



CloudPlus PMS
SaaS Sample Agreement



Wysdom CloudPlus PMS SaaS Supply Agreement

THIS AGREEMENT is dated _____ (the “**Agreement**”).

Parties

- (1) **Wysdom Dental Technologies Ltd**, a company incorporated under the laws of England and Wales with its registered office at Blue Square Virtual Offices, 272 Bath Street, Glasgow, G2 4JR and company registration number SC114467 (the “**Supplier**”).
- (2) **Customer**, a **sole proprietorship/limited company/LLP** established under the laws of England and Wales with its address at **Customer Address** (the “**Customer**”).

Collectively referred to as the “**Parties**” or individually as a “**Party**”.

Background

- (A) The Supplier offers a Software-as-a-Service solution known as CloudPlus[®] (the “**Services**”).
- (B) The Supplier agrees to provide the Services and the Customer agrees to subscribe to the Services on and subject to the terms set out in this Agreement and the general Terms & Conditions of use.

Agreed terms

1. KEY TERMS

Name of service plan:	CloudPlus Subscription
Description of service plan:	Dental Practice Management System, including RotaAngel shift management application
Onboarding Fee:	XXX pounds (GBP X,000)
Recurring Subscription:	XXX British pounds (GBP XXX) per month
Subscription start date:	XX/XX/XXXX
Initial term:	Three (3) months

2. INTERPRETATION

2.1 The following definitions and rules of interpretation apply in this Agreement.

Customer Data: as defined in Clause 5.1(a), which constitutes Proprietary Information of the Customer.

Derived Information: as defined in Clause 5.6.

Fees: the fees payable in respect of the Services as set out in Clause 1.

Initial Term: the term of subscription as stated in Clause 1., subject to adjustment as set out in Schedule

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, all other rights in the nature of copyright, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use and protect the confidentiality of confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Plan: the service plan to which the Customer has subscribed, as identified in Clause 1. or any plan to which the Customer will subscribe after the expiry of the Initial Term.

Proprietary Information: Customer Data and/or Supplier Data.

SLA: the service level agreement as set out in Schedule 1.

Software: the software named CloudPlus[®] & RotaAngel[®], and all updates, upgrades, releases, and versions thereof, including:

- (a) the source code and object code; and
- (b) all other works or material recorded or embodied in the software, including the audio or visual content in any screen displays in the user interface.

Software Documentation: all and any documentation (whether in human or machine-readable form) relating to the Software, including all:

- (c) operating manuals, user instruction manuals, and training materials; and
- (d) documents associated with the creation, design, development, or modification of the Software, including technical or functional specifications, flow charts, algorithms, architectural diagrams, data models, build instructions, testing or configuration documentation, and technical data.

Supplier Data: as defined in Clause 5.1(b), which constitutes Proprietary Information of the Supplier.

2.2 Clause, Schedule, and paragraph headings shall not affect the interpretation of this Agreement.

2.3 The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules.

2.4 References to clauses and Schedules are to the clauses and Schedules of this Agreement.

- 2.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 2.6 A reference to writing or written includes email.
- 2.7 Any words following the terms “including”, “include”, “in particular”, “for example”, or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase, or term preceding those terms.
- 2.8 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders and a reference to a person includes a natural person, a corporation, or an unincorporated body (whether or not having a separate legal personality).

3. SERVICES AND SUPPORT

On and subject to the terms of this Agreement, the Supplier will provide to the Customer the Services according to the Plan and reasonable technical support in accordance with the SLA.

