

## GENERAL TERMS AND CONDITIONS

THESE GENERAL TERMS AND CONDITIONS, including appended Attachments and/or Exhibits, govern the provision of Products and Services between Biosite Systems Limited, or its Affiliate ("**BIOSITE**"), and the customer named in the Agreement ("**Customer**"). Each of BIOSITE and Customer may be referred to as "**Party**" or, collectively, the "**Parties**." Ancillary services, including but not limited to, installation, maintenance, support, training may be subject to the execution of a separate Agreement. These General Terms and Conditions shall be incorporated by reference and made part of any and all separate Agreement(s) as between BIOSITE and Customer.

If the Customer is a Reseller, then Customer's provision or sales of BIOSITE's Products and Services to an End-Customer shall be subject to the terms of a Reseller Agreement between Customer and BIOSITE and Reseller hereby agrees that it will incorporate these General Terms and Conditions into all of its transactions with its End-Customers.

In the event of any inconsistency between these General Terms and Conditions and the terms of an Attachment or Exhibit, the terms of the Attachment or Exhibit shall prevail. In the event of any inconsistency between these General Terms and Conditions and the terms of an Agreement, the terms of the Agreement shall prevail.

### 1. DEFINITIONS

Capitalised terms in these General Terms and Conditions have the following meanings:

- 1.1. "**Affiliate**" means a legal entity which either controls or is controlled by a party or is under common control with a party, where "control" means the power to direct or cause the direction of an entity's management and policies through ownership or control of at least 50% of its voting securities or ownership interest.
- 1.2. "**Agreement**" means an agreement in writing containing commercial terms relating to the sale, supply or support of the Products and Services between BIOSITE and Customer which incorporates these General Terms and Conditions, including, but not limited to quotes, licenses, purchase orders, and any schedules, addendums or other attachments thereto.
- 1.3. "**APIs**" means application programming interfaces.
- 1.4. "**Applicable Data Protection Legislation**" means the law(s) of the jurisdiction governing the Agreement and to which BIOSITE and Customer are subject to, which relates to the protection of Personal Data (inclusive of Biometric Data), including, but not limited to, statutes such as BIPA of 3 October 2008, Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019, UK Data Protection Act 2018, CCPA and the GDPR of 27 April 2016.
- 1.5. "**BIOSITE**" means Biosite Systems Limited (company number 7308880) whose registered office is at Lancaster House, Drayton Road, Shirley, Solihull, West Midlands, B90 4NG
- 1.6. "**Business Day**" means a day (other than a Saturday, Sunday or public holiday) on which commercial banks are open for general banking business (other than for Internet banking services only) in the jurisdiction where BIOSITE is incorporated.
- 1.7. "**Biometric Data**" means Personal Data resulting from specific technical processing relating to the physical, physiological, or behavioural characteristics of a natural person, which allow or confirm the unique identification of that natural person, such as eye scans, facial images or fingerprints.
- 1.8. "**Confidential Information**" means the Documentation, and the following information of BIOSITE or its Affiliates including, but not limited to: data, drawings, audit findings, benchmark tests, specifications, trade secrets, algorithms, source code, object code, know-how, formulas, processes, ideas, inventions (whether patentable or not), customer lists, schematics and other technical, business, financial, marketing and product development plans, forecasts, strategies and information, and any information disclosed by BIOSITE under an Agreement. The terms and conditions of an Agreement shall be treated as Confidential Information.
- 1.9. "**Customer**" means the customer named in the Order or such Agreement that constitutes an order to purchase BIOSITE's Products and Services.
- 1.10. "**Customer Content**" means Personal Data and other information and data used or submitted to BIOSITE by End Customer and End Users in connection with the use of the Products and Services.
- 1.11. "**Data Privacy Statement**" means the data privacy statement that applies to information processed by BIOSITE via a Service and/or Product under this Agreement as appended hereto as an Exhibit.
- 1.12. "**Documentation**" means the functional, technical and commercial specifications of the Product or Service (if applicable), which may include, without limitation, service descriptions, statements of work and pricing, and any proprietary information or documentation made available to Customer by BIOSITE for use in conjunction with the Product or Service, including any information available through the Service.
- 1.13. "**Effective Date**" means the date on which the Agreement is fully executed by BIOSITE and Customer.
- 1.14. "**Embedded Software**" means any software component embedded in the Hardware.
- 1.15. "**End Customer**" means the Customer, or if the Customer is a Reseller, the end customer to which the Reseller sells BIOSITE's Products or Services through a written sale transaction (such as a quote or purchase order), as applicable for the internal use of such Customer, and not for further resale.
- 1.16. "**End User**" means End-Customer's employee, contractor, guest or other individual that is authorised by Customer to use or benefit from the Products or Services as an end user.
- 1.17. "**Force Majeure**" means an event beyond a Party's reasonable control including, without limitation, strikes, lock-outs or other labour disturbances or disturbances by fire, flood, war, embargo, blockade, riot, epidemic, governmental interference, delay or shortage in transportation or inability to obtain necessary labour, materials or facilities from usual sources or from defect or delay in the performance of any of its suppliers or subcontractors if caused by any circumstance referred to in the foregoing.
- 1.18. "**Hardware**" means hardware (or parts) including Embedded Software (as applicable) sold by BIOSITE to Customer, as set forth in the applicable Agreement.

- 1.19. **"Installation Services"** means (i) installation services purchased by End Customer or (ii) implementation services comprising upgrades of Products and Services used by End Customer to the latest version.
- 1.20. **"Intellectual Property Rights"** means common law and statutory rights associated with (a) patents and patent applications; (b) works of authorship, including mask work rights, copyrights, copyright applications, copyright registrations and "moral" rights; (c) the protection of trade and industrial secrets and confidential information; (d) all rights to registered and common law trademarks, trade names, trade dress, and service marks; (e) other proprietary rights relating to intangible intellectual property (including but not limited to designs, design rights, source codes, proprietary material, know-how, ideas, concepts, methods, techniques, rights in databases and all other intellectual property rights and rights of a similar character whether registered or capable of registration); (f) analogous rights to those set forth above; and (g) divisions, continuations, renewals, reissuances and extensions of the foregoing (as applicable) now existing or hereafter filed, issued or acquired.
- 1.21. **"Initial Period"** means an initial period of 12 months from the Effective Date, or such other initial period specified in the Agreement.
- 1.22. **"License"** means a non-exclusive, non-transferable, non-sublicenseable right to use the Services and/or Software Product (including but not limited to Embedded Software) during the License Term based on the license model specified in the Agreement.
- 1.23. **"License Term"** shall have the meaning set forth in Clause 9.1.
- 1.24. **"Order"** the Customer's order for the Products and Services, as may be set out in the Customer's purchase order form in response to a Biosite quotation, or the Customer's written acceptance of Biosite's quotation, as the case may be
- 1.25. **"Personal Data"** means any information relating to an identified or identifiable natural person and shall be construed in accordance with Applicable Data Protection Legislation.
- 1.26. **"Personal Data Breach"** means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise processed.
- 1.27. **"Product"** means deliverables, including but not limited to, Hardware, or other tangible goods manufactured or supplied by BIOSITE to Customer, and expressly excluding Services and Software.
- 1.28. **"Renewal Period"** shall have the meaning set forth in Clause 9.1.
- 1.29. **"Reseller"** means the authorised entity from which the End Customer purchased BIOSITE's Products and Services subject to a written sales transaction.
- 1.30. **"Service(s)"** shall mean SaaS, Training Services, Installation Services, maintenance and support, decommissioning, software development projects or remote software applications, including APIs, managed by BIOSITE, as specified in an Agreement.
- 1.31. **"Software as a Service (or SaaS)"** shall mean remote access to the Software Product installed and run on a

single-tenant or multi-tenant computing platform managed by BIOSITE.

- 1.32. **"Software Product"** means, subject to Clause 2, BIOSITE's standard version of its proprietary software applications, APIs and modules, as further identified in the Agreement.
- 1.33. **"Support"** means such maintenance and support services as purchased by Customer (and End Customer) as identified in the Agreement.
- 1.34. **"Taxes"** shall have the meaning set forth in Clause 5.7.
- 1.35. **"Training Services"** shall mean training services purchased by Customer as identified in the applicable Agreement.

