

Appendix 1

National Microbiology Framework Agreement Order Form Reference C311195 Siemens Healthcare Diagnostics Ltd

FROM

Authority:	The Secretary of State for Health and Social Care as part of the Crown acting through the UK Health Security Agency 10 South Colonnade, London, E14 4PU (the "Authority").
Invoice address:	Post: UK Health Security Agency, 10 South Colonnade, London, E14 4PU Email: payables@ukhsa.gov.uk
Contract Manager:	Name: [REDACTED] E-mail: [REDACTED]
Secondary Contract Manager:	Name: [REDACTED] E-mail: [REDACTED]
Procurement lead	Name: [REDACTED] E-mail: [REDACTED]
Name and address for notices:	Name: [REDACTED] Email: [REDACTED] Address: UK Health Security Agency, 10 South Colonnade, London, E14 4PU
Internal reference (if applicable):	C311195

TO

Supplier:	Siemens Healthcare Diagnostics Ltd Company Number: 03050664 Registered Address: Park View, Watchmoor Park, Camberley, Surrey, GU15 3YL
Contract Manager:	Name: [REDACTED] Phone: [REDACTED] E-mail: [REDACTED]
Secondary Contact:	Name: [REDACTED] E-mail: [REDACTED]
Account Manager:	Name: [REDACTED] E-mail: [REDACTED]

Name and address for notices:	Park View, Watchmoor Park, Camberley, Surrey, GU15 3YL
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Applicable terms and conditions

The following terms and conditions are applicable to the Contract for this Order:

Appendix A	Call-off Terms and Conditions for the Supply of Goods and the Provision of Services	Applicable to this Contract										
Appendix B	Optional Additional Call-off Terms and Conditions for Installation and Commissioning Services	<input type="checkbox"/> (only applicable if this box is checked)										
Appendix C	Optional Additional Call-off Terms and Conditions for Maintenance Services	<input type="checkbox"/> (only applicable if this box is checked)										
Appendix D	Optional Additional Call-off Terms and Conditions for Bespoke Research, Development and Manufacturing Requirements	<input type="checkbox"/> (only applicable if this box is checked and to the extent the applicable terms are included in Annex A (Order Specific Key Provisions))										
Appendix E	Optional Additional Call-off Terms and Conditions for Reagent Rental	<input type="checkbox"/> (only applicable if this box is checked)										
Appendix F	Optional Additional Call-off Terms and Conditions for Managed Equipment Services	<input type="checkbox"/> (only applicable if this box is checked)										
Appendix G	Optional Additional Call-off Terms and Conditions for Clinical Laboratory Diagnostic Testing Services	<input type="checkbox"/> (only applicable if this box is checked and to the extent the applicable terms are included in Annex A (Order Specific Key Provisions))										
Appendix H	<div>Further Optional Additional Call-off Terms and Conditions</div> <div>Each of the following clauses in Appendix H is only applicable to this Contract if the relevant box is checked:</div> <table><tr><td>1. TUPE applies at the commencement of the provision of Services</td><td><input type="checkbox"/></td></tr><tr><td>2. TUPE on exit</td><td><input type="checkbox"/></td></tr><tr><td>3. Different levels and/or types of insurance</td><td><input type="checkbox"/></td></tr><tr><td>4. Induction training for Services</td><td><input type="checkbox"/></td></tr><tr><td>5. Further Authority obligations</td><td><input type="checkbox"/></td></tr></table>	1. TUPE applies at the commencement of the provision of Services	<input type="checkbox"/>	2. TUPE on exit	<input type="checkbox"/>	3. Different levels and/or types of insurance	<input type="checkbox"/>	4. Induction training for Services	<input type="checkbox"/>	5. Further Authority obligations	<input type="checkbox"/>	(only applicable if one or more boxes are checked)
1. TUPE applies at the commencement of the provision of Services	<input type="checkbox"/>											
2. TUPE on exit	<input type="checkbox"/>											
3. Different levels and/or types of insurance	<input type="checkbox"/>											
4. Induction training for Services	<input type="checkbox"/>											
5. Further Authority obligations	<input type="checkbox"/>											

6. Assignment of Intellectual Property Rights in deliverables, materials and outputs of the Services	<input type="checkbox"/>	
7. Inclusion of a Change Control Process	<input type="checkbox"/>	
8. Authority step-in rights	<input type="checkbox"/>	
9. Guarantee	<input type="checkbox"/>	
10. Termination for convenience (this applies only after the successful delivery, installation and payment of the Instruments)	x	
11. Pre-Acquisition Questionnaire	<input type="checkbox"/>	
12. Time of the essence (Goods)	x	
13. Time of the essence (Services)	x	
14. Specific time periods for inspection	<input type="checkbox"/>	
15. Specific time periods for rights and remedies under Clause 3.6 of Schedule 2 of Appendix A	<input type="checkbox"/>	
16. Right to terminate following a specified number of material breaches	<input type="checkbox"/>	
17. Expert Determination	<input type="checkbox"/>	
18. Consigned Goods	<input type="checkbox"/>	
19. Improving visibility of Sub-contract opportunities available to Small and Medium Size Enterprises and Voluntary, Community and Social Enterprises	<input type="checkbox"/>	
20. Management Charges and Information	<input type="checkbox"/>	
21. COVID-19 related enhanced business continuity provisions	<input type="checkbox"/>	
22. Buffer stock requirements	<input type="checkbox"/>	
23. Modern slavery	<input checked="" type="checkbox"/>	
The additional Order Specific Key Provisions set out at Annex A (Order Specific Key Provisions) to this Order Form shall also apply to this Contract.		<input type="checkbox"/> (only applicable if this box is checked)

1. CONTRACT DETAILS

(1.1) Commencement Date: Start date shall be on the date of the last person to sign this order form.

(1.2) Services Commencement Date (if applicable): Time is of the essence as to any critical timescales relating to the Services under this Contract and if the Supplier fails to meet any such critical timescales this shall be deemed to be a breach incapable of remedy for the purposes of Clause 15.4(i) of Schedule 2 of Appendix A. For the purposes of this Contract, a "critical timescale" shall be the delivery and installation of the Instruments which shall be no later than 31st March 2025 at which point funding for the purchase shall no longer be available.

The precise implementation plan shall be agreed by both parties which shall include key dates and actions, notwithstanding the delivery and installation of the Instruments can be no later than 31st March 2025.

(1.3) Contract Price ((i) breakdown and (ii) payment profile):

Subject to Annex A (Order Specific Key Provisions) – the total cost of the products and services that can be ordered under this contract shall be £857,834.37 ex VAT (eight hundred fifty seven thousand eight hundred thirty four pounds and thirty seven pence) for the initial contract term and in accordance with Clause 9.2.2 (i) of the National Microbiology agreed T&Cs shall be inclusive of delivery, installation, configuration or any other costs incurred for the goods and or services to be fit for use. The value of any subsequent extension will be commensurate with the value of the Initial Term and is subject to budget approval by the Authority.

For the avoidance of doubt, the Authority is not committed to pay the contract price as there is no volume commitment.

(1.4) Term of Contract: This contract shall be deemed to have commenced on the date of the last person to sign this order form.

The expiry date of the contract shall be on 14th November 2026

(1.5) Term extension options: Up to 24 months

The Contract may be extended for up to 24 months upon mutual agreement between the Authority and the Supplier. Notification of such extension will be advised by the Authority providing the Supplier with written notice no less than four (4) weeks prior to the date on which this Contract would otherwise have expired.

All other terms and conditions of the Contract shall apply throughout any such extended period.

2. GOODS AND/OR SERVICES REQUIREMENTS

(2.1) Description of the Goods and Services: The supplier shall provide the product which meets the specifications as set out in Annex A (Order Specific Key Provisions).

- Atellica Instruments including Atellica Sample Handler Prime, Atellica IM 1300 Analyzer and associated Accessories, Peripherals, Water unit, Software and Others
- Installation and Delivery
- Training - Atellica IM basic user training including a follow up Advanced training, with focus on troubleshooting. To take place over 3 days, conducted on site with the Atellica system prior to go live, covering up to 4 participants at a time.
- Associated reagents (CPT & CPT-I)
- Standards, Controls and Consumables
- Service and Maintenance following initial warranty period (which shall commence on delivery for a period of 12 months)

2.1.1 The Authority may, but is not obliged to, order, and the Supplier shall provide, the Goods and Services as set out in Annex A (Order Specific Key Provisions) to be delivered and used within UKHSA laboratories over the Term.

Ordering Procedure:

2.1.3 The Authority may, but shall not be obliged to, provide the Supplier with call off orders for the Goods and/or Services up to, but not exceeding the Contract Price.

2.1.4 Pricing shall be fixed until 31st March 2026, after which point an increase based on CPI shall be applicable.

(2.2) Premises and Location(s) at which the Goods / Services are to be delivered / provided:

2.2.1 The supplier shall deliver the goods to the Premises and Location(s) below and such other locations as the Authority specifies from time to time.

Clinical Microbiology and Public Health Laboratory
Level 6
Adambrookes Hospital
Hills road
Cambridge
CB2 0QQ

2.2.2 The Supplier shall ensure that all products are labelled with product description, part number, volume, batch number, expiry date, storage requirements and barcode.

2.2.3 All planned deliveries shall be pre-advised by the Supplier to the Authority's primary delivery contact stated below (individually or collectively be known as the "Delivery Contact") at least 48 hours prior to attendance:

2.2.4 Primary delivery contacts: Business Operational Contact per below -

2.2.5 The Supplier shall provide the following data when notifying the Delivery Contact:

- Supplier name
- Authority's Order Number
- Item reference, Supplier's part code, description and quantity
- Item / pallet / carton reference for multi-pallet / carton shipments; and

2.2.6 The Delivery Contact will confirm:

- Booking reference number;
- Date and time of service (where applicable); and
- Delivery address.

2.2.7 Delivery of the Goods and/or Services shall be considered to have occurred when the Delivery Contact or other authorised representative of the Authority at the Authority's nominated location has signed the delivery note.

