

# GP Practice End User Licence Agreement



This End User Licence Agreement is entered into between the parties on the date set out in the Advanced Order Form

## Between

- (1) **SPECTRA ANALYTICS LIMITED**, a limited liability company registered and incorporated in England with company number 09108913 whose registered office is at 70 Gracechurch St, London, EC3V 0HR (Spectra/ we/ us); and
- (2) The organisation identified in the Advanced Order Form being a GP Practice (Licensee/GP Practice/ you)

## Whereas

- (A) Spectra has developed an electronic secure communication tool known as PATCHS.
- (B) The GP Practice has purchased the PATCHS Software from Advanced (as defined below) Spectra's appointed reseller of the PATCHS product;
- (C) The GP Practice wishes to access and use the PATCHS Software on the terms set out in this End User Licence Agreement.

## 1 Definitions and Interpretation

- 1.1 In this End User Licence Agreement, unless the context otherwise requires:

**Advanced** means Advanced Health and Care Limited, a company registered in England, company number 02939302, with its registered office at Ditton Park, Riding Court Road, Datchet, Berkshire SL3 9LL, Spectra's appointed reseller of the PATCHS Software.

**Advanced Order Form** means the order form provided to the GP Practice by Advanced setting out further details of the sale and provision of the PATCHS Software to the GP Practice (which incorporates both the Advanced terms and conditions of sale and (indirectly) this EULA).

**AI** means artificial intelligence which is the development of computer systems to be able to perform tasks that normally require human intelligence, such as pattern recognition and taking actions that have the best chance of achieving a specific goal.

**Affiliate** means in respect of a party, a company which is a subsidiary of that party or which is a holding company of that party, or a **subsidiary** of such **holding company**, in each case for the time being, and subsidiary and holding company shall have the meaning given to them in section 1159 Companies Act 2006.

**Applicable Law** means the law of England and Wales (and any EU regulations from time to time applicable under the terms of the European Union (Withdrawal) Bill).

**Business Day** means 9.00am to 5.00pm on a day other than a Saturday, Sunday or a public holiday in England when banks in London are open for business.

**Data** means any information or data stored or held in, or otherwise accessible via the PATCHS Software from time to time, including any information personal data or other data derived therefrom.

**Data Protection Legislation** means the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) (UK GDPR) along with the Data Protection Act 2018 (DPA 2018).

The terms 'controller', 'processor', 'personal data', 'data subject', 'process', 'processed' and 'processing' shall all have the meanings set out in the Data Protection Legislation.

**Disclaimer** means the disclaimers set out in clauses 2 and 5 of this End User Licence Agreement.

**End User Licence Agreement** means this agreement together with the recitals and clauses 1 to 21 below and the Disclaimer, each as amended from time to time in accordance with clause 15.

**Force Majeure Event** means any circumstance or event beyond the reasonable control of the party affected by it and includes industrial disputes, telecommunications failure, epidemic/pandemic, power supply failure, computer breakdown, failure of suppliers to meet delivery requirements and absence of personnel due to illness or injury.

**Intellectual Property** means any and all patents (including rights in or to inventions), trademarks, service marks, rights in designs, trade, business or domain names, goodwill associated with the foregoing, copyright including rights in computer software and databases, topography rights (in each case whether registered or not and any applications to register or rights to apply for registration of any of the foregoing), database rights, rights in know-how, trade secrets and other confidential information, and any similar or analogous rights in any jurisdiction which may now or in the future subsist in any part of the world, and **Intellectual Property Rights** shall be construed accordingly.

**Licence Date** means the licence start date as confirmed in the Advanced Order Form.

**Licence Fee(s)** means the fee(s) payable (if any) by the GP Practice to Advanced for access to and use of the PATCHS Software as set out in the Advanced Order Form.

