



Terms and Conditions of Supply and how a "Contract" is formed.

These are the Terms and Conditions of Supply referred to in the Order Form (the "Terms"). Customer's acceptance of these Terms is deemed and evidenced by Customer's execution of an Order Form, or Customer's Acceptance of any Product(s) (as detailed in Clause 2), or the commencement of any Services ordered by the Customer, or Customer's payment for any Product(s) or Services, whatever is earlier. These Terms incorporate Appendices 1 and 2, which shall apply depending on whether a Contract is for the purchase or rental of Product(s).

These Terms apply to a Contract to the exclusion of any other terms that Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing, except any such terms that are expressly agreed to in writing by Optos. In the event of any conflict between these Terms and any Order Form, the provisions of the specific Order Form shall prevail.

PLEASE READ THESE TERMS CAREFULLY WHICH WILL APPLY TO ALL CONTRACTS FOR PRODUCT(S) AND/OR SERVICES ORDERED USING AN ORDER FORM. WHILST ALL CLAUSES FORM PART OF THESE TERMS AND EACH CONTRACT, CLAUSES OF PARTICULAR IMPORTANCE HAVE BEEN NOTED BELOW.

1. Definitions and Interpretation.

Defined terms which are used in these Terms and in the Order Form shall have the meaning set out against them below or as specified in the Order Form.

"Contract" means the binding contract for the provision of Product(s) and/or Services by Optos to Customer, as described in the Order Form comprising: (a) these Terms; and (b) any specific terms set out in the Order Form or otherwise agreed in writing by Optos and Customer.

"Customer" means the party identified as Customer on an Order Form.

"Data Protection Legislation" means the UK Data Protection Legislation, the EU GDPR ((EU) 2016/679) and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications) and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party.

"Designated Trainer Program" means the instructions and materials from Optos to enable training to be provided by Customer operators (who have undergone Initial Training provided by Optos) to additional Customer operators.

"Estimated Delivery Date" means the date on which Optos shall aim to procure delivery of the Product(s) to Customer. Where Product(s) are also being installed by Optos (as indicated in an Order Form), this date shall also be the date on which Optos shall aim to install the Product(s) at the Installation Site.

"Group" means in relation to a company, that company, any subsidiary or any holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company. Each company in a Group is a "Group Company".

"Initial Training" means the training, if any, to be provided by Optos to Customer, for the operation and/or maintenance of the Product(s).

"Installation Services" means the installation services in respect of the Product(s) at the Installation Site, where included as part of the Order Form.

"Installation Site" means the physical location described in an Order Form where the Product(s) will be located and operated by Customer. Installation Site is also that location where delivery, Installation Services and/or Initial Training, if applicable pursuant to the Order Form, will be provided by Optos unless otherwise agreed by Optos in advance and in writing.

"Order Form" means a form setting out the commercial terms for the purchase and/or rental of Product(s), as issued by Optos and signed by Customer.

"Optos" means Optos PLC, incorporated and registered in Scotland with company number SC139953 whose registered office is at Queensferry House, Carnegie Business Campus, Dunfermline, Fife KY11 8GR, United Kingdom.

"Optos Trademarks" means the trademarks listed at <https://www.optos.com/corporate-information/> as the same may be amended from time to time and all other registered and unregistered trademarks of Optos.

"Product(s)" means the device, equipment, system and/or Software, as set out in an Order Form.

"Product(s) Documentation" means copies of the manuals and instructional materials regarding the Product(s), their use and maintenance, which have been made available to Customer, including any updates or revisions thereto that may be provided by Optos from time to time at its sole discretion.

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"Product(s) Warranty" means the warranty set out in Clause 11.

"Software" means proprietary software owned by or licensed to Optos and provided to Customer by Optos whether alone, as part of Product(s) or otherwise in conjunction with Product(s), and whether or not expressly identified on an Order Form.

"Services" means the Support Services, Installation Services and any other services provided by Optos under these Terms.

"Support Charges" means those charges described as such in an Order Form.

"Support Services" means the services set out in Clause 12.

"Trademark Usage Policy" means the policy related to trademark usage available at <https://www.optos.com/corporate-information/>.

"UK Data Protection Legislation" means all applicable data protection and privacy legislation in force from time to time in the UK including: (1) the General Data Protection Regulation ((EU) 2016/679) as implemented into UK law via domestic UK legislation including the European Union (Withdrawal) Act 2018, and as amended, varied and supplemented including by the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019, as amended, and the Data Protection Act 2018; and (2) the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

"Warranty Period" means the period during which the Product(s) are covered by the warranties as set forth in an Order Form.

All statutory references in these Terms shall be to the legislation as amended or replaced from time to time. All references to "Clauses" are to Clauses of these Terms.

2. Acceptance of Product(s).

Once Product(s) have been delivered (and installed, where applicable, by an Optos engineer), Customer's Acceptance of Product(s) is conclusive evidence that Customer is satisfied that they have been delivered complete, in working order and in compliance with the terms of the relevant Contract. "**Acceptance**" of Product(s) occurs either when Customer indicates to Optos that it accepts the Product(s), or when Customer first uses the Product(s) commercially, whichever happens first. Acceptance of the Product(s) is without prejudice to Customer's rights under the Product(s) Warranty set out in Clause 11.

3. Delivery; Installation; Training.

CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THE RESPONSIBILITIES SET OUT IN THIS CLAUSE FOR PREPARING AND MAINTAINING THE INSTALLATION SITE.



(a) Optos shall use reasonable endeavours to procure delivery of Product(s) to the Installation Site on the Estimated Delivery Date. Time of delivery is not of the essence. Optos reserves the right at its sole discretion to delay delivery of any Product(s) until all sums due to Optos from Customer have been received by Optos in full.

(b) Customer shall be responsible for preparing the Installation Site prior to the Estimated Delivery Date, in accordance with the specifications provided by Optos.

(c) Customer will at all times maintain the Installation Site in accordance with Optos' recommendations, details of which will be provided at installation of the Product(s). If any modifications are required to an Installation Site, to ensure compliance with Optos' recommendations, such modifications are Customer's responsibility.

