Termlex Terminology Server - SaaS Terms & Conditions

Terms governing licensing and provision of Termlex Terminology Server

PARTIES:

(1)   Termlex Inc Ltd a company incorporated in England and Wales (registration number 09779470) having its registered office at 2nd Floor, The Porter Building, Brunel Road, Slough SL1 1FQ, England (the "**Provider**" or the "**Licensor**"); and

(2)   xxxxxxx an organization incorporated in xxxxxxx (registration number xxxxxx) having its registered office at xxxx (the "**Customer**" or the "**Licensee**").

BACKGROUND:

(A)   This license agreement specifies the terms and conditions associated with the provision of the Terminology Server by Termlex Inc Limited to xxxxxx.

(B)   The Provider operates the Termlex SaaS and provides the support services to the Customer under the terms of this Agreement".

TERM:

This Agreement will come into force on xxxxx (the Effective Date) and will continue in force until xxxxx, upon which it will terminate automatically, unless terminated in accordance with Clause 8.

AGREEMENT DOCUMENTS:

In the event of any conflict between the Agreement documents, the following order for which document should govern will apply:

1. Any document specifying additions or changes to this Agreement.
2. This Agreement, including its Appendices.
3. The original proposal from the Provider including all documents and specifications provided with it.

Terms & Conditions

1.   The Platform

1.1   The Provider will make available the Platform in the form of Software as a Service to the Customer by setting up accounts for the Customer or users approved by the Customer on the Platform, and providing the login details for those accounts.

1.2   Subject to the limitations set out in this Clause, the Provider hereby grants to the Customer a non-exclusive license to use the Platform for the permitted purpose via a standards

compatible web browser in accordance with section 1.2 in Appendix B. The following functionality will be provided in the platform:

(a)   the Platform will include functionality to search & access SNOMED CT, ICD-10, dm+d content via an Application Programming Interface (API).

(b)   the Platform will include functionality to create, maintain and export subset/refset content from SNOMED CT;

(c)   the Platform will include functionality to create, maintain and export local code sets;

(d)   the Platform will include functionality to create, maintain and export maps between local codes and SNOMED CT;

(e)   the Platform will include functionality to create and manage users with different roles and permissions, allowing an administrator to control level of access to the API;

1.3   The license granted by the Provider to the Customer is subject to the following limitations:

(a)   the Platform may only be used by the employees, agents and sub-contractors of the Customer and to named individuals or organizations who have been granted an affiliate license to the UK edition of SNOMED CT. These users of the Platform are referred to as 'End-Users'.

(b)   the Customer agrees that end-user access to the Platform will be governed at all times with the terms and conditions in the Termlex end-user license agreement, and that the Provider can revoke access to end-users who are found to be in breach of the terms of the end-user license agreement.

1.4   Except to the extent mandated by applicable law or expressly permitted in this Agreement, the license granted by the Provider to the Customer is subject to the following prohibitions:

(a)   the Customer must not sub-license its right to access and use the Platform or allow any unauthorized person to access or use the Platform;

(b)   the Customer must not frame or otherwise re-publish or re-distribute the Platform;

(c)   the Customer must not alter or adapt or edit the Platform;

(d)   the Customer must not reverse engineer or access the Platform in order to build a competitive product or service.

1.5   For the avoidance of doubt, the Customer has no right to access the object code or source code of the Platform, either during or after the term of the license.

1.6   All Intellectual Property Rights in the Platform shall, as between the parties, be the exclusive property of the Provider.

1.7   The Customer shall use all reasonable endeavours to ensure that no unauthorized person will or could access the Platform using the Customer's infrastructure.

1.8   The Customer must not use the Platform in any way that causes, or may cause, damage to the Platform or impairment of the availability or accessibility of the Platform, or any of the areas of, or services on, the Platform.