## 2. LICENSES, OWNERSHIP, AND RESTRICTIONS

- 2.1. **Grant of Rights.** In consideration of payment of the applicable fees to BIOSITE, and, subject to the terms and conditions of the Agreement, BIOSITE grants to Customer a License to use the Products and Services as specified in the Agreement in accordance with the Documentation solely for its own internal operations. The foregoing license rights shall be restricted to the number and type of Licenses specified in the applicable Agreement. Customer shall not have the right under the Agreement to use the name BIOSITE or any of the corporate or trade names, trademarks, logos services marks, symbols, insignia, or other distinguishing marks of any BIOSITE Affiliate for any reason other than as provided for herein, including but not limited to advertising, publicity releases, or promotional or marketing publications, without the express prior written consent of BIOSITE in each instance.
- 2.2. **Ownership.** The License granted under the Agreement does not constitute a sale of the Software Product or any portion of it. BIOSITE and its licensors retain all right, title and interest in the Software Product and associated Documentation, and all translations and derivative works thereof, including any materials, inventions, or works developed through BIOSITE's performance of Services, and all Intellectual Property Rights embodied therein or relating thereto. All rights not expressly granted under the Agreement are reserved by BIOSITE and its licensors. There are no implied rights.
- 2.3. **Restrictions on Use.** Customer's rights to use the Software Product are subject to the following restrictions and Customer shall not, and shall not cause or permit any third party to: (a) modify or create any derivative work of the Service, inclusive of SaaS and Software Product or its associated Documentation, or any portion thereof or incorporate other services, software or products in the Software Product; (b) except to the extent such activities cannot be lawfully restricted, decompile, reverse engineer or otherwise attempt to derive the underlying ideas, algorithms, structure or organisation from the Service, SaaS or Software Product; (c) sell, license, sublicense, lease, rent, distribute or otherwise transfer copies of or rights to use the Service, SaaS or Software Product to any third party; (d) use the Service, SaaS or Software Product to submit any content that infringes or misappropriates third party rights, including intellectual property rights or to submit any content that is obscene, defamatory, offensive or malicious, (e) intentionally distribute spam, viruses, worms, Trojan horses, corrupted files, or other items of a destructive or disruptive nature; (f) engage in, promote, or encourage illegal activity; (g) disable, interfere with or circumvent any aspect of the Service, SaaS or Software Product; (h) disclose or publish the

results of any performance, functional, or other evaluation or benchmarking of the Service, SaaS or Software Product to any third party without written consent from BIOSITE; or (i) remove any proprietary notices or labels of the Service, SaaS or Software Product.

2.4. **Customer's Grant of Rights.** Customer grants BIOSITE the right to host, use, process, display and transmit Customer Content pursuant to and in accordance with the Agreement. Customer has the sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of Customer Content and for obtaining all rights related to each of the foregoing required by BIOSITE to provide Services. Customer represents and warrants that none of the Customer Content infringes any third party rights.

2.5. **Third Party Applications.** The Service, SaaS or Software Product may contain or include functionality and software provided or licensed by third parties ("**Third Party Functionality**"). For any Third Party Functionality, such components shall be licensed as part of the Service, SaaS or Software Product in accordance with the terms and conditions of the Agreement. Notwithstanding the foregoing, all open source software provided by BIOSITE is outside the scope of the Agreement and is not included in the definition of Service, SaaS or Software Product and such open source software is instead subject to the applicable open source software licenses.

2.6. **Beta Services.** From time to time, BIOSITE may make Beta services available to Customer at no charge. Customer may choose to try such Beta services. Beta services are intended for evaluation purposes and not for production use, are not supported, and may be subject to additional terms. Beta services are not considered "SaaS" under the Agreement, however, all restrictions, BIOSITE's rights and Customer's obligations concerning the SaaS shall apply equally to Customer's use of Beta services. Unless otherwise stated, any Beta services trial period will expire upon the earlier of one year from the trial start date or the date that a version of the Beta services becomes generally available without the applicable Beta services designation. BIOSITE may discontinue Beta services at any time in BIOSITE's sole discretion and may never make them generally available. BIOSITE will have no liability for any harm or damage arising out of or in connection with a Beta service.

2.7. **Modifications, Updates and Upgrades.** BIOSITE reserves the right to, at any time, modify, update and/or upgrade, temporarily or permanently, the Services and SaaS (or any part thereof) BIOSITE shall have no liability in any manner whatsoever for modifying, replacing, or supporting discontinued Hardware.

2.8. **Trial Access.** BIOSITE may provide to Customer a free trial access to and/or a demonstration version of the Products and Services for a maximum period of ninety (90) days to enable Customer to evaluate before executing an Agreement. Customer acknowledges and agrees that Customer's access to and use of the Products and Services on such a free basis shall solely be on Customer's own risk and responsibility, on an "as is" basis, and shall at all times be in accordance with these General Terms and Conditions as well as any instructions or materials provided in connection with the provision of the free trial access. BIOSITE hereby disclaims any and all of its obligations and liabilities under the Agreement or otherwise, to the fullest extent permitted by applicable law, arising out of Customer's access to and use of the Products and Services in accordance with this Clause 2.8. Customer acknowledges and agrees that (a) BIOSITE will

be under no obligation or liability to retain Customer Content generated during the free trial access period, unless Customer executes an Agreement within 180 days from the date hereof; (b) BIOSITE may change the contents of the bundle of Service features during the free trial access period, in which case Customer may not be able to retain settings used by or Customer Content generated during the free trial access period; (c) Customer may decide to execute an Agreement for a bundle of Service features which encompass different or less features than those available to Customer during the free trial access period, in which case Customer may not be able to retain settings used by or Customer Content generated during the free trial access period; (d) BIOSITE may, in its sole discretion, limit the number of users, doors or other peripherals connected to the Service, as well as the number of or specifics of the messages, reports, API calls or other features of the Service; and (e) BIOSITE may, in its sole discretion, terminate Customer's access to and use of the Service in accordance herein at any time.

2.9. **Disabling of Service or part thereof.** BIOSITE may disable the functionality of the Service or part thereof: (a) immediately upon written notice to Customer, if BIOSITE reasonably believes that there has been a material breach in security (in which case BIOSITE shall reactivate the functionality of the licensed Service when such breach has been eliminated), (b) immediately upon written notice to Customer in the event of a third party claim of infringement, violation or misappropriation of intellectual property rights, (c) in the circumstances set forth in Clause 9.1, and (d) otherwise upon termination or expiry of the Agreement.

### 3. PURCHASE AND DELIVERY

3.1. **Shipping, Delivery and Storage.** BIOSITE reserves the right to make, and Customer agrees to accept, multiple shipments to fulfill an Agreement. All Products shipments and delivery terms are Ex Works (EXW) (Incoterms 2020). Title and risk in and to Products included in shipments transfer to Customer at the time the carrier signs the bill of lading. All freight and shipping costs are the responsibility of Customer, are estimates only and subject to change. Title in and to Products transfers upon BIOSITE's receipt of payment. If Customer fails to accept delivery from BIOSITE at the scheduled time, the remaining purchase price owed by Customer shall still be due and payable in accordance to the original payment schedule, and any and all risks associated with the Product (or parts) to be delivered, shall be solely borne by Customer. All shipping and storage costs incurred by BIOSITE due to Customer's delay or failure to accept delivery shall be fully reimbursed by Customer. Customer is solely responsible for providing a safe and secure storage location for the Product at all times is the sole responsibility of Customer. Product should be stored in a secure area. Delivery of a Software Product shall be deemed to occur upon the provisioning of a link to enable the Customer download the software. Delivery of SaaS shall be deemed to occur upon the provision of a link to enable Customer or End Customer, as applicable to access SaaS and an account login for SaaS.

3.2. **Cancellations.** Any request to cancel an order made in an Agreement must be received no later than thirty (30) days prior to the initial scheduled Product shipment. All Product cancellations are subject to a restocking charge equal to fifteen percent (15%) of the invoiced price of the Products cancelled. Orders for special, custom or non-

stock Products cannot be cancelled. If Customer has ordered Installation or Training Services and Customer cancels such Services within ten (10) Business Days before the scheduled performance of such services, Customer shall reimburse BIOSITE for any costs associated with the cancellation, including but not limited to, travel, lodging, meals, and ten percent (10%) of the labour costs set forth in the applicable Agreement.

- 3.3. **Restrictions.** The Customer may not resell any Products and Services without prior written consent from BIOSITE unless the Customer is a Reseller. The term "resell", or "resale" shall include any resale, lease, licence sublicense or other transfer or delivery of any Products or Services. The Customer acknowledges, agrees and consents that it shall be subject to all obligations, liabilities, responsibilities of a Reseller set forth in this Agreement or other applicable Agreements if it has received a written consent from BIOSITE to resell any Products or Services.

