

1 Definitions and Interpretation

1.1 In this Agreement, the following words shall have the following meanings:

“**Activation Key**” means a series of digits, which may be required to activate the Licensed Software;

“**Agreement**” means the Supply Agreement and these Standard Terms;

“**Annual Service Fee**” means the annual fee payable for Support Services for the Licensed Software as set out in the Supply Agreement, subject to any increase under clause 12.4;

“**Authorised Use**” means the agreed limit on the extent of the Client’s use of the Licensed Material, as set out in the Supply Agreement and which, by way of example only, may comprise the maximum number of Authorised Users, the maximum number of care home beds or the maximum number of mobile devices for which the Licensed Material may be used;

“**Authorised User**” means any user authorised by the Client to use the Licensed Material;

“**Bespoke Work**” means any bespoke changes or additions to specification and designs of, or customisation of, Licensed Software and/or Subscription Software made at the request of the Client;

“**Business Day**” means a day other than a Saturday or a Sunday or a public holiday in England and Wales;

“**Client**” means the entity or person set out as such in the Supply Agreement;

“**Client Data**” means the data inputted by the Client, Authorised Users, or ICAREHEALTH on the Client’s behalf when using the Subscription Software or facilitating the Client’s use of the Subscription Software;

“**Client Personal Data**” means personal data (as defined below) relating to the individual residents, service users and clients of the Client and any other personal data of the Client which is processed by ICAREHEALTH as processor for the Client under this Agreement;

“**Contract Year**” means the period of 12 months from the Effective Date and any subsequent 12 month period commencing on the anniversary thereof;

“**controller**”, “**data subject**”, “**personal data**”, “**process**”, “**processor**” and “**supervisory authority**” shall, for the purposes of clause 18 have the meanings set out in the GDPR;

“**Delivery Date**” means the date upon which the Licensed Material is delivered to the Client by ICAREHEALTH, by way of: (i) delivery of a link to download the Licensed Software and (where applicable) an Activation Key or by the delivery of an access code or login details; or (ii) delivery of an access code or login details to access the Subscription Software or Electronic Call Monitoring;

“**Deployment**” means, in respect of each of the Licensed Software, the Subscription Software and Electronic Call Monitoring, the earlier of the first date ICAREHEALTH provides the Client with user access to the software and 30 days from the Effective Date;

“**Documentation**” means the instruction manuals, technical literature, user guides and other information identified in the Supply Agreement associated with the Licensed Material supplied by ICAREHEALTH to the Client whether in electronic form or otherwise;

“**Effective Date**” means the date this Agreement comes into force;

“**Electronic Call Monitoring**” means ICAREHEALTH’s landline based time and attendance monitoring system to which ICAREHEALTH shall provide access to the Client where specified in

the Supply Agreement;

“**Electronic Call Monitoring Fee**” means the annual fee for Electronic Call Monitoring and related Support Services as set out in the Supply Agreement, subject to any increase under clause 12.4;

“**Fees**” means the Licence Fee, the Subscription Fee, the Annual Service Fee, the Professional Services Fee, the Hardware Charges and the Electronic Call Monitoring Fee and any other fees set out in the Supply Agreement or subsequently agreed between the parties;

“**GDPR**” means the General Data Protection Regulation (Regulation (EU) 2016/679), or similar legislation as implemented under English law (including any national implementing laws, regulations and secondary legislation), in each case as applicable and in force in the United Kingdom from time to time;

“**Hardware**” means any hardware provided by ICAREHEALTH under this Agreement, as set out in the Supply Agreement; “**Hardware Charges**” means the charges for the Hardware set out in the Supply Agreement;

“**ICAREHEALTH’S Personnel**” means the employees, staff, other workers and agents of ICAREHEALTH and any of ICAREHEALTH’S subcontractors, sub-processors or agents who are engaged in the provision of the software and activities covered by this Agreement from time to time;

“**Intellectual Property Rights**” means patents, rights to inventions, copyright and related rights, trade marks, trade names, domain names, rights in get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including without limitation know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;

“**Licence Fee**” means the initial licence fee for the Licensed Software set out in the Supply Agreement;

“**Licensed Material**” means the Licensed Software, the Subscription Software, Electronic Call Monitoring and the Documentation;

“**Licensed Software**” means any of the software programs specified as such in the Supply Agreement in object code form;

“**Licensors**” means the entities from which iCareHealth licences software for distribution in the Territory, and includes Med Management Technologies LLC and iCareHealth Pty Ltd;

“**Model Clauses**” means the clauses established pursuant to Article 26(2) of Directive 95/46/EC for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection (or any equivalent clauses subsequently introduced pursuant to the implementation of the GDPR). Click [here](#) for a link to the current Model Clauses;

“**Privacy Shield**” means the EU-US Privacy Shield Framework developed by the US Department of Commerce and the EU Commission, including the Privacy Shield Principles and the Supplemental Principles (or any equivalent or replacement mechanism implemented between the USA and the EU, the UK and the US, or the UK and EU);

“**Professional Services**” means the implementation planning, project management, configuration services, Bespoke Work, data migration and/or training services specified in the Supply Agreement;

“**Professional Services Fee**” means the fees for the Professional Services set out in the Supply Agreement;

“**Renewal Date**” means in respect of any Licensed Material, the next anniversary of the date of Deployment and in respect of this Agreement as a whole, the latest of all such anniversary dates;

“**Security Policy**” means ICAREHEALTH’S security policy available at www.icarehealth.co.uk as updated from time to time;

“**Services**” means the Support Services and the Professional Services;

“**Standard Terms**” means these Standard Terms and Conditions of Business including Schedule A (Support Services) and Schedule B (Data Processing);

“**Subscription Fee**” means the annual fee payable for the Subscription Software and related Support Services set out in the Supply Agreement, subject to any increase under clause 12.4;

“**Subscription Software**” means the online software application/s (including any online modules) to which ICAREHEALTH shall provide access to the Client as specified in the Supply Agreement;

“**Supply Agreement**” means the document described as such detailing the specific commercial terms of this Agreement;

“**Support Services**” means providing support for the Licensed Software, Subscription Software and/or Electronic Call Monitoring as set out in the Supply Agreement and detailed further in Schedule A (Support Services);

“**Technical Design Document**” means the specification provided by ICAREHEALTH for any Bespoke Work;

“**Territory**” means the United Kingdom.

1.2 If any provisions of the Supply Agreement conflict with the other terms of this Agreement, the other terms of this Agreement will prevail.

1.3 All Schedules form part of these Standard Terms and shall be construed and have the same full force and effect as if expressly set out in these Standard Terms.

1.4 References to statutes, regulations or other laws (or any of their provisions) shall be construed to include references to those laws or provisions as amended or re-enacted (whether with or without modification) from time to time or as their application is modified by other laws or provisions (whether before or after the date of this Agreement) and shall include any law or provision of which they are re-enactments (whether with or without modification) and shall also include any orders, regulations, instruments or other subordinate legislation under the relevant law or statutory provision.

