

Terms and Conditions for Sale of Eyoto, Inc. Products and Services

These Terms and Conditions are valid for all products sold after __ March 2023. For earlier dates, please view the archive at www.eyoto.com/documents.

No order for the purchase of Product(s) or Services shall be binding on EYOTO until a quotation (“**Quote**”) has been executed by both Parties. EYOTO and the Customer (as each term is defined in the Quote) have executed a Quote in connection with the provision of Product(s) and/or Services by EYOTO to the Customer (each a “**Party**” and, collectively, the “**Parties**”). Unless otherwise agreed in writing by EYOTO, or as otherwise set forth in the Quote, any Product(s) or Services supplied pursuant to the Quote are supplied to the Customer on the following terms and conditions (“**Conditions**”, and together with the Quote, the “**Agreement**”). No terms and conditions other than the Conditions contained herein shall be binding upon EYOTO unless accepted by it in a writing signed by an authorized signatory of EYOTO. All terms and conditions contained in any prior oral or written communication, including, without limitation, any Customer purchase order, which are different from or in addition to the Conditions are hereby rejected and shall not be binding on EYOTO, whether or not they would materially alter this document, and EYOTO hereby objects thereto. All prior proposals, negotiations and representations, if any, are merged herein. The Customer will be deemed to have assented to all Conditions contained herein upon execution of the Quote. References in these Conditions to the “**UCC**” shall mean the Uniform Commercial Code as in effect in the State of Texas. The Schedules to these Conditions form part of these Conditions and shall have effect as if set out in full in the body of these Conditions. Any reference to these Conditions includes the Schedules.**AGREED TERMS**

1. INTERPRETATION

1.1 The definitions and rules of interpretation in this clause apply in these Conditions.

Affiliate: includes, in relation to either Party, each and any subsidiary or holding company of that Party and each and any subsidiary of a holding company of that Party.

Atlas Duo: means a device that measures the power of a pair of edged and mounted ophthalmic lenses (spherical, cylinder, axis, prism, add) and, by downloading specified data tags from an LMS file, confirms the lens is within predetermined tolerances to include, but not be limited to, ISO and ANSI standards. In addition, Atlas Duo also performs a full surface inspection and analysis of such, again with the option of a pass/fail according to predetermined tolerances and standards. Results data is exported to the EYOTO Cloud Portal.

Atlas Global: means a device that measures the power of an uncut ophthalmic lens (spherical, cylinder, axis, prism, add) and, by downloading specified data tags from an LMS file, confirms the lens is within predetermined tolerances to include, but not be limited to, ISO and ANSI standards. In addition, Atlas Global also performs a full surface inspection and analysis of such, again with the option of a pass/fail according to predetermined tolerances and standards. Results data is exported to the EYOTO Cloud Portal.

Cloud Service Term: means the term of the subscription which gives access to the EYOTO Cloud Portal, which shall be a minimum term of two years from and including the date of the Quote(the “**Minimum Cloud Service Term**”), and the Customer agrees to pay all associated costs (as set out in the Quote).

Confidential Information: means any information of a confidential nature concerning the business, affairs, customers, clients, products, services or suppliers of either Party or of any Affiliate, including information relating to a Party's operations, processes, plans, product information, know-how, designs, trade secrets, software, market opportunities and customers.

Customer Commitment: means the following criteria that will be maintained by the Customer for the purposes of the Installation and operation of the Product(s) and the receipt and use of the Services: (a) mains power supply; (b) Cat 5/6 mains network connection and open port; (c) full access through network to Lab Management System; and (d) the minimum download and upload speeds set out in these Conditions (and/or as agreed in the pre-installation checklist, which EYOTO may vary from time to time). The Customer shall comply with all payment terms set out in these Conditions. The Customer shall not service, repair, replace or otherwise modify any Product without EYOTO's prior agreement in writing.

Customer Personal Data: means any personal data processed by EYOTO on behalf of the Customer including any patient image or lens measurement personal data linked to a unique patient identifier generated by the Service during examination which is transferred (typically, in encrypted form) to the Customer's Electronic Medical Record Platform or Patient Management System for further patient treatment or incidentally accessed by EYOTO when providing remote technical support to Customer, but excluding any Data.

Data: means all data relating to or generated by the Atlas Global, Atlas Duo and EYOTO Theia devices including without limitation performance, log, technical, support and similar data and stored in the EYOTO Cloud Portal, a hosted portal or stored elsewhere by Eyoto.

Data Protection Laws: means all applicable data privacy and data protection laws in any relevant jurisdiction, in each case as amended or replaced from time to time.

Electronic Medical Record Platform: means the platform that hosts the patient image data created by EYOTO for an encounter in a hospital or ambulatory environment.

EYOTO Cloud Portal: means the cloud platform dedicated to the Customer which processes and stores all the Data from Atlas Duo and Atlas Global for further analysis. The EYOTO Cloud Portal provides the mechanism for management of device settings, including tolerances for power and surface inspection and connection to the Lab Management System. For EYOTO Theia devices, the EYOTO Cloud Portal is the mechanism for connection between operator and device and for the transmission of Data from device to the Customer's Electronic Medical Record Platform.

EYOTO Theia: means a remote digital slit lamp for use in optometric and ophthalmology settings for the detection, monitoring and support of diagnosis of ocular disease, primarily of the anterior chamber.

Intellectual Property Rights: means patents, utility models, rights to inventions, copyright and neighboring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for infringement or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, Confidential Information (including know-how and trade secrets), 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, any rights and all similar or equivalent rights or forms of protection that subsist or will subsist now or in the future in any part of the world.

Installation: means the delivery, unpacking and connection to the Customer's Lab Management System or Patient Management System as appropriate to the Product(s), and provision of Training.

License Agreement: means the Software License Agreement attached to these Conditions as Schedule 7.

"LMS" and "Lab Management System" mean the Customer's central database holding all production information set out by The Vision Council's Data Communications Standard (as in force at the date of the Agreement and as may be updated throughout the duration of the Agreement).

Manual(s): means all documentation made available by EYOTO to the Customer relating to the Product(s) (including where made available electronically), to include but not limited to, user manuals and training materials.

Patient Management System: means a category of healthcare software that deals with the day-to-day operations of a medical practice. Such software may allow users to capture patient demographics, schedule appointments, perform billing tasks, and/or generate reports. If the Customer does not have either an Electronic Medical Record Platform or a Patient Management System, the Customer will receive a standalone EYOTO Theia that stores data locally on the EYOTO Theia's computer system.

Product(s): means each product listed in the Quote or otherwise ordered by the Customer (such as Atlas Global, Atlas Duo and/or EYOTO Theia devices) which is sold and/or otherwise supplied by EYOTO to Customer in accordance with these Conditions.

Purchase Price(s): means the prices for Product(s) reflected in the Quote as the Price.

Service Desk: means EYOTO's online support portal.

Service Fee(s): means the fee(s) payable by the Customer to EYOTO for Services reflected in the Quote as the Price or as varied by EYOTO from time to time.

Services: means each service listed in the Quote (such as EYOTO Cloud Portal, data storage, maintenance or other service) which is provided by EYOTO to the Customer in connection with a Product in accordance with these Conditions.

Software Patch: means a change to the current operating software of the Product to improve security, stability or to fix a bug.

Specifications: means the specifications for Product(s) or Services that are published on EYOTO's website or are otherwise provided to the Customer in connection with the Agreement.

Training: means the training to be given by EYOTO to the Customer or their designated agents after Installation of the Product(s), and which takes place while EYOTO is installing the Product(s) at the Customer's location.

Working Day: means any day which is not a Saturday, Sunday or public holiday in the United States.

Warranty Period: means the period specified in Schedule 1 to these Conditions.

1.2 Clause, Schedule and paragraph headings are for reference only and shall not affect the interpretation of these Conditions.

1.3 The words "**controller**", "**data subject**", "**personal data**", "**personal data breach**", "**process**" and variations, "**processor**" and "**transfer**" shall have the meaning attributed to them under UK GDPR or any other applicable Data Protection Laws.

1.4 In the case of conflict or ambiguity between any provision contained in the body of these Conditions and any provision contained in the Schedules, the provision in the body of these Conditions shall take precedence.

1.5 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns.

