'LICENCE AND SERVICES TERMS FOR LT LABSTATION

BY:

- downloading, installing or using the Lt LabStation Application or Content;
- using the Service; or
- clicking on the "Accept" button below,

YOU:

- acknowledge that you and the Customer have read and understood this Agreement;
- where your access and use is on behalf of another party (e.g. a company, institution or body corporate), you confirm that you are authorised to, and do in fact, agree to this Agreement on that party's behalf and that, by agreeing to this Agreement on that party's behalf, that party is bound by this Agreement; and
- accept this Agreement for the Customer and agree to be bound by its terms.

If you do not agree to this Agreement you and the Customer may not use the Lt LabStation Application or Service, and must remove them from any Computer, and, without limiting the Service Provider's rights, the Service Provider may remove your access to the Service.

AMENDMENTS: If the Service Provider wishes to update or change this Agreement, it shall give the Customer at least thirty (30) days' written notice prior to making such change. The written notification shall set out the details of such change. Where such change to this Agreement has a material detrimental effect on the Customer, the Service Provider shall give the Customer at least forty-five (45) days' written notice prior to making such change, and the Customer shall be entitled, within the forty-five (45) day period following receipt of such notice, to terminate the relevant order(s) and/or any affected Services.

From time to time the Service Provider may issue updates to the Lt LabStation Application or the Service. Depending on the update, the Customer may not be able to use the Lt LabStation Application or the Service until it has downloaded and installed the latest version of the Lt LabStation Application, browser or any other required components and accepted any new terms by installing the update.

BACKGROUND

(A) This Agreement governs the license and use of:

(i) a web-based application service provided by the Service Provider via *www.kuracloud.com* or via any other website from time to time, providing Administrators access to the Content and Documentation (the "**Service**");

(ii) a desktop application to be installed on a Computer (the "**Lt LabStation Application**") used to enable Users to receive the benefit of the Content;

(iii) images and videos, audio files, data files, animations and text (as may be described in the Quotation(s) from time to time) owned by the Service Provider or relevant licensors, but excluding User Content (the "**Content**"); and

(iv) printed or electronic materials and documentation provided by the Service Provider or its licensors in relation to the Lt LabStation Solution from time to time (the "**Documentation**"),

which is to be made available to the Customer on the terms of this Agreement for the Customer's internal educational or educational research purposes.

(B) The Customer requires its Users to receive the benefit of the Lt LabStation Application, Content and Documentation. For the avoidance of doubt, Users do not receive the benefit of the Service.

(C) The Service Provider has agreed to provide and the Customer has agreed to take and pay for the Lt LabStation Solution subject to the terms and conditions of this Agreement.

(D) The Customer acknowledges that the Service Provider has no access to Personal Data of the Users.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 The following definitions apply in this Agreement:

"**Administrator**" means the administrator and/or teaching staff of the Customer

"**Administrator Contact Data**" means data regarding the Administrators which has been collected or received in the ordinary course of business, such as an individual's name, title, business address, email address or telephone number;

"**Agreement**" means these terms together with each Quotation or Tender Document;

"**Billing Agent"** means the entity that collects Fees for the Lt LabStation Solution from the Customer on behalf of the Service Provider;

"**Computer**" means a computer controlled by the Customer which has the Lt LabStation Application loaded on it so that Users or Administrators can receive the benefit of the Content and Documentation;

"**Confidential Information**" has the meaning given in clause;

"**Customer**" is the company, institution or body corporate specified in the 'Customer' field of the Quotation(s) or Tender Document(s);

"**Data Protection Laws**" means all applicable data protection and privacy laws that apply to the processing of Personal Data under this Agreement;

"**Derivative Works**" means works created by the Customer in accordance with clause 5.1.4 that, by virtue of the fact that they have modified Content (excluding Third Party Content), and/or combine Content (excluding Third Party Content) and User Content, create derivative works in which separate and new Intellectual Property Rights may subsist;

"**Due Date**" has the meaning given in clause 7.1;

"**Effective Date**" means the date that the licence code is issued to the Customer for the applicable Lt LabStation Solution supply unless this Agreement relates to a Trial, in which case the Effective Date means the date of installation of the Lt LabStation Application;

"**Fees**" means the price or fees payable by the Customer to the Service Provider or Billing Agent for the Lt LabStation Solution as set out in the Quotation(s) or Tender Document(s);

"**Group**" means in relation to a company (wherever incorporated) that company, its Subsidiaries, any company of which it is a Subsidiary (its holding company) and any other Subsidiaries of any such holding company, and each company in a Group is a member of the Group;

"**Intellectual Property Rights**" means any of these rights, namely:

(a) patents, trade marks, rights in design, get-up, trade dress, trade, business or domain names, copyrights including rights in computer software and databases (including database rights) and topography rights (in each case whether registered or not and, where these rights can be registered, any applications to register or rights to apply for registration of any of them), and where applicable any associated goodwill;