2 Application of terms

2.1 All Licensed Material, Services and Hardware are supplied by ICAREHEALTH in accordance with and subject to the terms in these Standard Terms and the Supply Agreement. Schedule A (Support Services) will apply to the provision of the Support Services.

3 Licence

3.1 In consideration of the payment by the Client of the Licence Fee or the Subscription Fee (as applicable), ICAREHEALTH hereby grants to the Client a non-exclusive, non-transferable licence to use the Licensed Material in the Territory in accordance with the Authorised Use for the period of 12 months from the date of Deployment and thereafter for the duration of the Support Services in respect of that Licensed Material, solely for the Client’s internal business operations.

3.2 The licence set out in clause 3.1 above shall terminate upon the termination or expiry of the Support Services in respect of that Licensed Material.

3.3 The Client undertakes that:

3.3.1 it and its Authorised Users’ shall not use the Licensed Material in excess of the Authorised Use; and

3.3.2 where applicable, the maximum number of Authorised Users that it authorises to access and use the Licensed Material shall not exceed the number specified in the Supply Agreement.

3.4 The Client may not reduce the Authorised Use prior to any Renewal Date unless agreed in writing by ICAREHEALTH.

3.5 The Client may from time to time request an increase in the Authorised Use set out in the Supply Agreement. Where agreed, ICAREHEALTH shall license the Licensed Material for such increased Authorised Use under these Standard Terms on payment by the Client to ICAREHEALTH of an increased Fee as applicable.

3.6 The Client shall be entitled to make a reasonable and proportionate number of copies of the Documentation for the purpose of instruction of the Authorised Users in the use of the Licensed Material.

4 Client Obligations

4.1 The Client shall not:

4.1.1 access all or any part of the Licensed Material in order to build a product or service which competes with the Licensed Material;

4.1.2 use the Licensed Material on behalf of or to provide services to third parties, make the Licensed Material available to third parties or assist third parties in obtaining access to the Licensed Material;

4.1.3 license, sell, rent, lease, transfer, assign, distribute, display, disclose, charge or otherwise deal in, encumber or commercially exploit the Licensed Material;

4.1.4 save as provided in clause 5.3, copy the whole or any part of the Licensed Software or the Documentation;

4.1.5 modify, merge, interface or combine the whole or any part of the Licensed Material with any other software or documentation otherwise than with the prior written consent of ICAREHEALTH; or

4.1.6 adapt, translate, reverse engineer, de-compile or disassemble the whole or any part of the Licensed Material.

4.2 The Client shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Licensed Material and in the event of any such unauthorised access or use, promptly notify ICAREHEALTH.

5 Terms applicable to the Licensed Software

5.1 ICAREHEALTH shall deliver to the Client one copy of any Licensed Software by way of delivery of a link to download the Licensed Software and (where applicable) an Activation Key or by the delivery of an access code or login details.

5.2 It is the responsibility of the Client to:

5.2.1 ensure that any Activation Key is entered into the appropriate data entry form in the Licensed Software; and

5.2.2 obtain and enter any subsequent Activation Key in sufficient time to ensure the continuity of operation of the Licensed Software. The Client should allow at least 2 Business Days for delivery of a new Activation Key by ICAREHEALTH following receipt by ICAREHEALTH of the Client’s request for a new Activation Key and payment in respect thereof.

5.3 The Client shall be entitled to make one back-up copy of the Licensed Software for security purposes only. Any such copy shall in all respects be subject to the terms and conditions of this Agreement and shall be deemed to form part of the Licensed Software.

6 Terms applicable to the Subscription Software

6.1 The Client undertakes that it will ensure that each Authorised User keeps a secure password for his use of any Subscription Software, that such password shall be changed no less frequently than quarterly and that each Authorised User shall keep his password confidential.

6.2 The Client undertakes not to access, store, distribute or transmit any viruses, malicious software, Trojan horses or any similarly disruptive or destructive software or code, or any material during the course of its use of the Subscription Software that: (i) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive; (ii) facilitates illegal activity; (iii) depicts sexually explicit images; (iv) promotes unlawful violence; (v) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability, or any other illegal activity; or (vi) causes damage or injury to any person or property and ICAREHEALTH reserves the right, without liability to the Client, to suspend access to the Subscription Software if the Client is in

breach the provisions of this clause until such breach is remedied to ICAREHEALTH's satisfaction.

6.3 The Client shall be solely responsible for:

6.3.1 procuring and maintaining its network connections and telecommunications links from its systems to ICAREHEALTH's (or its sub-contractors') data centres; and

6.3.2 all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Client's network connections or telecommunications links or caused by the internet.

6.4 ICAREHEALTH is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Client acknowledges that the Subscription Software and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

7 Electronic Call Monitoring

7.1 The Electronic Call Monitoring Fee is based on the number of hours of care delivery that ICAREHEALTH agrees to monitor annually as set out in the Supply Agreement.

7.2 At least once each year, ICAREHEALTH will reconcile the estimated number of hours stated in the Supply Agreement with the confirmed number of hours monitored by Electronic Call Monitoring and the Client will pay for any hours monitored in excess of the number stated in the Supply Agreement at ICAREHEALTH's standard rate from time to time upon receipt of ICAREHEALTH's invoice.

8 Bespoke Work

8.1 For the purposes of this Agreement, if any Bespoke Work:

8.1.1 is provided to the Client as a software program in object code form then it will comprise Licensed Software;

8.1.2 is provided to the Client as part of an online software application then it will comprise Subscription Software.

8.2 ICAREHEALTH may charge the Client for any rectification or additional work necessary as a result of any errors or omissions in the Technical Design Document which are notified to ICAREHEALTH after the Effective Date.

9 Delivery and acceptance

9.1 Unless otherwise agreed in writing, ICAREHEALTH shall not be required to arrange delivery of the Licensed Material or Hardware to the Client until ICAREHEALTH is in receipt of the Licence Fee, Subscription Fee or the Hardware Charges.

9.2 Details of delivery dates are estimates given in good faith. ICAREHEALTH will use its reasonable endeavours to meet delivery estimates, but will not be liable for any costs or damages resulting from any delays. Time is not of the essence in respect of delivery of the Licensed Material or Hardware.

9.3 Any errors in Bespoke Work which are notified to ICAREHEALTH within 90 days of delivery of Bespoke Work will be rectified by ICAREHEALTH, where reasonably possible, at no cost to the Client. After this period any rectification work will be chargeable.

10 Title and risk

10.1 Any benefit passing to ICAREHEALTH under a manufacturer's warranty in relation to the Hardware is hereby assigned to the Client in so far as ICAREHEALTH is able to do so. It is the Client's responsibility to arrange its own maintenance contracts in respect of Hardware.

10.2 The risk of loss or damage to the Hardware and the physical media on which any Licensed Software is provided will pass to the Client upon delivery, but legal and beneficial ownership will remain with ICAREHEALTH until full payment has been received. Ownership of the Licensed Material itself shall always remain with ICAREHEALTH and/or its licensors.

11 Professional Services

11.1 ICAREHEALTH will provide the Professional Services set out in the Supply Agreement to the Client from payment of the Professional Services Fee and in accordance with a timeframe agreed with the Client.