2. DELIVERY, TITLE AND RISK AND INSTALLATION OF PRODUCTS

2.1 Promptly upon execution of the Quote by the Parties, EYOTO shall:

(a) agree a timescale to deliver the Product(s) to the Customer at the address in the Quote or otherwise agreed in writing with the Customer; and

(b) provide a trainer(s) (on a date to be agreed by the Parties) who shall provide the training set out in Schedule 3 required to use the Product(s) and associated EYOTO Cloud Portal (as appropriate).

EYOTO shall make commercially reasonable efforts to meet the delivery timescale but time shall not be of the essence with respect to delivery dates and EYOTO shall not be liable for any delay in the delivery of Product(s) or the provision of Services to the Customer,

- 2.2 Upon execution of the Quote, the Customer shall be liable for payment of the Purchase Price for such Product(s) and shall make payment in accordance with the below installments (unless specified otherwise in the Quote):
- (a) the percentage of the Purchase Price specified in the Quote is payable by no later than the date of execution of the Quote; and
 - (b) the remaining percentage of the Purchase Price specified in the Quote is payable on the earlier of: (1) the date of Installation (as defined in these Conditions) **OR** (2) eight (8) weeks from delivery of the Product(s) to the Customer.
- 2.3 Any samples, drawings, descriptive matter or advertising issued by EYOTO, and any descriptions or illustrations contained in EYOTO's catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Product(s) and Services described in them. They shall not form part of the Agreement or have any contractual force.
- 2.4 Risk of loss in the Product(s) and in any tangible media forming part of the Product(s) shall pass to the Customer on delivery.
- 2.5 Title to Product(s) (and in any tangible media forming part of the Product(s)) shall not pass to the Customer until the earlier of:
- (a) EYOTO receives payment in full (in cash or cleared funds) for the Purchase Price of the Product(s), in which case title to the Product(s) shall pass at the time of payment of such sums; and
 - (b) the Customer resells the Product(s), in which case title to the Product(s) shall pass to the Customer at the time specified in paragraph 2.7.
- 2.6 Until title to Product(s) has passed to the Customer, the Customer shall
- (a) store those Product(s) separately from all other goods held by the Customer so that they remain readily identifiable as EYOTO's property;
 - (b) not remove, deface or obscure any identifying mark or packaging on or relating to those Product(s);
 - (c) maintain those Product(s) in satisfactory condition and keep them insured on EYOTO's behalf for their full price against all risks with an insurer that is reasonably acceptable to EYOTO. On request the Customer shall allow EYOTO to inspect those Product(s) and the insurance policy; and
 - (d) give EYOTO such information as EYOTO may reasonably require from time to time relating to:
 - (i) the Product(s); and
 - (ii) the ongoing financial position of the Customer.
- 2.7 Subject to clause 2.88, the Customer may resell or use Product(s) in the ordinary course of its business (but not otherwise) before EYOTO receives payment for the Product(s). However, if the Customer resells the Product(s) before that time:
- (a) it does so as principal and not as EYOTO's agent; and
 - (b) title to those Product(s) shall pass from EYOTO to the Customer immediately before the time at which resale by the Customer occurs.

- 2.8 At any time before title to the Product(s) passes to the Customer, EYOTO may:
- (a) by notice in writing, terminate the Customer's right under clause 2.77 to resell the Product(s) or use them in the ordinary course of its business; and
 - (b) require the Customer to deliver up all the Product(s) in its possession that have not been resold, or irrevocably incorporated into another product and if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the relevant Product(s) are stored in order to recover them.
- 2.9 In the event the retention of title provisions of this clause 2 are deemed to be ineffective under applicable law to retain title with EYOTO, in addition to any security interest granted by the UCC, the Customer hereby grants EYOTO a purchase money security interest in the Product (and in any tangible media forming part of the Product), and all proceeds and all accounts receivables resulting from the sale of the Product(s), until such time as EYOTO is fully paid, and the Customer will assist EYOTO in taking any action necessary to perfect and protect EYOTO's security interest therein and authorizes EYOTO to file any financing statement in connection therewith. Until the Customer has paid for the Product(s) in full, the Customer shall not pledge, mortgage, encumber, or create or suffer to exist a security interest in the Product in favor of any person other than EYOTO unless written approval of such other security interest is given by EYOTO. Additionally, the Customer agrees to keep the Product(s) insured to their full value until payment is received by EYOTO. In the event the Customer sells the Product(s) to a third party before payment in full is received by EYOTO, the Customer agrees to secure its security interest in the goods at the time of sale to its customer in order to protect the Customer's interests to the greatest extent possible.

3. EYOTO CLOUD PORTAL LICENCE AND CUSTOMER'S OBLIGATIONS

- 3.1 In consideration of the payment by the Customer to EYOTO of the Purchase Price and the Service Fee, and the Customer's compliance with the other provisions of clause 5, EYOTO will automatically, upon the passing of title in the Products in accordance with clause 2.5, grant to the Customer a non-exclusive, worldwide, non-transferable license, without the right to grant sublicenses, for the duration of the Cloud Service Term, to use the EYOTO Cloud Portal solely for the Customer's internal business operations. The license granted to the Customer hereby shall be subject to the terms of the License Agreement.
- 3.2 In relation to scope of use:
- (a) for the purposes of this clause 3, use of the EYOTO Cloud Portal shall be restricted to use of the Product(s) for the purpose agreed between the Parties (which shall not include allowing the use of the Product(s) or the EYOTO Cloud Portal by, or for the benefit of, any person other than an employee of the Customer);
 - (b) The Customer may not use the Product(s) other than as specified in these Conditions without the prior written consent of EYOTO;
 - (c) except as expressly stated in this clause 3, the Customer has no right to (and shall not permit any third party to) copy, adapt, reverse engineer, republish, download, create derivative works from, decompile, disassemble, modify, adapt, display, transmit, or distribute or make error corrections to the Product(s) in whole or in part in any form or media or by any means (or attempt to do any of the foregoing).
- 3.3 The Customer shall use all reasonable endeavours to prevent any unauthorized access to, or use of, the EYOTO Cloud Portal and, if there is any such unauthorized access or use, shall promptly notify EYOTO.
- 3.4 The Customer may not use any such information provided by EYOTO or obtained by the Customer to create any product or software whose expression is substantially similar to that of the Product or the EYOTO Cloud Portal (in whole or in part) nor use such information in any manner which would be restricted by any copyright or any other Intellectual Property Rights subsisting in it (or any part of it).

3.5 The Customer shall not:

- (a) license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the EYOTO Cloud Portal available to any third party;
- (b) sub-license, assign or novate the benefit or burden of the Agreement in whole or in part;
- (c) use the trade mark EYOTO or the Product name; or
- (d) deal in any other manner with any or all of its rights and obligations under the Agreement, without the prior written consent of EYOTO.

3.6 The Customer shall:

- (a) ensure that the only persons using the Product are those who: (1) have been trained by EYOTO in accordance with clause 2.1(b) or (2) those who have been trained by a person trained by EYOTO;
- (b) notify EYOTO as soon as it becomes aware of any unauthorized use of the Product (including the EYOTO Cloud Portal by any person);
- (c) ensure that it maintains connection to: (1) EYOTO Theia with internet speeds of at least 5 Mbps upload bandwidth (and the Customer acknowledges that a speed faster than 5 Mbps is preferable because bandwidth or internet traffic may result in delays) and (2) Atlas Duo and/or Atlas Global with internet speeds of at least 4 Mbps upload bandwidth (and the Customer acknowledges that a speed faster than 4 Mbps is preferable because bandwidth or internet traffic may result in delays);
- (d) promptly update, upgrade or install relevant software at EYOTO's request;
- (e) ensure that it uses the Product(s) in accordance with its published specifications and user Manuals and shall not violate any laws or regulations in relation to the Product and its use;
- (f) promptly, and in any event within one (1) Working Day of the fault becoming apparent, report all faults relating to the Product(s) to EYOTO. Faults should be reported in the first instance online, using the Service Desk;
- (g) maintain the items specified under Customer Commitment in clause 1.1; and
- (h) to the extent permitted by law and except as otherwise expressly provided in these Conditions, be solely responsible for procuring, maintaining and securing its network connections and telecommunications links from its systems to EYOTO's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet (including where EYOTO's systems and/or the Product(s) are hacked by users gaining entry via the Customer's clients' computer systems and/or the Lab Management System).

