights in The System and which may subsist in the provision of the Services as provided by the Service Provider.

11.2. In consideration of the Service Commissioners' payment of the Fees, the Service Provider grants to the Service Commissioner a non-exclusive, non-transferable licence to use The System at the Locations for data entry purposes during the Term and only in accordance with the terms and conditions of this Agreement;

11.3. The Service Commissioner shall retain ownership and Intellectual Property Rights in:

- 11.3.1. any Services developed on The System that the Service Commissioner inputs into The System during the Term; and
- 11.3.2. any outputs created under this Agreement from data inputted by the Service Commissioner.

11.4. The Service Provider warrants to the Service Commissioner that the use of The System by the Service Commissioner in accordance with the terms and conditions of this Agreement shall not infringe the rights of any third party.

## **12. Termination**

12.1. The Service Commissioner may terminate this Agreement by giving to the Service Provider not less than 30 days' written notice.

- 12.2. In the event that the Service Commissioner commits a material breach of any of the terms and conditions of this Agreement the following provisions shall apply:
  - 12.2.1. if the breach is capable of being remedied, the Service Provider shall give written notice to the Service Commissioner requiring the breach to be rectified;
  - 12.2.2. if the Service Commissioner fails to rectify a breach notified to it pursuant to clause 12.2.1 within 20 Business Days then the Service Provider may terminate this Agreement at its sole discretion; and
  - 12.2.3. if the breach is not capable of being remedied, the Service Provider may terminate this Agreement by issuing written notice with immediate effect.
- 12.3. In the event that the Service Provider commits any breach of any of the terms and conditions of this Agreement by failing to provide the Services to the required Service Levels or commit any other breach of this Agreement, the following provisions shall apply:
  - 12.3.1. if the breach is capable of being remedied, the Service Commissioner may give written notice to the Service Provider requiring the Service Provider to rectify the breach;
  - 12.3.2. if the Service Provider fails to rectify a breach notified to it pursuant to clause 12.3.1 within 20 Business Days then the Service Commissioner may terminate this Agreement at its sole discretion;
  - 12.3.3. if the breach is not capable of being remedied, the Service Commissioner may terminate this Agreement by issuing written notice with immediate effect.
- 12.4. The Service Commissioner may forthwith terminate this Agreement by giving written notice to the Service Provider if:
  - 12.4.1. an encumbrancer takes possession, or where the Service Provider is a company, a receiver is appointed, of any of the property or assets of the Service Provider;
  - 12.4.2. the Service Provider makes any voluntary arrangement with its creditors or, being a company, becomes subject to an administration order (within the meaning of the Insolvency Act 1986);
  - 12.4.3. the Service Provider, being an individual or firm, has a bankruptcy order made against it or, being a company, goes into liquidation (except for the purposes of bona fide amalgamation or re-construction and in such a manner that the company resulting therefrom effectively agrees to be bound by or assume the obligations imposed on the Service Provider under this Agreement);
  - 12.4.4. anything analogous to any of the foregoing under the law of any jurisdiction occurs in relation to the Service Provider; or
  - 12.4.5. the Service Provider ceases, or threatens to cease, to carry on business.
- 12.5. The Service Provider may forthwith terminate this Agreement by giving written notice to the Service Commissioner if:
  - 12.5.1. an encumbrancer takes possession or where a Service Commissioner is a company, a receiver is appointed, of any of the assets of that Service Commissioner;
  - 12.5.2. a Service Commissioner makes any voluntary arrangements with its creditors or, being a company, becomes subject to an administration order within the meaning of the Insolvency Act 1986;

- 12.5.3. a Service Commissioner goes into liquidation (except for the purposes of *bona fide* amalgamation or re-construction and in such a manner that the company therefrom effectively agrees to be bound by or assume the obligations imposed by the individual Service Commissioner under this Agreement;
- 12.5.4. anything analogous to any of the foregoing under the law of any jurisdiction occurs in relation to the Service Commissioner; or
- 12.5.5. the Service Commissioner ceases, or threatens to cease, to carry on business.
- 12.6. The Service Commissioner shall have the right to forthwith terminate this Agreement by giving written notice to the Service Provider in the event that the Service Provider fails:
  - 12.6.1. to meet the Daily Service Level for 20 consecutive Business Days;
  - 12.6.2. to meet the Monthly Service Level for any two months during the Term.
- 12.7. The Service Provider may terminate this Agreement forthwith by giving written notice to the Service Commissioner if any sum owing to the Service Provider by the Service Commissioner has not been paid within 30 days of the due date for payment, and the Service Provider has given at least 10 days' notice to the Service Commissioner of the breach and specifying the remedy, and the Service Commissioner has failed to remedy the breach within the required notice period. The right to terminate this Agreement given by this Clause 12 shall not prejudice any other right or remedy of any Party in respect of the breach concerned (if any) or any other breach.