1.9   The Platform can be hosted in infrastructure provided by the Customer. The provision of the Platform via the Customer-provided infrastructure is governed by the following terms:

a) The Customer will provide the Provider with such access to the Customer's computer systems and such other co-operation as is required by the Provider (acting reasonably) to enable the performance by the Provider of its obligations under this Clause. This includes access to a server on the Customer's network where the Platform will be hosted and made available to the Customer.

b) The Customer will provide the Provider with all information and documents required by the Provider (acting reasonably) in connection with the performance by the Provider of its obligations under this Clause.

c) The Customer will provide the Provider with any advice reasonably required to ensure the compliance of the Customizations with applicable laws, regulations and standards.

d) The Customer will ensure that the infrastructure will meet the minimum requirements specified in Appendix D.

e) The Provider can to keep the Customer-provided infrastructure up to date with relevant system security patches, for additional service fees.

f) The Provider does not undertake to ensure day-to-day support for the infrastructure.

g) Any changes to the Customer-provided infrastructure or the use of a third party hosting will need to be separately agreed in writing between the Provider and the Customer.

2.   Support Services and Upgrades

2.1   During the Term the Provider may apply upgrades to the Platform, in order to improve the stability and usability of the Platform. The terms of the Support Services and Service Level Agreement are specified in Appendix C.

2.2   During the Term the Provider will provide the Support Services to the Customer, which includes the following activities in addition to the Service Level Agreement specified in Appendix C:

(a)   During the Term the Provider will update SNOMED CT data in the Platform when a new version of the UK Edition of SNOMED CT is made available. Since the UK Edition of SNOMED CT is released once every 6 months, the Provider will update the Platform with new data twice every year. The Provider will update the data in the Platform within two weeks of the release of the new version of SNOMED CT data, unless agreed in writing with the Customer beforehand.

(b)   For avoidance of doubt, the UK Edition of SNOMED CT will include both the UK data and the corresponding International data.

2.5   The Provider may sub-contract the provision of any of the Support Services with the consent of the Customer.

3.   Customizations

3.1   From time to time the Provider and the Customer may agree that the Provider will customize the Platform in accordance with a specification agreed in writing between the parties.

3.2   From the date when a Customization is first made available to the Customer, the Customization shall form part of the Platform, and accordingly from that date the Customer's rights to use the Customization shall be governed by Clause 1.

3.3   The Customer acknowledges that the Provider may make any Customization available to its other Customers at any time after the end of the period of 14 days, following the making available of that Customization to the Customer.

3.4   All Intellectual Property Rights in the Customizations shall, as between the parties, be the exclusive property of the Provider.

3.5   The Customer will provide the Provider with:

(a)   such access to the Customer's computer systems and such other co-operation as is required by the Provider (acting reasonably) to enable the performance by the Provider of its obligations under this Clause. This includes access to a server on the Customer's network where the Platform will be hosted and made available to the Customer.

(b)   all information and documents required by the Provider (acting reasonably) in connection with the performance by the Provider of its obligations under this Clause; and

(c)   any advice reasonably required to ensure the compliance of the Customizations with applicable laws, regulations and standards.

3.6   The Customer will be responsible for procuring any third party co-operation reasonably required by the Provider to enable the Provider to fulfill its obligations under this Clause. Whenever the Provider deems that third party co-operation will be needed, this should be agreed with the Customer in writing.

4. Customer Materials

4.1   The Customer grants to the Provider during the Term a non-exclusive license to store, copy and otherwise use the Customer Materials on the Platform for the purposes of operating the Platform, providing the Services, fulfilling its other obligations under this Agreement, and exercising its rights under this Agreement.

4.2   Subject to Clause 4.1, all Intellectual Property Rights in the Customer Materials will remain, as between the parties, the property of the Customer.

4.3   The Provider shall ensure that the Customer Materials stored and processed by the Platform are stored separately from, and are not co-mingled with, the materials of other customers of the Provider.