3.7 The Customer shall permit EYOTO to inspect and have access to any premises (and to the computer equipment and IT infrastructure located there) at or on which any Product is being kept or used, for the purpose of maintenance of the Product, provided that EYOTO provides reasonable advance notice to the Customer of such inspections, which shall take place at reasonable times, and shall not unnecessarily interfere with the Customer's operations.

4. UPGRADES

- 4.1 An upgrade is a major or minor software release (or a software release where the major or minor release numbers change) based on industry standard semantic version numbering where a change or improvement of functionality occurs (the "**Upgrade**"). An Upgrade does not include Software Patches or software-bug fixes. EYOTO will provide advance notice of any such Upgrade and what the Upgrade entails. Subject to clause 4.2, during the Cloud Service Term, the Customer acknowledges that EYOTO may charge for Upgrades (and any such Upgrades and associated costs will be notified to the Customer in writing). If the Customer fails to install any such Upgrade, the Product may become unusable over time and subsequent use of the Product(s) will only be possible once the Customer has installed the relevant Upgrade.
- 4.2 EYOTO may from time to time offer for sale to the Customer an updated model of the Product(s) incorporating changes to the hardware of the Product(s) supplied pursuant to the Agreement. In circumstances where the Customer accepts the new Product, the Agreement shall terminate (except in respect of any accrued obligations as at the date of such termination) and the Parties shall enter into a new agreement in respect of the new model Product.
- 4.3 EYOTO reserves the right to discontinue manufacturing and sale of Product(s) at any time. However, if at any time EYOTO sells and the Customer purchases Product(s) on a regular basis, and such regularly sold and purchased Product(s) are to be permanently discontinued ("**Discontinued Product(s)**"), EYOTO shall use its reasonable commercial efforts to give the Customer prior written notice of such discontinuance and shall use reasonable commercial efforts to accept last-time-buy orders for such Discontinued Product(s).

5. PAYMENT OF SERVICE FEES

Payment of Service Fees

- 5.1 The Customer shall pay the Service Fees for Services to EYOTO in accordance with the Quote and clause 5.1. For the avoidance of doubt, Fees relate to the Services described in the Quote and not to the Product purchases hereunder.
- 5.2 (a) On the earlier of: (1) the date of Installation (as defined in these Conditions) **OR** (2) eight (8) weeks from delivery of the Product(s) to the Customer, the Customer shall pay to EYOTO the Service Fees for the Minimum Cloud Service Term payable by the Customer annually in advance for each year of the Minimum Cloud Service Term; and
- (b) thereafter, the Customer shall pay to EYOTO the Service Fees for each Extended Term (as defined in clause 5.3), annually in advance on or before the first day of each such Extended Term.
- 5.3 The Parties agree that the Minimum Cloud Service Term shall be extended for a further one-year term ("**Extended Term**") at the end of the Minimum Cloud Service Term unless either Party gives the other Party no less than six (6) months' prior written notice terminating the Agreement (such notice to take effect no sooner than the end of the Minimum Cloud Service Term). Any Extended Term shall be extended for a further one year term at the end of each such Extended Term unless either Party gives the other Party no less than six (6) months' prior written notice terminating the Agreement (such notice to take effect no sooner than the end of the current Extended Term). The Customer acknowledges that Atlas Duo, Atlas Global and EYOTO Theia will be inoperable if the Cloud Service Term terminates or expires for any reason (including due to the Customer terminating the Agreement).

Payment of all amounts due under the Agreement

- 5.4 All sums payable under the Agreement are exclusive of sales, use, excise, or value-added taxes, import or export duties or any other relevant levies, for which the Customer shall be responsible.
- 5.5 If the Customer fails to make a payment due to EYOTO hereunder by the due date, then, without limiting EYOTO's remedies under clauses 6 or 12, the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will

accrue each day at the rate of the lesser of [1.5]% per month or the maximum rate permitted by law. The Customer shall pay the interest together with the overdue amount. .

5.6 Notwithstanding the provisions of clause 11.1(a), EYOTO may at its sole option terminate the Services provided under these Conditions at any time immediately by notice in writing to the Customer in the event that any payments due to EYOTO from the Customer under these Conditions are not made on their due date for payment.

6. NON-INFRINGEMENT

6.1 EYOTO warrants that:

- (a) any Product(s) provided pursuant to the Agreement and their use by the Customer in accordance with the terms of these Conditions including the Manual does not infringe the Intellectual Property Rights of any third party;
- (b) the Services to be provided hereunder will not infringe the Intellectual Property Rights of any third party; and
- (c) it has the full power and authority to grant any and all licences, rights, and product conveyed to the Customer under these Conditions.

7. INDEMNIFICATION

7.1 Subject to clause 8, EYOTO shall indemnify, defend, and hold the Customer harmless from and against any and all losses, damages, liabilities and expenses (including, reasonable legal fees) to the extent arising out of or resulting directly from a third-party claim based upon EYOTO's breach of clause 6.1 of these Conditions. Upon notice, EYOTO shall resist and defend, at its own expense, any such claim or action. Said indemnity is in addition to any other rights the Customer may have against EYOTO. This clause shall survive the expiration or termination of the Agreement. For clarity, the foregoing indemnity shall not apply to the extent any such losses, damages, liabilities or expenses were caused by the negligence or willful misconduct of the Customer, or its Affiliates, employees or agents.

7.2 If EYOTO is required to indemnify the Customer under this clause 7, the Customer shall:

- (a) notify EYOTO in writing of any claim against it in respect of which it wishes to rely on the indemnity at clause 7 ("**IPRs Claim**");
- (b) allow EYOTO, at its own cost, to conduct all negotiations and proceedings and to settle the IPRs Claim, always provided that EYOTO shall obtain the Customer's prior approval of any settlement terms, such approval not to be unreasonably withheld or delayed;
- (c) provide EYOTO with such reasonable assistance regarding the IPRs Claim as is required by EYOTO, subject to reimbursement by EYOTO of the Customer's costs so incurred; and
- (d) not, without prior consultation with EYOTO, make any admission relating to the IPRs Claim or attempt to settle it, provided that EYOTO considers and defends any IPRs Claim diligently, using competent counsel and in such a way as not to bring the reputation of the Customer into disrepute.

7.3 In the defense or settlement of any IPRs Claim, EYOTO may procure the right for the Customer to continue using the Product(s) and Services or replace or modify the Product(s) and Services without a reduction or alteration in functionality so that they become non-infringing.

7.4 EYOTO shall have no obligation to indemnify or liability to the Customer under clause 7.1:

- (a) If the Customer fails to comply with the requirements of clause 7.2 hereof;

- (b) if the Product(s) and Services are modified by anyone other than EYOTO or its agents, subcontractors or partners or with EYOTO's consent or approval; or
- (c) if the Customer uses the Product(s) and Services other than in accordance with the terms of these Conditions and the Manual; or
- (d) if the Customer uses the Product(s) and Services after notice of the alleged or actual infringement from EYOTO or any appropriate authority.
- (e) To the extent the claim is based on or results from designs, specifications or instructions furnished by the Customer, or the combination or use of the Product(s) or Services with any third-party product, software, service or technology.

If any claim of infringement is brought against EYOTO as a result of the Customer's actions in connection with items (b) through (e) of this clause 7.4, the Customer shall indemnify EYOTO against and hold EYOTO harmless from any damages or costs arising from or connected with such claim of infringement and shall reimburse all costs incurred by EYOTO in defending any claim, demand, suit or proceeding for such infringement, provided EYOTO gives the Customer prompt notice in writing of any such suit or proceeding for infringement.

7.5 In addition to any other indemnification obligations contained herein, the Customer shall defend, indemnify, and hold harmless EYOTO from and against any and all damages incurred or suffered by EYOTO arising, directly or indirectly, from any third party claims related to: (i) the breach by the Customer of any of its covenants, agreements, representations, warranties or other obligations under the Agreement, or (ii) fraud, gross negligence or intentional misconduct by the Customer or its representatives in connection with the Agreement.

