

# SUPPLEMENTAL TERMS (HEALTHCARE) ATTACHMENT TO MASTER AGREEMENT and SOFTWARE LICENCE AND SUPPORT SERVICES ATTACHMENT

This Attachment is entered into between the entity from Our Group listed on the Order Form (“**We**”/“**Us**”) and the customer identified in the signature block in the Order Form (“**You**”/“**Your**”). The provisions of the Master Agreement between the parties are hereby fully incorporated herein by reference. The Effective Date of this Attachment shall be the Effective Date in the Order Form. The parties agree to the following:

**1. DEFINITIONS.** Capitalised terms that are not otherwise defined in this Attachment shall have the meaning ascribed to them in the Master Agreement (as appropriate).

“**Additional Risks**” means the additional information governance, privacy, security, data and other risks when using the relevant Software and Hardware and which are created or caused by, or arise as a result of, a Security Change, including without limitation any risks that We or You may identify and notify to each other.

“**Clinical Database**” means the entire clinical content of the Software known as Odyssey and all relevant modules but excluding any Customer database. This includes all questions, question rationales, differential diagnoses, prompts, weightings, suggested answers, colour changes, methodologies, suggested actions, suggested examinations and clinical management advice.

“**Demand**” means any action, award, claim or other legal recourse, complaint, cost, debt, demand, expense, fine, liability, loss, outgoing, penalty or proceeding.

“**FOIA**” means the Freedom of Information Act 2000 and any subsequent amendment or statute replacing such Act.

“**Recommended Security**” means Our specific “lock down” security specifications and mechanisms in accordance with recommended information governance and security requirements which have been subject to penetration testing recommended in connection with the Software installation, operation and use on designated Hardware.

“**Security Changes**” means changes to and/or removal of elements of the Recommended Security from the relevant Software and Hardware as requested by You to facilitate additional functionality of the Hardware, whether such Security Changes are implemented by Us as Professional Services or by You.

“**Software Database Schema**” means a diagram which sets out the interrelationship between individual data tables within the relevant Software SQL Database.

“**Software SQL Database**” means the underlying database which forms the data store for the relevant Software;

“**TUPE**” means the Transfer of Undertakings (Protection of Employment) Regulations 2006 and any subsequent amendment or statute replacing such regulations.

**2. ADDITIONAL TERMS.** This Attachment sets out additional terms to the Master Agreement and other Attachments and are incorporated into the Agreement. For the avoidance of doubt, this Attachment applies wherever We supply any Software, Services, Hardware or any other element to You which is or is used in conjunction with the Intellectual Property of Our Group company Advanced Health and Care Limited (“AHC”).

**3. MASTER AGREEMENT.** The following terms shall be deemed incorporated into the Master Agreement:

**3.1. TUPE.** The parties agree to proceed on the basis that the commencement of the Agreement and in particular the commencement of any Services pursuant to the Agreement shall not give rise to a “relevant transfer” as defined in TUPE and no employees of the Customer or service provider of the Customer (“**Affected Employee**”) will transfer to Us by virtue of the operation of TUPE. You agree to indemnify Us for all and any Demands suffered or incurred by Us as a result of or in connection with the transfer of

any Affected Employee to Us under or pursuant to TUPE and their employment and/or termination of employment by Us.

**3.2. Security Changes.** If You require Security Changes the following terms and conditions apply:

3.2.1. You must provide to Us a list of personnel who are authorised to request a Security Change on Your behalf (“**Authorised Personnel**”).

3.2.2. If You require Us to implement a Security Change, You must submit a request for change form (“**RFC**”) duly signed by Authorised Personnel. We will not implement a RFC unless it has been signed by Authorised Personnel.

3.2.3. On receipt of a RFC, We shall undertake an impact analysis on the requested Security Change which shall include:

(a) an assessment of which aspects of the Recommended Security will need to be deactivated or downgraded in order to implement the Security Change; and

(b) detail of any Additional Risk which We may identify provided that any identified Additional Risks are not intended to be an exhaustive list of all Additional Risks that may arise from the Security Change.

