



SOFTWARE AND CLOUD EXHIBIT TO THE ELEKTA STANDARD TERMS AND CONDITIONS OF SALE

1. DEFINITIONS. All definitions used but not defined in this Exhibit shall have the meanings ascribed to them elsewhere in this Agreement. The following terms used in this Exhibit shall have the meaning below:

"Authorized Users" means Customer, End User and their respective Affiliates as well as their respective directors, employees, representatives, agents or, patients, as applicable, authorized by Customer to use the Software or the Cloud Services Environment in accordance with the terms and conditions of this Agreement.

"Cloud Services" means Supplier's hosting services in the context of Supplier's Cloud Services Environment as further detailed in the Scope of Supply and in the Specifications.

"Cloud Services Environment" means the cloud hosting environment consisting of a combination of hardware and software components owned, licensed, or managed by Supplier and/or its third-party suppliers to which Supplier grants Customer access to as part of the Cloud Services.

"Content" means data and information, in any form and format, of Authorized Users, including such data and information that resides in, or runs on or through, the Software or Cloud Services Environment.

"Perpetual License" means that the applicable license rights to use the Software continue indefinitely subject to the terms and conditions of this Agreement.

"Software Installation" means when any Software is first installed by, or otherwise made available to, Customer or End-User either on (i) the Designated Equipment or (ii) as a cloud-based solution, as applicable. If Customer is transitioning from a Perpetual license to a Term License and the Software is not hosted by Supplier, the Software Installation is on the Effective Date.

"Term" means the duration for any Term License, as specified in the Cover Page and Scope of Supply, plus any applicable auto-renewals.

"Term License" means that the applicable license rights to use the Software and/or Cloud Services are for a fixed duration set out in the Cover Page and/or Scope of Supply.

"Usage Limits" means the limitations on use of Term License Software or Cloud Services, as set forth in this Agreement, including but not limited to, number of patient records, data storage, treatment devices, users, patients, healthcare providers, or facilities.

"Warranty Period" means: (a) for Perpetual License Software (including any Updates delivered thereto by Supplier), the period beginning as of the date of Software Installation and for a period of 12 months thereafter, and (b) for Term License Software, the Term.

TERMS AND CONDITIONS APPLICABLE TO ALL SOFTWARE

2. GRANT OF LICENSE. Subject to payment of the License Fee and the other terms and conditions of this Agreement, Supplier hereby grants to Customer, for Term Licenses during the Term, and for Perpetual Licenses on a perpetual basis, a nonexclusive, non-sublicensable (except as expressly set forth herein), nontransferable, non-assignable limited license to use the object code version of the Software on the Designated Equipment or as a cloud-based solution in accordance with this Agreement. The foregoing license shall be granted to Customer on a Perpetual basis or for the Term. No title or ownership interest in the Software passes to Customer. Nothing contained in this Agreement gives Customer any rights to new or different computer programs developed by Supplier or its Affiliates.

3. SUBLICENSE. Where Customer is not the End User, subject to the terms and conditions of this Agreement, Supplier hereby grants to Customer a royalty-free, nonexclusive, nontransferable, right to

sublicense the object code version of the Software to the End User (including providing a copy of such Software to End User) solely for the End-User's own business purposes. For clarity, any such sublicense shall not include any rights greater in duration or scope than the rights expressly granted to Customer in Section 2 (Grant of License).

4. LICENSE RESTRICTIONS. Except as expressly authorized by this Agreement, Customer shall not and shall ensure End User will not: (a) use the Software except for its own business purposes, (b) use the Software in connection with unsafe, high-risk, or illegal activities, or otherwise in violation of any applicable law, regulation, or third-party rights, (c) use the Software or any output thereof to create any product or service that is competitive with, or substantially similar to or substitutable for, any of Supplier's products, services or business, (d) market, sublicense, distribute, permit timeshare, or allow any other access to the Software, (e) copy or duplicate, or permit anyone else to copy or duplicate, any physical, magnetic, or other version of the Software, (f) reverse engineer, decompile, disassemble, or otherwise discover or access (or attempt to discover or access) the source code or underlying structure, models, ideas, or algorithms of any Software, (g) circumvent or breach any Software-related security device or protection, or access the Software through any unapproved interface or device, or interfere with or disrupt any Supplier systems (or attempt to do any of the foregoing), (h) remove any disclaimers or proprietary notices from the Software, (i) fail to promptly implement or accept required improvements, updates, patches, or bug fixes to the Software, or (j) modify the Software in any manner. Customer is solely responsible for identifying and authenticating all Authorized Users, for controlling against and promptly reporting any unauthorized access or use, and for maintaining the confidentiality of usernames, passwords, and account information. Customer shall be fully responsible and liable for all acts and omissions of its Authorized Users (or using their passwords or other credentials) as if Customer directly engaged in such conduct. Customer's breach of this Section shall void any and all of Supplier's obligations with respect to the Software.

