



carelink

a **piksel** company

HSC Networks and Infrastructure as a Service

Carelink Hosted Services Terms and Conditions



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1. Introduction

Carelink is the brand name of Piksel Limited's UK healthcare business, which provides managed networks and infrastructure for NHS, government and private sector organisations, on both TN/HSCN and Internet environments.

This document details the Terms & Conditions of Carelink Cloud Hosted Services.

Terms & Conditions

This Appendix contains the Terms and Conditions that are agreed between Piksel Limited's Carelink service and their customers. These Terms and Conditions form part of the Service Level Agreement entered into between the parties. Customers with dedicated Carelink servers are deemed to be bound by these Terms & Conditions, even if a signed copy does not exist.

Supply of Hosted Services ("Service") by Piksel Limited ("We", "Us", "Our", "Piksel" or "Carelink") to its customer ("You" or "Your")

1 Your obligations

- 1.1 Our Service Fees will be invoiced to You annually in advance (or such other frequency as agreed between the parties) and are payable by You within 30 days of the invoice date without any set off or any other deduction.
- 1.2 If You fail to pay any of Our invoices on or before their due dates, We may notify You that We intend to suspend the provision of the Service after 7 days. If You fail to make payment in cleared funds within the 7 days after that notice, We may suspend the Service without incurring any liability to You until a reasonable time after You have paid all sums then due plus Our reasonable estimate of the further sums that will become due to us in performing the balance of the Services.
- 1.3 You will not use the Service for any activity other than as defined by Us. You will not use the Service in any way which may cause You or Us to be in breach of:
 - 1.3.1 the Laws of England; or
 - 1.3.2 the IG SoC between Us and the HSCIC; or
 - 1.3.3 privacy and patient confidentiality guidelines.

2 Our obligations

- 2.1 Notwithstanding anything to the contrary in this contract Our liability to You for:
 - 2.1.1 death or personal injury caused by the negligence of Us, the Consultants or any of Our other employees, agents or sub-contractors; and
 - 2.1.2 damage suffered by You as a result of Us breaching the condition as to title or the warranty as to quiet possession implied by Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982; and

2.1.3 fraud

is not limited but nothing in paragraph 2.1 to 2.4 (inclusive) will confer a remedy upon You to which You would not otherwise be entitled.

2.2 Paragraphs 2.1 to 2.4 (inclusive) sets out Our entire liability (including any liability for the acts and omissions of Our employees, agents or subcontractors) to You in respect of:

2.2.1 any breach of Our contractual obligations arising under or in connection with this contract;

2.2.2 any representation, statement, negligence, breach of statutory duty or other tortuous act or omission arising under or in connection with this contract; and

2.2.3 any damage to property.

2.3 Our total liability under or in connection with this contract in any calendar year will not in aggregate exceed the higher of:

2.3.1 £5,000; and

2.3.2 an amount equal to one and a half times the charges payable to Us under this letter in the calendar year concerned.

2.4 We will not be liable to You for any damage, loss of or costs in respect of;

2.4.1 anticipated profits, revenues, anticipated savings, goodwill or business opportunities (in each case, whether direct or indirect); or

2.4.2 your employees' or consultants' time in relation to using or managing the Services (in each case whether direct or indirect); or

2.4.3 any consequential or indirect loss; or

2.4.4 loss or corruption of data, software or database configuration held by You (whether before or after termination of this contract) which could have been avoided by You keeping full back up copies of Your data, software or database configuration in accordance with good data processing practice.

and in each case whether or not We have been advised of the likelihood of such damage, loss or costs