### **13. Post-Termination**

- 13.1. Upon the termination of this Agreement for any reason:
  - 13.1.1. any sum owing by a Party to any other Party under any of the provisions of this Agreement shall become immediately due and payable;
  - 13.1.2. any rights or obligations to which any of the Parties to this Agreement may be entitled or be subject before its termination shall remain in full force and effect where they are expressly stated to survive such termination;
  - 13.1.3. termination shall not affect or prejudice any right to damages or other remedy which the terminating Party may have in respect of the event giving rise to the termination or any other right to damages or other remedy which either Party may have in respect of any breach of this Agreement which existed at or before the date of termination;
  - 13.1.4. subject as provided in this Clause 13, and except in respect of any accrued rights, none of the Parties shall be under any further obligation to the other save as the law shall allow;
  - 13.1.5. each Party shall return all documents, materials and items provided to it for the purposes of this Agreement to the Party that owns such documents, materials and/or items; and
  - 13.1.6. the Parties shall (except to the extent referred to in Clause 10) forthwith cease to use, either directly or indirectly, any Confidential Information, and shall forthwith return to the other Parties any documents in its possession or control which contain or record any Confidential Information except for one confidential copy which may be retained with the respective Party's confidential files to enable that Party to ensure that it complies with any ongoing obligation or as obligated by the operation of law.

- 13.2. Upon termination or expiry of this Agreement, the Service Commissioner shall be permitted to access and use any data collected on The System up to and including the date of expiry or termination of this Agreement and shall promptly (and at most within 90 days of termination or expiry) extract all required data from The System. Following such period, it may be deleted by the Service Provider in accordance with best industry practices and within the constraints of the requirements of the GDPR, and the Data Protection Act 2018.

#### **14. Liability**

- 14.1. The Service Provider shall indemnify and hold harmless the Service Commissioner, its sub-contractors, agents and employees from and against any and all claims, costs and liabilities howsoever arising and of whatsoever nature and whether in contract or in tort, including injury to or death of any person or persons or loss of or damage to any property suffered or incurred by the Service Commissioner arising out of or in respect of (1) actual or alleged infringement of a third party's intellectual property rights, (2) any breach by the Service Provider of its obligations under clause 10 of this Agreement, and (3) any breach of the Service Provider's obligations under clause 21 of this Agreement.
- 14.2. Except as expressly provided in this Agreement, the Service Provider and the Service Commissioner shall not be liable or responsible to the other in contract, tort or otherwise (including any liability for negligence) for:
- 14.2.1. any loss of revenue, business, contracts, anticipated savings or profits;
  - 14.2.2. any loss of use of facilities; or
  - 14.2.3. any special indirect or consequential loss howsoever arising.
- 14.3. For the purposes of sub-Clause 14.2.1 "anticipated savings" means any expense which a Party expects to avoid incurring or to incur in a lesser amount than would otherwise have been the case by reason of the use of the Services provided by the Service Provider under this Agreement.
- 14.4. Subject to clauses 14.2 and 14.5, the Service Commissioners' total aggregate liability to the Service Provider in respect of all causes of action arising out of or in connection with this Agreement whether for breach of contract, strict liability, tort (including negligence, misrepresentation or otherwise) shall not exceed a sum equivalent to the Fees.
- 14.5. Nothing in this Agreement shall limit or exclude any Party's liability for death or personal injury from its negligence, for fraud or fraudulent misrepresentation or for any other liability the exclusion or limitation of which is not permitted by English law.

#### **15. Force Majeure**

None of the Parties to this Agreement shall be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: power failure, Internet Service Provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the Party in question. Where such a Force Majeure event occurs for a period exceeding 60 days, then the Parties may terminate this Agreement by giving 7 Business Days' notice in writing.

#### **16. Nature of the Agreement**

- 16.1. This Agreement is personal to the Parties and no Party may assign, mortgage, or charge any of its rights hereunder, or sub-contract or otherwise delegate any of its obligations hereunder, except with the written consent of the other Party, such consent not to be

unreasonably withheld or delayed.