3.2.4. All RFCs that are accepted and implemented by Us shall be stored and held by Us and made available for inspection by You on reasonable request.

3.2.5. You must test the Software and Hardware with the Security Changes implemented before use in a live environment and only use such Software and Hardware in a live environment once You are satisfied that such use will not compromise the health and safety of any person or the security or integrity of any personal data of any person. You shall provide such evidence as We may reasonably require to demonstrate compliance with this clause 3.2.5.

3.2.6. If We implement any Security Changes on Your behalf or You implement any Security Changes with or without Our approval or knowledge, You unconditionally and irrevocably accept responsibility for the Additional Risks and all Demands that may arise directly or indirectly in connection with or arising from the Additional Risks. Accordingly You undertake to indemnify Us in respect of any Demands suffered or incurred by Us, directly or indirectly, arising from or in connection with (a) any Additional Risk; (b) the Software and Hardware not having the Recommended Security; (c) the Security Changes; and/or (d) any breach of law (including privacy and data protection legislation and regulations) directly or indirectly arising from or caused by an Additional Risk or the Software and Hardware not having the Recommended Security.

**3.3. FOIA.** We acknowledge that You may be subject to the requirements of the FOIA and shall provide reasonable assistance and cooperation to You to the extent information is requested in connection with the Agreement to enable You to comply with Your disclosure obligations. You shall consult with Us prior to any disclosure of such information pursuant to FOIA or any application of any exemption under the FOIA and in particular will take into account Our submissions as to whether information is commercially sensitive information and is exempt from disclosure under the FOIA.

**4. SOFTWARE LICENCE AND SUPPORT SERVICES ATTACHMENT.** The following terms shall be deemed incorporated into the Software Licence

and Support Services Attachment:

**4.1. Additional Obligations:** Unless otherwise agreed by Us and to the extent applicable to the Software licensed to You pursuant to the terms of the Software Licence and Support Attachment, You undertake:

- 4.1.1. to provide all relevant information on call management processes and information flows to facilitate configuration of the Software;
- 4.1.2. to agree all clinical outcome coding procedures, including read codes, to be used with the Software;
- 4.1.3. to agree all clinical protocols and formularies governing and supporting the recording of drugs issued or prescribed using the Software;
- 4.1.4. to be solely responsible for the accuracy and clinical appropriateness of all clinical codes, outcomes, prescription drugs supplied or prescribed and dosage information applied to the Software and You further undertake to indemnify Us in respect of any Demands We may incur or suffer or made against Us by third parties in the event of any inaccuracies in or inappropriateness of such information;
- 4.1.5. to be solely responsible for any configuration of the Software requested or mandated by You and all templates and edit work flows You require to be incorporated into the Software;
- 4.1.6. to be solely responsible for any data and other information You or Your users can use or access by use of the Software (whether by use of Third Party Products or third party services or access by use of the Software to resources and other facilities or otherwise) which are supplied by a third party and We shall not be liable for any Demand arising from any inaccuracy or use of such data and information;
- 4.1.7. not to use the Software (in whole or in part) to create or develop a product or application which competes or potentially competes with the Software or which has a use or facilities and/or functions which is/are the same as or similar to or substantially the same as or similar to the Software.

**4.2. Odyssey Disclaimer.** If You purchase a licence to the use the Odyssey range of health Software ("Odyssey"), this clause applies and You must read this section carefully:

- 4.2.1. You acknowledge that the Odyssey Tele Assess module and the related Clinical Database:
  - (a) provides a decision support system. Odyssey Tele Assess is not intended to be a diagnostic tool, but to support decision making;
  - (b) is designed to give clinically-qualified persons, when making decisions and giving care and advice to a patient, guidance from a clinical knowledge base that the user relates to a patient's condition and needs; and
  - (c) final decisions on care and advice are left to the professional judgement of the person using Odyssey and the organisation responsible for their work.
- 4.2.2. You acknowledge that the Odyssey Tele Assess and the related Clinical Database:
  - (a) has been designed to provide decision support for telephone consultation by assisting the clinician in history taking, identifying the need for further assessment and giving advice to the caller;
  - (b) is used to assist the clinician record information about the patient and to prompt the clinician to ascertain further information before deciding on how urgently care is required, and offering advice appropriate to the patient's needs;