8. LIMITS OF LIABILITY

8.1 Nothing in these Conditions limits any liability which cannot legally be limited.

8.2 Subject to clause 8.1, EYOTO's total liability to the Customer shall be limited as follows:

- (a) EYOTO shall not in any circumstances have any liability for any losses or damages which may be suffered by the Customer (or any person claiming under or through the Customer), whether the same are suffered directly or indirectly or are immediate or consequential, and whether the same arise in contract, tort or otherwise howsoever, which fall within any of the following categories:
 - (i) special damages even if EYOTO was aware of the circumstances in which such special damages could arise;
 - (ii) loss of sales or business;
 - (iii) loss of agreements or contracts;
 - (iv) loss of profits;
 - (v) loss of anticipated savings;
 - (vi) loss of business opportunity;
 - (vii) loss of or damage to goodwill;
 - (viii) loss of use or corruption of software, data or information; or
 - (ix) indirect or consequential loss.

- (b) the total aggregate liability of EYOTO, whether in contract, tort (including negligence) under an indemnity or otherwise and whether in connection with the Agreement or any collateral contract, shall in no circumstances exceed the greater of: (1) one million GB Pounds (£1,000,000) and (2) the Purchase Price paid by the Customer to EYOTO and the Service Fees paid by the Customer to EYOTO in the twelve-month period prior to the relevant claim; and
- (c) the Customer agrees that, in entering into the Agreement, either it did not rely on any representations (whether written or oral) of any kind or of any person other than those expressly set out in the Agreement or (if it did rely on any representations, whether written or oral, not expressly set out in the Agreement) that it shall have no remedy in respect of such representations and (in either case) EYOTO shall have no liability in any circumstances otherwise than in accordance with the express terms of these Conditions.

8.3 Unless the Customer notifies EYOTO that it intends to make a claim in respect of the Product(s) sold under the Agreement within the notice period set out below in this clause 8.3, EYOTO shall have no liability for that claim. The notice period shall start on the day on which the Customer became, or ought reasonably to have become, aware of issue with the Product(s) having occurred (as opposed to it becoming aware of its having grounds to make a claim in respect of it) and shall expire twelve (12) months from that date, subject to the period of any applicable warranty under Schedule 1 and/or Schedule 4. The notice must be in writing and must identify the Product(s) and the grounds for the claim in reasonable detail.

8.4 If EYOTO's performance of any of its obligations under the Agreement is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (including the Customer's failure or delay to update, upgrade or install any relevant software or application, as requested by EYOTO) ("**Customer Default**"):

- (a) without limiting or affecting any other right or remedy available to it, EYOTO shall have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays EYOTO's performance of any of its obligations;
- (b) EYOTO shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from EYOTO's failure or delay to perform any of its obligations due to a Customer Default; and
- (c) the Customer shall reimburse EYOTO on written demand for any costs or losses sustained or incurred by EYOTO arising directly or indirectly from the Customer Default.

8.5 All warranties, conditions and other terms implied by statute or common law which are not set out in these Conditions, including any implied warranties relating to merchantability, fitness for purpose or infringement, are excluded to the fullest extent permitted by law.

8.6 The Customer shall mitigate any loss suffered by it which may result in a claim against EYOTO under or in connection with these Conditions including an IPRs Claim.

9. OWNERSHIP, INTELLECTUAL PROPERTY RIGHTS AND DATA

9.1 Except to the extent expressly stated otherwise in these Conditions, neither Party will acquire any right, title, or interest in any Intellectual Property Rights belonging to the other Party or its licensors.

9.2 EYOTO and its licensors shall own all Intellectual Property Rights and all right, title and interest in the Intellectual Property Rights in Atlas Duo, Atlas Global, EYOTO Theia, each of the Services, any output generated by the Services, EYOTO Cloud Portal, each Manual, and Data, and the Customer shall have no right, title or interest in or to any such item or Intellectual Property Rights, other than the limited right of use expressly granted under these Conditions. EYOTO shall have the right to collect or otherwise access

all Data, and the Customer grants to EYOTO an exclusive, worldwide, royalty-free licence for the duration of the Agreement (with the right to sublicense) to collect or otherwise access all Data.

- 9.3 EYOTO grants to the Customer a non-exclusive, worldwide, non-transferable license, without the right to sublicense, for the duration of the Agreement to use the Data as is necessary to enjoy the Customer's use of the Product(s).
- 9.4 EYOTO confirms that it has all the rights in relation to the Product(s), Services and Manuals that are necessary to allow the Customer to use them in a limited manner as expressly granted under these Conditions.

10. DATA PROTECTION

10.1 Each Party shall comply with Data Protection Laws. If EYOTO creates, receives, maintains, transmits or otherwise has access to Protected Health Information as such term is defined in 45 C.F.R. § 160.103 under pursuant to the federal Health Insurance Portability and Accountability Act of 1996 (“**PHI**”), it will only use and disclose the PHI as permitted by applicable law and any applicable Business Associate Agreement between the Parties.

10.2 EYOTO as processor shall process on behalf of the Customer as controller the Customer Personal Data which is described as follows:

- (a) **Types of Customer Personal Data:** Optometric image and patient ID and lens measurement data and job ID and similar personal data.
- (b) **Categories of data subject:** Patients of the Customer.
- (c) **Subject matter:** Patient optometric image or lens measurement personal data generated during examination.
- (d) **Duration of processing:** As envisaged under these Conditions.
- (e) **Nature and purposes of the processing:** Customer using the Product(s) for patient optometric examination or lens measurement and EYOTO transferring such data to the Customer for further processing and accessing it incidentally when logging into the Product to provide support.

10.3 Customer warrants and represents on a continuous basis that:

- (a) it holds all permissions, rights and other authority and it has established an appropriate lawful basis and it has complied with its transparency and other obligations under Data Protection Laws to lawfully enable EYOTO to process Customer Personal Data to provide Services; and
- (b) EYOTO's processing of Customer Personal Data in connection with the Services shall not infringe any Data Protection Laws, contract or third party right.

10.4 Except as otherwise required by law or provided under these Conditions, in respect of Customer Personal Data, EYOTO agrees to:

- (a) process such personal data only in connection with the Services in accordance with the Customer's documented lawful instructions including those set out in these Conditions; EYOTO shall inform the Customer if, in its opinion, the Customer's instructions infringe Data Protection Laws;
- (b) implement appropriate technical and organisational measures to protect Customer Personal Data in accordance with its information security policy as amended from time to time;

- (c) ensure that all personnel engaged by EYOTO to process Customer Personal Data have committed themselves or are otherwise subject to confidentiality;
- (d) assist the Customer insofar as this is possible (taking into account the nature of the processing and the information available to EYOTO) at the Customer's written request, in responding to any request from a data subject and in ensuring the Customer's compliance with its obligations under Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities;
- (e) notify the Customer without undue delay on becoming aware of a personal data breach, any data subject complaint and any request by the regulator or law enforcement involving Customer Personal Data;
- (f) at the written direction of the Customer, delete Customer Personal Data by way of anonymisation or otherwise on termination of these Conditions;
- (g) assist the Customer in maintaining records to demonstrate its compliance with this clause, and allow for reasonable audits by the Customer or its designated auditor, as may be agreed by the Parties from time to time;
- (h) only engage a sub-processor to process Customer Personal Data (each a "**Sub-Processor**") (subject to Customer's general written authorisation which is hereby given) provided that (i) it enters into a written agreement with such Sub-Processor on terms similar to this clause (however, it may accept non-negotiable terms where having used its best endeavours it failed to impose the material terms of this clause), (ii) it carries out reasonable due diligence to satisfy itself of the Sub-Processor's suitability and sufficient organisational and technical measures in place to guarantee the protection of Customer Personal Data against unauthorised or unlawful processing, (iii) if the Sub-Processor fails to fulfil its data protection obligations under such written agreement, EYOTO will remain fully liable to the Customer for such failure in accordance with these Conditions; and (iv) it will notify the Customer of any intended changes concerning the addition or replacement of a Sub-Processor thereby giving the Customer the opportunity to object on reasonable grounds to the addition or replacement within 14 days of the notification. If the Parties are unable to resolve an objection, EYOTO may terminate these Conditions without liability by notice with immediate effect. EYOTO's current Sub-Processors are listed in Schedule []; and
- (i) not transfer or enable any Sub-Processor to transfer any Customer Personal Data outside the UK without implementing with the Sub-Processor appropriate safeguards required under Data Protection Laws, such as the standard contractual clauses.

