

**Parties:**

HAS Technology Limited (**HASTECC**), is part of the HAS Technology Group which provides the PAMMS service. Company Registration No. 5780269 VAT Registration No. 884 2460 06.

- and -

[Insert Customer Name] (**the Customer**)

**1. INTERPRETATION****1.1 In these Conditions:**

'ADDITIONAL CHARGES' means any charges described in clause 9.6, any standard charges of HASTECC not referred to in the Signed Order Form and Agreement and any charges for Additional Services;

'ADDITIONAL SERVICES' means any services which may be provided by HASTECC in addition to the Services including but not limited to any Bespoke Work and any work which is not listed on the original quotation for the Services;

'AFFILIATE' means, in relation to either party, each and any subsidiary or holding company of that party and each and any subsidiary of a holding company of that party;

'AGREEMENT' means the agreement between HASTECC and the Customer for the provision of the Services set out in the Signed Order Form and Agreement document or any other agreement between HASTECC and the Customer, and Conditions (as varied from time to time in accordance with the terms herein) and any other special conditions attached to or accompanying the Signed Order Form and Agreement or these terms and conditions in each case when accepted by HASTECC;

'APPLICATIONS' means any software or applications owned, developed or otherwise made available by HASTECC to the Customer and Users as part of the Services relating to PAMMS;

'BESPOKE WORK' means any bespoke changes to the Services to meet a requirement of the Customer;

'CHANGE' means any change to the terms of the Agreement including any of the Services including but not limited to any change resulting from a request for Bespoke Work or other Additional Services;

'CHARGES' means the charges to be paid by the Customer to HASTECC for the supply of the Services as set out in the Signed Order Form and Agreement document and any agreed expenses incurred during the implementation and delivery of the Services and any Additional Charges. Charges are normally collected by Direct Debit and will also be subject to VAT at the prevailing rate;

'CONDITIONS' means the terms and conditions set out in this document;

'CONFIDENTIAL INFORMATION' means all information whether technical or commercial know-how (including all specifications, inventions, processes, initiatives, drawings and designs including software code, functionality and architecture disclosed in writing, on disc, orally or by inspection of documents or pursuant to discussions between the parties) given by one party to the other or otherwise obtained by one party relating to the other party's business, finance or technology, know-how, Intellectual Property Rights, assets, strategy, products and customers, including information relating to management, financial, marketing, technical and other arrangements or operations of any Affiliate, person, firm, or organisation associated with that party where the information is:

(a) identified as confidential at the time of disclosure; or

(b) ought reasonably to be considered confidential given the nature of the information or the circumstances of disclosure;

'CUSTOMER' means the individual, company, or organisation so defined who is named as the Customer in the Signed Order Form and Agreement document or is otherwise defined as the Customer in any other agreement;

'CUSTOMER DATA' means the data inputted by the Customer or Users, on the Customer's behalf for the purpose of

the Customer using the System and/or Services or facilitating the Customer's use of the System and/or Services, including any information provided by Users in connection with their access to and/or use of the System and/or Services. For the avoidance of doubt, however, it is acknowledged that the Customer Data generally will not contain Personal Data;

'CUSTOMER MATERIAL' means any documents or other materials, and any data or other information provided by the Customer relating to or to facilitate the provision of the System and/or Services.

'DATA PROTECTION LEGISLATION' means the Data Protection Act 2018 (DPA) and the Privacy and Electronic Communications (EC Directive) Regulations 2003, as amended from time to time, and the General Data Protection Regulation (GDPR), together with any other replacement law applicable to the protection of personal data in effect from time to time and all other applicable privacy and data protection laws and regulations, as well as any guidance and/or codes of practice issued from time to time by the Information Commissioner;

'DATA CONTROLLER' means data controller as defined in the Data Protection Legislation;

'DOCUMENTATION' means all user manuals and other eye readable documentation which is supplied to or made available to the Customer by HASTEC which relates to the System and/or Services;

'HASTEC' means HAS Technology Limited;

'HASTEC MATERIAL' means any documents or other materials, and any data or other information provided or generated by HASTEC (including information on grades and performance of service providers and reports generated from Customer Data) but excluding any Customer Data;

'INFRINGEMENT DATA' means any data which is in breach any applicable laws, infringes any third party Intellectual Property Rights or contains any content which is obscene, indecent, pornographic, seditious, offensive, defamatory, threatening, liable to incite racial hatred, menacing or blasphemous or which is incorrect, incomplete or inaccurate;

'INTELLECTUAL PROPERTY RIGHTS' means all intellectual property rights of any nature anywhere in the world, in each case whether registered or unregistered, and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world including patents, utility models, trademarks, registered designs and domain names, applications for any of the foregoing, trade or business names, goodwill, copyright and rights in the nature of copyright, design rights, rights in databases, moral rights, know-how and any other intellectual property rights which subsist in computer software, computer programs, websites, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of customers, marketing methods and procedures and advertising literature, including the "look and feel" of any websites including software code, functionality and architecture.

'LOSSES' means any losses and/or liabilities including but not limited to actions, awards, costs, claims, damages, civil fines, losses (including without limitation any direct or indirect consequential losses), demands, expenses, loss of profits, loss of reputation, damage to goodwill, other damage, judgments, penalties and proceedings;

'MINIMUM CHARGE' means any minimum charge payable by the Customer as specified on the Signed Order Form and Agreement;

'PAMMS' means Provider Assessment and Market Management solution;

'PERSONAL DATA' means personal data as defined in the Data Protection Legislation which is personal data contained within the Customer Data and/or HASTEC Materials;

'SERVICES' means the service or services referred to in the Signed Order Form and Agreement document and unless otherwise stated are time and materials including software service and / or implementation and / or project management and / or bespoke development and / or training and / or consultancy and any Additional Services;

'SERVICE COMMENCEMENT DATE' means the expected date set out in the Signed Order Form and Agreement document, unless varied by agreement between the Customer and HASTEC, from which the System and Services will be provided to the Customer by HASTEC;