- The Supplier shall ensure that all Goods are packaged suitably so as not to cause loss or damage during shipment to a Delivery Location;
- In the event that the Supplier is unable to deliver the agreed order in full, the Supplier shall inform the Authority of the actual number of Goods to be shipped prior to shipment, explaining the reasons for non-compliance with the agreed order and inform the Authority of when such missing Goods will be delivered. The Supplier shall, using its best endeavours, deliver such missing Goods at the earliest possible time;

(2.3) Key personnel of the Supplier to be involved in the Goods / Services:

Name: Ryan Sanders

Address: Siemens Healthcare Diagnostics Ltd, Park View, Watchmoor Park, Camberley, Surrey, GU15 3YL

Mobile: [REDACTED]

Email – [REDACTED]

(2.4) Performance standards:

- The Supplier shall ensure the Goods and/or Services conform and perform to the Specification as set out in Annex A (Order Specific Key Provisions), in compliance with ISO standards that apply.
- Where the Authority provides the Supplier with a call off order then the Supplier shall use its reasonable endeavors to fulfil such call off order in whole.
- The supplier warrants that any Goods and/or Services that are shown to fail this Specification within the expiry date required for the goods are, at the Authority's sole discretion, either replaced or full credit given.
- The Supplier will meet as set out in clause 2.6.1 with the Authority to resolve and discuss issues and usage of the items contained within the contract.
- The Supplier will inform the Authority of any changes to the items within the contract, and replacement of included items, and any newly released or commercialized items suitable for usage by UKHSA.
- The Supplier will deliver Goods in a timely fashion.
- The Supplier will provide proof of delivery of the Goods with each invoice.
- The Supplier will respond to communications from the Authority in a timely fashion.

(2.5) Quality standards:

- The supplier shall follow the quality standards as set out in the Annex A (Order Specific Key Provisions).

(2.6) Contract monitoring arrangements:

2.6.1 The Authority Contract Manager (or their delegate) and the Supplier Contract Manager shall meet as reasonably requested by the Authority) to discuss the Supplier's performance and other matters connected to the delivery of the Contract.

(2.7) Management information and meetings:

2.7.1 At the Authority's request, within five (5) Working Days of such request, the Supplier shall provide such management information to the Authority as the Authority may reasonably request from time to time (including without limit any information about the Supplier's supply chain and its compliance in relation to sustainability requirements).

2.7.2 On a quarterly basis the Supplier will provide an MI report that includes:

2.7.2.1 Quantity of delivery correct against the relevant Order as per Orders placed in accordance with Clause 2 of this Order Form;

2.7.2.2 Quality of delivery in accordance with this Contract, including delivery presentation (the delivery must be presented in such a way that it can be unloaded safely and in a ready for use condition taking into consideration this Contract's requirements) and condition of the Goods (the Goods must be in a condition that is new and ready to use).

2.7.2.3 Timely and accurate administration (including booking/amending delivery times and Orders and invoices, delivery advice notes and labels being in accordance with the requirements of this Contract).

3. CONFIDENTIAL INFORMATION (if applicable)

(3.1) The following information shall be deemed Confidential Information:

- Supplier pricing.
- Contact details including, but not limited to, email addresses, landline / mobile phone numbers, etc. of Supplier representatives.
- Contact details including, but not limited to, email addresses, landline / mobile phone numbers, etc. of Authority's representatives.

(3.2) Duration that the information shall be deemed Confidential Information:

N/A

4. DATA PROCESSING (if applicable)

(4.1) Personal Data to be processed by the Supplier:

In accordance with the Data Protection Protocol.

5. LEASE / LICENSE (if applicable)

(5.1) The Authority is granting the following lease or licence to the Supplier:

N/A

<div>Signed for and on behalf of the Supplier</div> <div><div><div></div><div>Signed by:</div><div></div></div></div> <div><div>Full Name:</div><div></div></div> <div><div>Job Title/Role:</div><div></div></div> <div><div>Date Signed:</div><div>19/12/2024</div></div>	<div>Signed for and on behalf of the Buyer acting on behalf of the Grower</div> <div><div><div></div><div>Signed by:</div><div></div></div></div> <div><div>Full Name:</div><div></div></div> <div><div>Job Title/Role:</div><div></div></div> <div><div>Date Signed:</div><div>20/12/2024</div></div>
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Annex A – Order Specific Key provisions

Quote Nr. CPQ-1150976 Rev. 2 Ed. 1 | Capital Purchase

Customer ID 9024827

Instruments:

[Atellica Sample Handler Prime, Atellica IM 1300 Analyzer]

The Reagents, Standards, Controls and Consumables costs are estimated and not binding. The Authority will be charged a fixed unit costs against the actual volume ordered.

The service costs contained in the overview shall represent an average over the two years. There is no service charge for year one due to the Atellica SH and Atellica IMs being covered by a 12-month warranty which initiates at go live of the systems. The Supplier's Terms and Conditions for Service as set out in Annex A and Maintenance Key Order Provisions shall apply from the commencement of the initial 12-month warranty period and continue through the subsequent 12-month Service and Maintenance term. In the event of any conflict between the Supplier's Terms and Conditions and this Agreement, the terms of this Agreement shall prevail.

Any orders placed for the products included in this pricing schedule shall quote the reference number indicated above and are raised against Siemens Healthcare Diagnostics Ltd. This will enable orders to be processed promptly.

All order documentation must be addressed to:

Customer Care Department
Siemens Healthcare Diagnostics Ltd
Park View
Watchmoor Park
Camberley
GU15 3YL
United Kingdom

Email: [REDACTED]

OVERVIEW

Section	Total/Year NET	24 months total NET
Instruments		
Reagents		
Standards, Controls and Consumables		
Accessories		
Service		
Additional Items		
Overview		
Total Net		

Capital Purchase as follows:
Atellica Solution(s) :

Product Nr.	Order code	Product Line *	Instrument Name	Qty	CP Net	Total CP Net
Atellica Solution 001						
11069001	11069001	Atellica Solution Components	Atellica Sample Handler Prime	1		
11066001	11066001	Atellica Immunoassay	Atellica IM 1300 Analyzer	2		
				Atellica Solution 001 - Subtotal		
				Atellica Instruments Total		

Accessories, Peripherals, Software & Other:

Product Nr.	Order code	Product Description	Related Instrument	Qty	CP Net	Total CP Net
11069020	11069020	Atellica Tablet	Atellica Sample Handler Prime	1		
11274742	11274742	ATELLICA MAGLINE SH PRIMARY KIT	Atellica Sample Handler Prime	1		
11274570	11274570	ATELLICA MAGLINE ANALYZER 1ST KIT	Atellica Sample Handler Prime	1		
11274572	11274572	ATELLICA MAGLINE ANALYZER ADD KIT	Atellica Sample Handler Prime	1		
11274574	11274574	ATELLICA MAGLINE END KIT	Atellica Sample Handler Prime	1		
11475621	11475621	KIT COVER TRACK END WH	Atellica Sample Handler Prime	1		

11469420	11469420	PRIMARY ACCESSORY MODULE KIT WH	Atellica Sample Handler Prime	1		
11475625	11475625	KIT COVER U-STANDARD IA WH	Atellica IM 1300 Analyzer	1		
Accessories, Peripherals, Software & Other Total]						

Services are as follows:

Services:

Service Level	Qty	Start	Duration	Period	CP Net	Svc Contract Total
AS SH TOP	1		2	1 DX Year		
AS IM1300 TOP	2		2	1 DX Year		
Service Total						

The following costs are included

Service Level	Qty	Cost
AS IM1300 1st Year STD WTY	2	
Service Total [UK Health Security Agency]		

Additional Items as follows:

Additional Items:

Description	Qty	Start	Duration	Period	Price Net	Total Contract Price Net
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Installation costs	1	1	1	Year	
Logistics	1	1	1	Year	
Training	1	1	1	Year	
Water unit	1	1	1	Year	
Additional Items Total					

Reagents (CPT & CPT-):

Atellica Immunoassay

Product Nr.	Order Code	Product Description	Expected Patient Results	No. of Tests	Pack Size	Qty	CP/ UOS	CP/ Test	Calculated Annual Total
10995527	10995527	CHIV (OUS) - Atellica IM - RGT - 100 Tests		1					
10995604	10995604	HBsII - Atellica IM - RGT - 200 Tests		1					
10995456	10995456	HCV Ab (aHCV) - Atellica IM - RGT - 200 Tests		1					
10995675	10995675	Syphilis - Atellica IM - RGT - 200 Tests		1					
10995444	10995444	HAV IgM Ab (aHAVM) - Atellica IM - RGT - 100 Tests		1					
11200739	11200739	HBcT2 - Atellica IM - RGT - 100 Tests		1					
10995670	10995670	Rubella IgG - Atellica IM - RGT - 100 Tests		1					
10733021	10733021	HBe Ab 2 - Atellica IM - RGT - 50 Tests		1					
10995600	10995600	HBeAg - Atellica IM - RGT - 50 Tests		1					
10995446	10995446	HAVT Ab (OUS) - Atellica IM - RGT - 100 Tests		1					