11.2 Details of dates for delivery of Professional Services are estimates given in good faith. ICAREHEALTH will use its reasonable endeavours to meet such estimates, but will not be liable for any

costs or damages resulting from any delays. Time is not of the essence in respect of the delivery of Professional Services.

11.3 Professional Services Fees are calculated based on a day rate. Where additional days are required for the completion of the Professional Services, the Client shall pay the additional costs thereof at the day rate set out in the Supply Agreement or at ICAREHEALTH's then current rates.

11.4 Where the provision of the Professional Services includes an on-site visit by ICAREHEALTH's personnel, ICAREHEALTH shall at its sole discretion: (i) charge 100% of the agreed Professional Services Fee in the event that the Client cancels such visit less than 14 days prior to the agreed date of the visit; and/or (ii) agree to change the dates of such on-site visits if requested by the Client, but payment of the Professional Services Fee in respect thereof shall become due as if the Professional Services has been provided on the original scheduled date.

12 Fees and Payment

12.1 The Client shall pay to ICAREHEALTH the Fees within 30 days from the date of invoice in accordance with this clause 12.

12.2 All Fees quoted are exclusive of any applicable taxes, which will be charged at the current rate.

12.3 The Licence Fee, the Professional Services Fee, and the Hardware Charges shall be invoiced on the Effective Date. Where expressly agreed in the Supply Agreement, ICAREHEALTH may alternatively issue fixed monthly invoices in respect of any of the Fees.

12.4 The Annual Service Fee, the Electronic Call Monitoring Fee and Subscription Fee shall be invoiced on the Effective Date and annually on the Renewal Date. ICAREHEALTH may increase its Annual Service Fee, the Electronic Call Monitoring Fee and Subscription Fee from time to time.

12.5 ICAREHEALTH will issue an invoice for fifty percent of the total cost of any Bespoke Work upon the Effective Date. The balance shall be invoiced upon delivery of the Bespoke Work to the Client by ICAREHEALTH.

12.6 If payment by the Client is delayed, ICAREHEALTH reserves the right to:

12.6.1 charge interest of 2% per month or part of a month on sums remaining outstanding from the due date until payment in full;

12.6.2 recover in full any discounts from ICAREHEALTH's standard fees at the time of quotation that were stated in the quotation; and

12.6.3 suspend access to and/or provision of the Licensed Material and/or Services until payment in full.

12.7 The Client may not for any reason withhold, make deduction from, set off against or make abatement of any payment due to ICAREHEALTH.

13 Ownership of the Licensed Material

13.1 The Client acknowledges that all Intellectual Property Rights in or arising from the Licensed Material are the exclusive property of ICAREHEALTH and/or its licensors. No right, title or interest in or to the Intellectual Property Rights in the Licensed Material is transferred to the Client (other than the rights expressly granted in clause 3.1 (Licence)).

13.2 The Client shall promptly notify ICAREHEALTH if it becomes aware of any breach of confidentiality or infringement in respect of any of ICAREHEALTH's Intellectual Property Rights in the Licensed Material (whether actual or threatened) by any person (whether authorised or otherwise) or of any unauthorised use of the Licensed Material by any person.

13.3 The Client shall permit ICAREHEALTH to inspect and have access to any premises (and to the computer equipment located there) at or on which the Licensed Material are being kept or used, and to inspect and have access to any records kept in connection with the Licensed Material, for the purposes of ensuring that the Client is complying with the terms of this Agreement, provided that ICAREHEALTH provides reasonable advance notice to the Client of such inspections, which shall take place at reasonable times.

14 Intellectual property rights indemnity

14.1 In the event of any claim being brought against the Client by a third party that its normal use or possession of the Licensed Material in accordance with this Agreement infringes the copyright of

a third party ("Intellectual Property Infringement"), subject to clauses 19.3 and 19.4, ICAREHEALTH hereby indemnifies and will keep indemnified the Client against any damages that are awarded to be paid to any such third party in respect of such Intellectual Property Infringement provided that the Client shall:

14.1.1 give notice to ICAREHEALTH of the Intellectual Property Infringement forthwith upon becoming aware of the same;

14.1.2 give ICAREHEALTH the sole conduct of the defence to any claim or action in respect of an Intellectual Property Infringement and shall not at any time admit liability or otherwise attempt to settle or compromise the said claim or action except upon the express instructions of ICAREHEALTH; and

14.1.3 act in accordance with the reasonable instructions of ICAREHEALTH and give to ICAREHEALTH such assistance as it shall reasonably require in respect of the conduct of the said defence including without prejudice to the generality of the foregoing the filing of all pleadings and other court process and the provision of all relevant documents.

14.2 ICAREHEALTH shall have no liability to the Client in respect of an Intellectual Property Infringement if the same results from any breach of the Client's obligations under this Agreement, from Bespoke Work based on the specific instructions or specifications of the Client or from the use of the Licensed Material in combination with any equipment or software not approved in writing by ICAREHEALTH or use not in accordance with the Documentation.

14.3 In the event of an Intellectual Property Infringement, provided that the Client has complied with the provisions of this clause 14, ICAREHEALTH shall be entitled at its own expense and option either to:

14.3.1 procure the right for the Client to continue using the Licensed Material; or

14.3.2 make such alterations, modifications or adjustments to the Licensed Material so that they become non-infringing without incurring a material diminution in performance or function;

14.3.3 replace the Licensed Material with non-infringing substitutes provided that such substitutes do not entail a material diminution in performance or function; or

14.3.4 terminate this Agreement as a whole or with respect to the Licensed Material to which the Intellectual Property Infringement relates immediately by notice in writing to the Client and refund any of the Fees paid by the Client as at the date of termination (less a reasonable sum in respect of the Client's use of the Licensed Material and the Services to the date of termination), and clauses 14.1 to 14.3 state the entire liability of ICAREHEALTH to the Client in respect of any Intellectual Property Infringement. All other rights or remedies of the Client whether in contract, tort or otherwise are hereby excluded.

14.4 The provisions of clauses 14.1 and 14.3 shall not apply and the Client shall indemnify ICAREHEALTH against all liabilities, costs and expenses which ICAREHEALTH may incur as a result of any claim attributable to the use or possession by the Client of the Licensed Material other than in accordance with the Documentation and the provisions of this Agreement.

15 Duration of and renewal of Agreement

15.1 This Agreement shall commence on the Effective Date and:

15.1.1 the licence to use the Licensed Material shall commence on Deployment for an initial period of 12 months;

15.1.2 Electronic Call Monitoring shall commence on Deployment and shall be provided for an initial period of 12 months;

15.1.3 the Support Services shall commence in respect of each item of Licensed Material on Deployment thereof and shall be provided for an initial period of 12 months, and in each case shall automatically continue for successive 12 month periods thereafter (each a "Renewal") unless terminated in accordance with clause 16. Upon any such Renewal any updated standard terms and conditions of business set out at www.icarehealth.co.uk, or such other website as may be notified to the Client from time to time, shall apply and replace these Standard Terms.

