Where an Order is issued by Independent Health Group Limited, or any of its affiliates, (IHG) that refers to these terms and conditions, the Contract (as defined below) is made between Independent Health Group Limited (or its relevant affiliate as appropriate) and the Supplier (as defined below) subject to the terms set out below (the Conditions). IHG and the Supplier undertake to comply with the provisions of these Conditions in the performance of the Contract.

The Supplier shall supply to IHG, and IHG shall receive and pay for, the relevant Goods and/or Services (as defined below) on the terms of the Contract.

For the avoidance of doubt, any actions or work undertaken by the Supplier prior to the receipt of an Order covering the relevant Goods and/or Services shall be undertaken at the Supplier's risk and expense and the Supplier shall only be entitled to invoice for Goods or Services covered by a valid Order.

IHG may update these Conditions from time to time and the Contract will be governed by the latest version in effect at the Commencement Date. Please ensure that you check these Conditions regularly for changes.

1. **Interpretation**

The following definitions and rules of interpretation apply in these Conditions (unless the context requires otherwise).

1.1 Definitions:

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

Commencement Date: has the meaning given in clause 2.3.

Conditions: these terms and conditions as amended from time to time in accordance with clause 19.

Confidential Information: means information, data and material of any nature, which either party may receive or obtain in connection with the conclusion and/or operation of the Contract including any procurement process which is:

(a) personal data including which relates to any patient or other service user or his or her treatment or clinical or care history;

(b) designated as confidential by either party or that ought reasonably to be considered as confidential (however it is conveyed or on whatever media it is stored); and/or

(c) Policies and such other documents which the Supplier may obtain or have access to.

Contract: the contract between the Supplier and IHG for the supply of Goods or Services or Goods and Services, comprising the relevant Order and these Conditions (and any relevant IHG documents referred to in either).

Contract Manager: means for IHG and for the Supplier the individuals specified in the Order or as otherwise agreed in writing or such other person notified by a party to the other from time to time.

Contract Price: means the price, inclusive of any VAT, that is payable to the Supplier by IHG under the Contract for the full and proper performance by the Supplier of its obligations under the Contract.

Data Protection Legislation: means the Data Protection Act 2018 and the UK GDPR (as defined in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018) and any other applicable laws of England and Wales relating to the protection of Personal Data and the privacy of individuals (all as amended, updated, replaced or re-enacted from time to time).

Data Protection Protocol: means any document of that name as provided to the Supplier by IHG (as amended from time to time in accordance with its terms).

Deliverables: means all documents, products and materials developed by or on behalf of the Supplier as part of or in relation to the Services in any form or media, including drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).

Delivery: means completion of delivery of an Order in accordance with clause 4.

Delivery Date: means the date specified for delivery of the relevant Goods and/or Services under an Order in accordance with clause 3.3.

Delivery Location: means the location specified for delivery the relevant Goods and/or Services under of an Order in accordance with clause 3.3.

Good Industry Practice: means the exercise of that degree of skill, diligence, prudence, risk management, quality management and foresight which would reasonably and ordinarily be expected from a skilled and experienced supplier and/or service provider engaged in the manufacture and/or supply of goods and/or the provision of services similar to the Goods and/or Services under the same or similar circumstances as those applicable to the Contract; including in accordance with any codes of practice published by relevant trade associations.

Goods: means all goods, materials or items that the Supplier is required to supply to IHG under the Contract.

Guidance: means any applicable guidance, supplier code of conduct, direction or determination and any policies, advice or industry alerts which apply to the Goods and/or Services, to the extent that the same are published and publicly available or the existence or contents of them have been

notified to the Supplier by IHG and/or have been published and/or notified to the Supplier by the Department of Health and Social Care, the Care Quality Commission, and/or any other relevant regulator or competent body.

IHG Materials: means all documents, information, items and materials in any form (whether owned by IHG or a third party), which are provided by IHG to the Supplier in connection with the Contract.

IHG Personal Data: means any personal data for which IHG is a controller or where it is acting as a processor, including personal data relating to IHG staff and patients.

Intellectual Property Rights: patents, utility models, rights to inventions, copyright and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off 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 all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Losses: means all liabilities, damages, losses (including loss of profits, loss of business, loss of reputation, loss of savings and loss of opportunity), fines, expenses and costs (including all interest, penalties, legal costs (calculated on a full indemnity basis) and reasonable professional costs and expenses.