(d) Where Installation Services is included in respect of relevant Product(s), prior to the Estimated Delivery Date, Optos may contact Customer to confirm whether the Installation Site is ready for installation of the Product(s). In the event that the Installation Site is not so ready, Optos may at its sole discretion, opt to deliver the Product(s) but install the same on a later date or alter the Estimated Delivery Date.

(e) Where Initial Training is included in respect of relevant Product(s), Optos will provide training for up to three (3) operators. Such operators will as part of this training be given instruction and materials to provide appropriate cross training via Optos' Designated Trainer Program. All other training may be provided if agreed between Optos and Customer and may be subject to further charges.

4. Use of the Product(s).

CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THE CUSTOMER'S RESPONSIBILITIES FOR USE OF THE PRODUCT(S) AND IN PARTICULAR FOR PATIENT DIAGNOSIS, TREATMENT AND MEDICAL DECISIONS.

Customer shall comply with all of the following in connection with its use of the Product(s):

(a) Customer shall at all times keep the Product(s) in good order, condition and repair, ensuring that, where appropriate, servicing by Optos is permitted at any reasonable time;

(b) Customer shall use the Product(s) in accordance with all applicable laws, statutes and regulations from time to time in force, which are applicable to obtaining and using the Product(s) and Services;

(c) Customer's shall ensure that all use of the Product(s) shall comply with all Product(s) Documentation;

(d) Customer shall not remove any warnings, instructions or other notices of any kind affixed to the Product(s);

(e) Customer shall not make any warranties or representations regarding the Product(s) which have not been approved in advance by Optos;

(f) For so long as the Product(s) remain Optos' property as provided for in these Terms, Customer shall keep the Product(s) free from any diligence, distress, execution or other legal process, and shall not pledge Optos' credit or permit any lien to arise over the Product(s). If Customer fails in the foregoing for any reason then it shall advise Optos immediately and all monies owing by Customer to Optos shall (without prejudice to any other right or remedy Optos may have) immediately become due and payable;

(g) Customer shall be solely responsible for all patient diagnosis, treatment and medical decisions and advice, including without limitation any decision regarding the use of the Product(s) in any particular case. Customer shall at all times ensure the integrity of and shall have a duty of care in respect of any images created through use of the Product(s) which Customer requires to archive on its system and in the event of any loss or damage sustained in relation to such images (including but not limited to a failure in Customer's back-up integrity system on which images are stored, whether on CD- ROMS, DVDs or otherwise) Customer shall be solely liable for such loss or damage;

(h) Customer is fully responsible for providing, maintaining and all costs associated with all necessary power supplies and high-speed internet service (including, without limitation, with respect to associated wiring to connect to any networking port on any Product(s)) required for use of the Product(s). All supplies, storage media, network and internet connection (including, without limitation, the costs associated with procuring any and all of the foregoing) not expressly set out in the Order Form as being supplied by Optos or otherwise provided for by the relevant Contract will be Customer's sole responsibility;

(i) Where Product(s) are provided to Customer on a rental basis, Customer shall not make any modifications (including without limitation by modifying any hardware, by installing any software or by altering or removing any serial numbers) to the Product(s) without the prior written consent of Optos. Any unauthorised modifications made to Product(s) which are affixed thereto and cannot be removed will be deemed Optos' property. Optos may charge Customer the cost of restoring the Product(s) to their original condition before unauthorised modifications were made.

(j) Where Product(s) are provided to Customer on a rental basis, Customer will not move or permit the movement of any Product(s) or any part thereof from the Installation Site without Optos' prior written consent and direct participation.

5. Payment of Invoices.

(a) Unless otherwise stated, all sums payable by Customer to Optos in connection with a Contract, including without limitation those detailed in the Order Form, shall be exclusive of any applicable taxes and duties (of whatever nature, anywhere in the world, which are applicable to the supply of the Product(s)), all of which shall be payable by Customer at the applicable rate.

(b) Where any charge under this Contract is calculated by reference to a number of patients, then where Product(s) are used in respect of the same patient on more than one separate occasion, the patient shall be deemed to be a new patient on each occasion for the purposes of calculating the charges payable.

(c) Unless expressly provided otherwise herein or in an Order Form, Customer shall pay all invoices no later than thirty (30) days after the date of the relevant invoice.

(d) In the event that any sums due from Customer to Optos in connection with a Contract become overdue, Optos reserves the right to charge interest at a rate equal to four percent (4%) per annum over the Lloyds Banking Group Base Rate, calculated on a daily basis on all sums outstanding.



(e) Customer hereby agrees that Optos may apply any payment made by Customer under a Contract in satisfaction of any sums due by Customer to Optos under any Contract. Optos may also apply such payment in whole or in part towards any sums due by Customer to Optos otherwise than under a Contract.

6. Intellectual Property: Product(s), Product(s) Documentation and Software.

CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THE LIMITED LICENCES GRANTED (AND THE RESTRICTIONS UPON USE) IN RESPECT OF THE SOFTWARE, THE OPTOS TRADE MARKS AND OTHER OPTOS INTELLECTUAL PROPERTY RIGHTS.

(a) Notwithstanding that title to the Product(s) may pass to Customer (where being purchased), the Software and all intellectual property rights subsisting in the Product(s) are licensed, not sold, to Customer and Optos or its licensors shall remain the exclusive owner of all intellectual property rights of whatever nature including, without limitation, copyrights, patents and patentable inventions, know-how, trade secrets, trademarks and design rights (whether registered, registrable or otherwise) embodied in or otherwise relating to the Product(s) or any constituent part of it (including, without limitation, Software) and the Product(s) Documentation. Customer specifically acknowledges all of the foregoing constitute Confidential Information (as defined in Clause 9) of Optos and embody certain of Optos' trade secrets.