- (c) is not a diagnostic tool, it is designed to provide support to the clinician making the decision about the need for and urgency of further care, to provide information for managing problems, and to maintain a detailed record of the consultation; and
  - (d) provides guidance for non-professionally qualified staff to prioritise calls for clinician assessment. All such staff must undergo specified training before attempting to use this module of Odyssey Software. Clinical governance issues of using non-professionally qualified staff in this role must be addressed by the Customer.
- 4.2.3. You acknowledge that the Odyssey Self Assess module and the related Clinical Database:
- (a) provides a decision support system. Odyssey Self Assess is not intended to be a diagnostic tool, but to support decision making;
  - (b) is designed to give persons, when seeking care and advice, guidance that is related to their condition and needs, and which the person can choose whether or not to follow;
  - (c) has been designed to provide decision support by assisting the user in assessing and identifying the need for further clinical attention and giving relevant self-care advice;
  - (d) assists the user to input information about their problem and based on this provides guidance on how urgently clinical care may be required; and
  - (e) provides standard self-care advice where the user's assessment has not indicated an urgent medical problem.
- 4.2.4. Subject to clause 7.3 of the Master Agreement, You acknowledge and agree that We will not be liable for:
- (a) (in the case of Odyssey Tele Assess) decisions and advice given by professional or non-professional staff employed or engaged by You when using Odyssey and the related Clinical Database and any adverse consequences of that decision or advice; all liability for such decisions or advice remains Your responsibility; and
  - (b) (in the case of Odyssey Self Assess) decisions and advice accepted by the user when using Odyssey and the related Clinical Database and any adverse consequences of that decision or advice; all liability for such decisions or advice accepted by the user remains the user's responsibility.
- 4.2.5. When deploying Odyssey Self Assess You shall ensure a user disclaimer shall be presented at the start of an assessment stating:
- "This assessment tool is not a substitute for professional medical advice, diagnosis or treatment. If you believe you have an urgent medical problem you should call your general practitioner, NHS 111 [or NHS 24] or equivalent immediately or in the case of emergencies dial 999 or equivalent number. Do not ignore medical advice that you have received from a healthcare professional because of something you have read on this site"*
- 4.2.6. It is Your responsibility to review the Clinical Database, and any updated version or new release of the Clinical Database to ensure that You agree with the proposed questions, answers, rationales differential diagnoses, prompts, weightings, methodologies, examinations, actions and clinical management advice contained in the Clinical Database. You must confirm that You have undertaken this review and are satisfied that You are fully able to operate the Clinical Database in a manner which is safe and poses no risks to

patients and others.

4.2.7. We shall use commercially reasonable efforts in the compilation of the Clinical Database, according to processes and procedures that have been accredited by NICE, so that the Clinical Database is a summary of best medical practice drawn from a variety of sources including the agreed consensus of all customer sites. Whilst the Clinical Database is offered in good faith, the Clinical Database relies on the input from the customer sites and other sources for its accuracy. Accordingly We cannot and do not warrant or guarantee that the Clinical Database will adequately cover every patient's medical condition, or that every piece of information supplied in the Clinical Database is correct.

4.2.8. You must report any concerns relating to the Clinical Database as soon as they are identified, or enhancements or changes are considered by You to be needed to the Clinical Database using Our electronic feedback email address of: [AHC.MedicalFB@oneadvanced.com](mailto:AHC.MedicalFB@oneadvanced.com). These enhancements or changes may then be actioned in the next issue of the Clinical Database after being considered by Our clinical knowledge unit. Where an enhancement or change has (in Our reasonable opinion) serious implications, We will notify You of the problem within a reasonable period of time and in advance of it being actioned in the Clinical Database.