4. CUSTOMER'S UNDERTAKINGS

- 4.1 The Customer will comply with the Supplier's published terms, policies, and all applicable laws and regulations in using the Services.
- 4.2 The Customer will obtain and maintain any equipment and ancillary services necessary to connect to, access, or otherwise use the Services (including any necessary servers, web servers, network, modems, hardware, software, operating systems, and the like).
- 4.3 The Customer will maintain the security of the Customer's account(s) for using the Services, including the password(s) to such account(s) and all information contained in such account(s).
- 4.4 The Customer will not, directly or indirectly:
 - (a) reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code, object code, or any underlying structure, ideas, know-how, or algorithms relevant to the Services or any part of the Software;
 - (b) modify, translate, or create derivative works based on the Services or any part of the Software;
 - (c) make illegal or unlawful use of the Services or the Software;
 - (d) use the Services or any part of the Software for the benefit of a third party; or
 - (e) breach the terms of this Agreement or any applicable laws or regulations.
- 4.5 The Customer acknowledges and agrees that the Supplier may, although has no obligation to do so, monitor the Customer's use of the Services and may prohibit any

use of the Services where the Supplier believes that such use is or may be in breach of this Agreement.

- 4.6 The Customer will indemnify the Supplier against any losses, damages, expenses, or liabilities (including legal fees) in connection with any claim or action that arises from any use of the Services by the Customer in breach of this Agreement.

5. PROPRIETARY INFORMATION

5.1 The Parties acknowledge that, to enable the provision of the Services:

- (a) the Customer has disclosed or may disclose information or data (including information regarding the business, management, or structure of the Customer) to the Supplier which is not public knowledge ("**Customer Data**"); and
- (b) the Supplier has provided the Software Documentation to the Customer and has disclosed or may disclose other information or data (including any information regarding existing or planned features, functionality, and performance of the Software) to the Customer which is not public knowledge ("**Supplier Data**").

5.2 Customer Data belongs to the Customer. The Customer owns all rights (including all Intellectual Property Rights), title, and interest in and to the Customer Data.

5.3 Supplier Data belongs to the Supplier. The Supplier owns all rights (including all Intellectual Property Rights), title, and interest in and to the Supplier Data, as well as all or any improvements, enhancements, or modifications to the Software, and any applications, inventions, or other technology developed in connection with the Software.

5.4 Each Party agrees to take reasonable precautions to protect and keep confidential the Proprietary Information of the other Party and not to use (except in performance of the Services or otherwise consented to by the other Party) or disclose the Proprietary Information to any third party.

5.5 The obligation under this clause will not apply in respect of any Proprietary Information that;

- (a) is or becomes generally available to the public;
- (b) was disclosed to the Party by a third party without restriction; or
- (c) is required to be disclosed by law or at the explicit demand of the NHS to comply with Claim applications

5.6 For the avoidance of doubt, the Supplier has the right to collect and analyse any data and information relating to the provision, use, and performance of various aspects of the Software and related systems and technologies, including any data or information of or derived from the Customer's use of the Services ("**Derived Information**"). The Supplier is free to, without any licence or permission from the Customer and without paying any fees or payment to the Customer:

- (a) use any Derived Information to improve and enhance the Services and for other development, diagnostic, and remedial purposes in connection with the Services and other offerings by the Supplier; and
- (b) disclose such data solely in aggregate or in unidentifiable form.

6. PAYMENT OF FEES

6.1 Details of the Fees are as follows:

One-Off Charges – 50% payable on receipt of invoice. Balance due prior to going live.

Item	Description	UK£	Discount (%)	Amount Due
Onboarding	Data Conversion, Practice Set Up and System Training	X000	X	£X,000.00

Recurring CloudPlus Subscription – payable by Direct Debit monthly on 1st of each month OR another day of the month as otherwise agreed.

Item	Description	UK£	Discount (%)	Amount Due
CloudPlus	Subscription Payable Monthly X Surgeries/Treatment Rooms	X000	X	£X,000.00

Charges for:

- additional Backup space above the included 50Gb per licence and;
- SMS text credits
- agreed additional services, equipment or consumables supplied

will be charged in addition to the CloudPlus subscription and advised under the rules and guidelines of the Direct Debit service.