(b) rights in inventions, know-how, trade secrets and other confidential information; and

(c) any other intellectual property rights which may exist at any time in any part of the world;

"**Jurisdiction**" has the meaning determined in accordance with clause 21"**Lt LabStation Solution**" means the Service, Lt LabStation Application, Content and Documentation;

"**Laws**" means:

(a) any applicable statute or proclamation or any delegated or subordinate legislation;

(b) if the Territory is the European Union, any enforceable community right within the meaning of section 2(1) European Communities Act 1972 (UK) (if the Customer is subject to the European Community laws);

(c) any applicable judgment of a relevant court of law which is a binding precedent in the Jurisdiction; and

(d) any requirements of any regulatory body,

in each case in force at any time during the term of this Agreement;

"**Losses**" means all losses, liabilities, damages, costs, claims and expenses howsoever arising (including reasonable legal fees on a lawyer and own client basis and other professional advisors' fees, and disbursements and costs of investigation, litigation, settlement, judgment, interest, penalties and remedial actions) and "**Loss**" shall be construed accordingly;

"**Permitted Recipients**" means personnel of the Service Provider (including members of the Service Provider's Group and the Service Provider's sub-contractors) or the Customer who are engaged in the performance, management, receipt or use of the Lt LabStation Solution as well as the receiving party's auditors and professional advisers;

"**Personal Data**" means information about an identifiable, living person;

"**Quotation or Tender Document**" means each of the Service Provider's or authorised Billing Agent's quotations or tender documents accepted by the Customer that sets out the specific quantity(ies) of the Lt LabStation Solution to be supplied with the associated Term(s) and Fees;

"**Service Provider**" is ADInstruments NZ Limited a company duly incorporated in New Zealand;

"**Subsidiary**" in relation to a company wherever incorporated (a holding company) means a "**subsidiary**" as defined in the relevant company's legislation in the Jurisdiction) and any other company which is a subsidiary (as so defined) of a company which is itself a subsidiary of such holding company;

"**Support**" means the support provided by the Service Provider detailed at: adi.to/supportplan as updated from time to time;

"**Term**" means the duration described in the applicable Quotation or Tender Document for the relevant quantity of the Lt LabStation Solution. Subject to clause 12, the term for each supply of the LabStation Solution commences on the applicable Effective Date and, subject to this Agreement, continues until the expiry date referred to in the applicable Quotation or Tender Document;

"**Territory**" is where the Customer has its principal or head office;

"**Third Party Content**" means content available via the Service or the Service Provider's website, which is owned by third parties and which may be subject to third party restrictions on use and is:

(a) listed at adi.to/thirdpartycontent as updated from time-to-time; and /or

(b) marked as "*Third Party Content Restrictions on use may apply. Please see adi.to/thirdpartycontent for details*." in the Content, Service and/or App;

"**Trial**" means a limited duration trial licence to use the Lt LabStation Solution as set out in clause 3.7;

"**Use**" includes install, access and use and "**Used**" shall be construed accordingly;

"**Users**" means those students of the Customer who are authorised by the Customer to use the Lt LabStation Application, Content and Documentation;

"**User Content**" means any content provided by the Administrator or the Customer;

"**Viruses**" means any thing or device (including any software, code, file or programme) which may:

(a) prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device;

(b) prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or

(c) adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

"**you**" means both you and the other person (if any) on whose behalf you are acting, such as the Customer.

1.2 In this Agreement:

1.2.1 headings are used for convenience only and do not affect its interpretation;

1.2.2 the phrases "**other**", "**including**" and "**in particular**" shall not limit the generality of any preceding words or be construed as being limited to the same class as any preceding words where a wider construction is possible; and

1.2.3 a breach of any of the terms and conditions of this Agreement by the Customer's personnel (including, to avoid doubt, you, an Administrator and/or a User) is deemed to be a breach of this Agreement by the Customer.

2. SCOPE OF SERVICE AND SUPPLY OF LT LABSTATION SOLUTION

2.1 Unless this Agreement relates to a Trial, then subject to the terms and conditions of this Agreement and during the applicable Term, the Service Provider grants to the Customer a non-exclusive, non-transferable right for the Administrators to use the Lt LabStation Solution solely for the Customer's internal educational or educational research purposes.

2.2 In relation to Administrators, the Customer undertakes that:

2.2.1 the maximum number of Administrators that it authorises to use the Lt LabStation Solution shall not exceed 100, and the maximum storage used by each Customer shall not exceed 100 GB; and

2.2.2 each Administrator shall keep a secure password for its use of the Lt LabStation Solution and shall keep such password confidential.

