



Dated: 20[]

(1) [Insert relevant Cambian entity] LIMITED

(2) [Insert Supplier legal name] LIMITED

Contract for the Supply of
[Short descriptor of goods/services]

Legal and Purchasing Department
Cambian Group plc
4th Floor, Waterfront Building
Chancellors' Road
Hammersmith Embankment
London W6 9RU
Tel: 0208 735 6150
Fax: 0208 735 6151

THIS CONTRACT is made this 20[**]

BETWEEN

(1) [] **LIMITED** having its registered office at 4th Floor, Waterfront Building, Chancellor’s Road, Hammersmith Embankment, London W6 9RU and registered number is [] (“Client”); and

(2) [] **LIMITED** having its registered office at [] and registered number is [] (“Supplier”)

Collectively known as (the “Parties”)

RECITALS:

1. The Client operates and manages facilities for adults and children with high dependency needs.
2. The Client wishes the Supplier to supply certain goods/services more particularly described in the Order (as defined) and set out in Schedule 2 (the “Services”).
3. The Supplier has made an offer to provide the Services which has been accepted by the Client subject to the terms and conditions of supply to the Cambian Group which are set out in Schedule 1 and incorporated into this contract.
4. [The special provisions set out in Schedule 3 apply to this contract and shall override the provisions of Schedule 1 to the extent that they are inconsistent with the provisions of that Schedule.]¹

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

SIGNED:.....DATE:.....

NAME:.....

For and on behalf of the Client

SIGNED:.....DATE:.....

NAME:.....

For and on behalf of the Supplier

¹ Only if applicable

SCHEDULE 1

1. INTERPRETATION

1.1 **Definitions.** In these Conditions, the following definitions apply:

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Charges: the charges payable by the Client for the supply of the Services in accordance with clause 8.

Commencement Date: the date of this Contract set out above, or such other date as is specified in the Order as the Commencement Date.

Conditions: these terms and conditions as amended from time to time in accordance with clause 18.7.

Contract: the contract between the Client and the Supplier for the supply of Goods/Services in accordance with these Conditions.

Client Materials: has the meaning set out in clause 5.3(i).

Deliverables: all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including without limitation drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, 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.

Goods: the goods (or any part of them) set out in the Order.

Order: the order by the Client for the supply of Services, as set out in the purchase order form of the Client.

Services: the services, including without limitation any Deliverables, to be provided by the Supplier under the Contract as set out in the Specification.

Specification: the description or specification for the Services agreed in writing by the Client and the Supplier.

1.2 **Construction.** In these Conditions, the following rules apply:

- (a) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (b) A reference to a party includes its personal representatives, successors or permitted assigns;
- (c) A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;

(d) Any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and

(e) A reference to **writing** or **written** includes faxes and emails.

2. BASIS OF CONTRACT

2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

3. THE GOODS

3.1 The Supplier shall ensure that the Goods shall:

- (a) correspond with their description and any applicable Specification;
- (b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Supplier or made known to the Supplier by the Client expressly or by implication, and in this respect the Client relies on the Supplier's skill and judgement;
- (c) where they are manufactured products, be free from defects in design, material and workmanship and remain so for 12 months after Delivery; and
- (d) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods.

3.2 The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract.

3.3 The Client shall have the right to inspect and test the Goods at any time before delivery.

3.4 If following such inspection or testing the Client considers that the Goods do not conform or are unlikely to comply with the Supplier's undertakings at clause 3.1, the Client shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.

3.5 Notwithstanding any such inspection or testing, the Supplier shall remain fully responsible for the Goods and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract, and the Client shall have the right to conduct further inspections and tests after the Supplier has carried out its remedial actions.

4. DELIVERY OF GOODS

4.1 The Supplier shall ensure that:

- (a) the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;
- (b) each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the Order number (if any), the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
- (c) if the Supplier requires the Client to return any packaging material to the Supplier, that fact is clearly

stated on the delivery note. Any such packaging material shall be returned to the Supplier at the cost of the Supplier.

4.2 The Supplier shall deliver the Goods:

- (a) on the date specified in the Order, or, if no such date is specified, within 28 days of the date of the Order (**Delivery Date**);
- (b) to the Client's premises specified in the Order or such other location as is set out in the Order, or as instructed by the Client prior to delivery (**Delivery Location**); and
- (c) during the Client's normal business hours, or as instructed by the Client.

4.3 Delivery of the Goods shall be completed on the completion of unloading the Goods at the Delivery Location.

4.4 The Supplier shall not deliver the Goods in instalments without the Client's prior written consent. Where it is agreed that the Goods are to be delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle the Client to the remedies set out in clause 6.

4.5 Title & risk in the Goods shall pass to the Client on completion of delivery.

5. SUPPLY OF SERVICES

5.1 The Supplier shall from the Commencement Date and for the duration of this Contract provide the Services to the Client in accordance with the terms of the Contract.