**Licence Period** means the term set out in the Advanced Order Form.

**Patient Numbers** means the number of patients registered with the GP Practice as set out in the Advanced Order Form.

**Permitted Purpose** means use of the PATCHS Software by you, your GP Practice staff (or affiliated staff from other GP Practices from time to time) and patients registered with you (where all Data will be used solely for the purposes of the GP Practice's provision of healthcare, but excluding always the conduct of (or participation in any business involving) the resupply to third parties of the Data or information derived from the Data (or in any other way commercially exploiting the same).

**PATCHS Software** means the PATCHS platform, products and/or services (as relevant) contracted for by the GP Practice under the Advanced Order Form.

**Support Portal** means the Advanced self-service portal (<https://docman.service-now.com/docman>) which can be used to access first line support for the PATCHS Software.

**Territory** means the United Kingdom.

- 1.2 If and to the extent of any inconsistency or conflict between this End User Licence Agreement, the Advanced Order Form, the Advanced terms and conditions of sale in relation to Third Party products and any document otherwise attached or incorporated into this End User Licence Agreement, the order of priority for the purposes of construction unless stated otherwise, is in descending order:

- 1.2.1 the Advanced Order Form
- 1.2.2 the Advanced terms and conditions of sale in relation to Third Party products;
- 1.2.3 the clauses of this End User Licence Agreement (including the recitals); and
- 1.2.4 any other document incorporated by reference into this End User Licence Agreement.

## 2 Important Information about Use of the Software including Artificial Intelligence (AI), Language Translation and Guidelines

- 2.1 **PATCHS Software is constantly evolving through the use of AI capabilities to improve and assist the workload of your GP Practice staff. AI makes suggestions, such as the urgency of patient requests and/or whether they are related to a particular clinical topic - but is not intended to automate or replace the decisions of your GP Practice staff. Your GP practice staff should always review all patient requests as soon as possible even if the AI has been enabled. Neither Advanced nor Spectra accept liability for any deficiencies in patient care as a result of using the AIs. Use of the AIs are therefore entirely at the GP Practice's option and risk.**

- 2.2 **PATCHS Software is an English language service and is designed primarily for use by staff and patients with English as a first language. There is however a translation service provided as an additional option to help assist with the communication between your GP Practice staff and patients (to improve the quality of the online consultation service wherever possible). This translation service option is provided using commonly available translation software (currently Amazon Translate but this may change from time to time). Neither Advanced nor Spectra accept liability for any misinformation or diagnosis based on or caused by any incorrect translation arising from the use of such commonly available translation software. Use of the**

translation service option is therefore entirely at the GP Practice's option and risk.

- 2.3 PATCHS Software is an online service and is designed primarily for use online. There is however a telephone assistant service provided as an additional option to help assist with the communication between your GP Practice staff and patients (to improve access to primary care services wherever possible). This telephone assistant services uses automated transcription services (currently provided by Amazon Web Services but this may change from time to time). Neither Advanced nor Spectra accept liability for any misinformation or diagnosis based on or caused by any incorrect transcription arising from the use of such transcription software. Use of the telephone assistant service option is therefore entirely at the GP Practice's option and risk

- 2.4 Notwithstanding the provisions set out in clause 4 below, the GP Practice must (and hereby agrees to):