**4.3. Schema Licence.** If You require access to the Software Database Schema the following terms and conditions shall apply:

4.3.1. We grant to You a personal, non-transferable, non-assignable, non-exclusive, indivisible, licence to use Software Database Schema for the purpose of generating, compiling and otherwise preparing customised reports in conjunction with the Software from within the Software SQL Database ("**Purpose**").

4.3.2. For the avoidance of doubt, the Software Database Schema shall only be used by You for the Purpose and exclusively in conjunction with the Software and for no other purpose. You have no right to amend or modify the Software Database Schema.

4.3.3. The Software Database Schema and any Intellectual Property or other proprietary rights of whatever nature in the Software Database Schema are and shall remain Our exclusive property and We reserve the right to sell, license, modify or otherwise exploit or deal with the Software Database Schema at Our discretion. You shall not acquire in any way any title, rights of ownership, Intellectual Property or other proprietary rights of whatever nature in the Software Database Schema or in any copies thereof.

4.3.4. You agree not to remove, suppress or modify in any way any proprietary marking including trademark or copyright on or in the Software Database Schema.

4.3.5. You acknowledge and agree that the Software Database Schema constitutes Our Confidential Information and is disclosed to You subject to the provision of clause 4 of the Master Agreement.

4.3.6. Your licence to use the Software Database Schema shall terminate automatically on termination of Your licence to Use the Software. On termination You undertake to cease and to procure that all Your personnel cease to use the Software Database Schema, and at Our option, You shall either return to Us the Software Database Schema together with all copies of the whole or part thereof, in any form, including partial copies and modifications and/or You shall destroy the same and certify to Us in writing that they have been destroyed. This shall include erasing the Software Database Schema and from any magnetic media or equipment on which it is stored.

4.3.7. You undertake to indemnify Us in respect of any Demands suffered or incurred by Us, directly or indirectly, arising from or in connection with any breach by You of this clause 4.3.

**4.4. Geographical Use.** Your licence to use the Software is limited to use at a Location within the UK, the Republic of Ireland and/or the Channels Islands. We reserve the right to grant to You a licence to use the Software at a Location in a territory other than UK, the Republic of Ireland and/or the Channels Islands ("**Overseas Territory**") subject to the following terms and conditions. Unless otherwise expressly agreed by Us in Writing:

4.4.1. any licence to use the Software in an Overseas Territory must be specifically set out in the Order Form;

4.4.2. You shall be responsible for obtaining any necessary licences or permits necessary for the entry, delivery and/or use of the Software in the Overseas Territory and You shall be responsible for any and all customs duties, clearance charges, taxes, brokers' fees and other amounts payable in connection with the importation and delivery of the Software in the Overseas Territory.

4.4.3. We supply and licence the Software on the basis that it is compliant with the local law in UK, the Republic of Ireland and/or the Channels Islands. Accordingly We provide no warranties, representations or guarantees that the Software is compliant with local laws and regulations applicable to the Overseas Territory ("**Local Regulations**") and the You accept the risk of any non-compliance.

4.4.4. You are solely responsible for informing Us of all Local Regulations affecting the supply, licensing, sale and/or use of the Software in the Overseas Territory which are in force at the Effective Date of the relevant Order Form and shall give Us as much advanced notice as is reasonably possible of any prospective changes in the Local Regulations. You shall indemnify Us for any Demand suffered or incurred by Us as a result of or in connection with the Software not complying with Local Regulations or Us otherwise being in breach of Local Regulations by performing the Agreement in accordance with its terms.

4.4.5. You are solely responsible for informing Us of any customisation of any Software necessary to render the Software compliant the Local Regulations.

4.4.6. The support hours applicable to the Support of the Software shall be based on GMT (or BST during the relevant time period when the UK is subject to BST).