Reagents (CPT & CPT-) Total

Standards, Controls and Consumables (CPT): UK Health Security Agency

Product Nr.	Order Code	Product Description	Product Line *	Qty	CP/ UOS	CPT Budget Excess Price	Calculated Annual Total
10995457	10995457	aHCV QC KIT - Atellica IM - CTL - 2 x 2 x 7 ml	Atellica Immunoassay			-	
10995445	10995445	aHAVM QC KIT - Atellica IM - CTL - 2 x 2 x 7 ml	Atellica Immunoassay			-	
10995448	10995448	aHAVT (OUS) QC KIT - Atellica IM - CTL - 2 x 2 x 7 ml	Atellica Immunoassay			-	
10995458	10995458	APW1 2PK - Atellica IM - CONS - 2 x 25 ml	Atellica Immunoassay			-	
10995644	10995644	Multi-Diluent 2 2PK - Atellica IM - CONS - 2 x 10 ml	Atellica Immunoassay			-	
10995640	10995640	Multi-Diluent 10 2PK - Atellica IM - CONS - 2 x 5 mL	Atellica Immunoassay			-	
10995676	10995676	Syph QC KIT - Atellica IM - CTL - 2 x 2 x 7 ml	Atellica Immunoassay			-	
10995666	10995666	PW3 KIT - Atellica IM - CONS - 1 x 50 ml	Atellica Immunoassay			-	
10995671	10995671	Rub G QC KIT - Atellica IM - CTL - 3 x 2 x 2,7 ml	Atellica Immunoassay			-	
11069025	11069025	Atellica Supplemental Rack 55 Pos.	Atellica Solution Components			-	
11085685	11085685	O-ring - Atellica Solution - CONS - .14ID x 0.1W EPDM	Atellica Chemistry			-	
10995601	10995601	HBeAg (OUS) QC KIT - Atellica IM - CTL - 2 x 2 x 10 ml	Atellica Immunoassay			-	

10995605	10995605	HBsII QC KIT - Atellica IM - CTL - 2 x 2 x 10 ml	Atellica Immunoassay			-	
11098502	11098502	Cleaner - Atellica IM - CONS - 2 x 1.5L	Atellica Immunoassay			-	
11098501	11098501	Wash 1 - Atellica IM - CONS - 1 x 3000 ml	Atellica Immunoassay			-	
11200740	11200740	HBcT2 Ab - Atellica IM - CTL - QC kit	Atellica Immunoassay			-	
Product Nr.	Order Code	Product Description	Product Line *	Qty	CP/ UOS	CPT Budget Excess Price	Calculated Annual Total
11417930	11417930	Base - Atellica IM - CONS 2 x 1500 ml	Atellica Immunoassay			-	
11417929	11417929	Acid - Atellica IM - CONS 2 x 1500 ml	Atellica Immunoassay			-	
11473288	11473288	SUPPLEMENT PCM TRAY 15 POS SP STAT1	Atellica Solution Components			-	
11473287	11473287	SUPPLEMENT PCM TRAY 15 POS SP TUBE1	Atellica Solution Components			-	
11481335	11481335	Barcode labels - Atellica Solution Components - CONS -	Atellica Solution Components			-	
11473289	11473289	SUPPLEMENT PCM TRAY 55 POS SP TUBE1	Atellica Solution Components			-	
10309546	8044064	Cuvettes - CENTAUR - CONS - 3000 Pieces	Centaur			-	
10309547	10309547	Sample Tips - CENTAUR - CONS - 6480 Pieces	Centaur			-	
Standards, Controls and Consumables (CPT) Total							

National Microbiology Framework Schedule 7 - Ordering Procedure, Award Criteria and Order Form



STANDARD TERMS AND CONDITIONS OF MAINTENANCE

1. Definitions and Interpretation

1.1 In these terms and conditions the following expressions have the following meanings:

"Additional Services" means any services or other deliverables in addition to the Services which Siemens agrees to provide to the Customer for an Additional Fee;

"Additional Fee" means a charge for Additional Services calculated in accordance with Siemens then Current Rates for labour and material;

"Authorised Officer" means the person appointed by the Customer and notified in writing to Siemens to act as the representative of the Customer for all purposes connected with the Contract, or the authorised representative of such a person;

"Business Days" means Monday through to Friday (inclusive) excluding public holidays where the Equipment is located or where the Services are being performed;

"Commencement Date" means the commencement date of the Services as set out in the Performance Plan;

"Conditions" means these terms and conditions for the maintenance of equipment and software and includes any Schedules;

"Contract" means the contract between Siemens and the Customer comprising of the Conditions, Performance Plan and any document incorporated as expressly agreed in writing between the parties;

"Contract Holder" means the individual or organisation which has a direct contractual relationship with Siemens to receive the Services and which party is obliged to make payments under the Contract;

"Controller" has the meaning given to it by the Data Protection Legislation;

"Current Rates" means Siemens' hourly rates which are charged to the Customer for services not covered under these Conditions and the Performance Plan and which may be varied from time to time by Siemens at its discretion;

"Customer" means the individual or organisation which is specified in the Performance Plan and signatory to the Contract with Siemens

"Customer Care Centre" means the telephone support hotline provided by Siemens which the Customer can use to make requests for Services and Additional Services;

"Customer Maintenance Agreement" means a contract where First Line Services are carried out by the Customer;

"Customer IT Infrastructure" means all servers, workstations, Windows-based systems, devices (including mobile devices), IT infrastructure, networks, switches, routers, monitors, peripherals, storage arrays, software, applications, tools and other assets owned or controlled by the Customer which interface (directly or indirectly) with the Equipment;

"Data Protection Legislation" shall mean the Data Protection Act 2018, the UK GDPR; and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended; and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data and/or the GDPR (as applicable) and any other applicable laws and regulations relating to the processing and protection of Personal Data and the privacy of individuals including where applicable the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority, in each case (all as amended, substituted, updated or re-enacted from time to time) whether before or after the date of this Agreement) and which are applicable to a party;

"Equipment" means the medical equipment located at Site and listed in the Performance Plan which is subject to the Services and Additional Services;

"Fault" means a defect, error or other problem that occurs in the System subject to clause 4.1;

"First Line Service" means the level of maintenance services that could be undertaken by the Customer or its agents directly;

"Initial Term" means the period commencing on the Commencement Date and continuing for twelve (12) months unless agreed by the parties and/or stated otherwise in the Performance Plan;

"Maintenance Charge" means the fee charged by Siemens for performing the Services as set out in the Performance Plan (as may be adjusted from time to time in accordance with the Contract) exclusive of VAT;

"Maintenance Consumables" means items that are designed to be consumed or deteriorate during use and be replaced as a result of ordinary operation of the System as detailed in your Performance Plan..

"Maintenance Hours" means the hours of 08:00 to 18:00 Monday to Friday inclusive, excluding public holidays in England, Scotland and/or Wales;

"Performance Plan" means the performance plan document which sets out the specific details of the level of Services which Siemens has agreed to provide the Customer;

"Personal Data" has the meaning as set out in the Data Protection Legislation;

"Preventative Maintenance" means planned maintenance to the manufacturers' recommendations to include, where appropriate, inspection, performance testing, operational, mechanical, electrical, functional and safety checks and the replacement of Maintenance Consumables and lubrication;

"Processor" has the meaning given to it by the Data Protection Legislation;

"Safety Update" means the elimination of defects associated with a safety-related incident, preventative measures, or an incident subject to mandatory notification;

"Schedule" means any schedule to these Conditions;

"Services" means the maintenance services for the System that Siemens agrees to provide in accordance with the Performance Plan during the Maintenance Hours by way of remote services or by way of on-site attendance as set out in the Performance Plan which may include the inspection, performance testing, adjustment, operational, mechanical, electrical, functional and safety checking of the System and/or the replacement of Maintenance Consumables and lubrication and the repair of Faults;

"Siemens" means Siemens Healthcare Diagnostics Ltd a company registered in England and Wales under company registration number 03050664 having its registered address at Park View, Watchmoor Park, Camberley, Surrey, GU15 3YL, United Kingdom;

"Smart Remote Services" means, where Services provided remotely by Siemens to diagnose or troubleshoot or resolve a Fault without attending Site as agreed by Siemens to be included in the Performance Plan and provided in accordance with Schedule 5, if any.

"Site" means the site at which the System is located and which Siemens will attend for the purpose of carrying out the Services as specified in the Performance Plan;

"Software" means any software owned by or supplied by Siemens to the Customer for use in or in connection with the System and includes as applicable:

National Microbiology Framework Schedule 7 - Ordering Procedure, Award Criteria and Order Form



- (a) the machine-executable object code version of the software;
- (b) any microcode (firmware) embedded in the System;
- (c) any related user documentation;
- (d) any adaption, copy, derivation, development, enhancement, improvement, modification, translation, Update or Upgrade of the Software;

"System" means the Equipment and Software located at the Site and described in the Performance Plan;

"System User" means the person(s) or organisation responsible for operating or using the System for clinical purposes;

"UK GDPR" means the General Data Protection Regulation, Regulation (EU) 2016/679, as it forms part of domestic law in the United Kingdom by virtue of section 3 of the European Union (Withdrawal) Act 2018 (including as further amended or modified by the laws of the United Kingdom or of a part of the United Kingdom from time to time);

"Update" means any Software or hardware supplied by Siemens which has been produced primarily to improve the operation of the System (including bug fixes and patches) without significantly improving the functionality or performance of the System;

"Upgrade" means any Software or hardware supplied by Siemens which has been produced primarily to extend, alter or improve the System by providing additional functionality or performance enhancements; and

1.2 For the purposes of interpretation and construction of these Conditions:

- 1.2.1 words importing one gender include all others;
- 1.2.2 words importing the singular or plural number include the plural and singular number respectively; the provisions and conditions contained in the schedules to this Conditions will have the same effect as if set out in the body of this Conditions;
- 1.2.3 headings and the table of contents are inserted for ease of reference only and do not affect the interpretation of this Conditions;
- 1.2.4 references to clauses or schedules are references to clauses or schedules to these Conditions unless expressly specified otherwise;
- 1.2.5 references to persons shall be deemed to include references to individuals, companies, corporations, firms, partnerships, joint ventures, associations, organisations, trusts, in each case whether or not having separate legal personality; and
- 1.2.6 references to a statute or statutory provision include that statute as amended, modified, re-enacted or replaced from time to time.

2. Application

2.1 For the avoidance of doubt the Conditions including the Schedules and the applicable Performance Plan together shall form the Contract between Siemens and the Customer. Any offer by Siemens or acceptance of a purchase order or quotation by the Customer shall be deemed to constitute an acceptance of an agreement to comply with these Conditions and the Performance Plan. The Conditions and Performance Plan (and any other document attached thereto as agreed by the parties) shall be in substitution for any other express or implied, written or oral terms, conditions, arrangements, customs or practices. All terms, conditions, arrangements, customs or practices as aforesaid conflicting with these Conditions and the Performance Plan are hereby excluded.