5. TERMINATION.

(a) *Material Breach.* If either party materially breaches this Agreement as it relates to this Exhibit and does not cure such material breach within thirty (30) days of written notice from the non-breaching party, the non-breaching party shall be entitled to terminate the licenses hereunder by providing written notice.

(b) *Breach of License Restrictions.* Customer's breach of Section 4 (License Restrictions) shall entitle Supplier to immediately terminate any license hereunder upon written notice to Customer.

(c) *Effects of Termination of Software License Not Hosted by Supplier.* Upon expiration or termination for any reason of a license to Software not hosted by Supplier, Customer shall immediately: (a) return the Software to Supplier together with all reproductions and modifications of the Software and all copies of any documentation, notes, and other materials with respect to the Software; (b) purge all copies of the Software or any portion thereof from all Designated Equipment and from any storage device or medium on which Customer has placed or has permitted others to place the Software; and (c) deliver to Supplier a written certification that Customer has complied with all of its obligations under this Section and all of Customer's other termination-related obligations under this Agreement.

(d) Upon termination or expiration of any license hereunder, Customer will no longer have any rights to access or use the applicable Software.

6. AUDIT. Customer will keep records relating to the Software (and the Cloud Services, if applicable) used by Authorized Users. Supplier may monitor or audit Authorized User records or systems to verify compliance with this Agreement and with Usage Limits at Supplier's expense and with Customer's reasonable cooperation. Supplier may



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require Customer to complete a questionnaire relating to this Agreement. If the audit or questionnaire reveals use in excess of Usage Limits, Supplier may bill Customer at a higher usage pricing tier for the rest of the Term beginning on the subsequent year of the Term.

7. CUSTOMER OBLIGATIONS. Customer shall promptly provide Supplier or its representatives with access to all relevant facilities, documentation, and credentials reasonably necessary to enable performance by Supplier. Customer must have the required equipment, software, permits, approval, consents, and internet access and meet any other requirements set out in the Specifications to use the Software or the Cloud Services, as applicable. To access the Software, Customer shall, and shall ensure that its Authorized Users, as applicable: (a) comply with all requirements in the Specifications, and (b) cooperate with Supplier to implement any Software updates (or to otherwise facilitate Supplier's performance of this Agreement or compliance with legal obligations). Supplier reserves the right to suspend access to the Software or Cloud Services if (i) Supplier reasonably determines Customer is in breach of this Section or Section 4 until such time as the breach is remedied, or (ii) Supplier determines that continued access could pose significant security or compliance risks until Supplier determines that such circumstances have been resolved.

8. CONTENT RIGHTS AND RESPONSIBILITIES. All intellectual property rights to the Content will remain the exclusive property of the Customer or its Authorized Users. Supplier will not assert any ownership rights over Content. Customer shall ensure that: (a) it has all rights and permissions to process and store the Content as part of this Agreement, and (b) such Content does not infringe third party rights or violate applicable laws. Notwithstanding the foregoing, all intellectual property rights relating to the Products and Services, including but not limited to Customer feedback on and improvements to the Supplier Products and Services will remain the exclusive property of Supplier or its Affiliates. Customer is responsible for backing up the Content. In the event of any loss or damage to Content, Customer's sole and exclusive remedy shall be for Supplier to use reasonable commercial efforts to restore the lost or damaged Content from the latest back-up of such Content maintained by Supplier, if any.

9. WARRANTY. During the Warranty Period, the Software (other than Third-Party Products) will, in all material aspects, meet any particular functional or technical requirements listed in the Specifications. Supplier's entire liability, and Customer's exclusive remedy for Supplier's breach of this warranty will be, at Supplier's option, to attempt to correct or work around errors or to refund the License Fee for the affected Software. Any refund is subject to the return or discontinued use of the Software.

