
SUPPLY TERMS AND CONDITIONS

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These terms and conditions (Terms), together with the Order (as defined below), govern the relationship between **ZAYNDU LTD** a company incorporated in England and Wales with registered number 11795698 whose registered office is at ATIC, Oakwood Drive, Loughborough, England, LE11 3QF ("**Zayndu**") and you, the Customer.

These Terms and the Order together constitute the agreement between the parties (Agreement).

Zayndu is engaged in supplying seed health treatment services through the use of Treatment Protocols and Equipment.

By signing the Order which will be provided to you, you will be deemed to have read and understood the Agreement and agree to be bound by it. Where there is a conflict between the provisions of these Terms and the Order, the provisions of the Order shall prevail.

Agreed Terms

1. Definitions and Interpretation

1.1 The following definitions and rules of interpretation apply within these Terms and Conditions:

"**Business Day**" means a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business;

"**Charges**" means together the Initial Charge, the Monthly Charges and any applicable Trial Charges;

"**Confidential Information**" means:

- (a) all confidential or proprietary information relating to (i) the business, assets, affairs, customers, clients, suppliers of a Party; and
- (b) the operations, processes, product information, know-how, technical information, designs, trade secrets or software;
- (c) any information, findings, data or analysis derived from Confidential Information;
- (d) specifically, the outcomes of the use of the Customer's Treatment Protocols, the Software, Intellectual Property, specifications of the Equipment and Software, any documents and manuals provided to the Customer for use solely by it for the Term; and

- (e) any other information that is identified as being of a confidential or proprietary nature.

"Data Protection Legislation" means:

- (a) to the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom which relates to the protection of personal data; or
- (b) to the extent the EU GDPR applies, the law of the European Union or any member state of the European Union to which the party is subject, which relates to the protection of personal data;

"Equipment" means the equipment required to deliver the non-toxic seed health treatment and any other equipment provided by Zayndu to the Customer, as specified in the relevant Order;

"Intellectual Property Rights" means the rights in the Treatment Protocols, Software, database rights, rights to use, and protect the confidentiality of, Confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

"Licence" means the licences provided to the Customer in terms of clause 15;

"Location" means the Customer's registered business premises, or such other location as the parties may agree in the relevant Order, to which the Equipment is to be delivered and/or installed;

"Maintenance Services" means the services to be provided by Zayndu to the Customer to ensure the functionality of the System during the Term, as set out in the Supply of Scope Form and which includes, at Zaynu's discretion, firmware and Treatment Protocol updates;

"Monthly Charges" means the monthly fee payable by the Customer to Zayndu in accordance with its Subscription Level.

"Order" means an order for Services, as placed by the Customer. Each Order shall include all details relevant to the Customer's requirements including what type and where the seeds will be used, the number of the purchase of Services, including but not limited to the supply of Equipment, the Charges, the Maintenance Services, the Location and the delivery date of the Equipment;

"**Services**" means the delivery and installation of the Equipment, the use of the Licence, the Maintenance Services and any other services delivered by Zayndu as detailed in the relevant Order;

"**Specification**" means the document detailing the description or specification of any Services (including specifications of the Equipment) to be provided by Zayndu to the Customer, as detailed in the Order;

"**Software**" means any software which is made available by Zayndu to the Customer as part of the Services (including any general firmware installed on the Equipment) as specified in the relevant Order, and any updates to the Software as provided by Zayndu to the Customer from time to time;

"**Subscription Level**" means the bundle of Services subscribed to by the Customer, which takes into account both the estimated peak processing requirement and average processing requirement which the Customer may require for the Term.

"**System**" means the Equipment and Treatment Protocols as detailed in the relevant Order;

"**Treatment Protocols**" means the Treatment Protocols (including any updates) provided to the Customer as part of the Services that contain the algorithms used in the seed health treatment process, which are specific to certain seed types or seed and/or pathogen pairs, as specified in the relevant Order;

"**Trial Period**" means a period commencing on the Commencement Date with a duration specified in the relevant Order;

and

1.2 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.3 A reference to a party includes its personal representatives, successors and permitted assigns.