#### 4. SCOPE OF INSTALLATION AND TRAINING SERVICES

- 4.1. **Installation and Training Services.** BIOSITE shall provide the Installation Services and Training Services as may be set forth in an Agreement(s).

#### 5. PAYMENTS, FEES, RECORDS AND TAXES

- 5.1. **Payments Generally.** Customer may be required to pay a deposit of up to fifty percent (50%) of the estimated total price of an Agreement prior to delivery/shipment/installation. BIOSITE does not accept "pay when paid" or conditions, and payment is due to BIOSITE regardless of any receipt of funds/monies from a third party. Customer shall be responsible for all costs and expenses (including legal fees and court costs) incurred by BIOSITE in connection with any overdue balance. Customer agrees to pay BIOSITE the balance of fees and expenses in the amounts and times as set forth in the Agreement, without retention, set-off, withholding or counterclaim. All payments are due and payable in full within thirty (30) days from the date of BIOSITE's invoice. All payments are non-refundable and non-creditable.

- 5.2. **Invoicing.** Except as otherwise stated on the Order, BIOSITE is entitled to submit invoices as follows:

- 5.2.1. in the case for Products sold or hired, any time on or after delivery or collection of the Products;
- 5.2.2. in the case of charges for maintenance or Support, annually in advance, commencing with the date when BIOSITE invoices the price of the relevant Products;
- 5.2.3. in the case of Services subject to recurring charges, monthly in arrears; and
- 5.2.4. in all other cases, upon delivery of the Products.

- 5.3. **Delivery and Travel Expenses.** Prices are stated exclusive of delivery charges which will be payable in addition to Hardware which is required to be delivered. Travel and other expenses directly related to the Products and Services will be invoiced and payable within thirty (30) days of the date of invoice.

5.4. **Price Changes.**

- 5.4.1. The prices for recurring Products and Services (including Hardware hire) are subject to increases after the Initial Period upon prior written notice from BIOSITE. Otherwise, after

an Order is accepted, the price for Products and Services is fixed (but only for the Products and Services and quantities included in the Order).

- 5.4.2. BIOSITE reserves the right to pass any supplier, legal or regulatory enforced changes to the costs of Products and Services to the Customer

- 5.4.3. BIOSITE reserves the right to apply annual inflationary increases to its pricing upon notice to the Customer.

- 5.5. **Late Payments; Default interest.** If a Party fails to make a payment due to the other Party under the Agreement by the due date, then, without limiting the other Party's other remedies hereunder, the defaulting party shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest hereunder will accrue at a rate of 1.5% per month, or the maximum rate allowable by law, whichever is greater.

- 5.6. **Suspension of Service.** If any amount owing by Customer under the Agreement is thirty (30) or more days overdue, or if Customer violates the Restrictions on use set forth in this Agreement, BIOSITE may, without limiting its other rights and remedies, suspend Services to Customer until such amount is paid in full or, as applicable, Customer remedies its violation of these General Terms and Conditions.

- 5.7. **Records and Audit Rights.** BIOSITE reserves the right to run usage reports against Customer's system(s) for the sole purpose of determining Customer's number of active users, Hardware items or other peripherals for which Customer needs a License ("**Required Licenses**"). Where the number of Required Licenses exceed the number of purchased Licenses set forth in the Agreement, BIOSITE shall either notify Customer who shall within 10 Business Days reduce the Required Licenses to be consistent with the purchased Licenses or BIOSITE may charge Customer for payment for the excess retroactively.

- 5.8. **Taxes.** Prices do not include, and Customer shall pay, any national, state, local, or international property, license, privilege, sales, use, excise, gross receipts, VAT, ad valorem, use, duty, withholding or other like taxes relating to the sale, delivery, receipt, payment for or use of Products and Services including any interest, penalty and additional tax or other charge related to delay or failure to pay such amount ("**Taxes**"). If BIOSITE is required to collect any Taxes, such Taxes will be itemised separately on the invoice and paid by Customer. BIOSITE will accept a valid Tax exemption certificate from Customer, if applicable. If a Tax exemption certificate previously accepted by Customer is not recognised by the relevant governmental taxing authority, Customer agrees to promptly reimburse BIOSITE for any Taxes covered by such exemption certificate which BIOSITE is required to pay.

#### 6. DATA PROCESSING AGREEMENT

- 6.1. **Data Protection Legislation Compliance.** Both parties will comply with all applicable requirements of Applicable Data Protection Legislation. This is in addition to, and does not relieve, remove or replace a party's rights or obligations or rights under the Applicable Data Protection Legislation in their respective roles as controller or processor of Personal Data.

- 6.2. **End Customer Consent.** By entering into this Agreement, End Customer consents to all actions taken by BIOSITE in connection with the processing of Personal Data, provided that these are in compliance with the Data Privacy Statement.
- 6.3. **End User Consent and Notices.** Subject to Clause 6.1, the End Customer will ensure that it has all the required consents, notices, or other applicable bases in place to enable lawful collection and transfer of End Users' Personal Data to BIOSITE for the duration of the Term and purposes of this Agreement. In this context, Customer must disclose how BIOSITE collects and/or processes Personal Data in accordance with Data Privacy Statement. If Biometric Data is or will be processed, End Customer must ensure that any additional conditions and/or legal requirements for processing of Biometric Data are met.
- 6.4. **Controller/Processor.** End Customer shall be regarded as a data controller of all Personal Data processed in accordance with the Data Privacy Statement. BIOSITE shall be considered a processor of the Personal Data processed on behalf of End Customer. If BIOSITE determines the purposes and means of processing itself, including but not limited to such instances as the use of analytics data, crash reports data and/or IP addresses in order to provide and/or improve the Service(s), quality assurance and security, BIOSITE will be regarded as the controller in respect of that processing. More information may be found in BIOSITE's Product Privacy Notice.
- 6.5. **Special undertakings of End Customer.** End Customer undertakes to: (a) immediately after it is brought to End Customer's attention, inform BIOSITE of any erroneous, rectified, updated or deleted Personal Data subject to BIOSITE's processing; (b) in a timely manner, provide BIOSITE with lawful and documented instructions regarding BIOSITE's processing of Personal Data; and (c) act as the data subject's point of contact.
- 6.6. **Processor Undertakings.** Without prejudice to the generality of Clause 6.1, BIOSITE shall, in relation to Personal Data processed on behalf of End Customer:
- (a) process that Personal Data only on the documented instructions of the End Customer, which are to process that Personal Data for the purposes of providing the Services and as set forth in the Data Privacy Statement, unless BIOSITE is required by applicable laws to otherwise process that Personal Data. Where BIOSITE is relying on applicable laws as the basis for processing Personal Data in accordance with what is set forth herein, BIOSITE shall notify the End Customer of this before performing the processing required by the applicable laws unless those laws prohibit BIOSITE from so notifying the End Customer on important grounds of public interest. BIOSITE shall inform the End Customer if, in the opinion of BIOSITE, the instructions of the End Customer infringe the Applicable Data Protection Legislation;
  - (b) implement the technical and organisational measures set out in the Data Privacy Statement to protect against unauthorised or unlawful processing of End Customer's Personal Data and against accidental loss or destruction of, or damage to, Personal Data processed on End Customer's behalf, which the End Customer has reviewed and confirms are appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;
  - (c) ensure that any personnel engaged and authorised by BIOSITE to process Personal Data have committed themselves to confidentiality or are under an appropriate statutory or common law obligation of confidentiality;
  - (d) assist the End Customer insofar as this is possible (considering the nature of the processing and the information available to BIOSITE), and at the End Customer's cost and written request, in responding to any request from a data subject and in ensuring the End Customer's compliance with its obligations under Applicable Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
  - (e) notify the End Customer without undue delay on becoming aware of a personal data breach involving the Personal Data processed on End Customer's behalf;
  - (f) at the written direction of the End Customer, delete or return Personal Data processed on End Customer's behalf to the End Customer on termination of the agreement unless BIOSITE is required by applicable law to continue to process that Personal Data;
  - (g) maintain records to demonstrate its compliance herein.
- 6.7. **Sub-processors.** The End Customer hereby provides its prior, general authorisation for BIOSITE to:
- (a) appoint sub-processors to process Personal Data, provided that BIOSITE: (i) shall ensure that the terms on which it appoints such processors comply with Applicable Data Protection Legislation(s), and are consistent with the obligations imposed on BIOSITE in this Clause 6; (ii) shall remain responsible for the acts and omission of any such processor as if they were the acts and omissions of BIOSITE; and (iii) shall notify the End Customer of any intended changes concerning the addition or replacement of the processors, thereby giving the End Customer the opportunity to object to such changes within thirty (30) days from receipt of the notification, provided that if the End Customer objects to the changes and cannot demonstrate, to BIOSITE's reasonable satisfaction, that the objection is due to an actual or likely breach of Applicable Data Protection Legislation, the End Customer shall indemnify BIOSITE for any losses, damages, costs (including legal fees) and expenses incurred by BIOSITE. For the avoidance of doubt, End Customer fully and explicitly consent to (i) the use of the sub-processors with whom BIOSITE has agreements in place at the time the Agreement enters into force, and (ii) the use of all BIOSITE Affiliates as subcontractors.
  - (b) transfer End Customer Personal Data outside the EU/EEA area, provided that BIOSITE or its sub-processors ensure that either (i) the transfer is based upon an adequacy decision published by the European Commission, (ii) Standard Contractual Clauses (Commission Implementing Decision (EU) 2021/914 of 4 June 2021 on standard contractual clauses for the transfer of personal data to third countries pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council, module