(b) Subject to Customer's compliance with these Terms (including payment of all applicable charges), Optos hereby grants to Customer a limited, non-exclusive, non-transferable, non-sub-licensable licence to access and use the Software and Product(s) Documentation included with the Product(s) solely for Customer's internal business purposes. Customer may not copy, translate, modify, or adapt the Software or Product(s) Documentation, or incorporate it in any other product or create derivative works based on the Software or Product(s) Documentation. The foregoing licence shall be perpetual where the Product(s) are purchased and limited to the rental period where the Product(s) are rented and in both cases revocable, upon written notice by Optos, in the event that Customer is in breach of the terms of use of the Software and/or the Product(s) Documentation set out in these Terms. Customer's use of any third party software and/or documentation provided by Optos to Customer is subject to the terms and conditions of separate licence agreements supplied by the applicable third party licensor.

(c) Customer shall not remove any proprietary notices and/or branding (including without limitation the Optos Trademarks) contained in or otherwise affixed to the Product(s) and/or Product(s) Documentation.

(d) Customer acknowledges and agrees that its use of the Software is subject to: (i) such Software being used for the Customer's business purposes of operating Product(s) and accessing Services only; and (ii) Customer refraining from disassembling, decompiling, reverse-engineering or creating derivative works based on the whole or any part of the Software nor attempting to do any such thing except to the extent that (by virtue of section 296A of the Copyright, Designs and Patents Act 1988) such actions cannot be prohibited because they are essential for the purpose of achieving inter-operability of the Software with another software program, and breach of this Clause 6(d) shall be deemed a material breach of the relevant Contract.

(e) Optos hereby grants to Customer a non-exclusive, non-transferable, non-sub-licensable licence to use the Optos Trademarks in connection with Customer's advertising, including in promotional and printed materials, solely to the extent required to provide and promote Customer's services which make use of the Product(s), provided always that Customer's use of such Optos Trademarks are in accordance with the Optos Trademark Usage Policy. Customer acknowledges that Customer's use of Optos Trademarks shall not create in Customer any right, title or interest in or to such trademarks. All goodwill created through Customer's use of the Optos Trademarks shall vest exclusively in Optos and Customer shall, upon request and at Optos' cost and expense, execute all documents and do all such things as are required to exclusively vest such goodwill in Optos. If Customer fails to use the Optos Trademarks in accordance with Optos' Trademark Usage Policy, Optos may immediately terminate Customer's license to use the Optos Trademarks.

(f) Other than as permitted by applicable law, Customer shall neither reverse engineer the Product(s) nor any part thereof (including without limitation, the Software), nor decompile, disassemble, or otherwise attempt to derive source code from the Software or permit a third party to do any of the foregoing.

(g) Where the Product(s) include or otherwise constitute Software, without prejudice to the Support Services Optos may from time to time and at its sole discretion, provide Customer with new versions of the Software. Where any such new version introduces new functionality or application(s) provision of the new version may be subject to revised or additional charges payable by Customer for the use of that new version and in such circumstances Optos shall notify Customer of the revised or additional charges. Optos may from time to time and at its sole discretion, provide Customer with an update to the Software correcting minor defects, and if the Warranty Period has expired (and Customer is not receiving Support Services) there may be labour charges payable for installation of that update, and in such circumstances Optos shall notify Customer of the additional charges.

(h) Customer acknowledges that the licence granted by Optos under Clause 6 of these Terms to make use of intellectual property rights in the Product(s) is non-transferable and agrees that any transfer or purported transfer by Customer of such rights in and to the Product(s) or any part thereof (including without limitation, the Software) or the right to use the Optos Trademarks is strictly prohibited to the fullest extent permitted by law and shall be deemed a material breach of this Contract, and shall result in immediate termination of all licenses granted to Customer hereunder without any further action of Optos. In respect of Product(s) acquired on a purchase basis only, should Customer wish to sell or transfer ownership of the Product(s) to a third party, Optos will enter into good faith discussions with Customer regarding the transfer of the licence of intellectual property rights to the Product(s), including rights to use the Software and the Optos Trademarks and any remaining Warranty Period or Support Services Period, provided that: (i) the third party is prepared to acknowledge its compliance with these Terms and the terms of the relevant Contract; and (ii) all amounts owed to Optos by Customer have been paid in full and cleared funds.

7. Indemnities.

CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE WHICH SETS OUT INDEMNITIES GRANTED BY CUSTOMER.

CUSTOMER SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS OPTOS AND ITS GROUP COMPANIES AND THEIR RESPECTIVE EMPLOYEES, OFFICERS AND DIRECTORS, FROM AND AGAINST ALL LIABILITIES, COSTS, EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEYS' FEES), DAMAGES AND LOSSES (INCLUDING, WITHOUT LIMITATION ANY DIRECT, INDIRECT OR CONSEQUENTIAL LOSSES OR LOSS OF PROFITS) SUFFERED OR INCURRED BY OPTOS ARISING OUT OF OR IN CONNECTION WITH: (A) OPTOS HAVING TO ASCERTAIN THE WHEREABOUTS OF THE PRODUCT(S) OR CUSTOMER TO EXERCISE OR ENFORCE ITS RIGHTS UNDER THE RELEVANT CONTRACT; (B) OPTOS' COSTS AND EXPENSES INCURRED IN OBTAINING PAYMENT OR OTHERWISE ENFORCING ITS RIGHTS UNDER A CONTRACT; (C) ANY CLAIM MADE AGAINST OPTOS ARISING OUT OF CUSTOMER'S USE OF THE PRODUCT(S) NOT IN ACCORDANCE WITH THIS CONTRACT; (D) ANY CLAIMS (INCLUDING WITHOUT LIMITATION IN RESPECT OF INJURY, DEATH, DAMAGE OR LOSS TO ANY PERSON OR PROPERTY) ARISING FROM CUSTOMER'S ACTS AND/OR OMISSIONS IN RELATION TO USE OF THE PRODUCT(S); (E) ANY CLAIMS ARISING OUT OF A MATERIAL BREACH OF THE RELEVANT CONTRACT



(INCLUDING WITHOUT LIMITATION THE OPTOS DATA PROCESSING AGREEMENT INCORPORATED INTO THE CONTRACT, UNDER CLAUSE 10); (F) ANY CLAIM ARISING FROM ANY DIAGNOSIS, TREATMENT AND MEDICAL DECISIONS AND ADVICE GIVEN BY CUSTOMER, INCLUDING WITHOUT LIMITATION ANY DECISION REGARDING THE USE (OR NON-USE) OF THE PRODUCT(S) IN A PARTICULAR CASE; IN ALL CASES EXCEPT TO THE EXTENT SUCH CLAIMS ARISE OUT OF A BREACH BY OPTOS OF ITS OBLIGATIONS UNDER THESE TERMS OR THE NEGLIGENT ACTS AND/OR OMISSIONS OF OPTOS.