1.4 A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.

1.5 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.6 A reference to **writing** or **written** includes email.

2. Commencement and Duration

2.1 These Terms commence on the date when the Order has been signed by both Parties ("**Commencement Date**"). Unless terminated earlier in accordance with clause 5.11 or clause 12 below, these Terms continue for the period set out in the order (**Initial Term**) and automatically renew for the periods set out in the Order (**Renewal Term**). At the end of the Initial Term and at the end of each Renewal Term, either party may give written notice to the other party, not later than 60 (sixty) days before the end of the Initial Term or the relevant Renewal Term, to terminate these Terms at the end of the Initial Term or the relevant Renewal Term, as the case may be.

2.2 The process for finalising an Order is as follows:

(a) the Customer shall assist Zayndu in generating a Scope of Supply which defines the Services the Customer requires. Upon the generation of the Scope of Supply, Zayndu shall either:

- (i) inform the Customer that it declines to provide the requested Services; or
- (ii) provide the Customer with a quotation against which the Customer can place an Order, using a form supplied by Zayndu.

2.3 No amendment shall be made to the finalised Order except as permitted under clause 18.9. Each Order shall be part of these Terms and shall not form a separate contract to it.

2.4 By agreement between the Parties, Zayndu shall provide the Customer with Equipment and Treatment Protocols for any trial period specified in the Order ("Trial Period") and any Trial Charges shall apply for this period.

2.5 Save for clause 8, the Customer will be bound by the provisions of these Terms during the Trial Period

2.6 Notwithstanding clause 2.1, the Customer may immediately terminate these Terms within the Trial Period if it is not satisfied with the Services. Should the client terminate these Terms within the Trial Period, the provisions of clause 14 shall apply.

3. **Equipment**

Delivery of the Equipment

- 3.1 On receipt of payment of the Initial Charge (if applicable) and/or on the delivery date as specified in the relevant Order, Zayndu shall deliver the Equipment to the Location. Delivery of the Equipment shall be completed upon unloading of the Equipment at the Location.
- 3.2 The date provided by Zayndu for delivery of the Equipment is approximate only, and the time of delivery is not of the essence. Zayndu shall not be liable for any delay in delivery of the Equipment that is caused by a Force Majeure Event or the Customer's failure to provide Zayndu with adequate delivery instructions or any other instructions that are relevant to the supply of the Equipment.
- 3.3 If the Customer fails to take delivery of the Equipment within 7 (seven) Business Days of Zayndu notifying the Customer that the Equipment is ready, then except where such failure or delay is caused by a Force Majeure Event or by Zayndu's failure to comply with its obligations under these Terms:
- (a) delivery shall be deemed to have completed at 9.00 am on the seventh Business Day following the day on which Zayndu notified the Customer that the Hardware was ready to be delivered ("Deemed Delivery"); and
 - (b) if Zayndu must store the Equipment on the Customer's behalf, it will charge the Customer for all related costs and expenses arising from the storage, including insurance.
- 3.4 The risk in the Equipment shall pass to the Customer on delivery or Deemed Delivery, however, title to the Equipment shall not pass to the Customer and shall remain with Zayndu. Nothing in these Terms shall be construed as sale of the System to the Customer.
- 3.5 If 20 (twenty) Business Days after the day on which Zayndu notified the Customer that the Equipment is ready for delivery, the Equipment is still being stored by Zayndu, Zayndu may reallocate the Equipment to another customer or otherwise dispose of part or all of it
- 3.6 After this reallocation or disposal and, after deducting reasonable storage and selling costs, Zayndu shall account to the Customer. Should there have been any additional storage costs

incurred by Zayndu it is entitled to deduct these costs from the proceeds of the reallocation or disposal of the Equipment.

