

# SERVICE AGREEMENT

## 1. PARTIES

- 1.1 Trients AB (hereinafter the “**Supplier**”)  
 Company registration no. 559139-9539  
 Slädvägen 11  
 903 39 Umeå  
 E-mail: henrik.domellof@trients.se
- 1.2 Nemocnice České Budějovice, a.s. (hereinafter referred to as the “**Customer**”)  
 Company registration no. 26068877  
 B. Němcové 585/54  
 370 01 České Budějovice  
 Czech Republic  
 Company registered in the Commercial Register administered by the Regional Court in  
 České Budějovice under file number: B 1349  
 E-mail: sekretariat@nemcb.cz

## 2. DEFINITIONS

- 2.1 In this Agreement, the following terms shall have the meanings ascribed to them below. Terms stated in the singular shall have the same meaning in the plural and vice versa.

<b>Additional Services</b>	Such additional services described in <u>Appendix 4</u> . Which Additional Services that the Customer has ordered follows from Section 6.
<b>Aggregated Data</b>	Collapsed or combined data, e.g. averages or other statistics. No Individual data is included. For the sake of clarity, it is noted that Aggregated Data shall not contain (i) information relating to individuals or (ii) such information as is covered by Section 21 (Secrecy).
<b>Agreement</b>	The content of this service agreement and any appendices and amendments and supplements to this agreement implemented in accordance with the provisions of this service agreement.
<b>Another Customer</b>	Means another customer who, by means of an agreement with the Supplier, uses the Service in a comparable manner as the Customer.
<b>Compensation</b>	Compensation which the Customer pays to the Supplier for the use of the Service in accordance with Section 6 and any other work performed by the Supplier which is ordered by the Customer pursuant to this Agreement.
<b>Confidential Information</b>	Includes: (a) all information – technical, commercial, personal or of

	<p>another type irrespective of whether such information is in writing (whether or not marked as confidential) or oral which a Party has obtained from the other Party or which is otherwise disclosed in conjunction with the performance by a Party of its undertakings pursuant to the Agreement; and</p> <p>(b) the contents of this Agreement;</p> <p>with the exception of:</p> <p>(i) information which is in the public domain or which enters the public domain in a manner other than as a consequence of a breach by a Party of the contents of this Agreement;</p> <p>(ii) information which a Party can demonstrate was already known to such Party when it was received from the other Party;</p> <p>(iii) information which a Party has received or will receive from a third party without such third party being bound by a duty of confidentiality in relation thereto; and</p> <p>(iv) information which a Party is obligated to disclose under applicable law.</p> <p>Cases referred to in Section (iii) above, however, shall not entitle a Party to disclose to third parties the fact that such information was also received from the other Party pursuant to this Agreement.</p>
<b>Customisations</b>	Changes to, and development of, the Software, including development of Software ordered by the Customer and provided by the Supplier.
<b>Customer Data</b>	Data created as a consequence of the Customer's use of the Service and/or by a User's use of the Service, including Patient Data.
<b>Customer Support</b>	Support given by the Supplier to the Customer on how to use the software and how to fix possible problems in operation of the software.
<b>Data Protection Regulation</b>	Regulation (EU) 2016/679 of the European Parliament and of the European Council of 27 April 2016.
<b>Department</b>	The Customer's department stated in <a href="#">Appendix 3</a> .
<b>Effective Delivery Date</b>	The day which occurs ten (10) working days after the Service has been made available to the Customer.
<b>Equipment</b>	Equipment necessary in order to obtain access to the Service, for example, but not limited to, data and other communications equipment, software and Internet service agreements. Technical specifications, stated in <a href="#">Appendix 5</a> , covers application requirements.
<b>Force Majeure Event</b>	Circumstances beyond a Party's control such as, for example, but not limited to, accidents, explosions, armed conflicts or similar situations, riots, fires, lightning strikes, floods, leakage, electrical outages, labour conflicts, acts or omissions by governmental authorities, and new or amended legislation. This also covers situations in which

	sub-contractors or third parties with whom the Supplier cooperates, if located in Sweden, are prevented from providing the Service due to such circumstance referred to herein.
<b>Holiday</b>	Saturdays and Sundays and public holidays in Sweden which are determined annually by the Swedish Parliament. Holidays are listed at: <a href="https://publicholidays.se">https://publicholidays.se</a> .
<b>Local Administrator</b>	A User at the Customer who administers the Customer's user accounts and who provides first-line user support.
<b>Office Hours</b>	Monday – Friday on days which are not Holidays, between 8.00 am and 5.00 pm (CET).
<b>Open Account</b>	Billing of tasks performed per worked hour in accordance with agreed hourly rates. In the event the Parties have not entered into an agreement in respect of hourly rates, the rate used shall be the hourly rate set forth in the price list applied by the Supplier from time to time. The Supplier shall charge worked hours per commenced quarter hour (15-minute periods).
<b>Parties</b>	The Supplier and the Customer jointly.
<b>Party</b>	The Supplier or the Customer.
<b>Patient Data</b>	Data related to the Customer's patients which contains personal data which the Customer or its User has transferred to the Supplier by means of the use of the Service.
<b>Personal Data</b>	Such personal data as is set forth in Section 19.2.
<b>Data Processing Agreement</b>	The data processing agreement entered into between the Parties and which is appended to this Agreement (see <a href="#">Appendix 1</a> ).
<b>Planned Maintenance</b>	Measures such as, but not limited to, planned maintenance, service and updates of the Software if notified in advance to the Customer.
<b>SaaS</b>	(Software as a Service). The provision of the Software as a service.
<b>Service</b>	The Software delivered by the Supplier as SaaS to the Customer in accordance with the terms and conditions of this Agreement and any Customer Adaptations made to the Software in accordance with a separate agreement between the Parties. For a description of the functions of the Software, see <a href="#">Appendix 2</a> .
<b>Software</b>	The Nutrium System
<b>Supplemental Information</b>	Information which is entered into the Services concerning, for example, but not limited to, contents lists of nutritional products, nutritional references and growth references.
<b>Czech Act on Healthcare Services</b>	The Czech Act on Healthcare Services no. 372/2011 Coll., as amended.
<b>Technical Support</b>	Support given by the Supplier to the Customer relating to problem solving when the Software is not working as intended or that is in any other way technically demanding.
<b>Term of Agreement</b>	The period of time from the date this Agreement is signed by authorised representatives of the Parties and enters into

	force until such time as the Agreement is terminated or otherwise ceases to apply.
<b>The Czech Personal Data Processing Act</b>	The Czech Act on Personal Data Processing no. 110/2019 Coll., as amended
<b>Third-Party Software</b>	Third-party software which is necessary for the use of the Service such as, for example, but not limited to, Windows and Java.
<b>Updates</b>	Updates to the Software which do not constitute a new Version.
<b>User</b>	An employee of the Customer that works at the Department and who, by means of this Agreement, have been granted access to the Service.
<b>Version</b>	Versions which contain functional improvements and additional applications which are indicated by means of a change to the left of the point in the version number, e.g. 1.0 to 2.0.

### 3. BACKGROUND AND AGREEMENT

3.1 By signing this Agreement, the Parties have reached an agreement regarding the provision by the Supplier of the Service to the Customer and the Customer's use of the Service. The detailed provisions of this Agreement are set forth in this service agreement and appendices thereto.

3.2 The Agreement between the Parties consists of:

- (a) This service agreement;
- (b) Appendix 1 – Data Processing Agreement;
- (c) Appendix 2 – Description of the Software;
- (d) Appendix 3 – Customer Information; and
- (e) Appendix 4 – Additional Services

The appendices shall constitute an integral part of the Agreement. In the event of a conflict between the documents listed under Sections (a) – (e) above, they shall have precedence in the order in which they are set forth above.

### 4. THE SERVICE

4.1 The Supplier undertakes to make the Service available to the Customer and its Users in accordance with the terms and conditions of this Agreement. In addition to the Service, the Supplier offers the following Additional Services which may be ordered by the Customer:

- (a) Training in the use of the Software;
- (b) Customer Adaptations; and
- (c) Additional Support.

