



Non Regulated Rental Agreement

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Non Regulated Rental Agreement

Schedule of Commercial Terms

By signing below Siemens Financial Services Limited (“us”, “we”, “our”) will rent the Equipment to you from the Start Date subject to the terms of this agreement (“Agreement”) which consists of this Schedule of Commercial Terms (including any referenced and signed Equipment Continuation Sheets referred to herein) (“Commercial Terms”) and the Rental Agreement Terms and Conditions which follow.

YOUR DETAILS

Full Business Name (“you”, “your”)MEDWAY NHS FOUNDATION TRUST

Trading as (if applicable)

Business AddressMedway Maritime Hospital Residence 10 Windmill Road Gillingham

Post CodeME7 5NY

Telephone Number

Registered Number

Contact Name

E-mail Address

EQUIPMENT DETAILS

Quantity	Make and Model	Condition	Serial Number	Location (if different from your Business Address)
	AS PER SCHEDULE 30136819			

and any equipment described in an equipment continuation sheet for this Agreement that is signed by us and you (“Equipment Continuation Sheet”).

KEY FINANCIAL INFORMATION

The hire period (“Hire Period”) under this Agreement commences on the Start Date and will, subject to clause 3(b) of this Agreement, continue until the “Expiry Date” which is the date falling at the end of the Minimum Period plus any extension in accordance with clause 3 of this Agreement.

“Fixed Period” ☒ Unless the Fixed Period box is ticked, the hire period is a minimum period and may be extended pursuant to clause 3 of this Agreement. In this Agreement, Hire Period means the period set out above and, if the Fixed Period box has not been ticked, any extension in accordance with clause 3 of this Agreement.

Minimum PeriodSixty(months)

Payment PeriodQuarterly(select as appropriate)

First Rental£ 33,203.21+VAT

followed byNineteen

rentals of£ 33,203.21+VAT

(each a “Rental”) payable one Payment Period after the First Payment Date and then on the same day in each subsequent Payment Period.

Each Rental includes a maintenance charge of£ 0.00+VAT (“Maintenance Charge”). The “First Payment Date” shall be the Start Date.

On the First Payment Date you will pay us a facility fee of £169.00 +VAT (“Facility Fee”) together with the First Rental. On each anniversary of the First Payment Date you will pay an annual service fee of £60.00 +VAT (“Annual Service Fee”).

By signing this Agreement, you agree and acknowledge that the Rentals do not include the cost of any consumables or services (such as paper, call charges or line rental) other than maintenance where included and you represent and warrant that you have not received any payment or incentive from us or any third party in respect of the Equipment and/or the Agreement.

APPLICATION – IMPORTANT – READ THIS SECTION BEFORE YOU SIGN

You want to hire the Equipment from us at the Rentals specified in these Commercial Terms and otherwise in accordance with the terms of this Agreement. By signing this Agreement and providing it to us, you are requesting that we buy the Equipment from the Supplier in order for us to hire it to you under this Agreement. You agree that if we approve your request (which shall be at our absolute discretion) then we shall sign and date this Agreement and you and we will be bound by the terms of this Agreement. You confirm that the Hire Period specified in the Commercial Terms matches the expected useful working life of the Equipment and that in your opinion after your own investigation the pricing of the Rentals is in line with market pricing. Where you have been introduced to us by a third party, such as a credit broker, we may make a payment by way of commission or fee to that person for introducing you to us in relation to this Agreement. **By signing this Agreement you confirm that you have received, read, understood and agree to be bound by the provisions set out in this Agreement, including these Commercial Terms and the Rental Agreement Terms and Conditions overleaf and that you are properly authorised to sign this Agreement on behalf of the contracting entity.**

DECLARATION FOR EXEMPTION RELATING TO BUSINESSES (ARTICLES 60C AND 600 OF THE FINANCIAL SERVICES AND MARKETS ACT 2000 (REGULATED ACTIVITIES) ORDER 2001)

I am/We are* entering this agreement wholly or predominantly for the purposes of a business carried on by me/us* or intended to be carried on by me/us*. I/We* understand that I/we* will not have the benefit of the protection and remedies that would be available to me/us* under the Financial Services and Markets Act 2000 or under the Consumer Credit Act 1974 if this agreement were a regulated agreement under those Acts. I am/We are* aware that, if I am/we are* in any doubts as to the consequences of the agreement not being regulated by the Financial Services and Markets Act 2000 or the Consumer Credit Act 1974, then I/we* should seek independent legal advice.

*Delete as appropriate.