2.2 In consideration of the Customer's payment of the Maintenance Charge and any other sums due pursuant to the Conditions, Siemens shall provide the Services in relation to identified Systems in accordance with these Conditions and the Performance Plan.

3. Maintenance Services

3.1 Siemens shall provide the Services detailed in the Performance Plan, subject to any revisions as issued by the manufacturer or design or regulatory authority during the Initial Term

3.2 Unless otherwise agreed between the parties, Siemens will provide the Services during the Maintenance Hours only. The Customer acknowledges and agrees that if the Customer requests Siemens to provide the Services outside of the Maintenance Hours, Siemens will charge an Additional Fee to the Customer at its discretion.

3.3 Siemens shall use reasonable endeavours to provide the Services promptly having regard to the availability of personnel, necessary supplies and facilities and commitments to other customers but any dates quoted for commencement or completion of the Services are estimates only.

3.4 Siemens shall notify the Customer of any System it finds that it deems, in its reasonable opinion, to be beyond economic repair and such System shall be excluded from the Contract.

3.5 If at any time the Customer does not have continuous Services coverage from Siemens but wishes to return to receive such Services from Siemens, Siemens shall carry out an inspection of all Systems that the Services shall be provided for and shall also carry out any works Siemens reasonably deems necessary to bring the System back into compliance with its original specification (as far as is reasonably possible given the age of the System). This inspection and any follow up works shall be charged to the Customer at Siemens' then Current Rates.

3.6 The Customer warrants to Siemens that:

- 3.6.1 the Customer has disclosed to Siemens all applicable warranties, guarantees, manufacturer's recommendations, software licenses and service histories in the relation to the System; and
- 3.6.2 the Customer has maintained the System and rectified any damage or malfunction in the System in accordance with the manufacturer's recommendations and statutory requirements and so far as the Customer is aware, the System complies with all statutory requirements in relation to health and safety and its technical specifications.

4. Exclusion from Services

4.1 The Maintenance Charge does not include the provision of the Services in respect of any Fault (except for fair wear and tear):

- 4.1.1 resulting from accidental or wilful damage to the System;
- 4.1.2 resulting from any misuse or improper or incorrect use of the System or use not in accordance with the documentation provided with the System or operator error;
- 4.1.3 resulting from any modifications to the System made by any person other than an authorised representative of Siemens;
- 4.1.4 attributable to using the System in conjunction with any System or Software that has not been approved by Siemens as being compatible or is not detailed in the System specifications as being compatible;
- 4.1.5 resulting from the failure of Customer to apply or implement any Updates provided or made available by Siemens (or a Software vendor, Siemens' affiliate or Siemens' subcontractor).

4.2 If Siemens undertakes any work for the Customer as part of the Services and it is found out that the Fault is excluded from the Services pursuant to clause 4.1 Siemens shall invoice the Customer an Additional Fee for any work carried out.

National Microbiology Framework Schedule 7 - Ordering Procedure, Award Criteria and Order Form



4.3 In the event that the Customer requests that Siemens provides the Services in relation to one of the items included in clause 4.1 and Siemens agrees to do so, Siemens shall charge the Customer an Additional Fee for any work carried out.

4.4 In the event that Siemens undertakes work that is a result of a virus or other malicious code being introduced to the Software of the System and such virus was not introduced by Siemens, then such work shall be chargeable at an Additional Fee.

4.5 In the event that Siemens offers a Software Update and the Customer does not arrange a time for the Update to be implemented or cancels any arranged appointment, then Siemens reserves the right to charge for any work it is subsequently required as a result of the Update not being installed or implemented, at an Additional Fee.

4.6 For certain Systems in respect of which the Customer will be notified by Siemens, due to the age of the System: (i) for the hardware elements of such System, Siemens will reasonably endeavour to continue to provide the Services. (ii) for Software for such System. Siemens may not be providing further Software support and Smart Remote Services connectivity where the System has not been upgraded to Windows 10 operating system and/or such upgrade is not possible for the System. The Customer is referred to clauses 5 and 15 of these Conditions and acknowledges its obligations and liabilities in respect of network and cybersecurity for the Customer IT infrastructure and any third-party software and hardware other than the Software or Equipment.

5. Customer Obligations

5.1 The Customer must inform Siemens promptly, in accordance with clause 5.2, if the System is not operating correctly or has a Fault.

5.2 The Customer must notify the Customer Care Centre as detailed in Schedule 6.

5.3 The Customer shall provide Siemens with access to the Site where the System is located for the purpose of carrying out the Services in accordance with the Conditions.

5.4 The Customer shall make the relevant System available to Siemens on the agreed date, for the purpose of carrying out the Services in accordance with the Conditions.

5.5 The Customer shall make available an area that is sufficient for Siemens to carry out the Services on the relevant System.

5.6 The Customer shall make available at the Site for use by Siemens for the purposes of the Services such supplies of gas, electricity, water, air and any other item as specified by Siemens in order to perform the Services.

5.7 In the event that the Customer wishes to change the agreed date for Siemens to attend Site to carry out the Services, the Customer must provide Siemens with at least one (1) Business Day notice of any change. If such notice is not provided Siemens may, at its discretion, charge the Customer a cancellation fee (to be determined by Siemens).

5.8 In the event that the Customer wishes to change the agreed date for Siemens to attend Site to carry out the Additional Services then the Customer must provide Siemens with at least four (4) Business Day notice of any change. If such notice is not provided Siemens may, at its discretion, charge the Customer a cancellation fee (to be determined by Siemens).

5.9 The Customer shall at all times keep the System in the environmental conditions specified in Siemens' data sheets, manuals and installation drawings, including but not limited to:

5.9.1 Room temperature and/or humidity within specified limits,

5.9.2 Ventilation fully operational.

5.9.3 Chilled water temperature, quality and volumes are within specified limits.

5.9.4 Supplied services, in particular mains power is available and within specified limits.

5.9.5 Lighting within specified limits.

5.10 The System shall at all times be kept in a clean condition and a clean environment.

5.11 The System must be made clean and safe with regard to any biological hazards (including cleaning of biological fluids) by the Customer prior to Siemens carrying out any work.

5.12 The Customer shall ensure that the System and Software is only operated in accordance with the manufacturers operating instructions and guidelines by competent and fully trained employees or persons under their supervision.

5.13 The Customer shall not alter, adapt or modify the System in any way other than with the prior written consent of Siemens.

5.14 The Customer shall not permit any other party to carry out any Services work on the System during the term of the Contract, other than where there is a Customer Maintenance Agreement agreed between Siemens and the Customer.

5.15 The Customer shall ensure that its employees, officers and agents, co-operate to a reasonable extent with Siemens personnel in the diagnosis, investigation and correction of any Fault in the System.

5.16 The Customer shall ensure connectivity for Smart Remote Services via a secure broadband internet connection, equivalent to N3 in the NHS.

5.17 Where the System is provided with Smart Remote Services and the Customer does not allow its connection the Customer may be liable (at Siemens' discretion) for up to a 25% surcharge to the Maintenance Charge. Smart Remote Services will meet with the industry standard security requirements and evidence of such will be provided to the Customer on reasonable request. Siemens shall be authorised to modify such security requirements as long as this does not compromise the implementation of the Smart Remote Services.

5.18 The Customer shall immediately inform Siemens if it reasonably believes that any work carried out by Siemens pursuant to this Contract does not comply with the Contract, including the Performance Plan.

5.19 Customer hereby agrees to permit Siemens to carry out any Safety Update and to allow Siemens access to the System to carry out the Safety Update.

5.20 The Customer hereby agrees that it shall permit Siemens access to the System for the purpose of carrying out the Safety Update within five (5) Business Days from the date Siemens first request access.

5.21 In the event the Customer does not permit Siemens access to carry out the Safety Update in accordance with clauses 5.19, 5.20 or does not permit Siemens to carry out the Safety Update then:

5.21.1 the warranties given hereunder would be null and void in relation to the System to which the Safety Update relates; and

5.21.2 to the fullest extent permitted by law Siemens excludes its liability to the Customer (whether in contract, tort or otherwise) in relation to the System to which the Safety Update relates; and

5.21.3 the Customer hereby agrees to indemnify Siemens against any loss, costs, expenses, damages or claims, whether actual or threatened, incurred by Siemens and related directly or indirectly to the System to which the Safety Update relates; and

National Microbiology Framework Schedule 7 - Ordering Procedure, Award Criteria and Order Form



5.21.4 Siemens may, at its complete discretion, elect to immediately terminate the Contract without liability.

5.22 The Customer shall be solely responsible for the system data backup as appropriate. In the event the Customer has failed to backup data as appropriate and as a result data is lost, Siemens shall in no event be liable for such loss of data howsoever caused.

5.23 The Customer shall inform Siemens in writing in the event any System is taken out of use, scrapped, sold, moved or de-installed. In the event the System is taken out of use, scrapped, sold, moved or de-installed the Customer shall, to the extent it is permitted by law, inform Siemens of the details of the purchaser including name and address.

5.24 The Customer shall ensure that all staff complete the appropriate PEP Connect training modules made available by Siemens prior to the Commencement Date in relation to the System(s) as specified in the Performance Plan.

5.25 The Customer shall ensure that all reasonable instructions, guidance or rules provided by Siemens and notified or otherwise provided to the Customer relating to the proper use of any aspect of the System, including but not limited to recommendations for routine maintenance of, and operation of, any System are followed and that maintenance is carried out by trained staff in accordance with the most recent relevant item of equipment's manufacturer's operating manual. Any failure by the customer to comply with Siemens' instructions or provided materials is excluded from the Performance Plan. Any additional work required to be performed by Siemens as result of such failure shall be subject always to payment by the Customer of an Additional Fee.

5.26 Upon noticing a fault with the System the Customer shall without undue delay utilise all supporting tools and/or self-diagnostic tools made available by Siemens to commence analysis of the fault. Where the Customer's analysis determines that the System has failed or is malfunctioning, it shall notify Siemens immediately.