'SERVICE LEVELS' means the service levels set out in the SLA;

'SERVICE PROVIDER' means any service provider who provides services to the Customer in relation to whom the System is used to grade their performance and to produce a report on their performance with the Customer Data;

'SIGNED ORDER FORM AND AGREEMENT' means the document attached to or accompanying these Conditions and signed by or on behalf of HASTEC and the Customer;

'SPECIFICATION' means any specification for the System agreed between HASTEC and the Customer relating to PAMMS;

'SLA' means the service level agreement for the Services agreed between HASTEC and the Customer relating to the System;

'SYSTEM' means any combination of the Services, Applications, Equipment and Documentation which is used by the Customer and which relate to PAMMS;

'TERM' means any initial duration of the Agreement set out on the Signed Order Form and Agreement;

'USER' means each individual who will use the System and Services on behalf of the Customer including but not limited to an assessor working at the Customer;

'VAT' means value added tax chargeable under English law for the time being and any equivalent sales tax.

The headings in these Conditions are for convenience only and shall not affect their interpretation.

Any terms which are defined in the Signed Order Form and Agreement document shall have the same meanings when used in these Conditions.

The term "and/or" means either or both of the alternatives.

## 2. **SUPPLY OF THE SYSTEM**

- 2.1 HASTEC shall, from the Service Commencement Date and until the Agreement is terminated in accordance with Clause 13, provide access to the System to the Customer subject to these Conditions. Any changes or additions to the System or these Conditions must be agreed in writing by HASTEC and the Customer unless otherwise provided in these Conditions.
- 2.2 The Customer shall, at their own expense, supply HASTEC with all Customer Material and all necessary data, materials, documents or other information relating to the System, within sufficient time to enable HASTEC to provide the System in accordance with the Signed Order Form and Agreement. The Customer shall ensure the accuracy of all Customer Material.
- 2.3 These Conditions shall prevail over any inconsistent terms or conditions contained in, or referred to in, the Customer's confirmation of order, or specification, or implied by law, trade custom, practice or course of dealing.
- 2.4 The Customer is responsible for ensuring that the System can operate efficiently with the Customer's own systems, for example, by ensuring there is sufficient bandwidth available, compatible software and a supported operating system.
- 2.5 The System shall be provided in accordance with the Signed Order Form and Agreement and these Conditions.
- 2.6 HASTEC may at any time make changes to the System that are necessary to comply with any applicable health, safety or other legal requirements or to improve security without notification to the Customer.

## 3. **USE OF THE SYSTEM**

- 3.1 HASTEC hereby grants a non-transferable, non-exclusive right for the term of the Agreement to the Customer (for the benefit of itself and the Users) to access and use the Applications and Documentation to the extent necessary to receive the benefit of the Services.
- 3.2 Prior to providing Users with access to the Services, Applications or Documentation, the Customer shall:
  - 3.2.1 supply HASTEC with a list of Users authorised to access the System;
  - 3.2.2 ensure that all Users are aware of the terms of the Agreement, including their obligation to comply with any other user terms applicable to the System and notified to the Customer; and
  - 3.2.3 only provide Users with access to the System via the access method permitted by HASTEC.
- 3.3 The Customer shall ensure that in connection with its use of the System:
  - 3.3.1 the System is only be used in connection with the Customer's own business purposes for use with its own Clients and Service Providers; and
  - 3.3.2 the System is only used in connection with the equipment specifications set out in the SLA and any other conditions set out in the Specification or as otherwise specified by HASTEC from time to time.
- 3.4 The Customer will be liable under this Agreement for the acts and/or omissions of its Users in connection with the System as if they were the acts and/or omissions of the Customer under this Agreement.

- 3.5 Except to the extent such activities are expressly agreed by the parties to the Agreement;
- 3.5.1 the Customer's rights to use the System does not permit it, or Users, to copy, cut and paste, email, reproduce, reverse engineer, publish, distribute, redistribute, broadcast, transmit, modify, adapt, edit, abstract, create derivative works of, store, archive, publicly display, sell or in any way commercially exploit any part of the System save as expressly set out in the Documentation; and
- 3.5.2 the Customer's rights to benefit from the System does not permit it to combine, merge or otherwise permit the System (or any part of them) to become incorporated in any other program or software, nor arrange or create derivative works based on it without the written agreement of HASTEC;
- 3.6 The Customer shall, and ensure that Users shall, keep confidential and, except as provided for in the Agreement, not share with any third party any username and/or password that it is provided with to facilitate Users' access to the System. The Customer shall keep up-to-date records of any such usernames or passwords issued to Users and the names of Users. The Customer shall contact HASTEC if updates to any list of Users provided to HASTEC are required, including but not limited to when Users cease to be employed or engaged by the Customer.
- 3.7 Where the Customer is permitted in accordance with these Conditions to allow an Affiliate to benefit from the System, the Customer shall be liable under this Agreement for the acts and/or omissions of such Affiliates and their Users in connection with the System as if they were the acts and/or omissions of the Customer under this Agreement and shall control the Affiliates use of the System.
- 3.8 HASTEC reserves the right to monitor usage by all Users of the System (by audits and other checks) during the term of the Agreement for the purpose of (among others) ensuring compliance with the terms of the Agreement. Any such audit or checks may be carried out by HASTEC or a third party authorised by HASTEC. If any audit or check reveals that any username or password has been provided to an individual that is not a User, the Customer shall, without delay, disable any such usernames or passwords and notify HASTEC immediately of its compliance or HASTEC may disable them itself.
- 3.9 In case of unauthorised use of the System by the Customer or a User, HASTEC reserves the right to deny access to the System to the Customer or any User by blocking without prior notification the IP address(es) of the Customer or Users which are used to gain unauthorised access to the System.

#### **4. HASTEC'S OBLIGATIONS**

- 4.1 HASTEC shall use all reasonable skill and care in providing the System and use all reasonable endeavours to adhere to the Service Levels.
- 4.2 Any warranties given by HASTEC shall be subject to the Customer using the System in compliance with the Agreement, the Specification, any quotation and/or the SLA (as appropriate) and HASTEC shall not be liable under the Agreement or the SLA for, or required to remedy, any problem arising from any defect or error wholly caused by third party software used in connection with the System which is not approved for use with the System.