YOUR SIGNATURE

SIGN HERE

Signed by an authorised signatory for and on behalf of you:

Print Name

Position

Date of Signature

OUR SIGNATURE

Signed for and on behalf of Siemens Financial Services Limited

Print Name

Position

Date (“Start Date”)

EMAIL

Signatory E-mail Address

01/2020 NR-RA (FT/MT)

Siemens Financial Services Limited, Sefton Park, Bells Hill, Stoke Poges, Buckinghamshire SL2 4JS
Telephone No: 01753 434000 • Registered Office: As above • Registered No: 646166 in England

Financial Services

SETTLEMENT OF EXISTING AGREEMENTS

If Rentals have been calculated to include amounts required to settle existing agreements, please give details below:

Existing Funder	Existing Agreement (number/reference)	Amount to be settled excluding VAT

By signing this Agreement, you acknowledge that the Supplier is responsible for paying any amounts required to settle any Existing Agreements to the relevant Existing Funder. We are not responsible for paying any settlement amount due to any Existing Funder. If we pay a settlement amount to the Supplier and the Supplier fails to pay such settlement amount to the relevant Existing Funder, you will remain obliged to continue to make payments under the Existing Agreements and you must continue to comply with your obligations under this Agreement.

SPECIAL CONDITIONS AND ADDITIONAL INFORMATION**SUPPLIER DETAILS ("SUPPLIER")**

Supplier's Name **OSKACARE LIMITED**

Registered Address **EDWARD HOUSE 5 PENNER ROAD, HAVANT, HAMPSHIRE, PO9 1QZ**

Contact Name **Daniel Woodcock**

Telephone Number

E-mail Address

IMPORTANT – USE OF INFORMATION

You acknowledge that we may pass information about you (and your financial associates) in this Agreement to other companies in the Siemens Group of Companies, the Supplier or the service providers, insurers, credit reference agencies and fraud prevention agencies, to help make credit decisions about you and for fraud prevention. Further details about how we use your personal data is provided in our "Use of Personal Information" notice provided in the welcome pack that we will send out to you when we counter-sign this Agreement.

We may also use the details you have provided to us in this Agreement to send you information about other products and services offered by us that we think you may be interested in. If you do **not** wish to receive any marketing information about our products and services, please tick this box: ☐

INSTRUCTIONS TO YOUR BANK OR BUILDING SOCIETY TO PAY BY DIRECT DEBIT

Please fill in the whole form and send to:

Siemens Financial Services Limited, Sefton Park, Bells Hill, Stoke Poges, Buckinghamshire SL2 4JS.

Name and full postal address of Your Bank or Building Society Branch

To: The Manager

Bank/building society

Address

Postcode

Name(s) of Account Holder(s)

Branch Sort Code

Bank/Building Society account number

Service User Number

4 0 6 6 7 9

Reference

Instruction to Your Bank or Building Society

Please pay Siemens Financial Services Limited Direct Debits from the account detailed in this instruction subject to the safeguards assured by the Direct Debit Guarantee. I understand that this Instruction may remain with Siemens Financial Services Limited and, if so, details will be passed electronically to my Bank/Building Society.

Signature(s)

Date

Banks and Building Societies may not accept Direct Debit Instructions for some types of account.

THE DIRECT DEBIT GUARANTEE

- This Guarantee is offered by all banks and building societies that accept instructions to pay Direct Debits
- If there are any changes to the amount, date or frequency of Your Direct Debit the Originator will notify You ten working days in advance of Your account being debited or as otherwise agreed. If You request the Originator to collect a payment, confirmation of the amount and date will be given to You at the time of the request
- If an error is made in the payment of Your Direct Debit, by the Originator or Your bank or building society, You are entitled to a full and immediate refund of the amount paid from Your bank or building society
- If You receive a refund You are not entitled to, You must pay it back when the Originator asks You to
- You can cancel a Direct Debit at any time by simply contacting Your bank or building society. Written confirmation may be required. Please also notify Us.



Rental Agreement Terms and Conditions**1) This Agreement**

- a) These are the Rental Agreement Terms and Conditions referred to in the Commercial Terms overleaf. If you sign this Agreement and we also sign this Agreement, we agree to buy the Equipment from the Supplier and to hire it to you for use in your business for the Hire Period. This Agreement contains the entire agreement between us and you in relation to the hiring of the Equipment. Any amendment to this Agreement shall be in writing signed by both of us. The Supplier is not our agent for any purpose and may not provide representations or warranties in respect of the Equipment or agree any amendments to this Agreement on our behalf.
- b) In this Agreement:
- clause headings are for convenience only;
 - unless specified, capitalised words are defined in the Commercial Terms;
 - reference to a statute or provision is a reference to it as amended, extended or re-enacted from time to time and includes all subordinate legislation made under it;
 - reference to either party shall include that party's personal representatives, successors and permitted assigns;
 - an obligation on you not to do something includes an obligation not to allow that thing to be done;
 - the equipment the subject of this Agreement ("**Equipment**") shall be that described in the "**Equipment Details**" section of the Commercial Terms, any Equipment Continuation Sheet for this Agreement that is signed by us and you, and any certificate of acceptance relating to this Agreement ("**CoA**"). The Equipment shall include all records, ancillary assets or equipment, component parts, spares, accessories, additions, alterations, replacement parts, substitutes and upgrades and all manuals, cabling, batteries and chargers relating to such Equipment; and
 - if you are more than one person, you will be jointly as well as individually liable and reference to "**you**" shall refer to any one of you as well as all of you.