5.27 The Customer shall in addition comply with the obligations set out in Schedule 2 in relation to the Services provided to the System.

6. Quality of Services

6.1 The Services shall be performed by Siemens authorised personnel only.

6.2 The Services shall be carried out in accordance with the Contract.

6.3 The Services shall be carried out by competent persons using reasonable care and skill.

6.4 Whilst on Site Siemens shall comply with and shall procure that its employees, officers and agents shall comply with any reasonable instruction given by the Customer in relation to safety on Site.

6.5 Siemens shall produce a service report on every visit made to Site for the purpose of carrying out Services under the Contract. This report shall be provided to the Customer, by e-mail at the request of the Customer's Authorised Officer. In instances where the System is unavailable, the report shall include a statement stating that the System should have been serviced, but that Siemens was unable to service the System.

6.6 Subject to clause 6.7 Siemens is unable to guarantee the supply of replacement parts for Systems older than seven (7) years. With regards to Systems with computer related components (for example laptops, towers, graphics cards), Siemens is unable to guarantee the supply of the computer components that are older than three (3) years and supply will be subject to the parts availability from any third party supplier.

6.7 Where Siemens is unsuccessful in sourcing a replacement part and the System becomes unusable or is beyond economic repair (as

determined by Siemens) the Performance Plan for the System concerned will be terminated and a pro rata credit made for the remaining period of its prepaid Contract.

6.8 Not Used.

6.9 The parties agree that all spare parts relating to the System and if held on Site shall remain at all times the property of Siemens and replaced parts exchanged for new spare parts by them during the subsistence of this agreement shall become the absolute property of Siemens and may be disposed of as Siemens thinks fit.

7. Term and Termination

7.1 The Contract shall begin on the Commencement Date and shall continue for an initial period set out in Siemens' quotation to the Customer and if no such period is set out in the aforementioned the initial period shall be 12 months ("Initial Term").

7.2 In the event that the Customer wishes the Services to continue beyond the Initial Term, the Customer shall notify Siemens in writing no later than three (3) months prior to the expiry of the Initial Term, that it wishes to extend the Contract for a further twelve (12) month period (or longer as set out in the notice), to commence at the expiry of the Initial Term ("Extended Term"). Siemens shall respond in writing to the Customer within one (1) month from receiving the request. Siemens may also include details of any increase in the Maintenance Charge within its response. This clause shall apply mutatis mutandis in the event the Customer wishes to extend the Extended Term once or multiple times.

7.3 During the Initial Term or during any Extended Term either party shall have the right, without prejudice to its other rights or remedies, to terminate the Contract immediately by written notice to the other if the other:

7.3.1 commits a material or persistent breach of the Contract and such breach, if capable of remedy, is not remedied within ten (10) Business Days of being notified in writing by the other party of the breach; or

7.3.2 is unable to pay its debts (within the meaning of section 123 of the Insolvency Act 1986); or becomes insolvent; or is subject to an order or a resolution for its liquidation, administration, winding-up or dissolution (otherwise than for the purposes of a solvent amalgamation or reconstruction); or has an administrative or other receiver, manager, trustee, liquidator, administrator or similar officer appointed over all or any substantial part of its assets; or enters into or proposes any composition or arrangement with its creditors generally; or is subject to any analogous event or proceeding in any applicable jurisdiction.

7.4 In the event the Contract is terminated or expires then the licence for any Software provided by Siemens shall also terminate. If the Customer wishes to continue to use the Software it shall have to purchase a new licence from Siemens.

7.5 Subject to clause 8.12 in the event the Customer wishes to terminate the Contract during the Initial Term, it may do so subject to giving Siemens three (3) months' notice in writing.

7.6 Subject to clause 8.12 in the event the Customer wishes to terminate the Contract during the Extended Term it may do so subject to giving Siemens three (3) months' notice in writing such notice not to be given prior to the Commencement of the Extended Term.

7.7 Subject to clause 8.12, upon termination of the Contract all Services shall cease with immediate effect and Siemens shall credit back to the Customer payment for any Services paid for but not delivered within 90 days of the date of termination. The Customer agrees that with effect from the date of termination Siemens shall have no obligation to provide the Services (including but not limited to application support, Evolve upgrades, Preventative Maintenance and system upgrades). For the avoidance of doubt but subject to these Conditions, Siemens shall continue to provide free of charge safety

National Microbiology Framework Schedule 7 - Ordering Procedure, Award Criteria and Order Form



updates for the stipulated lifecycle of the System provided always that access to the System is facilitated by the Customer in the manner required by Siemens.

8. Performance Plan Charges and Payment

8.1 The Customer shall pay to Siemens the Maintenance Charge on the Commencement Date. In the event that the Contract term is extended in accordance with these Conditions, subsequent Maintenance Charges shall be paid on the anniversary of the Commencement Date unless otherwise agreed in writing by Siemens.

8.2 The Customer shall pay any such invoices within thirty (30) days from the date of invoice. Payments in Pounds Sterling (£) only. All prices exclude V.A.T., which Siemens will add at the rate applicable at the date of order dispatch. V.A.T Number: GB636163443. A VAT exemption certificate should be provided with the purchase order where your establishment is VAT exempt.

8.3 Before the commencement of any Additional Services, which is not expressly covered by the Contract, the Customer shall provide Siemens with an authorised purchase order which references Siemens quotation for Additional Services.

8.4 In the event that Siemens attends Site on an agreed date to carry out the Services but either Siemens cannot gain access to the Site or the System is not made available to Siemens in accordance with the Conditions, or access to the Site or availability of the System is delayed by an unreasonable amount of time, Siemens shall charge (at its discretion) the Customer an Additional Fee.

8.5 All amounts payable under the Maintenance Contract shall be exclusive of value added tax (if any) which shall be paid at the rate and in the manner for the time being prescribed by law.

8.6 If the Customer fails to pay any amount due and payable by it under the Contract, it shall, in addition to such amount, be liable to pay to Siemens, interest (which shall accrue from day to day) on such overdue amount from the due date until the date of actual payment, at a rate of four (4) per cent per annum above the base rate from time to time of National Westminster Bank plc.

8.7 Any time spent in providing the Services outside of the Maintenance Hours shall be at the discretion of Siemens and shall be invoiced to the Customer as an Additional Fee.

8.8 If Siemens undertakes any work for the Customer as part of the Services and it is found out that the Fault is excluded from the Services pursuant to these Conditions Performance Plan, Siemens shall invoice the Customer an Additional Fee.

8.9 In the event that the Customer requests that Siemens provides the Services in relation to one of the excluded items detailed in these Conditions and Siemens agrees to do so, Siemens shall charge the Customer an Additional Fee.

8.10 In the event that Siemens carries out any work that has only become necessary or has become worse as a result of the Customer failing to comply with any of its obligations under these Conditions Siemens shall invoice the Customer an Additional Fee.

8.11 In the event that the Customer arranges for Siemens to provide Services or remedy Faults on multiple units but fails to make all units available on the agreed date of visit, Siemens may charge the Customer an Additional Fee for any subsequent visits that are then necessary to work on the units that were not made available.

8.12 Where

- (i) the Initial Term or Extended Term is multi-year but no longer than 5 years;
- (ii) the Maintenance Charge has been calculated using a discount on the basis the Contract continues in force throughout the Initial Term or the agreed Extended Term; and

- (iii) the Customer terminates the Contract without cause prior to the expiry of the Initial Term or the agreed Extended Term,

the Customer shall pay Siemens on demand: the difference between the Maintenance Charge and the non-discounted price the Customer would have had to pay had they not agreed to a fixed term Maintenance Contract for the Initial Term or the agreed Extended Term ("**Discount Rebate**").

8.13 Where

- (i) the Initial Term or Extended Term is multi-year but longer than 5 years;
- (ii) the Maintenance Charge has been calculated using a discount on the basis the Contract continues in force throughout the Initial Term or the agreed Extended Term; and
- (iii) the Customer terminates the Contract without cause prior to the expiry of the Initial Term or the agreed Extended Term,

the Customer shall pay Siemens on demand: the difference between the Maintenance Charge and the non-discounted price the Customer would have had to pay had they not agreed to a fixed term Maintenance Contract for the Initial Term or the agreed Extended Term ("**Discount Rebate**") provided the Discount Rebate shall in no event exceed 20% of the remaining Maintenance Charge payable for the remaining Initial Term or the agreed Extended Term (as applicable).

9 Ownership

9.1 The copyright and all other proprietary rights whatsoever in all materials developed under the Contract in connection with the Services shall, unless agreed otherwise in writing between the parties, be vested in and shall be the absolute property of Siemens. The Customer will do all such acts and things as Siemens requires for the purpose of giving effect to this clause.

10 Limitation of Liability

10.1 The Customer acknowledges that Siemens' obligations and liabilities in respect of the Services are exhaustively defined in the Contract. The Customer agrees that the express obligations of Siemens are in lieu of and to the exclusion of any warranty, condition, term, undertaking or representation of any kind, express or implied, statutory or otherwise relating to anything supplied or services provided under or in connection with the Contract including (without limitation) as to the condition, quality, performance, merchantability or fitness for purpose of the Services or any part of it.

10.2 Neither party may limit or exclude its liability to the other to the extent that it results from:

- 10.2.1 the negligence of Siemens and its employees or agents for death or injury;
- 10.2.2 loss caused by fraud or fraudulent misrepresentation; or
- 10.2.3 any loss which by law cannot be excluded or limited.

10.3 The Customer's liability in respect of indemnities provided under clause 16 (TUPE) shall be unlimited.

10.4 Subject to clauses 10.2, 10.3 and 10.5 each party's liability to the other in respect of:

- 10.4.1 physical damage to or loss of the other party's tangible property shall not exceed the amount of £500,000 in the aggregate; and
- 10.4.2 in all other cases (whether in contract, tort, including negligence, or otherwise) under or in connection with the Contract shall not exceed in any one contract year the Maintenance Charges payable in that contract year,

National Microbiology Framework Schedule 7 - Ordering Procedure, Award Criteria and Order Form



except to the extent that the acts or omissions of the other party contributed in any way to the loss or damages sustained by that party, in which case liability shall be excluded.