#### **5. CUSTOMER'S OBLIGATIONS**

- 5.1 The Customer shall co-operate fully with HASTEC in all matters relating to the provision of the System.
- 5.2 The Customer shall set the terms upon which members of the public and Service Providers access the System and make sure that they are bound by those terms. Such terms shall not permit members of the public or a service provider to do anything or omit to do anything which would place the Customer in breach of this Agreement. The Customer shall also include in such terms the right for HASTEC to enforce the terms against the member of the public or Service Provider (as the case may be) as if HASTEC were the Customer.

#### **6. CUSTOMER DATA**

- 6.1 The Customer hereby grants (and shall procure the grant of) a royalty-free, non-transferable, non-exclusive irrevocable perpetual licence to HASTEC (together with a right for HASTEC to sub-licence the same to and any third party customers) to use the Customer Data.
- 6.2 The Customer agrees that the Customer Data and resulting HASTEC Materials will be shared with Service Providers and other customers of HASTEC who use the System to allow them to comment on Customer Data and HASTEC Materials which relates to them.
- 6.3 The Customer acknowledges that HASTEC has no control over the content of any Customer Data (and resulting HASTEC Materials) hosted as part of the provision of the Services, that HASTEC does not monitor the content of the Customer Data (and resulting HASTEC Materials) and that the Customer Data (and resulting HASTEC Materials) may not be accurate or complete.
- 6.4 The Customer shall, and shall procure that, the Customer Data does not contain anything which is Infringing Data and shall ensure that all Customer Data it inputs or which is inputted on its behalf will be accurate and complete.

- 6.5 Where any Service Provider and the Customer do not agree on the accuracy of any Customer Data and resulting HASTEC Materials relating to that Service Provider, then the Customer will not finalise the resulting HASTEC Materials unless and until the Customer and Service Provider have resolved their differences in relation to the relevant Customer Data.
- 6.6 HASTEC shall notify the Customer immediately if it becomes aware of any allegation that any Customer Data or resulting HASTEC Materials may be Infringing Data. HASTEC shall have the right to remove Infringing Data within the Customer Data and resulting HASTEC Materials from the System without the need to consult the Customer.
- 6.7 The ADASS East assessment template (which will be provided to the Customer) will be used by the Customer to compile the Customer Data and cannot be changed without the written permission of HASTEC.

## 7. DATA PROTECTION

- 7.1 It is acknowledged that generally the Customer Data and resulting HASTEC Materials will not contain Personal Data. However, in some cases they may contain Personal Data, and the provisions of this clause 7 will apply to the extent that they do contain is Personal Data.
- 7.2 Each party agrees that, in the performance of its respective obligations under the agreement, it shall comply with the provisions of the Data Protection Legislation.
- 7.3 For the purposes of Data Protection Laws, where any Personal Data is processed pursuant to this agreement the Customer shall be a Data Controller and HASTEC shall be a Data Controller.
- 7.4 The Customer warrants that:
  - 7.4.1 all Personal Data provided by or on behalf of the Customer shall have been lawfully obtained and retained by the Customer (or its nominated third party);
  - 7.4.2 all necessary consents and data processing notices have been provided in relation to the processing of the Customer Data so that it may be inputted into the System and used in the System by the Customer, HASTEC, HASTEC's other customers, Service Providers and the public;
  - 7.4.3 the Customer is lawfully entitled to provide, procure the provision of or authorise HASTEC to obtain (as the case may be) the Personal Data for the purposes envisaged by this agreement; and
  - 7.4.4 any processing of the Personal Data by HASTEC in accordance with this agreement shall not contravene any Data Protection Laws or infringe the rights of the data subject or any third party;
- 7.5 Each party warrants that it shall:
  - 7.5.1 not do or omit to do anything which will place the other party in breach of any Data Protection Laws;
  - 7.5.2 only process Personal Data in accordance with the relevant principles under the Data Protection Laws;
  - 7.5.3 not under any circumstances transfer or allow the transfer of the Personal Data outside the European Economic Area other than as permitted by Data Protection Laws (or as otherwise authorised in writing by a data subject);
  - 7.5.4 implement such security measures as required to enable Personal Data to be processed in compliance with obligations under the Data Protection Laws;
  - 7.5.5 notify the other party as soon as reasonably possible on becoming aware of a data breach in relation to the Personal Data and cooperate with the other party to resolve such issue; and
  - 7.5.6 at the other party's expense, provide such assistance as the other party may reasonably require to assist it to comply with its obligations to keep the Personal Data secure, allow it to inform a regulatory authority or data subject of a data breach, conduct a data protection impact assessment, consult with a regulatory authority regarding the processing of Personal Data and/or respond to requests made by data subjects pursuant to Data Protection Laws.
- 7.6 From time to time during the term of this agreement each party shall (upon written request from the other party):
  - 7.6.1 provide details in writing of its data processing activities in respect of Personal Data;
  - 7.6.2 on reasonable notice allow the other party to audit its compliance with these terms (subject to any reasonable requirements or restrictions that it may impose to safeguard the personal data it holds on behalf of other clients and/or avoid unreasonable disruption to its business).

## 8. SUSPENSION OR DISCONNECTION

- 8.1 If the Customer does not comply with any of its material obligations under the Agreement, HASTEC reserves the right after giving reasonable advance notice to the Customer to take any or all of the following measures:
  - 8.1.1 suspend access to the Services or System; and/or

8.1.2 outright disconnection from the Services or System.

8.2 In the event of disconnection or suspension from the Services or System occurring pursuant to clause 8.1 the Customer shall still be obliged to pay the Charges to HASTEC for that part of the Term.

## 9. CHARGES

9.1 Subject to any special terms agreed in writing, the Customer shall pay HASTEC's Charges and any additional amounts which are agreed upon between HASTEC and the Customer for the provision of the Services and the System.

