

**COMPLIANCE TO CONDITIONS OF CONTRACT (SCC5\_ITQ\_Software\_Apr 08)**

---

Please indicate clearly below your compliance to each clause of the Conditions of Contract. Where you are not in agreement, you should give your counter-proposal in the "Remarks" Column or in a separate sheet to be attached to this form. Where you fail to indicate compliance against any clause, it shall be deemed that you comply and your offer(s) shall be evaluated accordingly.

S/N	Heading of Clause	Please tick if you comply	Please tick if you do not comply.	Remarks
1	Object			
2	Definition			
3	Supply Of Software And Services			
4	Scope Of Contract			
5	Contract Price			
6	Delivery			
7	Documentation			
8	Training			
9	Testing & Commissioning			
10	Indemnity And Insurance			
11	<b>Reserved</b>			
12	Security Policy & Work Permit			
13	Intellectual Property Rights			
14	Remedies For Infringement Of Intellectual Property Rights And Royalties			
15	Warranties			
16	Warranty Period			
17	Title And Risk			
18	Payment			
19	<b>Reserved</b>			
20	Suspension Or Termination			
21	<b>Reserved</b>			
22	Force Majeure			
23	Confidentiality			
24	Dispute Resolution			
25	Assignment and Subcontracting			
26	Notices			
27	General Provisions			

SCHEDULE 1

SCHEDULE 2

**GENERAL TERMS AND CONDITIONS  
FOR THE SUPPLY OF SOFTWARE AND/OR SERVICES**

**TABLE OF CONTENTS**

<b><u>NO</u></b>	<b><u>CONTENT</u></b>	<b><u>PAGE</u></b>
1	OBJECT .....	3
2	DEFINITION .....	3
3	SUPPLY OF SOFTWARE AND SERVICES .....	5
4	SCOPE OF CONTRACT .....	5
5	CONTRACT PRICE .....	7
6	DELIVERY .....	7
7	DOCUMENTATION .....	8
8	TRAINING .....	8
9	TESTING AND COMMISSIONING .....	8
10	INDEMNITY AND INSURANCE .....	9
11	[ RESERVED ] .....	10
12	SECURITY POLICY AND WORK PERMIT .....	10
13	INTELLECTUAL PROPERTY RIGHTS .....	10
14	REMEDIES FOR INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS AND ROYALTIES .....	10
15	WARRANTIES .....	11
16	WARRANTY PERIOD .....	12
17	TITLE AND RISK .....	12
18	PAYMENT .....	13
19	[ RESERVED ] .....	13
20	SUSPENSION OR TERMINATION .....	13
21	[ RESERVED ] .....	14
22	FORCE MAJEURE .....	14
23	CONFIDENTIALITY .....	14
24	DISPUTE RESOLUTION .....	15
25	ASSIGNMENT AND SUBCONTRACTING .....	15
26	NOTICES .....	16
27	GENERAL PROVISIONS .....	16
	SCHEDULE 1 .....	18
	SCHEDULE 2 .....	19

**1 OBJECT**

In consideration of the payment as hereinafter provided, the Contractor shall, upon the terms and conditions hereinafter set forth, supply, deliver, install, test and commission the Software and/or perform the Services to the Company.

**2 DEFINITION**

In the Contract, the following words and expressions shall have the meaning assigned hereunder except where the context otherwise requires:

Affiliate	means an organisation/institution that is related to the Company (i) either by reason of the Company directly or indirectly controlling the organisation/institution; (ii) by reason of both the Company and organisation/institution being controlled by or under the common control of a third party; or (iii) by reason that the Company is obliged to provide support services to that organisation/institution for any reason. In the context of corporate entities, a person "controls" the entity if it owns and controls (i) more than fifty (50) percent of whose shares or other securities entitled to vote for election of directors (or other managing authority) in the entity, or (ii) more than fifty (50) percent of the equity interest in the entity, or (iii) is otherwise able to direct or cause the direction of the management and policies of such person or entity whether by contract or otherwise;
Application Software	means the computer programs to be developed by the Contractor pursuant to this Contract, which computer programs shall be installed on the Company's equipment and/or systems and working or operating in conjunction with the System Software, shall be capable of meeting or exceeding the Company's requirements as stated in the Requirement Specifications;
Company	means Alexandra Health Pte. Ltd;
Contract	means this agreement (including all schedules and annexes attached) between the Company and the Contractor, with any authorised variations or amendments which would govern the supply of the Software and/or Services by the Contractor to the Company;
Contract Price	means the total price payable to the Contractor under the Contract for the supply, delivery, installation, testing and commissioning of the Software and/or for the performance of the Services under the Contract;
Contractor	means the party who or which has undertaken to supply the Software and/or perform the Services;
Contractor Material	means the Software and related system documentation that is proprietary to the Contractor;
Documentation	means both hard (printed) and soft (in computer readable format and permanently recorded onto storage media) copies of publicly available manuals, reports, applicable operational instructions, screen layouts, report formats, any additional specifications and program and system documentation relating

	to the Software and/or Services necessary for the use, maintenance and operation of the Software and/or Services and from time to time as such materials are developed or updated;
Integrated System	has the meaning ascribed to it in Schedule 2 (Professional Services);
Intellectual Property (IP)	means patents, trade marks, service marks, registered designs, applications for any of the foregoing, copyright (including without limitation, rights in computer software whether in compiled or source form), design rights, trade and business names, domain names and any other similar protected rights or assets in any country;
Intellectual Property Rights	means rights arising out of or in connection with Intellectual Property;
Licensee	means the Company or any Affiliate;
Party	means a Party to this Contract;
Premises	means the principal place of business of the Company as identified in the quotation or such other location as may be specified by the Company.
Requirement Specifications	means: (i) the specifications and descriptions issued by the Company to the Contractor for the purpose of inviting the Contractor to submit its proposal for the Software and/or Services; (ii) those parts of the Contractor's response to the Company's specifications and descriptions which have been accepted by the Company; and (iii) such other amendments or specification as may be mutually agreed in writing between the Parties;
Services	has the meaning ascribed to it in Schedule 2 (Professional Services);
Site	means the locations at the Premises where the various parts of the Software are to be installed or where the Services are to be performed as stated in the Requirement Specifications;
Software	means all software (including any upgrades thereof) including but not limited to Application Software, System Software, and utility programs represented by the Contractor (in its response to the Requirement Specifications for installation in the Integrated System) as being capable of meeting or exceeding the Company's requirements as stated in the Requirement Specifications;
System Software	means the operating software that is suitable for use on the Company's existing equipment and with the Application Software;
Work	means all other information or tangible material of any nature whatsoever (in any medium and in any stage of development or completion) relating to the subject matter of the Contract or the Software and/or Services, that are conceived, designed, practiced, prepared, produced or developed by the Contractor:

- (i) during the course of the Services;
- (ii) based upon knowledge or information learned or gained from the Company; or
- (iii) resulting from the use of the Company's facilities, personnel, or materials.

Words importing only the singular number include the plural number and vice versa; words importing any gender include any other gender; words importing a person import also a firm or corporation or any other entity. The headings in this Contract are inserted for convenience only and shall be ignored in construing this Contract.

References to clauses and schedules shall be references to Clauses of and the Schedules to the Contract.

References to statutory provisions shall be construed as references to those provisions as respectively amended, consolidated, extended or re-enacted from time to time and all statutory instruments or orders made pursuant to it.

Any reference to "day" shall mean a period of twenty-four (24) hours, ending at twelve (12) midnight. If any period of time is specified from a given day, or the day of a given act or event, it is to be calculated exclusive of that day.

The following Schedules are a part of this Contract. In the event of a conflict between any of the terms of the Contract and the Schedules, the conflict will be resolved in the following order of priority: (1) the Schedules (including any annex, appendix or exhibit attached thereto); and (2) the clauses to this Contract.

- Schedule 1 – Pricing
- Schedule 2 – Professional Services

### **3 SUPPLY OF SOFTWARE AND SERVICES**

The Contractor shall supply the Software and perform the Services in accordance / compliance with the requirements and specifications as set out in the Requirement Specifications and/or in this Contract at the price(s) agreed upon and in accordance with the terms herein.

In the event that (i) a new, improved or upgraded version having substantially the same functions but with improvements or enhancements is introduced or (ii) the Software becomes obsolete or (iii) the Contractor is aware that vendor support for such Software is going to be discontinued, before delivery of the Software, the Contractor shall notify the Company and the Company shall have the option to require that the Contractor supply the new, improved or upgraded version of the Software to the Company at the same price or lower. Where the Company requires the Software as specified in the Contract to be supplied and the price of the Software has been lowered due to the introduction of the new, improved or upgraded version, the Contractor shall be obliged to supply the Software to the Company at the lower price. In the event of any disagreement, the Company shall at its sole discretion determine whether a new, improved or upgraded version of the Software has been introduced and such determination shall be final and binding.

### **4 SCOPE OF CONTRACT**

The Contractor shall:-

- (i) carry out and complete the supply and/or development of all Software and/or Services in accordance with the Contract and the Requirement Specifications in every respect; and

- (ii) install and test the Software in accordance with the Requirement Specifications.

In the event of any discrepancy, error or omission in the Contract or the Requirement Specifications, the Company shall resolve the discrepancy, error or omission and such resolution shall be final and binding. The Company may permit an increase in price where such resolution resulted in additional Software and/or Services being furnished by Contractor. Where such resolution resulted in a decrease of Software and/or Services being supplied, Contractor shall reduce its price correspondingly.

The Contractor acknowledges and agrees that whilst the Company is the contracting party to this Contract, the Software and/or Services may be delivered to or enjoyed by or performed for the benefit of the Company's Affiliates.

The Contractor further acknowledges that the Company has entered into an agreement with IBM Singapore Pte. Ltd. pursuant to which through its employees, contractors and agents (collectively, "IBM") will provide certain information technology and related services to the Company. The Contractor consents to and agrees that IBM may operate, manage and access the Software. In the event that the Contractor is not the party to which is able to give such consent or agreement, the Contractor represents and warrants to the Company that the Contractor shall obtain such consent and agreement from the appropriate party so as to enable IBM to operate, manage and access the Software.

In relation to the Contractor Material, the Contractor hereby grants to the Licensee a non-exclusive, perpetual, irrevocable, fully paid-up right and licence with no geographical restrictions to use, execute, display, perform, possess, modify and create derivative works from the Contractor Material solely and exclusively for Licensee's internal purposes. For the avoidance of doubt, the Contractor agrees that the licence hereby granted shall continue and remain in force notwithstanding any cessation of maintenance and support services for the Contractor Material. If the Licensee for any reason appoints a third party service provider to provide services that require the use of all or any part of the Contractor Material, the Licensee shall be entitled to assign or transfer to the Contractor or, upon written notice to the Contractor, to the third party service provider, as the case may be, any and all of the rights, interests or obligations under the licence granted under this Clause 202417872.

The Licensee may use the Contractor Material on unlimited information systems, including on computer servers and communication networks hosted on, operated by or controlled by Licensee's other service providers, provided always that such use shall only be Licensee's internal purposes. The Contractor shall not be permitted to audit the use and operation of the Contractor Material insofar as the use and operation of the Contractor Materials is confined to the internal use of the Licensee.

The Licensee may make a reasonable number of copies of the Contractor Material for development, testing, staging, roll-out, operational security, back-up and disaster recovery purposes.

All Contractor Material supplied and provided by the Contractor shall be in English.