Notwithstanding the foregoing, Supplier's warranty does not cover: (a) nonconformance arising out of any alteration, modification, unauthorized repair, improper application or installation, Third Party Products, or operation on equipment other than Designated Equipment or a Supplier-approved cloud-based solution; (b) accidental damage, negligence in use, improper storage, electrical power damage, or abnormal or altered operating conditions; or (c) nonconformance resulting from any breach of the license restrictions set forth in Section 4 (License Restrictions). This Section provides the exclusive remedies for all claims based on a failure or nonconformance of or defect in the Software and this warranty is exclusive and is in lieu of all other warranties, conditions, and guarantees whether written, oral, implied, or statutory. Any remedial steps taken by Supplier hereunder shall not extend the Warranty Period.

10. DISCLAIMERS.

(a) **EXCEPT FOR THE EXPRESS LIMITED WARRANTIES IN THIS AGREEMENT, SUPPLIER SPECIFICALLY DISCLAIMS ALL OTHER WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAWS. SUPPLIER DOES NOT WARRANT THAT THE OPERATION OF THE**

SOFTWARE OR THE CLOUD SERVICES ENVIRONMENT WILL BE UNINTERRUPTED OR ERROR FREE. SUPPLIER MAKES NO REPRESENTATIONS OR WARRANTIES (EXPRESS OR IMPLIED) REGARDING THE ACCURACY, QUALITY, RESULTS, OR SOUNDNESS OF ANY OUTPUT, GUIDANCE OR RECOMMENDATIONS AND HEREBY DISCLAIMS AND ALL LIABILITY FOR ANY DAMAGES, LOSSES, COSTS, OR EXPENSES INCURRED BY CUSTOMER RESULTING FROM THE FAILURE OF SUCH GUIDANCE OR RECOMMENDATIONS TO ACCURATELY PREDICT, OR PROVIDE SUITABLE REMEDIES FOR, SYMPTOMS OR ADVERSE EFFECTS. CUSTOMER ACKNOWLEDGES AND UNDERSTANDS THAT THE SOFTWARE AND CLOUD SERVICES MAY CONSTITUTE OR CONTAIN MODELS, TOOLS, ALGORITHMS, OR OTHER TECHNOLOGY THAT COULD BE CONSIDERED ARTIFICIAL INTELLIGENCE AND/OR MACHINE LEARNING. THE SOFTWARE, CLOUD SERVICES, AND ANY OUTPUT OR RESULTS THEREOF, SHOULD NOT BE USED IN PLACE OF APPROPRIATE EVALUATION, ADVICE, DIAGNOSIS, AND/OR TREATMENT BY LICENSED PRACTITIONERS

(b) Customer shall be solely responsible for, and shall review on an ongoing basis, all: (i) protocols and parameters used by the Software to generate outputs, (ii) data and other Content inputted into the Software by Customer and Authorized Users, and (iii) outputs from the Software. The Software shall not be used as the sole form of treatment plan approval and Customer agrees that Supplier shall have no liability for any medical diagnosis or treatment plan based on the Software or its output.

(c) The Software may contain third party content owned by a third party. Customer agrees that such content is governed by separate terms with the applicable third party, Customer will comply with such terms, and Supplier makes no guarantees related to such third-party content, including its continued availability.

11. IMPROVEMENTS. Subject to applicable law, Supplier and its Affiliates may aggregate, anonymize, pseudo-anonymize, and/or de-identify operational, technical, and healthcare data and Content, for any commercial business purpose, such as to create statistical analyses, conduct research, and for product improvement and development purposes.

12. INCORPORATED TERMS: If applicable to Customer's order pursuant to the Scope of Supply, the following terms found online at www.elekta.com/company/commercial-terms/ shall apply:

- a) Terms and Conditions for Surescripts Services V1.0
- b) Terms and Conditions for Sublicense of FDB Knowledge Base V1.0
- c) Terms and Conditions for Electronic Prescription of Controlled Substances V1.0

ADDITIONAL TERMS AND CONDITIONS APPLICABLE ONLY TO TERM LICENSES

13. TERM. Term Licenses shall commence on Software Installation, and will continue for the Term, unless terminated earlier in accordance with this Agreement. The Term will automatically renew for one-year periods unless a party provides the other party with written notice of non-renewal no later than ninety (90) days prior to the end of the then-current term, of that Party's intention not to renew.

14. IMPLEMENTATION SERVICES. Implementation services for Term License Software must be used within the first year from the Effective Date. Implementation services not used within the first year of the Effective Date due to delays on the Customer side shall automatically expire and Supplier shall have no obligation to perform them.

15. HOSTING. Cloud Services are subject to the *Terms and Conditions Applicable to Cloud Services* either in this Exhibit or on www.Elekta.com. For Software not hosted by Supplier, Supplier shall not be responsible



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for the hosting environment, including but not limited to, security, service level commitments or maintenance and support service.