9.2 Quotations are illustrative only, any personnel charges, including technical work, and additional service use would have to be specified in order for more precise costs to be ascertained. Implementation costs are based on suggested number of personnel days.

9.3 The Customer shall pay to HASTEC the Minimum Charge regardless of the actual usage of the Services and/or System.

9.4 Subject to any price guarantees that are set out in the Signed Order Form and Agreement, HASTEC will be entitled to vary the Charges once per annum. Any such increase shall not exceed the Retail Price Index prevalent at that given time.

9.5 All Charges quoted to the Customer for the provision of the Services and/or the System are valid for 30 days.

9.6 Additional Charges include but are not limited to;

9.6.1 Onsite work will incur travel expenses charged at £0.52 per mile, and the cost for subsistence accommodation and all other travel costs.

9.6.2 A 5% surcharge applies if the Customer does not pay by Direct Debit

9.7 HASTEC shall invoice the Customer on a monthly basis for the Charges.

9.8 All Charges are stated exclusive of VAT or other sales taxes which shall be payable by the Customer in addition at the prevailing rate.

9.9 The Charges and any additional amounts payable shall be paid by the Customer (together with any applicable VAT) without any off-set or other deduction within 30 days of the date of HASTEC's invoice.

9.10 If payment of any Charges is not made on the due date, HASTEC shall be entitled, without limiting any other rights it may have, to cease or suspend Services and charge interest on the outstanding amount (both before and after any judgment) until the outstanding amount is paid in full at the rate of 4% above Royal Bank of Scotland base rate from time to time.

9.11 Any costs and expenses reasonably incurred by HASTEC in the collection of Charges from the Customer shall be a debt due to HASTEC immediately and shall be reimbursed to HASTEC by the Customer on demand.

9.12 HASTEC shall charge from the point the Application is switched on and made available. This applies to any and all environments applicable.

9.13 Late cancellation or postponement of training by the Customer may incur a discretionary charge. Cancellation or postponement of training more than 5 working days in advance will incur no charges. Cancellation or postponement of training within 5 working days or less of the session date may be charged at 50% of the cost of the training session. Cancellation or postponement with less than 2 working days' notice may be charged at 100% of the cost of the training session.

## 10. INTELLECTUAL PROPERTY RIGHTS

10.1 All Intellectual Property Rights and all other rights in the Services, the Applications, and the Documentation shall be owned by HASTEC or, where applicable, the relevant third party software owners and the Customer shall have no rights in or to the Services, the Applications, the Documentation or Equipment rented from HASTEC other than the right to use it in accordance with the terms of the Agreement.

10.2 To the extent that the Customer acquires any Intellectual Property Rights in the System and/or the HASTEC Materials the Customer assigns or procure the assignment of such Intellectual Property Rights with full title guarantee (including by way of assignment of future Intellectual Property Rights) to HASTEC. The Customer shall execute all such documents and do such things as HASTEC may consider necessary to give effect to this condition.

10.3 The Customer is only authorised to use the System within the United Kingdom on the terms set out in the Agreement.

10.4 The Customer shall have no right to use the System and HASTEC Materials after the termination of this Agreement. The right of HASTEC to use the Customer Data shall survive any termination of this Agreement.

10.5 The property and any copyright or other Intellectual Property Rights in:

10.5.1 Any Customer Material and Customer Data shall belong to the Customer.

10.5.2 Any HASTEC Material shall belong to HASTEC, subject only to the right of the Customer to use the HASTEC Material for the purposes of utilising the System.

- 10.6 Any Customer Material or other information provided by the Customer that is so designated by the Customer shall be kept confidential by HASTEC, and all HASTEC Material or other information provided by HASTEC which is so designated by HASTEC shall be kept confidential by the Customer; but the foregoing shall not apply to any documents or other materials, data or other information which are public knowledge at the time when they are so provided by either party or any information that it is accessible by third parties as part of the normal operation of the System. For the avoidance of doubt HASTEC training materials must remain confidential at all times and should only be published to Users of the System
- 10.7 The Customer warrants that any Customer Material and Customer Data and its use by HASTEC for the purpose of providing the System and/or Services will not infringe the copyright or other rights of any third party and the Customer shall indemnify and keep indemnified HASTEC from and against any Losses arising from any such infringement.
- 10.8 The Customer shall not cause or permit anything which may damage or endanger any Intellectual Property of HASTEC or assist or allow others to do so.

## 11. CONFIDENTIALITY

- 11.1 Each party shall, during the Term and thereafter, keep confidential all, and shall not use for its own purposes (other than implementation of the terms of the Agreement) nor without the prior written consent of the other disclose to any third party (except its professional advisors or as may be required by any law or any legal or regulatory authority) any, information of a confidential nature (including trade secrets and information of commercial value) which may become known to such party from the other party and which relates to the other party or any of its Affiliates, unless that information is public knowledge or already known to such party at the time of disclosure, or subsequently becomes public knowledge other than by breach of this licence, or subsequently comes lawfully into the possession of such party from a third party. Each party shall use its reasonable endeavours to prevent the unauthorised disclosure of any such information. This clause 11 shall survive termination of this Agreement.
- 11.2 The Customer shall be liable for the acts and/or omissions of its employees, agents and sub- contractors as if they were the acts and/or omissions of the Customer under this Agreement.
- 11.3 HASTEC shall exercise its' right to advertise/publish the identity of the Customer and headline terms of the Agreement for publicity purposes with the consent of the Customer, such consent not to be unreasonably withheld or delayed. This shall include, but is not limited to, publication on HASTEC's website and/or issuing press releases published in literature that is widely available, particularly within the care industry.

