



## HOSTING SERVICES EXHIBIT TO THE ELEKTA STANDARD TERMS AND CONDITIONS OF SALE WT1920GH

This Exhibit ("Hosting Service Terms") is for the Supplier services defined below.

**1.0 Definitions:** Except as otherwise defined herein, the following terms shall have the meanings set forth below:

1.1 "Authorized Users" shall mean current and future employee or agent of the Customer that has been issued a User ID by the Customer allowing such individual to access and use the Software as authorized in this Agreement.

1.2 "Hosting Services" shall mean information processing, transmission and data storage services for the Software noted in an exhibit in this Agreement on a remote system maintained by or on behalf of Supplier. Supplier shall provide access to the remote system through a secure global computer communications network ("Internet").

1.3 "Hosting Service Fees" shall mean those fees specifically related to the Hosting Services offered by Supplier. The Hosting Service Fees may be in addition to other fees according to the terms of this Agreement. The Customer acknowledges that other license and service fees not charged by Supplier may be required, such as, but not limited to, Customer Internet Service Provider fees, to connect to the Data Center.

1.4 "Customer Data" means the Customer data input that is transmitted to and maintained at the Data Center by Customer in compliance with this Agreement for incorporation into the Customer Database.

1.5 "Customer Database(s)" means the Customer Data stored in the Software databases that are specific to the Customer.

1.6 "Hosting Center" means the remote facility where the Software and Customer Databases are installed and maintained.

1.7 "ISP" shall mean Internet Service Provider, a third party providing Customer with high speed access to the internet.

### **2.0 Hosting License Grants and Authorized User Access.**

2.1 Grant of Hosting Service Licenses. Subject to the provisions of this Agreement, the Supplier hereby grants to the Customer, and the Customer hereby accepts from the Supplier, a nonexclusive, nontransferable, non-assignable limited license to use the Software utilizing Supplier's Hosting Services for internal purposes only during the term specified. The Customer acknowledges and agrees that the Software is the proprietary information and a trade secret of the Supplier and its Affiliates and that this Agreement grants the Customer no title or rights of ownership in the Software. The Customer agrees not to market, sublicense, distribute, permit timeshare, or allow any other access to the Software other than for the Customer's own internal use as permitted hereby. Customer Databases and Customer patient data stored at the Data Center are and shall remain the exclusive property of the Customer. The Customer also understands and agrees that for the Software listed in the Scope of Supply, licensed to Customer for use with the Hosting Services provided hereunder, (i) the provisions of this Section 2.1 shall apply and shall supersede Section 2 of the Software Exhibit herein, and (ii) the Customer is only authorized to use the Software through the Hosting Services pursuant to this Agreement. For Software listed in the Scope of Supply that is not licensed to Customer for use using Hosting Services, Section 2 of the Software Exhibit, shall remain in effect unless otherwise specified in this Agreement.

### **3.0 Supplier Responsibilities.**

3.1 The Supplier, pursuant to the terms of this Agreement and these Hosting Service Terms, shall be responsible for:

- a) Within commercially reasonable constraints, provide a secure and redundant environment to operate the applicable Software using the Hosting Services.
- b) Selecting equipment for the Hosting Center appropriate to the configuration requirements of the Software and which are compatible with the existing Hosting Center architecture to deliver Hosting Services.
- c) The installation and/or configuration of Supplier hardware at the Hosting Center required to deliver Hosting Services.
- d) The installation and initial set-up of the purchased Software at the Hosting Center that will be delivered using the Hosting Services.
- e) With participation by the Customer, configuration of the Software.
- f) Providing Customer access to the Hosting Services through the Internet.
- g) Periodic monitoring of the utilization and performance of the Hosting Services.
- h) Periodic adjust of the hardware and software systems to optimize performance.
- i) Ensure that backups of the Customer Databases are maintained at all times.
- 1) The Supplier's Recovery Time Objective, which is the time it takes to restore a corrupt database, is approximately 4 hours.
- j) Provide real-time anti-virus monitoring using updated virus definition on the Software installed at the Hosting Center.
- k) Notify Customer at least 90 days in advance, if possible, of any planned changes to Supplier's hosting service infrastructure vendor(s).
- 1) Such changes in Supplier's hosting service infrastructure shall not be reason for Customer Termination – With Cause as defined in Section 8.2 of this Exhibit.

3.2 Notwithstanding the foregoing, Supplier shall not be responsible for:

- a) The performance or use by Customer of any services by any third party communications services provider or damages caused based on such use or inability to use such services.
- b) Transmission or communication errors or other problems with transmission of Customer Data by Customer to the Hosting Center.