5. Charges

5.1   The Charges for the Terminology Server Platform (SaaS) will be calculated using patient numbers as described in 5.3

5.2   For customisation work performed by the Provider on an hourly basis, the following standard rates apply:

(a) For Support Services performed outside of the time specified in this agreement, and as agreed between the Provider and the Customer from time to time: £100 per hour

(b) For services aiming at developing new functionality (Customization), as agreed between the Provider and the Customer from time to time: £100 per hour

5.3   The Provider will issue monthly invoices for the Charges to the Customer based on the following patient number thresholds:

Patient numbers	Unit price	Example for 1 million patients per month
Less than 1 million	0.006 pence	£6,000/-
Between 1 to 5 millions	0.003 pence	£3,000/-
Over 5 millions	0.002 pence	£2,000/-

Using the above tariff, a hospital/organisation that uses Termlex SaaS as part of an Electronic Health Record system that holds 3 million patients per month would be charged (1,000,000 x 0.006) + (2,000,000 x 0.003) = £12,000/- per month.

These charges do not cover access to new functionality as described in Clause 5.2.

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5.4 When new functionality is made available in the Platform, terms of access to this functionality will be negotiated between the Provider and Customer.

5.5 The Customer will pay the Charges to the Provider within 30 days of the date of receipt of an invoice issued in accordance with Clause 5.1.

5.6 All Charges stated in or in relation to this Agreement are stated exclusive of VAT, unless the context requires otherwise.

5.7 The Provider may suspend access to the Platform and the provision of the Services if any amounts due to be paid by the Customer to the Provider under this Agreement are overdue by more than 30 days.

6. Software Limited Warranty: Disclaimer, Limitation of Damages

6.1 The Provider warrants to the Customer, that the Platform will operate substantially in accordance with the clauses set out in this Agreement (including its appendices) for the term of this Agreement. This warranty is void if failure of the Software is a result of accident, abuse, or misapplication.

6.2 **EXCEPT AS EXPRESSLY SET FORTH HEREIN, THE SOFTWARE IS PROVIDED "AS IS,"; THE PROVIDER DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT WITH RESPECT TO THE SOFTWARE AND DOCUMENTATION. THIS LIMITED WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS:**

6.3 **EXCEPT AS EXPRESSLY SET FORTH HEREIN OR AS PROVIDED IN THE CURRENT AGREEMENT, THE PROVIDER MAKES NO WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, FOR THE SERVICES IT IS PROVIDING**.

6.4 The Provider exercises no control over and accepts no responsibility for the content of the information passing through the Platform. The Provider specifically denies any responsibility for the accuracy or quality of information obtained through the Platform. Use of any information obtained via the Platform is at Customer's own risk

6.5 **NOTWITHSTANDING ANYTHING ELSE IN THIS AGREEMENT OR OTHERWISE, THE PROVIDER AND ITS SUPPLIERS OR LICENSORS SHALL IN NO EVENT BE LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT UNDER ANY CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), INDEMNITY OR OTHER LEGAL, CONTRACTUAL OR EQUITABLE THEORY FOR: (i) ANY INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED AND WHETHER OR NOT ADVISED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES; OR (ii) DAMAGES FOR LOST PROFITS OR LOST DATA; OR (iii) COST OF PROCUREMENT OF SUBSTITUTE GOODS, TECHNOLOGY OR SERVICES**.

7. Confidentiality and publicity

7.1 The Provider will:

(a) keep confidential and not disclose the Customer Confidential Information to any person save as expressly permitted by this Clause;

(b) protect the Customer Confidential Information against unauthorized disclosure by using the same degree of care as it takes to preserve and safeguard its own confidential information of a similar nature, being at least a reasonable degree of care.

7.2 The Customer will:

(a) keep confidential and not disclose the Provider Confidential Information (including details of the Platform design, logic, coding methods, source code or binary representation of the code) to any person save as expressly permitted by this Clause;

(b) protect the Provider Confidential Information against unauthorized disclosure by using the same degree of care as it takes to preserve and safeguard its own confidential information of a similar nature, being at least a reasonable degree of care.

7.3 Confidential Information of a party may be disclosed by the other party to that other party's officers, employees, agents, insurers and professional advisers, provided that the recipient is bound in writing to maintain the confidentiality of the Confidential Information disclosed.