three: Transfer processor to processor) or such approved clauses replacing or supplementing them, will apply between the data exporter and the data importer or other mechanism for transfer according to Chapter V in GDPR is in place, or (iii) the processing is otherwise allowed under the Applicable Data Protection Legislation.

- (c) transfer End Customer Personal Data, to the extent End Customer Personal data originate from the United Kingdom to a country outside the UK provided that BIOSITE or its sub-processor ensure that either (i) the transfer is based upon the adequacy regulations made in compliance with the UK Data Protection Act 2018 and the UK Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019, (ii) Standard Contractual Clauses (Commission Implementing Decision (EU) 2021/914 of 4 June 2021 on standard contractual clauses for the transfer of personal data to third countries pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council, module three: Transfer processor to processor) incorporated with version B 1.0 of the "International Data Transfer Addendum to the EU Commission Standard Contractual Clauses" as issued by the UK Information Commissioner under section 119A of the Data Protection Act 2018, in force March 2022 to the extent BIOSITE or its sub-processors transfer End Customer Personal Data originating from the United Kingdom or (iii) the processing is otherwise allowed under the UK Data Protection Act 2018 and the UK Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019.

- 6.8. **Audit Rights and Locations.** End Customer shall have the right to perform audits of BIOSITE's processing of Personal Data on behalf of End Customer (including such processing as may be carried out by BIOSITE's sub-processors, if any) in order to verify BIOSITE's, and any sub-processor's, compliance with this Agreement, such audits to take place in BIOSITE's facilities. BIOSITE will, during normal business hours and upon reasonable notice (whereby a notice period of twenty (20) business days shall always be deemed reasonable), provide an independent auditor, appointed by End Customer and approved by BIOSITE, reasonable access to the parts of facilities where BIOSITE is carrying out processing activities on behalf of End Customer, and to the information relating to the processing of Personal Data processed on behalf of End Customer under this Agreement. The audit shall be carried out as quickly as possible and it shall not disturb BIOSITE's normal business operations. The auditor shall comply with BIOSITE's work rules, security requirements and standards when conducting site visits. Before commencing any audit, the independent auditor (including relevant parties/persons conducting the audit) shall enter into the non-disclosure agreement(s) provided by BIOSITE. End Customer is responsible for all costs associated with the audit, save for when the audit concludes a material breach of BIOSITE's undertakings as set forth in this Clause 6. If so, BIOSITE shall compensate End Customer for reasonable and verified costs associated with the audit. All work product generated in the course of an audit shall be BIOSITE property. For the avoidance of doubt, the audit rights set forth herein are subject to End Customer's and the independent auditor's compliance with the restrictions and limitations set forth supra.

A Supervisory Authority shall always have direct and unrestricted access to BIOSITE's premises, data processing equipment and documentation in order to investigate that BIOSITE's processing of Personal Data processed on behalf of End Customer is performed in accordance with the Applicable Data Protection Legislation.

- 6.9. **Pseudonymisation.** To the extent permitted under Applicable Data Protection Legislation, BIOSITE may aggregate, deidentify, or anonymise personal information so it no longer meets the Personal Data definition, and may use such aggregated, deidentified, or anonymised data for its own research and development purposes. BIOSITE will not attempt to or actually re-identify any previously aggregated, deidentified, or anonymised data and will contractually prohibit downstream data recipients from attempting to or actually re-identifying such data.

## 7. LIMITED WARRANTY, DISCLAIMERS AND LIMITATION OF LIABILITY

- 7.1. **Installation Services.** Subject to the conditions and limitations of liability stated herein, BIOSITE warrants for a period of thirty (30) days from performance of Service that Installation Services shall be performed in accordance with generally accepted industry standards.
- 7.2. **Hardware.** Subject to the conditions and limitations of liability stated herein, BIOSITE warrants that the Hardware products will be free from material defects in materials and workmanship and will substantially conform to the applicable Documentation in effect as of the date of manufacture for a period of one (1) year from the date of shipment. No credits or refunds will be given for Hardware products that are returned incomplete or damaged. BIOSITE shall not be required to perform any warranty repairs of the Hardware at a specific site. Customer may be responsible for removing and reinstalling all the parts or components of the Hardware returned to BIOSITE for repair under the warranty. Customer shall bear all risk of loss during the shipment of items and Hardware products returned to BIOSITE. Customer shall be solely responsible for obtaining insurance on any and all items and Hardware products that are returned to BIOSITE.

All Hardware and systems that require online commissioning must be commissioned by BIOSITE certified technicians/installers for the type of product being installed, or all warranties are voided.

The warranty does not apply to (a) consumable parts, such as batteries or protective coatings that are designed to diminish over time, unless failure has occurred due to a defect in materials or workmanship. Customer is solely responsible under the Agreement to ensure that batteries powering Hardware are properly charged and timely exchanged. (b) to cosmetic damage, unless failure has occurred due to a defect in materials or workmanship; (c) to damage caused by use with a third party component or product; (d) to damage caused by accident, abuse, or misuse by the Customer or End Customer, fire, liquid contact, earthquake or other external cause; (e) to damage caused by service (including upgrades and expansions) performed by anyone who is not a representative of BIOSITE or an BIOSITE authorised technician; (f) to defects caused by normal wear and tear or otherwise due to the normal aging of the Hardware.

BIOSITE does not accept warranty claims directly from End Customers that purchase Products and Services from

a Reseller. Resellers are expected to manage warranty claims escalated by its End Customers.

**7.3. Remedies.** Subject to the conditions and limitations of liability set forth herein:

- (a) BIOSITE's sole and exclusive obligation and Customer's sole and exclusive remedy for a breach of the foregoing limited Installation Services warranty under Clause 7.1 shall be BIOSITE's commercially reasonable effort to reperform the non-conforming part of the Services. BIOSITE will, at BIOSITE's expense, take such actions it determines in its sole discretion are required to conform;
- (b) BIOSITE's sole and exclusive obligation and Customer's sole and exclusive remedy if the Service does not conform to BIOSITE's then current Documentation shall be BIOSITE's commercially reasonable efforts after receiving written notice of Customer describing in reasonable detail the specific nature of the defect or non-conformity to repair or replace the functionality of the non-conforming part of the Service to make it perform substantially in accordance with the Documentation. In the event BIOSITE is unable to remedy the non-conformity and such non-conformity materially affects the functionality of the Service, Customer will have the right to terminate the applicable Service, in which case BIOSITE must refund to Customer a pro rata portion of any fees pre-paid by Customer for the applicable remainder of the Initial Period or Renewal Period;
- (c) BIOSITE's sole and exclusive obligation and Customer's sole and exclusive remedy for breach of the foregoing limited warranties applicable to the sale of the Hardware under Clause 7.2 shall be that BIOSITE will either repair, replace or provide a reasonable workaround for the defective and/or nonconforming part of the Hardware after receiving written notice (such notice being received before the expiry of the warranty period) of the breach of warranty describing in reasonable detail the specific nature of the defect or non-conformity, or refund all amounts paid for such defective and/or non-conforming Hardware.