8. Limitations of Liability.

CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE WHICH SETS OUT LIMITATIONS ON THE LIABILITY OF OPTOS.

(A) OPTOS WILL NOT BE IN BREACH OF A CONTRACT NOR LIABLE FOR DELAY IN PERFORMING OR FAILURE TO PERFORM ANY OF ITS OBLIGATIONS UNDER A CONTRACT IF SUCH DELAY OR FAILURE RESULTS FROM EVENTS, CIRCUMSTANCES OR CAUSES BEYOND ITS REASONABLE CONTROL (A "FORCE MAJEURE" EVENT). IN SUCH CIRCUMSTANCES THE TIME FOR PERFORMANCE SHALL BE EXTENDED BY A PERIOD EQUIVALENT TO THE PERIOD DURING WHICH PERFORMANCE OF THE OBLIGATION HAS BEEN DELAYED OR FAILED TO BE PERFORMED.

(B) OPTOS SHALL BE ENTITLED TO SET OFF ANY AND ALL SUMS DUE BY OPTOS TO CUSTOMER AGAINST ANY AND ALL SUMS DUE BY CUSTOMER TO OPTOS WHETHER UNDER THIS CONTRACT OR OTHERWISE.

(C) THE RESTRICTIONS ON LIABILITY IN THIS CLAUSE 8 APPLY TO EVERY LIABILITY ARISING UNDER OR IN CONNECTION WITH A CONTRACT INCLUDING LIABILITY IN CONTRACT, TORT (INCLUDING NEGLIGENCE), MISREPRESENTATION, RESTITUTION OR OTHERWISE.

(D) SUBJECT TO CLAUSE 7, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY: (I) LOSS OF PROFITS; (II) LOSS OF BUSINESS; (III) LOSS OF USE OR CORRUPTION OF DATA OR INFORMATION; OR (IV) INDIRECT, INCIDENTAL OR CONSEQUENTIAL LOSS, IN ALL CASES EVEN IF ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES.

(E) OPTOS HAS GIVEN COMMITMENTS IN RESPECT OF THE PRODUCT(S) AND THEREFORE THE TERMS IMPLIED BY SECTIONS 13 TO 15 OF THE SALE OF GOODS ACT 1979 AND SECTIONS 3, 4 AND 5 OF THE SUPPLY OF GOODS AND SERVICES ACT 1982 ARE, TO THE FULLEST EXTENT PERMITTED BY LAW, EXCLUDED FROM EACH CONTRACT.

(F) IN NO EVENT SHALL OPTOS' LIABILITY UNDER A CONTRACT EXCEED A VALUE EQUAL TO THE TOTAL ACTUAL AMOUNTS PAID BY CUSTOMER UNDER A CONTRACT WITH RESPECT TO THE RELEVANT PRODUCT(S) AND/OR SERVICES.

(G) NOTHING IN A CONTRACT LIMITS ANY LIABILITY WHICH CANNOT LEGALLY BE LIMITED, INCLUDING LIABILITY FOR: (I) DEATH OR PERSONAL INJURY CAUSED BY NEGLIGENCE; (II) FRAUD OR FRAUDULENT MISREPRESENTATION; (III) BREACH OF THE TERMS IMPLIED BY SECTION 12 OF THE SALE OF GOODS ACT 1979 OR SECTION 2 OF THE SUPPLY OF GOODS AND SERVICES ACT 1982.

(H) THE WARRANTY AND REMEDIES SET FORTH HEREIN IN RESPECT OF THE PRODUCT(S) AND/OR THE SOFTWARE AND/OR SERVICES PROVIDED HEREUNDER ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, ORAL OR WRITTEN, EXPRESS, IMPLIED OR STATUTORY, AND OPTOS EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS, WARRANTIES AND INDEMNIFICATION WITH RESPECT TO ANY MATTER, INCLUDING BUT NOT LIMITED TO TITLE, NON-INFRINGEMENT, OR THE QUALITY OR CONDITION OF THE PRODUCT(S) AND/OR THE SOFTWARE AND/OR SERVICES PROVIDED HEREUNDER, THEIR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

9. Confidential Information.

(a) "Confidential Information" means any information that Optos has either marked as confidential or proprietary, or has identified as confidential or proprietary at the time of disclosure to Customer; provided, however, that information related to or regarding Optos' business plans, the details of any Order Form, strategies, technology (including Software), research and development, current and prospective customers, billing records, Product Documentation, Product(s) or services and any other information which ought reasonably to be considered as confidential shall be deemed Confidential Information of Optos, regardless of whether it is so marked or identified.

(b) Customer agrees that it will not: (i) use any Confidential Information except for the exercise of its rights and performance of its obligations under this Contract; or (ii) disclose any Confidential Information to any third party, other than as required by law or regulation.

10. Data Protection.

(a) Both parties will comply with all applicable requirements of the Data Protection Legislation. This Clause 10 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.

(b) Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of any personal data to Optos for the duration and purposes of the relevant Contract.

(c) Unless Optos has agreed, in writing, to enter into an alternative data processing agreement, Optos shall, in relation to any personal data processed in connection with the performance by Optos of its obligations under this Contract, comply with the terms of the Optos Data Processing Agreement, which shall be found at: <https://www.optos.com/corporate-information/>

(d) Customer agrees that Optos can access images from patient files without disclosing patient information. Pursuant to the foregoing and in compliance with Data Protection Legislation, Customer shall ensure that consent has been obtained and any image is anonymised to ensure the compliance.