16 Termination

16.1 This Agreement and any licence granted herein may be terminated immediately:

16.1.1 by ICAREHEALTH on written notice to the Client if the Client fails to pay any Fees due under this Agreement by the specified due date;

16.1.2 by either party on written notice to the other if the other commits any material breach of any term of this Agreement and which (in the case of a breach capable of being remedied) shall not have been remedied within 30 days of a written request to remedy the same;

16.1.3 by either party on written notice to the other if the other convenes a meeting of its creditors or if a proposal is made for a voluntary arrangement within part I of the Insolvency Act 1986 or a proposal for any other composition scheme or arrangement with (or assignment for the benefit of) its creditors or if the other is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or if a trustee receiver, administrative receiver or administrator or similar officer is appointed in respect of all or any part of the business or assets of the other or if a petition is presented or a meeting is convened for the purpose of considering a resolution or other steps are taken for the winding up of the other or for the making of an administration order (otherwise than for the purpose of an amalgamation or reconstruction) or if either party, being an individual or partnership, becomes bankrupt or enters into a voluntary arrangement or makes any other assignment for the benefit of or a composition with creditors.

16.2 Either party may terminate this Agreement with effect from the applicable Renewal Date, as a whole or the provision of any of the Licensed Software, Subscription Software and/or Electronic Call Monitoring, by giving written notice to the other party, at least 60 days before the applicable Renewal Date. For the avoidance of doubt this Agreement shall continue in force in respect of any Licensed Material not terminated under this clause 16.2, provided that where there is no remaining provision of the Licensed Software or the Subscription Software this Agreement shall terminate in its entirety. Upon termination of the provision of any Licensed Material, the Support Services in respect thereof shall also terminate.

16.3 In addition to all other rights and circumstances of termination in this Agreement, and notwithstanding any Renewal pursuant to clause 15.1 above, in respect of the relevant Licensed Material, this Agreement will terminate automatically on the End of Life Date for that Licensed Material in accordance with this clause. ICAREHEALTH shall be entitled to notify the Client (and other users) that after a specified date (the "End of Life Date", which shall be no sooner than 12 months after the date of ICAREHEALTH'S notice) the relevant Licensed Material will cease to be made available by ICAREHEALTH to users. Accordingly, any Renewal which occurs after ICAREHEALTH'S service of the End of Life Date notice shall also terminate on the End of Life Date.

16.4 Upon termination or expiry of this Agreement:

16.4.1 all licences to use the Licensed Material granted under this Agreement shall immediately terminate;

16.4.2 ICAREHEALTH shall issue an invoice in respect of all Professional Services provided up to the date of termination, and the Client shall pay such invoice in accordance with clause 12.1;

16.4.3 any Activation Keys supplied to the Client will automatically expire so that the Licensed Software will cease to operate; and

16.4.4 the Client's (and any Authorised Users') access to the Subscription Software will terminate.

16.5 Within 7 days of the termination of this Agreement (however and by whomsoever occasioned) the Client shall, at ICAREHEALTH'S option, either return to ICAREHEALTH or destroy all copies of the Licensed Software and the Documentation in its possession and a duly authorised officer of the Client shall certify in writing to ICAREHEALTH that the Client has complied with such obligation.

16.6 The expiry or any termination of this Agreement howsoever occasioned shall:

16.6.1 be without prejudice to any other rights or remedies ICAREHEALTH may be entitled to hereunder or at law;

16.6.2 not affect any accrued rights or liabilities of ICAREHEALTH nor the coming into or continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination; and

16.6.3 not entitle the Client to repayment of any Fees paid by it to ICAREHEALTH under this Agreement and the Client shall continue to be obliged to pay any and all Fees due under the terms of this

Agreement without reduction or rebate.

17 Warranties

17.1 Subject to clause 17.3, ICAREHEALTH warrants that:

17.1.1 the Licensed Material will at its Delivery Date conform in all material respects to its specifications in the Documentation;

17.1.2 the medium upon which the Licensed Software is recorded will be free from material defects under normal use and service for a period of 90 days from the Delivery Date. ICAREHEALTH's entire liability and the Client's sole remedy for breach of this warranty shall be the replacement of any defective medium covered under this warranty;

17.1.3 it has the authority to provide the Licensed Material upon the terms and conditions of this Agreement;

17.1.4 it will provide the Services and Subscription Software with reasonable skill and care;

17.1.5 the Bespoke Work will in all material respects conform to the Technical Design Document for 90 days following delivery; and

17.1.6 it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this Agreement.

17.2 Subject to clause 17.3, ICAREHEALTH shall have the right to remedy or procure that any third party remedies any breach of the warranty set out in clause 17.1.1 in relation to Licensed Software by replacement of the Licensed Software with a new copy or copies at ICAREHEALTH's discretion.

17.3 ICAREHEALTH shall have no liability to remedy a breach of the warranties in clause 17.1 or any other failure of the Licensed Material where such breach or other failure arises as a result of:

17.3.1 any repair adjustment alteration or modification of the Licensed Material by any person other than ICAREHEALTH;

17.3.2 any use of the Licensed Material other than in accordance with the Documentation and this Agreement;

17.3.3 the failure by the Client to implement recommendations in respect of or solutions to faults previously advised by ICAREHEALTH;

17.3.4 the use of the Licensed Material on or with software or hardware not supplied by or approved in writing by ICAREHEALTH; or

17.3.5 failure of the Client to request or correctly enter the Activation Key.

17.4 ICAREHEALTH does not warrant that the Client's use of the Licensed Material will be uninterrupted or error-free.

17.5 The Client accepts that the Licensed Material and the Hardware was not designed and produced to its individual requirements and that it was responsible for their selection. Although ICAREHEALTH may advise on the selection of software or hardware for a particular application, the responsibility of ensuring that the Licensed Material and the Hardware is adequate for the Client's purposes rests entirely with the Client. ICAREHEALTH is not the manufacturer of the Hardware and it shall not be responsible for the functioning or suitability of the Hardware except as set out in clause 10.1.

17.6 Except as expressly set out in this Agreement, all warranties, conditions, terms and liabilities express or implied, statutory or otherwise, on the part of ICAREHEALTH, in respect of compliance with descriptions, the quality or the fitness for purpose of the Licensed Material, the Services and the Hardware are excluded to the extent such exclusion is prohibited or limited by law.

18 Client Data

18.1 The Client shall have all rights, title and interest in and to the Client Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Client Data.

18.2 In the event of any loss or damage to Client Data as a result of ICAREHEALTH's negligence or breach of the terms of this Agreement, the Client's sole and exclusive remedy shall be for ICAREHEALTH to use reasonable endeavours to restore the lost or damaged Client Data from the latest back-up of such Client Data maintained by ICAREHEALTH in accordance with its archiving procedure. ICAREHEALTH shall not be responsible for any loss, destruction, alteration or disclosure of Client Data caused by any third party (including, without limitation, any sub-contractor).

18.3 In the event ICAREHEALTH processes Client Personal Data in the course of performing its obligations under this Agreement, the parties agree that, for the purposes of the GDPR,

the Client shall be the controller and ICAREHEALTH shall be the processor.