**4.5. Integration.** You are permitted to Interface the Software with other systems or products operated by You subject to using Our API (application programme interface) and subject to Our assessment that any such interface will not (a) have an adverse effect or impact on or otherwise compromise the operation the Software or any data generated or processed by the Software (including any data input or output) or (b) create a risk to health or safety of any person. You are not permitted to Interface the Software (including exporting data or reports from the Software to input into another product for processing and re-input into the Software) by any API or other means (including by way of emulation) not approved or recommended by Us. You agree to indemnify us for any Demand We may suffer or incur in connection with or which arises as a result of such unauthorised interface or interoperability.

**4.6. Integrated Third Party Product.** We reserve the right to change, modify, replace, and/or add any Third Party Product or other third party software (including open source software) which is integrated and forms part of Our Software provided such change, modification, replacement and/or addition shall not adversely affect the functionality of the Software.

**4.7. Third Party Product.** Where We supply Third Party Products to be used in conjunction with Our Software the following additional terms apply:

4.7.1. You shall indemnify Us in respect of any Demands suffered or incurred by Us, directly or indirectly, arising from or in connection with any breach by You any applicable Third Party EULA.

4.7.2. We may treat any breach by You of the Third Party EULA as a breach of the Agreement.

- 4.7.3. Unless otherwise agreed by Us or specified in the Agreement or as may be permitted by the relevant third party supplier or licensor (a) You may only use Third Party Product supplied by Us (whether as a stand alone product or comprised in and forming part of the Software ) in conjunction with use of Our Software; and (b) Your right to use or receive such Third Party Product shall cease if the relevant licence or right terminates or expires in accordance with the relevant Third Party EULA or other third party licence terms and shall otherwise cease on termination of the Agreement or Software Licence and Support Services Attachment.
- 4.7.4. Where Our right to supply or make available, arrange and/or procure Third Party Product ceases for any reason We reserve the right to withdraw and terminate the provision of the Third Party Product and all related facilities and services under the Agreement and Software Licence and Support Services Attachment immediately on notice to You provided We shall use commercially reasonable efforts to provide You with as much notice as is reasonably practicable and shall use commercially reasonable efforts to offer replacement or substitute Third Party Product.
- 4.7.5. We reserve the right to change, replace or substitute any Third Party Product. Where such change, replacement or substitute shall adversely affect the ongoing cost, functionality or quality (as the case may be) of the solution provided by such Third Party Product, We shall obtain Your prior written consent (such consent not to be unreasonably withheld) to such change, replacement or substitute.
- 4.7.6. We reserve the right to suspend or terminate Your use or access to a Third Party Product pursuant to the Agreement immediately on notice if: (a) You breach the terms of the relevant Third Party EULA or other third party licence terms; (b) You breach any term of the Agreement relating to the Third Party Products; or (c) if We are

lawfully required or requested to do so by the relevant third party licensor or supplier.

- 4.8. Right to discontinue modules.** We reserve the right to discontinue the licence in respect of any module or functionality of Our Software and/or cease to provide Support Services in respect of such module or functionality provided We give You not less than 6 months' notice of such discontinuance/cessation. Where We decide to discontinue or withdraw a product comprising part of Our Software from the market (for example, We cease to continue with and implement a programme of continuous development, updating and improvement in respect of that so that it continues to be capable of complying with applicable legal, fiscal and regulatory requirements and therefore decide to cease to licence that Software to customers) (being "**Discontinued Software**"), We shall provide You with as much prior notice as is reasonably practicable of any proposed Discontinued Software and shall use commercially reasonable efforts to ensure that such notice is not less than 6 months. If We notify You of any Discontinued Software, the licence in respect of that Discontinued Software shall terminate and the Software Licence and Support Services Attachment shall terminate in respect of that Discontinued Software only, with effect from the discontinuance date as notified by Us to You, unless the parties otherwise agree in writing.
- 4.9. Support Calls.** We reserve the right to monitor and record telephone calls to Our helpdesk in accordance with Our statutory obligations and data protection legislation. The purpose of the monitoring and recording is to monitor the quality of services and staff training. You must advise all Your personnel and representatives of this policy and procure that they consent at all times to such monitoring and recording.