2.3 Without limiting the above in any way, the Customer (and the Customer shall procure that each Administrator) must not:

2.3.1 use the Lt LabStation Solution in any unlawful manner, for any unlawful purpose, or in any manner inconsistent with this Agreement, or act fraudulently or maliciously, for example, by using another Administrator's account, or by hacking into or inserting malicious code, including Viruses, or harmful data, into the Service, Lt LabStation Application or any operating system;

2.3.2 infringe the Service Provider's Intellectual Property Rights or those of any relevant licensor or any third party in relation to its use of the Lt LabStation Solution;

2.3.3 transmit any material that is defamatory, offensive or otherwise objectionable in relation to its use of the Service or Lt LabStation Application;

2.3.4 use the Service or Lt LabStation Application in a way that could damage, disable, overburden,

impair or compromise the Service Provider's systems or security or interfere with other users;

2.3.5 collect or harvest any information or data from any Service or Service Provider's systems, except for Content which the Administrator has obtained written permission from the relevant party to use;

2.3.6 attempt to decipher any transmissions to or from the servers running any Service; or

2.3.7 perform any security testing of the Service or Lt LabStation Application or the Service's hosting platform either manually or utilising any automated system.

2.4 Except as expressly set out in this Agreement or as permitted by any applicable local Laws, the Customer (and the Customer shall procure that the Administrator) agrees not to:

2.4.1 copy the Lt LabStation Application, Content and Documentation except for the purposes of downloading the Lt LabStation Application onto Computers and then subsequently transferring the Content and Documentation onto Computers,

for the avoidance of doubt this shall not allow the Administrator to copy any of the code within the Service or Lt LabStation Application nor any of the text or concepts in the Content or Documentation outside the Lt LabStation Solution;

2.4.2 use the Lt LabStation Solution to provide services to third parties;

2.4.3 rent, lease, sub-license, loan, distribute, disclose, or otherwise commercially exploit the Lt LabStation Solution or otherwise make them available in whole or in part to any third party except for the purposes specified in clause 2.4.1; or

2.4.4 make alterations to, or modifications of, the whole or any part of the Service or Lt LabStation Application or Documentation or permit the Lt LabStation Solution or any part of these to be combined with, or become incorporated in, any other programs.

2.5 The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, Lt LabStation Solution and, in the event of any such unauthorised access or use, promptly notify the Service Provider.

2.6 The rights provided under this clause 2 are granted to the Customer only, and shall not be considered granted to any Subsidiary or holding company of the Customer, related company, affiliate, parent undertaking or Subsidiary undertaking (as those terms or similar terms are defined in the Laws of the Jurisdiction) or any connected body to the Customer.

3. LICENCE TO LT LABSTATION APPLICATION

3.1 Unless this Agreement relates to a Trial and subject to clause 12, in consideration of the Fees paid by the Customer to the Service Provider or authorised Billing Agent, the Service Provider grants to the Customer a perpetual and non-exclusive licence for Administrators and Users to use the Lt LabStation Application, Content and Documentation.

3.2 In relation to scope of use:

3.2.1 for the purposes of clause 3.1, use of the Lt LabStation Application shall be restricted to use of the Lt LabStation Application in object code form for the Customer's internal education, training or educational research purposes only;

3.2.2 the Customer has no right (and shall not permit any third party) to copy, adapt, reverse engineer, decompile, disassemble, modify, adapt or make error corrections to the Lt LabStation Application in whole or in part except to the extent that any conversion of the Lt LabStation Application to human readable form (whether by reverse engineering, decompilation or disassembly) is necessary for the purposes of integrating the operation of the Lt LabStation Application with the operation of other software or systems used by the Customer, unless the Service Provider is prepared to carry out such action at a reasonable commercial fee or has provided the information necessary to achieve such integration within a reasonable period, and the Customer shall request the Service Provider to carry out such action or to provide such information (and shall meet the Service Provider's reasonable costs in providing that information) before undertaking any such reduction.

3.3 The Customer may not use any such information provided by the Service Provider or obtained by the Customer during any such conversion permitted under clause 3.2.2 to create any software whose expression is substantially similar to that of the Lt LabStation Application nor use such information in any manner which would be restricted by any copyright subsisting in it.

3.4 The Customer shall:

3.4.1 ensure that the number of copies of the Lt LabStation Application installed does not exceed the number specified in the Quotation(s) or Tender Document(s);

3.4.2 keep a complete and accurate record of the Administrator's copying and distribution of the Lt LabStation Application and its Users, provided that this record must contain no User Personal Data, and produce such record to the Service Provider on request from time to time;

3.4.3 notify the Service Provider as soon as it becomes aware of any unauthorised use of the Lt LabStation Application by any person; and

3.4.4 pay, for broadening the scope of the licences granted under this licence to cover the unauthorised use, an amount equal to the fees which the Service Provider or Billing Agent would have levied (in accordance with its normal commercial terms then current) had it licensed any such unauthorised use on the date when such use commenced.