**4.0 Customer Responsibilities.** In order to ensure that Supplier is able to deliver the Hosting Services and meet the performance targets set forth in these Hosting Terms, Customer shall be responsible for, in addition to other provisions in this Agreement:

- a) Designate primary and secondary liaisons that have been trained on the applicable Software and Hosting Services methods to provide Supplier with all necessary after-hours contact information for such individuals.
- b) Installation and maintenance of all hardware and software at Customer facilities required to use the Hosting Services.
- c) Notify the Supplier in writing of any planned Customer-side configuration changes that could affect the Suppliers ability to deliver Hosting Services or impact the performance of the Hosting Services at least three business days prior to making the changes.
- d) Maintain an active high-speed Internet connection to the Hosting Center, Software and Customer Databases to ensure Hosting Service capabilities.
- e) Select and maintain a relationship with their own ISP.
- f) Pay for any applicable ISP fees.
- g) Ensure that all Hosting Services issues are centralized through the primary or secondary liaisons.
- h) Submit Hosting Services issues to Supplier's designated contact.
- i) Use reasonable efforts to diagnose and resolve problems in the operation of the Customer interface's to the Hosting Service prior to contacting Supplier for Support.
- j) Use reasonable efforts to confirm that reported problems are due to a malfunction of the Hosting Service.

- k) Use all reasonable efforts to consult any Supplier-supplied documentation before submitting questions about the Hosting Services to Supplier.
- l) Notify Supplier of any problems with the Hosting Service in a timely manner (depending on the circumstances, but in no event later than three (3) days after becoming aware of and confirming an issue with the Hosting Service.
- m) Provide Supplier with one or more user accounts, as appropriate, for the applicable software and Customer Databases for use by Supplier when support services are required. Supplier acknowledges that access by Supplier to the Customer Databases will be at the discretion of the Customer, and such access shall not be unreasonable withheld.
- n) Develop and implement security policies and procedures to ensure that only authorized users can use the Hosting Services and access the Software.

**5.0 Hosting Services Hours of Operation.** The Customer may operate the Software using Hosting Services at all times except (1) during the Supplier's twice-monthly maintenance windows, (2) during scheduled downtimes and (3) during infrastructure failures.

**5.1 Maintenance Windows:** The "Monthly Maintenance Window(s)" are the first and third Fridays of every month, from 9:00 PM to 3:00 AM (Saturday) Eastern Standard or Daylight Time. No further notice to Customer is required for Monthly Maintenance Window downtimes.

**5.2 "Scheduled Downtimes"** are times mutually agreed upon by the Parties when Supplier needs to perform Software or component upgrades, module or feature additions, Software re-configuration, or other maintenance that may not be accomplished during a Monthly Maintenance Window. Scheduled Downtimes are also stated in hours. Supplier agrees to provide 72 hours written notice to Customer for Scheduled Downtimes.

**5.3 Excusable Hosting Service Interruptions.**

**5.3.1** Customer acknowledges and agrees that (1) the Supplier does not and cannot completely control the flow of data to and from the Customer Databases at the Hosting Center and (2) the Supplier's ability to deliver Hosting Services is dependent on several factors beyond the control of Supplier, including but not limited to (i) Customer equipment, Customer's network performance (iii) Customers' ISP, (iv) the Internet, often controlled by one or more third parties, and (v) Force Majeure Events.

**5.3.2 "Infrastructure Failures"** are any failures in any part of system noted in Section 5.3.1 of this Exhibit that prevent supplier from delivering Hosting Services to Customer and shall not be used as the basis for any Supplier penalties or remedies for the Customer.

**5.4 System Availability Notification:**

**5.4.1 System Downtime Notification:** Supplier agrees that it will not cause Hosting Services interruptions for unscheduled events without the permission of an authorized representative of the Customer, and Customer agrees that such permission shall not be unreasonably withheld. Supplier shall not be required to notify the Customer for Hosting Services interruptions caused by Monthly Maintenance Windows, any Scheduled Downtimes previously agreed to by the Parties, or other service interruptions beyond the control of the Supplier.

**5.4.2 System Availability:** Supplier agrees to notify an authorized representative of the Customer by phone or electronic messaging when the Hosting Services become available after any interruption of Hosting Services.