## 5. USE OF THE SERVICE

- 5.1 The Supplier hereby grants the Customer – in exchange for Compensation and conditional upon full compliance with the terms and conditions of this Agreement – a non-exclusive, non-transferable, limited right during the Term of Agreement to use the Service for the Customer and Users' internal use to the extent set forth in the Agreement.
- 5.2 The Service entitles the Customer, during the Term of Agreement, to allow an unlimited number of Users in the respective Department to simultaneously use the Service. The password for the Local Administration shall be delivered to the Customer by the Supplier in conjunction with the Service being made available to the Customer. A Local Administrator shall have rights to the Service which grant the Local Administrator the possibility to create and change passwords for Users in accordance with the terms and conditions of this Agreement.
- 5.3 The Customer shall be granted no rights other than as are expressly set forth in Sections 5.1 and 5.2, or that arise from applicable law. For the avoidance of doubt, it is noted that the Customer is not entitled to assign, transfer or sub-license its rights pursuant to the Agreement to any third party.

## 6. COMPENSATION AND PAYMENT TERMS

- 6.1 For the use of the Service, the Supplier shall be entitled to charge Compensation in accordance with the provisions of this Section 6. The Customer undertakes to pay the Supplier Compensation in accordance with these payment terms and conditions.
- 6.2 Compensation for making the Service available to all connected Departments and the Additional Services agreed upon by the Parties shall be comprised of the following:

(a) Cost for the Service:	EUR 12,000/year excluding VAT
Discount received:	EUR 4,200/year (35%)
(b) Additional Services:	
Training	-
Additional Support	-
Customer Adaptations	-
Total:	EUR 7,800/year excluding VAT

Unless otherwise provided by the Agreement, Supplier shall be entitled, for the performance of work which is not included in the Agreement, but which is separately ordered by the Customer and delivered by the Supplier, to additional compensation on an Open Account at the following hourly rate: EUR [135] per hour.

- 6.3 Unless otherwise agreed between the Parties, Compensation shall be invoiced on an annual basis in advance. Fees which are one-off in nature and compensation for work

performed on an Open Account shall be invoiced in arrears. The Customer undertakes to make payment in accordance with invoices in the manner set forth in this Section 6.

- 6.4 Payment shall be made in Euro and shall be deposited on the bank account set forth in the respective invoice. Payment must be received by the Supplier not later than the due date set forth in the respective invoice. The due date shall be, unless otherwise agreed between the Parties, not later than thirty (30) days following the issuance date of the invoice. In conjunction with the failure to make payment, penalty interest at a rate of ten (10) per cent per year shall be charged until such time as full payment is made.
- 6.5 For the avoidance of doubt, it is noted that all prices and fees set forth in this Agreement are exclusive of value added tax.
- 6.6 In the event the Customer is of the opinion that an invoice is incorrect, the Customer shall notify the same to the Supplier within fourteen (14) days of the receipt of the incorrect invoice. In the event such notice is received by the Supplier within the prescribed time, the Customer shall not be obligated to pay the invoice until the dispute between the Parties regarding the invoice is resolved.
- 6.7 The Supplier shall be entitled, once per calendar year, to implement a price adjustment and change the Compensation in the event the Supplier's cost for performing its obligations pursuant to the Agreement change as a consequence of inflation, amendments to laws or other legislation, decisions by governmental authorities, changes in taxes or public fees, exchange rate differences, changes in fees paid to subcontractors or other circumstances as a consequence of which the Supplier's costs for meeting its obligations pursuant to the Agreement increase. The price adjustment for the respective calendar year shall not exceed the inflation rate as it is regularly published by the Eurostat for the euro area and previous calendar year.
- 6.8 If the price adjustment pursuant to Section 6.7 exceeds three (3) percent, the following shall apply: Notices regarding price changes shall enter into force thirty (30) days after the notice was received by the Customer. The Customer shall be entitled, not later than fourteen (14) days prior to the entry into force of the price change, to terminate the Agreement effective on the day the change enters into force. In the event the Customer does not terminate the Agreement within fourteen (14) days prior to the entry into force of the change, the Customer shall be deemed to have accepted the price change.
- 6.9 Invoices shall be issued by the Supplier in electronic form only (other than PDF format is not allowed) and sent no later than the following working day after the issuance date to the following Customer's email address: [fakturace@nemcb.cz](mailto:fakturace@nemcb.cz).

## **7. THE CUSTOMER'S OBLIGATIONS**

- 7.1 The Customer undertakes to, and undertakes to ensure that the Users,
- (a) in conjunction with the use of the Service, comply (i) with the provisions of this Agreement, (ii) applicable local laws, ordinances and decisions by governmental

- authorities which pertain to the Customer's operations, and (iii) the instructions for use of the Service provided by the Supplier in written form from time to time;
- (b) put in place and maintain such reasonable measures which should prevent any material is transferred to the Service which may contain a virus, Trojan, or any other code (so-called malware) which may damage, disable, overload or impair the Service or intrude on Another Customer's use of the Service;
  - (c) not take measures of which the purpose is to circumvent the Supplier's security system e.g. by using Another Customer's username and/or password or disclosing usernames and/or passwords to another party – or attempt to test the security of the Service without obtaining the Supplier's prior written consent therefor;
  - (d) not decompile (reverse engineer) the Service;
  - (e) not take measures the purpose of which is to afford the Customer unauthorised access to any computer system or network covered by the Service; and
  - (f) not acquire or attempt to acquire material or information which was not intentionally made available or provided via the Service.
- 7.2 Legal measures may be pursued by the Supplier in conjunction with a breach or an attempted breach of one or more of the provisions of Section 7.1.
- 7.3 The Customer shall be responsible for ensuring compliance with all applicable local legislation in which the Customer conducts its operations in conjunction with the use of the Service including, but not limited to, rules regarding data protection and secrecy as well as health care. The Customer shall, without delay, inform the Supplier in respect of changes in such applicable legislation which affect (i) the Parties' rights and/or obligations pursuant to the Agreement or (ii) the Agreement.
- 7.4 Where there is reason to assume that usernames and/or passwords have been misused, the Local Administrator shall immediately notify the same to the Supplier. The aforementioned notice shall contain information regarding the Customer's name, username and password and information regarding the period of time during which the Local Administrator suspected that such username and/or password was misused by unauthorised persons. The Customer shall be liable for all losses incurred by the Supplier as a consequence of the fact that a username or password was learned by an unauthorised person. Such liability shall also apply until such time as the Local Administrator has blocked the relevant user account.
- 7.5 The Service shall be made available by connection to the Internet, and such connection and communication require Equipment. In addition, the use of the Service is conditional upon certain Third-Party Software. The Customer shall be responsible for such Equipment and Third-Party Software and must acquire the same at its own expense. The Customer shall also ensure that the Customer holds the necessary licences for Software included in the Equipment and Third-Party Software. The technical requirements imposed on the Customer's Equipment and Third-Party Software shall be stated by the Supplier in the Agreement. The Supplier shall not be liable for losses incurred by the Customer as a consequence of defects or deficiencies in the latter's Equipment and/or

Third-Party Software. The Customer is aware and acknowledges that Updates to, and/or new Versions of, the Service may entail changes in respect of the technical requirements imposed on the Equipment and Third-Party Software. The aforementioned is to ensure that the Customer is able to use the improvement entailed in an Update and/or new Version. The Supplier shall ensure that the changes in respect of the technical requirements imposed on the Equipment and Third-Party Software will not require unreasonable investments from the Customer.