11. Warranties.

CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE WHICH SETS OUT THE EXTENT OF OPTOS' WARRANTY OBLIGATIONS UNDER THE TERMS.

(a) Optos warrants that the Product(s) (including without limitation, any Software comprised or constituted therein) shall: (1) conform to the Product(s) specification (as made available by Optos as part of the Product(s) Documentation); (2) be of satisfactory quality and fit for any purpose held out by Optos; (3) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage,



handling and delivery of the Product(s); and (4) from the actual date of delivery of the Product(s) by Optos (or the actual date of installation by Optos, if applicable and if later) and thereafter for the duration of the Warranty Period be free from defects in materials and workmanship and shall operate substantially in accordance with the Product(s) Documentation (the "**Product(s) Warranty**").

(b) Optos warrants that the Services shall be performed (i) using reasonable care and skill; (ii) in accordance with all applicable laws from time to time in force; (iii) by personnel who are suitably skilled and experienced to perform tasks assigned to them; and (iv) in accordance with all health and safety rules and regulations and any other reasonable security requirements that apply at the Installation Site. In the event of any breach of the foregoing Services warranty, Customer's sole and exclusive remedy shall be for Optos, without expense to Customer, to promptly re-perform the relevant Services.

(c) In the event of any breach of the Product(s) Warranty, Customer's sole and exclusive remedy shall be for Optos, without expense to Customer, to promptly repair or replace, at Optos' option, any defective or deficient Product(s) or components thereof. Optos can be contacted using the details provided at <https://www.optos.com/contact-us/>. During the Warranty Period Optos shall make the Support Services available to Customer and shall address breaches of the Product(s) Warranty in accordance with the terms of Clause 12.

(d) Notwithstanding the Product(s) Warranty, Optos does not warrant that the operation of the Product(s) will be uninterrupted or error free.

(e) The Product(s) Warranty shall be void if the Product(s) are damaged or malfunction by reason of: (i) unreasonable use, misuse, or neglect of the Product(s); (ii) Customer's breach of any of its obligations set forth in Clauses 4 or 13; (iii) third party products or services, including but not limited to disposable products or consumable supplies; or (iv) events of Force Majeure (as defined in Clause 8). The Product(s) Warranty shall not apply in respect of fair wear and tear or obsolescence. Additionally, the Product(s) Warranty is personal to Customer and may not, without the consent of Optos, be transferred or assigned to any third party, including, without limitation in connection with a transfer of ownership of the Product(s).

In the event of a breach of the Product(s) Warranty, Customer's sole and exclusive remedies, and Optos' sole and exclusive obligations, are set out in this Clause 11 and Clause 12.

12. Support Services and Product(s) Warranty Handling.

THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE WHICH SETS OUT THE EXTENT OF THE SUPPORT SERVICES AND ASSOCIATED CHARGES.

In addition to the provision of the Support Services during the Warranty Period, if a Support Services Period is specified in respect of Product(s) (which extends beyond the duration of the Warranty Period) in the Order Form, Optos shall from the expiry of the Warranty Period either: (1) where full support is selected in the Order Form, continue to provide all of the Support Services for the remainder of the Support Services Period; or (2) where "parts and labour" support is selected in the Order Form, continue to provide all of the Support Services for the remainder of the Support Services Period, with the exception of any on-site support services, which shall only be provided subject to additional charges.

Optos shall use reasonable endeavours to meet the target dates set out in this Clause 12 in respect of resolving any non-conformance with the Product(s) Warranty.

The following "Support Services" shall be provided in respect of the Product(s) (including without limitation, any Software comprised or constituted therein) by Optos to Customer:

(a) Optos will provide Customer, upon the timely request by Customer, with instances of routine maintenance as set forth in the Product(s) Documentation ("**Routine Maintenance**"). Customer shall be responsible for contacting Optos to schedule each instance of the Routine Maintenance within the periods set out in the Product(s) Documentation. Failure to contact Optos and schedule Routine Maintenance by the dates set out in the Product(s) Documentation shall result in the instance of the Routine Maintenance being lost and Optos shall not be obligated to provide that instance of the Routine Maintenance. Subject to a timeous request, Optos shall schedule Routine Maintenance visits on mutually convenient weekdays between the hours of 9:00 (am) and 5:00 (pm), excluding Optos published holidays (the "**Service Hours**").

(b) Optos shall provide support during the Service Hours, in the event that the Product(s) is/are inoperable due to breach of the Product(s) Warranty (an "**Emergency Service Event**"). Upon Customer notifying Optos of a valid Emergency Service Event (by telephoning during Support Hours or emailing the Optos support centre), Optos will use reasonable endeavours to resolve the inoperability as soon as practicable. Optos shall in the first instance seek to triage and resolve the incident remotely and Customer shall provide all reasonable information and assistance to enable Optos to do so. In the event that Optos determines that the incident cannot be resolved remotely, Optos shall procure that a service technician attends the Installation Site within seventy two (72) hours of such notification as soon as practicable. If the service technician determines acting reasonably that the incident could have been resolved remotely, but was not so resolved due to a failure by Customer to provide the foregoing reasonable information and assistance then Customer shall pay the standard call out charges, set out in (e) below.

(c) If Optos determines that a modification to Product(s) (whether hardware or Software) is necessary to address safety or reliability concerns identified by Optos or required by an applicable regulatory agency ("**Safety Modifications**"), then Optos will install the Safety Modification in the Product(s) as soon as practicable at a mutually convenient time during the Service Hours.

(d) All costs associated with the provision of parts or services not expressly covered by the Support Services shall be borne by Customer, including if the service technician determines acting reasonably that the inoperability and/or incident has arisen as a result of the fault or negligence of the Customer and not as a result of breach of the Product(s) Warranty.