In relation to any Software to be supplied by Contractor which is not Contractor Material, Contractor shall ensure that the licensing terms of such Software shall be on terms substantially similar to those in Clause 4.5 above (in particular the right to use the Software without having to contract for maintenance and support services for the Software) and shall also permit the Company, without any additional charge or fees to be paid to any party, to use the said Software on unlimited information systems, including on computer servers and communication networks hosted on, operated by or controlled by Licensee's other service providers, provided always that such use shall only be Licensee's internal purposes. Such rights conferred on the Licensee shall be in addition to the rights granted to the Company pursuant to Clause 0 above. If the Licensee for any

reason appoints a third party service provider to provide services that require the use of all or any part of the said Software, the Licensee shall be entitled to assign or transfer to the Contractor or, upon written notice to the Contractor, to the third party service provider, as the case may be, any and all of the rights, interests or obligations under the licence granted hereunder.

**5 CONTRACT PRICE**

The Contract Price quoted shall represent the total cost to the Company (excluding) Goods and Services Tax ("GST") for each and every item of Software and performance of Services required by the Company. A Pricing Schedule based on the Requirement Specifications shall be submitted by the Contractor and be attached hereto as Schedule 1. It shall not be subject to any change during the term of the Contract.

**6 DELIVERY**

Time of delivery and installation is of the essence in the Contract. The Contractor shall perform and complete the Services and deliver, install, and commission the Software to the Company in accordance with a delivery schedule agreed upon by both Parties.

The Company reserves the right, at its discretion, to vary the delivery date and/or commissioning of the Software and/or Services at no cost to the Company if notification is given two (2) months in advance by the Company to the Contractor.

Delivery of the Software must be complete. The Contractor must ensure that the Software is installed on the day of delivery, failing which, the Company reserves the right to reject the Software.

Should any item of the Software be found incomplete, defective or in any way inferior during testing as set out at Clause 9, the Contractor must make good the delivery of the short supplied items seven (7) days upon notification by the Company, otherwise, the Contractor shall be required, when requested by the Company, to remove and/or uninstall the Software from the Company's equipment and to re-deliver and re-install the Software at his own expense complete with the previously short-supplied items within the time as determined by the Company. If the Contractor does not comply with this Clause 0, the Company shall have the right to purchase replacements elsewhere or make good any damage in any manner it deems fit and all costs incurred thereby shall be deducted from any monies due or which may become due to the Contractor under the Contract or shall be recoverable as a debt. A certificate by an officer of the Company as to the amount of damages caused and consequential losses suffered by the Company shall, save for manifest error, be final and conclusive. The Contractor shall be responsible for and shall make good any damage to any part of the Premises, inclusive of fixtures, fittings and furniture, caused by its servants, workmen or agents when removing or replacing the Hardware.

In the event the Contractor fails to deliver, install or commission the Software or commence or complete (as the case may be) performance of the Services whether in whole or in part in accordance with the delivery schedule as specified in Clause 0 above or any re-delivery schedule as specified in Clause 0 (other than in the circumstances provided under Clause 22), the Company shall, in addition to any other remedies which it may have under the Contract or otherwise, have the right, but not obligation, in relation to each delay:-

- (i) to cancel all or any such items of the Software or Services without being liable therefore in damages and obtain the same from other source(s) and all increased costs incurred thereby shall be deducted from any monies due to or become due to the Contractor under the Contract or shall be recoverable as damages; or

- (ii) to require the Contractor to pay or to deduct from the Contract Price, as and for liquidated damages (and not as a penalty) a sum to be calculated at the rate of one-half percent (1/2%) of the Contract Price for each day which may elapse between the date of delivery, installation or commissioning of the Software or commencement or completion of performance of Services specified in the Contract and the actual date of delivery, installation or commissioning or commencement or completion of performance, subject to a minimum of S\$500 and a maximum of ten percent (10%) of the Contract Price ("Maximum LD for Delay"). For avoidance of doubt, the Maximum LD for Delay applies to each event of delay committed by the Contractor. The Contractor acknowledges that there is no limit on the total liquidated damages payable for repeated delays committed by the Contractor.

Notwithstanding Clause 0 above, in the event the Contractor fails to comply with its obligations under Clause 0 herein and the failure is not remedied within seven (7) days after being called to its attention by written notice from the Company, even after the Maximum LD for Delay has been paid or is payable by the Contractor to the Company, the Company shall have the right to terminate the Contract forthwith without compensation and without being liable therefore to the Contractor in damages and the Contractor shall indemnify the Company for any direct, indirect or consequential loss, expense or damage suffered or incurred by the Company in connection with such failure.

## **7 DOCUMENTATION**

Documentation, in the English Language, shall be supplied by the Contractor at no additional charge together with each item of the Software to be supplied to the Company. Failure to supply the above documentation shall be construed as incomplete delivery.

## **8 TRAINING**

The Contractor shall provide training to the Company's nominated personnel. The details of the training shall be specified in the Requirement Specifications or as may be agreed in writing by the parties. Upon the Company's request, the Contractor shall provide Service/Operator's training at no cost to the Company's nominated representative(s), regardless whether the Software is on a Service Contract or out of warranty.

## **9 TESTING AND COMMISSIONING**

It shall be the Contractor's responsibility to test the Software in Singapore and satisfy itself that all items of the Software are complete, safe to operate in accordance with all relevant codes of practice / regulations and/or functional before delivery of the Software to the Company.

Within 30 days after each delivery, the Contractor shall carry out acceptance testing to ensure that the Integrated System performs in accordance with the Requirement Specifications, and the Contractor shall also provide the Company with the test results in writing.

The Company shall provide a written statement identifying in reasonable detail all the defects in the deliverables, and the Contractor shall correct all identified defects, failing which the Company shall be entitled to withhold any payment until such defects are corrected.

When the identified defects (if any) have been corrected, further acceptance tests shall be carried out within a reasonable time. If the Integrated System fails 2 subsequent tests, the Company may by written notice to the Contractor elect to:

- (i) require the Contractor to promptly supply, without extra charge, such additional or replacement Software or parts thereof or Services as may be necessary to enable the Integrated System to meet the Requirement Specifications;
- (ii) accept and retain such part of the Integrated System as the Company may consider expedient at such reduced price as may be agreed between the Company and the Contractor; or
- (iii) reject the Integrated System whereupon (i) the Contractor shall be liable to the Company for the costs of any replacement Integrated System with the same or comparable functionalities which the Company may acquire; and, (ii) the Contractor shall be liable to the Company for any incidental administrative cost and any other damages arising from delays occasioned by the replacement.