10.5 EYOTO shall use reasonable endeavours to implement measures such as encryption, as appropriate in the context of the Services, to limit its ability to view Customer Personal Data. EYOTO may anonymise Customer Personal Data and use it for its internal purposes including legitimate development and analytics purposes.

10.6 The Customer shall:

- (a) take all reasonable steps as far as it is within its control to limit the amount of Customer Personal Data processed by EYOTO including without limitation by ensuring that each user of a Product or Services complies with any data-related instructions set out in the Manual, and notify EYOTO without undue delay if excessive Customer Personal Data is processed by EYOTO;
- (b) without delay provide EYOTO such assistance, information and materials as EYOTO may reasonably require to comply with this Data Protection clause and its obligations under Data Protection Laws; and

- (c) ensure that each Customer instruction or request in relation to Customer Personal Data is reasonable and that it will not put EYOTO or its Sub-Processor in breach of the law and that Customer will discuss with EYOTO in advance in good faith any Customer instruction or request which might require additional Services or give rise to expenses.

11. TERMINATION AND SUSPENSION

11.1 Without affecting any other right or remedy available to it, either Party may terminate the Services with immediate effect by giving written notice to the other Party if:

- (a) the other Party fails to pay any amount due hereunder on the due date for payment and remains in default not less than twenty-one (21) days after being notified in writing to make such payment;
- (b) the other Party commits a material breach of any other term of these Conditions and (if such breach is remediable) fails to remedy that breach within a period of twenty-one (21) days after being notified in writing to do so;
- (c) the other Party repeatedly breaches any of the terms of these Conditions in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of these Conditions;
- (d) the other Party becomes insolvent or fails to pay its debts as they mature, or an assignment for benefit of its creditors, the appointment of a receiver or the filing of any petition to adjudicate the Party bankrupt occurs with respect to the other Party;
- (e) the other Party dissolves or terminates its existence;
- (f) the other Party fails to provide adequate assurance of performance within ten (10) days after a justified demand therefor;
- (g) a person becomes entitled to appoint a receiver over the assets of the other Party or a receiver is appointed over the assets of the other Party;
- (h) any event occurs, or proceeding is taken, with respect to the other Party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 11.1(d) to clause **Error! Reference source not found.** (inclusive); or
- (i) the other Party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of these Conditions is in jeopardy.

11.2 Without limiting its other rights or remedies, EYOTO may suspend provision of the Product(s) under the Agreement or any other contract between the Customer and EYOTO if the Customer becomes subject to any of the events listed in clause 11.1(d) to clause 11.1(h) clause, or EYOTO reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under these Conditions on the due date for payment.

11.3 Termination or expiry of the Agreement shall not affect any rights, remedies, obligations or liabilities of the Parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination or expiry.

11.4 On termination of the Agreement for any reason:

- (a) all licences granted to the Customer under these Conditions shall immediately terminate and the Customer shall immediately cease all use of the Services and the deliverables provided thereunder and the Customer acknowledges and agrees that its access to the Services will be disabled from the point of termination of the Agreement;

- (b) each Party shall return and make no further use of any equipment, property, documentation and other items (and all copies of them) belonging to the other Party;
- (c) the Customer shall cease all activities authorized by these Conditions; and
- (d) EYOTO shall destroy, delete or otherwise dispose of any of the Customer Personal Data in its possession or control in accordance with its data retention policy or without undue delay if instructed by the Customer.

11.5 Any provision of these Conditions which expressly or by implication is intended to come into or continue in force on or after termination of the Agreement including clauses 5-14 (inclusive), shall remain in full force and effect.

12. DISPUTE RESOLUTION TERMS

12.1 The Parties will use commercially reasonable endeavors to negotiate in good faith and settle amicably any dispute that may arise out of or relate to these Conditions or a breach thereof.

12.2 If the Parties cannot reach a mutually agreeable resolution within thirty (30) days after commencing discussions, the Parties agree to engage in mediation with a mutually-agreed mediator based in Dallas, Texas, in an attempt to settle any such dispute in good faith...

12.3 All negotiations connected with the mediation of the dispute will be conducted in complete confidence, and the Parties undertake not to divulge details of such negotiations except to their professional advisers who will also be subject to such confidentiality. Such negotiations will be without prejudice to the rights of the Parties in any future proceedings. In any such negotiations each Party will bear its own legal and other costs, unless otherwise expressly agreed in writing by the Parties.

12.4 If the Parties with (or without) the assistance of the mediator reach agreement on the resolution of any dispute, such agreement will be reduced to writing and once it is signed by their duly authorized representatives, will be final and binding on the Parties.

12.5 Nothing contained in this clause will restrict either Party's freedom to commence legal proceedings to preserve any legal right or remedy or protect any proprietary or trade secret right.

12.6 In any legal negotiations each Party will bear its own legal and other costs, unless otherwise expressly agreed in writing by the Parties.

13. CONFIDENTIALITY AND PUBLICITY

13.1 Each Party undertakes that it shall not at any time during the term of the Agreement and thereafter:

- (a) use or permit the use of the other Party's Confidential Information for any purpose other than the exercise of that Party's rights or carrying out its obligations under or in connection with these Conditions (save that EYOTO may use anonymized Data for marketing and publicity purposes); or
- (b) disclose to any person any Confidential Information, except as permitted by clause 13.2.

13.2 Each Party may disclose the other Party's Confidential Information:

- (a) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the Party's rights or carrying out its obligations under or in connection with these Conditions. Each Party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other Party's Confidential Information comply with this clause 13; and

(b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

13.3 Each Party reserves all rights in its Confidential Information. No rights or obligations in respect of a Party's Confidential Information other than those expressly stated in these Conditions are granted to the other Party or to be implied from these Conditions. No Party shall make, or permit any person to make, any public announcement concerning the Agreement without the prior written consent of the other Party (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.

13.4 Notwithstanding any other provision of these Conditions, for the period of time that Customer uses EYOTO's Product, EYOTO shall be entitled to use the Customer installation as a demonstration site for other potential EYOTO customers, which shall include the right for EYOTO to bring any such customers to Customer's site upon reasonable notice and during normal business hours. Any such potential customer will be required to execute a confidentiality agreement to protect the Customer, which confidentiality agreement shall be no less protective than the confidentiality requirements of these Conditions. EYOTO's requests under this clause 13.4 are subject to the Customer's prior written consent (such consent not to be unreasonably withheld or delayed) and the Customer must provide reasons for any refusal of any such requests.

14. WAIVER

14.1 A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.

14.2 A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.

15. REMEDIES

15.1 Except as expressly provided in these Conditions, the rights and remedies provided under these Conditions are in addition to, and not exclusive of, any rights or remedies provided by law.

16. ENTIRE AGREEMENT

16.1 The Agreement constitutes the entire agreement between the Parties.

16.2 Each Party acknowledges that in entering into the Agreement it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in these Conditions. Each Party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in these Conditions.

17. AMENDMENT

17.1 No amendment of these Conditions shall be effective unless it is in writing and signed by the Parties (or their authorized representatives).

18. SEVERANCE

18.1 If any provision or part-provision of these Conditions is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of these Conditions.

18.2 If any provision or part-provision of these Conditions is deemed deleted under clause 18.1, the Parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

19. COUNTERPARTS

19.1 The Quote 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.

20. THIRD-PARTY RIGHTS

20.1 Unless specifically authorized, these Conditions do not give rise to any third-party rights to enforce any term of these Conditions.

21. NO PARTNERSHIP OR AGENCY

21.1 Nothing in these Conditions 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 authorize any Party to make or enter into any commitments for or on behalf of any other Party.