- 2.3.1 procure that its GP Practice staff advise patients not to use the PATCHS Software in an emergency situation;
- 2.3.2 procure that its GP Practice staff ensure that each patient who submits a request via the PATCHS Software is registered with the GP Practice that they have submitted the request to before responding to that request;
- 2.3.3 procure that its GP Practice staff understand that they must read and respond to each patient request as soon as possible, albeit that patients will be notified that a GP Practice staff user can only respond during the opening hours of the relevant GP Practice;
- 2.3.4 procure that its GP Practice staff advise patients to contact the GP Practice by phone if they haven't received a response in the timeframes specified in the PATCHS Software when they submit a request;
- 2.3.5 procure that its GP Practice staff advise patients to contact the GP Practice by phone if the symptoms they have contacted the GP Practice about change whilst waiting for a response from the GP Practice;
- 2.3.6 procure that its GP Practice staff ensure that where a user enters data on behalf of a third party (child or other) that the person who entered the data has parental responsibility at your GP Practice for the child or is acting on behalf of the third party with consent as their proxy or has a valid power of attorney to act on behalf of a third party;
- 2.3.7 procure that when contacting a non-digital patient (a non-digital patient being a patient who has not registered themselves for PATCHS) via PATCHS, not to send personal identifiable data via electronic means including email and SMS to the non-digital patient;
- 2.3.8 procure that its GP Practice staff change their 'account settings' in the PATCHS Software if they move GP Practice (and that they will cease the use of the PATCHS Software if their new GP Practice does not provide an online service via PATCHS Software);
- 2.3.9 comply with any reasonable instructions or directions of Advanced and Spectra issued from time to time in respect of the PATCHS Software and the use of the same;
- 2.3.10 provide its reasonable co-operation to Advanced and Spectra as and when requested to do so by Advanced;
- 2.3.11 provide to Advanced such information in respect of the GP Practice's use of the PATCHS Software as Advanced may from time to time reasonably require or request;
- 2.3.12 provide to Advanced access to such of its records, premises and personnel as may be reasonably necessary for Advanced and Spectra to perform their respective contractual obligations;
- 2.3.13 take out and maintain in force at all relevant times such permissions, licences, authorisations and consents

(including those relating to third party intellectual property) as may be necessary for Advanced and Spectra to perform their contractual obligations in accordance with its terms;

- 2.3.14 ensure that it only uses a secure and fully updated approved web browser when accessing the PATCHS Software (this is subject to Spectra's web browser policy from time to time but currently includes the most recent version of Chrome, Firefox, Safari, and/or Edge );

- 2.3.15 take all reasonable precautions in relation to the security of its own systems (including, without limitation, using up to date firewalls and other anti-virus protections) to the extent that any connections are established between the systems of Advanced or Spectra and those of the GP Practice or any third party systems of the GP Practice; and

- 2.3.16 to comply with all reasonable regulations, policies and procedures of our hosting providers if and when any are notified to you.

### 3 Licence and Access to the PATCHS Software

- 3.1 Subject always to payment of the applicable Licence Fee(s) and compliance by the GP Practice with its contractual obligations to Advanced and hereunder to Spectra, Spectra hereby grants to the GP Practice a royalty free (save for the applicable Licence Fee(s)), personal, non-exclusive, non-transferable licence to use PATCHS in the Territory for the Permitted Purpose during the Licence Period only.
- 3.2 Usage of the PATCHS Software shall be dependent on the licence metrics set out in the Advanced Order Form which are based on (i) the Patient Numbers as at the date of the Advanced Order Form; and (ii) where the video consultation option is being used, the usage as set out in the Advanced Order Form. In the event that usage exceeds the licence metrics set out in the Advanced Order Form at any time then the GP Practice must notify Advanced promptly in writing and additional charges may be payable by the GP Practice to Advanced.
- 3.3 The e-mail address that your GP Practice staff use to access the PATCHS Software must be an NHS e-mail address that is not shared with any other people. Usernames and passwords will be specific to the individual GP Practice users to which they are issued and will be single-use log-ins which must only be used by those specific individuals to whom they are issued. The GP Practice shall ensure that any usernames and passwords provided are kept secure and confidential at all times. The GP Practice must notify Advanced immediately by contacting the Support Portal if it becomes aware of any compromise in the security and confidentiality of such usernames and passwords, whereupon Advanced and/or Spectra may de-activate the same if it is considered reasonably necessary to do so.
- 3.4 The GP Practice shall organise its own arrangements for internet access in order to access the PATCHS Software. Advanced and Spectra shall not be responsible for any failure by the GP Practice to access the PATCHS Software or any other loss or damage suffered by the GP Practice which results from delays or failures in the GP Practice's own arrangements for communications networks and facilities (including the internet).
- 3.5 Advanced and Spectra will use their respective reasonable efforts to make the PATCHS Software available to the GP Practice at all times on Business Days during the Licence Period (save for periods of required maintenance). However, Advanced and Spectra do not make any representations or warranties that the GP Practice's use of the PATCHS Software shall be uninterrupted or error-free or that defects in the PATCHS Software will be corrected or that the PATCHS Software will meet the GP Practice's requirements. The GP Practice acknowledges that there may be periods during which the PATCHS Software will not be available and that Advanced and Spectra are under no obligation to notify the GP Practice in advance if they become aware that the PATCHS Software may not be available for any reason. Advanced and Spectra will use their respective reasonable endeavours to correct any defects in the PATCHS Software as soon as possible and to minimise any period of unavailability of the PATCHS Software but will not (to the extent permitted by Applicable Law) be liable to the GP Practice beyond this commitment.