7.4 The obligations set out in this Clause shall not apply to:

(a) Confidential Information that is publicly known (other than through a breach of an obligation of confidence);

(b) Customer Confidential Information that is in possession of the Provider prior to disclosure by the Customer, and Provider Confidential Information that is in possession of the Customer prior to disclosure by the Provider;

(c) Customer Confidential Information that is received by the Provider, and Provider Confidential Information that is received by the Customer, from an independent third party who has a right to disclose the relevant Confidential Information; or

(d) Confidential Information that is required to be disclosed by law, or by a governmental authority, stock exchange or regulatory body, provided that the party subject to such disclosure requirement must where permitted by law give to the other party prompt written notice of the disclosure requirement.

8.   Termination

8.1   Either party may terminate this Agreement immediately by giving written notice to the other party if the other party:

(a)   commits any breach of any term of this Agreement, and:

(i)   the breach is not remediable; or

(ii)   the breach is remediable, but the other party fails to remedy the breach within 30 days of receipt of a written notice requiring it to do so;

(b)   persistently breaches the terms of this Agreement (irrespective of whether such breaches collectively constitute a material breach).

8.2   Either party may terminate this Agreement by giving at least 90 days' written notice of termination to the other party.

8.3   The Provider may terminate the Agreement immediately by giving written notice of termination to the Customer where the Customer fails to pay to the Provider any amount due to be paid under the Agreement by the due date.

8.4   In the event of the Provider terminating the Agreement during the Term, possible repayment of parts of the Charges will be discussed with the Customer (acting reasonably).

9.   Effects of termination

9.1   Upon termination of this Agreement, all the provisions of this Agreement will cease to have effect, save that the following provisions of this Agreement will survive and continue to have effect (in accordance with their terms or otherwise indefinitely):

9.2   Termination of this Agreement will not affect either party's accrued liabilities and rights as at the date of termination.

9.3   Within 30 days following the termination of the Agreement, the Provider will:

(a)   irrevocably delete from the Platform all Customer Confidential Information; and

(b)   irrevocably delete from its other computer systems all Customer Confidential Information.

9.4   Within 30 days following the termination of this Agreement, the Customer will:

(a)   return to the Provider or dispose of as the Provider may instruct all documents and materials containing Provider Confidential Information; and

(b)   irrevocably delete from its computer systems all Provider Confidential Information

9.5 A party may retain any document (including any electronic document) containing the Confidential Information of the other party after the termination of this Agreement if:

(a) that party is obliged to retain such document by any law or regulation or other rule enforceable against that party; or

(b) the document in question is a letter, fax, email, order confirmation, invoice, receipt or similar document addressed to the party retaining the document.

10. Force Majeure Event

10.1 Where a Force Majeure Event gives rise to a failure or delay in either party performing its obligations under this Agreement, those obligations will be suspended for the duration of the Force Majeure Event.

10.2 A party who becomes aware of a Force Majeure Event which gives rise to, or which is likely to give rise to, any failure or delay in performing its obligations under this Agreement, will:

(a) forthwith notify the other; and

(b) will inform the other of the period for which it is estimated that such failure or delay will continue.

10.3 The affected party will take reasonable steps to mitigate the effects of the Force Majeure Event.

11. General

11.1 No breach of any provision of this Agreement will be waived except with the express written consent of the party not in breach.

11.2 Nothing in this Agreement will constitute a partnership, agency relationship or contract of employment between the parties.

11.3 This Agreement may not be varied except in accordance with Clause 3 or by a written document signed by or on behalf of each of the parties.