- 7.6 The Customer shall not be entitled to change, publish, forward, distribute, present or participate in the transfer or sale, creation of secondary works or in some other manner commercialisation (for example, in printed form or on another website or network-connected computer), either in whole or in part, of any of the content of the Service without the Supplier's prior written consent therefor. For the avoidance of doubt, the Parties provide that it is not prohibited under this Section if the Customer will report and/or invoice outcome of the Service and healthcare related hereto regardless its form towards health insurance companies or any institution, administrative or state body.
- 7.7 The Customer shall, within fifteen (15) working days after the Service has been made available to the Customer and the Customer has received notice thereof, test the Service and notify the Supplier in the event the Service in some respect deviates from the description of the Service in this Agreement. In the event the Customer does not provide such notice in accordance with this Section 7.7, the Customer shall be deemed to have accepted the Service.

## **8. SUSPENSIONS AND OUTAGES**

- 8.1 The Supplier shall be entitled at any time and without prior notice to suspend for the necessary time access to the Service in order to protect the Service from unauthorised attack. The suspension of the access to the Service pursuant to this Section has to be properly explained to the Customer without undue delay and may not exceed two (2) hours.
- 8.2 The Supplier shall be entitled to suspend the Service with immediate effect and without prior notice:
- (a) where payment for the Service, if duly invoiced, is not received by the Supplier not later than fourteen (14) days following the due date.
- 8.3 The Customer shall not be released from the duty to pay for the Service during the suspension period pursuant to Section 8.2 (a) above. In the event there are no grounds for terminating the Service (see Section 14 below), the Supplier shall reinstate access to the Service as soon as the Customer is no longer in breach.

## **9. CONTACT PERSONS**

- 9.1 The Customer shall appoint a Local Administrator for each connected Department which is responsible for:



- (a) administering individual log-on information for the Users for strong authentication;
- (b) updating in the Service basic information regarding the Department's structure and routines;
- (c) instructing Users how to use the Service; and
- (d) providing first-line user support, i.e. take questions and fault notices from Users and, where necessary,
  1. first, forward fault notices to the local IT manager and;
  2. second, in case that the fault remains despite proper efforts by the local IT manager or if the fault is suspected to be a result of deficiencies in the Supplier's undertaking in this Agreement, proceed to notice the Supplier.

9.2 Furthermore, the Local Administrator shall ensure

- (a) that the chosen password for the user account is difficult to ascertain by persons other than the User. Accordingly, the password shall not consist of, for example, whole or parts of the Customer or User's name and/or company registration number/personal ID number;
- (b) that the User securely stores any annotations regarding the password;
- (c) that the User does not disclose the password to any unauthorised person; and
- (d) that the User's password is immediately changed in conjunction with any suspicion that an unauthorised person has learned the password.

9.3 Furthermore, the Customer shall appoint a local IT manager and shall provide the Supplier with the local IT manager's contact information in the form of name, telephone number and e-mail address. The local IT manager shall:

- (a) act as the Supplier's contact person in respect of issues involving operation and maintenance of the Service;
- (b) be responsible for technical support in conjunction with faults involving the accessibility to the Service and in respect of which it is suspected that the problem is a result of deficiencies in the Customer's Equipment, e.g. complications with data communications through the Customer's IT network; and
- (c) participate in the resolution of other support matters to the extent reasonably requested by the Supplier.

## **10. ACCESSIBILITY, MAINTENANCE AND UPDATING**

10.1 As a rule, the Service is provided 24 hours a day, seven days a week, 365 days per year and with an uptime guarantee of 98% on a yearly basis. In case the guaranteed uptime is not delivered the Customer shall receive a discount of EUR 22 for every day in which the Service is not available to the Customer and the Supplier is obligated to pay to the Customer a contractual penalty in the amount of EUR 15 for every such day in which the Service is not available to the Customer.

10.2 Provision of the Service may be suspended for Planned Maintenance. The Supplier undertakes to carry out Planned Maintenance during times at which the use of the Service is typically low (i.e. between 8 PM and 7 AM of CET). Planned Maintenance may be carried out only if the Supplier notifies the Customer on the Planned Maintenance no later than three (3) working days prior its commencement. Otherwise, the time period during which the Supplier carries out the Planned Maintenance without prior notification is considered unjustified suspension of the Service and in this case, the provision of Section 10.1 shall apply.

10.3 The Supplier Updates Software regularly and the Supplier provides these Updates without cost to the Customer. For the sake of clarity, it is noted that Updates pursuant to this Section 10.3 do not cover any installations or measures which require physical presence at the Customer.

## **11. FAULTS AND FAULT RECTIFICATION**

11.1 Faults or deficiencies exist where the Service, to a material extent, deviates from the description of the Service (see Appendix 2). Faults and deficiencies shall be rectified by the Supplier following notice of complaint from the Customer which shall contain a detailed account of the manner in which the fault or deficiency manifests.

11.2 The Supplier shall not be liable for faults which are due to:

- (a) Customer's usage in contravention of the Supplier's instructions or documentation for the Software which has been made available to the Customer in writing and in good time prior the day on which the instruction or documentation comes into force;
- (b) modifications implemented by the Customer (or a person for whom the Customer is responsible);
- (c) the Customer's Equipment or Third-Party Software not fulfilling the Supplier's specifications for compatibility with the Service which has been made available to the Customer in writing and in good time prior the day on which the specification shall apply;
- (d) supporting documentation and/or information provided by the Customer; or
- (e) Force Majeure Events.

11.3 Since the Service is web-based, the Customer is aware and acknowledges that temporary outages and delays due to disruptions in data communications via the Customer's network and/or external networks do not constitute faults or outages in the Service. The Supplier has no duty to remedy faults or outages beyond the Supplier's control which the Supplier could not reasonably be expected to have anticipated and the consequences of which the Supplier could not reasonably avoid or overcome such as, for example (but not limited to), faults, deficiencies or outages in the Customer's hardware, software or Internet connection. Furthermore, the Supplier shall have no liability to remedy faults or outages where such is prevented due to Force Majeure Events.

- 11.4 In the event of a fault or deficiency for which the Supplier is liable, the following shall apply. Faults or outages in the Service for which the Supplier is liable pursuant to the Agreement shall be rectified without cost to the Customer. The Supplier undertakes to commence fault rectification within eight (8) hours after the fault notice has been received by the Supplier or the fault notice has been received during Office Hours. In the event the fault notice was received by the Supplier outside Office Hours, the Supplier undertakes to commence fault rectification within eight (8) hours of the next Office Hours. Commenced fault rectification means in this Agreement that personnel from the Supplier actively work on rectifying a fault. The Supplier undertakes to rectify faults within two (2) working days after the fault notice has been received by the Supplier. If the Supplier fails to rectify a fault within the agreed time, the Supplier is obligated to pay to the Customer a contractual penalty in the amount of EUR 15 for every day of default. After next three (3) working days of default by the Supplier, the contractual penalty as per previous sentence shall increase to EUR 20 for every next day of default by the Supplier. The time period during which the Supplier is in default pursuant to this Section is considered unjustified suspension of the Service and in this case, the Customer shall receive, besides the contractual penalty, a discount of EUR 22 for every day of default by the Supplier.
- 11.5 The Supplier shall strive to quickly rectify faults for which the Supplier is liable in accordance with the Agreement, and the Supplier intends to continuously inform the Local Administrator regarding measures taken during fault rectification.
- 11.6 The Customer shall not be liable for faults which are due to
- (a) supporting documentation and/or information provided by the Supplier; or
  - (b) Force Majeure Events.

## **12. SUPPORT AND TRAINING**

- 12.1 The Supplier undertakes during the Term of Agreement to provide to a reasonable extent free Customer Support in respect of the Service to the Customer's Local Administrator. "Reasonable extent" means Customer Support up to twenty (20) hours per year. Customer Support matters shall be reported via e-mail [henrik.domellof@trients.se] and/or telephone [+46 761182623]. The Supplier shall provide Customer Support during Office Hours.
- 12.2 Any other support and training (e.g. user courses) which may be provided by the Supplier are not covered by this Agreement but shall be agreed upon in writing and charged to the Customer separately.