3.5 The Customer shall permit the Service Provider to inspect and have access to any premises (and to the computer equipment located there) at or on which the Lt LabStation Application is being kept or used, and have access to any records kept in connection with this Agreement, for the purposes of ensuring that the Customer is complying with the terms of this Agreement, provided that the Service Provider gives reasonable advance notice to the Customer of such inspections, which shall take place at reasonable times.

3.6 If the Customer requires a greater number of copies of the Lt LabStation Application installed than the number specified in the previous Quotation(s) or Tender Document(s), the Service Provider or Billing Agent will issue a new Quotation or Tender Document setting out the applicable Term and Fees for the Customer's acceptance.

3.7 **Trial**: If the Service Provider makes the Lt LabStation Solution available to you or the Customer on a trial basis, you may use the Lt LabStation Solution for a period of 30 days, or for such longer period as determined by the Service Provider, from the date you install the application solely for the purposes of evaluation. Despite anything else in this Agreement, during the Trial:

3.7.1 You must not use the Lt LabStation Solution for any purpose other than internal evaluation, and in particular not for teaching or any other educational purpose;

3.7.2 The Lt LabStation Application may only be installed once on any Computer;

3.7.3 The Lt LabStation Application is made available on a strictly "as is" basis with no warranties, guarantees, or indemnities.

3.8 If the Customer does not purchase a fully paid up license to the Lt LabStation Solution during or within a reasonable period after the Trial, the Service Provider may delete any User Content the Customer has entered into the Service.

4. SUPPORT SERVICES

The Service Provider shall during the applicable Term provide standard Support for the Lt LabStation Application and Service at no additional charge, and/or upgraded support if purchased as an additional service.

5. CONTENT, USER CONTENT AND NO PERSONAL DATA

5.1 The Customer acknowledges that:

5.1.1 the Service Provider has no access to Personal Data of the Users.

5.1.2 all Uses of Content shall be for the Customer's internal educational or educational research purposes only;

5.1.3 commercial use of the Content is not permitted, unless the Customer has written permission from the owner of the Content;

5.1.4 it may copy, modify, and use the Content (excluding Third Party Content) either alone or in combination with User Content for the Customer's internal educational, or educational research purposes without obtaining written permission from the owner of the Content;

5.1.5 unauthorised copying of the Third Party Content is not permitted, unless the Customer obtains separate written permission from the owner of the Third Party Content;

5.1.6 where the provision of Content by the Service Provider relies on third party consent, the Service Provider reserves the right, if the requisite third party consent is withdrawn, to:

(a) remove or restrict access to such Content at any time; and/or

(b) require that the Customer returns to the Service Provider the Content or destroys any physical copies of the Content (as applicable);

5.1.7 the Service Provider's prior written approval, which shall not be unreasonably withheld, must be obtained for the Customer to disclose any part of the Content or Documentation to third parties other than recipients of the Customer's educational or educational research services and any Users; and

5.1.8 any comments or public statements the Customer makes in relation to the Lt LabStation Solution must be accurate and not misleading.

For the avoidance of doubt, clause 5.1 shall not preclude the Customer from providing the Content to Users for use within and in conjunction with the use of Lt LabStation Application in accordance with this Agreement.

5.2 The Customer shall not represent or cause others to believe that the Content is the Customer's original works, or that the Service Provider endorses or is affiliated with any entity, product or service. The Customer expressly agrees to display the Service Provider's (and relevant licensors', if any) copyright and proprietary notice(s) with all of the Content, or any portion(s) thereof, that the Customer uses.

5.3 If the Customer copies, modifies, and uses Content (excluding Third Party Content) either alone or in combination with User Content in accordance with clause 5.1.4, and in doing so creates Derivative Works, then the Customer may only use such Derivative Works within the Service or Lt LabStation Application, or within any other service or application provided by the Service Provider from time-to-time.

5.4 The Customer:

5.4.1 acknowledges that content which it may wish to use in combination with the Content or User Content may include content in which Intellectual Property Rights owned by third parties may subsist; and

5.4.2 shall obtain any licences for the benefit of the Service Provider and itself required in order to use such third party content from the respective third party owner(s). The Service Provider disclaims all liability for Customer's infringement or other violation of third party rights in third party content.

5.5 Any User Content may be subject to the Service Provider's review. While the Service Provider reserves the right to review, monitor, remove or delete User Content, the Service Provider is under no obligation to do so.

5.6 Without limiting its rights, the Service Provider reserves the right at its sole and absolute discretion to restrict access to the Service, refuse to display User Content on the Service, remove User Content from the Service or refuse to use any User Content if the Service Provider considers it necessary or appropriate, including if the Service Provider receives a complaint alleging Intellectual Property Rights infringement or if the User Content is deemed by the Service Provider to be objectionable, to potentially infringe any third party rights or to be contrary to applicable Laws or otherwise unsuitable for use in the Service.