10.5 Notwithstanding anything contained in the Contract, neither party shall be liable, in contract, tort (including negligence or breach of statutory duty) or otherwise howsoever, and whatever the cause thereof, for any loss of profit, contracts, revenues, production, use, data or anticipated savings, or for any special, indirect or consequential loss or damage of any nature whatsoever.

10.6 If documents containing data relating to the Services are lost or damaged as a result of the negligence of Siemens or its employees, the liability of Siemens will be limited to replacing the documents so lost or damaged.

10.7 Siemens will take out and maintain adequate insurance as may be necessary for the provision of the Services including but not limited to professional liability and public liability with a reputable insurance company.

11 Force Majeure

11.1 Neither party shall be liable to the other for any delay or non-performance of its obligations under the Contract arising from any cause or causes beyond its reasonable control including, without limitation, any of the following: act of God, governmental act, war, fire, flood, explosion or civil commotion. If such delay or failure continues for at least 180 days, either party will be entitled to terminate the agreement by giving 4 weeks' notice in writing.

11.2 The parties acknowledge and agree that COVID-19 is an event beyond the parties' control, and it is not possible to foresee its duration, impact or extent (including measures and recommendations that may be put in place by regulators). As such, where either party's obligations are not performed, affected, and/or delayed and that is attributable to COVID-19, notwithstanding any other provision in the Contract, the affected party will not be responsible for such delay, non-performance or failure. The parties will act reasonably and meet without delay, discuss the affected obligations, potential work arounds and related issues in good faith and will document any agreed changes to the Contract.

12 Confidentiality

12.1 Each party agrees and undertakes that during the term of the Contract and thereafter, it will keep confidential all, and will not use for its own purposes nor without the prior written consent of the other disclose to any third party any, information of a confidential nature (including trade secrets and information of commercial value) which may become known to such party from the other party and which relates to the other party or any of its affiliates unless such information is (i) public knowledge or already known to such party at the time of disclosure; or (ii) expressly excluded from the scope of these confidentiality provisions; or (iii) subsequently becomes public knowledge other than by breach of the Conditions or subsequently comes lawfully into the possession of such party from a third party.

12.2 Each party undertakes to the other to take all such steps as will from time to time be necessary to ensure compliance with the provisions of this clause 12 by its respective employees, agents and subcontractors and agrees to communicate confidential information to such employees, agents and subcontractors on a "need-to-know" basis only.

12.3 Neither party shall publish or disclose information in any medium about the Contract (which includes these Conditions and any Performance Plan) without the prior written consent of the other party.

12.4 Siemens reserves the right for its personnel to meet with the System Users and discuss the scope of Services included and/or not included within the scope of any particular Performance Plan. Any such disclosure shall not be deemed to be a breach of this Contract.

12.5 The provisions of this clause 12 shall remain in full force and effect notwithstanding termination of the Contract.

13 Data Protection

13.1 Siemens and the Customer in their respective performances of these Conditions will comply with the provisions of the Data Protection Legislation and shall not perform their obligations in connection with the processing of Personal Data under these Conditions in such a way as to cause the other party to breach any of its obligations under the Data Protection Legislation.

13.2 With respect to the parties' rights and obligations under these Conditions, the parties agree that the Customer is the Controller and Siemens is the Processor. Furthermore, the Controller acknowledges that such processing may also be undertaken by Siemens Healthcare GmbH on behalf of the Processor and the Processor procures that Siemens Healthcare GmbH will be subject to the same obligations of the Processor as set out in this Condition 13.

13.3 The Customer shall not disclose any Personal Data to Siemens save where it is lawful and in a form which is lawful.

13.4 The subject-matter and duration of the Processing, nature and purpose of the Processing, types of Personal Data, and categories of Data Subjects are set out in Schedule 3 to these Conditions, as updated from time to time.

13.5¹ Siemens agrees to only Process the Personal Data in accordance with the terms and conditions set out in these Conditions and, subject to the overriding requirements of the Data Protection Legislation, undertakes to:

13.5.1 only process the Personal Data for and on behalf of the Customer, strictly in accordance with the written instructions of the Customer, unless the Processing is required by applicable laws to which Siemens is subject, in which case Siemens shall to the extent permitted by such applicable laws inform the Customer of that legal requirement before Processing, unless that law prohibits such information on important grounds of public interest;

13.5.2 ensure that any personnel with access to Personal Data are subject to a duty of confidentiality (whether contractual or statutory) and ensure that access is strictly limited to those individuals who need to know/access the Personal Data;

13.5.3 taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, Siemens shall, in relation to the Personal Data, implement appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1) of the UK GDPR and the Data Protection Legislation;

13.5.4 taking into account the nature of the Processing, assist the Customer by appropriate technical and organisational measures, insofar as possible, for the fulfilment of the Customer's obligations to respond to requests for exercising the Data Subject's rights laid down in the Data Protection Legislation;

13.5.5 notify the Customer without undue delay if it receives a request from a Data Subject under the Data Protection Legislation in respect of the Personal Data and not respond to any such request without the written authorisation of the Customer or as required by the Data Protection Legislation to which Siemens is subject but only after informing the Customer of such legal requirement before responding to the request;

13.5.6 notify the Customer without undue delay upon becoming aware of a Personal Data Breach, providing the Customer with

National Microbiology Framework Schedule 7 - Ordering Procedure, Award Criteria and Order Form



- information to allow it to meet its obligations under the Data Protection Legislation and assist the Customer, as directed, in the investigation, mitigation and remediation of such Personal Data Breach;
- 13.5.7 assist the Customer in ensuring compliance with the obligations pursuant to the Data Protection Legislation taking into account the nature of the Processing for the purposes of these Conditions and the information available to Siemens, including but not limited to those obligations relating to:
- 13.5.8 security of processing;
- 13.5.9 notification of a Personal Data Breach to the Information Commissioner's Office;
- 13.5.10 communication of a Personal Data Breach to the Data Subject; and
- 13.5.11 Data Protection impact assessments and any subsequent consultations with the Information Commissioner's Office;
- 13.5.12 after the expiry or termination of the Contract, promptly upon request from the Customer (at the Customer's discretion) either:
- 13.5.12.1 return all Personal Data to the Customer and delete all existing copies, or procure such deletion; or
- 13.5.12.2 securely destroy such Personal Data, unless an applicable law requires storage of the Personal Data but only to the extent and for such period as required by such law;
- 13.5.12.3 notify the Customer of the deletion of Personal Data in accordance with clause 13.5.12 upon request from the Customer;
- 13.6 Siemens shall make available to the Customer on request all information necessary to demonstrate compliance with the Data Protection Legislation, and allow for and contribute to audits, including inspections, by the Customer or an auditor mandated by the Customer including to permit the Customer or its external advisers (subject to reasonable and appropriate confidentiality undertakings) to inspect and audit Siemens's data processing activities and those of its agents, subsidiaries and sub-contractors and comply with all reasonable requests or directions by the Customer to enable the Customer to verify and procure that Siemens is in full compliance with its obligations under these Conditions.
- 13.7 The Customer or any auditor mandated by the Customer undertaking an audit shall give Siemens reasonable notice of any audit or inspection to be conducted and shall use (and ensure that each of its mandated auditors uses) reasonable endeavours to avoid causing (or, if it cannot avoid, to minimise) any damage, injury or disruption to Siemens's premises, equipment, personnel and business while its personnel are on those premises in the course of such an audit or inspection. Siemens need not give access to its premises for the purposes of such an audit or inspection:
- 13.7.1 to any individual unless he or she produces reasonable evidence of identity and authority; or
- 13.7.2 outside normal business hours at those premises, unless the audit or inspection needs to be conducted on an emergency basis and the Customer undertaking an audit has given notice to Siemens that this is the case before attendance outside those hours begins.
- 13.8 Siemens engages sub-contractors (sub-processors) to carry out specific data processing activities on behalf of the Customer. Sub-processors are only permitted to process Personal Data for the purpose of carrying out the activities for which such Personal Data have been provided to Siemens and are prohibited from processing Personal Data for other purposes. If Siemens engages sub-processors, they will be subject to written data protection obligations, providing at least the same level of protection as set forth in these Conditions.
- 13.9 A list of sub-processors currently engaged by Siemens is available at (<https://fleet.siemens-healthineers.com>). Siemens reserves the right to update this URL from time to time.
- 13.10 The Customer hereby authorises Siemens to engage the listed companies as sub-processors. The Customer shall subscribe to this Siemens' website to receive the information regarding sub-processors and for any intended changes in the use or replacement of sub-processors.
- 13.11 The engagement or replacement of an additional sub-processor shall be deemed approved if Siemens informs the Customer in advance thereof and the Customer raises no objection to Siemens in writing, including in electronic form, within 3 months following such information.
- 13.12 If the Customer objects the Customer shall notify Siemens in detail about the reasons for the objection. Following an objection, Siemens may at its discretion:
- 13.12.1 propose another sub-processor in place of the rejected sub-processor; or
- 13.12.2 take steps to address the concerns raised by the Customer which remove the Customer's objection.
- 13.13 If the options as per clause 13.12 above are reasonably not available or the objection has not been removed otherwise, Siemens may terminate the main contract in full or in part without notice, e.g. if the Customer's objection makes it considerably more difficult or impossible for Siemens to perform its contractual obligations.
- 13.14 Any agreements on response times or availability will be suspended and any claims in this regard for damages in lieu of performance, for delay or for any agreed liquidated damages or contractual penalties with regard to Siemens do not apply from the planned start date of the objected to sub-processor onwards. If Siemens' performance obligations are terminated in part, the remuneration for the services unaffected by the partial termination shall be determined in accordance with Siemens' standard list prices applicable to such services at Siemens.
- 13.15 Where the sub-processor fails to meet its data protection obligations, Siemens shall in accordance with the provisions on liability in this Contract remain fully liable to the Customer for the performance of the sub-processor's obligations. Siemens shall not be liable for damages and claims arising from the Customer's additional or alternate instructions as per this Contract.
- 13.16 In case Siemens engages a sub-processor in a country outside the European Economic Area, Siemens shall ensure the transfer of personal data complies with the Data Protection Legislation and use data transfer mechanisms compliant with the Data Protection Legislation. Siemens shall in particular provide sufficient safeguards that the appropriate technical and organizational measures are implemented in such a way that processing meets the requirements of the Data Protection Legislation, ensure the protection of the rights of the data subjects concerned, maintain a record of data transfers and document suitable safeguards.
- 13.17 The sufficient safeguards referred to in clause 13.16, shall include (but not be limited to) approved standard contractual data protection clauses or agreement set out in the Data Protection Legislation ("Model Clauses Agreement"), on the condition (if applicable depending on the standard contractual data protection clauses used) that either the Customer:
- (i) grants Siemens and Siemens Healthcare GmbH a power of attorney to execute the Model Clauses Agreement in the name of and behalf of the Customer; or