## **13. TERM OF AGREEMENT AND TERMINATION**

- 13.1 The Agreement shall apply for a period of one (1) year following the Effective Delivery Date. In the event the Agreement is not terminated by either of the Parties not later than

three (3) months prior to the expiry of the Term of Agreement, the Agreement shall be extended by consecutive periods of twelve (12) months. In order to be valid, notice of termination must be given in writing and be sent by the other Party not later than three (3) months prior to the expiry of the respective Term of Agreement.

#### **14. PREMATURE TERMINATION**

- 14.1 In addition to the provisions thereon in other parts of the Agreement, either Party shall be entitled to terminate the Agreement effective upon expiration of one month notice period:
- (a) where the other Party materially breaches this Agreement and fails to remedy such breach within fourteen (14) days following the receipt of a written notice of such breach. For the avoidance of doubt, it is noted that a breach of the provisions in Section 7.1 (c), (d), (e) or (f) or in Section 11.4 shall at all times constitute a material breach of this Agreement; or
  - (b) where the other Party (i) suspends payments for more than thirty (30) days, (ii) adopts a resolution to, or is placed into, liquidation, (iii) applies for, or is placed into, corporate reorganisation or insolvent liquidation.
- 14.2 In addition, the Supplier shall be entitled to terminate the Agreement with immediate effect where payment, if duly invoiced in accordance with the Agreement, is delayed and such payment is not received by the Supplier within fourteen (14) days after the Supplier has submitted a written demand for payment.
- 14.3 The Customer shall be entitled to terminate the Agreement with immediate effect in the event accessibility to the Service materially deviates from the Agreement, and such deviation is not due to circumstances referred to in Sections 11.2 or 11.3, or if the Service and/or the Software do not materially comply with its description as provided for in Appendix 2.
- 14.4 Notice of termination must be given in writing and without unreasonable delay after the circumstance invoked has become known to the affected Party or such Party should have become aware of the same.
- 14.5 Irrespective of whether the Agreement is terminated, a Party shall be compensated for its loss incurred as a consequence of a breach of contract.

#### **15. CONSEQUENCES OF TERMINATION OF THE AGREEMENT**

- 15.1 Upon termination of the Agreement, the Customer shall immediately cease all use of the Service.
- 15.2 In conjunction with termination of the Agreement, the Supplier shall, following a written request from the Customer, without unreasonable delay, return the Customer's Data to the Customer and erase all such data from the Service except where otherwise agreed between the Parties. For clarification, it is noted that Supplemental Information will not be returned or exported from the Service in conjunction with termination of the

Agreement. The Supplier undertakes to return the Customer's Data in a readable format and in such manner so the Customer's Data can be attributable to a specific patient to whom the Customer's Data relates.

- 15.3 Notwithstanding the reasons for termination of the Agreement, the provisions of Section 16 (Limitation of Liability, etc.), 17 (Intellectual Property Rights), 19 (Personal Data and Data Security), 21 (Secrecy), 23 (Miscellaneous) and 24 (Applicable Law and Disputes) shall continue to apply between the Parties following termination of the Agreement.

## **16. LIMITATION OF LIABILITY**

- 16.1 In addition to the provisions in Section 22 (Force Majeure Events), the Supplier's liability shall be limited as follows.
- (a) The Supplier's liability in damages in conjunction with a breach of contract shall, in the absence of intent or gross negligence attributable to the Supplier, be limited per year to fifty thousand Euro (EUR 50,000).
  - (b) The Supplier shall not be liable for the Customer's loss of data with the exception of the data which are in Supplier's possession.
  - (c) In respect of infringement of third-party rights, the provisions of Section 17.3 shall apply.
- 16.2 Any claim for compensation brought against the Supplier must be brought within a reasonable time after the loss was discovered or should have been discovered. Nevertheless, this provision does not constitute any deviation from applicable legal regulation regarding statute of limitations and prescription.

## **17. INTELLECTUAL PROPERTY RIGHTS AND OWNERSHIP OF DATA**

- 17.1 All intellectual property rights and technical solutions in respect of the Software and/or the Service shall be the property of the Supplier or property of a third party with whom the Supplier cooperates and may not be used by the Customer other than as required for use of the Service pursuant to this Agreement. All intellectual property rights which arise in connection with modifications of the Software, including but not limited to, Supplemental Information shall be the property of the Supplier without separate compensation therefore including such Customer Adaptations ordered by the Customer.
- 17.2 The Customer's Data is owned by the Customer and shall be accessible via the Service during the Term of Agreement. The Supplier shall be entitled to use the Customer's Data only to the extent necessary to perform its obligations pursuant to this Agreement. The Supplier reserves the right, however, to use Aggregated Data for internal quality control.
- 17.3 The Supplier warrants that the Service does not constitute an infringement of any other third party right. The Customer shall, without delay, notify the Supplier in writing in respect of claims brought by third parties for infringement of copyright or other intellectual property right due to the Customer's use of the Service. The Supplier shall

hold the Customer harmless in respect of such claims from third parties provided (i) that the Customer, without delay, notify the Supplier in accordance with this Section 17.3, (ii) that the Supplier exercises complete control and decision-making authority in respect of the defence or negotiation of the claim, (iii) that the Customer has not made any admissions, entered into any settlement or in some other manner affected the Supplier's possibility to defend or negotiate a settlement in respect of the claim, and (iv) that the Customer, to a reasonable extent, assists the Supplier's defence or negotiation in respect of the claim. The Supplier's obligation to hold the Customer harmless pursuant to this Section shall also be conditional upon the Customer installing all modifications/upgrades made available by the Supplier to the Customer provided that use of such modification/upgrade would have avoided the infringement. The Supplier's obligation to hold the Customer harmless shall be limited to compensation and damages which the Customer, by virtue of settlement or judgment, is ordered to pay for infringement of intellectual property rights (for which the Supplier is liable according to Agreement) as a consequence of the Customer's use of the Service.

- 17.4 In conjunction with a claim of infringement for which the Supplier is liable, the Supplier shall, at its own cost, either (i) ensure that necessary rights are obtained or (ii) effect changes so that the Software no longer constitutes an infringement.

## **18. PATIENT SAFETY**

- 18.1 Responsibility for patient safety shall be borne by each Party in accordance with applicable legal regulation.
- 18.2 The Customer shall be responsible for ensuring that all data obtained from the Service is verified and approved by responsible, qualified health care personnel before such data is used as a basis for making a determination regarding patient care.

## **19. PERSONAL DATA AND DATA SECURITY**

- 19.1 The Supplier shall collect personal data from the Customer's contact persons in conjunction with the Parties entering into the Agreement. For this personal data, the Supplier is data controller and this personal data will be processed by the Supplier for the purpose of performing the Agreement vis-à-vis the Customer. More detailed technical information regarding the processing of personal data is set forth in [<https://trients.nct/privacy-policy/>].
- 19.2 The Supplier processes personal data, in the capacity of data processor, on behalf of the Customer in accordance with EU and Czech legislation including, but not limited to, the Data Protection Regulation, the Czech Act on Healthcare Services and the Czech Personal Data Processing Act. The personal data processed consists of:
- (a) the personal data provided by the Customer's contact person(s) during (i) the negotiations preceding the Agreement, (ii) upon entering into the Agreement, and (iii) during the Term of Agreement;
  - (b) information regarding Users provided in connection with the creation of user accounts;