5.7 If in the Service Provider's sole judgment any User Content is in violation of applicable Laws such User Content may be reported by the Service Provider to law enforcement authorities.

5.8 Notwithstanding clause 5.1.4, the Customer may copy, modify, and use Third Party Content, either alone or in combination with User Content, for the Customer's internal educational, or educational research purposes, only where the Service Provider has obtained relevant permission from the owner of such Third Party Content and the Service Provider has confirmed to the Customer in writing that such permission has been obtained.

5.9 The Customer acknowledges that:

5.9.1 on the basis that the Service Provider is not processing any Personal Data on behalf of the Customer (other than the Administrator Contact Data), the application of the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. section 1232g; 34 CFR Part 99) ("**FERPA**") is not relevant nor appropriate to the Service Provider in its performance of its obligations under this Agreement; and

5.9.2 the Service Provider is not a "**covered entity**" or a "**business associate**" as such terms are defined under the Health Insurance Portability and Accountability Act of 1996, the Health Information Technology for Economic and Clinical Health Act ("**HITECH**") and the regulations promulgated under those Acts ("**HIPAA**");

5.9.3 the Services are not designed with security and access management for processing "**protected health information**" as defined under HIPAA;

5.9.4 the Service Provider is not required by law or by the provision of Services to keep protected health information confidential. The Customer shall not, and shall not permit any User or any other person to, provide any protected health information to, or process such protected health information through, the Services. The Customer is solely responsible for reviewing all Data and User

Content and shall ensure that no Data or User Content constitutes or contains any protected health information. The Service Provider is not responsible or liable for any damage or loss related to the improper use or disclosure of any protected health information.

6. CUSTOMER'S OBLIGATIONS

The Customer shall:

6.1 ensure the Administrators and the Users comply with this Agreement;

6.2 provide the Service Provider with:

6.2.1 all necessary co-operation in relation to this Agreement; and

6.2.2 all necessary access to such information as may be required by the Service Provider,

in order to provide the Lt LabStation Solution;

6.3 comply with all applicable Laws (including applicable technology control or export laws and regulations) with respect to its activities under this Agreement including those of applicable accreditors of the Customer or its affiliates, and to assist the Service Provider in all good faith in its compliance obligations;

6.4 ensure that its network and systems comply with the relevant specifications provided by the Service Provider from time to time;

6.5 procure that if a User knows or discovers the identity of a person or patient depicted in the Content or User Content, they will not disclose this information to a third party;

6.6 procure that Administrators and Users treat Content and User Content in accordance with the relevant Laws for the ethical management of patients and health information; and

6.7 provide security to detect and/or prevent unauthorised access, disclosure or use of any Personal Data.

7. INVOICING AND PAYMENT

7.1 The Service Provider or authorised Billing Agent will issue an invoice for the Fees in advance. The Customer shall pay the Fees without set-off or deduction within the number of days specified on the Quotation or Tender Document ("**Due Date**").

7.2 All amounts and fees stated or referred to in this Agreement:

7.2.1 shall be payable in the currency specified in the Quotation or Tender Document;

7.2.2 are non-cancellable and non-refundable; and

7.2.3 are exclusive of any taxes, which shall be added to the Service Provider's or authorised Billing Agent's invoice(s) at the appropriate rate.

7.3 If the Service Provider or authorised Billing Agent has not received payment within 14 days after the Due Date, and without limit to any other rights and remedies of the Service Provider:

7.3.1 the Service Provider may, without liability to the Customer:

(a) disable the Customer's access to all or part of the Service or Content and the Service Provider shall be under no obligation to provide any or all of Service or Content while the invoice(s) concerned remain unpaid; and

(b) terminate the right for Users to be able to Use the Lt LabStation Application while the invoice(s) concerned remain unpaid.

7.3.2 the Service Provider or authorised Billing Agent may charge the Customer interest on the overdue amount (payable by the Customer immediately on demand) at the rate of 1.5 per cent per month, or the maximum rate permitted by relevant Laws, whichever is lower. Such interest shall accrue on a daily basis from the Due Date until the date of actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.

8. INTELLECTUAL PROPERTY RIGHTS

8.1 The Customer acknowledges that all Intellectual Property Rights in the Lt LabStation Solution and Derivative Works anywhere in the world belong to the Service Provider or its relevant licensors, that rights in the Lt LabStation Solution and Derivative Works are licensed (not sold) to the Customer, and that the Customer has no rights in, or to, the Lt LabStation Solution and Derivative Works other than the right to use each of them in accordance with the terms of this Agreement. This Agreement does not grant the Users any rights to, or in, any Intellectual Property Rights in respect of the Lt LabStation Solution and Derivative Works.

8.2 The Customer acknowledges that the Customer has no right to have access to the Service or Lt LabStation Application in source-code form.