- 16.2. This Agreement contains the entire agreement between the Parties with respect to its subject matter and may not be modified except by an instrument in writing signed by the duly authorised representatives of the Parties.
- 16.3. Each Party acknowledges that, in entering into this Agreement, it does not rely on any representation, warranty or other provision except as expressly provided in this Agreement.
- 16.4. No failure or delay by a Party in exercising any of its rights under this Agreement shall be deemed to be a waiver of that right, and no waiver by a Party of a breach of any provision of this Agreement shall be deemed to be a waiver of any subsequent breach of the same or any other provision.
- 16.5. Subject to the provisions of Clause 11, at any time after the date hereof each of the Parties shall, at the request and cost of the other Party, execute or procure the execution of such documents and do or procure the doing of such acts and things as the Party so requiring may reasonably require for the purpose of giving to the Party so requiring the full benefit of all the provisions of this Agreement.
- 16.6. No term of this Agreement is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Agreement.

## **17. Severance**

The Parties agree that, in the event that one or more of the provisions of this Agreement is found to be unlawful, invalid or otherwise unenforceable, that those provisions shall be deemed severed from the remainder of this Agreement. The remainder of this Agreement shall be valid and enforceable.

## **18. Relationship of the Parties**

- 18.1. Nothing in this Agreement shall constitute, or be deemed to constitute, a partnership between the Parties or, except as expressly provided, shall it constitute, or be deemed to constitute an agency of any other Party for any purpose.
- 18.2. Subject to any express provisions to the contrary in this Agreement, a Party shall have no right or authority to, and shall not do any act, enter into any contract, make any representation, give any warranty, incur any liability, assume any obligation, whether express or implied, of any kind on behalf of any other Party or bind any other Party in any way.

## **19. Notices**

- 19.1. All notices under this Agreement shall be in writing and be deemed duly given if signed by, or on behalf of, a duly authorised officer of the Party giving the notice.
- 19.2. Notices shall be deemed to have been duly given:
  - 19.2.1. when delivered, if delivered by courier or other messenger (including registered mail) during normal business hours of the recipient; or
  - 19.2.2. when sent, if transmitted by facsimile and a successful transmission report is generated;
  - 19.2.3. when sent, if transmitted by email, when a read receipt is returned to the sender; or
  - 19.2.4. on the fifth business day following mailing, if mailed by national ordinary mail,

postage prepaid

when such notices are addressed to the most recent address, e-mail address, or facsimile number notified to the other Party.

## **20. Anti-Corruption**

- 20.1. Each Party acknowledges that the other Parties are committed to eliminating all risk of bribery and corruption in their business relationships.
- 20.2. Each Party acknowledges and agrees that the other Party shall not be under any obligation to carry out any action or make any omission under this Agreement to the extent that it reasonably believes it would be in breach of any Anti-Corruption Legislation.
- 20.3. Each Party acknowledges and agrees that neither it nor any third party has breached any Anti-Corruption Legislation in order for the other Party to enter into this Agreement.
- 20.4. Each Party warrants and undertakes that:
  - 20.4.1. it shall not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 or is otherwise contrary to any Anti-Corruption Legislation;
  - 20.4.2. it has, and shall maintain in place, Adequate Procedures designed to prevent any Associated Person from undertaking any conduct that would give rise to an offence under section 7 of the Bribery Act 2010;
  - 20.4.3. it, and each of its employees, directors, officers, subcontractors, agents and representatives that shall do anything on its behalf in relation to its obligations under this Agreement, has not taken, and shall not take, in the name of, for the account of or on behalf of any other Party, any actions in furtherance of (and it has not omitted to and shall not omit to take any action preventing): (i) an offer, payment, gift, promise to pay or give, or authorisation of the payment or giving of any money or anything else of value to any public official or to any other person or entity or (ii) the request for, agreement to or acceptance of any payment, gift, money or anything else of value, in each case, which constitutes a breach of any Anti-Corruption Legislation;
  - 20.4.4. it shall keep accurate and detailed books, accounts, and records on all business activity conducted pursuant to this Agreement; and
  - 20.4.5. from time to time, at the reasonable request of any other Party, it shall confirm in writing that it has complied with its undertakings under sub-clauses 20.4.1 to 20.4.4 above and shall provide access to such people and/or information reasonably requested by the other Party in support of such compliance.
- 20.5. Breach of any of the undertakings in this clause shall be deemed to be a material breach of this Agreement.
- 20.6. Where a Party reasonably believes that another Party is in breach of its obligations in sub-clause 20.4, upon request by such Party in writing (the "Requesting Party"), the other Party shall make available such people, books, accounts, records and other documentation relevant to its business activities conducted pursuant to this Agreement for an audit to be performed by a recognised independent firm of accountants (the "Auditor") designated by the Requesting Party to the extent relevant to that breach. The Auditor shall provide to the Requesting Party only information obtained from such review that relates to the possible breach. The costs of such audit shall be borne by the Requesting Party save where the Auditor confirms that the other Party is in breach of its obligations, in which case, the other Party shall bear all costs.