5.2 The Supplier shall meet any performance dates for the Services notified to the Supplier by the Client.

5.3 In providing the Services, the Supplier shall:

- (a) co-operate with the Client in all matters relating to the Services, and comply with all instructions of the Client;
- (b) perform the Services with the best care, skill and diligence in accordance with best practice in the industry of the Supplier, profession or trade, including without limitation, ISO 9001;
- (c) use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the obligations of the Supplier are fulfilled in accordance with this Contract;
- (d) ensure that the Services and Deliverables will conform with all descriptions and specifications set out in the Specification, and that the Deliverables shall be fit for any purpose expressly or impliedly made known to the Supplier by the Client;
- (e) provide all equipment, tools and vehicles and such other items as are required to provide the Services;
- (f) use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to the Client, will be free from defects in workmanship, installation and design;
- (g) obtain and at all times maintain all necessary licences and consents, and comply with all applicable laws and regulations;
- (h) observe all health and safety rules and regulations and any other security requirements that apply at any premises of the Client;

- (i) hold all materials, equipment and tools, drawings, specifications and data supplied by the Client to the Supplier (Client Materials) in safe custody at its own risk, maintain the Client Materials in good condition until returned to the Client, and not dispose or use the Client Materials other than in accordance with the written instructions or authorisation provided by the Client; and

- (j) not do or omit to do anything which may cause the Client to lose any licence, authority, consent or permission on which it relies for the purposes of conducting its business, and the Supplier acknowledges that the Client may rely or act on the Services.

6. REMEDIES OF THE CLIENT

6.1 If the Supplier fails to deliver the Goods on the Delivery Date or to perform the Services by the applicable dates, the Client shall, without limiting its other rights or remedies, have one or more of the following rights:

- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier; or
- (b) to reject the Goods (in whole or in part) and return them to the Supplier at the Supplier's own risk and expense;
- (c) to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods [(if paid)];
- (d) to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make
- (e) to refuse to accept any subsequent performance of the Services which the Supplier attempts to make; or
- (f) to recover from the Supplier any costs incurred by the Client in obtaining substitute goods or services from a third party; or
- (g) where the Client has paid in advance for Services that have not been provided by the Supplier, to have such sums refunded by the Supplier; or
- (h) to claim damages for any additional costs, loss or expenses incurred by the Client which are in any way attributable to the failure of the Supplier to meet such dates.

6.2 These Conditions shall extend to any repaired or replacement goods or substituted or remedial services provided by the Supplier.

6.3 The rights of the Client under this Contract are in addition to its rights and remedies implied by statute and common law.

7. OBLIGATIONS OF THE CLIENT

The Client shall:

- (a) provide the Supplier with reasonable access at reasonable times to the premises of the Client, if required, for the purpose of providing the Services; and
- (b) provide such information to the Supplier as the Supplier may reasonably request and the Client considers reasonably necessary for the purpose of providing the Services.

8. CHARGES AND PAYMENT

8.1 The price of the Goods shall be the price set out in the Order, or, if no price is quoted, the price set out in the Supplier's published price list in force as at the date the Contract came into existence and shall include the costs of packaging, insurance and carriage of the Goods. No extra charges shall be

effective unless agreed in writing and signed by the Client

- 8.2 The Charges for the Services shall be set out in the Order, and shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise agreed in writing by the Client, the Charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.
- 8.3 The Supplier shall invoice the Client on delivery of the Goods or completion of the Services (as the case may be). Each invoice shall include such supporting information required by the Client to verify the accuracy of the invoice, including but not limited to the relevant purchase order number.
- 8.4 In consideration of the supply of the Services by the Supplier, the Client shall pay the invoiced amounts within [60] days of the date of a correctly rendered invoice to a bank account nominated in writing by the Supplier.
- 8.5 All amounts payable by the Client under the Contract are exclusive of amounts in respect of value added tax chargeable for the time being (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Client, the Client shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.
- 8.6 If the Client fails to pay any amount properly due and payable by it under the Contract, the Supplier shall have the right to charge interest on the overdue amount at the rate of 1% per cent per annum above the base rate for the time being of Barclays Bank PLC accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment. This clause shall not apply to payments that the Client disputes in good faith.
- 8.7 The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services, and shall allow the Client to inspect such records at all reasonable times on request.
- 8.8 The Client may at any time, without limiting any of its other rights or remedies, set off any liability of the Supplier to the Client against any liability of the Client to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract.