National Microbiology Framework Schedule 7 - Ordering Procedure, Award Criteria and Order Form



- (j) appoints Siemens and Siemens Healthcare GmbH as its agent for the purposes of entering into such Model Clauses Agreement in the name of and on behalf of the Customer only;

13.18 In the event that the Customer does not engage or express a preference to pursue condition 13.17 (i) above to execute a power of attorney and/or such option is not achieved in a timely manner within 30 days of execution of this Agreement the provisions of condition 13.19 below shall apply to effect the Model Clauses Agreement

13.19 Subject to clause 13.18 the Customer hereby expressly and generally mandates that Siemens and Siemens Healthcare GmbH shall both be appointed as the Customer's disclosed and authorised agent to execute such Model Clauses Agreement with the sub-processor in the relevant country on its behalf as Controller. Siemens and Siemens Healthcare GmbH are jointly and severally entitled to exercise the Customer's rights and powers under the Model Clauses Agreement vis-à-vis a sub-processor.

13.20 The provisions of this clause 13 shall remain in full force and effect notwithstanding any termination of the Conditions but will cease to apply to any knowledge, information or data which is generally known to the public otherwise than by a breach of this clause 13.

13.21 Notwithstanding anything in the Contract to the contrary, Siemens shall have the perpetual right to retain, use and disclose aggregate data regarding Customers, affiliates, or user's use of the System or Services in a non-attributed manner. For the avoidance of doubt, aggregate data shall not include, and Siemens shall specifically ensure the deletion from the aggregate data (to the extent applicable) of, any Personal Data within any such aggregate data.

14 Assignment and sub-contracting

14.1 Neither party may assign or transfer the Contract or any of its rights to a third party without the prior written consent of the other party, save that Siemens shall be free to assign any rights or transfer any obligations in connection with the transactions contemplated by the Contract to any of its respective affiliates or its holding company or any subsidiary of a holding company (as such terms are defined in section 1159 of the Companies Act 2006, as amended).

14.2 The Customer agrees that Siemens may sub-contract any part of the Services to a third party.

15 Cybersecurity

15.1 If Smart Remote Services form part of the Customer's Performance Plan for the Equipment such Smart Remote Services shall be subject to (i) the General Terms of Remote Connection set out in Schedule 5; and (ii) the Customer satisfying the requirements for Smart Remote Services set out in Schedule 5.

15.2 The Customer shall be responsible for:

15.2.1 providing, installing and maintaining Anti-Virus Software on the Customer IT Infrastructure and regularly (in accordance with good industry practice) monitor such assets and systems and take all necessary steps to detect and remove viruses, malware and other malicious code which may otherwise harm, compromise disable or interfere with the Equipment;

15.2.2 installing all updates, releases, patches or fixes on Customer IT Infrastructure as soon as reasonably practicable after those updates, releases, patches or fixes are made available by the relevant software vendor;

15.2.3 all network security (including firewalls), intrusion detection, physical security controls, user authentication and access management, data security, vulnerabilities (a weakness in the computational logic found in software and hardware components that, when exploited, results in a negative impact to confidentiality, integrity, or availability) data backup and archiving, business continuity and disaster recovery

arrangements, any software or hardware (whether part of the Customer IT Infrastructure or a third party software or hardware) other than the Software or Equipment.

15.3 The Customer acknowledges that in relation to medical devices the application of updates, releases, patches or fixes which are not approved by the relevant vendor, distributor or manufacturer of that medical device may be deemed an unauthorised modification and may invalidate the certification or accreditation of that medical device (including, without limitation, CE marking and FDA accreditation).

16 TUPE

16.1 If any of the Customer's (or its sub-contractors) employees transfer or claim to transfer to Siemens under the Transfer of Undertakings Protection of Employment Regulations 2006 (as amended or replaced from time to time, "TUPE"), the Customer shall indemnify Siemens against all liabilities, expenses, costs, losses, claims and damages suffered or incurred by Siemens:

16.2 in respect of, or in connection with, any employment costs in relation to persons who were, at or before commencement of this Contract, the Customer's (or its sub-contractors) employees ("Customer Employees") including wages, salaries, benefits in kind, national insurance contributions, pensions and bonuses; and

16.3 in respect of, or in connection with, the termination or other cessation of employment (caused by the Customer or otherwise) of any Customer Employees whose employment are deemed to have transferred on commencement of this Contract under TUPE including any claim for unfair dismissal, wrongful dismissal and/or redundancy.

16.4 The Customer shall comply with TUPE in relation to the commencement of this Contract including with respect to all obligations to consult and provide information. The Customer shall cooperate and assist Siemens with all reasonable requests made by Siemens in connection with the operation or prospective operation of TUPE in relation to the Contract.

17 Waiver

17.1 No forbearance or delay by either party in enforcing its rights will prejudice or restrict the rights of that party and no waiver of any such rights or of any breach of any contractual terms will be deemed to be a waiver of any other right or of any later breach.

18 Severability

18.1 If any provision of the Conditions is judged to be illegal or unenforceable, the continuation in full force and effect of the remainder of the provisions will not be prejudiced.

19 Amendments

19.1 The parties may at any time by supplemental agreement in writing vary, amend, add to, make substitutions in, or alter, the Contract and after the execution of any such supplemental agreement, the Conditions shall take effect accordingly.

19.2 Either party may vary the identity or contact details of that party's Authorised Officer by giving the other party written notice of that variation in accordance with clause 22.

20 Dispute Resolution

20.1 If any dispute or difference arises between the parties concerning the construction or performance of the Contract (including the Conditions or any Performance Plan) or the rights and liabilities of the parties, the parties will actively, openly and in good faith discuss that dispute or difference with a view to resolving it by mutual agreement. Neither party shall commence any litigation in relation to the Contract unless it has provided an opportunity for the representatives of both parties to meet for the purpose of endeavouring to resolve the dispute or difference by mutual agreement.

National Microbiology Framework Schedule 7 - Ordering Procedure, Award Criteria and Order Form



20.2 Nothing in this clause will preclude either party from taking immediate steps to seek urgent injunctive relief before an English court.

21 Third Party Rights

A person who is not a party to the Contract shall have no right pursuant to the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Contract.

22 Notices

Notices shall be in writing or by email, and shall be sent to the other party marked for the attention of the party's Authorised Officer at the address set out for such party as written at the beginning of these Conditions. Notices may be sent by first-class mail. Correctly addressed notices sent by first-class mail shall be deemed to have been delivered 72 hours after posting.

23 Entire agreement

The Contract, including the Conditions, the Performance Plan and the Schedules or documents otherwise referred to herein contain the whole agreement between the parties relating to the subject matter hereof and supersede all prior agreements, arrangements and understandings between the parties relating to that subject matter.

24 Governing Law

The Contract shall be governed by and construed in accordance with English law and each party hereby submits to the exclusive jurisdiction of the English courts.

National Microbiology Framework Schedule 7 - Ordering Procedure, Award Criteria and Order Form



- 4.1 The categories of individuals whose Personal Data is processed in accordance with these Conditions will be:
- 4.1.1 Patients under the care of the Customer;
- 4.1.2 Employees and contractors of the Customer.

5 SECURITY MEASURES

- 5.1 Siemens shall implement and maintain adequate security measures required by Article 32 of the UK GDPR and to standards no less than those imposed on the Customer under the Data Protection Legislation whilst it continues to Process the Personal Data on behalf of the Customer.
- 5.2 Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing, as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, and in particular the risks that are presented by processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Personal Data transmitted, stored or otherwise processed, Siemens shall implement technical and organizational measures as set out in the TOM at Schedule 4 (the TOM).
- 5.3 The Customer and Siemens agree that the implementation of the technical and organizational measures described in the TOM ensures an appropriate level of safety in accordance with the UK GDPR and provides sufficient safeguards for the protection of the rights of the data subject.
- 5.4 The technical and organizational measures described in the TOM are subject to technical progress and further development and may be adjusted by Siemens if appropriate, provided such adjustment does not result in a lower level of protection than that set forth in the TOM.

Schedule 4 – TOM

Technical and Organizational Measures ("Attachment TOM") Siemens Healthineers

1. Pseudonymization and Encryption of Personal Data

Siemens separates Personal Data from the processed data so that it is not possible to link the processed data to an identified or identifiable person without additional information that is stored separately and securely. Siemens encrypts Personal data with symmetric and asymmetric keys.

2. Confidentiality, Integrity, Availability and Resilience of Systems and Services

a) Siemens ensures confidentiality and integrity by taking the following measures:

Access control: Siemens protects its buildings with appropriate access control systems based on a security classification of the buildings and an appropriately defined access authorization concept. All buildings are secured by access control measures using a card reader system. Depending on the security category, property, buildings or individual areas are secured by additional measures. These include special access profiles, biometrics, pin pads, DES dongles, separation locks, video surveillance and security personnel. Access rights for authorized persons are granted individually according to defined criteria. This also applies to external persons.