**7.4. Disclaimer of Warranties.** Customer expressly acknowledges and agrees that the use of each of the Products and Services is at Customer's sole risk. EXCEPT FOR THE LIMITED WARRANTY SET FORTH ABOVE AND TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAWS, BIOSITE EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. BIOSITE DOES NOT WARRANT THAT THE FUNCTIONS MEET CUSTOMER'S REQUIREMENTS, THAT THE OPERATION OF ANY OF THE SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, WITHOUT DOWNTIME, OR THAT DEFECTS IN THE SERVICES WILL BE CORRECTED. THE ABOVE WARRANTIES DO NOT APPLY TO ANY DEFECTS, DAMAGES, FAILURES OR MALFUNCTIONS TO ANY PART OF THE PRODUCTS OR SERVICES RESULTING FROM (A) NEGLIGENCE, ABUSE, OR MISAPPLICATION BY THE CUSTOMER OR END CUSTOMER (B) USE BY THE CUSTOMER OR END CUSTOMER OF THE PRODUCTS OR SERVICES OTHER THAN AS SPECIFIED IN THE DOCUMENTATION THEREOF OR OTHERWISE IN OTHER THAN ITS NORMAL AND CUSTOMARY MANNER (C) ANY ALTERATIONS, MODIFICATIONS OR ADAPTATIONS OF

THE PRODUCTS PERFORMED BY ANYONE OTHER THAN BIOSITE, OR ANY UNAUTHORISED COMBINATION OR INTERFACING OF THE PRODUCTS WITH OTHER PRODUCTS OR SERVICES. FURTHERMORE, BIOSITE DOES NOT WARRANT OR MAKE ANY REPRESENTATION REGARDING THE PERFORMANCE OR THE RESULTS OF THE USE OF THE SERVICES OR DOCUMENTATION IN TERMS OF THEIR CORRECTNESS, ACCURACY, RELIABILITY, OR OTHERWISE. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY BIOSITE OR ITS AUTHORIZED REPRESENTATIVE SHALL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF A WARRANTY.

**7.5. Third Party IPR Claims.** If a Product or Service becomes subject to a claim by a third party that it infringes a third party copyright, patent or other intellectual property right, or BIOSITE anticipates that such a third party claim may be raised, BIOSITE shall have at its option and expense the right to (a) obtain for Customer a license to continue using that Product or Service; (b) substitute the Product or Service with other substantially similar product or service; or (c) terminate the License for the infringing portion of the Product or Service and compensate Customer for the sums already paid for that infringing portion of the License. THIS CLAUSE 7.5 SETS FORTH BIOSITE'S SOLE LIABILITY AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIM OF INTELLECTUAL PROPERTY INFRINGEMENT.

What is set forth above in this Clause 7.5 applies only the latest available version of the Service and does not apply to any previous version of the Service.

**7.6. LIMITATION OF LIABILITY.** IN NO EVENT SHALL BIOSITE OR ITS AFFILIATES OR THIRD PARTY LICENSORS OR THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS BE LIABLE TO CUSTOMER FOR LOSS OF PROFIT OR REVENUES, COSTS OF DELAY, BUSINESS INTERRUPTION, LOSS OF USE OF PRODUCT OR OTHER PRODUCT SOFTWARE, SYSTEM, OR FACILITY, LOSS OF DATA OR INFORMATION, LOSS OF PRODUCTIVITY, INTEREST CHARGES, COSTS OF SUBSTITUTE PRODUCTS, SOFTWARE, SYSTEMS, OR SERVICES, COST OF PURCHASES OR REPLACEMENT POWER, DOWNTIME COSTS, DAMAGE TO PROPERTY OR PERSONS, NOR FOR ANY INCIDENTAL, SPECIAL, EXEMPLARY, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE USE OR PERFORMANCE OF PRODUCTS OR SERVICES PROVIDED HEREUNDER REGARDLESS OF WHETHER THE CLAIM GIVING RISE TO SUCH DAMAGES IS BASED UPON BREACH OF ANY REPRESENTATION OR WARRANTY, BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), OR OTHERWISE), EVEN IF BIOSITE OR ITS AUTHORISED REPRESENTATIVE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL BIOSITE'S AGGREGATE LIABILITY FOR DAMAGES OR LOSSES (WHETHER IN ONE INSTANCE OR A SERIES OF INSTANCES) UNDER THE AGREEMENT EXCEED THE AMOUNT PAID BY CUSTOMER PURSUANT TO THE APPLICABLE AGREEMENT (OR, IN THE CASE OF PROVISION OF SERVICES, PAID BY CUSTOMER PURSUANT TO THE APPLICABLE AGREEMENT DURING THE TWELVE MONTHS IMMEDIATELY PRECEDING THE CLAIM).

Nothing in this agreement excludes the liability of BIOSITE for (a) death or personal injury caused by BIOSITE's negligence; (b) gross negligence or wilful misconduct; and (c) fraud or fraudulent misrepresentation.

The limitations and exclusions set forth in this Agreement apply to the fullest extent permitted by applicable law, and the remedies set forth herein are the exclusive remedies for misrepresentation and breach of contract. If applicable law limits the application of this Clause 7, BIOSITE's liability will be limited to the maximum extent permissible.

## 8. INDEMNIFICATION

- 8.1. **Indemnification General.** Customer shall indemnify and hold BIOSITE, its Affiliates, officers, directors, third party licensors, and employees, harmless from and against any and all claims, damages, losses, costs or other expenses (including reasonable attorneys' fees) that arise directly or indirectly out of (a) Customer's negligent acts or omissions relating to the Agreement(s) and these General Terms and Conditions (b) alterations or modifications to the Products or Services made by or on behalf of Customer (c) combinations of using the Products or Services with products, services, or materials not provided by BIOSITE where the infringement would not have occurred but for Customer's combination of such products, services, or materials; (d) Customer's wilful misconduct or unauthorised use of Products or Services; (e) any violation by Customer of third party rights including but not limited to privacy and data protection rights or breach of Clause 6; (f) from Customer's use of or submission of Customer Content through the Service; (g) Customer's (or End-Customer's) violation of applicable law; or (h) Customer's access to and use of a Service in accordance with Clause 2.
- 8.2. **Indemnification Certain Situations.** If the Customer is a Reseller or if the Customer has received BIOSITE's express consent to resell the Products and/or Services to an End-Customer, the Customer shall further defend, indemnify and hold BIOSITE, its Affiliates, officers, directors, third party licensors, and employees, harmless from and against any and all claims, damages, losses, costs or other expenses (including reasonable attorneys' fees) that arise directly or indirectly out of (a) sale of the Products and Services pursuant to no terms and/or conditions or terms and/or conditions less protective of BIOSITE, and the Intellectual Property Rights than those set forth in this agreement or Agreement; or (b) BIOSITE's suspension, cancellation, or termination of End Customer(s) right to use the Products and Services and any licenses at Customers' request or due to non-payment or insolvency by Customer.

## 9. TERM AND TERMINATION

- 9.1. **Term.** The term of Agreement shall commence on the Effective Date of the Agreement and shall remain in force during the Initial Period and any Renewal Period or until terminated in accordance with the terms hereof ("**License Term**"). Following expiry of the Initial Period, and any Renewal Period, the Term will automatically renew at BIOSITE's prices in effect at the time of such renewal, for an additional period of twelve (12) months at a time (each a "**Renewal Period**") following the end of the Initial Period and any subsequent Renewal Period, unless terminated in writing by either Party by giving ninety (90) days' notice of such party's intent not to renew prior to the end of the Initial period or the then current Renewal Period. Any such notice of intent not to renew shall be given in accordance with the terms hereof. No such automatic renewal shall occur at any time following the termination of the Agreement in accordance with the terms hereof.

- 9.2. **Termination of Agreement by BIOSITE.** BIOSITE may terminate the Agreement by written notice to Customer in the event that (i) Customer fails to make any payment required within ten (10) days after receiving a written notice that such payment is past due, provided that such failure does not relate to a good faith dispute between the Parties regarding the amount due; (ii) Customer breaches any of its obligations under the Agreement, and has been given written notice of such default, and has not corrected the default within thirty (30) days of the date of the notice; or (iii) immediately upon registered letter if Customer commences bankruptcy proceedings, makes composition with its creditors, is subject to the appointment of an administrator or is subject to any other similar proceedings or otherwise proceedings that have the same or similar effects or if the other Party could reasonably be deemed to be insolvent. Without limiting BIOSITE's other rights in the Agreement, if BIOSITE terminates the Agreement pursuant to this Clause 9.2, Customer will pay any unpaid fees covering the remainder of the current License Term. BIOSITE reserves the right to terminate an End Customer's use of a license to a Software or Product in the event that End Customer breaches an obligation set forth in an agreement between BIOSITE and the End Customer, as applicable, and fails to cure such a breach within thirty (30) days after BIOSITE sends written notice of such breach is such breach is capable of being cured, or immediately if the breach is not capable of being cured.