## 12. WARRANTIES AND LIABILITY

- 12.1 HASTEC shall have no liability to the Customer for any Losses arising from any Customer Material, Customer Data or instructions supplied by the Customer that are incomplete, incorrect, inaccurate, illegible, out of sequence or in the wrong form, or arising from their late arrival or non-arrival, or any other fault of the Customer.
- 12.2 HASTEC shall have no liability to the Customer under the Agreement for any event beyond its reasonable control including but not limited to a failure of the internet, hosting or telephone services provided by a third party, acts of nature (including fire, flood, earthquake, storm, hurricane or other natural disaster), war, terrorist activities, interruption of public electricity supplies, the acts of the British Government, Ofcom or by any telecommunications network or service provider authorised by Ofcom or any regulator. Time for performance of any obligations of HASTEC affected by such events shall be extended by the same amount of time that such events continue to affect the Services and/or the System. This clause will also apply to the extent that any such matters affect any sub-contractors of HASTEC which affect the Services and/or the System.
- 12.3 If there is a delay in the full implementation of the Services and/or System through no fault of HASTEC, the full Charges for all and any Services and/or parts of the System actually provided will be charged. Where delays are caused by the Customer themselves, failure by the Customer to conclude the Agreement in a timely manner, or delays caused by the Customer's third party software supplier that HASTEC Applications interface with, then HASTEC may charge the Customer of the full Charges whether or not all or any part of the Services and/or System has not actually been provided.
- 12.4 The Customer will indemnify and keep indemnified HASTEC from and against any and all Losses suffered or incurred by HASTEC resulting from:
- 12.4.1 any breach of the Agreement by the Customer;
  - 12.4.2 any act, neglect or default of the Customer's Users, employees or agents; and / or,
  - 12.4.3 Any Infringing Data in any resulting HASTEC Materials which is published by HASTEC.
- 12.5 HASTEC shall have no liability to the Customer for Losses for defects in the System and/or Services where the defect has been caused or contributed to by the Customer to the extent so contributed.

- 12.6 HASTEC shall have no liability to the Customer for additional Losses caused or contributed to by the Customer's continued use of defective System and/or Services after a defect has become apparent or suspected or should reasonably have become apparent to the Customer and the defect has not been reported by the Customer to HASTEC.
- 12.7 HASTEC shall have no liability to the Customer for any consequential losses and/or indirect losses.
- 12.8 Each party's total liability for Losses for all acts and/or omissions in any relevant 12-month period in connection with this Agreement shall not exceed 200% of the amount paid by the Customer to HASTEC under this Agreement in the same relevant 12-month period. For the purposes of this Clause the relevant 12-month period means the 12 months immediately prior to the first acts and/or omissions giving rise to the Losses.
- 12.9 Each of the limitations and/or exclusions in this Agreement shall cover and apply to liability in contract (including fundamental breach), liability in tort (including negligence), liability for breach of statutory duty, liability for breach of common law and liability under any other legal basis.
- 12.10 Nothing in this Agreement shall exclude or limit a party's liability for death or personal injury due to its negligence or any liability which is due to its fraud or any other liability which it is not permitted to exclude or limit as a matter of law.
- 12.11 All dates supplied by HASTEC for the Services shall be treated as approximate only. HASTEC shall not in any circumstances be liable for any Losses arising from any delay beyond such approximate dates.
- 12.12 The Customer acknowledges and agrees that the System and/or Services have not been prepared to meet the Customer's individual requirements and it is the Customer's responsibility to ensure the facilities and functions of the System and/or Services meet the Customer's requirements.
- 12.13 Save as otherwise provided in the SLA, HASTEC does not warrant or represent that the System and/or Services shall be:
- 12.13.1 uninterrupted or error free; or
  - 12.13.2 interoperable with third party software or equipment.
- 12.14 Save to the extent set out in this Clause 12 or to the extent that any exclusion is prohibited by law, no other representations, warranties or conditions, express or implied, statutory or otherwise (including as to condition, satisfactory quality, performance or fitness for purpose), are given or assumed by HASTEC in respect of the Services, Applications, the System and/or Documentation and any such representations, warranties or conditions are hereby excluded.

### 13. **TERMINATION**

- 13.1 Subject to the provisions in the Agreement, this agreement shall be in force for a period of three years from the date on the signed order form and agreement and thereafter unless terminated by 6-months written prior notice at an anniversary of the date of the Agreement, the Agreement will automatically extend by 12-months at each anniversary of the date of the Agreement.
- 13.2 HASTEC may immediately terminate this Agreement by written notice if the Customer:
- 13.2.1 fails to make any undisputed payment when due and it has not been paid within 30 days of a written request for payment by HASTEC.
  - 13.2.2 challenges the existence or ownership of any Intellectual Property Rights in the System and/or HASTEC Materials.
- 13.3 A party may immediately terminate this Agreement by written notice if the other party; or
- 13.3.1 breaches the terms of this Agreement (and if remediable the breach has not been remedied within 30 days of receiving notice requiring it to be remedied);
  - 13.3.2 persistently breaches any one or more terms of this Agreement;
  - 13.3.3 ceases or threatens to cease to carry on business or operation; or
  - 13.3.4 is declared or becomes insolvent or bankrupt, has a moratorium declared in respect of any of its indebtedness, enters into administration, receivership, administrative receivership or liquidation or threatens to do any of these things, takes or suffers any similar action in any jurisdiction or any step is taken (including, without limitation, the making of an application or the giving of any notice) by it or by any other person in respect of any of these circumstances.
- 13.4 For the purposes of Clause 13.3.1 a breach shall be considered capable of remedy if the relevant provision of the Agreement can be complied with in every particular, save for the time for compliance with the relevant provision.
- 13.5 Termination of the Agreement pursuant to this Clause 13 shall not affect liability for any breaches prior to the termination of this Agreement.
- 13.6 If HASTEC has the right to terminate this Agreement:



- 13.6.1 the Customer shall have no right to continued use of the System and/or the Services;
  - 13.6.2 HASTEC may withhold the performance of any Services and cease any Services in progress;
  - 13.6.3 HASTEC may cancel, terminate and/or suspend without liability to the Customer any agreement between the parties; and/or
  - 13.6.4 all monies owed by the Customer to HASTEC shall immediately become due and payable.
- 13.7 On termination of the Agreement for any reason, each party shall as soon as reasonably practicable:
- 13.7.1 return or destroy (as directed in writing by the other party) any documents, handbooks, including all documents and materials (and any copies) containing, reflecting, incorporating or based on the other party's Confidential Information. If required by the other party, it shall provide written evidence no later than 14 days after termination of the Agreement that these have been destroyed and that it has not retained any copies of them, except for one copy that it may use for audit purposes only, and subject to the confidentiality obligations in clause 11;
  - 13.7.2 delete (to the extent possible) any proprietary software belonging to the other party and all the other party's Confidential Information from its IT network and hard disks or other storage means associated with any computer equipment owned or controlled by the other party. Each party shall provide written confirmation no later than 14 days after termination of the Agreement that this software and Confidential Information has been deleted;
  - 13.7.3 return all of the other party's equipment and materials, failing which the other party may enter the relevant premises and take possession of them. Until these are returned or repossessed, the party remaining in possession shall be solely responsible for their safe-keeping;

#### 14. **ASSIGNMENT**

- 14.1 The Customer shall not, without the prior written consent of HASTEC, assign, transfer, charge, place in trust, sub-contract or deal in any other manner with all or any of its rights or obligations under the Agreement.
- 14.2 HASTEC may at any time, with the Customer's written consent, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Agreement.

#### 15. **GENERAL**

- 15.1 The Agreement constitutes the entire agreement between the parties and supersedes any previous agreement or understanding. All other terms and conditions express or implied by statute or otherwise, are excluded to the fullest extent permitted by law. Each party expressly confirms that it has not been induced to enter into this Agreement by any representation or statement that is not expressly set out in these Conditions. This Clause shall not exclude liability for fraudulent misrepresentations.
- 15.2 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to the other party at the address specified for that party in the Signed Order Form and Agreement document or such other address as may at the relevant time have been notified to the party giving the notice.
- 15.3 No failure or delay by a party in exercising any of its rights under the Agreement shall be deemed to be a waiver of that right, and no waiver by a party of any breach of this Agreement by the other party shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 15.4 If any provision of the Agreement is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of the Agreement and the remainder of the provision in question shall not be affected.
- 15.5 For the avoidance of doubt, nothing in this Agreement is intended to confer on any third party any benefit or the right to enforce any term of this Agreement.
- 15.6 This Agreement is subject to English law and the parties agreed to submit to the exclusive jurisdiction of the English Courts in relation to any dispute connected to this Agreement.

## PAMMS SERVICE LEVEL AGREEMENT (SLA)

### 1. Definitions

- 1.1 **'Agreement'** means the agreement between the Contractor and the Customer for the provision of the Services set out in the Signed Order Form and Agreement document or any other Agreement between the Contractor and the Customer.
- 1.2 **'Complaints Procedure'** refers to the process that ensures that all Customer complaints are resolved quickly and efficiently, in a manner that is agreeable to the Customer and the Contractor.
- 1.3 **'Contractor'** means the person, firm or company (HAS Technology Limited) who is responsible for carrying out the services specified as part of the Agreement and shall include the Contractor's legal personal representatives, successors and assignees.
- 1.4 **'Core Service Hours'** means the standard hours in which Service Helpdesk personnel are available to answer Customer queries.
- 1.5 **'Customer'** means the individual, company, or organisation so defined who is named as Customer in the Agreement document, or is defined otherwise in any other Agreement.
- 1.6 **'Defect'** means a shortcoming or deficiency in the Contractor's Software that causes inadequacy, or does not work in the intended manner.
- 1.7 **'Defect Management Process'** refers to the Contractor's procedure that aims to identify and define any defects to the Software, resolve them and prevent them from occurring again (where possible).
- 1.8 **'Dispute Resolution Procedure'** is a process that has been designed to settle a dispute or disagreement between parties in an efficient, unprovocative manner. The Dispute Resolution Procedure is typically outlined within the Agreement.
- 1.9 **'End Users'** refers to the persons who use the Contractor's Software.
- 1.10 **'Escalation Procedure'** refers to the process adopted when a user's issue cannot be resolved by the Customers nominated first-line support persons.
- 1.11 **'Planned Maintenance'** refers to the process of checking and optimising the performance of the Contractor's services at a pre-defined time.
- 1.12 **'Release Management Process'** is a procedure that is designed to manage and regulate Software releases, from the development stage, to the Software release itself.
- 1.13 **'Response Time'** means the anticipated amount of time it shall take for the relevant personnel to respond to the Ticket.
- 1.14 **'Service Helpdesk'** refers to the dedicated Support Team that is contactable by email or telephone, provided by the Contractor, that delivers Service Support to the Customer.
- 1.15 **'Service Support'** means the help and assistance provided to the Customer by the Contractor in relation to the Software services it provides.
- 1.16 **'Software'** refers to the Contractor's Software provided to the Customer as described in the manner described within the Agreement. Software includes the provision of Customer access to the PAMMS system and any other Software provided by the Contractor.
- 1.17 **'Support Team'** means the individuals employed by the Contractor that provide Service Support to the Customer.
- 1.18 **'Technical Support'** means preventive and / or corrective maintenance, fault identification and repair, Software upgrades, and all other work to be carried out by the Contractor to the Software or the systems used to deliver the Software. Technical Support also refers to support of a technological nature that is provided by the Contractor to the Contractor's systems to maintain PAMMS and / or fix any issues with the availability of PAMMS. This may include capacity planning, fixing system faults etc.
- 1.19 **'Ticket Reference'** means the unique number that is given to each End User that raises a query to the Service Helpdesk, used to track their specific query. Tickets can be raised to the Contractor's Service Helpdesk by use of the HASTEC GTA portal.
- 1.20 **'Upgrade'** means to replace outdated Software with a more recently enhanced Software version to improve its functionality and / or resolve Defects.
- 1.21 **'Incident'** means an interruption to the service or a severe reduction in quality that makes the service unusable.
- 1.22 **'Service Request'** refers to a system configuration change, a request for information or advice.
- 1.23 **'Working Day'** refers to a weekday between the hours of 09:00 – 17:30 (Excluding UK Bank Holidays)
- 1.24 **'GTA Portal'** refers to HASTEC's GoToAssist portal that is to be used for raising all support tickets to 2<sup>nd</sup> & 3<sup>rd</sup> line support.
- 1.25 **'1<sup>st</sup> Line Support'** refers to the nominated persons at the Customer that will be responsible for the initial investigation into any issues raised by the PAMMS End Users. This is required to rule out any local issues, such as internet connectivity, prior to raising a support ticket to the 2<sup>nd</sup> / 3<sup>rd</sup> line application support team.
- 1.26 **'2<sup>nd</sup> & 3<sup>rd</sup> Line Support'** refers to the Support Team that is provided by the Contractor to provide application support for PAMMS. Issues can be raised to the 2<sup>nd</sup> & 3<sup>rd</sup> line team by using HASTEC's GTA portal only.