- 3.7 If there are insufficient funds available to cover the additional costs, Zayndu is entitled to recover these costs directly from the Customer.

Return of the Equipment

- 3.8 The Customer shall return the Equipment or shall allow Zayndu to collect the Equipment from the Location at the Customer's cost within 10 (ten) Business Days of the end of the Term. Responsibility for the costs of shipping will be as set out in the Order.

Customer's obligations in respect of the Equipment

- 3.9 During the Term and until Zayndu is in sole possession of the Equipment at the end of the Term, the Customer shall:
- (a) not remove, deface or obscure any identifying mark or packaging on or relating to the Equipment;
 - (b) maintain the Equipment in satisfactory condition and keep them insured against all risks for their full price on Zayndu's behalf from the date of delivery. In this regard, the required insurance value shall be stated in the Order;
 - (c) notify Zayndu immediately if it becomes subject to any of the events listed in clause 12.1(b);
 - (d) provide Zayndu such information as it may reasonably require from time to time relating to the Equipment
 - (e) provide Zayndu with the same information as it provides other vendors with regard to its financial position on an ongoing basis;
 - (f) not reverse engineer or in any way tamper with the operation of the Equipment; and
 - (g) permit Zayndu (or a third party nominated by Zayndu) to enter the Customer's premises, at any time, in order to retrieve and repossess the Equipment.

4. **Treatment Protocols and Software**

- 4.1 For the duration of the Term, Zayndu shall grant to the Customer, subject to the restrictions set out in these Terms, a non-exclusive, non-transferable licence to allow it to use the Treatment Protocols and Software for the purpose of operating the Equipment.
- 4.2 Except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties, the Customer may not itself nor permit others to:
- (a) attempt to or in fact copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, reverse engineer, or distribute all or any portion of the Treatment Protocols or Software in any form or media or by any means;
 - (b) rent, lease, sublicense, sell, assign, pledge, transfer or otherwise dispose of the Treatment Protocols or Software, on a temporary or permanent basis;
 - (c) translate, reverse engineer, decompile, disassemble, unbundle, modify or create derivative works based on the Treatment Protocols or Software, except as expressly permitted by law;
 - (d) vary, delete or obscure any notices of proprietary rights or any product identification or restrictions on or in the Treatment Protocols and/or Software; or
 - (e) access all or any part of the Treatment Protocols or Software in order to build a product or service which competes with the Equipment, the Software or Treatment Protocols;
- 4.3 The Customer undertakes to use its best endeavours to prevent any unauthorised access to, or use of the Treatment Protocols and the Software and, in the event of any such unauthorised access or use, it shall promptly notify Zayndu.

5. **Warranties**

Equipment

- 5.1 Zayndu warrants that on delivery, and during the Term, the Equipment shall conform in all material respects with the Specification.

5.2 If:

- (a) the Customer gives notice in writing to Zayndu during the warranty period within a reasonable time of discovery that some or all of the Equipment do not comply with the warranty set out in clause 5.1; and
- (b) Zayndu is given a reasonable opportunity of examining such Equipment,

Zayndu shall, at its option, repair or replace the defective Equipment.

5.3 Zayndu shall not be liable for a failure of the Equipment to comply with the warranty set out in clause 5.1 if:

- (a) the defect arises because the Customer failed to follow Zayndu's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Equipment or good trade practice regarding the same;
- (b) the Customer alters or repairs or attempts to alter or repair the Equipment without the written consent of Zayndu; or
- (c) the defect arises as a result of:
 - (i) damage caused to the Equipment by the Customer that is beyond fair wear and tear;
 - (ii) wilful damage to the Equipment caused by the Customer;
 - (iii) the Customer's negligence;
 - (iv) the Customer using the System to treat seeds which have been previously treated with synthetic chemicals (only "naked" seeds should be used); or
 - (v) the Customer subjecting the Equipment to abnormal working conditions. (for example, operating the Equipment outside the environmental envelope detailed in the Specification, with loads beyond the machine specified capacity, or processing material for which the system was not intended).