- 2.5 We will take all reasonable measures to ensure the Service is available. However, We do not guarantee any specific level of Service availability; nor do We guarantee any maximum time the Service may be unavailable.
- 2.6 We may, from time to time, make changes to the Services (including the introduction or withdrawal of any service features and/or the replacement of any of the Services with a materially equivalent service) in order to reflect any changes made to the Services supplied by our Provider(s) and/or to ensure that the Services continue to comply with applicable statutory requirements.
- 2.7 We may, upon giving five (5) business day's written notice to you, vary the Service to exclude from this Contract any part of the Services as We think fit if for any reason the supply of Services by our third party Provider are discontinued.
- 2.8 We may restrict or suspend any affected Services:
- 2.8.1 to conduct maintenance, or to otherwise implement a change to maintain the provision of the Services in accordance with applicable laws;
- 2.8.2 upon payment default, pursuant to clause 1.2;
- 2.8.3 if You fail to comply with any applicable Provider End User License Terms.
- 2.9 Where We exercise our rights to restrict or suspend any Services under sub-clauses 2.8.2 or 2.8.3 You will continue to be liable to pay all applicable Service Fees for the Services.
- 2.10 You acknowledge and accept that the Services are provided on an "as is" basis and that, except to the extent prohibited by law, all other representations or warranties of any kind, whether express, implied, statutory or otherwise regarding the Services (including any warranties as to fitness for a particular purpose, or that the Services will be provided uninterrupted and error free) are hereby excluded.

3. **Third party content and/or services**

- 3.1 If the Customer uses any non-Carelink-provided software on its Hosted System, the Customer warrants to Carelink that it has the legal right to use the software in that manner. At Carelink's request the Customer shall certify in writing that it is in compliance with the requirements of this **clause 3.1** and any other software licence restrictions that are part of this Agreement, and will

provide evidence of its compliance as Carelink may reasonably request. The Customer shall indemnify Carelink against all costs and damages awarded, fines, penalties or other amounts imposed on Carelink in respect of any third party claim brought against Carelink in respect of any matter that constitutes a breach of the warranty set out in this clause.

- 3.2 If Carelink has agreed to install, patch or otherwise manage software in reliance on the Customer's licence with a third party software vendor (rather than Carelink's licence with the third party software vendor), then the Customer warrants to Carelink that it has a written licence agreement with such third party software vendor that permits Carelink to perform these activities. The Customer agrees that it shall provide Carelink with evidence of licencing as Carelink may reasonably require prior to the scheduled deployment date for the Hosted System that was to include such software, and from time to time as necessary to update the status of the licence. If the Customer fails to provide the required evidence of licencing, Carelink may, at its option, either: (i) delay the deployment date for the Hosted System that was to include such third party software until the evidence is provided; (ii) deploy the Hosted System in reliance on Carelink's licencing agreement with the vendor, and charge the Customer Carelink's standard fee for the use of the software until such time as the required evidence is provided; or (iii) suspend or terminate this Agreement.
- 3.3 Where, as part of the Service, We are required to procure third party hardware or services, We will, on Your behalf, obtain the relevant hardware or services at Your expense. You acknowledge and agree that We will not be liable for the provision or quality of or any failure of any supplier of such third party hardware or services and You agree to indemnify Carelink against all costs and damages awarded, fines, penalties or other amounts imposed on Carelink in respect of any third party claim brought against Carelink in respect of any matter that constitutes a breach of the warranty set out in this clause.
- 3.4 If We lease any equipment, including hardware, on Your behalf and for Your benefit in connection with the Service, You acknowledge and agree that, in the event of any termination of this Service Level Agreement, You will be liable for any outstanding lease payments until the expiry of any such lease agreement. We will be entitled to continue invoicing You for such lease payments in accordance with the payment terms specified in this Service Level Agreement.
- 3.5 The provisions of clauses 3.1 to 3.4 (inclusive) shall survive any termination of this Agreement and shall continue in full force and effect.

4. Provider Terms

- 4.1 We will, at all times, have an agreement in place with any third party Provider(s) covering Your use of, and access to, the Services.

- 4.2 You acknowledge that the relationship between Us and the Provider is one of buyer and seller in respect of the wider Contract. We have no right or authority to assume any obligation of any kind whether express or implied on behalf of the Provider and are acting as reseller of the Services and not as agent of the Provider.
- 4.3 By entering into this Contract You acknowledge that your use of the Services is also subject to any applicable Provider End User License Terms (in addition to the terms of this Contract).
- 4.4 You will indemnify, keep indemnified and hold harmless Piksel against any claims, losses, costs and liabilities arising out of or in connection with any loss or misuse of the Services that is contrary to the Provider End User License Terms.
- 4.5 We will promptly forward to you any notice We receives from any Provider(s) regarding the Services that may affect You, including notices of any service interruption or service suspension, termination of a Provider account or any notice of violation of the Provider(s) acceptable use restrictions contained within the Provider End User Licence Terms.
- 4.6 In respect of the Services, and the wider Contract You agree to comply with the Provider's interconnect security Policy ("SISP") and that you have read, understand and agree to comply with the Provider's SISP policy.
- 4.7 We may, from time to time, vary the terms of this Contract to the extent necessary to reflect any changes made to: (i) the service's supplied by its Provider(s); and/or (iii) the Provider End User License Terms.
- 4.8 Upon request from any Provider, We may assist the Provider in removing or disabling Your access to the Services in the event that your use of the Services is in violation of any acceptable use restrictions contracted within the Provider End User Licence Terms (and Piksel shall have no liability to you in such event).