- (c) the personal data provided by the Customer or Users in conjunction with fault and support matters and in conjunction with any continued contacts as a consequence of such matters; and
  - (d) the personal data processed by the Customer in conjunction with the use of the Service including, but not limited to, Patient Data.
- 19.3 In the capacity as data controller, the Customer shall be responsible for ensuring that all processing of Personal Data takes place in accordance with all mandatory legislation applicable from time to time including, but not limited to, the Data Protection Regulation and laws and regulations concerning the processing of patient journals applicable to the Customer in conjunction with the Customer's operational activities such as, for example, but not limited to, the Czech Act on Healthcare Services, the Czech Personal Data Processing Act and the general advice and guidelines issued by the Ministry of Health of the Czech Republic, the Czech Office for Personal Data Protection or similar mandatory legislation applicable to the Customer in the country where the Customer operates its business.
- 19.4 Personal Data is collected upon request by the Customer and the processing of Personal Data is carried out in accordance with the Customer's instructions in order (i) that the Supplier will be able to provide the Service, (ii) that the Supplier will be able to exercise its rights and perform its obligations pursuant to the Agreement, and (iii) that the Supplier shall be able to communicate with Users and contact persons for information and support.
- 19.5 For the performance of the Service, the Personal Data may be transferred to third parties to the extent necessary in order for the Supplier to fulfil its obligations pursuant to the Agreement. No Personal Data shall be transferred to any third party based outside of EU/EEA.
- 19.6 The processing of Personal Data is necessary in order for the Supplier to be able to perform the company's obligations pursuant to the Agreement. The Supplier undertakes to carry out the processing of Personal Data in accordance with the Data Processing Agreement entered into by the Parties (see Appendix 1).
- 19.7 The Supplier shall be liable for ensuring that all Personal Data concerning the Customer's patients is encrypted (128-bit encryption) in all communications between the server and the Customer and in media in which Patient Data is stored (database).

## **20. RESEARCH AND DEVELOPMENT**

- 20.1 Data from the Customer may be exported by the Customer from the Service and made available for the Customer's research, development and quality assurance measures.
- 20.2 The Supplier may provide support in conjunction with data export in accordance with Section 20.1 as well as other support requested by the Customer in respect of research, development and quality assurance measures. The work described in this Section 20.2

shall be charged to the Customer on an Open Account in accordance with the terms and conditions of this Agreement.

- 20.3 Any scientific publications based on data from the Service shall contain information which states the Service's producer, location and country of origin (Nutrium AB, Umeå, Sweden).

## **21. SECRECY**

- 21.1 The Parties undertake, without limitation in time, not to disclose Confidential Information to outside parties.
- 21.2 The Parties shall handle Confidential Information in a secure manner.
- 21.3 Against the background of Sections 21.1 and 21.2 above, the Parties undertake to ensure that persons who may be assumed to come into contact with Confidential Information at a Party (i) handle Confidential Information in a secure manner and (ii) do not forward Confidential Information to outside parties.
- 21.4 Notwithstanding the provisions of Sections 21.1 – 21.3, a Party shall be entitled to disclose Confidential Information which a Party, according to law or order issued by a competent court of law or administrative body, is obliged to disclose. During pending proceedings before a competent court of law or administrative body, a Party shall also be entitled to disclose Confidential Information in conjunction with discussions with witnesses and otherwise make use of such information within the context of the legal proceedings. In addition, a Party shall be entitled to communicate Confidential Information to its legal representatives, accountants and other professional advisors who are bound by duties of confidentiality.

## **22. FORCE MAJEURE EVENTS**

- 22.1 A Party shall be released from the consequences of the failure to fulfil certain obligations pursuant to this Agreement where such failure is based on a Force Majeure Event over which the Party had no control and which prevented the performance thereof. The obligation shall be performed in the agreed manner upon cessation of the impediment.
- 22.2 In order to be released in accordance with Section 22.1 above, a Party shall, without delay, notify the other Party thereof. Upon failure to do so, such Party shall not be released from the consequences of its failure to perform the contractual duty.
- 22.3 A Party who is affected by a Force Majeure Event shall take reasonable measures in order to mitigate any loss which may arise as a consequence of the fact that an obligation in accordance with this Agreement is not fulfilled as a consequence thereof.
- 22.4 Notwithstanding the provisions of Sections 22.1 – 22.3 above regarding the release from sanction, a Party shall be entitled to terminate the Agreement with immediate



effect in the event the other Party's performance of a certain obligation is delayed by more than sixty (60) days due to an event which constitutes a Force Majeure Event.

## **23. MISCELLANEOUS**

- 23.1 A Party shall not be entitled to assign or pledge in whole or in part its rights and/or obligations pursuant to this Agreement without the other Party's prior written approval therefor.
- 23.2 Notwithstanding the provisions of Section 23.1 above, however, each Party shall be entitled to freely assign its rights and obligations pursuant to this Agreement to a third party in conjunction with a reorganisation of the group in which such Party is part or in conjunction with transfers of all or parts of the operations conducted by the Party.
- 23.3 In the event any provision of this Agreement becomes unlawful, invalid or for some other reason void, such provision shall be deemed separate from the other provisions of the Agreement and such separation shall not affect the validity or enforceability of the remaining provisions. In such case, the invalid provision shall be replaced by a valid provision agreed upon by the Parties in order to reach the same result, both economically and otherwise.
- 23.4 This Agreement constitutes the complete agreement between the Parties regarding all issues covered by the Agreement. Any prior written or oral undertakings and representations are thus replaced by this Agreement.
- 23.5 Without amendment to the specific provisions regarding price changes in Section 6.6 above, amendments and supplements to this Agreement must be in writing and signed by the Parties' authorised representatives in order to be valid.
- 23.6 All notices, demands or other communications between the Parties within the context of this Agreement shall be in the English language and sent by courier, registered letter or e-mail to the recipient Party's address set forth in the Preamble or such amended address as is notified in writing to the other Party. Notices shall be deemed to have been received by the recipient:
- (a) where sent by registered letter and not de facto received earlier, not later than five (5) working days following posting;
  - (b) where sent by courier, on the date of receipt; or
  - (c) where sent by e-mail and not de facto received earlier, two (2) business days following despatch of the message.

Each Party shall be liable for ensuring that (in the manner set forth in this Section 23.6) the other Party is notified of any changes of physical address or e-mail address in accordance with this provision.

- 23.7 Each Party undertakes to meet all obligations whose fulfilment is corroborated by a contractual penalty even after the penalty has been paid.

- 23.8 Should the damage incurred to a Party (i.e. the Creditor) as a result of a breach of an obligation corroborated by a contractual penalty exceed the amount of the contractual penalty, the other Party (i.e. the Debtor) undertakes to compensate the first Party (i.e. the Creditor) for the damage along with the contractual penalty.
- 23.9 The contractual penalty is due no later than within fourteen (14) days after the Party which is in default breaches the contractual obligation whose fulfilment is corroborated by the contractual penalty. Regardless of the provision of the preceding sentence, the contractual penalty shall be always due within fourteen (14) days after the Party requests the other Party which is in default to pay the contractual penalty.
- 23.10 Each Party has the right to set-off its claim against the claim of the other Party. By a set-off, both claims become extinguished to the extent to which they cover each other; if they do not cover each other entirely, a claim is set off in a manner similar to discharge. Section 1987 par. 2 of the Czech Act no. 89/2012 Coll, the Civil Code, as amended, shall not apply to the contractual relationship between the Parties established by this Agreement.

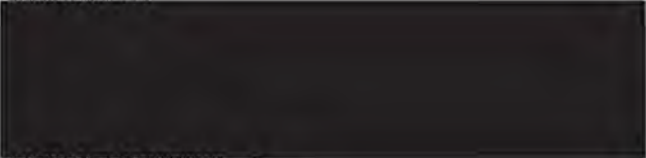
#### 24. APPLICABLE LAW AND DISPUTES

- 24.1 This Agreement shall be governed by Czech law.
- 24.2 Both Parties shall be considered equal under Czech law.
- 24.3 Disputes arising as a consequence of the creation, application or interpretation of this Agreement, as well as disputes which have their basis in this Agreement, shall be determined by courts of general jurisdiction in Czech Republic.

This Agreement has been prepared in two (2) original, identical counterparts of which each Party has received one.