After the successful completion of the final acceptance tests of the entire Integrated System and the Software having been accepted by the Company, the Contractor shall, for a minimum period of [3 months] and a maximum period of [12 months], monitor and ensure that the Integrated System performs in accordance with the Requirement Specifications ("Commissioning Period"). Subject to the afore-stated time periods and Clause 0, the Commissioning Period shall expire when the Integrated System performs in accordance with the Requirement Specifications for 30 consecutive days ("Successful Commissioning").

If the Integrated System fails to perform in accordance with the Requirement Specifications during the third (3rd) month of the Commissioning Period, the Commissioning Period shall be automatically extended until Successful Commissioning occurs, subject to the maximum period of 12 months.

## **10 INDEMNITY AND INSURANCE**

The Contractor shall indemnify, defend and hold harmless the Company, its servants and agents against all or any liability, claim, expenses (including court costs and fees of solicitors (on a full indemnity basis) and other professionals) or loss in respect of damage to any property or personal injury to or death of any person due to the negligence or wilful default of the Contractor, its servants or agents arising out of or in the course of the performance of the Contract PROVIDED THAT the Company promptly notifies the Contractor in writing of any such claim. The Contractor may not enter into any settlement, agreement, arrangement or compromise that would have a material or adverse effect on the Company without the Company's prior consent. The Company shall co-operate with the Contractor, at the Contractor's expense, in defending or settling such claim(s) and the Company may join in defence with counsel of its own choice at its own cost or expense.

The Contractor shall indemnify the Company, its servants, agents, employees, officers and departments against any claims by any and every workman or employee whether such liability arises from the Workmen's Compensation Act or otherwise and from all costs and expenses incidental or consequential thereto.

The Contractor shall indemnify the Company, its servants, agents, employees, officers and departments against any claims, costs, charges and expenses whatsoever incurred by the Company, its servants, agents, employees, officers and departments in respect of any claims by any person(s) whatsoever (including but not limited to any patient or visitor) arising out of or connected to or contributed to by the breach or non-performance of the Contract by the Contractor or by the malfunction of the Software and/or Services supplied by the Contractor.

The Contractor shall take out at his own expense with an insurance company to be approved by the Company, a policy or policies of insurance in terms to be approved by the Company, indemnifying the Contractor and the Company from all liabilities in respect of the circumstances described in Clauses 0, 0, 0, 0 and 0.

The Company may require the Contractor to furnish the Company with a copy of any policy taken out by the Contractor pursuant to this Contract. The Contractor shall pay all premiums as and when due.

**11 [ Reserved ]**

**12 SECURITY POLICY AND WORK PERMIT**

All employees deployed by the Contractor to carry out works in the Premises shall comply with the Company's security policies. The Contractor shall ensure that all of its foreign workers possess valid permits or passes issued by the Government of Singapore. No foreign workers who does not hold a valid permit or pass shall be deployed at the Premises.

The Contractor shall indemnify the Company, its servants, agents, employees, officers and departments against any monetary penalty, claim, costs, charges and expenses incurred or imposed by any Court arising out of any breach of Clause 0 above or any contravention of any applicable law, regulation or guidelines.

**13 INTELLECTUAL PROPERTY RIGHTS**

Where as a result of carrying out its obligations under the Contract in respect of work designed by the Contractor for which the Contractor is to be paid by the Company, the Contractor generates proprietary technical data or any Intellectual Property, then such data, know-how and other information and all Intellectual Property Rights so generated or comprising in the aforementioned shall vest in and be owned by the Company as and when such is generated. The Contractor hereby assigns to the Company by way of assignment of future copyright all legal and beneficial right, title and interest in Works created by the Contractor pursuant to this Contract.

The Contractor shall not use any such proprietary data, know-how and other information compiled during such program for a third party without the authorisation of the Company even in the event of termination of the Contract pursuant to the Company's right to suspend or terminate the Contract.

**14 REMEDIES FOR INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS AND ROYALTIES**

All royalties and fees whatsoever claimable by or payable to any person, firm, corporation or government for or in connection with any invention or patent or patent rights, copyrights and trade marks used or required to be used in respect of the Software or any part or unit thereof supplied under the Contract shall deemed to be included in the Contract Price.

The Contractor shall fully indemnify and keep indemnified the Company and its staff against all claims and costs, charges and expenses in respect thereof, by any third party for any alleged infringement of any Intellectual Property Rights which arises or would arise as a result of the Company's acceptance, possession, purchase, use or distribution of the Software or any part or unit thereof or the Company's acceptance or use of the Services performed by the Contractor or any Works delivered by the Contractor to the Company.

In the event that any such infringement or threatened infringement occurs or may occur, the Contractor shall at his own expense, take all action necessary and expedient to procure for the Company the right to continue using the Software and Works, and to permit the Contractor to continue performing the Services. If such action cannot be accomplished within a reasonable time or is otherwise not commercially reasonable, the Contractor shall refund to the Company the price for the Software; or terminate the performance of the affected Service and assist the Company to obtain such replacement service and Works at the Contractor's sole cost and expense, without prejudice to any other rights of the Company.

In addition to any other right that the Company might have, in the event that any claim is made or is threatened to be made against the Company that the Software or any part thereof and/or the Company's storage, use and/or distribution of the Software infringe the intellectual property or other rights of any third party, or where the Company is informed that the Software may infringe the intellectual property or other rights of any third party, the Company shall have the right to suspend this Contract and not take delivery of the Software or any part thereof until the Contractor procures the right for the Company to store, use and distribute such Software or the Contractor replaces or modifies the Software or that part thereof so that they become non-infringing to the satisfaction of the Company and the relevant third party, within such timeline specified by the Company. If the foregoing is not possible or if the Software has already been delivered to the Company, the Company shall be entitled but not obliged to return the Software or that part thereof and obtain a full refund of any monies paid, and the Contract will terminate with immediate effect.