5.4 Except as provided in this clause 5, Zayndu offers no warranties in respect of the functioning of the System and the Customer indemnifies Zayndu against all costs, damages or liability arising from the operation of the System.

Treatment Protocols

5.5 The Customer acknowledges that, although some or all of the Treatment Protocols provided may have been developed according to its specific needs as set out in the Order, other Customers may require similar or identical Treatment Protocols. However, the Customer's information and outcomes delivered through the use of its Treatment Protocols is confidential to it.

5.6 Zayndu warrants that the Treatment Protocols and Software will conform in all material respects to the Specification on delivery.

5.7 Zayndu does not warrant that the use of the Treatment Protocols will be uninterrupted or error-free. Furthermore, the Customer acknowledges that the Treatment Protocols are applied to biological material and, as such, variability of results is to be expected.

5.8 Except for routine repair and maintenance, consistent with customary industry standards, Zayndu shall use reasonable commercial efforts to minimise the interruption of service.

5.9 Zayndu shall promptly inform Customer's operational personnel of any anticipated partial or complete interruption of service at the Treatment Protocols, including relevant information about the nature, extent, cause and expected duration of the interruption and the actions Zayndu is taking to resume full operation.

5.10 All other conditions, warranties or other provisions which might have effect between the parties or be implied or incorporated into these Terms or any collateral contract, whether by statute, common law or otherwise, are hereby excluded, including the implied conditions, warranties or other terms as to satisfactory quality, fitness for purpose or the use of reasonable skill and care.

5.11 Zayndu reserves the right to amend the Specification if required by any applicable statutory or regulatory requirement, and Zayndu shall notify the Customer in any such event. If such an amendment results in a loss of capability from the Specification, Customer may elect to terminate these Terms by informing Zayndu of their intention in writing within 30 days of such

change taking effect; termination would take immediate effect at the end of this notice period.

6. **Maintenance Services**

6.1 Zayndu shall perform the Maintenance Services on the basis set out in the Order.

6.2 The Customer shall provide Zayndu with (i) access to any premises where the Equipment is being kept or used, and (ii) access to any records kept in connection with these Terms, for the purposes of:

- (a) allowing Zayndu to undertake the Maintenance Services; and
- (b) ensuring that the Customer is complying with the provisions of these Terms,

provided that Zayndu provides reasonable advance notice to the Customer of such inspections, which shall take place at reasonable times and provides the insurance requirements of the company. Zayndu shall be responsible for insuring any subcontractors who provide services at the company's facilities.

7. **Customer's obligations**

7.1 The Customer shall:

- (a) ensure that the details within the Order are complete and accurate;
- (b) co-operate with Zayndu in all matters relating to the Services;
- (c) provide Zayndu, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by Zayndu to provide the Services; provided that Zayndu provides reasonable advance notice to the Customer of such requirements, which shall take place at reasonable times; and subject to revisions in section 5.
- (d) upon request and within a reasonable time provide Zayndu with such information and materials as Zayndu may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
- (e) upon Zayndu's written request prepare the Location to ensure the effective delivery of the Equipment;

- (f) ensure it maintains the Equipment in good working order by complying with all relevant instructions and manuals issued by Zayndu to the Customer from time to time and allowing Zayndu to complete the Maintenance Services;
- (g) obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;
- (h) ensure that the location in which the Equipment is to be utilised by the Customer has sufficient internet access to enable the operation of Zayndu's predictive maintenance systems;
- (i) ensure that any safety monitors stipulated as 'Required Safety Monitors' within the relevant Order are installed, maintained and tested regularly;
- (j) comply with any additional obligations as set out in any relevant Order; and
- (k) ensure that the System is not used to treat seeds which have been previously treated with synthetic chemicals and that only "naked" seeds should be used.