**2. Purpose**

2.1 This SLA sets out the Service Support to be provided by the Contractor to the Customer under the Agreement.

**3. Services Covered**

3.1 This SLA covers the base level of service support applicable for all Software provided under the Agreement.  
3.2 There must be a single point of contact for Service Support purposes and an end-to end process must be in place for managing Tickets.  
3.3 This SLA provides details of fault reporting processes including Response and Fix Times, and the Contractor’s Escalation Procedure.

**4. Duration**

4.1 This SLA will be valid for as long as the Software supplied under the Agreement is still in use by the Customer.  
4.2 The Software services purchased will be supported for the duration of each Agreement between the Contractor and the Customer.

**5. Roles**

5.1 The Contractor’s Service Helpdesk shall provide Service Support.  
5.2 All 2<sup>nd</sup> & 3<sup>rd</sup> line Support Tickets will be logged directly with the Contractor via HASTEC’s GTA portal.

<b>Customer</b>	Please refer to Section 1.5
<b>Contractor</b>	Please refer to Section 1.3
<b>Contract Manager (the Customer’s representative)</b>	[TBC by the Customer]
<b>Support Manager</b>	The Contractor’s owner of the Service Helpdesk and manager of the Support Team / Service Helpdesk.
<b>End Users</b>	The End Users of the Software provided by the Contractor to the Customer.

**6. Service Definitions**

6.1 **Service Availability**  
The Contractor shall do its utmost to ensure that the Software is available 24/7/365. Periodic planned maintenance that may affect the Software delivery shall be scheduled to take place outside of Core Service Hours, unless by prior agreement. The Contractor reserves the right to undertake unplanned emergency maintenance at any time required to remedy any ‘Critical’ or ‘High’ Business Impact system issues.

6.2 **Core Service Hours**  
The Contractor provides systems Technical Support to resolve any issues with system availability. Service Support is available between the core hours of 09:00 and 17:30 Monday to Friday. Core Service Hours are provided on non-English Bank Holidays. Enquiries to the Service Helpdesk can be made by the HASTEC GTA portal. Each enquiry is assigned a unique Ticket. The Contractor’s Ticket logging procedure shall provide a standard call logging and tracking procedure for the service provided.

**7. Review**

7.1 This SLA will be reviewed annually and the Contractor reserves the right to change this accordingly. The Customer will be contacted to notify of any changes to the SLA.

**8. Response and Fix Times**

8.1 The Contractor will meet the following times:

<b>Service Level Definition</b>	<b>Priority</b>	<b>Response Time in Core Service Hours</b>	<b>Response to Fix Time in Core Service Hours (elapsed time in brackets)</b>
Defined as a service failure which, in the reasonable opinion of the Customer, has the potential to have a critical adverse impact on one or more End Users and/or	Urgent (Priority 1)	0 – 2 hr	8 hrs (i.e. 1 working day)

the Customer's ability to use the Licensed Software Product, cause significant financial loss and/or disruption to the Customer and/or End User, adversely affect the Customer's and/or End User's public image or result in media comment which will impact adversely upon the Customer and/or End User, result in any material loss or corruption of data belonging to the Customer and/or End User, or in the provision of incorrect data presented to the Customer and/or End User.			
Defined as a service failure which, in the reasonable opinion of the Customer, could have a major adverse impact on critical End Users and/or the Customer's ability to use the Licenced Software Product or have a moderate adverse impact on all End Users and/or the Customer's ability to use the Licenced Software Product. For example, PAMMS solution still accessible however assessments cannot be submitted/synchronised.	High (Priority 2)	0 – 8 hrs	3 working days
Defined as a service failure affecting certain areas of the product, which, in the reasonable opinion of the Customer, are not critical and do not impact normal use or where a valid work-around has been provided to the Customer and/or End User. For example, system performance is reduced but it is still possible to fully use the system.	Medium (Priority 3)	2 working days	3 working months
Defined as a service failure comprising of a cosmetic flaw affecting only the presentation of the Licenced Software Product, which does not undermine the Customer's and/or End User's confidence in the information being displayed. For example, icons or text unaligned / misspelt.	Low (Priority 4)	2 working days	3 working months or next product release

8.2 Response and Fix Times are measured from the start of the Ticket.

8.3 A working day is defined as the period between the time at which a Ticket was received and the same time on the next working day. (I.e. weekends and public holidays are not classified as working days).

8.4 A working hour is one that is contained within the standard hours of operation. This means that if a Ticket is logged at 19:30 and the hours of operation are 09:00 to 17:30, then the working hour will end at 10:00 on the following day.

## 9.0 **Service Uptime**

9.1 HASTEC understand the nature of provider assessments and as such, the Software has been designed to be accessible 24/7, with a network availability of 99.95%.

## 10. **Support Agreement and Exclusions**

10.1 The Contractor will fully support and maintain the Software purchased under the Agreement. The Contractor will also support all aspects of the interfaces with third party systems that are within our control / covered under the Agreement.