### 4 GP Practice Responsibilities

- 4.1 The GP Practice shall not:
- 4.1.1 use the PATCHS Software or any Data (or any data derived from such Data) for any other purpose than the Permitted Purpose;
  - 4.1.2 use the PATCHS Software to provide services to third parties (save where expressly agreed in writing in advance with Advanced);
  - 4.1.3 provide, lend to, make available or allow the use of the PATCHS Software or any Data (or any data derived from such Data) by any third party for any purpose whatsoever except to the extent permitted by clause 4.2.1;
  - 4.1.4 (except as permitted by Applicable Law) attempt to copy, duplicate, modify, create derivative works from, frame, mirror, republish, download, display, transmit or distribute all or any portion of the PATCHS Software or any Data (or any data derived from such Data) in any form or media or by any means;
  - 4.1.5 (except as permitted by Applicable Law) attempt to decompile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of any software which underpins or is used by Spectra in the provision of the PATCHS Software;
  - 4.1.6 access all or any part of the PATCHS Software in order to build a product or service which competes with the PATCHS Software; or
  - 4.1.7 attempt to obtain, or assist others in obtaining, access to the PATCHS Software or any Data (or any data derived from such Data), other than as provided under this clause 4.
- 4.2 The GP Practice shall be permitted to:
- 4.2.1 allow its employees, agents or contractors working at its premises or otherwise to use the PATCHS Software on its behalf for the Permitted Purpose only provided that such employees, agents and/or contractors comply with the terms of this End User Licence Agreement with regard to the use of the PATCHS Software. The GP Practice shall remain liable for all acts and omissions of its employees, agents and contractors (whether working on the GP Practice's premises or otherwise) as if they were the GP Practice's own acts or omissions; and
  - 4.2.2 reproduce the Data solely for its own internal business purposes, provided that such reproduction is not in connection with any business involving the resupply to third parties of the Data or information derived from the Data.
- 4.3 The GP Practice may only use the PATCHS Software for lawful purposes. The GP Practice must not use it:
- 4.3.1 in any way that breaches any Applicable Law;
  - 4.3.2 in any way that is unlawful or fraudulent, or has any unlawful or fraudulent purpose or effect;
  - 4.3.3 for the purpose of harming or attempting to harm minors in anyway;
  - 4.3.4 to send, receive, upload, download, use or re-use any material which falls within the impermissible boundaries set out in clause 4.5;
  - 4.3.5 to transmit, or procure the sending of, any unsolicited or unauthorised advertising or promotional material or any other form of similar solicitation (spam); or
  - 4.3.6 to transmit any data, send or upload any material that contains viruses, trojan horses, worms, time-bombs, keystroke loggers, spyware, adware or any other harmful programs or similar computer code designed to adversely affect the operation of any computer software or hardware.
- 4.4 When using the PATCHS Software, the GP Practice will not access, store, distribute or transmit any material which is:
- 4.4.1 unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
  - 4.4.2 facilitates illegal activity;
  - 4.4.3 depicts sexually explicit images;
  - 4.4.4 promotes unlawful violence;
  - 4.4.5 is discriminatory based on race, gender, colour, religious belief; sexual orientation or disability; or
- 4.4.6 is otherwise illegal or causes damage or injury to any person or property.
- 4.5 Advanced and Spectra will not be responsible for any delay in or failure to perform their contractual obligations if and to the extent that such delay or failure results in whole or in part from or otherwise relates in whole or in part to a failure by the GP Practice to comply with any of its obligations under this clause 4.