9. INTELLECTUAL PROPERTY RIGHTS

- 9.1 In respect of any goods that are transferred to the Client under this Contract, including without limitation the Deliverables or any part of them, the Supplier warrants that it has full clear and unencumbered title to all such items, and that at the date of delivery of such items to the Client, it will have full and unrestricted rights to transfer all such items to the Client.
- 9.2 The Supplier acknowledges that all materials, equipment and tools, drawings, Specifications, and data supplied by the Client to the Supplier (**Client Materials**) and all rights in the Client material are and shall remain the exclusive property of the Client. The Supplier shall keep the Client Materials in safe

custody at its own risk, maintain them in good condition until returned to the Client, and not dispose or use the same other than in accordance with the Client's written instructions or authorisation

- 9.3 The Supplier assigns to the Client, with full title guarantee and free from all third party rights, all Intellectual Property Rights in the product of the Services, including for the avoidance of doubt the Deliverables.
- 9.4 The Supplier shall obtain waivers of all moral rights in the products, including for the avoidance of doubt the Deliverables, of the Services to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.
- 9.5 The Supplier shall, promptly at the request of the Client, do (or procure to be done) all such further acts and things and the execution of all such other documents as the Client may from time to time require for the purpose of securing for the Client the full benefit of the Contract, including all right, title and interest in and to the Intellectual Property Rights assigned to the Client in accordance with clause 9.2.
- 9.6 All Client Materials are the exclusive property of the Client.

10. INDEMNITY

- 10.1 The Supplier shall keep the Client indemnified against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Client as a result of or in connection with:
 - (a) any claim brought against the Client for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the receipt, use or supply of the Goods and/or Services, to the extent that the claim is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors; and
 - (b) any claim made against the Client by a third party arising out of, or in connection with the Contract, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, agents or subcontractors.
- 10.2 This clause 10 shall survive termination of the Contract.

11. INSURANCE

For the duration of the Contract and for a period of six years thereafter, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract and shall, on the request of the Client, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

12. CONFIDENTIALITY

- 12.1 A party (**Receiving Party**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been

disclosed to, or otherwise obtained by, the Receiving Party by the other party (**Disclosing Party**), its employees, agents or subcontractors, and any other confidential information concerning the business of Disclosing Party or its products or its services which the Receiving Party may obtain. The Receiving Party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The Receiving Party may also disclose such of the Disclosing Party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction.

12.2 This clause 12 shall survive termination of the Contract.

13. TERMINATION

13.1 Without limiting its other rights or remedies, the Client may terminate the Contract with immediate effect by giving written notice to the Supplier if:

- (a) the Supplier commits a material or persistent breach of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of receipt of notice in writing to do so;
- (b) the Supplier suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- (c) the Supplier commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of the Supplier with one or more other companies or the solvent reconstruction of the Supplier;
- (d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Supplier (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the Supplier with one or more other companies or the solvent reconstruction of the Supplier;
- (e) the Supplier (being an individual) is the subject of a bankruptcy petition order;
- (f) a creditor or encumbrancer of the Supplier attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- (g) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if

an administrator is appointed over the Supplier (being a company);

(h) the Supplier suspends or threatens to suspend, or ceases or threatens to cease to carry on, all or a substantial part of its business; or

(i) the Supplier (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

13.2 Without limiting its other rights or remedies, the Client may terminate the Contract by giving the Supplier one month's written notice.

14. CONSEQUENCES OF TERMINATION

14.1 On termination of the Contract for any reason, the Supplier shall immediately deliver to the Client all Deliverables whether or not then complete, and return all Client Materials. If the Supplier fails to do so, then the Client may enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract.

14.2 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination.

14.3 Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect

15. FORCE MAJEURE

15.1 Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under it if such delay or failure result from events, circumstances or causes beyond its reasonable control.

15.2 The Supplier shall use all reasonable endeavours to mitigate the effect of a Force Majeure Event on the performance of its obligations.

15.3 If a Force Majeure Event prevents, hinders or delays the Supplier's performance of its obligations for a continuous period of more than 10 Business Days, the Client may terminate the Contract immediately by giving written notice to the Supplier.

16. CORRUPTION

The Supplier, its servants, agents or sub-Suppliers shall not offer or give or agree to give any person, company or firm any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do anything in relation to the obtaining of this Contract or the execution of The Supplier's obligations under this Contract

17. AUDIT

The Client may on giving the Supplier reasonable notice inspect any part of the work comprised in the provision of the Services. The Supplier shall maintain full, accurate records and documents relating to the Services and shall permit the Client or its authorised personnel access at all reasonable times to such records.

18. GENERAL

18.1 Assignment and other dealings.

(a) The Client may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract and may subcontract or delegate

in any manner any or all of its obligations under the Contract.

- (b) The Supplier may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Client.

18.2 Notices.

- (a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first-class post, recorded delivery, commercial courier, fax or email.
- (b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 18.2(a); if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or email, one Business Day after transmission.
- (c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

18.3 Severance.

- (a) If any provision or part-provision of the Contract 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-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

- 18.4 Waiver.** A waiver of any right or remedy under the Contract or law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

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

- 18.6 Third party rights.** A person who is not a party to the Contract shall not have any rights to enforce its terms.

- 18.7 Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is in writing and signed by the Client.

- 18.8 Governing law.** The Contract, 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 law of England and Wales.

- 18.9 Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

SCHEDULE 2 – FORM OF ORDER

SCHEDULE 3 – SPECIAL TERMS²

² Only if applicable