## **6.0 Hosting Service Term and Automatic Renewal**

**6.1 Term:** The initial term for this Agreement shall commence upon the earlier of (i) the date of acceptance for the Software licensed using Supplier Hosting Services in accordance with the acceptance procedure for Software in section 8 of the Standard Terms Exhibit or (ii) the date of the first clinical use of the

Software, and remain in effect for a period of five years unless otherwise terminated in accordance with the provisions of this Agreement.

**6.2 Automatic Renewal:** After the initial five-year term, Supplier's obligation to provide Hosting Services and the Customer's obligation to pay the Hosting Service Fees shall automatically renew for one-year periods on the anniversary date of Hosting Services commencement date described in section of this Agreement, and continue until cancelled by either Party giving the other at least ninety (90) days' prior written notice before the anniversary at which the Hosting Services will automatically renew.

**6.2.1 Customer Change Effects:** The Customer acknowledges and agrees that changes to the number of Authorized Users requiring access to Hosting Services, and/or changes to the purchased modules for the hosted Software, may require a recalculation of the Hosting Service Fees.

**6.2.2 Changes to Customer Data Storage Requirements:** The Customer acknowledges and agrees that changes to Software features and the addition of new modules may be cause for review of the Hosting Service terms of this Agreement.

**7.0 Price and Payment Terms:** The Customer understands and agrees that Customer is entering into a five-year Hosting Services Agreement with automatic one-year renewal periods unless otherwise noted. The total price of the Hosting Services for the initial term is the aggregate of the Hosting Service Fees over the initial term. The total price for the Hosting Services in a renewal period is the aggregate of the Hosting Service Fees for that period. The Customer further agrees that it must execute a coterminous Maintenance and Support policy and payment schedule for the hosted Software.

**7.1 Payment Terms:** The Customer shall pay Hosting Service Fees to the Supplier according to the following schedule:

(a) 20% of the total five-year Hosting Services price with the Hosting Services order at the beginning of a five-year term.

(b) 20% of total five-year Hosting Services price at the beginning of each the thirteenth (13th), twenty-fifth (25th), thirty-seventh (37th), and forty-ninth (49th) months of a five-year term.

(c) 100% of Hosting Service Fees at the beginning of a one-year automatic renewal period.

(d) Unless otherwise agreed or set out in the Cover Page, all payments shall be made in United States dollars and due and payable by the Customer to the Supplier within 30 days after the date of invoice ("Payment Date"). Any price under this Agreement shall be paid via cash, check, or bank wire transfer according to the instructions noted on the face of the invoices.

(e) Unless otherwise expressly set out in this Agreement any price or payment is exclusive of, and the Customer is responsible for all financing costs, letter of credit or bank guarantee costs, sales tax, and any other taxes (including applicable stamp duties, duties, withholding tax, customs duties, value added tax, fines, penalties and interest charges) any costs any costs associated with installation and use of an active high-speed Internet connection from the Customer facility to the Hosting Center, Software and Customer Databases, required to use the Hosting Services.

**7.2** The Supplier must deliver to the Customer an Invoice for any payment due by the Customer to the Supplier in accordance with the terms and conditions of this Agreement and for the coterminous Maintenance and Support Agreement.

**7.3** The Customer shall not be entitled to deduct or set-off any amount of the monies due to the Supplier for the Hosting Services except as provided for in these Hosting Terms.

**7.4 Price Escalation:**

**7.4.1** Supplier is entitled to adjust the Hosting Service Fees on a yearly basis in accordance with Supplier's price for Hosting Services.

7.4.2 Supplier is entitled to adjust the Hosting Service Fees on a yearly basis by the lesser of five percent (5%), or the Annual Consumer Price Index's ("CPI") (All Urban Consumers, US Cities Average, Not Seasonally Adjusted) percentage change in the two previous full year indices. The CPI is issued by the U.S. Bureau of Labor Statistics.

#### 7.5 Customer's Default.

7.5.1 If the Customer fails to make any of the Hosting Service Fees payments by the Payment Date, then Supplier shall give the Customer written notice of such failure and may suspend all Hosting Services and licenses until all outstanding amounts (including any accrued interest) have been paid in full.

7.5.2 If the Customer fails to make any payment within thirty (30) calendar days after the date of Supplier's notice referred to in section 8.1.1 of this Exhibit, Supplier may elect to terminate this Agreement by giving written notice of such termination to the Customer. Such termination shall be effective as of the date of such termination notice and Supplier shall be entitled to immediately terminate Hosting Services. Hosting Services Termination (section 8.1 of this Agreement) will apply.