18.4 The subject-matter and duration of the processing, the nature and purpose of the processing, the type of personal data and categories of data subjects shall be as set out in Schedule B (which may be updated by ICAREHEALTH from time to time).

18.5 The Client instructs ICAREHEALTH (and authorises ICAREHEALTH to instruct any sub-processor it appoints) to:

18.5.1 process the Client Personal Data; and

18.5.2 transfer the Client Personal Data to sub-processors in the territories listed in Schedule B (subject to compliance with that Schedule where relevant), in each case as reasonably necessary for the performance of and in accordance with the terms of this Agreement.

18.6 The Client warrants and represents that:

18.6.1 it will at all times remain duly and effectively authorised to give the instruction set out in clause 18.5;

18.6.2 it has all authority, grounds, rights and consents necessary to enable ICAREHEALTH to process the Client Personal Data in accordance with the GDPR and all other applicable data protection legislation for the purposes of this Agreement and is entitled to provide it to ICAREHEALTH for processing in accordance with this Agreement on the Client's behalf;

18.6.3 all relevant third parties have been informed of, and have given their consent to, such processing as required by the GDPR and all other applicable data protection legislation;

18.6.4 it shall comply with the GDPR and all other applicable data protection legislation, relevant industry codes of practice and guidance in relation to the processing of personal data;

18.6.5 the information set out in Schedule B is accurate; and

18.6.6 it has ensured and will continue to ensure that Client Personal Data supplied to ICAREHEALTH and/or a sub-processor is relevant and not excessive with regard to the purpose of the processing, is materially accurate and up to date.

18.7 ICAREHEALTH shall not be liable for any claim arising from any action or omission by it or any sub-processor, to the extent that such claim, action or omission is a consequence of the Client's instructions, including instructions to transfer data to a third party.

ICAREHEALTH Obligations

18.8 ICAREHEALTH, to the extent it is acting as processor in respect of Client Personal Data, agrees to:

18.8.1 process Client Personal Data only in accordance with documented instructions from the Client (including those set out in this Agreement), unless required to do so by English, European Union ("EU") or EU Member State law to which ICAREHEALTH is subject. In such a case, ICAREHEALTH shall inform the Client of that legal requirement before processing (unless that law prohibits such information on important grounds of public interest);

18.8.2 only transfer the Client Personal Data outside the EEA in accordance with clause 18.15;

18.8.3 ensure that ICAREHEALTH'S Personnel authorised to process the Client Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;

18.8.4 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 the varying likelihood and severity of rights and freedoms of natural persons, in relation to the Client Personal Data, implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk including considering those measures referred to in Article 32 of the GDPR ('Security of processing');

18.8.5 taking into account the nature of the processing, assist the Client by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Client's obligation to respond to requests for exercising data subjects' rights laid down in Chapter III ('Rights of the data subject') of the GDPR;

18.8.6 taking into account the nature of the processing and information available to ICAREHEALTH, provide assistance to the Client in order to assist the Client in ensuring the Client's compliance with the obligations set out in GDPR Article 32 ('Security of processing'), Article 33 ('Notification of a personal data breach to the supervisory authority'), Article 34 ('Communication of a personal data breach to the data subject'), Article 35 ('Data protection impact assessment'), and Article 36 ('Prior consultation'), in each case solely in relation to processing of the Client Personal Data;

18.8.7 at the option of the Client, delete or return all the Client Personal Data to the Client after the end of the provision of services relating to processing, and delete existing copies unless English, EU or EU Member State law requires storage of the personal data. ICAREHEALTH may retain the Client Personal Data to the extent required by any applicable laws affecting it for such period as required by such laws, provided that ICAREHEALTH shall ensure the confidentiality of all such personal data and shall ensure that such personal data is only processed as necessary for the purpose(s) specified in the applicable laws;

18.8.8 permit audits and inspections conducted by the Client or an auditor appointed by the Client, subject to the conditions set out in clause 18.9;

18.8.9 make available to the Client all information necessary to demonstrate compliance with Article 28 of the GDPR and, subject to clause 18.9, permit audits and inspections conducted by the Client or an auditor appointed by the Client; and

18.8.10 immediately inform the Client if, in its opinion, an instruction of the Client pursuant to clause 18.8.9 infringes the GDPR or other EU or EU Member State data protection provisions.

Audits

18.9 The Client shall give ICAREHEALTH reasonable notice of any audit or inspection to be conducted under clause 18.8.8 and shall make (and ensure that each of its appointed auditors makes) reasonable endeavours to avoid causing (or, if it cannot avoid, to minimise) any damage, injury or disruption to ICAREHEALTH's premises, equipment, personnel and business while its personnel are on those premises in the course of such an audit or inspection. ICAREHEALTH need not give access to its premises for the purposes of such an audit or inspection:

18.9.1 to any individual unless he or she produces reasonable evidence of identity and authority;

18.9.2 outside normal business hours at those premises, unless the audit or inspection needs to be conducted on an emergency basis and the Client has given notice to ICAREHEALTH that this is the case before attendance outside those hours begins; or

18.9.3 for the purposes of more than one audit or inspection in any calendar year, except for any additional audits or inspections which:

(a) the Client reasonably considers necessary because of genuine concerns as to ICAREHEALTH's compliance with its data processing obligations under this clause 18; or

(b) the Client is required or requested to carry out by the GDPR, a supervisory authority or any similar regulatory authority responsible for the enforcement of data protection laws, where the Client has identified its concerns or the relevant requirement or request in its notice to ICAREHEALTH of the audit or inspection.

Security Policy

18.10 The Client confirms it has assessed the provisions of the Security Policy in relation to the Client Personal Data and this Agreement more generally, and acknowledges that the standards implemented by the Security Policy are appropriate to the risks referred to in clause 18.8.4. As between the Client and ICAREHEALTH and to data subjects and supervisory authorities, the Client shall be responsible if the measures set out in the Security Policy do not meet the GDPR standard of appropriateness referred to in Article 32 of the GDPR (or equivalent).

Sub-processors

18.11 The Client generally authorises ICAREHEALTH to engage sub-processors in relation to the processing of Client Personal Data and specifically authorises ICAREHEALTH to engage those processors listed in Schedule B.

18.12 ICAREHEALTH shall inform the Client of any intended changes concerning the addition or replacement of such processors. The Client shall have the right to object to any changes, where it has reasonable grounds to consider the use of such processors would not comply with the GDPR, and if it does object it must notify ICAREHEALTH in writing within 5 days of being informed of the change.

18.13 Where ICAREHEALTH receives written notice from the Client in accordance with clause 18.12, ICAREHEALTH shall endeavour to address the objections raised by the Client, but if the Client is not satisfied, either party shall have the right to terminate this Agreement on not less than 30 days' notice.

18.14 ICAREHEALTH shall ensure that the arrangement between it and each processor contemplated by clauses 18.11 and

18.13 is governed by a written contract including terms which offer equivalent protection for the Client as those set out in this Agreement and which are required by Article 28(3) of the GDPR.