8. **Charges and payment**

8.1 Initial Charges and Trial Charges shall be payable (if applicable) in accordance with the provisions of the Order.

8.2 Zayndu reserves the right to increase some or all of the Charges, by giving notice to the Customer at any time before delivery of the Equipment, to reflect any increase in costs to Zayndu that is due to:

- (a) any factor beyond the control of Zayndu (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
- (b) any request by the Customer to change the delivery date(s), quantities or types of Equipment ordered, or other information contained within the Order; or
- (c) any delay caused by any instructions of the Customer in respect of the Equipment or failure of the Customer to give Zayndu adequate or accurate information, or instructions in respect of the Equipment.

- 8.3 Zayndu will invoice the Monthly Charges monthly in advance on or before the first day of the month in question. At the Customer's request, multiple Monthly Charges may be paid in advance (for example, quarterly, annually or for the Term).
- 8.4 Where a customer regularly exceeds the treatment volume pertaining to the Subscription Level agreed in the Order, Zayndu reserves the right to move the Client to a higher Subscription Level for the following invoicing period. The move to a higher Subscription Level will result in an increase in the Monthly Charges.
- 8.5 Should the Customer terminate having exceeded their Subscription Level, Zayndu reserves the right to issue a final invoice for any shortfall.
- 8.6 Zayndu reserves the right to review and if necessary, increase the Charges annually. Zayndu will give the Customer a minimum of at least one month notice of any such change.
- 8.7 The Customer shall pay each invoice submitted by Zayndu:
- (a) within 30 days of the date of the invoice; and
 - (b) in full and in cleared funds to a bank account nominated in writing by Zayndu, and time for payment shall be of the essence of these Terms.
- 8.8 All amounts payable by the Customer under these Terms are exclusive of amounts in respect of value added tax chargeable from time to time ("**VAT**"). Where any taxable supply for VAT purposes is made under these Terms by Zayndu to the Customer, the Customer shall, on receipt of a valid VAT invoice from Zayndu, pay to Zayndu such additional amounts in respect of VAT as are chargeable on any element of the supply of the Services.
- 8.9 If the Customer fails to make a payment due to Zayndu under these Terms by the due date, then, without limiting Zayndu's remedies under clause 12, the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment and Zayndu shall be entitled to withhold the Services until such time as payment of any overdue amounts owed to it by the Customer have been paid;
- 8.10 Interest under this clause 8 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.

8.11 All amounts due under these Terms shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law) into Zayndu's nominated bank account.

9. **Data protection**

The parties agree that Zayndu shall not process any personal data under these Terms, other than the Customer's employee contact information for the purposes of delivering the Services. In respect of any personal data processed by Zayndu under these Terms, Zayndu shall comply with its obligations under the Data Protection Legislation.

10. **Confidentiality**

10.1 This Section 10 ("Confidentiality") shall survive termination of the Terms.

10.2 Each party undertakes that it shall not, at any time for any reason whatsoever, disclose to any person the Confidential Information concerning the other party or of any member of the group of companies to which the other party belongs, except as permitted by clause 10.3.

10.3 Each party may disclose the other party's Confidential Information:

(a) to its employees, officers, representatives, contractors or subcontracts or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with these Terms. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 10. Any disclosure by a party's employees, officers, representatives or advisers which, if made by the party would be a contravention of this clause 10, shall be deemed to be a breach of such party's obligations in terms of this clause; and

(b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority; provided that the party of whom disclosure is required gives prompt written notice of such requirement and cooperates with the other party's efforts to resist or narrow such disclosure.

10.4 The Customer shall not use Zayndu's Confidential Information for any purpose other than to exercise its rights and perform its obligations under or in connection with these Terms.

11. **Limitation of liability**

11.1 Nothing in these Terms limit any liability which cannot legally be limited, including liability for:

- (a) death or personal injury caused by negligence;
- (b) fraud or fraudulent misrepresentation; and
- (c) any other liability which cannot legally be limited under applicable laws.