12. Definitions and interpretation

12.1 In this Agreement:

"**Agreement**" means this software as a service agreement (including the Schedules) and any amendments to it from time to time;

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"**Business Day**" means any weekday, other than a bank or public holiday in England;

"**Business Hours**" means between 09:00 and 17:30 London time on a Business Day

"**Change**" means any change to the terms of this Agreement;

"**Charges**" means the amounts payable by the Customer to the Provider under or in relation to this Agreement;

"**Confidential Information**" means the Customer Confidential Information and the Provider Confidential Information;

"**Customer Confidential Information**" means

(a)   any information disclosed (whether disclosed in writing, orally or otherwise) by the Customer to the Provider during the Term that is marked as "confidential", described as "confidential" or should have been understood by the Provider at the time of disclosure to be confidential;

(b)   any end-user personal information like email address, password and other information provided by the end-user for the purposes of creating and maintaining an account on the Platform.

"**Customer Materials**" all works and materials:

(a)   uploaded to, stored on, processed using or transmitted via the Platform by or on behalf of the Customer or by any person or application or automated system using the Customer's account; and

(b)   otherwise provided by the Customer to the Provider in connection with this Agreement;

"**Customizations**" means customizations to the Platform that the Provider and Customer agree the Provider will produce on behalf of the Customer;

"**Defect**" means a defect, error or bug having an adverse effect on the appearance, operation or functionality of the Platform, but excluding any defect, error or bug caused by or arising as a result of:

(a)   an act or omission of the Customer, or an act or omission of one of the Customer's employees, officers, agents, suppliers or sub-contractors; or

(b)   an incompatibility between the Platform and any other system, application, program or software not specified as compatible by the Provider;

"**Documentation**" means the documentation produced by the Provider and made available on the Platform to the Customer specifying how the Platform should be used;

"**Effective Date**" means the date of execution of this Agreement;

"**Force Majeure Event**" means an event, or a series of related events, that is outside the reasonable control of the party affected (including failures of or problems with the internet or a part of the internet, hacker attacks, virus or other malicious software attacks or infections, power failures, industrial disputes affecting any third party, changes to the law, disasters, explosions, fires, floods, riots, terrorist attacks and wars);

"**Intellectual Property Rights**" means all intellectual property rights wherever in the world, whether registered or unregistered, including any application or right of application for such rights (and the "intellectual property rights" referred to above include copyright and related rights, database rights, confidential information, trade secrets, know-how, business names, trade names, trademarks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility models, semi-conductor topography rights and rights in designs);

"**Platform**" means the software platform known as Snolex, that is owned and operated by the Provider, and that will be made available to the Customer as a service via under this Agreement;

"**Provider Confidential Information**" means:

(a)   any information disclosed (whether disclosed in writing, orally or otherwise) by the Provider to the Customer during the Term that is marked as "confidential", described as "confidential" or should have been understood by the Customer at the time of disclosure to be confidential;

(b)   the financial terms and conditions of this Agreement;

(c)   the details of the Platform design, logic, coding methods, source code or binary representation of the code that comprises the Platform;

"**Representatives**" means the Customer Representatives and the Provider Representatives;

"**Schedule**" means a schedule attached to this Agreement;

"**Services**" means all the services provided or to be provided by the Provider to the Customer under this Agreement, including the Support Services;

"**Support Services**" means support and maintenance services provided or to be provided by the Provider to the Customer;

"**Term**" means the term of this Agreement; and

"**Upgrades**" means new versions of, and updates to, the Platform, whether for the purpose of fixing an error, bug or other issue in the Platform or enhancing the functionality of the Platform. They do not include Customizations.

12.2   In this Agreement, a reference to a statute or statutory provision includes a reference to:

      (a)   that statute or statutory provision as modified, consolidated and/or re-enacted from time to time; and

      (b)   any subordinate legislation made under that statute or statutory provision.

12.3   The Clause headings do not affect the interpretation of this Agreement.

Agreed: Agreed:

Date: Date:

By: _____   By: _____

Appendix A – Service Level Agreement

1.   **Introduction**

1.1   In this Schedule:

"**New Functionality**" means new functionality that is introduced to the Platform by an Upgrade; and

"**Protected Functionality**" means any functionality specified in Appendix B.