A reference to the "Company" in this Clause includes a reference to Licensee.

**15 WARRANTIES**

The Contractor warrants that:

- (i) the Company shall acquire good and clear title to the Software and/or Works, free and clear of all liens, claims, encumbrances and other restrictions whatsoever;
- (ii) all Software, Works and material used in the provision of the Services and any other materials or Services provided hereunder do not infringe upon any patent, copyright or similar proprietary right (including, but not limited to, misappropriation of trade secrets) of any third party;
- (iii) the Documentation provided by the Contractor hereunder will faithfully and accurately reflect the functionality of the applicable Software and will allow the Company or a reasonably skilled programmer to understand how the Works function and/or to maintain the Works;
- (iv) the Company shall quietly and peacefully possess all Software and other materials provided hereunder;
- (v) components of the Software provided pursuant to the Contract will be in good working order when installed, ready for use and free from any defects, and the Contractor will make all adjustments, repairs and replacements necessary to correct such defects;
- (vi) Software provided pursuant to the Contract shall be fit for the ordinary purposes for which such Software is used and shall perform in accordance with the Documentation;
- (vii) the use or operation of any part of the Software shall not at anytime be restricted or interfered with in any manner whatsoever by any means or devices which would require the services of the Contractor or a third party to restore the Software to full use and operation;
- (viii) any modification, enhancement or adaptation of the Software supplied by the Contractor shall not require as a condition precedent to the supply of the modification, enhancement or adaptation the acceptance by the Company of licence terms that derogate from the provisions of this Contract;

- (ix) all Software delivered by the Contractor does not contain any unauthorised code, virus, Trojan horse, worm or other software code routine or any other components designed to permit unauthorised access, disable, erase, or otherwise harm, impede Licensee's use of the Software;
- (x) all installation, technical support, maintenance, training and other Services provided by the Contractor hereunder will be performed in a professional manner by qualified personnel trained and skilled in the performance of the specific Services involved;
- (xi) for a minimum period of five (5) years from the applicable installation and commissioning date it will make available maintenance and repair services for the Software;
- (xii) all Software provided hereunder shall be designed, produced, installed, furnished and in all respects provided, certified and maintained in conformance with all codes, ordinances, regulations and laws, and administrative and regulatory requirements that were in effect at the time of such design, production, installation or furnishing;
- (xiii) all Software provided hereunder shall conform or otherwise satisfy all applicable requirements in the Requirement Specifications; and
- (xiv) the performance and reliability of the Software when working together with any software, hardware and/or third party products that the Company may use shall conform with the Performance and Reliability Standards.

The Contractor acknowledges that the Company is reliant on the Contractor's skill, expertise and professional judgment in the specification, sizing, selection, procurement, installation, configuration and customisation of the Software.

Each claim of the Company under any warranty given by the Contractor shall be in writing. All costs incurred as a result of the breach of any warranty under this Clause shall be borne by the Contractor.

## **16 WARRANTY PERIOD**

The Contractor shall provide a [ ] warranty period, commencing from the day immediately following the cessation of the post-implementation support to be provided by the Contractor pursuant to the Requirement Specifications, during which warranty period the Contractor shall provide the Integrated System Maintenance Services (as described in Schedule 2) at the Contractor's own cost, and during which warranty period the Software shall perform in conformance with its user and technical Documentation.

The Contractor shall also provide regular preventive maintenance as specified in the manufacturer's latest technical manuals during the warranty period at no cost to the Company.

The warranty period shall be extended accordingly by the period during which any item of the Software is out of service which shall be computed from the date of notification by the Company to the Contractor. The Software shall not be treated as out of service if the Contractor provides a back-up item of the Software while the said item of the Software is undergoing repair.

The Contractor guarantees that the Software shall be available for use during the Warranty Period in accordance with the service levels as set out in the Requirement Specifications.

## **17 TITLE AND RISK**

Title in all tools and Documentation to be used exclusively in connection with the Integrated System shall pass to the Company as soon as they are allocated by the Contractor to the Contract.

Notwithstanding the earlier passing of title, risk in the Software shall not pass to the Company until the Software and/or Services are delivered and successfully commissioned, and the Contractor shall be responsible for any loss or damage to the Software howsoever arising prior to risk passing.

**18 PAYMENT**

Subject to the provisions of the Contract, the Company shall pay the Contractor the Contract Price in accordance with the provisions of Schedule 1 (Pricing Schedule). Invoices shall be submitted by the Contractor at the agreed milestone and shall be due and payable by the Company within sixty (60) days from receipt of the invoice by the Company. PROVIDED ALWAYS that such payment shall not affect the Company's right to reject any of the Software or the Contractor's responsibility to replace defective or damaged Software, and such payment shall also not amount to a waiver of any accrued rights and remedies of the Company against the Contractor.

Where appropriate, the Company may withhold, make deductions or set-off from the amount payable by the Company to the Contractor pursuant to this Contract.

The Contractor agrees that if any invoice is not submitted to the Company within six (6) months upon delivery, acceptance and/or successful commissioning of the Software or performance of the Services, the Company shall be released and discharged from any liability to make any payment of the debt in relation to such invoice.

In the event of any dispute between the Company and the Contractor with respect to the invoiced Software and/or Services and/or other related matters, the Company shall pay the undisputed amount and the Company and the Contractor shall promptly seek to resolve the disputed matters in accordance with Clause 24 (Dispute Resolution) of the Contract.

**19 [ Reserved ]**

**20 SUSPENSION OR TERMINATION**

This Contract shall commence from the date the Company receives the Contractor's acknowledgement of the Letter of Acceptance and shall continue for [ ] after the Commissioning Date unless terminated prematurely in accordance with the terms of the Contract.