21.2 Each Party confirms it is acting on its own behalf and not for the benefit of any other person.

22. FORCE MAJEURE

22.1 Neither Party shall be in breach of these Conditions nor liable for delay in performing, or failure to perform, any of its obligations under these Conditions (except for an obligation to make a payment hereunder) if such delay or failure results from events, circumstances or causes beyond its reasonable control, including but not limited to acts of God, action by any governmental authority (whether valid or invalid), fire, flood, windstorm, explosion, riot, natural disaster, pandemic (including, without limitation, the Covid-19 pandemic), war, sabotage, labour problems (including lockouts, strikes, slowdowns), inability to obtain power, material, labour, equipment or transportation, or court injunction or order. In any such circumstance timely notice of such inability to perform shall be given to the other Party and the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed. If the period of delay or non-performance continues for thirty (30) days, the Party not affected may terminate the Agreement by giving fourteen (14) days written notice to the affected Party and any payments received for Product(s) not delivered and installed will be returned within fourteen (14) days of termination.

23. NOTICES

23.1 Any notice given to a Party under or in connection with these Conditions shall be in writing and shall be delivered by hand or by pre-paid first-class mail or other next Working Day delivery service at its registered office (if a company) or its principal place of business (in any other case). Notices may be made by email to the following addresses (or an address substituted in writing by the Party to be served):

- (a) EYOTO: finance@eyoto.com; and
- (b) Customer: the email address provided in the Quote. Any notice shall be deemed to have been received:
 - (i) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
 - (ii) if sent by pre-paid first-class post or other next Working Day delivery service, at 9.00 am on the second Working Day after mailing or at the time recorded by the delivery service; and
 - (iii) if sent by email, upon receipt by the addressee, or, if this time falls outside of normal business hours in the place of receipt, when normal business hours next resume.

23.2 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

24. GOVERNING LAW AND JURISDICTION

24.1 These Conditions and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of the State of Texas (without regard to the conflict of law provisions thereof) including the provisions of the UCC. The U.N. Convention on the International Sales of Goods shall not apply.

24.2 Each Party irrevocably agrees that the courts of the State of Texas shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Agreement or its subject matter or formation. Except as otherwise set forth herein, all actions, regardless of form, arising out of or related to the Product sold hereunder or Service provided hereunder must be brought against EYOTO within the applicable statutory period, but in no event more than ONE (1) YEAR after the date of invoice.

Schedule 1 **Warranty and Maintenance**

1. EYOTO warrants that the Product will conform to its Specifications and will be free from material defects in materials and workmanship for twelve (12) months from the date of Installation of the Product (the “Warranty Period”). If any Product proves defective during this Warranty Period, EYOTO will repair the defective product without charge for parts and labour. Parts, modules and replacement Product used by EYOTO for warranty work may be new or reconditioned to ‘like new’ performance. Failure of Customer to give notice of any claim within the Warranty Period shall be deemed an absolute and unconditional waiver of such claim. The warranty obligation of EYOTO is limited to the repair of any Product that EYOTO shall determine upon examination to be defective or not in conformity with the express warranties contained herein. In lieu of repair, if EYOTO elects, EYOTO may, replace the Product or keep the Product and refund the Purchase Price paid for that Product. The Customer acknowledges and agrees to the Service Level Agreement ("SLA") referred to at Schedule 2. The Atlas Duo, Atlas Global and EYOTO Theia Products will be fit for the purposes described in clause 1.1. Customer’s remedies shall be limited (even in the event of EYOTO’s default of its warranty obligations) exclusively to those provided in this clause, and the Customer acknowledges clause 8 (limit of liability). Warranty period is deliverable by EYOTO on the assumption Customer has paid Service Fees as outlined in the Quote. The Customer may purchase an extended warranty of: (1) 1 year; or (2) 3 years; or (3) 5 years by entering into a separate extended warranty agreement with EYOTO.
2. EYOTO warrants to the Customer that the Services shall be performed using reasonable skill and care.
3. EYOTO shall use commercially reasonable efforts to ensure that the Product does not include viruses, spyware, malware, time or logic bombs, Trojan horses, worms, timers, clocks, trapdoors, or other computer instructions, devices, or techniques that erase data or programming, infect, disrupt, damage, disable, or shut down a computer system or any component of such computer system, or similar items (“**Viruses**”). EYOTO shall use current version virus detection software in respect to Atlas Duo and/or Atlas Global and shall apply any applicable Software Patches to the Product. EYOTO shall promptly notify the Customer upon discovery of any Viruses. EYOTO agrees that, if any Viruses are found to have been introduced into the Product as delivered to Customer in violation of this paragraph, then EYOTO shall use commercially reasonable efforts to reduce the effects of the Viruses and, if the Viruses cause a loss of operational efficiency or loss of data, to mitigate and restore such losses.
4. EYOTO shall ensure that the Product complies with all applicable laws and regulations.
5. EYOTO shall be responsible for obtaining all applicable export and / or other licences to deliver the Product to the Customer, at the Customer's sole cost and expense (in addition to the Purchase Price).
6. In order to obtain service under this warranty, the Customer must:
 - (a) comply with the requirements of clause 3.6 of these Conditions generally;
 - (b) notify EYOTO of the defect in accordance with clause (3.6(f));
 - (c) maintain internet connection; and
 - (d) co-operate with EYOTO to make suitable arrangements for the performance of the warranty service.
7. Where any Product is returned by the Customer within the relevant Warranty Period, EYOTO will provide, at its discretion, freight account details to send the device to EYOTO. The Customer shall return faulty devices in the packaging provided by EYOTO to protect the relevant Product against further damage during transit.
8. **THE ABOVE WARRANTIES ARE THE SOLE AND EXCLUSIVE WARRANTIES MADE BY EYOTO WITH RESPECT TO ANY PRODUCT(S) OR SERVICES. NO OTHER EXPRESS OR IMPLIED WARRANTY OF ANY KIND, ORAL OR WRITTEN, INCLUDING ANY IMPLIED WARRANTY OF**

MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, IS MADE WITH RESPECT TO ANY PRODUCT(S) OR SERVICES.

9. The above warranties given by EYOTO are subject to the following conditions and exceptions:
- (a) EYOTO shall have no warranty liability or obligation of any kind with respect to Products or Services if a warranty claim is asserted after the expiration of the applicable warranty period.
 - (b) EYOTO shall have no warranty liability or obligation of any kind with respect to Products if EYOTO is not given the opportunity, after receiving a warranty claim with respect to the Products, to examine the Products at its facility.
 - (c) EYOTO shall have no warranty liability or obligation of any kind with respect to: (i) damage resulting from attempts by personnel other than EYOTO representatives or their agents to install, repair or service the Products, or that result from the breach of these Conditions by the Customer, (ii) Products that are altered, changed, modified or tampered with in any way, unless the alteration, change or modification is made by or with the written authorization of EYOTO, (iii) damage to Products after shipment, (iv) damage to Products that are not used, operated and/or maintained in accordance with all recommended operating and maintenance instructions and procedures or are connected to incompatible equipment by personnel other than EYOTO representatives, (v) Products that are not properly installed, unless the installation is performed by EYOTO, (vi) the failure or substandard performance of Products that is directly or indirectly attributable to, or directly or indirectly results from or arises out of, the failure or substandard performance of a non-EYOTO product, component or part, (vii) the failure or substandard performance of Products that are directly or indirectly attributable to, or directly or indirectly results from or arises out of, compliance with any design, specification or requirement of the Customer, (viii) Products that are used in a manner, with a substance or for a purpose other than the normal manner, substance and purpose for which they are intended or are otherwise subjected to abnormal use or service, including, but not limited to, exposure to unusual heat, cold or moisture, (ix) Products that are subjected to a power surge, brown out or other similar occurrence, or (x) damage that is otherwise caused by the negligence or wilful misconduct of the Customer or its employees or agents.
 - (d) EYOTO shall be under no liability under the above warranties (or any other warranty condition or guarantee) if the total price for the Products or Services has not been paid in accordance with these Conditions.
 - (e) EYOTO makes no warranty and shall have no liability or obligation with respect to Products that are produced or manufactured by third parties or services that are performed by third parties. Any warranty with respect to non-EYOTO products and services shall be limited to a pass through of the warranties, if any, made by the third party, to the extent such pass through is permitted by such third party.

Schedule 2 Service Level Agreement (SLA)

EYOTO gives warranties to Customer in the terms set out at <https://eyoto.cc/service-level-agreement>. The Customer acknowledges and agrees that the SLA may be updated by EYOTO from time to time.