(e) Optos may, at its sole discretion, provide the Support Services at times outside of the Service Hours. In the event that Customer requests services to be performed outside of the Service Hours, the following charges will apply, per field service engineer deployed by Optos: (1) in the event Customer authorizes continuation of service that was started during the Service Hours, all such service performed outside of the Service Hours will be charged at one-half (1/2) Optos' standard published hourly rate; (2) In the event Customer requests any service to be performed outside of the Service Hours (other than for continuations as set forth in Clause (1) above, or on weekends or Optos' published holidays) Customer will be charged at one-half (1/2) Optos' standard published hourly rate, subject to a minimum charge of four (4) hours, notwithstanding the number of hours services are provided in; (3) in the event Customer requests any service to be performed on weekends or Optos' published holidays, Customer will be charged at Optos' standard published hourly rate, subject to a minimum charge of four (4) hours, notwithstanding the number of hours services are provided in; and (4) In the event that Customer requests emergency telephone consultation outside of the Support Hours, Customer will be charged: (A) on weekdays, at one-half (1/2) Optos' standard published hourly rate; and (B) on weekends or Optos' published holiday, at Optos' standard published hourly rate; in each case, subject to a minimum charge of two (2) hours, notwithstanding the number of hours the consultation is provided in.

(f) Optos may suspend performance of or terminate the provision of the Support Services in the event that Customer is in breach of its obligations relating to the provision of the Support Services.



13. Product(s) Warranties and Support Services – Customer Obligations.

THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE WHICH SETS OUT REQUIREMENTS ON CUSTOMER IN RESPECT OF THE PRODUCT(S) WARRANTIES AND SUPPORT SERVICES

(a) If Support Services are included in an Order Form, regardless of whether or not any Support Services are required by Customer or provided by Optos, Optos shall charge and invoice Customer for the Support Charges. Such invoices shall be payable by Customer in accordance with Clause 5. Optos may elect to suspend performance of any Support Services during any period in which any Support Charges are overdue.

(b) Customer shall conduct such tests of the Product(s) and submit the results in such format at such times as Optos reasonably requests. Customer agrees to maintain Internet and/or telephone line connectivity to allow Optos to monitor remote diagnostic logs and allow for timely preventive maintenance visits.

(c) Customer will cooperate with Optos in performing its duties including without limitation, in the scheduling of service calls, providing access to the Product(s), providing an acceptable work environment for Optos personnel at the Installation Site, providing adequate space for storage of spare parts, tools and the like. Customer bears the risk of loss of any such Optos property whilst stored at the Installation Site.

(d) Customer will not, and will not permit anyone other than Optos' authorised service representatives, to perform any maintenance, repairs, modifications or adjustments to any part of the Product(s), including but not limited to any Software or third party software embodied therein.

(e) Customer will only use Optos approved parts and Optos approved disposables. Any service visit that in the judgment of Optos, has been caused by any unauthorised modification of a Product(s), will be billable at the Optos standard time & material rates.

(f) For the safety of Optos' personnel, Customer or one of its representatives will be present at the Installation Site at all times when an Optos employee is servicing the Product(s).

14. Product(s) Warranties and Support Services – Exclusions and Additional Services.

(a) Services or components not covered by the Product(s) Warranty or Support Services may, at Optos' sole discretion, be purchased by Customer from Optos, to the extent Optos generally provides such services or components to its customers, on a case-by-case basis at Optos' then current standard rates. Components other than Product(s) components, (including but not limited to review stations and viewing monitors) and services other than Support Services, (including but not limited to Product(s) relocation) are not covered by the Product(s) Warranty or the Support Services. Optos will pass through to Customer, to the fullest extent reasonably possible, any product warranties provided by third party manufacturers applicable to any such components or services.

(b) Customer may elect to enter into a service agreement to begin at the end of the Support Services Period, or where none, at any other time. Any such service agreement will be provided on Optos then current support services terms and at Optos' then-current standard rates.

15. Product(s) Warranties and Support Services - Right to Subcontract and Use Refurbished Parts

Optos reserves the right to subcontract the Support Services to qualified third parties, provided that Optos shall remain responsible for the performance of its subcontractors hereunder. Optos reserves the right to use refurbished parts in performing its obligations hereunder, provided that such parts meet all specifications and are covered by the same Product(s) Warranty as the new parts. All parts removed from the Product(s) for replacement are the property of Optos, and Optos may request the return, at Optos' expense, of any parts which have been replaced by new or refurbished parts.

16. Assignment.

Customer may not assign any of its obligations, rights or remedies under a Contract without the prior written consent of Optos, and any attempt at such assignments shall be null and void.

17. Non-Waiver.

The failure or delay of Optos to exercise any right or remedy provided for herein shall not be deemed a waiver of the right or remedy or of any other rights or remedies available hereunder.

18. Severability.

If any provision (or part provision) of these Terms or any terms set out in an Order Form is held to be unenforceable or invalid, the remaining provisions (or part provisions) thereof shall nevertheless be given full force and effect and the parties agree to negotiate, in good faith, a substitute valid provision (or part provision) which most nearly effects the parties' intent. Without limiting the foregoing, it is expressly understood and agreed that each and every provision (and part provision) of a Contract which provides for a limitation of liability, disclaimer of warranty or exclusion of damage is intended by the parties to be survivable and independent of any other provisions.

19. Governing Law.

These Terms shall be governed by and construed in accordance with the laws of England without regard to its provisions regarding conflict of laws. The parties irrevocably agree that the courts in England shall have exclusive jurisdiction to settle any contractual or non-contractual dispute or claim that arises out of or in connection herewith.

20. No Agency or Joint Venture Relationship.

Nothing contained herein shall be deemed to create any association, partnership, joint venture or relationship of principal, agent, master or servant between Optos and Customer, or to provide Optos or Customer with the right, power or authority to incur any obligation or make any representations, warranties or guarantees on behalf of any other party hereto.

21. Notices.

All notices hereunder shall be in writing and shall be deemed to have been given when delivered by hand or when sent by registered or certified mail or commercial overnight courier (with receipt of delivery), in each case to the address stated in the Order Form. Either party may designate a different address by giving notice in the manner herein provided.