2) Delivery and Acceptance

You shall arrange for delivery, installation and testing of the Equipment from the Supplier and shall inspect the Equipment upon delivery. If the Equipment is satisfactory you shall provide us with a signed CoA in a form and substance acceptable to us. If you fail to provide such a CoA, unless you notify us in writing within 7 days of delivery of the Equipment of any defect in or issue with the Equipment, it shall be conclusively presumed that the Equipment is complete, in good order and condition and in every way satisfactory to you. If there is more than one Supplier, payment shall be made to all Suppliers only once the last item of Equipment has been accepted by you in accordance with this clause (or such earlier date as we agree in our sole discretion).

3) Term

- a) The hiring of the Equipment starts on the Start Date. If the box headed "**Fixed Period**" in the Commercial Terms is ticked then the hiring will end on the Expiry Date.
- b) If the box headed "**Fixed Period**" is not ticked, then, unless you give us written notice to terminate the Agreement at least 90 days before the Expiry Date specified in the Commercial Terms, the hiring of the Equipment will automatically extend:
- at the same Rental and payment frequency as immediately before the Expiry Date; and
 - on the same terms and conditions,
- unless and until you or we end it by giving the other notice in writing at least 90 days before the intended termination (provided that the termination date shall not have effect until the end of the Payment Period in which the termination notice expires) or the hiring is otherwise terminated in accordance with the terms of this Agreement.

4) Rentals and Payments

- a) You shall pay us the First Rental and the Facility Fee on the First Payment Date. After that, all Rentals and the Annual Service Fee shall be payable in accordance with the "**Key Financial Information**" section of the Commercial Terms. You shall pay to us value added tax on all Rentals and other sums due under this Agreement which attract the same at the prevailing rate when such Rentals and other sums are due for payment.
- b) Subject to clause 6(f) it is an essential condition of this Agreement that you pay all the Rentals and all other sums due under this Agreement on the dates they are due without any deduction, counterclaim, set-off or withholding. Without limiting the rest of this clause 4(b), you shall continue to pay Rentals even if the Equipment cannot be used for any reason and/or if any consumables are not supplied and/or regardless of any disputes that you may have with the Supplier or any maintenance provider and/or regardless of any problems or disputes that you may have relating to the provision or supply, or failure to supply any telephone line, network, call facility and/or any other related services required by you in relation to the Equipment.
- c) If you are required by law to make a deduction or withholding from any payment due under this Agreement, you shall notify us and make an additional payment sufficient to ensure that we receive a net amount (once any further deductions have been applied to such additional amount) equal to the amount which we would have received had such deduction or withholding not been made.
- d) You will pay all Rentals by direct debit unless we agree otherwise. If you do not pay Rentals by direct debit, we will increase them by 2% to cover the extra cost of collection.
- e) We may at your request accept payment of Rentals or other amounts payable by you under this Agreement from a third party on your behalf. Our acceptance or refusal of such payment (which shall be at our discretion) will not absolve you of your liabilities or obligations under this Agreement and will not oblige us to accept future payment from that or any other third party. No third party payor shall acquire or be granted any right or interest in the Equipment.
- f) If you do not pay any Rental or other sum due under this Agreement on its due date you will pay interest on such sum at the rate of 5% above Barclays Bank base rate, after as well as before judgement from the date that the sum was due until the date we receive it.

5) Change of Circumstances

- a) You acknowledge and agree that Rentals have been calculated assuming that for the duration of this Agreement there will be no change in: (i) any law or regulation and/or the interpretation, administration or application of any law or regulation; (ii) the rate, basis and treatment of VAT; (iii) our ability to claim VAT on the purchase price of the Equipment and to charge VAT in respect of the Rentals; and (iv) HMRC practice during the Hire Period, in each case from that existing at the date of this Agreement (each an "**Assumption**"). If any Assumption proves to be incorrect then you shall pay us, if requested, by way of increased Rental or lump sum payable on demand, such sum or sums as are required to place us in the financial position (as regards this Agreement) which was expected if the Assumptions had not proven to be incorrect.
- b) It is not our responsibility to make alterations to the Equipment (or bear the cost of any such alterations) which may become necessary or compulsory as a result of any changes in the law.
- c) If it becomes unlawful for us to perform any of our obligations under this Agreement or we are unable to fulfil this Agreement by reason of any national or international foreign trade or customs requirements or any embargoes or other sanctions or similar restrictions then we shall be entitled to terminate this Agreement and you shall pay us all amounts specified in clause 15(a).