The Company may, without prejudice to any other rights it may have, by written notice terminate the Contract or the relevant Schedule or suspend the Contractor's performance of all or any of its obligations under it immediately and without liability of the Company for compensation or damages if:

- (i) the Contractor, its servants, employees or agents, fail to comply with its express obligation of confidentiality under Clause 23 of the Contract;
- (ii) the Contractor delivers the Software and/or performs the Services which are defective or does not conform with the Company's specifications or which design is inadequate and fails to rectify such defect, non-conformity or inadequacy within thirty (30) days after being given notice by the Company to do so;
- (iii) the Software and/or Services or part thereof supplied or to be supplied by the Contractor is declared or advised to be unsafe for use by any competent authority or by any notice, regulation or requirement of any competent authority;
- (iv) the Contractor fails to comply in any material respects with the Contract and shall fail to remedy such breach (if capable of remedy) within thirty (30) days after being given notice by the Company so to do;

- (v) the Contractor repeatedly breaches the terms of this Contract whether or not such breaches were in respect of the same or different obligation and regardless of whether the Contractor has or has been able to cure such breaches each time they occur;
- (vi) any circumstances arise which give reasonable grounds in the Company's opinion for its belief that the Contractor has or may become incapable of performing any of its obligations under the Contract;
- (vii) the Contractor, its servants, employees or agents, fail to comply with its express obligation under Clause 0 of the Contract; or
- (viii) the Integrated System or any substantial part thereof is lost, deleted, incapacitated or damaged beyond economic repair.

In the event of termination under Clauses 0(i) to (vii) above, the Contractor shall refund and repay to the Company any advance payment received from the Company without prejudice to the Company's right to claim compensation for increased costs in obtaining the Software and/or Services from other sources, and for any loss, expense or damage suffered or incurred by the Company. Further, the Contractor shall at its own expense immediately return to the Company or, as the Company may instruct, dispose of all copies of all documents, papers, specifications and other materials belonging to the Company.

Each Party shall remain responsible for its obligations with respect to actions and events prior to the termination of the Contract or the relevant Schedule.

**21 [ Reserved ]**

**22 FORCE MAJEURE**

Neither Party shall be liable for any loss, damage or penalty resulting from delays or failures in performance of their obligations under the Contract if the delay or failure results from events beyond the reasonable control of either Party (a "Force Majeure Event"). If any Force Majeure Event shall continue for a period exceeding one hundred and twenty (120) days, then either Party may at any time thereafter, upon giving written notice to the other, elect to terminate the Contract.

**23 CONFIDENTIALITY**

The Contractor hereto agrees to treat as confidential all information received from the Company where the Company has indicated in writing or labelled to be "Confidential", "Proprietary Information" or where the circumstances of disclosure indicates that the information so disclosed is confidential or proprietary, which the Contractor may acquire in relation to the Company ("Confidential Information"), together with any other property of the Company made or acquired by the Contractor or coming into their possession or control in any manner whatsoever shall be and remain the sole property of the Company and shall be returned to the Company forthwith on demand at any time or without demand upon the termination of the Contractor's services. The Contractor shall ensure that none of the patients of the Company can be identified in any reports, submissions and publications of the Company.

The Contractor shall not, without the prior written consent of the Company, disclose any Confidential Information or any information relating to the Contract or any of the contents hereof whether directly or indirectly to any other party.

The restrictions on disclosure of Confidential Information described in above do not extend to any information that:

- (i) already exists in the public domain at the time of its disclosure;

- (ii) is already in the Contractors' possession;
- (iii) is independently developed by the Contractor outside the scope of the Contract;  
or
- (iv) is rightfully obtained by the Contractor from third (3rd) parties.

The Contractor hereby agrees that it shall:

- (i) take all steps to limit access to Confidential Information of the other Party to those principals, directors, officers, agents, employees, representatives, consultants, independent contractors and professional advisors who are directly concerned with the purposes contemplated by the Contract and are made aware of its confidential status, to the extent reasonably required for the performance of the Contract, and ensure that they do not disclose or make public or authorise any disclosure or publication of any Confidential Information in violation of the Contract;
- (ii) not use any Confidential Information for any purpose other than the purposes for which it is intended, pursuant to and in accordance with the terms of the Contract;
- (iii) upon the Company's request, procure the Contractor's employees, servants or agents or any employee, servant or agent of the Contractor's sub-contractor, to sign individual Non-Disclosure Agreements with the Company on such form that the Company may dictate.

The Contractor must promptly inform the Company about any unauthorised disclosure of the Company's Confidential Information.

Subject to the foregoing, the Contractor's confidentiality obligations under this Clause shall survive the expiry or termination of the Contract.

## **24 DISPUTE RESOLUTION**

In the event of any dispute or difference arising out of or in connection with or in relation to the Contract, including any question regarding the existence, validity, termination, application or interpretation of the Contract or any of its provisions, both Parties shall use their best endeavours to settle the dispute informally by agreement between the Parties. Both Parties shall always act in good faith and co-operate with each other to resolve any disputes.

Notwithstanding anything in the Contract, if the dispute is not settled in accordance with Clause 0 above, the dispute shall be resolved by arbitration which shall be conducted in Singapore in the English language in accordance with the Arbitration Rules of the Singapore International Arbitration Centre ("SIAC Rules") for the time being in force, which rules are deemed to be incorporated by reference into this Clause, except in so far as such Rules conflict with the provisions of this Clause, in which event the provisions of this Clause will prevail.

For the avoidance of doubt, it is agreed that nothing in this Clause shall prevent a Party from seeking urgent equitable relief before any appropriate court and the commencement of any dispute resolution proceedings shall in no way affect the continual performance of the Parties' obligations under the Contract.