EYOTO shall use commercially reasonable endeavors to ensure the SLA set out at the above link is complied with. However, EYOTO does not warrant that the use of the Product will be uninterrupted or error-free.

Schedule 3 Training

1. Training in accordance with clause 2.1(b) will be provided to up to 3 users per Product. This training will be given following the Installation of the Product. During this training the user manual will be given and a brief explanation of its use. Please ensure the manual is read completely by every trained user.
2. Training will also be provided to Customer in the reporting of faults or requests for support or service.
3. Customer will be asked to confirm that its users of the Product device have received the Training.
4. Further Training sessions may be delivered upon request but may be chargeable.
5. EYOTO will carry out 'Train the Trainer' and any associates trained by the trainers are acceptable.

Schedule 4 Extended Warranty for Atlas Global, Atlas Duo and EYOTO Theia

This schedule will be applicable only if the Customer purchases the Extended Warranty (as defined below).

"You" and "your" means the Customer. "We" and "our" means EYOTO.

This extended warranty (the "**Extended Warranty**") is provided by EYOTO to the Customer and is separate from EYOTO's standard warranty (as set out in Schedule 1). This Extended Warranty is only valid for Product(s) purchased directly from EYOTO.

All initial capitalised terms in this Extended Warranty shall have the meaning given to them in the Terms and Conditions and/or the Quote, unless otherwise defined herein. The provisions set out in Schedules 1 and 4 of the Terms and Conditions shall apply to the Extended Warranty, save that references to the Warranty Period in Schedule 1 shall be deemed to be replaced by the Extended Warranty Period.

An extended warranty must be purchased before the first anniversary of the Installation of the Product(s).

The extended warranty period for the Product(s) begins on the date of purchase of this Extended Warranty and lasts for the term specified in the Quote (the "**Extended Warranty Period**"). An extended warranty will extend the terms and conditions of the original warranty (as set out in Schedule 1) provided that the device is serviced annually. The Warranty Period under Schedule 1 and/or this Extended Warranty Period are only valid if the Product has been serviced annually by EYOTO or its authorised representatives. Servicing should occur not more than 28 days after the anniversary of Installation of the Product (and annually thereafter). You may request a service by submitting a request via support@eyoto.com or using the Service Desk. If the Warranty under Schedule 1 of the Terms and Conditions and/or this Extended Warranty become invalid (for any reason including the Customer's breach of the Customer Contract and/or the Extended Warranty), no refund will be given by EYOTO to the Customer.

Subject to the provisions set out in Schedule 1, if any Product proves defective during this Extended Warranty Period, EYOTO will repair the defective Product without charge for parts and labour. If the Product is no longer available, EYOTO may replace it with a similar product of equal or greater value. Any repairs or replacements made under this Extended Warranty will not extend the Extended Warranty Period.

To make a claim under this Extended Warranty, the Customer must request support by contacting EYOTO's customer service department at support@eyoto.com or via EYOTO's website at www.eyoto.com/support. EYOTO reserves the right to request additional information and/or documentation to verify the validity of the Customer's request.

This Extended Warranty is non-transferable and only applies to the original purchaser of the Product.

EYOTO makes no express or implied warranties save for those set out in this Extended Warranty and/or in Schedule 1. The Customer's remedies shall be limited (even in the event of EYOTO's default of its warranty obligations) exclusively to those provided in this Extended Warranty, and the Customer acknowledges clause 8 (limit of liability) of the Terms and Conditions.

The duration of the Extended Warranty cannot exceed six (6) years from the date of Installation of the Product.

FEES for all devices (Atlas Global, Atlas Duo and EYOTO Theia)
The fees for the Extended Warranty for each Product will be as set out in the Quote.

SERVICING for all devices (Atlas Global, Atlas Duo and EYOTO Theia)	
Option	Cost
<p>Service and repair</p> <p>Each device will be serviced annually.</p>	<p>As set out in the Quote. Billed Annually.</p>
<p>Call Out</p> <p>Servicing as required by the Customer, booked via the Service Desk.</p>	<p>As set out in the Quote. These fees may include a daily call out fee and/or an hourly rate (which is also charged for each part of an hour).</p> <p>If no extended warranty is in place, you will pay for the cost of parts (if replacements or repairs are needed to any Product) from and including the date of the first anniversary of the Installation of the Product(s).</p> <p>You will pay incurred travel expenses (including long-distance driving, flights and accommodation, as agreed in advance with you).</p>
<p>For any servicing work, we will advise you of the cost of parts before proceeding with any work. Should you not wish to proceed, we will leave the device in the condition it was on our arrival. If you wish to have your device serviced at our premises, you are responsible for the shipping of the device to and from our premises (and any associated costs).</p>	

Schedule 5 Theia Service Agreement

This schedule will be applicable only if the Customer purchases the Theia Service Agreement (as defined below).

This EYOTO Theia service agreement ("**Theia Service Agreement**") is made between (1) the Customer named on the Quote (which indicates the number of EYOTO Theia devices covered under this Theia Service Agreement) and (2) EYOTO, and entered into on the date the Quote is signed by EYOTO.

All capitalised terms in this Theia Service Agreement shall have the meaning given to them in the Terms and Conditions and/or the Quote, unless otherwise defined herein.

Scope of Services.

EYOTO shall use reasonable endeavours to provide the following services to the Customer:

- Annual service of each EYOTO Theia device covered under this Theia Service Agreement ("**Annual Service**").
 - The number of EYOTO Theia devices covered will be shown on the Quote. The specific EYOTO Theia devices will be identified by their serial numbers. Where a Customer has ordered a greater number of EYOTO Theia devices than the number of EYOTO Theia service agreements purchased by the Customer, the EYOTO Theia devices will be serviced in the order of the date of Installation (EYOTO Theia devices with earlier dates of Installation will be serviced).
- An Annual Service will include the following:

Checking for and Repairing marks, where performance or safety is affected, scratches & visible damage on the:
- Base
- Enclosure Panels
- On/Off switch rubber boot
Checking for the free movement of arms (with EYOTO Theia device powered off)
Checking the integrity of the following labels:
- EYOTO logo
- EYOTO Theia device label
- Safety labels
Undertaking the below patient interface checks:
- Confirm smooth movement of chin rest on chin rest poles
- Confirm no damage to chin rest
- Confirm no damage to chin rest rubber moulding
- Confirm no damage to head rest
Undertaking the below internal checks:
- Confirm all motors are operational
- Check filter wheel for any debris
- Verify correct cable routing and no cable damage
- Verify no missing fasteners
- Apply lubricant to rails and moving joints
Undertaking the below operational checks:
- Camera arm rotation
- Camera cable inspection
- Camera illumination

- Camera image
- Camera filter movement
- Illumination arm cable inspection
- Illumination arm rotation
- XYZ assembly movement
- Slit lamp illumination
- Slit lamp sizing
- On device joystick operation
- Z-loop cable inspection
- Z-belt inspection
- Y-loop cable inspection
- Y-gear inspection
- X-loop cable inspection
- X-gear inspection
Undertaking the below controller checks:
- Checks for visual damage
- Control knob operation
- Joystick operation
- Keypad operation
Undertaking the below Product Validation checks:
- Product Calibration
- Product final test

EYOTO shall provide a report showing the condition of the EYOTO Theia device serviced and the cost of any parts considered consumable that require replacement.

No parts shall be replaced until a quotation has been agreed and signed by the Customer and EYOTO.

If parts are not available at the time of the quotation being signed by the Customer and EYOTO, EYOTO shall arrange for a technician to attend as soon as is convenient.

If an extended warranty has also been purchased for the EYOTO Theia device in question then the Customer shall pay no charges for replacement parts.

If EYOTO's performance of its obligations under this Theia Services Agreement is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees, then, without prejudice to any other right or remedy it may have, EYOTO shall be allowed an extension of time to perform its obligations equal to the delay caused by the Customer.

The Customer's Obligations.