11.2 Zayndu shall have no liability for any failure to supply the Equipment to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide Zayndu with adequate delivery instructions or any other instructions that are relevant to the supply of the Equipment.

11.3 Zayndu shall have no liability under any circumstances where the System has been used to treat seeds which have previously been coated with synthetic chemicals (only "naked" seeds may be used), unless such a treatment has been agreed as being permissible and safe; such agreement to be specifically in writing.

11.4 Zayndu shall not be liable for any indirect, consequential or unforeseen loss, damages or liabilities incurred by the Customer arising from the use of the System.

11.5 Specifically, Zayndu is not liable for:

- (a) any loss of profits, sales, business, agreements, contracts, anticipated savings, goodwill, or data. and
- (b) any indirect or consequential losses.

11.6 Should a competent court, tribunal or similar body find that Zayndu is responsible for any loss, damages or liability in terms of these Terms, the amount of such loss, damages or liability shall be capped at the amount paid to Zayndu in relation to the System (with the exception of any interest or penalties) over the period of the Term.

11.7 This clause 11 shall survive termination of these Terms.

12. **Termination**

12.1 Without affecting any other right or remedy available to it, either party may terminate these Terms with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of its obligations under these Terms and (if such breach is remediable) fails to remedy that breach within 14 (fourteen) days after receipt of notice in writing to do so;
- (b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction; or
- (c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.

12.2 Without affecting any other right or remedy available to it, Zayndu may terminate these Terms with immediate effect upon fourteen (14) calendar days written notice to the Customer if the Customer fails to pay any amount due under these Terms on the due date for payment.

13. **Dispute Resolution**

13.1 If a dispute arises out of or in connection with these Terms or the performance, validity or enforceability of it (**Dispute**) then (except as expressly provided in these Terms) the parties shall follow the procedure set out in this clause 13:

13.2 (a) either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (Dispute Notice), together with relevant supporting documents. On service of the Dispute Notice, the Customer and the Supplier shall attempt in good faith to resolve the Dispute.

13.3 If the parties are for any reason unable to resolve the Dispute of the Dispute Notice being issued, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be

nominated by CEDR. To initiate the mediation, a party must serve notice in writing (ADR notice) to the other party to the Dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR. The mediation will start not later than 30 days after the date of the ADR notice.

13.4 If the Dispute is not resolved within 60 days after service of the ADR notice, or either party fails to participate or to continue to participate in the mediation before the expiration of the said period of 60 days, or the mediation terminates before the expiration of the said period of 60 days, the Dispute shall be finally resolved by the courts of England and Wales.

14. **Consequences of termination**

14.1 On termination of these Terms for any reason:

- (a) the Customer shall pay to Zayndu all outstanding unpaid invoices and interest;
- (b) In respect of the Services supplied but for which no invoice has been submitted, Zayndu shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- (c) Zayndu reserves the right to terminate the Licence and to collect the Equipment;
- (d) The Customer shall do all things requested by Zayndu to allow Zayndu to collect the Equipment.

14.2 Termination of these Terms shall not affect any rights, remedies, obligations and liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of these Terms which existed at or before the date of termination.

14.3 Any provision of these Terms that expressly or by implication is intended to have effect after termination shall continue in full force and effect.

15. **Intellectual Property**

15.1 Each party shall continue to own all existing Intellectual Property Rights owned and/or controlled prior to the execution of these Terms and/or developed outside of these Terms.