- 9.3. **Termination of Agreement by Customer.** Customer may terminate the Agreement by written notice in the event that BIOSITE materially breaches any of its obligations under the Agreement, has been given prior written notice of such default, and has not corrected the default within thirty (30) days of the date of the notice. Expiration or termination of the Agreement will not terminate any outstanding quotes, purchase orders, statements of work, and the terms of the Agreement shall survive any termination for the duration of the term of such quotes, purchase orders, statements of work.

- 9.4. **Effect of Termination.** Upon any expiry or termination of the Agreement, all rights granted to Customer in relation to the Services will immediately cease and Customer shall cease using the licensed Service, or if Customer should otherwise discontinue using the licensed Service, Customer shall destroy all copies of the Documentation and any related materials in any form.

- 9.5. **Handling of Customer Content in the event of Termination.** Upon request by Customer made within thirty (30) days after the effective date of termination or expiration of the Agreement, BIOSITE will make Customer Content available to Customer for export or download as provided in the Documentation. After such 30-day period, BIOSITE will have no obligation to maintain or provide any Customer Content.

## 10. CONFIDENTIALITY

- 10.1. **Confidentiality.** Customer agrees to maintain and protect all Confidential Information and keep it confidential using the same degree of care that it exercises with respect to its own information of like importance but in no event less than reasonable care, and may use it only for the purposes for which it was provided under the Agreement. Except as expressly provided in the Agreement, Confidential Information may be disclosed only to Customer's employees or contractors obligated to Customer under similar confidentiality restrictions and only for the purposes for which it was provided. These



obligations do not apply to information which: (a) is rightfully obtained by Customer without breach of any obligation to maintain its confidentiality; (b) is or becomes known to the public through no act or omission of Customer; (c) Customer develops independently without using Confidential Information of BIOSITE; or (d) only to the extent and for the purpose of disclosing such Confidential Information in response to a valid court or governmental order, and if Customer has given the BIOSITE prior written notice and provides reasonable assistance so as to afford it the opportunity to object or obtain a suitable protective order.

**10.2. Remedy for Breach.** Because of the unique nature of the Confidential Information, each Party agrees that the disclosing Party may suffer irreparable harm in the event the recipient fails to comply with its confidentiality obligations under the Agreement, and that monetary damages will be inadequate to compensate the disclosing Party for such breach. Accordingly, the recipient agrees, notwithstanding Clause 11.7, that the disclosing Party will, in addition to any other remedies available to it at law or in equity for breach of this Clause 10, be entitled to seek injunctive relief in any court of competent jurisdiction to enforce such confidentiality obligations.

## 11. MISCELLANEOUS

**11.1. Customer Cooperation.** The Customer undertakes to:

- 11.1.1. cooperate with BIOSITE and procure that the Customer's Personnel cooperate with BIOSITE as required by BIOSITE in relation to performance of its obligations and/or the exercise of its rights under this Agreement;
- 11.1.2. allow and/or procure free rights of adequate and safe access for BIOSITE
- 11.1.3. Personnel to the site as required by BIOSITE in relation to performance of
- 11.1.4. BIOSITE obligations and/or the exercise of its rights under this Agreement; and
- 11.1.5. ensure that the site is cleared and prepared before the Services are due to commence and that the environment in which any Services are to be performed complies with all relevant legislation and/or regulations including relevant health and safety law. The Customer will communicate all relevant health and safety policies relevant to the site to BIOSITE Personnel visiting the site

**11.2. Compliance with Law.** Each Party shall comply with all applicable laws, ordinances, rules and regulations, and shall obtain any and all permits, licenses, authorization, and/or certificates that may be required in any jurisdiction or any regulatory or administrative agency in connection with the sale, use and/or operations of Products or Services. Without limiting the generality of the foregoing, Customer shall comply with all laws and regulations on anti-corruption, sanctions and export control, data protection, international communications, and the exportation of technical or Personal Data.

**11.3. Export and Import Controls.** The Products and Services BIOSITE makes available hereunder may be subject to export laws and regulations of the European Union, the United States, the United Kingdom and other jurisdictions. Customer agrees to comply strictly with all export laws and regulations. Customer shall not permit End Users and/or End Customers to access or use any

Products, Services or Customer Content in or via an embargoed country, which would prohibit such access or in any violation of any export law or regulation. Proscribed countries are set forth in the applicable export regulations and are subject to change without notice, and Customer must comply with the list as it exists in fact. Customer certifies, represents, warrants and undertakes that neither Customer nor any End-Customer or End-User is targeted under the sanctions or export controls of the United Nations, the United States, the United Kingdom, the European Union or any other relevant government, or are listed on the U.S. Department of Commerce's Denied Persons List or affiliated lists, on the U.S. Department of Treasury's Specially Designated Nationals List, Her Majesty's Treasury's list or on any list maintained by the United Nations, the European Union or other relevant government.

**11.4. Independent Contractor.** Nothing in the Agreement is intended to create a partnership, franchise, joint venture, agency, or a fiduciary or employment relationship. Neither Party may bind the other party or act in a manner which expresses or implies a relationship other than that of independent contractor. Except as otherwise set forth herein, each Party shall bear its own costs and expenses of performance herein.

**11.5. Third Party Rights.** These General Terms and Conditions do not confer any rights on any person or party (other than the parties to this agreement and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

**11.6. Governing Law.** This Agreement, and all disputes, claims, or causes of action that may be based upon, arise out of, or relate to this Agreement, or the negotiation, execution, or performance of this Agreement shall be governed by and construed in accordance with the laws of England and Wales, without giving effect to its provisions of choice of law. The United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement.

**11.7. Sale of Goods.** In view of the express commitments given by BIOSITE in these terms, the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from this Agreement.

**11.8. Arbitration.** Any dispute arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration under the London Court of International Arbitration (LCIA) Rules, which Rules are deemed to be incorporated by reference into this Clause 11.8. The number of arbitrators shall be three. The seat, or legal place, of arbitration shall be London, England. The language to be used in the arbitral proceedings shall be English. The parties hereby irrevocably submit to the subject matter and personal jurisdiction of such arbitration tribunal, and waive the defence of inconvenient forum to the maintenance of any such action or proceeding in such venue.

**11.9. Assignment.** The Agreement will be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns; provided, however, that neither Party shall assign any of its rights, obligations, or privileges (by operation of law or otherwise) hereunder without the prior written consent of the other Party. Notwithstanding the foregoing, however,

(i) BIOSITE may assign the Agreement to a successor in interest (or its equivalent) of all or substantially all of its relevant assets, whether by sale, merger, or otherwise; (ii) BIOSITE may assign the Agreement to any of its Affiliates; and (iii) BIOSITE may use subcontractors in the performance of its obligations hereunder. Any attempted assignment in violation of what is set forth above in this Clause 11.9 will be void.

11.10. **Delays and Force Majeure.** BIOSITE shall notify Customer as soon as reasonably possible of any delays in the scheduled delivery, and Customer agrees that BIOSITE cannot be held liable in any manner whatsoever for such delays as a result of Force Majeure. Neither Party shall be liable for failure to fulfil its obligations (other than payment obligations) under the Agreement issued hereunder or for delays in delivery due to Force Majeure. The time for performance of any such obligation shall be extended for the period lost because of the event of Force Majeure.

11.11. **Notices.** Notices concerning the Agreement shall be in writing and shall be given or made by means of certified or registered mail, express mail or other overnight delivery service, or hand delivery, proper postage or other charges paid and addressed or directed to the respective Parties to their respective addresses.

11.12. **Severability.** If any provision of the Agreement shall be held by a court of competent jurisdiction to be wholly or partly invalid or contrary to law or public policy, the validity of the Agreement as a whole shall not be affected and the remaining provisions shall remain in full force and effect. To the extent that such invalidity materially affects a Party's benefit from, or performance under, the Agreement, it shall be reasonably amended.