## **21. Data Protection**

- 21.1. The terms of this Agreement are to apply to all processing of Personal Data carried out for the Commissioner by the Service Provider and to all Personal Data held by the Service Provider in relation to all such processing whether such Personal Data is held at the date of the Agreement or received afterwards. The terms of this agreement supersede any other arrangement, understanding or agreement made between the parties at any time relating to protection of Personal Data.
- 21.2. The Service Provider has appointed a Data Protection Officer (DPO) who is a qualified GDPR Practitioner, who has sufficient authority to act independently and has been given the necessary resources and access to information to allow them to exercise their responsibilities. The DPO can be contacted via [dpo@phpartnership.com](mailto:dpo@phpartnership.com).
- 21.3. The Service Provider shall, to the extent that it processes any Personal Data in connection with this Agreement:
  - 21.3.1. act only on written instructions from the data controller responsible for inputting the personal data in relation to its processing of the Personal Data;
  - 21.3.2. in a manner consistent with Data Protection Legislation and with any guidance issued by the UK Information Commissioner, implement appropriate technical and organisational measures to safeguard the Data from unauthorised or unlawful Processing or accidental loss, destruction or damage, and that having regard to the state of technological development and the cost of implementing any measures, such measures shall ensure a level of security appropriate to the harm that might result from unauthorised or unlawful processing or accidental loss, destruction or damage and to the nature of the Data to be protected.
  - 21.3.3. in furtherance of its obligations under 21.3.2 above implement and maintain the Security Measures listed in Clause 29;
  - 21.3.4. not do or omit to do anything which causes the Service Provider to breach the Data Protection Legislation or any other law or contravene the terms of any registration, notification or authorisation of the Service Commissioner or any Service User that has provided any personal data under Data Protection Legislation;
  - 21.3.5. if so requested by the Data Controller, supply details of the technical and organisational systems in place to safeguard the security of Personal Data held and to prevent unauthorised access;
  - 21.3.6. take reasonable steps to ensure the reliability of all of its personnel (whether employees or contractors) that may have access to the personal data and to ensure that they are adequately trained in the good handling of personal data;
  - 21.3.7. ensure that each of its employees, agents and subcontractors are made aware of its obligations under this agreement with regard to the security and protection of the Personal Data and shall require that they enter into binding obligations with the Service Provider in order to maintain the levels of security and protection provided for in this agreement;
  - 21.3.8. not divulge Personal Data whether directly or indirectly to any person, firm or company or otherwise without the express prior written consent of the relevant Data Controller except to those of its employees, agents and subcontractors who are engaged in the Processing of the Data and are subject to the binding obligations referred to in clause 21.3.7 or except as may be required by any law or regulation;