6) Maintenance Charges

- a) You will enter into a maintenance agreement in relation to the Equipment with the Supplier or another reputable third party maintenance provider selected by you on or before the Start Date ("**Maintenance Provider**") which will run for the duration of the Hire Period and you acknowledge that the Maintenance Provider is responsible for providing the maintenance services under the maintenance agreement. You must perform your obligations under the maintenance agreement.
- b) If specified in the Commercial Terms, the Rentals will include an amount in respect of maintenance services ("**Maintenance Charges**") provided by the Maintenance Provider. The amount of the Maintenance Charges included in the Rentals as at the Start Date is set out in the Commercial Terms.
- c) Subject to clause 6(f), we will act as an agent for the Maintenance Provider to collect the Maintenance Charges for the duration of the hiring of the Equipment under this Agreement. We do not act as the Maintenance Provider's agent for any other purpose and we are not responsible for providing any maintenance services in respect of the Equipment.
- d) We may at any time after the first year of this Agreement, increase the Rentals to reflect any increase in the Maintenance Charges requested by the Maintenance Provider by up to 12.5% a year.
- e) We shall be entitled to apply amounts received from you first in satisfaction of your obligation to pay the Rentals or any other sum due to us under this Agreement (excluding Maintenance Charges). If you do not pay the full amount of the Rentals or any other amounts due to us, we will not pay the Maintenance Provider the Maintenance Charges and the Maintenance Provider may stop providing you with maintenance services. If this Agreement is terminated, the Maintenance Provider may bring an action to recover any Maintenance Charges and any other sums that are due from you under the maintenance agreement.
- f) If the Maintenance Provider fails to provide the maintenance services in accordance with the maintenance agreement then you may, by giving us 30 days' notice in writing, require us to stop paying Maintenance Charges to the Maintenance Provider. Following the expiry of such a notice we will reduce the Rentals by the amount of the Maintenance Charge from the next Rental payment date. Even if you stop paying Maintenance Charges to us, you may still have obligations to the Maintenance Provider.
- g) If the Maintenance Provider ceases to provide maintenance services for any reason you shall promptly obtain the relevant services from another maintenance provider and you must notify us immediately in writing of the name and trading address of the relevant maintenance provider.
- h) We accept no liability for providing any maintenance services. Whether we agree to collect any maintenance charges on behalf of any replacement maintenance provider appointed from time to time shall be at our sole discretion and, if we do agree, such collection shall be on the terms set out in this clause 6.
- i) Clause 6(f) sets out your sole right and remedy against us in respect of any failure by the Maintenance Provider to provide maintenance and you are not entitled to treat any such failure as a repudiation of this Agreement or to terminate this Agreement or the hiring of the Equipment under this Agreement following such failure. You shall continue to perform your obligations under this Agreement in full (including your obligation to pay the Rentals (excluding Maintenance Charges) and to maintain the Equipment) notwithstanding any failure of the Maintenance Provider (or any replacement maintenance provider from time to time) to provide maintenance services for the Equipment.

7) Consumables and Software

- a) It is your sole responsibility to choose and procure any services or consumables that you may require from the Supplier or any third parties at your own expense. In accordance with clause 8 you are responsible for making sure the software is fit and suitable for your purposes and complies with your specification. Except for maintenance, where Maintenance Charges may be included in the Rentals, the Rentals do not include the cost of any services or consumables whatsoever including, but not limited to, call charges or line rental.
- b) If the Equipment includes software, you are responsible for ensuring that the Supplier or licensor grants you a suitable licence. You must comply with the terms of any such software licence. If you breach the terms of any such licence, such breach will also constitute a breach of the terms of this Agreement and we may terminate this Agreement under clause 14. You will also indemnify us pursuant to clause 9 in respect of any breach of such licence.
- c) You confirm and acknowledge that we are not responsible for maintenance of the software and that, in accordance with clause 4(b) and clause 6, you must continue to pay the Rentals even if the software cannot be used for any reason and even if the Supplier or any other party does not maintain the software to your satisfaction, or at all.

8) Exclusion of our liability

- a) You are responsible for choosing the Equipment, verifying the purchase price of the Equipment and making sure that it is fit and suitable for your purposes and complies with your specification. We are not a dealer or expert in the Equipment and give no advice or assurances about the Equipment or its quality or suitability. The Equipment is acquired by us at your request solely for the purpose of hiring the Equipment to you.
- b) You confirm that you have obtained from the Supplier of the Equipment all representations, warranties and guarantees you require in relation to the Equipment (save as to title) including but not limited to its quality, fitness for purpose and description. Without prejudice to the foregoing, if and to the extent that you fail to obtain express warranties about the Equipment we will endeavour, at your request and cost, to transfer to you the benefits of any manufacturer's or Supplier's express warranties given to us in respect of the Equipment to the extent that such benefits are transferable.
- c) The Equipment is not hired or supplied to you with any representation, warranty, condition or undertaking (whether express or implied) concerning the condition, performance, quality, description, hiring, possession, state, transportation, suitability, use or fitness for purpose of the Equipment or subject to any term, representation, warranty, condition or undertaking expressed to be implied by statute, common law or otherwise, and all such terms, representations, warranties, conditions and undertakings are excluded to the full extent permitted by law.
- d) We give no warranties that the Equipment does not or that your use of the Equipment will not infringe any patents, trademarks, registered designs, copyrights or intellectual property rights owned or possessed by any third party and we shall not be liable to you for any loss suffered by you in any way as a result of any infringement.
- e) Nothing in this Agreement shall exclude or limit our liability in relation to fraudulent misrepresentation or any death or personal injury arising from our negligence or any other liability that it would be unlawful for us to purport to exclude or limit.