8.3 The integrity of the Lt LabStation Solution may be protected by digital rights management ("**DRM**") so that the Intellectual Property Rights, including copyright, in the Lt LabStation Solution are not misappropriated. The Customer must not attempt in any way to remove or circumvent any such DRM, nor to apply, manufacture for sale, hire, import, distribute, sell, nor let, offer, advertise or expose for sale or hire, nor have in its possession for private or commercial purposes, any means whose sole intended purpose is to facilitate the unauthorised removal or circumvention of such DRM.

8.4 Notwithstanding clause 8.1, the Service Provider does not acquire any Intellectual Property Rights in respect of User Content and accordingly the Customer grants (and procures that its Administrators grant) the Service Provider a non-exclusive, perpetual, fully-paid-up and royalty-free licence to use, host, store, copy and modify the User Content for the benefit of the Lt LabStation Solution.

9. INDEMNITY PROVIDED BY CUSTOMER

9.1 The Customer shall defend, indemnify and hold harmless the Service Provider against all Losses arising out of or in connection with the Customer's use of the Lt LabStation Solution and User Content.

9.2 In relation to any claim which gives rise or may give rise to any Loss in respect of which the Customer shall indemnify the Service Provider under clause 9.1:

9.2.1 the Service Provider shall give the Customer prompt notice of any such claim;

9.2.2 the Service Provider shall provide reasonable co-operation to the Customer in the defence and settlement of such claim, at the Customer's expense; and

9.2.3 the Customer shall be given sole authority to defend or settle the claim.

10. INTELLECTUAL PROPERTY RIGHTS INDEMNITY PROVIDED BY SERVICE PROVIDER

10.1 Subject to clauses 10.2 and 10.3, the Service Provider will defend any claim against the Customer and pay the damages and costs finally awarded against the Customer by a court of competent jurisdiction to the extent that the Lt LabStation Solution possessed or used in accordance with this Agreement is held to infringe any Intellectual Property Rights of any third party in the Territory.

10.2 The Customer shall:

10.2.1 without delay (but in no case later than 10 days from the date the Customer became aware of such claim) provide written notification to the Service Provider of the claim;

10.2.2 allow the Service Provider to conduct the defence to the action or claim and all negotiations for settlement relating to the action or claim;

10.2.3 not make any admission or take any other action which may be prejudicial to the defence of the action or claim or which may adversely affect the Service Provider's ability to negotiate a satisfactory settlement to the action or claim; and

10.2.4 at the request and expense of the Service Provider, provide all reasonable assistance in defending the action or claim.

10.3 The Service Provider will not be liable to the Customer if an infringement claim is based on:

10.3.1 use of the Lt LabStation Solution in combination with components of any third-party IT environment or any Customer systems;

10.3.2 modification of the Lt LabStation Solution by anyone other than the Service Provider;

10.3.3 use of the Lt LabStation Solution where a non-infringing version or release of the Lt LabStation Solution was offered by the Service Provider which would have avoided the claim of infringement;

10.3.4 aspects of the Lt LabStation Solution which were based on information, direction or specifications provided by the Customer; or

10.3.5 use of the Lt LabStation Solution by the Customer, the Administrators or Users in breach of any terms of this Agreement.

11. CONFIDENTIALITY

11.1 The Customer and the Service Provider each agree to keep confidential and not to disclose to any third party (other than to the Permitted Recipients, under equivalent obligations of confidentiality) any information relating to the other's past, present and future research, development, business activities, products, services and technical knowledge, disclosed in connection with the Lt LabStation Solution and which is identified by the disclosing party as confidential information or which a reasonable person would deem to be confidential under the circumstances ("**Confidential Information**").

11.2 The Customer and the Service Provider each agrees:

11.2.1 not to make use of any Confidential Information of the other party for any purpose other than:

(a) using the Lt LabStation Solution in accordance with this Agreement; or

(b) as required by relevant Laws;

11.2.2 not to copy or reproduce any Confidential Information without the disclosing party's prior written consent except as reasonably needed to perform its obligations under this Agreement. The receiving party agrees to protect the Confidential Information of the disclosing party in the same manner that it protects its own similar Confidential Information, but in no event using less than a reasonable standard of care.

11.3 The obligations of confidentiality and non-use set out in this clause 11 shall not apply to any Confidential Information where the receiving party can demonstrate that the Confidential Information concerned:

11.3.1 is or becomes publicly known through no breach of this clause 11;

11.3.2 is lawfully received from an independent third party which was not, to the receiving party's knowledge, under an obligation not to disclose such information;

11.3.3 is already known to the receiving party with no obligation of confidentiality at the date it was disclosed by or obtained from the disclosing party;

11.3.4 is disclosed without restriction by the disclosing party to any third party; or

11.3.5 is independently developed by or for it without use of the Confidential Information.

12. TERM AND TERMINATION

12.1 This Agreement commences on the Effective Date and continues until it has been terminated or expires as provided in this clause 12.