5. UNDERTAKINGS

- 5.1 You agree to:
- 5.1.1 inform Us immediately of any changes in ownership or Control and of any change in Your organisation or method of doing business which might affect the performance of Your duties in this Contract;

- 5.1.2 promptly inform Us of any claims or proceedings made or brought against You that might affect the rights or interests of Us and/or the Provider under this Contract.
- 5.2 You agree not to appoint any sub-reseller or agent to sell or market the Services;
- 5.3 You shall not access, store, distribute or transmit any viruses, or any material or Content during the course of use of the Services that is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive, facilitates illegal activity, depicts sexually explicit images, promotes unlawful violence or is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability or any other illegal activity. You acknowledge that Piksel and the Provider reserves the right, without liability to disable access to any material that breaches the provisions of this clause 5.3;
- 5.4 You shall be responsible for any third party licenses and license costs which are not included in the relevant Services and will be wholly liable to Us for any unlicensed software in connection with the Provider's Services in the event that an audit is undertaken by a third party software provider and that unlicensed software has been installed by You.
- 5.5 You undertake that where applicable You shall throughout the Term, where specifically requested in writing by the PSN team acting on advice from the Infrastructure SIRO, immediately disconnect Your GCN Services, PSN Services or customer environment (as the case may be) from such PSN Services (including any Direct Network services (DNS), GCN services and customer environments as the PSN team instructs where there is an event affecting national security, or the security of the GCN or PSN.
- 5.6 You acknowledge that the PSN team shall not be liable to You or any other Party for any claims, proceedings, actions, damages, costs, expenses and any other liabilities of any kind which may arise out of, or in consequence of any notification, pursuant to clause 5.5.
- 5.7 You acknowledge and agree that this clause 7.4 and 7.5 are for the benefits of and may be enforced by the PSN team, notwithstanding the fact that the PSN team is not a Party to this Contract, pursuant to the Contracts (Right of Third Parties) Act 1999

6. WARRANTIES

- 6.1 Each Party warrants that:

- 6.1.1 It has full capacity and authority and all necessary consents to enter into and to perform this Contract and to grant the rights and licenses referred to in this Contract and that this Contract is executed by its duly authorised representatives and represents a binding commitment on it; and
- 6.1.2 it shall comply with all applicable laws in the performance of its obligations under this Contract.
- 6.2 You warrant that all data imported by You into the Providers live production services pursuant to this Contract is being processed on behalf of a UK Public Sector entity, or supports the delivery of Services to the UK Public Sector.

7. Additional Microsoft Requirements

- 7.1 In respect of the Services and the wider Contract You acknowledges that:
 - 7.1.1 You have valid Microsoft Licensing using the Microsoft Mobility Programme;
 - 7.1.2 Existing Licensing, or SQL can be purchased through the Provider, but Microsoft Operating System licensing may only be provided by the Provider;
 - 7.1.3 You may provide your own application licensing, but in such case You must complete and provide a Microsoft Mobility Agreement to the Provider;
 - 7.1.4 You shall not remove, alter, cover or obscure any trademarks, trade names, service marks, logos or brands, copyright notices, patent numbers or any other statements or symbols of ownership from software or do so in respect of any media supplied by the Provider on which any software is loaded;
 - 7.1.5 You shall not copy, alter, modify, adapt, translate, create, derivate works or distribute, rent, lease, sublicense, transmit, sell all or part of the software or do so in respect of any media on which the software is loaded.
- 7.2 To the extent permitted by Law, You acknowledge and agree that Piksel and the Provider make no representations or express or implied warranties in relation to the Services, and disclaim all express and implied warranties, including without limitation:
 - 7.2.1 any implied warranties of merchantability, and fitness of the Services for a particular purpose;