7.5.3 Any payment which remains unpaid after the date on which such payment is due shall bear interest at a rate equal to the overnight London Interbank Offered Rate ("LIBOR") plus 3% (to accrue from the Payment Date).

#### 8.0 Hosting Services Termination:

8.1 Termination by Supplier: The Supplier shall have the right to terminate the Grant of Hosting Service Licenses granted under Section 2.1 of this Exhibit immediately upon written notice to the Customer without further obligation or liability to the Customer if the Customer commits any breach of this Agreement. In addition thereto, the license shall terminate immediately upon written notice to the Customer without further obligation or liability to the Customer if:

- (a) any sublicense, assignment or transfer or attempted sublicense, assignment or transfer by the Customer of Hosting Services is made without the consent of Supplier;
- (b) any transport, movement or attempted transport or movement by the Customer of the Software delivered using Hosting Services from the Hosting Center is made by the Customer without prior written consent of Supplier; Supplier will implement reasonable and customary provisions to prevent transport or movement of software that is not part of supplier's hosting responsibility.
- (a) Customer transfers or attempts to transfer any computer software to Supplier's Hosting Center equipment. Supplier will implement reasonable and customary provisions that prevent inadvertent transfer of Software by Customer.

8.1.1 Upon Supplier's termination notification to Customer, Supplier may authorize a limited extension of Supplier's Hosting Service Licenses for a period of up to 30 days from the date of notification to allow the Customer time to implement an alternative solution to Supplier's Hosting Services. The Supplier has the exclusive right to authorize a limited extension of the Hosting Service License.

8.2 Termination by Customer – With Cause: If the Supplier commits any material breach of these Hosting Terms and the Customer has provided Supplier notifications of the material breach, the Customer may terminate the Hosting Terms portion of this Agreement.

8.2.1 Notification: If Customer decides to terminate this agreement for cause, then Customer agrees to notify an authorized Supplier representative by registered letter or a receipt-requested email of its intent to terminate the Hosting Services within 3 months of the qualifying event(s).

8.2.2 Post Notification Service Period: The Customer may continue to use the Hosting Services for a period of up to 18 months after it has notified the Supplier of its intent to terminate the Hosting Services provided that the Customer agrees that all provisions of these Hosting Terms remain in full force and effect until such time that the Hosting Services are terminated. The Customer agrees to notify the Supplier in writing 90 days in advance of termination of the Hosting Services.

8.2.3 Refund of Unused Hosting Service Fees: Upon termination of the Hosting Services Supplier shall provide a prorated refund of any unused Hosting Services Fees paid by the Customer and Customer shall not be responsible for any future Hosting Service Fees required by these Hosting Terms. Termination of the Hosting Terms of this Agreement and the prorated refund of any advance Hosting Service Fees shall be the Customer's sole remedies for breach or persistent failure by Supplier to deliver Hosting Services. If Customer has purchased other Hardware, Services or Software listed in the Scope of Supply, Exhibit A of this Agreement, and are not delivered though Hosting Services, then the applicable portions of this Agreement shall remain in full force and effect.

8.3 Termination by Customer – Without Cause: If the Customer terminates the Hosting Services portion of this Agreement without cause prior to the expiration of the initial term, the Customer agrees to pay Supplier the Application Service Fees according to the following schedule:

- (a) If Customer terminates the Hosting Services in months 1 through 12 of the initial term, Customer must pay 60% of the total Hosting Fees for the five-year initial term.
- (b) If Customer terminates the Hosting Services in months 13 through 24 of the initial term, Customer must pay 50% of the total Hosting Fees for the five-year initial term.
- (c) If Customer terminates the Hosting Services in months 25 through 36 of the initial term, Customer must pay 40% of the total Hosting Fees for the five-year initial term.
- (d) If Customer terminates the Hosting Services in months 37 through 48 of the initial term, Customer must pay 30% of the total Hosting Fees for the five-year initial term.
- (e) If Customer terminates the Hosting Services in months 49 through 60 of the initial term, Customer must pay 20% of the total Hosting Fees for the five-year initial term.
- (f) If the Customer terminates the Hosting Services after the initial term and the Hosting Services term has automatically renewed for a one-year period, then Customer must pay 100% of the outstanding balance due for the then current term.

8.4 Data Extraction and Transfer: If the Customer terminates the Hosting Services portion of this Agreement, with or without cause, Supplier's sole obligation with regard to the Customer Data is to extract and transfer the Customer Data to a Customer hosted database for the same Supplier application. Supplier is not obligated to export the data into any other form or to make it compatible for use by a third party application or database.