- 4.6 The Licensee hereby acknowledges and agrees that Advanced and Spectra may keep and maintain complete and accurate records of the use that GP Practice, its staff and patients have made of PATCHS Software. This data will be kept for the minimum retention periods for clinical data as defined in the Records Management NHS Code of Practice. The licensee further acknowledges and agrees that where it has consented to the anonymised data of its staff and patients being used by The University of Manchester for research purposes, this anonymised data may be kept and maintained by them for the minimum retention periods for research data as defined in the Records Management NHS Code of Practice.
- 4.7 Advanced and Spectra reserve the right, without liability to the GP Practice and without prejudice to their other rights, to disable access to the PATCHS Software in the event of a breach by the GP Practice of the provisions of this clause 4 (or if Advanced or Spectra have reasonable grounds to suspect that a breach of this clause 4 may be occurring or about to occur).
- ## 5 Disclaimer
- 5.1 By entering into this End User Licence Agreement, the GP Practice acknowledges that it has read and agrees to comply with the terms of the Disclaimer.
- 5.2 The PATCHS Software is provided by Advanced and Spectra to the GP Practice "as is" and, to the fullest extent permitted by law, all express or implied warranties and representations of any kind with respect to the PATCHS Software are hereby disclaimed including, but not limited to:
- 5.2.1 warranties as to merchantability or use for a particular purpose, whether or not Advanced or Spectra knows or has reason to know or has been advised of any such purpose: or
  - 5.2.2 warranties as to any results to be obtained from any use of the PATCHS Software or information derived from them.
- 5.3 Subject to clause 6, in no circumstances shall Advanced and/or Spectra have any liability for losses (whether direct or indirect, in contract, tort or otherwise) arising from any decision made or action taken by any party in reliance upon the PATCHS Software (or any Data obtained as a result of using them), for any unavailability of the PATCHS Software, or for any inaccuracies, errors in, or omissions from any Data obtained as a result of using the PATCHS Software or any errors, omissions or delays of GP Practice staff or patients (or third parties under no contractual obligation to Advanced or Spectra) in using the PATCHS Software.
- 5.4 In case of queries relating to the use of the PATCHS Software, the GP Practice shall be permitted to contact the Support Portal. Advanced and Spectra shall use reasonable endeavours to follow up on such contacts to the Support Portal between the hours of 9am and 5pm on Business Days and shall use reasonable skill and care in providing advice and assistance via the Support Portal. The support service for the PATCHS Software from Advanced comprises support to GP Practices. GP Practices themselves will provide any necessary support to their patients.
- 5.5 Advanced and Spectra may review Support Portal support tickets for the purposes of ensuring compliance with their legal and regulatory obligations and internal policies. These tickets may be referred to should any dispute arise between the parties. The support service will comprise first line support provided by Advanced to GP Practices, and second or third line support provided by Spectra to Advanced.
- 5.6 First line support comprises GP Practice Staff general usage or training queries, typically categorised as priority 3 or 4 requests. Second and third line support comprise any technical or application support relating to issues of GP Practice Staff which fall outside general usage or training queries, require a software fix, or are categorised as priority 1 or 2 requests. Advanced will provide 24x7 access to the Support Portal for GP Practices to log support requests.