## **25 ASSIGNMENT AND SUBCONTRACTING**

Subject to the other provisions of the Contract, all the terms and conditions of the Contract shall be binding upon and enure to the benefit of the parties and their respective heirs, permitted assigns and successors-in-title except that:-

- (i) the Contractor shall not transfer or assign all or any of its rights, obligations or benefits hereunder in whole or in part to any third (3rd) party without the prior

- written consent of the Company, which consent shall not be unreasonably withheld;
- (ii) Notwithstanding the above, the Company shall have the right to transfer or assign all or any of its rights, obligations or benefits hereunder in whole or in part to any third (3rd) party upon written notice to the Contractor. In the event that such transfer is by way of a novation, the Contractor shall execute any such novation agreement prepared by the Company and presented by to the Contractor so as to give effect to the provisions of this clause;
  - (iii) any permitted assignee or transferee shall agree in writing to comply with all terms and conditions of the Contract; and
  - (iv) any assignment shall not exceed the existing scope of the Contract.

In particular, the Contractor may not subcontract the performance of any Services hereunder, without the prior written consent of the Company. In connection with such consent, the Company may require the execution by such subcontractor(s) of an agreement to be prepared by the Company. The Contractor shall remain fully responsible for any its obligations subcontracted, as permitted hereunder, and the Contractor shall be solely responsible for payment due to such subcontractors.

Approval of any subcontractor by the Company shall not constitute a superseding event or waiver of any right of the Company to reject work that is not in conformance with the standards set forth in the Contract, and does not constitute nor imply authorisation of expenses in excess of the Contract Price.

## **26 NOTICES**

Except as otherwise provided in the Contract, notices which are required to be given in or under the Contract shall be in writing (unless expressly stated otherwise). Notices may be sent by hand or by AR Registered post or certified mail, return receipt requested, postage prepaid and properly addressed to the offices of the Parties as specified in the cover note to these terms and conditions.

Every notice or communication so sent shall be deemed to have been properly served and validly made, if by hand when delivered to the recipient's address and if sent by AR Registered post, two (2) days after posting if posted to an address within Singapore and eight (8) days after posting, if posted to an address outside Singapore, notwithstanding the fact that the letter may be returned by the Post Office undelivered.

## **27 GENERAL PROVISIONS**

Waiver. No waiver of any breach of any covenant, condition, stipulation, obligation or provision contained or implied in the Contract shall operate or be interpreted as a waiver of another breach of the same or of any covenant, condition, stipulation, obligation or provision of the Contract. Any time or other indulgence granted by the Company under the Contract shall be without prejudice to and shall not be taken as a waiver of any of the Company's rights under the Contract nor shall it prejudice or in any way limit or affect any statutory rights or powers from time to time vested in or exercisable by the Company.

Reliance. The Contractor accepts that the Company, *inter alia*, relies on the skill and judgment of the Contractor in the description and manufacturing quality of the Hardware to be provided and on the judgment and skills of the Contractor for any and all of the Services to be performed.

Entire Agreement. This Contract (including all Schedules) constitutes the entire agreement between the Parties. Any agreement to vary the terms of this Contract must be in writing.

Severance. If any term, condition or provision of this Contract is held by a court of competent jurisdiction to be illegal or unenforceable, the same shall be deemed to be deleted from the Contract and shall be of no force and effect; whereas the remainder shall continue in full force and effect, unless the substantive purpose of the Contract is frustrated, in which case either Party may terminate this Contract forthwith on written notice.

Reasonableness. Both Parties agree that the clauses in the Contract are reasonable. In construing the clauses herein, the clauses shall not be construed *contra proferentum* against the Company.

Language. All business relating to the Contract, both written and verbal, shall be conducted in the English language.

Independent Parties. The relationship between the Company and the Contractor is that of independent contractors. Neither Party is agent for the other, and neither Party has any authority to make any contract, whether expressly or by implication, in the name of the other Party, without that Party's prior written consent for express purposes connected with the performance of this Contract.

Third Parties. Nothing contained in the Contract is intended to confer upon any person (other than the Parties hereto) any rights, benefits or remedies of any kind or character whatsoever or any right to enforce the terms of the Contract under the Contracts (Rights of Third Parties) Act 2001, and no person shall be deemed to be a third party beneficiary under or by reason of the Contract.

Governing Law and Jurisdiction. The Contract shall be deemed to be made in Singapore and subject to, governed by and construed in all respects in accordance with the laws of the Republic of Singapore. The Parties hereby agree to submit irrevocably to the non-exclusive jurisdiction of the Courts of the Republic of Singapore. The application of the United Nations Convention on Contracts for the International Sale of Goods 1980 to the Contract is hereby expressly excluded.

**SCHEDULE 1**

**PRICING**

[to be inserted]

**SCHEDULE 2**

**PROFESSIONAL SERVICES**

**1 DEFINITIONS**

1.1 In this Professional Services Schedule, unless the context otherwise requires, the following words and expressions shall have the meaning assigned hereunder:

Emergency Maintenance of Software means on-call remedial maintenance including rectification of all reported software errors or bugs;

Integrated System Maintenance Services means the carrying out of any and all operations and procedures necessary to maintain the performance of the Integrated System in accordance with the standards set out in the Requirement Specifications and shall include, without limitation :-  
(i) Standard Services  
(ii) Preventive Maintenance  
(iii) Emergency Maintenance of Hardware

Monthly Service Charge means the fixed monthly charges payable for the Integrated System Maintenance Services as specified in Annex 1 of this Schedule;

Operating Hours means the normal operating hours of the Integrated System which will be 24 hours daily, including Sundays and public holidays;

Preventive Maintenance of Software means maintenance which includes, but is not limited to:  
(i) optimisation and/or restructuring of Software code;  
(ii) updating of Documentation;  
(iii) installation, testing and the implementation of Software upgrades; and  
(iv) and such other maintenance services as may be described in the Requirement Specifications;

Standard Services Shall have the meaning assigned to it at clause 4.3 of this Schedule;

Services means all services that the Contractor is required to provide to the Company under this Schedule, including, but not limited to, Integrated System Maintenance Services, Transition Services and Implementation Services;

1.2 Capitalised expressions used without definition in this Services Schedule shall have the meanings assigned to them in the General Terms and Conditions. Other technical expressions relating to computers systems, software and hardware shall have the meanings commonly attributed to them in the information technology and information services businesses.