22. Modification.



Optos is allowed to make changes to the provisions of these Terms. Optos will only make these changes for valid reasons, in particular due to new technical developments, changes in law or other equivalent reasons. Apart from that, changes require the consent of the Customer. Where Optos does make changes it shall make the varied terms available at <https://www.optos.com/corporate-information/>. Optos may in certain circumstances provide a copy of the varied Terms to Customer.

23. Third Parties.

Any person who is not a party to this Contract shall not have any rights under or in connection with it.

24. Global anti-corruption policy.

Optos strictly prohibits engaging in or tolerating bribery or any other form of corruption. Optos has adopted a policy which prohibits bribery in any form and mandates strict compliance with applicable anti-bribery laws and regulations in all countries and jurisdictions in which it conducts business. Customer provides its confirmation upon entering into this Contract that it, at all times, prohibits bribery in any form and mandates strict compliance with applicable anti-bribery laws and regulations in all countries and jurisdictions in which it conducts business and in doing so that it strictly prohibits engaging in or knowingly tolerating bribery or any other form of corruption.



Appendix 1

Purchase Terms and Conditions

These Purchase Terms and Conditions apply, in addition to the remaining Terms, where Customer purchases the Product(s).

1. Purchased Product(s).

Where Product(s) are supplied on a purchase basis:

(a) Subject to Clause 6(a) of the Terms, title in Product(s) will not pass to Customer (notwithstanding delivery or installation), until relevant payment is made in cleared funds of all sums (including interest and charges) due from Customer to Optos. Notwithstanding the foregoing, risk in the Product(s) shall pass to Customer upon delivery of the Product(s) by Optos;

(b) Until title in the relevant Product(s) has passed to Customer, Customer shall hold the Product(s) as Optos' fiduciary agent and shall be entirely responsible for ensuring that Product(s) are properly protected, operated, insured and stored so as they are clearly identifiable as Optos' property, and Customer shall immediately on demand allow Optos and/or its representatives access to the premises where Product(s) are stored in order to retrieve them; and

(c) Where title in Product(s) has passed to Customer, Customer is responsible under the Waste Electrical and Electronic Equipment Regulations ("the **WEEE Regulations**") for the costs of collection, treatment, recovery, recycling and environmentally sound disposal of any equipment supplied under a Contract that has become waste electrical and electronic equipment ("**WEEE**"). The parties acknowledge a Contract is an agreement stipulating other financing arrangements for the collection, treatment, recovery, recycling and environmentally sound disposal of WEEE. Customer is responsible for any information recording or reporting obligations imposed by the WEEE Regulations.

(d) CUSTOMER WILL INDEMNIFY OPTOS AGAINST ANY CLAIMS OR LEGAL PROCEEDINGS THAT ARE BROUGHT OR THREATENED AGAINST OPTOS BY A THIRD PARTY WHICH WOULD NOT HAVE BEEN CAUSED OR MADE HAD CUSTOMER FULFILLED ITS EXPRESS OR IMPLIED OBLIGATIONS UNDER (C) ABOVE OR IN CONNECTION WITH THE WEEE REGULATIONS. OPTOS WILL NOTIFY CUSTOMER OF ANY SUCH CLAIMS OR PROCEEDINGS AND KEEP CUSTOMER INFORMED AS TO THE PROGRESS OF SUCH CLAIMS OR PROCEEDINGS.

Appendix 2

Rental Terms and Conditions (including rental with option to purchase)

These Rental Terms and Conditions apply, in addition to the remaining Terms, where Customer rents the Product(s), including rental with an option to purchase.

1. Definitions.

Defined terms used herein shall have the meaning set out against them below or as specified in the Order Form.

"Minimum Rental" means the minimum payment payable by Customer for each month (or pro rata part month (if any)) of the Use Period.

"Rental Period" means the duration of the Product(s) rental period (if applicable).

"Use Period" has the meaning set forth in Clause 2(a) of this Appendix 2.

2. Rental Product(s).

Where Product(s) are supplied on a rental basis:

(a) Optos agrees to permit Customer to use the Product(s) from the date of actual delivery of the Product(s) to Customer, until the end of the Rental Period (the "Use Period");

(b) unless either party elects not to renew a Contract by providing a minimum of ninety (90) days written notice prior to the end of the Use Period, the Use Period and this Contract will automatically renew for an additional twelve (12) months term and each will continue to automatically renew on an annual basis until either party elects not to renew by providing a minimum of ninety (90) days written notice to the other party prior to the end of the then-current Use Period; and

(c) with end of term buyout, title in Product(s) pass to Customer subject to the Terms and any terms specified in the Order Form, only after payment is made in cleared funds of all sums (including interest and charges) due from Customer to Optos.

3. Rental Payments.

(a) The Rental Payment shall be payable by Customer to Optos in respect of each month (or part month on a pro-rata basis) falling within the Use Period and will be the sum of any usage charges. If a Minimum Rental applies, in each and every month or pro rata part month (if any) where the applicable Minimum Rental is higher than the Rental Payment due for that period, that Minimum Rental shall be payable instead of the Rental Payment.

(b) Optos shall invoice Customer in respect of each month (or part of a month on a pro-rata basis) for the sums payable in accordance with Clause 3(a) of this Appendix 2. Customer will pay such invoices by Direct Debit, which will be collected monthly approximately twenty (20) days after the date of invoice. Customer shall provide such details and sign such documentation as is reasonably required by Optos to effect the Direct Debit.

4. Customer Rental Obligations.

Customer agrees and undertakes to Optos that Customer shall:

(a) allow Optos or its representatives to access and inspect the Product(s) on request at any reasonable time and at any relevant premises;

(b) not permit any third party other than Optos' appointed service representatives to perform any maintenance, repairs, or modifications to the Product(s) (including without limitation, any Software constituted therein); and

(c) at all times make it clear that Optos owns the Product(s) and if requested to do so by Optos, affix plates or signs stating that Optos owns the Product(s).