- 7.2.2 any liability on the part of Microsoft, the Provider or the it's supplier's, for any direct, indirect or consequential damage arising from the Services.
- 7.3 The Provider or a third party on the Provider's behalf, will provide technical support for the Services. You acknowledge that Microsoft will not provide direct support for the Services in accordance with this Contract and/or the applicable Service Order Form.
- 7.4 You agree that Piksel and the Provider may be obliged to pass limited details about You to Microsoft in the event that Piksel and/or your Service Software consumption exceeds the £GB Sterling equivalent of US \$100 per month, or if Microsoft elects to undertake an audit of software service consumption.
- 7.5 You agree that in the event you have failed to pay for the correct number of licenses, You will promptly obtain the correct amount, and hold Piskel harmless against any consequential liabilities.
- 7.6 You acknowledge that the Services are not fault tolerant and are not guaranteed to be error free or to operate uninterrupted. You acknowledge that no rights are granted to You to use the Services in any application or situation where failure of the Services could lead to death or serious injury of any person, or to severe physical or environmental damage.
- 7.7 You acknowledge and agree that Microsoft is an intended third party beneficiary of this clause 7 "Additional Microsoft Requirements" only and that Microsoft holds the right to enforce this clause 7, and to verify your compliance with this clause 7.

2. Additional HSCN Requirements

- 2.1 In respect of the Services and the wider Contract both parties agree that in respect of the HSCN Connectivity Services:
- 2.1.1 We shall ensure that any HSCN Connectivity Services that it supplies pursuant to this Contract shall have been awarded HSCN Compliance and shall retain at all times HSCN Compliance.
- 2.1.2 We shall ensure that any HSCN Connectivity Services that it supplies pursuant to this Contract are delivered in accordance with the HSCN Obligations Framework.

- 2.1.3 You shall ensure that any HSCN service consumer environment used to consume HSCN Connectivity Services supplied pursuant to this Contract, shall be provided and maintained in accordance with the Connection Agreement.
- 2.1.4 Each of the parties warrants and undertakes that they shall throughout the term, immediately disconnect their HSCN Connectivity Services and consumer environments where specifically requested in writing by the NHS Digital careCERT (or the HSCN Authority acting on behalf of NHS Digital CareCERT) where there is an event affecting national security, or the security of the HSCN.
- 2.1.5 The parties acknowledge and agree that the HSCN Authority shall not be liable to them or any other party for any claims, proceedings, actions, damages, costs, expenses and any other liabilities of any kind which may arise out of, or in consequence of any notifications pursuant to clause 8.1.4 above.
- 2.1.6 Each of the parties acknowledges and agrees that clauses 8.1.4 and 8.1.5 are for the benefit of any may be enforced by the HSCN Authority, notwithstanding the fact that the HSCN Authority is not a party to this Contract, pursuant to the Contracts (Rights of Third Parties) Act 1999. For the avoidance of doubt such appointment shall not increase any liability of Piksel beyond the scope of their existing liabilities under this Contract, the CN-SP Deed or the HSCN Obligations Framework.
- 2.1.7 Piksel shall procure that any Material Sub-contractor shall comply with the terms of this Contract in relation to their provisions of HSCN Connectivity Services.
- 2.1.8 Where any level of standard, practice, or requirement associated with any Piksel obligation referenced in this Contract, the HSCN Obligations Framework, the HSCN CN-SP Service Management Requirement Addendum or the HSCN Consumer Contract conflicts with another level of standard, practice or requirement associated with any Piksel obligation or with Good Industry Practice, then the higher standard or requirement or best practice shall be adopted by Piksel. In the event that Piksel cannot determine which represents the higher standard or requirement or best practice, Piksel shall seek guidance from the HSCN Authority which shall reasonably determine which is the level of standard, practice or requirement that is the most favourable from a HSCN Consumer perspective, and thus with which standard or best practice to comply.
- 2.1.9 If Piksel fails to provide any part of the HSCN Connectivity Service as required under this HSCN Consumer Contract, it shall, in accordance with the guidance documentation published at

<https://www.digital.nhs.uk/health-social-care-network/connectivity-suppliers>, be directly liable to the HSCN Consumer in respect of such HSCN Connectivity Services.