9) Indemnity

- a) You agree to indemnify us and our employees, agents and contractors and agree to keep us and them indemnified on demand against all losses, claims, demands, penalties, fines, costs, expenses (including but not limited to legal expenses (plus VAT) on a full indemnity basis) charges, damages, proceedings, judgments and liabilities incurred, suffered or sustained by us directly or indirectly as a result of or in respect of: (i) our entry into this Agreement and/or our ownership of the Equipment; (ii) your possession or use of the Equipment; (iii) any injury (including death) to the person or property of third parties caused by your possession and/or operation of the Equipment; (iv) all loss or damage to the Equipment regardless of the cause; (v) any termination of this Agreement and/or the hiring of the Equipment hereunder; (vi) us accepting payment from a third party in accordance with clause 4(e); and/or (vii) your failure or alleged failure to comply with the terms of this Agreement.
- b) Each of the indemnities in clause 9(a) is a separate and independent obligation from your other obligations in this Agreement and gives rise to a separate and independent cause of action and will continue in full force and effect notwithstanding the termination or early ending of this Agreement, or any judgment, order, claim or proof for a liquidated amount in respect of any sum due under this Agreement or any other judgment or order.

10) Insurance and Total Loss

- a) You must insure the Equipment with a reputable insurance company against:
- loss or damage at all times from all insurable risks for the greater of the Equipment's full replacement value or the Termination Sum set out in clause 15(a); and
 - third party liability for such amount as we may require from time to time or, in the event that we have not stipulated any such amount, for the amount which is prudent in all the circumstances.
- b) You shall arrange for our interest in the Equipment to be noted on any policy of insurance and for us to be named as sole loss payee (except in relation to payments made directly to third party claimants).
- c) You will comply with all the terms of any insurance policy.
- d) You shall provide evidence of the insurance policy upon request. If you fail to provide such evidence when requested, we have the right, at our sole discretion, to take out our own insurance on the Equipment or to take out insurance for a suitable period and we will charge you an asset protection fee which will be collected from you by instalments at the same time as the Rentals. If we take out such a policy, you shall provide us with such information as we may reasonably require in connection with the same and shall not deal with the policy or receive insurance proceeds from the policy without our prior written consent. For the avoidance of doubt, you acknowledge and agree that, if we take out our own insurance under this clause 10(d), you will have no rights under such policy and you may be contacted regarding insurance by our insurance administrator.
- e) If, in our opinion or that of the insurer, there is a total loss, constructive loss or arranged total loss of the Equipment ("**Total Loss**") then, you shall either:
- settle this Agreement by paying us firstly, the Termination Sum set out in clause 15(a) plus secondly, an amount representing any proceeds of selling the Equipment which we assumed we would receive at the end of the Hire Period and took account of in calculating the Rentals (the "**Anticipated Sale Amount**"), if (upon payment of which the hiring of the Equipment shall terminate); or
 - if we consent, repair or replace the Equipment at your own expense or using the proceeds of any insurance claim and continue with this Agreement. Any equipment which replaces Equipment that has suffered a Total Loss will become our property and shall be treated as "**Equipment**" for all purposes under and in connection with this Agreement. Neither your obligation to pay the Rentals, nor the amount or due dates of the Rentals, shall be affected by any replacement of the Equipment under this clause 10(e)(ii) from time to time.
- f) In the event that you receive the proceeds of any insurance claim in relation to the Equipment you shall immediately pay such proceeds to us and the proceeds shall be held on trust for us pending such payment.

11) Costs, Expenses and Charges

You will pay to us on demand (i) any costs and expenses we may have to pay or incur to enforce any of the terms of this Agreement and/or repossess and/or sell the Equipment; and (ii) our charges for changing the terms of this Agreement and/or for reminding you of any failure by you to comply with the terms of this Agreement ("**Additional Charges**"). Details of our Additional Charges are available on request.

12) Your Representations and Warranties

You represent and warrant that (a) you have taken all corporate action necessary to authorise your entry into this Agreement; (b) execution by you of this Agreement will not breach any law, your constitutional documents or any other obligation binding on you; (c) with the exception of any maintenance agreement entered into pursuant to clause 6(a) or 6(g), you have not entered into any other agreements or arrangements in respect of this Agreement, the Equipment, the financing of the Equipment or the payment of Rentals; and (d) all information you have provided in connection with this Agreement is correct and accurate.