- 6.2 The Customer will pay Subscription Fees in a timely manner and in accordance with the payment terms of the Supplier, which forms part of this Agreement.
- 6.3 Failure to pay any Subscription Fees for more than one (1) month(s) after the due date will constitute a material breach of this Agreement referred to in Clause 7.2.
- 6.4 If the Customer's use of the Services exceeds the level of services included in the Plan, the Customer will be billed for the additional usage and the Customer agrees to pay the additional fees in such manner as instructed by the Supplier.
- 6.5 The Supplier reserves the right to change the amount of the Fees or the manner for charging for the Services at the end of the Initial Term or the then-current term.

- 6.6 Any enquiries on billing (including incorrect billing) should be directed to the accounts department of the Supplier.

7. DURATION AND TERMINATION

- 7.1 Subject to earlier termination as provided under Clause 7.2, this Agreement is for the Initial Term and shall be automatically renewed for additional periods of the same duration.
- 7.2 Either Party may terminate this Agreement by giving not less than one (1) month(s) of notice in writing. Upon a material breach of the terms and conditions of this Agreement, the Party not in breach has the right to terminate this Agreement with immediate effect.
- 7.3 All clauses of this Agreement which by their nature should survive termination shall survive termination, including, without limitation, accrued rights to payment, confidentiality obligations, warranty disclaimers, and limitations of liability.

8. WARRANTY AND DISCLAIMER

- 8.1 Each Party warrants that it has full power and authority to enter into this Agreement.
- 8.2 The Supplier warrants that it will use reasonable efforts that are consistent with prevailing industry standards in providing the Services.
- 8.3 The Supplier does not warrant that the Services and/or the Software will be uninterrupted or error free, nor does it make any warranty as to the results that may be obtained from use of the Services. The Services and the Software are provided on an "as is" basis and the Supplier disclaims all warranties, express or implied, including any implied warranties of merchantability or fitness for any particular purpose and non-infringement.
- 8.4 The Supplier will use commercially reasonable efforts to respond to any problems about the Services detected by the Supplier and/or reported by the Customer in accordance with the SLA. The Supplier, however, does not guarantee that all problems can be fixed within any specific timeframe.

9. LIMITATION OF LIABILITY

- 9.1 To the fullest extent permitted by law, the Supplier and its holding company(ies), subsidiaries, affiliates, directors, officers, employees, agents, representatives, partners, licensors, and suppliers (including all equipment and technology suppliers) (collectively the "**Supplier Entities**") will not be liable or responsible for:
- (a) any error or interruption of use or for any inaccuracy or corruption of data, nor any cost of procurement of substitute goods, services, or technology;
 - (b) any indirect, special, incidental, punitive, exemplary, or consequential losses or damages;

- (c) any loss of profit, business, or data; or
 - (d) any matters beyond the reasonable control of the Supplier.
- 9.2 The Supplier Entities liabilities in connection with or arising out of the provision of the Services are limited to the fees (if any) the Customer has paid to the Supplier for the Services in the twelve (12) months prior to the act that gave rise to such liabilities whether or not the Supplier has been advised of the possibility of such damages.

10. WAIVER

No failure or delay by a Party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

11. SEVERANCE

- 11.1 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 shall be deemed deleted. Any modification to or deletion of a provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.
- 11.2 If any provision of this Agreement is invalid, illegal, or unenforceable, the Parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid, and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

12. NOTICES

- 12.1 All notices required or permitted by this Agreement shall be in writing and in the English language and shall be sent to the recipient by hand, by courier, by registered post, or by email at its address set out above (or such other address as notified by the recipient to other parties from time to time), or as otherwise directed by the recipient by notice given in accordance with this clause.
- 12.2 Notices shall be deemed to have been duly given and received:
- (a) if delivered by hand or sent by courier, notice will be deemed given on the date of receipt;
 - (b) if sent by registered post to an address in the same country, on the second (2nd) business day after posting; or if sent to an address not in the same country, on the fifth (5th) business day after posting; or
 - (c) if sent by email, one (1) hour after the email is sent (unless a return email is received by the sender within that period stating that the addressee's email address is wrong or that the message cannot be delivered).