1.2   References in this Schedule to Paragraphs are to the paragraphs of this Schedule, unless otherwise stated.

2. Helpdesk

2.1   The Provider will make available, during Business Hours, a helpdesk facility for the purposes of:

(a)   assisting the Customer with the configuration of the Platform;

(b)   assisting the Customer with the proper use of the Platform; and/or

(c)   determining the causes of errors and fixing errors in the Platform.

2.2   The Customer can reach the helpdesk by sending an email to a designated email address. The Customer and Provider on a case-by-case basis can agree to follow up the requests for Support Services through an online collaboration facility.

2.3   The Customer must make all requests for Support Services through the helpdesk, and all such requests must include at least the following information:

(a)   a clear description of the error or support request;

(b)   supporting material for resolving the issue (e.g. screenshots, error logs, etc.); and

(c)   a Customer representative who will act as the point of contact for resolving the issue.

3. Response and resolution times

3.1   The Provider will:

(a)   use reasonable endeavours to respond to requests for Support Services made through the helpdesk; and

(b)   use reasonable endeavours to resolve issues raised by the Customer, in accordance with the following response time matrix. The response and resolution times for individual cases may be different from the matrix below, if the Customer and Provider agree on the details in writing.

Severity	Examples	Response time	Resolution time
Critical	Platform offline or major malfunction resulting in majority of users unable to perform their normal functions.	2 hour	1 business day
Serious	Critical loss of application functionality or performance resulting in high number of users unable to perform their normal functions.	4 hours	2 business days

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Moderate	Moderate loss of application functionality or performance resulting in multiple users impacted in their normal functions.	8 hours	4 business days
Minor	Minor loss of application functionality or product feature question.	24 hours	8 business days

3.2   The Provider in agreement with the Customer will determine, acting reasonably, in to which severity category an issue raised through the Support Services falls.

3.3   All Support Services will be provided remotely unless expressly agreed otherwise by the Provider and the Customer.

3.3   The above response and resolution times do not apply to issues caused directly or indirectly due to a defect in the Customer provided infrastructure.

4.   Limits on Support Services

4.1   Where the total person-hours spent by the Provider performing the Support Services under Paragraphs 2 and 3 during any calendar month exceed 10 hours, then:

(a)   the Provider will cease to have an obligation to provide those Support Services to the Customer during that period;

(b)   the Provider may agree to provide additional such Support Services to the Customer during that period, but the provision of such services will be subject to payment by the Customer of additional Charges at the Provider's standard hourly rates from time to time and agreed in writing with the Customer.

4.2   The Provider shall have no obligation under this Agreement to provide Support Services in respect of any fault or error caused by:

(a)   the improper use of the Platform; or

(b)   the use of the Platform otherwise than in accordance with the Documentation; or

(c)   the Customer provided infrastructure where the Platform is hosted.

4.3   Support includes the following activities:

(a)   Identifying and troubleshooting problems.

(b)   Root cause analysis.

(c)   Assistance during Upgrades, such as applying updates to system when new functionality is needed, giving information on how to use new functionality, providing documentation if needed etc.

(d)   Identifying and creating issue reports.

(e)   Guidance around user documentation and configuration.

4.4   Support does not include the following activities:

(a)   Customizations including developmental requests for new features.

(b)   Integration with third party applications.

(c)   Support for end users.

(d)   Product training for end users.

(e)   Non-English language support.

(f)   Professional services including:

   a) Customer-provided infrastructure and performance tuning.
   b) Deployment & capacity planning of the Platform on the Customer-provided Infrastructure.
   c) Installation & Upgrade of the Platform on the Customer-provided infrastructure.

5.   Upgrades

5.1   The Customer acknowledges that from time to time during the Term the Provider may make Upgrades available to the Customer, and that such Upgrades, when accepted by the Customer, may result in changes to the appearance and/or functionality of the Platform.

5.2   No Upgrade shall disable, delete or significantly impair the Protected functionality.

5.3   The Upgrades will be made available on the Platform only if the Customer accepts the functionality included in the Upgrade, along with any additional charges applicable for the Upgrade.