5. Maintenance of Rental Product(s).

Provided that Customer's use of the Product(s) is in accordance with Clause 13 of the Terms, Customer is not liable for any additional charges for service repair to the Product(s) and shall benefit from the Support Services during the Rental Period. A credit of 1/20 of the Fixed Rental or Minimum Rental (if applicable) will be applied for each full business day the Product(s) is/are inoperable beyond forty eight (48) hours from the time of Customer's notification of the issue to Optos. Customer shall be responsible for additional charges for repairs to the Product(s) (including, without limitation, parts, labour, travel and subsistence) at Optos' standard rates to the extent such repairs are required due to Customer's failure to use the Product(s) in accordance with Clause 13 of the Terms.

6. Insurance of Rental Product(s).

CUSTOMER'S ATTENTION IS DRAWN IN PARTICULAR TO THIS CLAUSE WHICH SETS OUT OBLIGATIONS TO INSURE THE PRODUCT(S)

(a) Customer will (at its expense) keep the Product(s) insured from the date of the Order Form with an insurance company approved by Optos, which approval may not be unreasonably withheld, in an amount equal to its full replacement value or a minimum amount specified on the Order Form.

(b) Customer will advise the insurers that the Product(s) are Optos' property and the policy must name Optos as loss payee in respect of all claims.

7. Terminating the Rental.

Optos may terminate a Contract immediately upon written notice to Customer if any of the following events occurs:

(a) any Minimum Rental or other sum payable under any agreement between the parties is not paid when due under a Contract;

(b) Customer breaches any of the other terms of this Contract or of any other agreement between the parties;

(c) Customer allows any diligence, distress, execution or other legal process to be levied against any of its assets or the Product(s); or

(d) Customer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business, or (being a partnership) being dissolved



or proceedings for its dissolution are commenced or it suffers the appointment of a judicial factor, or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction.

8. Consequences of Rental Termination.

CUSTOMER'S ATTENTION IS DRAWN IN PARTICULAR TO THIS CLAUSE WHICH SETS OUT PAYMENT OBLIGATIONS IN THE EVENT OF RENTAL TERMINATION.

(a) If a Contract is terminated under Clause 7 of this Appendix 2, Optos may immediately or at any time thereafter cease Customer's right to possession of the Product(s). If Optos does so, then: (i) Customer must immediately comply with Clause 9 of this Appendix 2; (ii) Customer's licence to use any Software shall terminate immediately; (iii) Customer will immediately pay to Optos all Rental Payments and other outstanding sums due under this Contract at the date of termination and the cost of repairs to put the Product(s) into good repair and condition. (iv) Optos may require Customer to pay by way of indemnity all costs and expenses (including, without limitation, any legal costs) incurred by Optos in retaking possession of, storing and transporting Product(s) and in enforcing any Contract terms; and (v) In addition, Optos may, in its sole discretion, require Customer to pay a sum equal to the total of: (A) an amount equal to 100% of future Minimum Rental payments due under a Contract; (B) interest at the rate of 4% per annum over the Lloyds Banking Group Base Rate on all sums outstanding; and (C) any taxes or similar charges payable on any sum payable.

(b) Nothing in this Clause 8 shall exclude any claim for damages which Optos may pursue against Customer in addition to, or instead of the remedies above.

(c) Optos' rights under this Clause 8 will also arise and be enforceable against Customer where the Product(s) are destroyed or where the insurers treat a claim under the policy of insurance taken out under Clause 6 on a total loss basis.

9. Rental Termination – Product(s) Return.

CUSTOMER'S ATTENTION IS DRAWN IN PARTICULAR TO THIS CLAUSE WHICH SETS OUTS FINANCIAL RESPONSIBILITIES ARISING FROM RETURN OF PRODUCT(S).

When Customer's right to possession of the Product(s) under this Contract ends for whatever cause, then Customer shall allow Optos access to the Product(s) not later than the date of expiry or termination during normal business hours, and the terms of this Clause 9 shall apply.

(a) Where the Product(s) include any computer hardware and Software, then such hardware will be in the same operating condition and configuration as when originally delivered to Customer and will be cleared of all data. Software will be in operating condition. Backing up data is the sole responsibility of Customer. Archiving of any images must be finalised by Customer prior to removal of Product(s);

(b) On expiry of the Use Period without renewal (but not for the avoidance of doubt, on termination of this Contract), return freight expenses incurred in the removal of Product(s) from the Installation Site will be Optos' responsibility. If Product(s) have been moved from the Installation Site, Customer shall be responsible for all return freight expenses incurred in the removal of Product(s);

(c) Customer will be responsible for any damage caused to the premises by the removal of the Product(s). Customer will indemnify Optos against any claim made by any third party in respect of such damage; and

(d) If Customer does not allow Optos access to the Product(s) on expiry or termination of this Contract, Customer will be responsible for its safe custody and will pay damages for the period of delay of an amount equal to the Minimum Rental and any other charges which would have been payable by Customer for the comparable period of time under this Contract if it had not been terminated. Optos has right of entry to the premises where the Product(s) are stored to allow Optos to remove them at Customer's expense.

10. Rental with Option to Purchase.

If Product(s) are supplied on a rental with option to purchase basis, as indicated in the Order Form, the terms of this Clause 10 of Appendix 2 shall apply:

(a) Customer is entitled to exercise the option to purchase Product(s) in accordance with the conditions specified in the Order Form as "Optional Purchase Terms for Product(s)", including those relating to written notice to Optos and payments due to Optos (if any);

(b) Optos shall then confirm in writing the transfer of title to the Product(s) to Customer, and the Product(s) shall thereafter be subject to the General Terms and the Purchase Terms and Conditions set out in Appendix 1 as if originally acquired by Customer on a purchase basis;

(c) Customer shall not be entitled to exercise the option to purchase Product(s) if: (i) Customer is in material breach of any term of this Contract; or (ii) there are any sums due from Customer to Optos which are overdue; or (iii) the rental Contract has been terminated, or has otherwise expired for any reason.