11.13. **Survival.** Terms and conditions which by their nature extend beyond the License Term shall survive the termination or expiry of the Agreement, including Customer's obligations under Clauses 2, 6, 7, 8, 9, 10 and 11. Customer's obligations to pay fees or charges due and payable at the time of expiry or termination, or which become due and payable thereafter, shall survive the termination of the Agreement or any addenda hereto.

11.14. **Waiver.** No term or provision hereof shall be deemed waived and no breach consented to or excused, unless such waiver, consent or excuse shall be in writing and signed by the Party claimed to have waived or consented. Should either Party consent, waive, or excuse a breach by the other Party, such shall not constitute consent to, waiver of, or excuse of any other different or subsequent breach whether or not of the same kind as the original breach. Notwithstanding the foregoing, provisions on complaints and limitation periods, such as in Clause 7 hereof, shall apply.

11.15. **Entire Agreement.** The Agreement including all schedules constitute the entire understanding and agreement between the parties hereto with respect to the subject matter of the Agreement and merges and supersedes all prior communications, understanding and agreements, written or oral, and no amendments shall become effective without written agreement signed by the parties hereto. Each Party acknowledges that in entering into this agreement it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each Party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement herein.

## EXHIBIT A - ORDERS

1. **Orders.** Until accepted as described in this clause 1, an Order does not oblige BIOSITE to fulfil Orders or maintain pricing. An Order is a contractual offer by the Customer to purchase the Products and Services as set out in the Order and on these terms. If BIOSITE has issued a quotation to the Customer, the parties agree that the Customer's Order, and therefore the Customer's contractual offer, incorporates the details of the BIOSITE quotation, unless otherwise agreed between the parties in writing. An agreement for the Products and Services is binding only when an Order is accepted by BIOSITE. Acceptance of an Order happens when BIOSITE expressly notifies Customer that the Order is accepted or when BIOSITE begins to provide or make available any Products or Services, whichever is earlier. The parties agree that these terms apply to the Agreement to the exclusion of any other terms that the Customer seeks to impose or incorporate (whether through its standard documentation or otherwise), or which are implied by law, trade custom, practice or course of dealing.
2. **Purchase Orders.** If the Customer desires to use purchase orders, the Customer must issue purchase orders in good time to allow BIOSITE to reference the purchase orders in the manner desired by the Customer. BIOSITE accepts purchase orders only to facilitate Customer internal procedures. Whilst a purchase order may constitute an order, the lack of any purchase order will not have any effect on the binding status or terms of the agreement if the Customer has submitted its Order (and therefore its contractual offer) via any other written means.
3. **Accuracy of orders.** The customer is responsible for the accuracy of an Order (regardless of whether or not that Order incorporates a BIOSITE quotation) and providing all information necessary for BIOSITE to perform the Agreement. Any inaccuracy in an Order, information or statement provided by the Customer, that results in the delay or inability of BIOSITE to provide the Products and/or Services, will result in an adjustment to the fees payable by the Customer.
4. **Booking process.**
  - 4.1. Upon acceptance of an Order, the parties will confirm, in writing, a date for the commencement of the services detailed in that order (a "booking"). Allocation of resources by BIOSITE for the services, will only take place once a booking has been confirmed.
  - 4.2. After a booking is confirmed, any cancellation or rescheduling of a booking by the customer, within three (3) working days prior to the agreed date for the commencement of the services, will result in the customer paying to BIOSITE a proportion of the fees as follows. Where a cancellation or rescheduling of the Services by the customer has taken place:
    - 4.2.1. on the day of the agreed date for the commencement of the Services, the customer shall pay to BIOSITE 100% of the fees estimated/quoted for the booking.
    - 4.2.2. within 1 Working Day prior to the agreed date for the commencement of the Services, the Customer shall pay to BIOSITE 75% of the fees estimated/quoted for the booking.
    - 4.2.3. Within 2 Working Days prior to the agreed date for the commencement of the Services, the Customer shall pay to BIOSITE 50% of the fees estimated/quoted for the booking.
    - 4.2.4. Within 3 Working Days prior to the agreed date for the commencement of the Services, the Customer shall pay to BIOSITE 25% of the fees estimated/quoted for the booking.
5. **Quotes.** Any quotation or estimate given by BIOSITE shall not constitute an offer and is only valid for a period of 30 days from its date of issue unless otherwise specified by BIOSITE in writing.

## EXHIBIT B – HARDWARE HIRE

1. **Hardware Hire.** For any Hardware which is hired, the Customer must:
  - 1.1. take care of, store and operate the Hardware in accordance with BIOSITE instructions; any documentation supplied with the Hardware; and, in accordance with good industrial practices;
  - 1.2. insure the Hardware against loss or damage and for normal insured perils;
  - 1.3. not relocate or part with possession of the Hardware except with the prior written consent of BIOSITE;
  - 1.4. make the Hardware available for inspection by BIOSITE promptly upon demand;
  - 1.5. not make any modification to the Equipment or its packaging, nor alter, remove or tamper with any trademarks, trade names, markings or names affixed to or used in relation to the Hardware; and return the Hardware at the end of the hire period in a good, clean and working order except for fair wear and tear.
2. With reference to clause 1 of this Exhibit:
  - 2.1. During the term of the hire, the Customer will, at its own expense, service, clean and maintain the hired equipment and maintain in good and substantial repair and condition (including cosmetic), fair wear and tear excepted.
  - 2.2. BIOSITE will not be obliged to repair or replace any hired equipment due to fair wear and tear (including cosmetic) except to the extent that such fair wear and tear adversely impacts the safe use of the hired equipment.
  - 2.3. BIOSITE will be entitled to charge the customer all reasonable costs incurred in attending the site to undertake any maintenance or repairs to hired equipment unless such costs result solely from the fair wear and tear of the hired equipment or from BIOSITE negligence.
  - 2.4. At the end of the hire period, the Customer is required to return the hired equipment in a good, clean and working order, except for fair wear and

tear. The hired equipment must be in a clean state; the hired equipment must be disconnected from all utilities; other accessories must be laid down or otherwise secured.

- 2.5. The Customer will be responsible for any damage to hired equipment or accessories that occurs in transit resulting from failure to comply with this requirement. All items or materials which are not hired equipment must be removed from the hired equipment. Any items or materials left in the hired equipment after collection may be disposed of by BIOSITE. If BIOSITE disposes of, stores and/or

returns items or materials to the customer, the customer will be subject to additional charges at then current rates.

- 2.6. All supplied keys must be returned to BIOSITE on collection, otherwise a charge will be automatically applied to cover BIOSITE costs of replacing keys and locks at our then current rates.
- 2.7. If the hired equipment is not maintained or returned in the condition described, then the customer will pay BIOSITE's reasonable costs for cleaning the hired equipment and rectifying any damage to the hired equipment.

### EXHIBIT C – MAINTENANCE AND SUPPORT

1. **Maintenance and Support.** The provisions of this clause apply if an Order specifies maintenance and Support services (which might be specific to certain items or provided as part of a maintenance plan for an Installation Service, and which might be subject to specific charges or charges which are included within the charges for other Products and Services).
  - 1.1. BIOSITE shall provide a facility to take telephone calls in its normal business hours from the Customer in relation to problems or deficiencies experienced by the Customer in the use of Products and Services.
  - 1.2. Subject to clause 1.3, the maintenance and Support services include such work as is reasonable and necessary to reinstate the normal operation of the Products and Services. In the case of Software, maintenance and support also includes the supply of any updates to the Software.
  - 1.3. BIOSITE will be entitled to invoice for time spent on diagnosis and rectification of any problems resulting from any of the following:

- 1.3.1. improper use or neglect of the Products and Services by the Customer;
- 1.3.2. the failure by the Customer to implement recommendations, workarounds and/or solutions to problems previously advised by BIOSITE;
- 1.3.3. repair, adjustment, alteration or modification of the Products and Services not undertaken by BIOSITE;
- 1.3.4. adverse external conditions beyond the design and capability of the Products and Services; or
- 1.3.5. deliberate or accidental damage caused by the Customer or any third party.
- 1.4. In the case of Hardware failure after expiry of the relevant warranty period, the maintenance and Support services include BIOSITE time spent dealing with the failure whereby BIOSITE shall invoice for replacement Hardware or for the cost of spare parts used for Equipment repair, as applicable.