12.2 Except as otherwise specified in the Quotation(s) or Tender Document(s), this Agreement will automatically expire at the end of the applicable Term. Notwithstanding expiry of this Agreement, the licence for Users and Administrators to use the version of the Lt LabStation Application, Content and Documentation that was in their possession at the time of expiration (in accordance with this Agreement) shall survive (unless the Service Provider has made the Lt LabStation Solution available to you or the Customer on a Trial, in which case clause 3.7 shall apply). The Customer acknowledges that following such expiry the Customer will no longer receive updates or Support for the Lt LabStation Application, Content and/or Documentation.

12.3 Notwithstanding any other provision of this Agreement, and without limiting any other rights that the parties may have, either party may immediately terminate this Agreement by written notice to the other if:

12.3.1 the other party commits a material breach of its obligations under this Agreement and fails to remedy such breach (if capable of remedy) within 14 days of having received written notice of breach; or

12.3.2 the other party enters into administration (whether out of court or otherwise), receivership, liquidation, a formal arrangement with its creditors or any analogous proceedings or procedure, or is otherwise insolvent or ceases or threatens to cease to trade.

12.4 On termination of this Agreement for any reason:

12.4.1 all licences granted under this Agreement shall immediately terminate (unless this Agreement has expired in accordance with clause 12.2 in which case the licence for Users and Administrators to use the Lt LabStation Application, Content and Documentation (in accordance with this Agreement) shall survive);

12.4.2 each party shall return and make no further use of any equipment, property, and other items (and all copies of them) belonging to the other party; and

12.4.3 the accrued rights of the parties as at termination, or the continuation after termination of any provision expressly stated to survive or implicitly surviving termination, shall not be affected or prejudiced.

13. LIMITATION OF LIABILITY

13.1 The Customer acknowledges that the Lt LabStation Solution and Services are all provided "**as is**". The Service Provider does not warrant that the Customer's use of the Service and Lt LabStation Application will be uninterrupted or error-free, nor that the Service and Lt LabStation Application and/or information obtained by the Service and Lt LabStation Application will meet the Customer's specific requirements.

13.2 Unless as agreed otherwise by the parties and bespoke Content has been developed for the Customer by the Service Provider, the Customer acknowledges that the Service, Lt LabStation Application and Content have not been developed to meet its individual requirements, and that it is therefore its responsibility to ensure that the facilities and functions of the

Service, Lt LabStation Application and Content as described in the Documentation meet its requirements.

13.3 The Customer acknowledges that the Service, Lt LabStation Application and Content may not be entirely free of bugs and agrees that the existence of minor errors will not constitute a breach of this Agreement.

13.4 The Service Provider shall not under any circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with this Agreement for:

13.4.1 loss of profits, sales, business, or revenue;

13.4.2 business interruption;

13.4.3 loss of anticipated savings;

13.4.4 loss or corruption of data or information;

13.4.5 loss of business opportunity, goodwill or reputation; or

13.4.6 any incidental, indirect or consequential, special or punitive loss or damage.

13.5 The Service Provider will not be responsible for any internet access or charges by any internet service provider or carriers with respect to use of the Lt LabStation Application or Service on the Computer.

13.6 Other than the losses set out in clause 13.4 (for which the Service Provider is not liable), the Service Provider's maximum aggregate liability under or in connection with this Agreement whether in contract, tort (including negligence) or otherwise, shall in all circumstances be limited to one thousand Australian dollars (ADU 1,000).

13.7 Nothing in this Agreement shall limit or exclude the Service Provider's liability for any liability that cannot be excluded or limited by Law.

13.8 This Agreement sets out the full extent of the Service Provider's obligations and liabilities in respect of the supply of the Lt LabStation Solution. Except as expressly stated in this Agreement, there are no clauses, conditions, warranties, representations or other terms, express or implied, that are binding on the Service Provider. Any clause, condition, warranty, representation or other term concerning the supply of the Lt LabStation Solution which might otherwise be implied into, or incorporated in, this Agreement whether by statute, common law or otherwise, is excluded to the fullest extent permitted by Law.

13.9 The Customer acknowledges that Lt LabStation Solution is used only as a reference tool, similar to the use of a textbook or a journal article and that Lt LabStation, Service, Documentation and Content are not to be used as a substitute for appropriate physician or nurse practitioner diagnostic decision making. The responsibility for decisions regarding actual patient care rests solely with the physician or nurse practitioner treating a patient.

14. ASSIGNMENT

14.1 Neither party may assign or otherwise transfer any benefit or obligation arising under this Agreement without the prior written consent of the other party.

14.2 Notwithstanding clause 14.1, the Service Provider may assign or transfer this Agreement or any or all of its rights and/or obligations under it to any company in its Group.