Transfers outside of EEA

18.15 Where sub-processors located in territories outside of the EEA are used by ICAREHEALTH, as identified in Schedule B, Client Personal Data will be transferred outside of the EEA. In these circumstances, unless the transfer is to a country which does ensure an adequate level of protection as decided by the EU Commission, the safeguards for Client's Personal Data set out in Schedule B shall be put in place or any other mechanisms meeting the requirements of the GDPR or any other applicable law regarding transfers outside of the EEA.

Costs

18.16 The Client shall reimburse ICAREHEALTH for all costs, expenses and time (at ICAREHEALTH'S standard rates) in connection with the fulfilment of ICAREHEALTH'S obligations under clauses 18.8.5 to 18.8.9. ICAREHEALTH shall invoice the Client in relation thereto and such invoices shall be paid in accordance with clause 12.1 of this Agreement.

Cooperation with Supervisory Authorities

18.17 The Client shall (at its own cost) provide assistance requested by ICAREHEALTH in relation to the fulfilment of ICAREHEALTH'S obligation to cooperate with the relevant supervisory authority under Article 31 GDPR. Notwithstanding any other provision of this Agreement, ICAREHEALTH shall be entitled to respond to and provide all relevant information in respect of requests or orders issued by such supervisory authority.

19 Limitation of liability

19.1 ICAREHEALTH'S liability and that of its Licensors for any loss or damage:

19.1.1 resulting from fraud or fraudulent misrepresentation;

19.1.2 for any breach of any obligations implied by Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982; or

19.1.3 to the extent prohibited by the Consumer Protection Act 1987; and

19.1.4 for death or personal injury resulting from the negligence of ICAREHEALTH or that of its Licensors, employees or agents to the extent prohibited by the Unfair Contract Terms Act 1977, shall not be limited.

19.2 Subject to clause 19.1, any liability ICAREHEALTH and its Licensors may have to the Client in respect of direct damage to the physical property of the Client howsoever caused, including that resulting from the negligence of ICAREHEALTH, its Licensors, employees, agents or sub-contractors, in respect of all claims arising in any Contract Year will not exceed two hundred thousand pounds (£200,000) in aggregate.

19.3 Subject to clause 19.1, any liability ICAREHEALTH and its Licensors and sub-processors may have to the Client as a result of any breach of clause 18 (Client Data) or otherwise concerning the processing of Client Personal Data, whether in contract, tort (including without limitation negligence, breach of statutory duty, misrepresentation (whether innocent or negligent)), restitution, under any indemnity or otherwise, in respect of all claims arising in any Contract Year will not exceed a sum equal to three times (3 X) the Fees paid by the Client in respect of that Contract Year.

19.4 Subject to clause 19.1 and except for liability referred to in clauses 19.2 and 19.3, ICAREHEALTH and its Licensors' aggregate liability (including any liability for the acts and omissions of its Licensors, employees, agents and sub-contractors), whether in contract, tort (including without limitation negligence, breach of statutory duty, misrepresentation (whether innocent or negligent)), restitution, under any indemnity or otherwise, in respect of all claims arising in any Contract Year in relation to this Agreement, the Licensed Material and the Services will not exceed a sum equal to the Fees paid by the Client in respect of that Contract Year.

19.5 Subject to clause 19.1, ICAREHEALTH and its Licensors shall in no circumstances be liable to the Client, whether in contract, tort (including without limitation negligence, breach of statutory duty, misrepresentation (whether innocent or negligent)), restitution, under any indemnity or otherwise, in respect of any:

19.5.1 loss of profits;

19.5.2 loss of goodwill;

19.5.3 business interruption;

19.5.4 loss of business information or data (save as set out in clause 18);

19.5.5 loss or damage suffered by the Client as a result of any claim brought by a third party (save as set out in clause 14);

19.5.6 indirect or consequential loss, even if such losses were reasonably foreseeable or in the reasonable contemplation of the parties or if ICAREHEALTH had been advised at any time of the possibility of the Client incurring them.

19.6 The Client agrees that each of the sub-clauses in clause 19.5 constitute separate terms and the introductory wording of clause 19.5 shall be applied to each of them separately. If there is any claim or finding that any such individual sub-clause is unenforceable for any reason, such unenforceability shall not affect any other provision within clause 19.5 or otherwise.

19.7 ICAREHEALTH and its Licensors shall not be liable for any loss or damage whatsoever which results directly or indirectly from the Client's failure to allow adequate time to request, receive and enter any Activation Key in relation to the Licensed Software.

19.8 The Client acknowledges that the Licensed Material has been designed to facilitate the provision of healthcare services by appropriate trained and experienced professionals but that the Client shall at all times be solely responsible for its provision of the healthcare services using the Licensed Material and shall: (i) maintain controls and procedures in place to ensure the Licensed Material is correctly used and that errors are detected; (ii) exercise all caution and diligence as would be expected of a provider of healthcare services when using the Licensed Material; (iii) ensure all personnel involved in the dispensing and administration of medicines have completed all relevant professional training and training on the use of the Licensed Materials. In no event shall ICAREHEALTH or its Licensors be responsible for any loss, damage or injury caused by a failure by the Client to take reasonable care in the use of the Licensed Material or the erroneous input of data into any Licensed Material by any user of the Licensed Material or any other third party.

20 Confidentiality

20.1 The Client shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Client by ICAREHEALTH, and any other confidential information concerning ICAREHEALTH's business or its products which the Client may obtain. The Client shall restrict disclosure of such confidential material to such of its employees, agents or sub-contractors as need to know the same for the purpose of exercising its rights under this Agreement, and shall ensure that such employees, agents or sub-contractors are subject to obligations of confidentiality corresponding to those which bind the Client.

20.2 This clause 20 shall survive expiry or termination of this Agreement.

21 Force Majeure

21.1 ICAREHEALTH shall not be liable for any delay in or failure to perform its obligations if that delay or failure is caused by circumstances beyond the reasonable control of ICAREHEALTH including, without limitation, fires, strikes, insurrection, riots, embargoes, inability to obtain supplies, default of suppliers or sub-contractors, refusal or revocation of licence or regulations of any civil or military authority.

22 Waiver

22.1 The waiver by either party of a breach or default of any of the provisions of this Agreement by the other party shall not be construed as a waiver of any succeeding breach of the same or other provisions nor shall delay or omission on the part of either party to exercise or avail itself of any right power or privilege that it has or may have hereunder operate as a waiver of any breach or default by the other party.

23 Severance

23.1 If any of the terms contained in this Agreement are held to be invalid or unenforceable in whole or in part, the invalid or unenforceable wording shall be deemed to be omitted without affecting or impairing the validity and enforceability of the rest of the

Agreement.

24 Notices and amendment

24.1 Any notice to be given hereunder shall be delivered personally or sent by first class or recorded delivery post or by facsimile to the address or facsimile number of the other party set out in the Supply Agreement (or such other designated address or number as may have been notified in accordance with this clause) and any such notice shall be deemed to have been served: (i) if delivered personally, at the time of delivery; (ii) if sent by post, upon the expiration of 48 hours after posting; and (iii) if sent by facsimile, upon the expiration of 12 hours after transmission.