### EXHIBIT D – CCTV AND SECURITY

1. **CCTV.** If BIOSITE supply or install CCTV or related Products, it shall check that the Products are in apparent working condition at the time of supply and BIOSITE shall verify that installation performed by BIOSITE operates as expected before leaving the site. The Customer accepts the risk that such Products might nevertheless subsequently fail or might not produce the desired images because:
  - 1.1. The Product might develop a fault that affects normal operations until it is discovered and rectified
  - 1.2. The Product is susceptible to deliberate or accidental interference or its performance might be degraded by power or environmental conditions or by interruptions to connectivity (for examples, Hardware moved by the Customer or vandalised or connectivity compromised by poor cellular network coverage);

- 1.3. The nature of the site and the extent of the Hardware might cause gaps in coverage (for example, incomplete coverage caused by obstructions); or
- 1.4. Optimal use of the Products might be compromised by sub-optimal arrangements to monitor or act upon images (for example, difficulties contacting personnel)

2. **Security.** The Customer acknowledges and accepts that security Services provided by BIOSITE, including CCTV and Guarding do not guarantee site security. Liability for damage or theft in the event of an incident when BIOSITE security Services are in place will be subject to investigation and reasonable determination between the parties.

## EXHIBIT E – FACIAL RECOGNITION

1. **Data Protection.** In using the BIOSITE Facial Recognition Camera services:
  - 1.1. the Customer acknowledges and agrees that facial biometric data is classified as personal data and the permission from the End-User is required prior to collection and use.
  - 1.2. the Customer warrants to BIOSITE that permission to use facial biometric data has been gained from the End-User for the purposes of access control.
2. **Functionality.**
  - 2.1. The Customer acknowledges that facial biometric technology is technically inherently less accurate than fingerprint biometric technology.
  - 2.2. Whilst BIOSITE does not guarantee 100% matching accuracy, the BIOSITE system for facial recognition provides a high degree of matching confidence. However, the Customer also acknowledges that the BIOSITE Facial Recognition service is under constant development and subject to a software release programme. Such releases are intended to include functionality developments to enhance matching accuracy, this includes the introduction and continuous improvement of liveness detection.

## EXHIBIT F – ENVIRONMENTAL

1. The Customer shall be responsible for financing the collection, treatment, recovery and environmentally sound disposal of:
  - 1.1. all WEEE arising or deriving from the Products; and
  - 1.2. all WEEE arising or deriving from products placed on the market prior to 13 August 2005 where such products are to be replaced by the Products and the Products are of an equivalent type or are fulfilling the same function as that of such products;
2. The Customer shall:
  - 2.1. comply with all additional obligations placed upon the Customer by the WEEE Regulations by virtue of the Customer accepting the responsibility set out in clause 1; and
  - 2.2. provide BIOSITE's WEEE compliance scheme operator with such data, documents, information and other assistance as such scheme operator may from time to time reasonably require to enable such operator to satisfy the obligations assumed by it as a result of BIOSITE's membership of the operator's compliance scheme.
3. The Customer shall be responsible for all costs and expenses arising from and relating to its obligations in clause 1.
4. Further information in respect of the arrangements set out in clause 1 can be found at [www.electrolink.eu.com](http://www.electrolink.eu.com) by clicking on 'BUSINESS WEEE COLLECTIONS', then clicking 'continue' under final users, and then entering the relevant WEEE registration number.

**EXHIBIT G**

**DATA PRIVACY STATEMENT**

This Privacy Notice outlines how Biosite (referred to as "We") will process and protect the personal data of End Users (referred to as "End User").

We are committed to respecting End User privacy and will only process their personal data to the extent necessary to provide the Services. However, for the most part, the personal data collected and processed through the Services, the Customer will act as the Data Controller and determine the purposes and means of processing. We act as the Service Provider and/or Data Processor operating and managing the Services on behalf of the Customer.

This Privacy Notice covers:

- the data processing activities that we, as the Service Provider, act as the Data Controller for.
- all other processing purposes and related functionality offered in the Services, we act as the Data Processor hosting and managing the Services on behalf of the Customer.

**Data Processing where Biosite is the Data Controller**

We process End User personal data for the specific purposes listed in this notice, for which we act as the Data Controller. Where practical, we anonymise or statistically aggregate the information we collect.

Personal data we collect and uses made of the personal data

<b>Processing Purpose</b>	<b>Personal Data Categories</b>	<b>Lawful Basis</b>	<b>Retention</b>
To administer the service, ensure reliability, correct faults with the service	User ID System ID Access token	Legitimate interest	Duration of service
To identify aspects of the service which could be improved, ensure quality	User ID	Legitimate interest	Duration of service
To secure and protect the service against malicious attempts, identify, and prevent fraud or other unlawful activity	IP-address User ID	Legitimate interest	Duration of service
To ensure that content is presented in the most effective manner for the End User and the End User's device	Browser and browser version  Device manufacturer type and model  Device operating system and version	Legitimate Interest	Duration of service
To provide the End User the latest updates regarding the improvements of our Services	Device firmware system and version information	Legitimate interest	Duration of service
To be able to analyse and test our Services by doing research, collect surveys and statistics, collect crash reports.	Analytics data, relying on cookie technologies regarding usage of our services.  Crash data containing a short log of events that occurred in the run up to a crash.	Consent	1 year  90 days

Personal data we process on behalf of the Data Controller.

We process End User personal data for the specific purposes listed in this notice, for which we do not act as the Data Controller.

Processing Purpose	Personal Data Categories
The subject matter and duration of the Processing	Personal details of contractors and employees including biometric information.  Duration of the Agreement and any relevant retention to be agreed at the time.
The nature and purpose of the Processing	To control safe and secure access to sites
The type of Personal Data being Processed	Photographs, names, addresses, biometric information
The categories of Data Subjects	Contractors and employees

If End Users have any concerns about the processing of their personal data, they should read the Customer's Privacy Policy to understand their views and practices regarding data submitted through the Services.

**Sharing and Disclosure of personal Information**

We do not monetise any personal information processed in the service or sell it to third parties. We may disclose End User personal information to a third party for a business purpose. When we disclose personal information for a business purpose, we enter a contract that describes the purpose and requires the recipient to both keep that personal information confidential and not use it for any purpose except performing the contract.

We may transfer End User personal data for the purposes set out above,

- To a relevant Biosite Affiliate that may offer internal services across the Affiliate's group.
- To third party companies providing services connected to the purposes defined above.
- Analytics providers who supply us with services for collecting and analysing feedback and usage information.
- Customers with whom the Customer has engaged in a business relationship or contract.

We will disclose your personal information to third parties:

- If we are under a duty to disclose or share your personal data in order to comply with law or any other legal obligation, or in order to enforce or apply our terms of use or terms and conditions of supply and other agreements; or to protect the rights, property, or safety of us, our customers, or others.

**Security**

We maintain reasonable security measures (including physical, electronic, and administrative) to protect personal data from loss, destruction, misuse, and unauthorised access or disclosure. For example, we limit access to personal data to authorised employees and contractors who need to know the information in the course of their work tasks.

We take End User safety and security very seriously and we are committed to protecting their personal information. All information provided to us is stored on secure servers. Where we have given the Customer and/or the End User (or where either has chosen) a password that enables access to certain parts of our service, the Customer and/or End User are responsible for keeping this password confidential. We ask the Customer and/or End User to not share a password with anyone.

Please be aware that, although we endeavour to provide reasonable security measures for personal data, the transmission of information via the internet is not completely secure. No security system can prevent all potential security breaches.

## **End User rights**

Data protection legislation gives End Users the right to access, rectify or erase information held about them. Right of access can be exercised in accordance with the data protection legislation. Rights can be exercised at any time by emailing us at [privacy@biositesystems.com](mailto:privacy@biositesystems.com).

Where processing of personal data is based on consent, consent can be withdrawn at any time. End Users are entitled to the following:

- to ask for an access to their personal data that has been processed by us
- to ask us not to process their personal data where it is processed on the basis of legitimate interests provided that there are no compelling reasons for that processing;
- to ask for the information we hold about them to be rectified if it is inaccurate or incomplete;
- to ask for data to be erased provided that the personal data is no longer necessary for the purposes for which it was collected, you withdraw consent (if the legal basis for processing is consent)
- to ask for the processing of that information to be restricted if the accuracy of that data is contested, the processing is unlawful, the personal data is no longer necessary for the purposes for which it was collected, or they exercise their right to object (pending verification of whether there are legitimate grounds for processing); and
- to ask for data portability if the processing is carried out by automated means and the legal basis for processing is consent or contract.

## **Changes to our privacy policy**

Any changes we make to our privacy policy in the future will be posted on the relevant section of our Services.