16. UPDATES. Supplier may make changes or updates to the Specifications, Software, the Cloud Services Environment, or the Cloud Services (such as to infrastructure, security, technical configurations, application features), including to reflect changes in technology and industry practices or to third party service providers, provided such changes do not result in a material reduction in the level of performance or availability of the Cloud Services or Software.

ADDITIONAL TERMS AND CONDITIONS APPLICABLE ONLY TO CLOUD SERVICES

17. REGIONS. To comply with local laws and regulations, the Specifications will specify the data region and compliance zone where Authorized User's data will be physically located. Supplier and its Affiliates may perform certain aspects of Cloud Services, such as service administration and support, from locations and/or through use of subcontractors, worldwide.

18. CUSTOMER OBLIGATIONS. To access the Cloud Services or the Cloud Services Environment, Customer and its Authorized Users shall: (a) maintain an active Software subscription package or maintenance and support agreement with Supplier during the Term, and (b) not run or disclose any benchmark, performance, or security tests without Supplier's consent, including without limitation, network discovery, port and service identification, vulnerability scanning, password cracking, remote access, or penetration tests.

19. EFFECTS OF TERMINATION OF CLOUD SERVICES. Upon expiration or termination of the Cloud Services in accordance with this Agreement, Customer will no longer have any rights to access or use the applicable Cloud Services or Cloud Services Environment; however, so long as Customer is not in breach of this Agreement, for a period of up to thirty (30) days, Supplier will make available to Customer (in a commercially reasonable manner) the Content as existing in the Cloud Services Environment on the date of termination or expiration. At the end of the thirty (30) days transition period, and except as may be required by law, Supplier may delete or otherwise render inaccessible any of the Content that remains in the Cloud Services Environment. Access for data transfer may be extended upon mutual agreement of the Parties for a fee.

20. SERVICE LEVEL AGREEMENT.

(a) Definitions.

"Available" means that the Cloud Services Environment responds to requests from Customer to process and display data.

"Maintenance Window(s)" means every Friday from 9:00 PM to 4:00 AM (Saturday) based on the local time zone of the Customer. Actual maintenance hours may vary within the Maintenance Window(s) but will not exceed a total of 28 hours per month.

"Maximum Available Minutes" means the total number of Available minutes in a month.

"Monthly Uptime Percentage" = (Maximum Available Minutes – Unscheduled Downtime) / (Maximum Available Minutes X 100).

"Scheduled Downtime(s)" means times during which Supplier performs necessary component upgrades, module or feature additions, re-configurations, or other maintenance of the Cloud Services that may not be accomplished during the Maintenance Window. Supplier agrees to provide at least seventy-two (72) hours' prior notice to Customer for Scheduled Downtime(s).

"Unscheduled Downtime" means the total number of minutes in a month that the Cloud Services Environment is not Available, excluding the Maintenance Window(s) and Scheduled Downtime(s) and excluding any downtime experienced, or repairs or adjustments required, as a result of items or circumstances beyond Supplier's control, including any Force Majeure Events or failures of or resulting to (i) Customer's equipment, (ii) Customer's network performance, (iii) Customer's ISP or (iv) the internet.

(b) **Uptime Guarantee.** If the Monthly Uptime Percentage of the Cloud Services Environment, averaged for a consecutive three (3) calendar month period, fails to meet or exceed the percentages for specific products in the chart below, then Customer is eligible to receive the identified service credits for the relevant three-month period for the impacted Deliverable (each a "Service Credit").

MONTHLY UPTIME PERCENTAGE	SERVICE CREDIT
<99.5%	5%
<98%	10%
<95%	15%

(c) **Limitations.** Except for the termination rights set forth in Section 20(d) (Termination for Non-Availability), the Service Credits are Customer's sole and exclusive remedy for any performance or availability issues for the Cloud Services Environment. To receive a Service Credit, Customer must notify Supplier in writing within thirty (30) days from the time Customer becomes eligible to receive a Service Credit. Service Credits shall be applied to Customer's next billing cycle.

(d) **Termination for Non-Availability.** If the Monthly Uptime Percentage of the Cloud Services Environment is less than 95.0% in three separate months (i.e., not calculated as a rolling average) over any consecutive six-month period, then Customer may terminate the Cloud Services by providing written notice to Supplier within thirty (30) days of the last of such failures. Upon such termination, Supplier will refund to Customer a pro-rata amount of any pre-paid Cloud Service fees for the unutilized portion of the then-current term.