- 8.1.10 You shall share all records and information with the HSCN Authority as are reasonably requested by the HSCN Authority in connection with the monitoring and operation of the HSCN network described in the HSCN Solution Overview Document.

3. Term and Termination

- 9.1 We may terminate the provision of Services under this Contract immediately by giving 7 days' notice, if you fail to pay Our invoices on or before their due date.
- 9.2 Either You or Us may terminate this Contract by giving 30 days notice in writing to the other.
- 9.3 Either You or Us may terminate this Contract immediately by written notice to the other party commits a material breach of any term of this Contract (and in the case of a remediable breach fails to remedy the breach within twenty eight (28) days of being required to do so by written notice), or upon the continuation of a Force Majeure Event.
- 9.4 We may terminate this Contract with immediate effect on written notice in the event that any specific Service is discontinued by a Provider, or a Provider stops providing its services or making its services available to Piksel in any way.
- 9.5 On termination of this contract in accordance with paragraph 9.1, We will stop supplying the Service and be entitled to invoice You for all charges relating to the supply of the Service and for all materials purchased or ordered in respect of it on the basis set out in paragraph 1.1; if termination is as a result of a notice issued by Us, You will also pay for any work you had contracted to take but which has not been provided at our full charge rates.
- 9.6 Notwithstanding any termination rights contained in this clause 9, if You terminate the Contract at any point, You remain liable to Piksel for the full costs of any third party and/or Provider services that Piksel have contracted for on your behalf in order to provide the Services.
- 9.6 Subject to earlier termination in accordance with paragraph 9.1, this Agreement shall take effect from the Commencement Date and will continue indefinitely.

- 9.7 Expiry or termination of this Contract, however caused, shall be without prejudice to any rights or liabilities accrued at the date of termination. Each party's rights and obligations, the nature of which are intended to continue beyond termination of this Contract, will survive termination of this Contract.
- 9.8 This contract will be governed by and construed in accordance with English law and that the English Courts will have exclusive jurisdiction.
- 9.9 Any confidentiality obligations imposed on either or both of You and Us in respect of the provision of the Service (or discussions in relation to these) prior to this contract will end and that the confidentiality obligations in paragraph 9 of this letter will apply in their place; and
- 9.10 All intellectual property rights arising from Our work under this contract will remain vested in Us. You acknowledge that other than as expressly set out in this Contract, Piksel or the Provider does not grant to you any license of, right in, or make any assignment of any of its Intellectual Property Rights. You will also use the software in the manner and form stated in this clause 8.10 and in accordance with the provider's branding guidelines shall not use the software or Services in any other manner or form without Our prior written approval and, where applicable, the Provider.
- 9.11 All sums payable by You under this contract are expressed exclusive of Value Added Tax which will also be payable by You at the prevailing rate subject to Us providing You with a valid VAT invoice.
- 9.12 If You fail to pay any of Our invoices on or before its due date, We may (without prejudice to Our other rights and remedies) charge interest on the overdue sum from the due date of the invoice until the date of actual payment at the rate of 5% above the prevailing rate of HSBC Bank Plc; and/or restrict or suspend oprovision of any part of a Services relating directly to unpaid amounts until payment has been made in full.

4. Confidentiality

Each of You and Us agrees with the other that:

- 10.1 all information disclosed by or on behalf of one organisation (the “Discloser”) to the other organisation (the “Recipient”) in connection with the provision of the Service or negotiations concerning them (including, without limit, during informal meetings and whether disclosed verbally, by demonstration, in writing or in any other medium) will be treated as strictly confidential by the Recipient and:
 - 10.1.1 it will only be used by the Recipient in the course of providing or receiving the Service under this letter;
 - 10.1.2 it will be kept confidential and the Recipient will take all reasonable steps to prevent its disclosure or discovery; and
 - 10.1.3 it will not be disclosed to any third party except to those employees and Consultants of the Recipient who need to know it, have been told of the confidential nature of the information concerned;
- 10.2 the obligations set out in paragraph 9.1 will only cease to apply to all (or the relevant part) of the information:-
 - 10.2.1 once it enters the public domain (unless this occurs as a result of Recipient (or its employee’s) breach of any obligation of confidentiality); or
 - 10.2.2 to the extent that the information was known to the Recipient before its disclosure by the Discloser (but only if this can be shown from the Recipient’s written records); or
 - 10.2.3 to the extent that the Recipient receives the information from a third party who has disclosed it without imposing any obligation of confidentiality upon the Recipient (but only if the Recipient is not aware that the information has been disclosed in breach of an obligation of confidentiality); or
 - 10.2.4 to the extent that it is necessary for the Recipient to disclose it pursuant to a statutory obligation or by order of a competent court or tribunal or regulator;