Order: means an order submitted by IHG for the purchase of the relevant Goods and/or Services, as set out in IHG's order form, or in IHG's written acceptance of the Supplier's quotation, as the case may be.

Order Number: means a number assigned by the Supplier to an Order made by IHG.

Policies: means the policies, rules and procedures of IHG as notified to the Supplier from time to time, including IHG's Code of Conduct.

Services: means the services, including any Deliverables, to be provided by the Supplier under the relevant Contract as set out in the relevant Order (and as may be detailed more fully in the relevant Specification).

Specification: means the description or specification for Services agreed in writing by IHG and the Supplier and/or any specification for the Goods, including any relevant plans or drawings, that is agreed in writing by IHG and the Supplier (as appropriate).

Staff: means all persons employed or engaged by the Supplier to perform its obligations under this Contract including any sub-contractors and person employed or engaged by such sub-contractors.

Supplier: means the person or firm who supplies the Goods and/or Services to IHG as detailed in the relevant Order.

Supplier Materials: means all documents, information, items and other materials in any form created prior to the Commencement Date or wholly outside the scope of the Contract by the Supplier or its suppliers or licensors and which are used to perform the Services or provided or made available to the Customer in connection with the Contract.

VAT: means value added tax chargeable under the Value Added Tax Act 1994 or any similar, replacement or extra tax.

1.2 Interpretation: In these Conditions a reference to: (i) a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality); (ii) a party includes its successors and permitted assigns; (iii) legislation or a legislative provision is a reference to it as amended or re-enacted (and includes all subordinate legislation made under that legislation or legislative provision); and (iv) **writing** or **written** excludes fax (but not email).

1.3 Any words following the terms '**including'**, '**include'**, '**in particular'**, '**for example'** or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms.

2. **Basis of contract**

2.1 The formation of each Contract will depend on whether the relevant Order refers to a quotation from the Supplier.

2.2 If the Order refers to a quotation from the Supplier, then the relevant quotation constitutes an offer from the Supplier in respect of the appropriate Goods and/or Services and the Contract will be formed, subject to these Conditions, by IHG accepting that offer by issuing the Order.

2.3 If the Order does not refer to a quotation, then the Order constitutes an offer by IHG to purchase the Goods and/or acquire the Services subject to these Conditions. The Supplier shall accept these Conditions by issuing a written acceptance of the relevant Order or by delivering any Goods or performing any Services, at which point the Contract shall come into existence.

2.4 The Commencement Date in respect of the Contract will be the relevant date of acceptance under clause 2.2 or clause 2.3 as appropriate.

2.5 Subject to clause 2.10, these Conditions are the only terms and conditions on which IHG will purchase Goods or Services, and they will apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

2.6 All these Conditions apply to the supply of both Goods and Services except where application to one or the other is specified.

2.7 The Supplier shall always act in accordance with:

(a) the Law;

(b) the Policies;

(c) Good Industry Practice; and

(d) any Guidance.

In the event of any perceived conflict between the sub-clauses above then the Supplier should follow them in order of precedence and flag the relevant issue to IHG.

2.8 The Supplier shall comply fully with its obligations set out in the relevant Specification (including, any KPIs and all obligations in relation to the quality, performance characteristics, supply, delivery, installation and training).

2.9 The Supplier will ensure it has appropriate business continuity and disaster recovery plans in place to provide for continuity during a business continuity event or disaster. The Supplier shall test its plans no less than once every twelve (12) months and provide to IHG (upon request) a copy of its latest plan(s), and details of the outcome of such tests. During and following any business continuity event or disaster, the Supplier shall use reasonable endeavours to continue to supply the Goods and provide the Services in accordance with the Contract.

2.10 If the parties have entered a separate formal written contract expressly relating to certain goods or services (and which is not subject to the Supplier's standard terms or purported to be created by reference to an invoice, quotation or order confirmation issued by the Supplier) then the terms of that contract will apply in relation to those relevant goods or services.

3. **Goods**

3.1 Goods to be delivered under the Contract:

(a) are described in the Supplier's catalogue as modified by any applicable Specification; and

(b) must be new, consistent with any sample, and comply with any applicable Specification and any applicable manufacturers' specifications.

