ENIGMA STANDARD LICENCE TERMS – POCTConnect (version 1.0)

These standard terms and conditions (as varied from time to time) ("Terms") govern the licence of the Software from Enigma Solutions Limited ("Enigma") to the Customer. By clicking "I accept" and/or using the Software, the Customer is deemed to have read and accepted these Terms and will be bound by them.

Enigma may vary these Terms from time to time by email notification to the Customer and/or by uploading the updated terms and conditions on Enigma's POCTConnect website (www.POCTConnect.co.nz). By continuing the use of the Software following such notification and/or uploading onto Enigma's website the Customer will be deemed to have accepted such varied Terms.

1. Definitions and Interpretation

1.1 In these Terms, unless the context indicates otherwise:

"**Customer**" means the person or legal entity who is specified as such in the Registration Form;

"**Commencement Date**" means the later of:

(a) the date on which the Customer accepts, or is deemed to have first accepted, these Terms; and

(b) the date on which the Customer first receives the Equipment with the Software installed thereon;

"**Documentation**" means any instruction manuals, user guides and other information relating to the Software made available to the Customer by or on behalf of Enigma;

"**Equipment**" means a cobas b 101 machine developed and marketed by Roche Diagnostics NZ Limited and owned, leased or licensed by the Customer, or any other POCTConnect compatible device;

"**Healthlink Messaging**" means the healthlink messaging service in New Zealand operated by Healthlink Group Limited or one or more of its related companies;

"**Licence**" means the limited licence to use the Software as granted to the Customer under clause 2.1;

"**Materials**" means any materials (including website content, databases or software) provided to the Customer by Enigma in connection with the Software and/or its use;

"**PMS**" means any New Zealand patient management system, which is used by a primary care medical practice and is connected to Healthlink Messaging, and provides an electronic information system designed to manage and store patient information, and includes Enigma's PREDICT decision support system if the Customer licenses that system from Enigma;

"**Registration Form**" means the registration form pursuant to which the Customer registers their use of the Software with Enigma and pursuant to which they agree to be bound by these Terms;

"**Software**" means the POCTConnect interface software in machine-readable form installed on the Equipment which enables test results generated using the Equipment to be communicated to a PMS system via Heathlink Messaging (including all Updates);

"**Support Agreement**" means the support agreement entered into or to be entered into between the Customer and Enigma with respect to the Software;

"**Term**" means the period from the Commencement Date until the Licence is terminated in accordance with these Terms;

"**Update**" includes all modifications, enhancements, revisions and updates made by Enigma to the Software from time to time to the extent that they are made available to the Customer.

2. Licence

2.1 Enigma grants the Customer a royalty-free, non-exclusive, non-transferable licence for the Term to use the Software in connection with the Equipment and only for the purpose of communicating test results and other information from the Equipment to the Customer's PMS.

2.2 The Customer will not:

(a) Cause or permit the reproduction, reverse engineering, disassembly or recompilation of the Software;

(b) Disclose the Documents or Materials to any person except to its employees, contractors and agents for the sole purpose of enabling them to operate and use the Equipment; or

(c) Modify or cause the Software or any Documentation or Materials to be modified in any way without the express permission in writing of Enigma.

3. Term

3.1 The Licence shall remain in effect from the Commencement Date until terminated by either party on 90 days' notice in writing to the other. The Licence will automatically terminate upon the Customer selling, transferring or otherwise disposing of the Equipment on which the Software is installed.

3.2 Enigma may terminate the Licence immediately on notice to the Customer if the Customer commits a breach of these Terms.

3.3 On termination or expiry of the Licence the rights afforded to the Customer under these Terms shall terminate and the Customer shall:

(a) Immediately cease to use the Software, Materials and Documentation;

(b) Return to Enigma, or destroy, all copies of the Software, Materials and Documentation in the Customer's possession;

(c) Within 30 days of termination certify to Enigma in writing that it has fully complied with its obligations under (a) and (b) above.

4. Conditions of Licence

4.1 The Customer will notify Enigma immediately in writing if it sells, disposes or otherwise transfers the Equipment and shall provide Enigma with full contact details of the purchaser or transferee of the Equipment.

4.2 The Customer agrees to:

(a) Promptly report to Enigma all programme errors and defects that the Customer discovers with respect to the Software;

(b) Maintain a list of all hardware, communications and Software problems to assist with the diagnosis and resolution of any faults; and

(c) Install (or allow Enigma to install) any Updates.

4.3 The Customer acknowledges and agrees that:

(a) Enigma is under no obligation to make any enhancements, modifications or improvements to the Software. If Enigma does make any such enhancements, modifications or improvements to the Software it is under no obligation to make the same available to the Customer;

(b) It will not attempt to repair, replace, modify or maintain the Software or permit anyone other than Enigma and its representatives to repair, modify or maintain the Software;

(c) Enigma is not required to provide any support services with respect to the Software or its use unless the Customer has entered into a Support Agreement with Enigma. Support will only be provided on the terms set out in the Support Agreement. In addition, support services will only be provided if the Customer has installed any Updates as required by Enigma.

5. Warranties / Limitation of Liability

5.1 Enigma warrants that it has full power and authority to license the Software to the Customer on these Terms.

5.2 Enigma does not warrant:

(a) That the use of the Software (in accordance with these Terms or otherwise) will meet the Customer's data processing, reporting, analytical requirements or other requirements; or

(b) That the use or operation of the Software will be uninterrupted or error free.

5.3 The Customer agrees that Enigma will not be liable for any failure of the Software if alterations to the Software, the Equipment, or the operating environment of the Software have been made by anyone other than Enigma or its authorised representatives.

5.4 Except as expressly set out in these Terms, all representations, indemnities, conditions and warranties (whether express or implied, statutory or otherwise and including warranties as to the merchantable quality or fitness for any particular purpose of the Software, Documentation or Materials) are expressly excluded.

5.5 Enigma shall not be liable to the Customer for any indirect or consequential loss, or loss of profits however suffered in connection with these Terms, the Licence, the Support Agreement or the use of the Software. Furthermore, in no event shall Enigma's liability relating to these Terms, the Licence, the Support Agreement or the use of the Software (in each case whether in contract, tort or otherwise) exceed NZ$10,000 in aggregate.

5.6 This clause shall survive termination of the Licence or these Terms.

6. Intellectual Property

6.1 The Customer acknowledges that Enigma retains all ownership rights in its intellectual property including, without limitation, the code, software, design, interfaces, specifications and branding related to the Software. The Customer has no ownership right or interest in the Software whatsoever other than the limited use rights granted to the Customer under these Terms.

7. General

7.1 The Licence and the other rights granted to the Customer under these Terms are personal to the Customer and are non-assignable.

7.2 No waiver of any breach of these Terms will be deemed to be a waiver of any other or subsequent breach. The failure of Enigma to enforce any provision of these Terms will not be interpreted as a waiver of the provision.

7.3 The Licence and these Terms are subject to the laws of New Zealand and the Customer submits to the exclusive jurisdiction of the New Zealand courts with respect to matters relating to the Licence and these Terms.