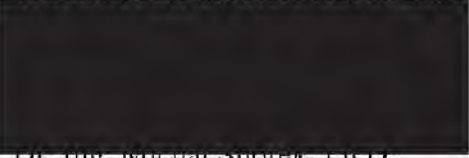
Umeå, 9<sup>th</sup> June 2020

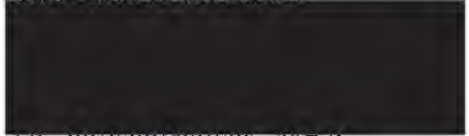
Trients AB

  
Henrik Bohmström  
Chief Executive Officer

České Budějovice, 7<sup>th</sup> May 2020

Nemocnice České Budějovice, a.s.

  
Dr. Ing. Michal Šmerek, Ph.D.,  
Chairman of the Board

  
Dr. Jaroslav Novák, MBA,  
Member of the Board

Nemocnice České Budějovice, a.s.

IC: 28068677

01

## Data Processing Agreement

### 1. INTRODUCTION

- 1.1 This DPA applies between the Parties in respect of the Personal Data processed by Supplier on behalf of the Customer.

### 2. DEFINITIONS

- 2.1 In this DPA, the terms defined in the Agreement shall have the meanings ascribed to them in the Agreement (unless otherwise expressly stated). In this DPA, the terms set forth below shall have the following meanings.

<b>Area</b>	The countries included in the European Economic Area (EEA) as well as Switzerland, i.e. all EU countries; Iceland, Liechtenstein and Norway; and Switzerland.
<b>Data Subject</b>	A natural person to whom Personal Data pertains.
<b>DPA</b>	This Data Processing Agreement and amendments and supplements thereto in accordance with the provisions of the Agreement.
<b>GDPR</b>	Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016.
<b>Instruction</b>	The Customer's instruction for processing Personal Data (see <a href="#">Appendix 1.1</a> of this DPA).
<b>Personal Data</b>	All information pertaining to an identified or identifiable natural person, whereupon an identifiable natural person is a person who may be directly or indirectly identified particularly by reference to an identifier such as a name, an identification number, localisation data or online identifier or one or more factors specific to that natural person's physical, physiological, genetic, psychological, economic, cultural or social identity.
<b>Process</b>	A measure or combination of measures in respect of Personal Data or sets of Personal Data, whether carried out automatically or not, such as the collection, registration, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.
<b>Sub-processor</b>	The party retained by Supplier to Process, as personal data sub-processor of Supplier, Personal Data on behalf of Supplier.

### 3. BACKGROUND

- 3.1 The GDPR requires a written data processing agreement when a party will Process Personal Data on behalf of another party.

- 3.2 Since the Agreement may entail that Supplier Processes Personal Data on behalf of the Customer, the Parties have entered into this DPA in order to govern the scope and details of such Processing.

#### 4. PERSONAL DATA PROCESSING

- 4.1 In conjunction with the Processing of Personal Data pursuant to the Agreement, Supplier shall ensure that such Processing occurs in accordance with the GDPR and other applicable laws or regulations governing the Processing of Personal Data and shall accept amendments and supplements to the Agreement necessary in order to fulfil the requirements of the GDPR or other applicable law in respect of the Processing of Personal Data.
- 4.2 Supplier and the person or persons working under the guidance of Supplier may only Process Personal Data in accordance with the Instructions appended to this DPA or other instructions provided by the Customer from time to time. The content of the Agreement and the Instructions set out the subject of Processing of Personal Data, the duration, nature and purpose of the Processing, the type of Personal Data and the category of Data Subjects.
- 4.3 Supplier may not release Personal Data or other information regarding the Processing of Personal Data without express instruction from the Customer. However, the aforementioned shall not apply where Supplier is obliged to do so according to law or pursuant to an order issued by a governmental authority or competent court of law.
- 4.4 Unless otherwise expressly stated in the Agreement, Supplier shall not be entitled to take measures in respect of Personal Data which Supplier obtains from the Customer (i) for purposes other than to fulfil its obligations pursuant to the Agreement, or (ii) in some manner other than in accordance with Instructions from the Customer.
- 4.5 Taking into account the nature of the Processing, Supplier shall, to the extent possible, assist the Customer by means of suitable technical and organisational measures such that the Customer can fulfil its obligations to respond upon request to exercise the Data Subject's rights in accordance with Chapter III of the GDPR.
- 4.6 The Customer shall be responsible for ensuring that the Processing of Personal Data takes place in accordance with the GDPR. The Customer shall ensure that Supplier receives the necessary and complete Instructions in respect of the manner in which the company shall perform its engagement. In the event Supplier lacks the Instructions deemed necessary by Supplier in order to perform the engagement on behalf of the Customer, Supplier shall notify the Customer thereof without delay. The Customer shall provide Instructions without delay. In addition, Supplier shall notify the Customer without delay in the event an Instruction contravenes the GDPR or other applicable law in respect of the Processing of Personal Data.
- 4.7 In the event a Data Subject, the Swedish Data Protection Authority (*Sw: Datainspektionen*), the Czech Office for Personal Data Protection (*in Czech: Úřad pro ochranu osobních údajů*) or other authorised third party requests information from Supplier concerning the Processing of Personal Data, Supplier shall refer to the Customer.

4.8 Supplier shall inform the Customer, without delay in respect of any contacts from the Swedish Data Protection Authority or the Czech Office for Personal Data Protection concerning, or which may be significant to, the Processing of Personal Data. Supplier shall not be entitled to represent the Customer in relation to the Swedish Data Protection Authority or the Czech Office for Personal Data Protection except where otherwise separately agreed upon by the Parties.

## **5. INFORMATION SECURITY**

5.1 Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risks of varying likelihood and severity for the rights and freedoms of natural persons, Supplier shall implement appropriate technical and organisational measures in order to ensure a suitable security level in relation to the risks including, where applicable:

- (a) pseudonymisation or encryption of Personal Data;
- (b) the ability to continuously ensure the confidentiality, integrity, accessibility and resistance of the processing systems and services;
- (c) the ability to restore accessibility and availability of Personal Data within a reasonable period of time in conjunction with a physical or technical incident; and
- (d) a procedure for regularly testing, examining and evaluating the effectiveness of the technical and organisational measures which ensure the security of the Processing.

5.2 Supplier shall protect the Processed Personal Data from unintentional or illegal destruction, loss or alteration, unauthorised disclosure and unauthorised access.

5.3 Supplier shall assist the Customer in order that the Customer can fulfil its obligations in respect of data protection and impact assessments thereof. In addition, Supplier shall, to the extent possible, assist the Customer by means of suitable technical and organisational measures such that the Customer can fulfil its obligations to reply, on request from Data Subjects, in respect of the exercise of the Data Subjects' rights in accordance with Chapter 3 of the GDPR.

## **6. PERSONAL DATA BREACH**

- 6.1 Supplier shall take all necessary measures in order to assist the Customer in fulfilling its obligations in reporting personal data breaches to competent supervisory authorities and, where required in accordance with the GDPR, to the Data Subjects. In conjunction with the occurrence of a personal data breach, Supplier shall, without unreasonable delay after the personal data breach, notify the Customer thereof.
- 6.2 In any event, notices of personal data breach shall contain:
- (a) a description of the nature of the personal data breach including, where possible, the categories of and approximate number of Data Subjects affected by the personal data breach;
  - (b) the name and contact information of the personal data representative or other contact information where additional information regarding the personal data breach may be obtained;
  - (c) a description of the probable impact of the personal data breach; and
  - (d) a description of the measures which Supplier has taken or proposed to be taken to remedy the personal data breach including, where possible, measures to mitigate the potential negative effects.
- 6.3 Where the Customer so requests, Supplier shall assist the Customer in communicating the personal data breach to Data Subjects.

## **7. SUB-PROCESSOR**

- 7.1 Supplier shall be entitled to freely retain Sub-processors only if the Supplier ensures the following conditions are fulfilled:
- (a) The Customer shall be notified of the Supplier's intention to appoint a Sub-processor in advance;
  - (b) The Sub-processor is an individual (and not legal entity) who is located in Sweden and works exclusively or mainly for the Supplier.