3.2 If the Supplier needs to amend the Specification in respect of any Goods in order to comply with any Law, then it shall notify IHG in writing detailing the relevant change(s).

3.3 Each Order shall:

(a) specify the type and quantity of Goods ordered; and

(b) unless the parties agree that IHG may specify the date and location after placing the Order, specify the Delivery Date by which the Goods ordered are to be delivered, and the Delivery Location. If the Delivery Date and/or Delivery Location are to be specified after the placing of an Order, IHG shall give the Supplier advance notice of the relevant information.

3.4 Each party shall use the relevant Order number in all subsequent correspondence relating to the Order.

3.5 IHG may amend or cancel an Order by written notice to the Supplier. If IHG amends or cancels an Order, its liability to the Supplier shall be limited to payment to the Supplier of costs reasonably incurred by the Supplier in fulfilling the Order up until the date of receipt of the notice of amendment or cancellation, except that IHG shall have no liability to the Supplier where the amendment or cancellation results from the Supplier's failure to comply with its obligations under the Contract.

3.6 The Supplier shall ensure that the Goods supplied to IHG under the Contract shall:

(a) be in accordance with any quality assurance standards as set out in the relevant Specification and/or the Order and otherwise conform to any relevant Specification;

(b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Supplier or made known to the Supplier by IHG;

(c) be properly packed and secured in such manner as to enable them to reach their destination in good condition;

(d) be free from defects in design, material and workmanship and remain so for twelve (12) months after Delivery; and

(e) comply with all applicable statutory and regulatory requirements.

3.7 The Supplier shall obtain and maintain in force all licences, permissions, authorisations, consents and permits needed to manufacture (where relevant) and supply the Goods in accordance with the terms of the Contract.

3.8 The Supplier shall comply with all applicable laws, enactments, orders, regulations and other instruments relating to the manufacture, packing, packaging, marking, storage, handling, and delivery of the Goods.

4. **Delivery of Goods**

4.1 The Supplier shall ensure that:

(a) each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the Order number, the type and quantity of the Goods

(including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and

(b) if the Supplier requires IHG to return any packaging materials to the Supplier, that fact is clearly stated on the delivery note. IHG shall make any such packaging materials available for collection at such times as the Supplier shall reasonably request. Returns of packaging materials shall be at the Supplier's expense.

4.2 The Supplier shall deliver the Products specified in each Order to the Delivery Location on the Delivery Date (or earlier by agreement with IHG).

4.3 Delivery of an Order shall be complete on the completion of unloading of the Order at the Delivery Location and such delivery has been received by a duly authorised agent or employee of IHG.

4.4 The Supplier shall be responsible for carriage, insurance, transport, all relevant licences, all related costs, and all other costs associated with the delivery of the Goods to the Delivery Location and unloading of the Goods at that location.

4.5 The Supplier shall not deliver an Order by instalments except with the prior written consent of IHG. Where an Order is to be delivered by instalments, they may be invoiced and paid for separately. References in these Conditions to an Order shall, where applicable, be read as references to instalments.

4.6 If an Order is not delivered on the specified Delivery Date, then, without affecting any other right or remedy available to it, IHG may:

(a) refuse to take any subsequent attempted delivery of the Order;

(b) terminate the Contract with immediate effect;

(c) obtain substitute products from another supplier and recover from the Supplier any costs and expenses reasonably incurred by IHG in obtaining such substitute products; and

(d) claim damages for any Losses resulting from the Supplier's failure to deliver the Order on the Delivery Date, provided that the Supplier shall have no liability for any failure or delay in delivering an Order to the extent that such failure or delay is caused by IHG's failure to comply with its obligations under the Contract.

4.7 Each delivery of Products shall be accompanied by a delivery note from the Supplier showing the Order Number, the date of the Order, the type and quantity of Products included in the Order and, in the case of Products being delivered by instalments, the outstanding balance of Products specified in an Order remaining to be delivered.

5. **Acceptance**

5.1 IHG shall not be deemed to have accepted any Goods until it has had a reasonable time to inspect them following Delivery, or, in the case of a latent defect in the Products, following the latent defect becoming apparent.