- 15.2 Zayndu further hereby grants to Customer a worldwide, fully paid-up, royalty-free licence to use all or any portion of the Treatment Protocols, the Software and related software or programs including any Third Party Treatment Protocols (as defined below), as applicable, and program-related materials or documentation which may be necessary for the use of the Equipment, in written or machine-readable form, (collectively, the “Licenced Treatment Protocols”), during the operation of these Terms.
- 15.3 In the event any Licenced Treatment Protocols from a third party (“Third Party Treatment Protocols”) is required for the normal operation of the Equipment, such licence shall be provided to Customer as part of the total product price and Zayndu represents that it shall have the right to sublicense such Treatment Protocols to the Customer (or otherwise acquire such a licence for the benefit of the Customer) for the operation of the Equipment during the operation of these Terms.
- 15.4 All other rights in and to any of Zayndu’s Intellectual Property Rights are expressly reserved by Zayndu. The Customer understands and acknowledges that it does not become the owner of Zayndu’s Intellectual Property Rights by operation of the Terms or at all and that the License includes only the Licenced Treatment Protocols and the Third-Party Treatment Protocols.

16. **Insurance and Indemnity**

- 16.1 As from the date of Delivery or Deemed Delivery, the Customer will maintain the following types of insurance coverage, for a minimum of 1 million GBP, at its sole cost and expense: (a) commercial general liability insurance; (b) commercial umbrella liability insurance in excess of the general liability and employers’ liability; (c) professional liability or errors & omissions insurance or product quality insurance; and (d) workers’ compensation insurance in accordance with relevant limits under applicable law, and, if requested by the other party, shall provide a certificate of insurance evidencing such coverages.
- 16.2 Zayndu will maintain the applicable insurance required to perform the Services.

17. **Force majeure**

Neither party shall be in breach of these Terms nor liable for delay in performing or failure to perform, any of its obligations under these Terms if such delay or failure result from events, circumstances or causes beyond its reasonable control (a **Force Majeure Event**). In such circumstances the affected party shall be entitled to a reasonable extension of the time for

performing such obligations. If the period of delay or non-performance continues for 6 (six) weeks, the party not affected may terminate these Terms by giving 7 (seven) days' written notice to the affected party.

18. **General**

18.1 **Assignment and other dealings**

- (a) Zayndu may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under these Terms.
- (b) The Customer may not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner any of its rights and obligations under these Terms.

18.2 **Notices.**

- (a) Any notice or other communication given to a party under or in connection with these Terms shall be in writing and shall be:
 - (i) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
 - (ii) sent by email to the address specified in the relevant Order, or the nominated address communicated by one party's duly authorised representative to the other from time to time.
- (b) Any notice or communication shall be deemed to have been received:
 - (i) if delivered by hand, at the time the notice is left at the proper address;
 - (ii) if sent by next working day delivery service, at 9.00 am on the second Business Day after posting; or
 - (iii) if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this

clause 18.2(b)(iii), business hours means 9.00 am to 5.00 pm Monday to Friday on a day that is not a public holiday in the place of receipt.

- (c) This clause 18.2 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

18.3 **Severance.** If any provision or part-provision of these Terms is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of these Terms. If any provision or part provision of these Terms is deemed deleted under this clause 18.3 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the commercial result of the original provision.

18.4 **Waiver.** No failure or delay by a party to exercise any right or remedy provided under these Terms, the Order or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

18.5 **No partnership or agency.** Nothing in these Terms is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.

18.6 **Entire agreement.**

- (a) These Terms together with the Order constitute the entire agreement between the parties and supersede and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to their subject matter.

- (b) Each party acknowledges that in entering into these Terms it does not rely on and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in these Terms. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in these Terms.

(c) Nothing in this clause shall limit or exclude any liability for fraud.

- 18.7 **Third party rights.** Unless it expressly states otherwise, these Terms do not give rise to any rights under these Terms (Rights of Third Parties) Act 1999 to enforce any term of these Terms.
- 18.8 **Public Disclosure.** Neither the company nor Zayndu will provide public disclosure using the company's information or name without prior written consent of the company.
- 18.9 **Variation.** Except as set out in these Terms, no variation of these Terms or any Order shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).
- 18.10 **Governing law.** These Terms and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.
- 18.11 **Jurisdiction:** Subject to clause 13, each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with these Terms or their subject matter or formation.