In the event a Sub-processor is appointed, Supplier shall enter into a personal data assistant agreement with the Sub-processor containing provisions comparable to those in this DPA and which otherwise comply with the GDPR. The Customer preserves the right to terminate the Agreement with immediate effect if it does not agree with appointment of a concrete Sub-processor notified to it by the Supplier.

- 7.2 The Customer shall at all times be apprised in advance of the Sub-processors who may receive the Personal Data. Consequently, Supplier shall inform the Customer in conjunction with the use of Sub-processors and changes of Sub-processors.
- 7.3 Supplier shall bear liability as principal for the work of the Sub-processor which shall not entail any change in the allocation of responsibility between the Parties pursuant to this DPA. Furthermore, Supplier shall be obliged, in conjunction with the use of Sub-processors, to ensure that such Sub-processors comply with the provisions of this DPA including, but not limited to, the provisions regarding Information Security in Section 5

above and that Processing of Personal Data by such Sub-processor otherwise takes place in accordance with the GDPR.

## **8. TRANSFER OF PERSONAL DATA OUTSIDE THE AREA**

- 8.1 In the absence of prior written consent from the Personal Data Controller, Supplier shall not be entitled to move, store or in any other manner Process Personal Data of the Customer outside the Area.
- 8.2 In the event the Customer has provided the Customer's consent for the transfer of Personal Data to countries outside the Area, Supplier undertakes to ensure the legal basis for such transfer by means of, for example, entering into on behalf of the Customer such standard contractual clauses with the Sub-processor as have been produced by the European Commission for the transfer of Personal Data to third countries.
- 8.3 The Customer shall be entitled at any time to revoke such consent as provided in accordance with this Section. Following revocation of consent, Supplier shall immediately cease transferring Personal Data, ensure that all the Personal Data return to the Area and, upon request, confirm in writing that such has ceased and Personal Data have returned to the Area.

## **9. CONFIDENTIALITY**

- 9.1 Supplier undertakes not to disclose or in any other manner reveal information regarding Personal Data and the Processing of Personal Data covered by this DPA to any third party with the exception of Sub-processors if any appointed in accordance with the provisions of this DPA.
- 9.2 Supplier hereby undertakes to ensure that only those persons who work under Supplier's management who require access to the Personal Data for the performance of Supplier's obligations pursuant to this DPA shall be granted access to the Personal Data. Supplier shall ensure that such persons are bound by confidentiality to the same extent (at a minimum) as Supplier pursuant to this DPA.
- 9.3 In the event a Sub-processor is appointed, Supplier shall ensure that the Sub-processor is bound by confidentiality to the same extent (at a minimum) as Supplier pursuant to this DPA.
- 9.4 Supplier shall not be entitled to use such information regarding the Processing of Personal Data for purposes other than as expressly set forth in this DPA.
- 9.5 Section 21 (Secrecy) of the Agreement shall also apply in respect of information covered by this confidentiality undertaking.

## **10. LIMITATION OF LIABILITY**

- 10.1 Supplier shall, in relation to the Customer, be liable for losses which arise as a consequence of the Processing of Personal Data in the event Supplier has not performed its obligations in accordance with the GDPR specifically applicable to Supplier or has

acted beyond, or in contravention of, this DPA and the Agreement or otherwise in contravention of Instructions.

- 10.2 Supplier shall not be liable in accordance with the above in the event the Supplier proves that it is not responsible in any respect for the event causing the loss.
- 10.3 The Customer undertakes to compensate Supplier, to the reasonable extent, for any compensation, damages or suchlike which Supplier – by settlement, judgment or comparable – is ordered to pay provided that the claim is based on the Customer's inadequate or erroneous Instructions to Supplier.
- 10.4 The Supplier undertakes to compensate the Customer for any compensation, damages or suchlike which the Customer – by settlement, judgment or comparable – is ordered to pay provided that the claim is based on the Supplier's failure to comply with the obligations arising from the GDPR, the Agreement and/or this DPA.
- 10.5 However, the Parties are aware and acknowledge that any eventual limitation of liability shall not apply where (i) a supervisory authority or court of law imposes a charge on any of the Parties, (ii) a Party has a right of subrogation against the other Party as a consequence of the fact that such first Party was obliged to pay an administrative fee or damages for which the other Party duly (or on the basis of joint and several liability) was liable, or (iii) in conjunction with a claim in damages brought by a Data Subject.

## **11. INSPECTION**

- 11.1 The Customer or a third party acting on the Customer's behalf shall be entitled, at its own cost, to examine whether Supplier has complied with this DPA. Supplier shall provide the Customer with the assistance necessary for such examination. In the event the Customer is of the opinion that Supplier has been deficient in any respect regarding the Processing of Personal Data, Supplier shall immediately comply with any Instructions provided by the Customer in order for Supplier to fulfil its undertakings pursuant to this DPA.

## **12. COMPENSATION**

- 12.1 No separate compensation shall be payable for Supplier's Processing of Personal Data pursuant to this DPA as the compensation is included in the Compensation pursuant to Section 6 of the Agreement.

## **13. TERM OF AGREEMENT**

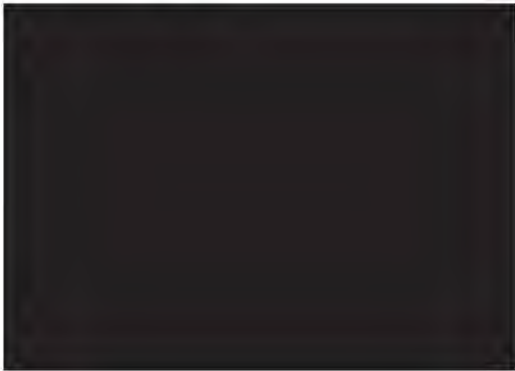
- 13.1 This DPA shall apply during the term of the Agreement.

## **14. MEASURES UPON TERMINATION**

- 14.1 After the Processing on behalf of the Customer has ceased, Supplier shall return or delete the Personal Data in accordance with the Customer's instructions thereon provided that storage of the Personal Data is not required by any law applicable to Supplier. In the event the Personal Data is to be returned, such shall occur without unreasonable delay and in a general and readable digital format.



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This DPA has been prepared in two (2) original, identical counterparts of which each Party has received one.



České Budějovice, 7<sup>th</sup> May 2020



Technická Česká Budějovice, z.s.

IC: 260 88 877

Appendix 1.1

## INSTRUCTIONS FOR PROCESSING OF PERSONAL DATA

01

The purpose of this Appendix 1.1 is to describe the Processing of Personal Data carried out by the Supplier on behalf of the Customer. The defined terms used in this appendix shall have the meanings ascribed to them in the Agreement or in the DPA.

### PURPOSE OF THE PROCESSING

The purpose of Supplier's Processing of Personal Data on behalf of the Customer is to provide the Service offered by Supplier pursuant to the Agreement. In order to be able to use the Service, a User must be registered. In conjunction with registration of a User, the following information is provided: name. The purpose of registering this information is to ensure that Supplier will be able to identify the User. As regards the Local Administrator and local IT manager assigned by the Customer for the purposes of the Agreement, the aforementioned items of information shall also be stored in Supplier's business system. The Supplier also processes Personal Data provided by the Customer and the User from time to time, e.g. Patient Data, when using the Service in order to fulfil the Supplier's undertakings in accordance with this Agreement.

Supplier processes personal data for the following purposes:

- (a) The provision of the Service to the Customer; and
- (b) The provision of support and troubleshooting in respect of the Service.

### CATEGORIES OF PERSONAL DATA

The following categories of personal data will be processed:

- (a) Name of the User; and
- (b) Name, personal ID-number, age, weight, length, head circumference and other health related information for Customer's patients.
- (c) Other Personal Data which the Customer include in the Service while using it.