15. FORCE MAJEURE

The Service Provider shall have no liability to the Customer under this Agreement if it is prevented from or delayed in performing its obligations under this Agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including strikes, lock-outs or other industrial disputes (whether involving the workforce of the Service Provider or any other party), failure of a utility service or transport, failures or fluctuations in electrical power or telecommunications service, telecommunications network or other equipment, expropriation, condemnation of facilities or destruction, in whole or part, of the equipment or property necessary to perform the Services, internet service provider failure or delay, act of God, war, riot, civil commotion, malicious damage, compliance with any Laws or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of service providers or sub-contractors.

16. NOTICES

16.1 Any notice given under or in relation to this Agreement will be in writing and signed by or on behalf of the party giving it and may be served by:

16.1.1 delivering it personally or by sending it by post or tracked delivery;

16.1.2 email or facsimile transmission,

to the address and for the attention of the relevant party as set out in the most recent Quotation or Tender Document. A party may change its address by giving at least 7 days written notice to the other party.

16.2 Any such notice will be deemed to have been received:

16.2.1 if delivered personally, at the time of delivery;

16.2.2 in the case of post or tracked delivery, 72 hours from the date of posting;

16.2.3 in the case of facsimile 24 hours after the time of transmission provided an error-free transmission has been received by the sender; and

16.2.4 in the case of email at the time the email enters the information system of the intended recipient provided that no error message indicating failure to deliver has been received by the sender.

17. PUBLICITY

All advertising, press releases, public announcements and public disclosures by either party relating to this Agreement which includes:

17.1 the other party's name, trade names, trademarks, logos, service marks or trade dress (collectively, "**Name**"); or

17.2 language from which the connection of such Name may be inferred or implied, will be co-ordinated with and subject to approval by both parties prior to release, such approval not to be unreasonably withheld, provided, however, that:

17.2.1 either party may indicate to third parties that the Service Provider is providing services to the Customer; and

17.2.2 the Service Provider may use the Customer as a reference.

18. DISPUTE RESOLUTION PROCEDURE

18.1 If any dispute arises in connection with this Agreement, a representative of each party with authority to settle the dispute will, within 14 days of a written request from one party to the other, meet (either physically or remotely) in good faith in an effort to resolve the dispute. If the dispute is not resolved at that meeting, either party may commence legal proceedings.

18.2 Nothing in this clause 18 shall prevent either party from seeking urgent injunctive relief.

19. GENERAL

19.1 This Agreement shall not prevent the Service Provider from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under this Agreement.

19.2 A person who is not a party to this Agreement (a "**third party**") shall have no rights to enforce any term of this Agreement.

19.3 No delay by either party in enforcing its rights will limit or restrict the rights of that party and no waiver of any such rights or of

any breach of any contractual terms will be deemed to be a waiver of any other right or of any later breach.

19.4 If any provision of this Agreement (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions will remain unaffected and in force.

19.5 This Agreement contains the whole agreement between the parties in respect of its subject matter and supersedes any prior written or oral agreement between them, and the parties confirm that they have not entered into this Agreement on the basis of any representations that are not expressly incorporated in this Agreement. Nothing in this Agreement will operate to limit or exclude any liability for fraud.

19.6 Nothing in this Agreement will be construed as constituting or evidencing any partnership, contract of employment or joint venture of any kind between either of the parties or as authorising either party to act as agent for the other. Neither party will have authority to make representations for, act in the name or on behalf of or otherwise to bind the other party in any way.

19.7 Except as expressly provided, no terms and conditions, standard or otherwise, contained on any invoice, order form, licence or other document of the Customer shall apply to the subject matter unless incorporated as a variation agreed in writing between the parties.

20. ARBITRATION

20.1 Any dispute arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration under the London Court of International Arbitration ("LCIA") Rules, which Rules are deemed to be incorporated by reference into this clause.

20.2 The language to be used in the mediation and in the arbitration shall be English.

The governing law of the contract shall be the substantive law of England and Wales.

20.3 In any arbitration commenced pursuant to this clause:

20.4 the number of arbitrators shall be one; and

20.5 the seat, or legal place, of arbitration shall be London, United Kingdom.

21. DATA PROCESSING AND PERSONAL DATA

21.1 The Customer acknowledges and agree that the Service Provider will not be granted access to Personal Data of the Customer (other than Administrator Contact Data) as part of this Agreement. If the Service Provider discovers it has received or been granted access to Personal Data of the Customer (other than Administrator Contact Data), the Service Provider will destroy the Personal Data of the Customer or return it to Customer, as feasible.

21.2 The parties acknowledge that clause 21.1 shall not apply with respect to any Administrator Contact Data, and instead, the Customer consents to the processing of Administrator Contact Data by the Service Provider consistent with applicable Data Protection Laws and the Service Provider's internal policies governing the treatment of Administrator Contact Data. Unless otherwise prohibited by applicable Data Protection Law, the Service Provider may process Administrator Contact Data and transfer it to any company in its Group in any country in which the Service Provider does business.

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