- 10.3 the Recipient will promptly return any and all documents, papers, software, electronic devices, disks and other items (and all copies of them) which contain any information (whether or not these were supplied to or created by the Recipient) and cease using all such information, on termination of the arrangement set out in this contract;
- 10.4 the information (and the constituent parts of it) disclosed under this letter may be valuable property of the Discloser and the Recipient agrees that damages may not be an adequate remedy for any breach of the terms of this contract in respect of the Discloser's information;
- 10.5 the disclosure of information relating to the Service does not confer a right to use the information other than for the purpose set out in paragraph 9.1.1.

11. Data Protection

- 11.1 Each Party agrees to comply with their respective obligations under the provisions of the Data Protection Legislation and references in this clause to "Data Processor" and "Data Controller" shall have the meanings defined in the Data Protection Legislation.
- 11.2 Where either party or any of its permitted subcontractors and Affiliates, as part of the fulfilment of its obligations under this Contract, process personal data as a Data Processor on behalf of the other party acting as a Data Controller the party acting as Data Processor shall at all times:
 - 11.2.1 act only on the instructions from the Data Controller when processing personal data provided to it under the Contract and keep records of all such processing;
 - 11.2.2 have in place appropriate technical and organisation measures against the accidental, unauthorised or unlawful processing, destruction, loss, damage or destruction of such data, and adequate security programmes and procedures to ensure that unauthorised persons do not have access to any equipment used to process such data;
 - 11.2.3 comply with the Data Controller's reasonable and lawful instructions in respect of the processing of such personal data as such instructions are given and varied from time to time by the Data Controller;
 - 11.2.4 not to transfer any personal data outside the European Economic Area without the Data Controller's prior written consent;

- 11.2.5 immediately notify the Data Controller (or the other Party as applicable) if it receives any complaint, notice or communication which relates directly or indirectly to the processing of personal data under the Contract, and provide full co-operation and assistance in relation to any such complaint, notice or communication; and
- 11.2.6 comply with Our Privacy policy, a copy of which is available at <http://www.piksel.com/website-privacy-policy>.
- 11.3 The Data Controller may from time to time serve on the other Party an information notice requiring the Party, within such time and in such form as is specified in the information notice, to give to the Data Controller, such information as the Data Controller may reasonably require relating to:
 - 11.3.1 compliance by the Data Processor or by its permitted sub-contractors with the Data Processor's obligation's to Data Controller under this Contract in connection with the processing of such personal data;
 - 11.3.2 the rights of data subjects, including but not limited to subject access rights.

12. Ethical Behaviour

- 12.1 The Parties shall comply with all applicable laws and regulations relating to anti-corruption, including without limitation, the UK Bribery Act 2010 when performing it's obligations under the Contract.
- 12.2 In carrying out their responsibilities under this Contract, both Parties agree that:-
 - 12.2.1 They have not paid, offered, promised to pay or authorised and will not pay, offer promise to pay, or authorise the payment directly or indirectly of any monies or anything of value (in the form of entertainment, gifts, gratuities, or otherwise) for the purpose of obtaining or rewarding favourable treatment;
 - 12.2.2 They have not paid, offered, promised to pay or authorised and will not pay, offer, promise to pay or authorise the payment directly or indirectly of any monies or anything of value to (i) any person or firm employed by or acting for or on behalf of any other Partner or End-User, whether private or governmental, or (ii) any government official or employee or any political party or candidate for political office for the purpose of influencing any act or decision or inducing or rewarding any action by the Partner or End User in any commercial transaction or in any

governmental matter or securing any improper advantage to assist in obtaining or retaining business or directing business to any person.

12.2.3 That You have not made and will not make, either directly or indirectly, any improper payments, including but not limited to facilitation payments, gratuities or kickbacks.

12.2.4 That You have established and will maintain an effective business ethics and compliance program and procedures to prevent corruption and ensure compliance with the Bribery Act, and that Your program and procedures shall implement guidance published by the United Ministry of Justice relative to compliance with the Bribery Act.