13) Your Undertakings

- a) You will not move the Equipment or allow any third party to move the Equipment from the Business Address (or such other location as specified on page 1 on this Agreement) without our written permission and you will not fix or attach the Equipment to any land or building in such a way that it becomes part of such land or building. You will procure that any landlord or mortgagee of any land or premises on which the Equipment is located from time to time, issues a waiver of any interest in the Equipment, in a form and substance agreed by us from time to time.
- b) You will keep the Equipment in good condition and maintain the Equipment in accordance with the manufacturer's recommendations and all applicable legal requirements. You will ensure that the Equipment is used properly according to the manufacturer's operating instructions and that it is safe. The Equipment must not be used for any purpose for which it is not designed for and must only be used by properly trained staff. You will be responsible for any damage caused to the Equipment (fair wear and tear excluded).
- c) You will be responsible for paying any licence fees, fines, duties, insurance premiums and other payments for the Equipment.
- d) You will not alter or add anything to the Equipment without our written permission. If you alter the Equipment without our written permission in a way that is detrimental to its value you will, at our option, (i) pay for reinstating the Equipment to its original condition or (ii) replace the Equipment to our satisfaction at your own expense. Any reinstated or replacement Equipment will automatically become our property and shall be treated as "**Equipment**" for all purposes under and in connection with this Agreement.
- e) You will not sell, sub-let, give away or transfer the Equipment. You will not mortgage, charge, pledge or allow a lien to subsist over the Equipment or otherwise use the Equipment as security for a loan or any other obligation.
- f) You will not release the Supplier from any obligations in respect of any supply agreement relating to the

- Equipment without our prior written consent.
- g) You will make the Equipment available for inspection at all reasonable times (provided that you shall let us inspect the Equipment on demand if an Event of Default has occurred).
- h) You will provide us with such information regarding your financial condition and/or business as we may reasonably request from time to time.
- i) You shall procure, at your own cost and expense, any telephone line, network, call facility and/or other services required by you in relation to the Equipment.

14) Events of Default and Termination

- a) Each of the following is an event of default ("Event of Default"):
- you fail to pay any Rental or any other sum due under this Agreement or any other agreement with us within 3 days of the due date;
 - you breach any other term of this Agreement and, where the breach is remediable, fail to remedy such breach within 10 days of our demand;
 - you breach any term of any other agreement between you and us or any other member of the Siemens Group of Companies (being Siemens AG and each of its Subsidiaries from time to time ("Subsidiary" means a subsidiary undertaking within the meaning of section 1162 of the Companies Act 2006)) ("Other Agreement") and such breach is not remedied within any applicable grace period;
 - you make any statement, representation or warranty under or in relation to this Agreement or any Other Agreement which is or becomes materially incorrect;
 - you fail to obtain and keep in full force and effect any licences and authorisations necessary or desirable for the conduct of your business, trade or ordinary activities;
 - you try to sell the Equipment or do anything that affects our rights in the Equipment including allowing the Equipment to be taken to settle a debt;
 - you are in material breach of any financial obligation to us or any other party;
 - there is a change in your control (direct or indirect), ownership or shareholding from that existing at the Start Date;
 - we believe there is a material adverse change in your financial position or business;
 - you are unable to pay your debts as they fall due;
 - where you are a sole trader, you die, or by reason of illness or incapacity (whether mental or physical), you are incapable of managing your own affairs;
 - you convene a meeting of your creditors with a view to rescheduling any indebtedness or you enter into a deed of assignment or arrangement or otherwise compound with any or all of your creditors;
 - you are liquidated or wound up or have a petition for winding up presented against you or you pass a resolution for voluntary winding up (otherwise than in the course of a reconstruction approved by us in writing) or, where you are a partnership, the partnership is dissolved;
 - any steps are taken to appoint a receiver, administrative receiver or administrator over you or any of your assets or if you stop trading;
 - you have a petition for a bankruptcy order made against you, you are declared bankrupt or are subject to an order for the administration of your estate; or
 - you are in our opinion likely to be dissolved, deconstituted or reconstituted or you are dissolved, deconstituted or reconstituted or there shall be carried out an extraordinary audit of you by either the National Audit Office, the Financial Reporting Council, the Cabinet Office, Public Sector Audit Appointments Ltd or any equivalent office or body;
 - in respect of clauses 14(a)(xii) to 14(a)(xvi) (inclusive), any analogous procedure or step is taken in any jurisdiction; or
 - any of the events in clauses 14(a)(iii) to 14(a)(xvii) occurs in respect of any person that has provided a guarantee and/or indemnity to us in respect of your obligations under this Agreement.
- b) We shall be entitled to treat the occurrence of any Event of Default as a repudiatory breach of this Agreement and we may by notice to you immediately terminate the hiring of the Equipment under this Agreement and demand payment of amounts set out in Clause 15(a).
- c) Any termination of the hiring of the Equipment will not affect any duties and liabilities that subsisted at the time of termination. Our right to terminate the Agreement will not be prejudiced by us accepting Rentals subsequent to the occurrence of an Event of Default. Your payment of any sums under this clause 14 shall not prejudice any other rights or remedies we may have in relation to this Agreement and/or the Equipment.