5.7 Advanced will assign a priority to all support requests in accordance with the priorities below:

Incident Category	Business Impact
Priority 1 or P1	All or critical functionality unavailable, causing significant operational impact or system unusable
Priority 2 or P2	Critical functionality unavailable, but interim workaround is available and accepted by the GP Practice based on reasonable business criteria
Priority 3 or P3	A problem not preventing operations but with the potential to do so if unresolved
Priority 4 or P4	A minor problem either cosmetic or otherwise, and not preventing the operation of the system. Low impact/cosmetic

5.8 Once a support request has been logged, Advanced will assign the support request to a support consultant for response and resolution plans to the GP Practice within the following timescales, in line with Advanced's standard service level agreement:

Incident Category	Target First Response (during Working Days)
P1	60 minutes
P2	4 hours
P3	8 hours
P4	n/a

5.9 Backups of the PATCHS Software are taken on a daily basis.

## 6 Indemnity and Limitation of Liability

6.1 Nothing herein excludes or limits the liability of either party in respect of:

- 6.1.1 death or personal injury caused by its negligence;
- 6.1.2 fraudulent misrepresentation; and
- 6.1.3 liability which may not otherwise be limited or excluded under Applicable Law.

6.2 Subject to clause 6.1, Advanced and Spectra shall not be liable for any:

- 6.2.1 loss of profits;
- 6.2.2 loss or revenue;
- 6.2.3 loss of business,
- 6.2.4 depletion of goodwill;
- 6.2.5 loss of or corruption of data: or
- 6.2.6 special, indirect or consequential losses, costs, damages, charges or expenses, even if such losses were foreseeable, and whether arising in contract, tort (including negligence), breach of statutory duty or otherwise arising.

6.3 Subject to clauses 6.1 and 6.2, the total aggregate liability of both parties (Advanced and Spectra) under or in connection with this End User Licence Agreement, whether in contract, tort (including negligence), breach of statutory duty or otherwise, shall be limited to the Licence Fee for the Licence Period. There shall not be any duplication of recovery of losses under the Advanced terms and conditions of sale incorporated with the Advanced Order Form and this End User Licence Agreement.

6.4 The GP Practice shall indemnify, defend and hold harmless Advanced and Spectra and their respective directors, officers, agents, successors and assigns from any and all losses, liabilities, fines, damages, costs and expenses including legal fees, judgment, interest and penalties arising from or in connection with any breach by the GP Practice of the obligations set out in clauses 2 and 4.

## 7 Termination

7.1 This End User Licence Agreement shall come into force on the Licence Date for the Licence Period.

7.2 Spectra shall have the ability to terminate this End User Licence Agreement without notice if:

7.2.1 an administrator, administrative receiver, receiver or manager, liquidator, provisional liquidator or similar officer is appointed in respect of the whole or any part of the GP Practice's assets (save for the purposes of a solvent reconstruction or amalgamation), and/or a winding up petition is issued against the GP Practice which is not dismissed or withdrawn within 14 calendar days;

7.2.2 the GP Practice proposes to enter or enters into any composition or arrangement with its creditors generally or any class of creditors;

7.2.3 the GP Practice is or is deemed to be unable to pay its debts as they fall due;

7.2.4 the GP Practice ceases or threatens to cease business;

7.2.5 the GP Practice is subject to an event analogous to those set out above in any other jurisdiction; or

7.2.6 the corresponding Advanced Order Form is terminated by Advanced pursuant to the Advanced terms and conditions of sale.

7.3 Spectra may also terminate this End User Licence Agreement with immediate effect:

7.3.1 if the GP Practice is in breach of clauses 2, 3, 4 or 9 of this End User Licence Agreement; or

7.3.2 if, without prejudice to clause 7.3.1 above, the GP Practice is in material breach of an obligation under this End User Licence Agreement and, if the breach is capable of remedy, the GP Practice fails to remedy the breach within 30 Business Days of receipt of written notice from Advanced and Spectra giving full details of the breach and requiring the GP Practice to remedy the breach.