25 Contracts (Rights of Third Parties) Act 1999

25.1 The Licensors and any sub-processors appointed pursuant to clause 18 (Client Data) shall be entitled, in their own right pursuant to the Contracts (Rights of Third Parties) Act 1999, to enforce the limitations and exclusions expressed to be in their or ICAREHEALTH's favour in clause 19. The Client and ICAREHEALTH shall not be required to notify or obtain the consent of any Licensor or sub-processors in order to rescind or vary this Agreement or any provision of it.

25.2 Save as referred to in clause 25.1 above, no provision of this Agreement shall be enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to it.

26 Entire agreement

26.1 This Agreement constitutes the entire agreement and understanding of the parties and supersedes any previous agreement or understanding between the parties with respect to the arrangements contemplated by or referred to in it.

26.2 The parties acknowledge and agree that:

26.2.1 in entering into this Agreement they do not rely on, and shall have no remedy in respect of, any statement, representation, warranty (in each case whether negligently or innocently made), or understanding of any person (whether party to this Agreement or not) which is not expressly set out in this Agreement; and

26.2.2 the only remedy available for breach of any statement, representation or other term that is expressly set out in this Agreement shall be for breach of contract under the terms of the Agreement.

27 Assignment and sub-licensing

27.1 The Client shall not be entitled to assign this Agreement nor any of its rights or obligations hereunder nor sub-licence the use (in whole or in part) of the Licensed Material or share its access to the Subscription Software without the prior written consent of ICAREHEALTH.

27.2 ICAREHEALTH may at any time assign or transfer any of its rights hereunder, and may sub-contract any or all of its obligations under this Agreement.

28 Law

28.1 This Agreement and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the laws of England and Wales.

28.2 The parties irrevocably agree that the courts of England and Wales have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

SCHEDULE A – SUPPORT SERVICES

1 Definitions

1.1 In this Schedule, terms shall have the same meanings as set out in the Standard Terms and the following words shall have the following meanings:

“**Business Hours**” means the hours of Support Desk availability as set out in paragraph 5 below;

“**Resolution Period**” means the target resolution period set out in paragraph 6 below;

“**Response Period**” means the target response period set out in paragraph 6 below;

“**Severity Classification**” means the severity classification of a Support Call as detailed in paragraph 4 below;

“**Support Call**” means a support call to the Support Desk in relation to the Licensed Material;

“**Support Desk**” means ICAREHEALTH’s support helpdesk for the provision of the Support Services;

“**Support Year**” means a consecutive period of 12 months from the date of Deployment of the Licensed Material or any anniversary thereof.

2 Support Services

2.1 The Client shall pay for, and ICAREHEALTH shall provide, the Support Services in accordance with this Agreement. For the avoidance of doubt, the Support Services do not apply to the Hardware.

2.2 If the Client does not pay the Annual Service Fee, the Subscription Fee or the Electronic Call Monitoring Fee by the due date, ICAREHEALTH may terminate the licence to use the Licence Material with immediate effect.

2.3 ICAREHEALTH shall not be obliged to provide the Support Services where:

2.3.1 the Authorised User has not received a minimum of three days’ training approved by ICAREHEALTH;

2.3.2 faults arise from: (i) any use of the Licensed Material other than in accordance with the Documentation and this Agreement or on or with software or hardware not supplied by or approved in writing by ICAREHEALTH; or (ii) operator error or any breach of the Client’s obligations under this Agreement howsoever arising;

2.3.3 the Client has failed to implement recommendations in respect of or solutions to faults previously advised by ICAREHEALTH;

2.3.4 the Support Call cannot be reproduced by the Support Desk or has Severity Classification 4;

2.3.5 the Support Call relates to unavailability of the Subscription Software as a result of the failure of a third party (including ICAREHEALTH’s sub-contractors);

2.3.6 ICAREHEALTH reasonably believes that support required is related to a “knowledge” deficiency of the Client despite any training provided.

2.4 ICAREHEALTH shall not be obliged to provide the Support Services for any software which has not been supplied by ICAREHEALTH.

2.5 From time to time, ICAREHEALTH may make new versions of the Licensed Material available to the Client and ICAREHEALTH will inform the Client of any such new versions prior to release.

2.6 The Client shall notify ICAREHEALTH whether or not it wishes to receive the new version in respect of any Licensed Software. Subscription Software will be automatically updated to comprise any new versions.

2.7 ICAREHEALTH shall only be obliged to provide the Support Services to the Client for the current version of the Licensed Material available to the Client and the previous two versions of the Licensed Material.

2.8 Any new versions provided to the Client shall form part of the Licensed Material and shall be subject to this Agreement.

3 Support Calls

3.1 The following procedure will be followed for Support Services:

3.1.1 the Client will log Support Calls to the Support Desk via the telephone number or e-mail address provided to the Client and updated from time to time as provided at www.icarehealth.co.uk or such other website as may be notified to the Client from time to time;

3.1.2 initial support will be provided by the Support Desk;

3.1.3 each call to the Support Desk (with the exception of general enquiries) will be allocated a number (“Support Call Number”), and classified in accordance with the Severity Classification. The Support Desk will provide immediate verbal advice to the Client of the Support Call Number and the Severity Classification;

3.1.4 the progress of each Support Call will be monitored by the Support Desk. Where the Support Call is resolved, the Support Desk will designate the Support Call as closed. Where the Support Call remains unresolved the Support Call will be escalated to the Client Support Manager/Senior Team Leader;

3.1.5 the Support Desk may reclassify the Severity Classification of the Support Call. Where a reclassification occurs, the Client will receive email notification;

3.1.6 if the Support Call is identified as a development request (Severity 4) and not a defect, then the Client will be notified and the Support Call will be closed.

3.2 If the Support Desk requires the applicable database to be provided to assist the resolution of any Support Call, ICAREHEALTH will attempt to retrieve this electronically but may require the Client to securely send a copy of the database to ICAREHEALTH. The resolution period will begin from the receipt of such database. The Client must maintain its own copy of any such database and ICAREHEALTH may destroy the database when it is no longer required for the Support Call.

4 Severity Classification

4.1 Support Calls shall be classified as set out below.
Severity 1 - High

4.2 Support Calls are classified as Severity 1 where:

4.2.1 the Client is unable to complete a critical business function as would be expected in the normal use of the Licensed Material; or

4.2.2 the Client can cause unexpected changes to data using a normal system function of the Licensed Material.

4.3 The Support Desk will respond to the Client in relation to a Severity 1 Support Call within the Resolution Period based on one of the following events occurring:

4.3.1 closure of the Support Call following provision of a resolution;

4.3.2 closure of the Support Call due to being unable to reproduce the problem;

4.3.3 closure of the Support Call due to it being not covered by the Support Services;

4.3.4 closure of the Support Call where the problem has been corrected in another currently available release of the Licensed Material;

4.3.5 provision of a temporary resolution leading to Support Call re-classification;

4.3.6 continuing to provide Support Services in respect of the Support Call until a resolution is found.