- 21.3.9. treat Personal Data as the confidential information of the Service Commissioner or System User as appropriate;
  - 21.3.10. allow the Service Commissioner or its representatives reasonable access and assistance in order to ascertain compliance with the terms of this agreement;
  - 21.3.11. use and retain Personal Data provided by the Service Commissioner only for the purposes of fulfilling its obligations under this Agreement;
  - 21.3.12. not transfer Personal Data outside the United Kingdom without the prior written consent of the Service Commissioner (which consent may be given on such terms as the Service Commissioner may in their absolute discretion prescribe) and, where the Commissioner consents to such a transfer, to comply with the obligations of a Data Controller by providing an adequate level of protection to any Personal Data that is transferred and subsequently the restrictions imposed by the GDPR; and
  - 21.3.13. where consent has been granted pursuant to clause 21.3.12 personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.
- 21.4. The Service Commissioner grants the right to the Service Provider to engage a Sub – Processor without the Service Commissioner’s prior specific written authorisation provided that in each case:
- 21.4.1. the Sub-Processor meets the same standards and obligations as are imposed upon the Service Provider by this Agreement and which shall permit both the Service Provider and the Data Controller to enforce those obligations; and
  - 21.4.2. the Sub-Processor complies fully with its obligations under the Sub-Processing Agreement and the GDPR.
  - 21.4.3. In the event that a Sub-Processor fails to meet its obligations under any Sub-Processing Agreement, the Service Provider shall remain fully liable to the Data Controller for failing to meet its obligations under this Agreement.
- 21.5. The Service Provider shall comply at all times with the GDPR, and the Data Protection Act 2018 and shall not perform its obligations under this Agreement or any other agreement or arrangement with the Data Controller in such a way as to cause the Service Commissioner to breach any of its applicable obligations under the Legislation.
- 21.6. The Service Provider agrees to comply with any reasonable measures required by the Service Commissioner to ensure that its obligations under this Agreement are satisfactorily performed in accordance with all applicable legislation from time to time in force and any best practice guidance issued by the ICO.
- 21.7. The Service Provider shall assist the relevant Data Controller promptly with
- 21.7.1. all subject access requests which may be received from individuals whose personal data the Service Provider is processing for the relevant Data Controller.
  - 21.7.2. any complaint or request relating to the Data Controller’s obligations the GDPR and the Data Protection Act 2018.
- 21.8. The Service Provider shall notify the Data Controller immediately it becomes aware of:
- 21.8.1. any unauthorised or unlawful processing, loss of, or damage to or destruction of



any of the Personal Data; or

21.8.2. any advance in technology or methods of working which mean that the Service Provider should revise the security measures set out in Clause 29.

21.9. The Service Provider shall promptly amend, transfer or delete any personal data that it is processing for the relevant Data Controller if the relevant Data Controller by writing requires the Service Provider to do so.

21.10. The Service Provider shall notify the relevant Data Controller immediately of all communications the Service Provider receives from any person which suggests non-compliance with the GDPR and the Data Protection Act 2018 and the Service Provider shall not do anything or enter into any communication about it unless the relevant Data Controller expressly authorises the Service Provider to do so.

21.11. The service provider shall co-operate with supervisory authorities on request, including the ICO.

21.12. On reasonable prior notice the Service Provider shall permit persons authorised by the Service Commissioner to enter into any premises on which the Personal Data provided by the Service Commissioner to the Service Provider is processed and to inspect the Service Provider's relevant facilities, equipment, documents and electronic data relating to the processing of the Service Commissioner's Personal Data. The requirement to give notice shall not apply if the Data Controller believes that the Data Processor is in breach of any of its obligations under this Agreement.

21.13. The provisions of this Clause 21 shall apply during the continuance of the Contract and indefinitely after its expiry or termination.

## **22. Counterparts**

This Agreement may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

## **23. Publicity**

A Party shall obtain written approval from the other Party prior to making any press release or public statement or announcements concerning the provision of the Services or any ancillary matter, where the other party is named. Any such required announcement shall, in any event, be issued only after prior consultation with the other Parties as to its contents.

## **24. Law and Jurisdiction**

24.1. This Agreement (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of England and Wales.

24.2. Any dispute, controversy, proceedings or claim between the Parties relating to this Agreement (including any non-contractual matters and obligations arising therefrom or associated therewith) shall fall within the jurisdiction of the courts of England and Wales.

## **25. Anti-Discrimination**

25.1. The Service Provider shall not unlawfully discriminate within the meaning and scope of any law, enactment, order, or regulation relating to discrimination (whether in age, race, gender, religion, disability, sexual orientation or otherwise) in employment.

25.2. The Service Provider shall take all reasonable steps to secure the observance of clause

25.1 by all servants, employees or agents of the Service Provider and all suppliers and sub-contractors employed in performance of this agreement.

## **26. Freedom of Information**

- 26.1. Where the Service Commissioner is subject to the Freedom of Information Act 2000 (“the Act”), it may be required to disclose information forming part of the Agreement to anyone who makes a reasonable request as part of the Service Commissioner’s duties under the Act. It is acknowledged that the Service Commissioner has absolute discretion to apply or not to apply any exemptions under the Act.
- 26.2. The Service Provider shall assist and cooperate with the Service Commissioner (at the Service Provider’s reasonable expense) to enable the Service Commissioner to comply with the information disclosure requirements under the Act and in so doing shall comply with any timescale notified to it by the Service Commissioner.

## **27. Data Migration**

The Service Provider shall at no additional charge provide such reasonably requested assistance to the Service Commissioner in identifying validation criteria to facilitate successful migration of the Data identified by the Service Commissioner onto an external system.