System access control: Access to data processing systems is only granted to authenticated users based on a role-based authorization concept using the following measures: Data encryption, individualized password assignment (at least 8 characters, regularly automatic expiration), employee ID cards with PKI encryption, password-protected screen savers in case of inactivity, intrusion detection systems and intrusion-prevention systems, regularly updated antivirus and spyware filters in the network and on the individual PCs and mobile devices.

Data access control: Access to Personal Data is granted on the basis of a role-based authorisation concept. A user management system has been set up, which maps the user database with their respective authorizations and is available centrally in the network for retrieval by requesting data processing systems. Furthermore, data encryption prevents unauthorized access to Personal Data.

Data transmission control: Siemens secures electronic communication channels by setting up closed networks and data encryption procedures. If a physical data carrier transport takes place, verifiable transport processes are implemented that prevent unauthorized data access or logical loss. Data carriers are disposed of in accordance with data protection regulations.

b) Siemens ensures systems and services constant availability and reliability by taking the following measures:

Siemens ensures availability and resilience of systems and services by isolating critical IT and network components, by providing adequate backup and redundancy systems, using power redundancy systems, and regularly testing of systems and services. Test and live systems are kept completely separated.

3. Availability and Access to Personal Data in the Event of an Incident

Siemens shall restore the availability of and access to Personal Data in the event of a physical or technical incident by taking the following measures:

- Siemens stores Personal Data in RAID systems and integrates redundant systems according to security marking. Siemens uses systems for uninterruptible power supplies (e. g. UPS, batteries, generators) to secure the power supply in the data centers.
- Databases or data centers are mirrored in different physical locations.
- A comprehensive written emergency plan is available. Emergency processes and systems are regularly reviewed.

4. Control Procedures to ensure the Safety of Processing

Siemens maintains a control procedure based on a risk-management-based approach, taking into account the basic IT protection catalogues of the Federal Office for Information Security (BSI) and ISO/IEC 27001 requirements for the regular review, assessment and evaluation of the effectiveness of technical and organizational measures to ensure security of processing. This ensures the protection of relevant information, applications (including quality and safety test methods), operating environments (e. g. by network monitoring against harmful effects) and the technical implementation of protection concepts (e. g. by means of vulnerability analyses). By systematically detecting and eliminating weak- points, the protective measures are continuously questioned and improved.

5. Personnel Measures

Siemens issues written work instructions and regularly trains personnel who have access to Personal data to ensure that Personal Data is only processed in accordance with the law, this Schedule and associated instructions of the Customer, including the technical and organizational measures described herein.

National Microbiology Framework Schedule 7 - Ordering Procedure, Award Criteria and Order Form

Equipment	Ensure Siemens Healthineers equipment and connectivity is turned on	•	
	Verify network cable connection to Siemens Healthineers equipment	•	
	Maintain IP address and network mask on Siemens Healthineers equipment		•
	Maintain software firewall (IP and ports) at Siemens Healthineers equipment		•
	Ensure SRS client is properly configured and running at the Siemens Healthineers equipment		•
	Provide notification when a patch to a Siemens Healthineers equipment needs to be installed		•
Network	Maintain network routes between different subnets	•	
	Maintain COA / SOA WAN firewall (IP and Ports according to SRS Checklist)		•
	Maintain LAN firewall (IP and Ports according to SRS Checklist)	•	
	Maintain IPSec VPN connection on tunnel endpoint at customer site		•
	Maintain SRS Backend infrastructure, including tunnel endpoint		•
	Provide notification when a patch for SOA router needs to be installed		•
Broadband	Maintain broadband connection	• ²	• ¹
	Maintain broadband router (internet access router)		•
Physical Access	Provide access to Siemens Healthineers equipment	•	
	Provide physical access to broadband router	•	
	Provide physical access to SOA router if not equal to internet access router	• ¹	
	Provide physical access to broadband provider (access data and WAN link)	• ²	• ¹

1) If broadband is provided by Siemens; 2) If broadband router is provided by Customer

Annex A to Schedule 5 - General Terms of Remote Connection

1. Scope and Definitions

1.1 Parties

This agreement is entered into by Siemens Healthcare Limited (We, Us or Our) and the Customer (You or Yours) both as indicated in the SRS Remote Connection Protocol in Schedule 4. We and You referred to as Party or Parties.

1.2 Agreement

With respect to the subject matter solely the order form, the current Security Concept and these General Terms of Remote Connection shall apply in addition to Our Standard Terms and Conditions of Maintenance as referenced in the order form (SRS Agreement). In the event of any conflict between these General Terms of Remote Connection and Our Standard Terms and Conditions of Maintenance the following order of precedence shall apply:

- In relation to any matter relating directly or indirectly to SRS and Schedule 4 the General Terms of Remote Connection shall take precedence.
- In relation to any other matter the Standard Terms and Conditions of Maintenance shall take precedence.

Your general terms and conditions shall only apply if expressly accepted by Us.

1.3 Definitions:

National Microbiology Framework Schedule 7 - Ordering Procedure, Award Criteria and Order Form



Capitalized terms shall have the meaning as given to them in this Section 1

"Technical Data" means device properties, configuration and condition; device service history, performance parameters and utilization data in each case not related to an identified or identifiable natural person.

"Product(s)" means products and solutions consisting of hardware and/or software which are sold, licensed or otherwise made available to You by Us irrespective of whether manufactured by Us or not.

"Security Concept" means Siemens Healthineers IT security concept, which can be found <https://www.healthcare.siemens.com/services/customer-services/rapid-response-services/smart-remote-services> or which We will send to You upon request.

"SHC GmbH" means the Siemens Healthcare GmbH.

"SRS Connection" means Smart Remote Services Connection, i.e. an online connection between Siemens Healthcare Limited and the relevant Product at Your site.

1.4 Subject Matter

The SRS Agreement contains the terms and conditions under which We will provide to You an SRS Connection for the Products mentioned in the order form. Any other services or deliveries that you may receive are subject to additional agreements and not covered under this SRS Agreement.

2. Use of SRS Connection

- 2.1 We, SHC GmbH, its affiliates and other companies engaged by Us or SHC GmbH are authorized to access, maintain, repair, calibrate, update or patch the Products that are the object of this SRS Agreement through the SRS Connection and use any Technical Data collected via the SRS connection for the aforementioned purposes.
- 2.2 If a service contract will be concluded between You and Us then We, SHC GmbH, its affiliates and other companies engaged by Us or SHC GmbH are also authorized to carry out all the additional services in accordance with such service contract using the SRS Connection.

3. Access to Data and Use of Data

In the case of additional services as described in Section 2.2, You hereby irrevocably permit Us, SHC GmbH and its affiliates to use Technical Data that is collected via the SRS Connection also for own business, research or development purposes (e.g. for the further development of our products and services) without restrictions in terms of time, location or content.

4. Obligations of the Parties

- 4.1 We shall setup the technical and organizational process for SRS Connection and IT infrastructure used by Us for the establishment of the SRS Connection according to Our Security Concept.
- 4.2 We may provide You information about the SRS connectivity status and general information on how to restore the connection in case it is not properly working.
- 4.3 You shall permit the SRS Connection to be established by connecting the Products at Your own expense to the secured telecommunications link via a broadband connection. You shall bear the cost of any technical requirements for any such connection not being part of the Products, e.g. establishing a broadband connection.
- 4.4 In order to protect the Products against cyber threats, it is necessary that You implement – and continuously maintain – a holistic, state-of-the-art security concept protecting Your IT infrastructure. You shall also support Us in protecting against cyber threats. This means You shall particularly not
 - 4.4.1 connect Products to the SRS Connection that do not comply with state of the art security policies or
 - 4.4.2 use the SRS Connection in a way that impairs or disrupts the integrity of the SRS Connection or Our IT infrastructure or
 - 4.4.3 transmit any data containing viruses, Trojan horses or other programs that may damage or impair the SRS Connection or Our IT infrastructure.

National Microbiology Framework Schedule 7 - Ordering Procedure, Award Criteria and Order Form



5. Limited Warranty

- 5.1 Unless explicitly otherwise regulated the SRS Connection is provided "as is" and We do not provide You with any warranty or guarantee regarding the availability, performance or quality of the SRS Connection other than addressed in Section 4.1.
- 5.2 We will not provide an SRS Connection if
 - 5.2.1 the provision is prevented by any impediments arising out of national or international foreign trade or custom requirements or any embargoes or other sanctions or
 - 5.2.2 there is a defect, malfunction or other problem with the telecommunications network or
 - 5.2.3 there is a defect, malfunction, insufficient configuration or other problem with Your infrastructure

6. Update of Terms and Security Concept

- 6.1 We are entitled to modify and/or update these General Terms of Remote Connection and/or Our Security Concept to reflect technical progress, changes in law and further developments of Our offerings.
- 6.2 Such modifications and/or updates shall not jeopardize the quality and execution of the SRS connection.
- 6.3 We shall inform You of changes by giving you a reasonable period of notice of at least 30 days. We will provide You with access to the updated terms and conditions

7. Certification

- 7.1 Our service organization shall maintain a certified information-security management system for the purposes of the SRS Connection. In this regard, We shall be subject to regular external audits by independent third parties. The scope and details of the certification are determined in the current Security Concept.

8. Termination and Suspension

- 8.1 Unless otherwise agreed in prevailing terms and conditions this SRS Agreement may be terminated by either Party in writing at any time, giving a notice period of 8 weeks. The validity of any other agreements between You and Us shall be unaffected by a termination of this SRS Agreement. If other agreements have been concluded on the basis of this SRS Agreement, they may have to be adapted upon termination, e.g. in respect of remuneration or response times.
- 8.2 Either Party shall be entitled to terminate this SRS Agreement with immediate effect if the other Party breaches this SRS Agreement and if such breach will not be cured for a period of 30 days from receipt of notice of the breach of the other Party.
- 8.3 We shall be entitled to suspend this SRS Agreement and/or the SRS Connection with immediate effect if you are in breach of this SRS Agreement or if We are -acting reasonably- of the opinion that the SRS Connection to one or more of Your Products contains a risk for the security and performance of the IT Infrastructure used by Us