The Customer shall:

- a) co-operate with EYOTO in all matters relating to the Annual Service;
- b) provide, for EYOTO, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, access to the Customer's premises, data and other facilities as reasonably required by EYOTO;
- c) provide to EYOTO in a timely manner all documents, information, items and materials in any form (whether owned by the Customer or third party) reasonably required by EYOTO in connection with the Annual Service and ensure that they are accurate and complete in all material respects;
- d) inform EYOTO of all health and safety and security requirements that apply at the Customer's premises;
- e) obtain and maintain all necessary licences and consents and comply with all relevant legislation as required to enable EYOTO to provide the Annual Service, including in relation to the installation of EYOTO's Products and the use of the Customer's equipment before the date on which the Annual Service is due;
- f) keep and maintain the Product(s) in accordance with EYOTO's instructions from time to time; and

- g) shall not dispose of or use the Product(s) other than in accordance with EYOTO's written instructions or authorisation.

Term and Termination.

This Theia Service Agreement shall commence on the date the Quote is signed by EYOTO and shall continue until the expiry of the term stated in the Quote, unless the Theia Service Agreement is terminated earlier by either party upon thirty (30) days' written notice.

EYOTO shall provide the services to the Customer in accordance with this Theia Service Agreement from the date agreed in writing with the Customer (whether set out in the Quote or otherwise).

If the Theia Service Agreement is terminated (for any reason including the Customer's termination of the Theia Service Agreement), no refund will be given by EYOTO to the Customer.

Without affecting any other right or remedy available to it, either party may terminate this Theia Service Agreement with immediate effect upon written notice to the other Party if the other party commits a material breach of this Theia Service Agreement and (if such breach is remediable) fails to remedy that breach within a period of twenty one (21) days after being notified in writing to do so.

Without affecting any other right or remedy available to it, EYOTO may terminate this Theia Service Agreement with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Theia Service Agreement on the due date for payment and remains in default not less than twenty one (21) days after being notified in writing to make such payment.

Notice.

Any required notice under this Theia Service Agreement shall be provided in the manner set out in the Terms and Conditions.

Fees.

The Customer shall pay EYOTO the price set out in the Quote (the "**Fees**"). The Customer shall pay EYOTO the Fees in the manner set out in the Terms and Conditions and/or the Quote.

Indemnification.

The Customer shall indemnify and hold EYOTO, its affiliates, and their respective officers, directors, employees, and agents, harmless from and against all claims, damages, losses, liabilities, and reasonable expenses (including legal fees) arising out of or in connection with the services provided under this Theia Service Agreement.

This Theia Service Agreement comprises part of the Customer Contract.

Schedule 6 Atlas Service Agreement

This schedule will be applicable only if the Customer purchases the Atlas Service Agreement (as defined below).

"Atlas" means Atlas Duo and/or Atlas Global.

This Atlas service agreement ("**Atlas Service Agreement**") is made between (1) the Customer named on the Quote (which indicates the number of Atlas devices covered under this Atlas Service Agreement) and (2) EYOTO, and entered into on the date the Quote is signed by EYOTO.

All capitalised terms in this Atlas Service Agreement shall have the meaning given to them in the Terms and Conditions and/or the Quote, unless otherwise defined herein.

Scope of Services.

EYOTO shall use reasonable endeavours to provide the following services to the Customer:

- Annual service of each Atlas device covered under this Atlas Service Agreement ("**Annual Service**").
 - The number of Atlas devices covered will be shown on the Quote. The specific Atlas devices will be identified by their serial numbers. Where a Customer has ordered a greater number of Atlas devices than the number of Atlas service agreements purchased by the Customer, the Atlas devices will be serviced in the order of the date of Installation (Atlas devices with earlier dates of Installation will be serviced).
- An Annual Service will include the following:

Step	Description
2.1	Checking for and Repairing, where performance or safety is affected, marks, scratches & visible damage on the: <ul style="list-style-type: none"> • Door • Touchscreen Enclosure • Enclosure Panels • Top Plate • Back Panel
2.2	Marks, scratches, or cracks on Touchscreen
2.3	Integrity of Rubber Feet
2.4	Integrity of Labels <ul style="list-style-type: none"> • Eyoto Logo • Atlas Branding • Device Label • Safety Labels
2.5	Door operation
2.6	Loading Mechanism operation
2.7	Temple Sweep operation (<i>Atlas Duo only</i>)
2.8	Integrity of Lens Acrylic
2.9	Missing Fasteners
3.3	Power Switch LED operation
3.4	Touchscreen capability
3.5	Start Up Calibration of LMS Software

3.7	Measurement capability
4.1	Measurement Verification procedure (<i>Atlas Global only</i>)
4.2	Measurement Verification procedure (<i>Atlas Duo only</i>)
6.4	Measurement Validation >30 Jobs measured
6.5	Validation Tool Result
7.2	Cleaning & Packaging

EYOTO shall provide a report showing the condition of the Atlas device serviced and the cost of any parts considered consumable that require replacement.

No parts shall be replaced until a quotation has been agreed and signed by the Customer and EYOTO.

If parts are not available at the time of the quotation being signed by the Customer and EYOTO, EYOTO shall arrange for a technician to attend as soon as is convenient.

If an extended warranty has also been purchased for the Atlas device in question, then the Customer shall pay no charges for replacement parts.

If EYOTO's performance of its obligations under this Atlas Service Agreement is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants, or employees, then, without prejudice to any other right or remedy it may have, EYOTO shall be allowed an extension of time to perform its obligations equal to the delay caused by the Customer.

The Customer's Obligations.

The Customer shall:

- h) co-operate with EYOTO in all matters relating to the Annual Service;
- i) provide, for EYOTO, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, access to the Customer's premises, data and other facilities as reasonably required by EYOTO;
- j) provide to EYOTO in a timely manner all documents, information, items and materials in any form (whether owned by the Customer or third party) reasonably required by EYOTO in connection with the Annual Service and ensure that they are accurate and complete in all material respects;
- k) inform EYOTO of all health and safety and security requirements that apply at the Customer's premises;
- l) obtain and maintain all necessary licences and consents and comply with all relevant legislation as required to enable EYOTO to provide the Annual Service, including in relation to the installation of EYOTO's Product(s) and the use of the Customer's equipment before the date on which the Annual Service is due;
- m) keep and maintain the Product(s) in accordance with EYOTO's instructions from time to time; and
- n) shall not dispose of or use the Product(s) other than in accordance with EYOTO's written instructions or authorisation.

Term and Termination.

This Atlas Service Agreement shall commence on the date the Quote is signed by EYOTO and shall continue until the expiry of the term stated in the Quote, unless the Atlas Service Agreement is terminated earlier by either Party upon thirty (30) days' written notice.

EYOTO shall provide the services to the Customer in accordance with this Atlas Service Agreement from the date agreed in writing with the Customer (whether set out in the Quote or otherwise).

If the Atlas Service Agreement is terminated (for any reason including the Customer's termination of the Atlas Service Agreement), no refund will be given by EYOTO to the Customer.

Without affecting any other right or remedy available to it, either Party may terminate this Atlas Service Agreement with immediate effect upon written notice to the other Party if the other Party commits a material breach of this Atlas

Service Agreement and (if such breach is remediable) fails to remedy that breach within a period of twenty one (21) days after being notified in writing to do so.

Without affecting any other right or remedy available to it, EYOTO may terminate this Atlas Service Agreement with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Atlas Service Agreement on the due date for payment and remains in default not less than twenty one (21) days after being notified in writing to make such payment.

Notice.

Any required notice under this Atlas Service Agreement shall be provided in the manner set out in the Terms and Conditions.

Fees.

The Customer shall pay EYOTO the price set out in the Quote (the "**Fees**"). The Customer shall pay Eyoto the Fees in the manner set out in the Terms and Conditions and/or the Quote.

Indemnification.

The Customer shall indemnify and hold EYOTO, its affiliates, and their respective officers, directors, employees, and agents, harmless from and against all claims, damages, losses, liabilities, and reasonable expenses (including legal fees) arising out of or in connection with the services provided under this Atlas Service Agreement.

This Atlas Service Agreement comprises part of the Customer Contract.

Schedule 7 Subprocessors

Subprocessor	Data Processing Purpose	Data Subject Categories	Processed Information	Location	Data processing terms & security schedule
Microsoft, Inc. MSFT MCIO Limited	Provision of the cloud infrastructure and data storage for the Services.	Patients of Customer	Patient optometric image personal data generated during examination.	Region chosen by Customer.	<u>data processing agreement</u> security schedule (See Appendix A to DPA) <u>subprocessors</u>