## **28. Service Commissioner Data**

- 28.1. The Service Provider shall not store, copy, disclose, or use the Service Commissioner Data except as necessary for the performance by the Service Provider of its obligations under this Contract or as otherwise expressly authorised in writing by the Service Commissioner.
- 28.2. To the extent that Service Commissioner Data is held, the Service Provider shall supply that Service Commissioner Data to the Service Commissioner as requested by the Service Commissioner in the format requested.
- 28.3. The Service Provider shall take responsibility for preserving the integrity of Service Commissioner Data that it holds and preventing the corruption or loss of such Service Commissioner Data.
- 28.4. The Service Provider shall ensure that any system on which the Service Provider holds any Service Commissioner Data, including back-up data, is a secure system that complies with its security policy.
- 28.5. If at any time the Service Provider suspects or has reason to believe that Service Commissioner Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Service Provider shall notify the Service Commissioner immediately and inform the Service Commissioner of the remedial action the Service Provider proposes to take.

## **29. Security**

- 29.1. The following Security Measures shall be maintained by the Service Provider:
  - 29.1.1. The Service Provider shall ensure that in respect of all Personal Data it receives from or processes on behalf of the Data Controller it maintains security measures to a standard appropriate to:
    - 29.1.1.1. the harm that might result from unlawful or unauthorised processing or accidental loss, damage or destruction of the Personal Data; and
    - 29.1.1.2. the nature of the Personal Data
- 29.2. In particular the Service Provider shall:

- 29.2.1. have in place and comply with a security policy which:
  - 29.2.1.1. defines security needs based on a risk assessment;
  - 29.2.1.2. allocates responsibility for implementing the policy to a specific individual or members of a team;
  - 29.2.1.3. is disseminated to all relevant staff; and
  - 29.2.1.4. provides a mechanism for feedback and review.
- 29.2.2. ensure that The System is hosted in secure data centres;
- 29.2.3. ensure that The System is tested regularly to ensure that it continues to meet the requirements of Clause 29.1 and ISO27001 standards. Any changes to the hosting centre shall be to no lesser standard of security for The System than originally agreed and shall be notified in advance to the Service Commissioner unless the delay involved in doing so would compromise the security of The System;
- 29.2.4. ensure that appropriate security safeguards and virus protection are in place to protect the hardware and software which is used in processing the Personal Data in accordance with best industry practice;
- 29.2.5. prevent unauthorised access to Personal Data;
- 29.2.6. ensure its storage of Personal Data conforms with best industry practice such that the media on which Personal Data is recorded are stored in secure locations and access by personnel to Personal Data is strictly monitored and controlled;
- 29.2.7. have secure methods in place for the transfer of Personal Data whether in physical form or electronic form (for instance, by using encryption);
- 29.2.8. put password protection on computer systems on which Personal Data is stored and ensure that only authorised personnel are given details of the password;
- 29.2.9. take reasonable steps to ensure the reliability of employees or other individuals who have access to the Personal Data;
- 29.2.10. ensure that any employees or other individuals required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this agreement;
- 29.2.11. ensure that none of the employees or other individuals who have access to the Personal Data publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Data Controller;
- 29.2.12. have in place methods for detecting and dealing with breaches of security (including loss, damage or destruction of Personal Data) including:
  - 29.2.12.1. the ability to identify which individuals worked with specific Personal Data;
  - 29.2.12.2. having an appropriate procedure for backing up and storing back-ups separately from originals;
  - 29.2.12.3. notifying the Data Controller as soon as any security breach occurs;
- 29.2.13. have a secure procedure for backing up and storing back-ups separately from originals;
- 29.2.14. have a secure method of disposal of unwanted Personal Data including for

back-ups, disks and redundant equipment; and

- 29.2.15. adopt such organisational, operational and technological processes and procedures as are required to comply with the requirements of ISO27001:2013 as appropriate to the Services provided to the Data Controller.