7.4 On termination of this End User Licence Agreement for any reason:

7.4.1 all licences granted under this End User Licence Agreement shall immediately terminate (and the GP Practice shall immediately cease use of the PATCHS Software and the Data);

7.4.2 each party shall return to the others all of that other party's information, data or property then in its possession or under its control (or at the other party's option will destroy/delete the same) and written confirmation of this having been done will be provided upon request;

7.4.3 the accrued rights of the parties as at termination shall not be affected or prejudiced;

7.4.4 clauses 1, 2, 4, 5, 7, 8, 9 and 11 shall survive notwithstanding termination.

## 8 Intellectual Property

8.1 The GP Practice acknowledges and agrees that all Intellectual Property in and to the PATCHS Software shall remain at all times the property of Spectra (or its relevant licensors) and nothing in this End User Licence Agreement shall operate to transfer or vest any such rights to the GP Practice.

## 9 Data Protection Legislation

9.1 The GP Practice will be considered to be the data controller in respect of any personal data collected by Spectra hereunder. Advanced will



- be the data processor and Spectra will be a sub-processor to Advanced under the Data Protection Legislation. The Data Protection Legislation provisions are set out more fully in the Advanced terms and conditions of sale.
- 9.2 By using the PATCHS Software the GP Practice, its staff and the GP Practice patients consent to Data held within the PATCHS Software being anonymised and shared with third party GPs for quality control purposes and the University for Manchester for research purposes. Under Recital 26 of UK GDPR no consent is required for this as the Data is anonymised and will not constitute personal identifiable data (<https://gdpr-info.eu/recitals/no-26/>). This clause takes precedence over any other provision in the Advanced Order Form, Advanced terms and conditions of sale or any other documentation.
- 10 Force Majeure**
- 10.1 Neither party shall be liable for any failure to perform, or delay in performing, any of its obligations (other than payment and indemnity obligations) if and to the extent that the failure or delay is caused by a Force Majeure Event and the time for performance of the obligation the performance of which is affected by the Force Majeure Event shall be extended accordingly.
- 11 Confidentiality**
- 11.1 Subject to clause 11.2, each party shall, and shall use all reasonable endeavours to procure that its officers and employees shall, keep confidential all confidential information relating to the other party (and the other party's business affairs) that it obtains in connection with this End User Licence Agreement or the negotiations leading up to it.
- 11.2 Each party shall only use such information in the proper performance of its obligations under this End User Licence Agreement and shall not divulge any of such information to any other party without the prior written consent of the other relevant party, unless permitted to do so by clause 11.2.
- 11.3 A party may disclose confidential information if and to the extent that:
- 11.3.1 that party is required to disclose the information by law or any competent regulatory body; or
- 11.3.2 the information is properly disclosed pursuant to an applicable rule, order or award in the course of proceedings before any court to which that party is a party; or
- 11.3.3 the information is disclosed on a confidential basis to that party's professional advisers for the purpose of advising that party in connection with this End User Licence Agreement.
- 11.4 Clause 11.1 shall not apply to a party in relation to information to the extent that that party can show:
- 11.4.1 that the information was already, or has subsequently become, published or publicly available for use other than through a breach of this End User Licence Agreement or of any confidentiality obligation owed by that party; or that the information was already lawfully in its possession (without restriction on disclosure or use) before it obtained the information connection with this End User Licence Agreement or the negotiations leading up to it; or
- 11.4.2 that the information has subsequently lawfully been disclosed to it (without restriction on disclosure or use) by a person who is not a party to this End User Licence Agreement and who itself lawfully obtained the information and is not under any obligation restricting its disclosure or use; or
- 11.4.3 from its records that it has derived the same information independently of that obtained by it in connection with this End User Licence Agreement or the negotiations leading up to it.
- 12 Assignment and Sub-contracting**
- 12.1 Spectra may assign, sub-contract, novate or otherwise transfer its rights and/or obligations under this End User Licence Agreement (and/or any document entered into pursuant to or in connection with it) in whole or in part at any time and on more than one occasion to one or more of its Affiliates without the consent of the GP Practice.