1.3 All references herein to clauses, unless otherwise expressly stated, are references to clauses numbered in the Services Schedule and not to those in any other document forming part of the Contract. Where a clause number is quoted, then reference is being made to that clause bearing that clause number and to all the sub-clauses if any, under that same clause number (e.g. a reference to Clause 3 refers to Clause 3.1 to 3.2 inclusive of all their respective sub-clauses if any).

1.4 Where the provision number is stated without a description of any document then it refers to the provision so numbered in the document where the reference appears.

**2 SCOPE OF SERVICES AND SERVICE LEVELS**

- 2.1 The Contractor shall upon the terms and conditions of this Contract:
- (i) act as consultant to the Company in relation to the Contract;
  - (ii) provide the Services to the Company in accordance with the performance standards more particularly described in the Requirement Specifications;
  - (iii) design and develop in consultation with the Company, the necessary interfaces and the integration of the Software with the Company's existing equipment; and
  - (iv) provide such other services as the Contractor may be required to provide under the Contract and/or the Requirement Specifications.
- 2.2 If at any time on or after the Commissioning Date the Integrated System does not perform at or above any applicable service level standard as described in the Requirement Specifications, the Contractor shall compensate the Company in the manner and quantum stipulated in the Requirement Specifications. The Company's levy of or receipt of such compensation shall be without prejudice to and shall be in addition to any right or remedy that the Company may have against the Contractor whether under this Contract or otherwise.

**3 IMPLEMENTATION AND TRANSITION SERVICES**

- 3.1 The Contractor shall provide the Company with implementation services ("Implementation Services") including without limitation:-
- (i) design and development of interfaces;
  - (ii) integrate the Software with the Company's existing equipment;
  - (iii) study, design, manage and control any system and process harmonisation efforts; and
  - (iv) perform such other duties in relation to the Contract as the Company may require in the Requirement Specifications.
- 3.2 The Contractor shall provide the Company with transition services ("Transition Services") including without limitation, those services and processes more particularly described in the Requirement Specifications which are necessary or desirable to accomplish any transfer, migration or preparation in order to enable the Company to use the Integrated System and/or to upload data into the Integrated System with minimal disruption of the Company's operations and capabilities or without causing an adverse effect on or degradation of the quality or continuity of any service or system which the Company is currently using.

**4 INTEGRATED SYSTEM MAINTENANCE SERVICES**

- 4.1 During the Warranty Period, the Contractor shall provide the Company with the Integrated System Maintenance Services, at the Contractor's own cost. Thereafter it shall automatically renew for subsequent terms of [ ] and continue in force until (i) the Software is decommissioned, or (ii) the Company gives the Contractor 60 days' notice to terminate the provision of the Integrated System Maintenance Services (without the need to assign any reason), or (iii) such time as this Schedule is terminated under the Contract, whichever is earliest to occur.
- 4.2 After the expiry of the Warranty Period, in consideration of the Contractor providing the Integrated System Maintenance Services to the Company, the Company shall pay the Monthly Service Charge to the Contractor in accordance with the charges as specified in Annex 1.

- 4.3 The Contractor shall provide the Company with standard services ("Standard Services") including without limitation:-
- (i) investigation and correction of any errors or defects in the Software;
  - (ii) rendering advice on the performance tuning and security configuration;
  - (iii) Preventive Maintenance of Software at the frequency specified in the Requirement Specifications;
  - (iv) informing the Company of all future updates and upgrades of the Software, and when so requested by the Company, supplying and installing such updates and/or upgrades; and
  - (v) such other maintenance services as may be described in the Requirement Specifications.

## **5 CHANGE CONTROL**

- 5.1 Any Party requesting a change in the Requirement Specifications or any other aspect of the Software shall do so in writing. The Party receiving the change request shall respond within 7 days. There shall not be any increase in the Contract Price if the change request (i) merely results in the refinement of the Requirement Specifications, or (ii) does not result in any major changes to the detailed design of the System, or (iii) is made by the Contractor.

## **6 WARRANTY AND DEFAULT**

- 6.1 The Contractor further represents and warrants as follows:
- (i) that all its personnel and those of its subcontractors or agents are suitably qualified and competent to perform the Integrated System Maintenance Services;
  - (ii) that it shall carry out its obligations in conformity with any standards as stipulated in the Requirement Specifications, and where the Requirement Specifications do not specify any particular standard, in conformity with the general accepted standards of skill, care and diligence appropriate to the nature of the services rendered;
  - (iii) that the Contractor observe and comply with, and to procure that its employees, agents and subcontractors observe and comply with, all statutory and other relevant rules and regulations relating to health, safety and security, applicable at the premises of the Company and the Institutions;
  - (iv) at the date of commencement of this Schedule the Contractor has obtained and will maintain for the duration of this Schedule all permits, licenses and consents necessary for the Contractor to perform the Integrated System Maintenance Services;
  - (v) that any equipment or material provided by the Contractor whether before or during the provision of the Integrated System Maintenance Services, including debugging software, firmware or hardware, shall not interfere with the normal operation of the Integrated System during its Operating Hours; and
  - (vi) that in the event it fails to conform to the terms of this Schedule and in particular the warranties given under this Clause, it shall, without request, take immediate action to remedy the same without any cost to the Company.
- 6.2 Where the Contractor fails or refuses to carry out its obligations under this Schedule and, in particular, the warranties set out above, the Company may itself employ and pay another party to undertake the performance thereof and may charge the Contractor for any expense, cost, damage or loss which the Company sustained on account of the Contractor's default. The Contractor shall not be relieved of its obligations herein by the failure of the Company to make any inspection or discover any defective work or any aspect of the Contractor's default.

**ANNEX 1 TO SCHEDULE 2  
MONTHLY SERVICE CHARGES**

[insert in this schedule the monthly maintenance charges, when payable and mode of payment]