12.3 Each Party will promptly disclose to the other party together with all pertinent facts any violation, or alleged violation, of the Bribery Act in connection with the performance of this Contract.

13. Force Majeure

13.1 Neither Party shall be liable to the other Party in any manner whatsoever to the extent that it is unable to perform any of its obligations under this Contract due to any cause beyond its reasonable control, as described more fully in the following clause 11.2 (a Force Majeure Event);

13.2 For the purposes of this clause 11, a Force Majeure Event shall include acts of God, events of terrorism, war or national emergency, riots, civil commotion, fire, explosion, flood, epidemic, telecommunications network operators (to the extent that such act or omission causes a general outage affecting the surrounding geographical area, which is beyond either party's reasonable control) or of other component authorities, but shall exclude any delay or failure caused by any supplier or sub-contractor of the other Party, unless such Supplier or sub-contractor is itself affected by an event beyond its reasonable control and which that supplier or sub contractor cannot reasonably prevent or overcome, and provided also that the other party cannot claim relief if the cause is attributable to a failure by the other party to comply with the provisions of its disaster recovery and business continuity procedures.

13.3 If either Party wishes to rely on clause 11 such Party shall (a) promptly notify the other Party stating the commencement date and extent of such delay or prevention, the cause thereof and its estimated duration, (b) use all reasonable endeavours to mitigate the effects of such delay or prevention on the performance of its obligations under the Contract; and (c) resume performance of its obligations as soon as reasonably possible after the removal of the cause of the delay or prevention.

13.4 As soon as reasonably practicable following the affected party's notification, the parties shall consult with each other in good faith and use all reasonable endeavours to agree appropriate terms to mitigate the effects of the Force Majeure Event and to facilitate the continued performance of this Contract.

14. Variation

14.1 No modifications or changes requested by You shall apply to this Contract unless such modifications or changes are accepted in writing by an authorised representative of Us, whereupon such modifications or changes shall automatically take effect and shall prevail (in the event of conflict) over the other provisions of the Contract.

15. Waiver

15.1 Failure of either party to exercise or enforce any right conferred by this Contract shall not be deemed to be a waiver of any such right, nor operate as to bar the exercise or enforcement thereof, or of any right on any later occasion.

16. Severability

16.1 The invalidity or unenforceability of any term of, or any right arising pursuant to this Contract shall not in any way affect the remaining terms and rights which shall be construed as if such invalid or unenforceable term or right did not exist.

17. No Partnership

17.1 Nothing in this Contract (i) establishes any partnership, exclusive arrangement or joint venture between the Parties, (ii) construes any Party the agent of the other Party; or (iii) authorises any Party to make or enter into any commitments for or on behalf of any other Party.

18. Assignment

- 18.1 This Contract is personal to You, and You may not assign, novate, sub-contract or otherwise dispose of any of the rights or obligations under this Contract without Our prior written consent.

19. Third party Rights

- 19.1 The Contracts (Right of Third Parties) Act 1999 shall not apply to this Contract, and no other person other than a Party shall have any rights under it (unless specifically stated in this Contract). The terms of this Contract may be varied, amended or modified, or this Contract may be suspended, cancelled, terminated or rescinded, in each case by mutual agreement in writing between the Parties without the consent of any third party.

20. Definitions and Interpretation

The following expressions have the following meanings in this Contract.

Affiliate: any company which is, from time to time in relation to either party: (i) its parent undertaking; or (ii) its subsidiary undertaking; or (iii) a subsidiary undertaking of its parent undertaking or any other person controlled by or under the same control, either directly or indirectly, (and for these purposes “parent undertaking” and “subsidiary undertaking” will have the meanings attributed to them in section 1159 Companies Act 2006.

Business Day: a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business;

CN-SP Deed: means the deed required by the HSCN Authority to be signed by any CN-SP in order for it or its subcontractor to deliver HSCN Connectivity Services;

Commencement Date: the date stated at the beginning of this Contract;

Connection Agreement: means the agreement setting out the obligations and requirements for organisations wanting to connect to the HSCN, together with all documents annexed to it and referenced within it;

Consumer Network Service Providers or CN-SP: means an organisation that is supplying or is approved to supply HSCN Connectivity Services having achieved the appropriate HSCN Compliance.