- 12.2 The GP Practice shall not assign, sub-contract, novate or otherwise deal with any right or obligation arising under or in connection with this End User Licence Agreement (and/or any other document entered into pursuant to or in connection with it) except with the express prior written consent of Spectra.
- 13 Notices**
- 13.1 All notices to be given to a party under this End User Licence Agreement shall be in writing in English and shall be marked for the attention of the person, and delivered by hand or sent by first class pre-paid post or email to the address, detailed for the party below:
- 13.1.1 in the case of Spectra, for the attention of the Managing Director at the address stated at the top of this End User Licence Agreement;
- 13.1.2 in the case of the GP Practice, for the attention of the Managing Partner, at the address or email address stated on the Advanced Order Form.
- 13.2 Any such notice will be valid if sent by first class post or email and deemed to be received on the second Business Day after posting or transmitting.
- 14 Scope of End User Licence Agreement**
- 14.1 Except as expressly stated in this End User Licence Agreement, all conditions, warranties, stipulations and other statements whatsoever (except as to title to goods) that would otherwise be implied or imposed by statute, at common law, by a course of dealing or otherwise howsoever are excluded to the fullest extent permitted by law.
- 15 Variation**
- 15.1 Spectra may vary these terms and conditions from time to time but will always notify the GP Practice of such changes in advance of their taking effect (whether through an update to the terms posted the log in page of the PATCH Software or through another form of communication with the GP Practice). Once the change has taken effect, continued use of the PATCHS Software will be deemed to be acceptance of the change to the terms of this End User Licence Agreement.
- 16 Entire Agreement**
- 16.1 This End User Licence Agreement (together with the Advanced Order Form and accompanying Advanced terms and conditions of sale, any UK GDPR documentation and all other documents referred to herein) sets out the entire agreement and understanding between the parties in relation to the use of the PATCHS Software.
- 17 Publicity**
- 17.1 Advanced and Spectra may refer to the GP Practice in a representative list of clients and otherwise, but only to indicate that the GP Practice is a customer of Advanced and/or Spectra. Except as provided in this End User Licence Agreement, no party shall use any other party's name or products, or the name of the other party's customers in any marketing, advertising or other publicity without the other relevant party's written consent, which shall not be unreasonably withheld.
- 18 The Contracts (Rights of Third Parties) Act 1999**
- 18.1 Advanced shall have the right to enforce and benefit from any term of this End User Licence Agreement. Any other person who is not referred to herein or is not a party to this End User Licence Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this End User Licence Agreement. This does not affect any right or remedy of a third party that exists or is available apart from that Act.
- 19 Severability**
- 19.1 The parties intend each provision of this End User Licence Agreement to be severable and distinct from the others. If a provision of this End User Licence Agreement is held to be illegal, invalid or unenforceable, in whole or in part, the parties intend that the legality, validity and enforceability of the remainder of this End User Licence Agreement shall not be affected.
- 20 Waiver**
- 20.1 The failure or delay of any party to exercise any right or remedy in connection with this End User Licence Agreement shall not operate as a waiver of that right or remedy, and the waiver of any breach or infringement shall not operate as a waiver of any subsequent breach or infringement. No waiver shall be effective unless it is in writing,

duly signed and communicated to the other in accordance with clause 13.

## **21 Governing Law and Jurisdiction**

- 21.1 This End User Licence Agreement shall be governed by and construed in accordance with English law. Each party irrevocably agrees to submit to the exclusive jurisdiction of the English courts.
- 21.2 If any matter relating to this End User Licence Agreement gives rise to a bona fide dispute between the parties, they will endeavour to resolve that dispute first by a meeting of operational managers and then (if such dispute is not resolved within 14 days of the first meeting) by a meeting of directors. If the dispute remains unresolved within 14 days of the meeting of directors, then either party may seek recourse to the courts. Nothing in this clause prevents either party from seeking injunctive or other equitable relief should it be necessary to do so to protect its legitimate interests.