10.2 Exclusions from the Support Agreement are as follows: The support of third party systems, or the aspects of interfaces between third party systems and the Contractor's system(s) (such as PAMMS) that are under the control of the third parties and / or not covered under the Agreement. Specifically, the Contractor is not responsible to support the following types of Software or the interfaces / connections between these and the system or services supplied by the Contractor that are under the control of the organisations responsible for the supply, development and / or delivery of these products / types of software / systems:

- Internet Web Browsers
- Support of Hardware supplied where HASTEC is not the manufacturer
- Meeting the 'Response and Fix Times' (Section 8. where the fault lies with a third party)

**11. Helpdesk Fair Usage Criteria**

11.1 'Helpdesk' enquiries are based on the assumption that individual Tickets raised via the HASTEC GTA portal per Agency / Branch will not exceed 30 per calendar month. If the number of individual Tickets is higher than 30, the following conditions apply:

- The Contractor and Customer will review the effectiveness of the Customer's 1<sup>st</sup> Line Support service to its End Users.
- The Customer will be invited to undertake additional self-help / e-learning training modules.

**12. Escalation Procedure**

12.1 All support queries will initially be dealt with by the Customer's nominated 1<sup>st</sup> line support persons. If they are unable to resolve the issue, the issue will be logged using the HASTEC GTA portal to a 2<sup>nd</sup> Line Support Specialist, who may, if necessary, enlist the support of the Contractor's Service Helpdesk Manager. Should the Customer not be satisfied with the resolution or the handling of the problem, the Customer Complaints Procedure in section 20 of this SLA will be followed to assess the Customer's complaint and determine an appropriate course of action.

**12.2 Escalation Rationale Table**

Escalation Level	Escalation Rationale	Contact	Escalation Timescales
1	A Ticket is logged with the Service Helpdesk via the HASTEC GTA portal - The first point of contact at Level 1.	2 <sup>nd</sup> Line Support Analyst (Service Helpdesk) Tel: 0121 308 9610	As per Section 8.1 (above)
2	If the Service Helpdesk does not respond within the agreed time specified, the Ticket will be escalated to Level 2.	Support Team Leader	Within 2 working days (16 hours) of Level 1
3	If the Support Team Leader does not respond within the agreed time specified, the Ticket will be escalated to Level 3.	Operations Director	Within 2 – 3 working days of Level 2
4	If the Support Manager does not respond within the agreed response time specified, then the Ticket will be escalated to Level 4.	Managing Director	Within 2 – 3 working days of Level 3

**13. Remote Support**

13.1 Where permission has been granted by the End User and where technically possible, the Contractor Helpdesk staff will provide Remote Support by 'shadowing' the End User's screen.

**14. Software Upgrades**

14.1 Upgrades are made periodically to the Software. The Contractor will be responsible for testing the new Service Upgrades before release. The Customer shall be obliged to accept Software Upgrades. The Contractor shall under no circumstances support any version of the Software that is more than one version behind the most recent version release. The Contractor shall use its best endeavours to resolve any issues significantly affecting any Upgrade that has been applied.

**15. Release Management**

15.1 The Contractor has documented Release Management Process specifically for the PAMMS Software and a dedicated Release Manager. A pre-release version is quality assessed before the new release goes live to mitigate any issues prior to Upgrade release.

- Notification for new releases / patches are communicated 14 - 21 days in advance, via the message board in the HASTEC GTA portal and by e-mail to the Customer's nominated persons.
- Release notes are made available on the HASTEC GTA portal.

All other Software shall be released by applying the internal testing procedures of the Contractor from time to time. Notification shall be given to all Customers affected.

**16. Not Used**

**17. System Maintenance**

17.1 System processes (system backups, health checks, etc.) will take place outside of normal working hours and will minimal impact on system performance if any.

**18. End User Management**

18.1 The Customer's 1<sup>st</sup> Line Support will undertake all end user access management requests including the following:

- Creation of End User accounts
- Maintenance of End User accounts
- Deleting / disabling End User accounts
- Password resets

**19. Operating Systems**

19.1 The Contractor will not support the use of PAMMS on devices using any Operating Systems or Web Browsers which are no longer supported by the system provider (e.g. Microsoft Windows, Apple iOS, Google Chrome).

**20. Complaints Procedure**

20.1 The Contractor is committed to providing a service of the highest quality, so aims to get it right all of the time. However, when things don't go to plan, the Contractor's Complaints Procedure specifies that:

- Complaints made to the Service Helpdesk shall be raised as per our Escalation Procedure (Section 11) in the first instance.
- Complaints made directly to other departments shall be raised to the appropriate Senior Management Team (SMT) member responsible.
- If the SMT member is unable to resolve the complaint to the Customer's satisfaction, the Contractor's Commercial Director shall be notified by email.
- The Commercial Director shall acknowledge each complaint with the Customer within 5 working days of receiving the complaint.
- The Commercial Director aims to identify an adequate resolution to the complaint within 10 working days of the complaint's receipt. If this cannot be achieved, the Contractor will inform the Customer on progress and when they can expect a full response (complaints are usually resolved much quicker than this).
- Should the complaint not be resolved to both parties' satisfaction within four working weeks, the Customer shall be entitled to make use of Dispute Resolution Procedure within the Agreement.

**20.2 The Contractor ensures that:**

- The Complaints Procedure is easy to understand
- All complaints are treated seriously
- Complaints are managed promptly and courteously
- A full explanation is provided, and an apology made where appropriate
- The Customer is informed of the action taken to ensure that the mistake is rectified / prevented in future
- Complaints are learned from and used to improve the Contractor's service.

**21. Terms and Conditions**

21.1 The contents of this Service Level Agreement shall be subject to the Terms and Conditions specified within the Contractor's PAMMS Terms and Conditions and the Agreement made between the Contractor and the Customer.

**22. Complaint Contact Information**

22.1 Mark Kennion  
Commercial Director  
HAS Technology Limited.  
Four Oaks House  
160 Lichfield Road  
Sutton Coldfield  
West Midlands  
B74 2TZ  
Tel: 0121 308 3010  
Email: [mark.kennion@hastec.ltd](mailto:mark.kennion@hastec.ltd)