29.3. The Service Provider shall obtain and maintain the following security standards for the duration of this agreement:

29.3.1. The Data Security and Protection Toolkit;

29.3.2. Online Security Certificates with credible and recognised authority; and

29.3.3. System Infrastructure Management accredited to ISO27001:2013.

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**Multiple Services Licence**  
**SERVICE LEVEL AGREEMENT**

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**IN WITNESS WHEREOF** this Agreement has been duly executed the day and year first before written

**SIGNED by**



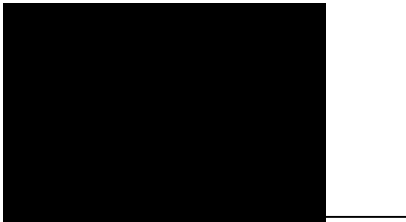
for and on behalf of **Pinnacle Systems Management Limited**



DATE: 1<sup>st</sup> August 2021

**SIGNED by**

for and on behalf of **NHS Midlands and Lancashire CSU**



DATE: 1<sup>st</sup> August 2021

Authorised signatory

## SCHEDULE 1

### Services

The System is a secure, web-based clinical and service management data collection and communications platform that allows patient facing entry of service information and special category personal data. Encryption levels and system design make The System suitable for recording and storing special category patient data and meets the requirements of Data Protection Regulations, including GDPR, and the Data Security and Protection Toolkit.

Service Data, Personal Data and Special Category Personal Data is collected about recipients of health and social care services directly or transferred from other healthcare providers to allow for provision and continuity of care. All data is processed and stored on secure servers to record patient/client interactions then stored for the appropriate retention period set under the current NHS guidelines Records Management Code of Practice for Health and Social Care or as otherwise directed by the Data Controller.

The system also allows the secure transfer of Patient/Client Identifiable Data to other healthcare providers using N3 or HSCN connections and secure NHS mail (e.g. [nhs.net](https://nhs.uk)).

Authorised service users are issued with a username, password and six lettered security code allowing access to The System via their own internet or N3/HSCN connection. All user logins, read accesses to patient records and all write accesses to any service record are recorded and fully auditable.

### Service Audit Entry and Reporting

The System collates entered data and generates outputs relevant to each hosted service to inform commissioners regarding service progress and engagement. All patient/client data which is marked as identifiable information is fully anonymised by The System before being shared for reporting. Output information for any hosted service is collected automatically as service providers engage with service users allowing real-time data monitoring. The System enables the easy collection, collation and display of relevant service information and effectively demonstrates outputs for each hosted service.

Any number of services can be centrally activated for a particular provider, once the provider has obtained relevant accreditation to deliver a service. These can likewise be centrally deactivated if appropriate.

For all services supported, the data captured at provider sites, when saved, is transposed into real time activity reports for commissioners to view on demand. The output of this data will reflect the general needs of a service commissioner. Outputs are generally in the form of csv files, graphs, tables, and bar charts and can be accessed by any authorised commissioner. Report outputs can be configured to show activity at single provider sites or across all providers as they engage with service delivery. As the outputs show data collected by all service providers as they engage with service delivery, these show a real-time display of service activity. This means that service outcomes, service engagement, and service progress can all be monitored in real time if required, and snapshot audit data can be collected to inform progress reports pertinent to each service hosted by The System. This is useful for commissioners to monitor service progress with levels of engagement and a degree of performance management by information provision can be simply delivered, supporting effective service delivery and thereby improving efficiency.

### Assessments

Where individual users or premises are required to reach certain standards, The System provides a mechanism for those teams to record progress towards achieving those standards using a Red-Amber-Green approach. That is, when a pharmacy satisfies a criterion, the assessment grid turns from red to green.

The assessment tool allows the development of an action plan and storage of evidence pertinent to

each criterion. Such assessment tools can be used by commissioners and providers to assess the readiness to provide services and to improve quality of delivery. Commissioners can view progress for each provider by looking at a separate report.

### **Communications**

The communications module allows authorised administrators (generally commissioners) to send secure messages to service providers. A message can be created and sent to single providers who are selected either individually or to groups of providers who are accredited to deliver who provide a particular service. The commissioner can also attach relevant support documents. The System generates read receipts for each provider allowing commissioners a view of message acknowledgement and requested action completed by providers. This allows the commissioner to see when these messages have been read by providers and also allows them to request an action to be notified back. This in turn allows the commissioner to receive notification from each pharmacy that requested actions have been completed with an audit of the date, time and user confirming this action. The read receipts are date and time stamped and also show details of the user making the declaration. Upon login, every service provider will see the message Inbox, as this appears as the home screen. The screen lists all system messages sent by authorised administrators in date order. Unread messages and those still requiring action are highlighted in colour to the providers.

### **Financial Management**

The System collates service activity in order to create a service claim or invoice on behalf of service users on a day of the month set by the commissioner. Funding may be attached to each provision or in respect to one or more answers or a combination of the same. The System allocates the taxable amounts and references, as dictated by the Service Commissioner to automatically generate a service claim for each provider in line with the funding definition.