15) Termination Sum

- a) If this Agreement and/or the hiring of the Equipment under this Agreement terminates for any reason (other than upon the expiry of a notice served by either party in accordance with clause 3 or where there is a Total Loss and the Equipment is replaced with our consent in accordance with clause 10(e)) you shall pay us a Termination Sum equal to:
- all arrears of Rentals and other payments due from you under this Agreement at the date of termination;
 - by way of compensation, a sum equal to the Rentals that would have been payable (excluding any Maintenance Charge) in respect of the remainder of the Hire Period (including any automatically extended Hire Period in accordance with clause 3) less a discount on each such Rental at the rate of 2% per year from the date of termination to the date that the Rental would have been due;
 - any costs and expenses in taking back the Equipment, storing it, insuring and disposing of it or in enforcing our rights under this Agreement and the amount due pursuant to clauses 16(b), 16(c) and 16(e);
 - a break fee of £250, for any termination which is not as a result of a Total Loss or an Event of Default; and
 - interest under clause 4(f) above on the above sums to the date we are fully paid.
- b) Upon termination of this Agreement or the hiring of the Equipment under this Agreement as a result of an Event of Default (but not, for the avoidance of doubt, following the expiry of a notice served by either party in accordance with clause 3) we will use our reasonable endeavours to sell the Equipment and will apply any sale proceeds (excluding VAT and our costs and expenses in connection with recovering the Equipment, putting the Equipment into the condition required by clauses 16(b) and 16(c) and storing, insuring and selling the Equipment) we receive against any sums which you owe us under this clause 15 save that this term shall not apply where we took the Anticipated Sale Amount into account when we calculated the Rentals. If this Agreement or the hiring of the Equipment under this Agreement is terminated because of a Total Loss then we will deduct the amount of any insurance proceeds we receive and are entitled to retain in connection with such Total Loss from any sums which you owe us under this clause 15.

16) Return of the Equipment

- a) If this Agreement and/or the hiring hereunder terminates or expires for any reason (other than where the Equipment suffers a Total Loss and the hiring of it is terminated in accordance with clause 10(e)) you must return the Equipment (at your cost and expense) to us at a place we choose in the UK within one working day of expiry of this Agreement by the passage of time or immediately in any other circumstance. If you fail to comply with this clause 16(a) then we may arrange for the Equipment to be removed and returned at your cost and expense and you shall continue to pay Rentals to us (at the same rate and frequency as applied

- immediately before the hiring ended) until (i) you return or we recover the Equipment in the condition required by clauses 16(b) and 16(d), and (ii) the Equipment is returned or recovered and has been put into the condition required by clauses 16(b) and 16(d) to the extent that we believe, in our sole opinion, it has not already been done, and you have paid the amounts due under this clause 16 or, where applicable, (iii) you have paid us the Termination Sum specified in clause 15(a). You will give us or our agent access to the site where the Equipment is located in order that we or our agent may perform such removal.
- b) The Equipment must be returned to us in the same original, complete working order as when you accepted it taking account of normal wear and tear resulting from using it properly. The Equipment must be complete with any service records, instructions, manuals and technical specification and it must also be free from dents, fractures, chips, scratches and stains. The Equipment must also be in a condition which is compliant with any additional return conditions we may agree with you. Any data or monetary credit remaining in, or relating to, the Equipment, at the time we take delivery of it will automatically become ours on delivery. You will indemnify us on demand against all claims, demands, proceedings (civil or criminal), penalties, fines, liabilities, losses, damages, costs and expenses of whatsoever nature which may be brought against us or which we may suffer, incur or sustain in connection with any data or monetary credit remaining in, or relating to, the Equipment at the time we take delivery of it.
- c) You must arrange to disconnect, de-install and de-commission the Equipment and pack it according to the Supplier's instructions. You will be responsible for insurance and transporting the Equipment, including all software, spares, documents, cabling and other items to a place we choose in the UK. We will not be responsible for any articles or property left in or attached to the Equipment, which we may dispose of as your agent.
- d) Where the Equipment houses or comprises any application software, monetary credit or data which was not explicitly designated as being part of the Equipment, then you shall, prior to returning such Equipment, ensure the full removal and deletion of all such software, monetary credit and data contained in, or relating to, the Equipment. If you fail to perform this obligation, then you shall fully and effectively indemnify us against any and all costs, losses, claims and expenses which we may suffer or incur as a result of any claims being raised against us by third parties, based on the use or disclosure of software, monetary credit or data, including claims for economic and/or financial loss and/or loss of reputation howsoever caused.
- e) Before you return the Equipment, you must be able to show, to our satisfaction, that the Equipment meets the conditions set out in clauses 16(b) and 16(d). We will take into consideration any upgrades or improvements which you have made to the Equipment during the Hire Period. We may choose to appoint an expert to supervise the demonstration. You will have to pay for the cost of any work needed to bring the Equipment up to the standard we need as well as any experts' costs.
- f) If the Equipment is returned to us or repossessed by us and is not in the condition required by this clause 16 then you must pay the expenses necessary to put the Equipment in that condition.
- g) If we ask, you must provide free and secure storage for the Equipment for up to 3 months after the end of the Hire Period. Whilst you are storing the Equipment in this way, you must:
- provide enough power, water and other facilities to keep the Equipment in full working order;
 - insure the Equipment for the duration of the period which you are storing it; and
 - allow us and any possible buyer to inspect the Equipment immediately upon request.
- h) The expiry or termination of this Agreement does not affect your obligations which have arisen or accrued under the indemnities in this clause 16 up to and including the date of expiry or termination. Each indemnity in this clause 16: (i) is a separate and independent obligation from the other obligations in this Agreement; (ii) gives rise to a separate claim and independent cause of action; (iii) applies whether or not any indulgence is granted by us; and (iv) will continue in full force and effect despite any judgment, order, claim or proof for liquidated amount in respect of any sum due under this Agreement, or any other judgment or order.