5.6   In all cases where additional charges apply, these have to be agreed in writing by the Customer.

5.7   Any decision by the Customer not to pay the Charges for the New Functionality will not prejudice the Customer's access to and use of the rest of the Platform.

5.8   It is the responsibility of the Provider to solve any issues and/or bugs occurring as a result of Upgrades, and the time spent on such bug-fixing should not be chargeable to the Customer

and not included in the monthly time for Support Services as stated under Clause 4.1 in this agreement.

6. Uptime commitment

6.1   The Provider shall use all reasonable endeavours to ensure that the Platform is available 99.9% of the time during each calendar month, subject to Paragraph 8. The provider will maintain this information and make it available to the Customer on request.

6.2   Platform uptime shall be calculated using the following methodology:

Availability = (Uptime + Scheduled Maintenance)/(Unscheduled Downtime + Uptime + Scheduled Maintenance)

6.2   The calculation of uptime shall exclude downtime caused by maintenance, defects or issues in the Customer-provided infrastructure for hosting the Platform.

7. Back-up and restoration

7.1   The Provider will not make back-ups of the Customer Materials since the Platform is hosted on the Customer provided infrastructure.

7.2   In the event of the loss of, or corruption of, Customer Materials stored on the Platform being notified by the Customer to the Provider under Paragraph 2, the Provider shall, if so directed by the Customer, use reasonable endeavours to help the Customer recover Customer Materials from the most recent available back-up copy.

8. Scheduled maintenance

8.1   The Provider may suspend access to the Platform in order to carry out scheduled maintenance in agreement with the Customer, provided such maintenance is carried out outside Business Hours and such suspension is not more than 10 hours in each calendar month.

8.2   The Provider must give to the Customer at least 14 days' written notice of scheduled maintenance, including full details of the expected Platform downtime.

8.3   Platform downtime during scheduled maintenance carried out by the Provider in accordance with this Paragraph [8] shall not be counted as downtime for the purposes of Paragraph 6.

Appendix B – Data Protection

A core function of the Platform is the storage of personal data related to healthcare ("the Data") which is likely to be confidential and may be sensitive data as defined by the General Data Protection Regulation ("the Act").

In storing and processing the Data Termlex operate solely as a Data Processor as defined by the Act this means.

Termlex acting as Data Processor will and will procure that its permitted subcontractors will:

- Act only on instructions from the Customer when processing personal data stored on the Platform. Such instructions normally being issued in the form of calls to the Platform's APIs to carry out automatic processing.
- At all times take all appropriate technical and organisational measures against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.
- Not transfer any personal data outside the European Economic Area without the Data Controller's prior written consent.
- Immediately notify the Customer if it receives any complaint, notice or communication, which relates directly or indirectly to the processing of personal data under this Agreement, and provide full co-operation and assistance in relation to any such complaint, notice or communication.

The Customer may from time to time serve on Termlex an information notice requiring Termlex to give to the Customer such information as the Customer may reasonably require relating to compliance by Termlex or by its permitted subcontractors with its obligations under the Act or this agreement.

Where the Customer is a Data Controller or a Data Processor subcontracting to Termlex in relation to personal data stored on the platform the Customer warrants that it is entitled to process such data; confirms that it complies with its obligations under the Act and indemnifies Termlex against failure by the Customer to do so.

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Appendix C – Specification of Infrastructure for hosting the Platform

1.   Hardware Specifications

1.1   Minimum Hardware Specifications

   a) Intel 2.4 GHz Dual Core or better processor
   b) 8GB RAM
   c) 50GB of Hard disk space,
   d) Cent-OS Linux operating system version 6
   e) Appropriately configured with access to internet

1.2   Recommended Hardware Specifications

   a) Intel 2.4 GHz Quad Core or better processor
   b) 16GB RAM
   c) 100GB of Hard disk space,
   d) Cent-OS Linux operating system version 6.4 or above
   e) Appropriately configured with access to internet