#### CATEGORIES OF DATA SUBJECTS

The Personal Data Processed pertains to the following categories of Data Subjects:

- (a) The Customer's employees and representatives (including the Customer's consultants);
- (b) Customer's patients;
- (c) Mothers who has donated breast milk;
- (d) Other persons appointed by the Customer as Users of the Service; and
- (e) Other persons for whom the Customer is the personal data controller of Personal Data in accordance with law or agreement.

#### MEASURES WITHIN THE CONTEXT OF THE PROCESSING

Supplier stores information regarding Users for each Customer in order to make possible the use of the Services and saves information regarding the Customer's Local Administrator and local IT manager identified in the Agreement. Patient Data are stored in the Service and remain for the Term of the Agreement.

#### LOCALISATION

All data is localised and stored exclusively in Sweden.

## **Description of the Nutrium Software**

### **1 INTRODUCTION**

Nutrium is a web-based computer system for the calculation and follow-up of nutrition and growth in children under neonatal care. The system may be used for children from the gestational age of 22 weeks until 12 months post-term.

### **2 FUNCTIONS**

#### **Decision support for prescribing enteral and/or parenteral nutrition**

The User inputs the nutritional products (parenteral and/or enteral) which are planned for the patient for the subsequent twenty-four-hour period and receives immediate numeric and visual feedback regarding how this nutritional intake relates to the recommended nutritional intake for each nutrient included.

The User subsequently modifies the prescription so that it either corresponds to the recommendation or such that additional or fewer of specific nutrients are provided depending on the User's professional assessment of the patient's individual needs.

The recommendation for each nutrient (not less than 40) is based on international and national references and takes into account the following factors regarding the patient for the relevant period of time; gestational age at birth, post-natal age, current weight, allocation of enteral and parenteral intake of the relevant nutrient.

#### **Summation of enteral and/or parenteral nutrition**

Similar to the previous function, but data input in this case occurs subsequently and thereby provides information regarding what the patient actually received, which often differs from what was prescribed.

#### **Storage of previous prescriptions/summations**

All previous prescriptions and summations are saved. A new prescription or summation may therefore be based on a previous one, which facilitates the User's work considerably.

#### **Parenteral nutritional mixtures**

The system supports individual parenteral nutritional mixtures and carries out a mixture verification in order to check against the risk of precipitation.

#### **Analysed breast milk and donated breastmilk**

The system supports breast milk analyses, both as regards to the mother's own milk and donated breast milk. The system also supports pooled donated breastmilk.

### **Nutritional curve**

A curve for nutritional intake over time for each nutrient (based on stored prescriptions/summations) are related to a reference curve based on the nutritional recommendations.

### **Patient overview**

The start view consists of an overview of the patients who are admitted to the Department and the key data for them. Patients can be discharged (deactivated but without being deleted from the system) and, in conjunction with discharge to another hospital which is connected to the Software, the Patient Data can be electronically transferred to the receiving hospital.

### **Growth registration**

The User registers the measured values for one or more of the following measurements: weight, length, head circumference and knee-to-heel measurement. The weight registrations are necessary for the nutritional calculations.

### **Growth curve**

A curve for growth over time for the various measurements are related to a national reference curve, including standard deviations. The curves may also be printed out.

### **Overview of mothers and pooled breastmilk**

In this view, one obtains an overview of the mothers for which analysed breast milk is registered. A separate overview is available for pooled breast milks.

## **3 STORAGE OF CUSTOMER DATA**

In respect of the storage of the Customer's Data, the following Service is included:

- (a) Unlimited storage for Patient Data on servers;
- (b) Operation of servers and databases including monitoring and programme updates;
- (c) Continuous connection of the server to the Internet with a speed of 20Mbit/s (In respect of guarantees regarding availability, reference is made to the provisions thereof in the Agreement);
- (d) Maintenance of servers and databases; and
- (e) Daily back-up on tapes deposited in fire-proof storage.

Patient Data may be stored in accordance with that which is otherwise prescribed in this Agreement and stored on behalf of the Customer during the Term of Agreement (see Section 19 of the Agreement).

#### **4 UPDATING OF SUPPLEMENTAL INFORMATION**

The Software contains Supplemental Information regarding the nutritional content of a large number of nutritional products and also references for nutritional intake and growth. The Supplier updates Supplemental Information in accordance with the following:

- (a) Regular updates of Supplemental Information.
- (b) Upon the Customer's request, add additional Supplemental Information for the software, provided that the Customer provides such information.

#### **5 VERSION UPGRADE AND CUSTOMER ADAPTIONS**

Any new functionality which is developed by the Supplier and released through a new Version or Release of the Software is included in the delivery. Customisations ordered by the Customer and adaptations of the customer's other systems are not included in the delivery and shall be agreed upon separately between the Parties and by an additional agreement in accordance with the terms and conditions of this Agreement.

### **Customer Information**

Customer's name: Nemocnice České Budějovice, a.s.

Connected Departments, IP-addresses Local Administrator and Local IT manager:

<u>Name of Department</u>	<u>IP-Address</u>
Department of pediatrics and neonatal care	80.188.226.62

<u>Local Administrator</u>	<u>Local IT manager</u>
MUDr. Jiří Dušek	Ing. Pavel Majer

In the event the Customer wishes to add Departments during the Term of Agreement, a supplemental agreement shall be entered into between the Parties which describe which Departments and which name the Local Administrator.

### **Contact Information**

<u>Local Administrator</u>	<u>Local IT manager</u>
E-mail: <a href="mailto:dusek.jiri@nemcb.cz">dusek.jiri@nemcb.cz</a>	E-mail: <a href="mailto:majer.pavel@nemcb.cz">majer.pavel@nemcb.cz</a>
Phone number: +420 387 875 700	Phone number: +420 387 872 040

## Additional Services

### 1. INTRODUCTION

This Appendix describes the Additional Services which the Supplier offers. The Additional Services ordered by the Customer are set forth in Section 6.2 of the Agreement.

### 2. TRAINING

The Supplier offers the following training packages for use of the Service and the functions which are available. The price for each training package will be provided upon request.

#### **E-training**

Online videos, e.g. tutorial videos, of different functionalities of the Software.

#### **Personal video meeting**

A one (1) to two (2) hour long video meeting where the Supplier goes through all the essential functions of the Software. The video meeting is hosted by the Supplier and should preferably be attended by at least one doctor, one dietician and one nurse.

#### **Workshop**

A workshop hosted at the Customer's facility where the Supplier provides the following;

- (a) A lecture about the Software, going through all the essential functions of the Software and examples,
- (b) A task-oriented workshop where attendees get to try out the Software and complete essential tasks, having professional assistance at all time,
- (c) A Q&A section at the end of the workshop where the Supplier undertakes to answer all questions that might come up.

### 3. ADDITIONAL SUPPORT

The scope of the Support provided by the Supplier and the availability of receiving notices regarding support matters are set forth in the Agreement. In the event the Customer wishes to increase availability for Support, the Supplier offers the following levels of Support Agreements:

#### SILVER

<i>Extended hours for Support</i>	
<b>Weekdays</b>	07.00-20.00
<b>Weekends</b>	-
<b>Holidays</b>	-

#### GOLD

<i>Extended hours for Support</i>	
<b>Weekdays</b>	07.00-22.00
<b>Weekends</b>	09.00-22.00
<b>Holidays</b>	09.00-16.00

The price for each additional support package will be provided upon request.

### 4. CUSTOMER ADAPTATIONS

Customisations are changes to, and development of, the Software, including development of software ordered by the Customer and provided by the Supplier, e.g. special functions or integration with the Customer's other systems.



## **Technical Specifications**

The Technical Specifications set forth herein are required for the application to function in the intended manner. These technical specifications are subject to well justified changes from time to time and Supplier shall notify the Customer upon such changes to these technical specifications.

### **1. APPLICATION REQUIREMENTS**

- Java SE 6 update 4 or later, or AdoptOpenJDK8
- 512MB working memory or more is recommended
- Windows XP or later.
- Internet connection
- Supports all known browsers; Chrome, Firefox, Explorer etc.
- Works on PC and Mac