17) General

- a) All notices given under this Agreement must be in writing and must be personally delivered or sent by post or email to the postal address or email address of the recipient party set out above (or as agreed between us from time to time). A notice will be taken to have been delivered on the same date it is sent by email or delivered by hand, or two working days after the date of posting if by first class post. If you are more than one person notice to one such person is good notice to you all.
- b) No failure or delay in exercising our rights or remedies under this Agreement or by law will constitute a waiver of that right or remedy or restrict us from exercising our rights to their full extent. We may exercise our rights and remedies more than once.
- c) If any provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part of the provision shall be deemed deleted. Any modification to, or deletion of, a provision shall not affect the validity and enforceability of the rest of this Agreement.
- d) Our notification or certification of any amounts calculated by us as being due from you under this Agreement shall be conclusive and binding on you absent manifest error.
- e) We shall have the right at any time without notice to you to set off the liabilities or sums due to us from you against any liabilities or sums due to you from us (in each case) under any agreement then subsisting (or which would be subsisting but for the event giving rise to the liability or sum due).
- f) You agree to execute and deliver at your own expense such documents and perform such acts as may be required for the purpose of giving full effect to this Agreement from time to time.
- g) Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party ("Confidential Information") except as permitted by this clause 17(g). Each party may disclose the other party's Confidential Information to its employees, officers, representatives, advisors or group companies for the purpose of carrying out its obligations under or in connection with this Agreement. Each party may also disclose the other party's Confidential Information where required by law and/or any applicable regulator.
- h) If there is any conflict between the terms of this Agreement and the terms of any special conditions relating to the subject matter of this Agreement ("Special Conditions"), the terms of the Special Conditions shall prevail.
- i) We may assign or transfer any or all of our rights and/or obligations under this Agreement and we may subcontract or delegate to any person all or any of the rights, remedies, powers or privileges conferred on us under it or provided by law. You shall not assign, transfer or otherwise dispose of all or any of your rights and/or obligations under this Agreement without our prior written consent.
- j) The Contracts (Rights of Third Parties) Act 1999 will not apply to this Agreement save that our employees, agents and contractors may enforce any of the indemnities contained in clause 9(a) directly against you.
- k) This Agreement may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.
- l) This Agreement and any non-contractual claims arising out of it are governed by English law. You irrevocably submit to the exclusive jurisdiction of the English courts in relation to any dispute arising out of or in connection with this Agreement (including non-contractual disputes) ("Dispute") but this shall not prevent us from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law we may bring concurrent proceedings in any number of jurisdictions.
- m) This Agreement may be signed by the parties by way of electronic signature, as defined in section 7(2) of the Electronic Communications Act 2000.

CUSTOMER INFORMATION

We recommend that customers taking out business finance agreements follow these steps:

- Read your business finance agreement carefully before signing it. Never sign a business finance agreement which is not fully complete. Retain copies of all documentation.
- Ensure that the final contract:
 - corresponds with any verbal or written quotation on the rental amount and period of hire;
 - accurately reflects what you are agreeing to pay for, including any maintenance or services included in the repayments;
 - accurately describes the equipment you are expecting to receive (e.g. whether it is new or used) and that its working life is appropriate to the length of the finance agreement.
- Make it clear who has the authority within your own organisation to sign the agreement.
- Make sure you understand and agree with all terms and conditions of the business finance agreement and, if you are unsure, ask for these to be explained or seek advice.
- Make sure you understand all the costs involved and whether these will change during the course of the business finance agreement.
- Check that the supplier of the equipment is reputable.
- Understand whether there are any notice period or settlement terms required to terminate the agreement.
- If there is a maintenance or service contract which is separate to the finance agreement, check that the length, start date, notice period and settlement terms of the two agreements is the same, and if not, that you are happy with this.
- If the name of the leasing company contracting with you is not shown on the agreement ensure that you are informed at the earliest possible time.
- Check whether the funder is a member of the FLA, as all asset finance members adhere to the FLA Business Finance Code.
- If any amendments are made to the business finance agreement or a further agreement is required to replace an existing agreement, do not sign it until you have made the same checks as you did for the original agreement.
- If a new business finance agreement includes an element of refinancing from a previous agreement with a different provider, check that the settlement figure provided by the former provider matches the refinancing figure used by the new provider.

Siemens Financial Services Limited is a member of the
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