Confidential Information: all information of a confidential nature in respect of the business of either party or its Affiliates, or the Provider(s) (each a “disclosing party”) , including any ideas, business

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methods, customer lists or details; computer systems software and software specifications, products or services, including know-how or other matters connected with the products or services manufactured, marketed, provided or obtained by a disclosing party, and information concerning the relationships of a disclosing party with actual or potential clients, customers or suppliers, and any other information which, if disclosed, will be liable to cause harm to a disclosing party.

Contract: this agreement between the Parties concerning the provision of the Services, comprised of the applicable Service Order Form(s), Service Level Agreement, and these Service Terms;

Control: means the ability to direct the affairs of another whether by virtue or contract, ownership or shares or otherwise howsoever;

GCN Service Provider or GCNSP: a component, product or service that enables PSN- connected organisations to enjoy intra and inter-organisation IP data transmission and for which a PSN compliance certificate has been awarded by the PSN Team.

Good Industry Practice: means the standards, practices, methods and procedures conforming to the Law and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged within the relevant industry or business sector;

Government Conveyance Network or GCN: The total network of all GCN Services provided by all GCN Service Providers.

Health and Social Care Network or HSCN: means the government's network for health and social care, which helps all organisations involved in health and social care delivery to work together and interoperate.

HSCN Authority: means NHS Digital (the Health and Social Care Information Centre)

HSCN Compliance or HSCN Compliant: means a status as detailed in the document "HSCN Compliance operating Model", as set out at <https://www.digital.nhs.uk/healthsocialcarenetwork/connectivity-suppliers>, and as updated by the HSCN Authority from time to time.

HSCN Connectivity Services: means any service which is offered by a CN-SP to provide access to and routing over the HSCN.

HSCN Consumer: means a recipient of HSCN Connectivity Services.

HSCN Consumer Contract: means any agreement pursuant to which a CN-SP (or Sub-Contractor of a CN-SP) agrees to supply HSCN Connectivity Services to a HSCN Consumer.

HSCN Obligations Framework: means the obligations as available at <https://www.digital.nhs.uk/health-social-care-network/connectivity-supplier> which may be updated from time to time by the HSCN Authority.

HSCN Solution Overview: means the document containing the architecture and technical solution for HSCN (the latest version can be accessed at <https://www.digital.nhs.uk/health-social-care-network/connectivity-suppliers>).

Intellectual Property Rights: any and all patents, trademarks, trade names, moral rights, rights in design, rights in databases, knowhow and all other intellectual property rights, whether or not registered or capable of registration and whether subsisting in the UK or any other part of the world together with all or any goodwill relating to them;

Material Sub-Contractor: means a sub-contractor (including any affiliate or group company) of a CN-SP in relation to HSCN Connectivity Services which, in the reasonable opinion of the HSCN Authority, performs (or would perform if appointed) a substantive role in the provision of all or part of the HSCN Connectivity Services.

NHS Digital CareCERT: means the NHS Digital care Computing Emergency Response Team, that provide cyber security intelligence and advice to the Health and Care System using links across the public sector and with partners in industry.

Party: either Piksel or You (collectively “the parties”)

Provider(s): Our contracted provider(s) of cloud based services, as identified in the Service Order Form (s);

Provider End User License Terms: a separate agreement entered into between you and the Provider(s) concerning your use of the Services.

PSN Compliance Certificate: The certificate awarded to the individual infrastructures, GCN Services, PSN Services and PSN connectivity Services that make up the PSN;

PSN Service Provide or PSNSP: An organization that is supplying or is approved to supply PSN Services in accordance with a CoP.

PSN Service: A functional service available to PSN-connected organisations from a PSN-connected infrastructure in order to enable the fulfilment of a specific business activity, which is offered by a PSN service Provider in accordance with a CoP and for which a PSN Compliance Certification has been awarded by the Public Services Network Team.

Public Services Network or PSN The government's high performance network which helps public sector organisations work together, reduce duplication and share resources.

Service Fees : the price payable in consideration for the provision of the Services;

UK Public Sector: public authorities or entities controlled or supported by government as defined by the Freedom of Information Act 2000, the Public Contract Regulations Act 2015, and the Utilities Contract Regulations Act 2006.