### **Locations**

The System is made available to those service users within the geographic area of the Service Commissioner, limited by the total number of service users agreed within the Terms.

### **Support**

#### **Start of licence**

- Initial Design/Set Up of Services
- One on-site support day to train/work with Commissioners/Clinical Service Providers
- Mentoring of Launch Event

#### **Ongoing**

- 2 MasterClass Places at annual sessions (Subject to availability)
- Service Funding Set-Up
- Professional Services Check for Commissioner Built Services prior to going live
- HelpDesk Support with System Functionality and Training for Commissioners
- Technical support for licensed providers.

## Schedule 2

### Type of Licence

#### **Multiple Services Licence (Full PharmOutcomes Licence)**

This allows the Licence Holder to provide an unlimited number of services under this Service Level Agreement for the agreed number of Clinical Service Providers in the following commissioning area: -

- **Black Country & West Birmingham (BCWB) CCG:**
  - Wolverhampton
  - Dudley
  - Sandwell & West Birmingham

### Commencement Date of Agreement

1st August 2021

### Initial Term of Agreement

The initial term of this agreement is 8 months, ending on 31<sup>st</sup> March 2022.

Upon the mutual agreement of the parties, this Agreement may be renewed for successive one (1) year periods (up to a maximum of 3 years). This Agreement shall expire at the end of the Initial Term or any renewal thereof unless renewed by mutual consent of both parties.

### Licence Fees and Payment

An annual licence fee of **£10,872.00 + VAT for an eight-month term** [REDACTED]  
[REDACTED] for use of The System and services provided by the Service Provider as detailed in Schedule 1 subject to the terms and conditions of this Agreement.

Provider numbers may be increased at any point during the licence period at agreed rates on a pro-rata basis.

### Schedule of Payments

Licence fee due in full prior to commencement date.



## **Additional Service Payments Available Under This Agreement**

1. The Service Commissioner may, during the Term, request direct support to manage or develop services to provide additional functionality or upgrade The System that are not included as part of the Services and which will not benefit other Service Users. Any such additional services will be charged by the Service Provider [REDACTED] The Service Provider warrants that such work as agreed will be managed within the shortest time possible.

### **Technical Support Pack**

Three day technical support pack, [REDACTED] [REDACTED]  
[REDACTED]  
[REDACTED]

2. The Service Commissioner, may during the Term request assistance from the Service Provider in operating The System, including but not limited to the provision of training, management, service design or reporting services that are not included as part of the Services and require personal or remote attendance. [REDACTED]  
[REDACTED]

### **Consultancy Support Pack Options**

[REDACTED]  
[REDACTED]  
[REDACTED]

Any changes to these amounts after the Initial Term shall be agreed by the Parties acting reasonably.

### SCHEDULE 3

#### Service Levels

The core hours of business for the Service Provider are 08:30 to 18:00 on each Business Day.

The Service Provider undertakes to provide service availability for Service Users and Service Commissioners according to the following minimum standards, together known as the “Service Levels”:

1. a maximum unavailability of 2 hours of each Month during the Term (“Monthly Service Level”); and
2. a maximum unavailability of ½ hour on any one Business Day during the Term (“Daily Service Level”).

#### Response Times

Additional undertakings by the Service Provider regarding response times

Priority	Response Times
Initial Response to Service Commissioner requests by telephone or through the Messaging Service on the Help page of The System for support.	10 minutes
A Service Failure which, in the reasonable opinion of the Service Commissioner, constitutes a loss of The Service which prevents a large group of End Users from working, or has a critical impact on the activities of the Service Commissioner.	30 Minutes
A Service Failure which, in the reasonable opinion of the Service Commissioner, has the potential to have a major adverse impact on the activities of the Service Commissioner which can be reduced to a moderate adverse impact due to the availability of a contingency.	1 hour
A Service Failure which, in the reasonable opinion of the Service Commissioner, has the potential to have a minor adverse impact on the provision of The Service to End Users.	1 Business Day
A Service Failure comprising a flaw which is cosmetic and, as such, does not undermine the Service User's confidence in The Services.	5 Business Days

#### Planned Maintenance

The Service Provider shall provide a minimum of 5 Business Days’ notice of any planned maintenance to the Service Commissioner and all System Users which will disrupt The Service during the hours of 08:00 and 20:00 on any Business Day. The Service Provider shall use best endeavour to carry out any maintenance outside of these hours.

#### Performance Report

The Service Provider will provide information of system availability for the previous three calendar months when requested by the Service Commissioner.