13. ENTIRE AGREEMENT

13.1 This Agreement constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations, and understandings between them, whether written or oral, relating to its subject matter.

13.2 Each Party agrees that it shall have no remedies in respect of any statement, representation, assurance, or warranty (whether made innocently or negligently) that is not set out in this Agreement.

14. VARIATION

No variation of this Agreement shall be effective unless it is in writing and signed by the Parties (or their authorised representatives).

15. COUNTERPARTS

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.

16. RIGHT OF THIRD PARTIES

This Agreement is personal to the Parties. The provisions of the Contracts (Rights of Third Parties) Act 1999 do not apply to this Agreement. No person who is not a party to this Agreement (whether or not such person is named, referred to, or otherwise identified, or form part of a class of persons so named, referred to, or identified in this Agreement) shall have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce this Agreement or to enjoy the benefit of any term of this Agreement.

17. GOVERNING LAW

This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England and Wales.

18. DISPUTE RESOLUTION

18.1 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 Rules, which Rules are deemed to be incorporated by reference into this clause.

18.2 The seat, or legal place, of arbitration shall be Milton Keynes.

18.3 The tribunal shall consist of three (3) arbitrators.

18.4 The arbitration proceedings shall be conducted in English.

This Agreement has been entered into on the date stated at the beginning of it.

For and on behalf of Wysdom Dental Technologies Ltd

Signature : _____

Name :

Role :

Date :

For and on behalf of XXXXXX

Signature : _____

Name :

Role :

Date :

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SCHEDULE 1

SERVICE LEVEL AGREEMENT

1. SERVICE UPTIME COMMITMENT

For the purpose of measuring the quality of service that the Supplier delivers, the Supplier is committed to the following:

- (a) the Supplier will provide access to the Software on a twenty-four hours a day, seven days a week (24 x 7) basis, at a rate of 99% ("**Services Uptime Metric**"); and
- (b) the Services Uptime Metric commences on the "**Go Live Date**", which means **XX/XX/XXXX**.

2. MEASUREMENT METHOD

The Services Uptime Metric will be measured using commercial monitoring.

On a quarterly basis, the Services Uptime Metric will be measured using:

- (a) the measurable hours in the quarter (total time minus planned downtime, including maintenance, upgrades, etc.) as the denominator; and
- (b) the denominator value minus the time of any outages in the quarter (duration of all outages combined) as the numerator, to give the percentage of available uptime.

An "**outage**" is defined as a period when the service is not available.

3. BOUNDARIES AND EXCLUSIONS

The Services Uptime Metric will not apply to performance issues caused by the following:

- (a) Overall Internet congestion, slowdown, or unavailability;
- (b) Unavailability of generic Internet services due to virus or hacker attacks;
- (c) Events or circumstances that are outside the reasonable control of the Parties including acts of God, fire, explosion, typhoon, storm, earthquake or other similar occurrence, orders of acts of military or civil authority, or national emergencies, insurrections, riots, wars, strikes, or other force majeure events;
- (d) Actions or inactions of the Customer or third parties beyond the control of the Supplier;
- (e) A result of the Customer equipment or third-party computer hardware, software, or network infrastructure not within the sole control of the Supplier; or
- (f) Scheduled SaaS infrastructure maintenance.

4. REPORTING

The Supplier will provide a report on the Services Uptime Metric (“**Uptime Metric Report**”) to the Customer on request. If the Customer disagrees with the Uptime Metric Report, written notice of the disagreement must be provided to the Supplier within one week of receipt of the Uptime Metric Report.

5. SUPPORT TERMS

Technical Support Hours:

Monday - Thursday 9am - 5.30pm

Friday 9am - 5pm

The Customer may initiate a help request during the Support Hours by:

Calling 01908 324045

Raising a support ticket <https://wysdom.myportallogin.co.uk>

Emailing support@wysdom.co.uk.

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