Medium - Severity 2

4.4 Support Calls are classified as Severity 2 where:

4.4.1 the Client is unable to perform a frequently used but non-critical business function as would be expected in the normal use of the Licensed Material; or

4.4.2 the Client is unable to complete a critical business function as would be expected in the normal use of the Licensed Material, but a temporary resolution has been provided.

4.5 The Support Desk will respond to the Client in relation to a Severity 2 Support Call within the Resolution Period based on one of the following events occurring:

4.5.1 closure of the Support Call following provision of a resolution;

4.5.2 closure of the Support Call due to being unable to reproduce the problem;

4.5.3 closure of the Support Call due to it being not covered by the Support Services;

4.5.4 closure of the Support Call where the problem has been corrected in another currently available release of the Licensed Material available within 5 days of the end of the Response Period;
 4.5.5 provision of a temporary resolution or an alternative processing option leading to Support Call re-classification;
 4.5.6 continuing to provide Support Services in respect of the Support Call until a resolution is found.

Low - Severity 3

4.6 Support Calls are classified as Severity 3 where:

4.6.1 the Client is unable to perform a seldom used and non-critical business function as would be expected in the normal use of the Licensed Material;

4.6.2 the Client is unable to complete a frequently used but non-critical business function as would be expected in the normal use of the Licensed Material, but a temporary resolution has been provided; or

4.6.3 a defect is identified that has no impact on the ability of the Client to successfully complete the relevant business functions as would be expected in the normal use of the Licensed Material (e.g. incorrect spelling, etc).

4.7 The Support Desk will respond to the Client in relation to a Severity 3 Support Call within the Resolution Period based on one of the following events occurring:

4.7.1 closure of the Support Call following provision of a resolution;

4.7.2 closure of the Support Call due to being unable to reproduce the problem;

4.7.3 closure of the Support Call due to it being not covered by the Support Services;

4.7.4 closure of the Support Call where the problem has been corrected in the next scheduled release of the Licensed Material;

4.7.5 continuing to provide Support Services in respect of the Support Call until a resolution is found.

Development Request - Severity 4

4.8 Support Calls are classified as Severity 4 where:

4.8.1 the Client feels that the product 'ought' to operate in a certain way; or

4.8.2 the Client wishes that there should be a certain report as default.

4.9 The Support Desk will not need to respond to the Client in relation to a Severity 4 Support Call once this has been logged.

5 Support Desk Availability

5.1 The Support Desk shall be available: Mon-Fri, 7am-7pm GMT (excluding public holidays in England and Wales). Premium support includes 9am – 2pm on Saturdays.

6 Service Levels

Problem Response and Resolution Times

Priority	Response Period	Resolution Period
High – Severity 1	Response provided within 2 Business Hours.	Resolution provided within 8 Business Hours.
Medium – Severity 2	Response provided within 4 Business Hours.	Resolution provided within 16 Business Hours.
Low – Severity 3	Response provided within 8 Business Hours.	Resolution provided in next scheduled minor or major release.

Development Requests – Severity 4	Response provided within 8 Business Hours.	Enhancements are not guaranteed to be part of a future release.
-----------------------------------	--	---

6.1 ICAREHEALTH will aim to meet the following service levels in respect of the percentage of Support Calls for which the Response Period and Resolution Period are achieved over each Support Year:

Priority	Response Service Level	Resolution Service Level
High – Severity 1	95%	95%
Medium – Severity 2	95%	90%
Low – Severity 3	95%	80%
Development Requests – Severity 4	95%	N/A

6.2 ICAREHEALTH undertakes to provide an uptime of 99.3% for the Subscription Software. This means that Downtime with respect to the Subscription Software should not exceed 0.7% of the time during a rolling twelve (12) month period.

6.3 "Downtime" means periods of time when Subscription Software are not available to the Client and does not include any periods during which Subscription Software are not functional or available as a result of:

6.3.1 any planned maintenance carried out during the maintenance window of 10.00 pm to 2.00 am UK time;

6.3.2 unscheduled maintenance, provided that ICAREHEALTH has used reasonable endeavours to give the Client at least 12 hours notice in advance;

6.3.3 third party intrusions including and without limitation denial of service or similar attacks;

6.3.4 misuse by Authorised Users, errors or non performance of third party software including without limitation the internet;

6.3.5 any of the events set out in clauses 6.3.2 or 6.4 of the Standard Terms; or

6.3.6 any event or circumstance that is not within ICAREHEALTH's reasonable control.

7 New Product Releases

7.1 ICAREHEALTH will distribute documentation relating to planned new product features and enhancements to the Client from time to time.

7.2 The Client will be entitled to new releases of the standard version of the Licensed Material ("New Releases"), subject to payment of the Annual Service Fee, the Subscription Fee and/or the Electronic Call Monitoring Fee as applicable. The Client acknowledges that ICAREHEALTH will not be responsible for the supply of any third party software required for any New Releases, and the Client will be required to license any such software at the Client's cost.

SCHEDULE B – DATA PROCESSING

Subject-matter, nature and purpose of the processing	The performance of this Agreement by iCareHealth in providing the Services to the Client
Duration of the processing	The term of this Agreement
Categories of data subjects	<ul style="list-style-type: none"> • Current and former employees, workers and contractors of each Client (collectively referred to as “Staff”); • Residents of care homes and Service Users of domiciliary care services provided by Clients (collectively referred to as “Users”).
Type(s) of personal data	<ul style="list-style-type: none"> • Staff Data categories: <ul style="list-style-type: none"> ○ name, birth date, address, telephone number, email address, and other contact details including emergency contact; ○ employee number, job title, national insurance number, tax reference, status (active or not), department ID, name of department, work location, jobs completed, days of absence and cause, holiday entitlement, remuneration and other payroll data needed to prepare payroll information. • User Data categories: <ul style="list-style-type: none"> ○ name, birth date, address, telephone number, email address, and other contact details including emergency contact; ○ health and prescription information; ○ information on health and care needs and schedules; ○ services requested and provided.
Sub-processors and sub-contractors	<p>iCareHealth uses certain Subprocessors to assist it in providing Services as described in iCareHealth’s Terms and Condition of Business.</p> <p>An active list of all Subprocessors can be located at any time here - https://www.icarehealth.co.uk/subprocessors/.</p> <ul style="list-style-type: none"> •
Transfers to territories outside of the EEA and mechanism of “adequacy”	<p>Transfers of personal data to iCH Software Services Sdn Bhd in Malaysia are made under the Model Clauses. The Model Clauses are entered into by the Client as data exporter and iCH Software Services Sdn Bhd as data importer and the Client hereby authorises ICAREHEALTH to enter into such Model Clauses on its behalf. ICAREHEALTH will make executed copies of the Model Clauses available to the Client on request.</p> <p>Transfers of personal data to Med Management Technology LLC and Mail Gun shall be made pursuant to the Privacy Shield. Med Management Technology LLC and MailGun are processors certified under the Privacy Shield for transfers to the United States.</p>