5.2 If any Products delivered to IHG do not comply with clause 3.6, or are otherwise not in conformity with these Conditions, then, without affecting any other right or remedy available to it, IHG may reject those Products and:

(a) require the Supplier to repair or replace the rejected Products at the Supplier's risk and expense within five (5) Business Days of being requested to do so; or

(b) require the Supplier to repay the Contract Price of the rejected Products in full (whether or not IHG has previously required the Supplier to repair or replace the rejected Products); and

(c) claim damages for any Losses resulting from the Supplier's delivery of Products that do not conform with the Contract.

The whole of an Order may be rejected if a reasonable sample of the Goods is found by IHG not to conform to the requirements of the Contract.

5.3 IHG's rights and remedies under this clause 5 are in addition to the rights and remedies available to it in respect of the statutory conditions relating to description, quality, fitness for purpose and correspondence with sample implied into the Contract by the Sale of Goods Act 1979.

5.4 These Conditions shall apply to any repaired or replacement Products supplied by the Supplier.

5.5 If the Supplier fails to promptly repair or replace rejected Products in accordance with clause 5.2(a), IHG may, without affecting its rights under clause 5.2(c), obtain substitute products from a third party supplier, or have the rejected Products repaired by a third party, and the Supplier shall reimburse IHG for the costs it incurs in doing so.

6. **Title and risk**

6.1 The risk in the Goods shall pass to IHG on Delivery.

6.2 Title to the Goods shall pass to IHG on the earlier of Delivery or payment of the relevant Contract Price.

7. **Supply of Services**

7.1 The supply of Services under the Contract is not an exclusive arrangement. IHG may purchase services that are the same as or similar to the Services from any third party or provide them itself.

7.2 The Supplier shall:

(a) provide the Services and Deliverables in accordance with the Contract;

(b) ensure that the Services and any Deliverables conform to any specifications, requirements and standards notified to the Supplier prior to the Contract being formed (including, as may be referenced in the relevant Order) and that the Deliverables are fit for any purpose expressly or implicitly made known to the Supplier by IHG;

(c) perform the Services with the care, skill and diligence expected from a supplier reasonably and suitably skilled and experienced in providing services similar to the Services;

(d) ensure that the Deliverables, and all goods, materials, standards and techniques used in providing the Services, are of the standard expected of a market-leading provider of similar services and are free from defects in workmanship, installation and design;

(e) co-operate with IHG in all matters relating to the Services, and comply with IHG's reasonable instructions;

(f) provide IHG with information, advice and training as reasonably required by IHG to make effective use of the Services;

(g) maintain all licences, consents and permissions needed to supply the Services in accordance with the Contract;

(h) hold all IHG Materials in safe custody at its own risk and maintain IHG Materials in good condition until returned to IHG, and not dispose of or use IHG Materials other than in accordance with IHG's written instructions or authorisations;

(i) take good care of any IHG equipment in its possession or control; and

(j) not do or omit to do anything which may cause IHG to lose any licence, authority, consent or permission on which it relies for the purposes of conducting its business.

7.3 The Supplier shall perform the Services and deliver the Deliverables in accordance with any relevant Milestone Dates. If the Supplier fails to meet a Milestone Date, then (without prejudice to any other rights or remedies that IHG may have):

(a) the Supplier shall, until IHG exercises its rights under clause 7.3(c)(i), take all additional steps necessary to perform the Services and deliver the Deliverables as soon as possible after the missed Milestone Date and at no additional cost to IHG;

(b) IHG may withhold payment for the delayed Services or Deliverables until the Supplier remedies the delay; and

(c) if the Supplier fails to perform any Services or deliver any Deliverables within five (5) Business Days of the missed Milestone Date, IHG may:

(i) refuse to accept any subsequent performance of the delayed Services or supply of the delayed Deliverables which the Supplier attempts to make;

(ii) purchase substitute services or deliverables from elsewhere and reclaim from the Supplier any additional costs it incurs; and

(iii) require the Supplier to immediately refund any sums previously paid by IHG in respect of the delayed Services or Deliverables.

7.4 The Supplier shall ensure that the Staff:

(a) have suitable skills and experience to enable them to perform the tasks assigned to them and have been adequately trained in the provision of the Services;

(b) observe all health and safety rules and regulations and all reasonable security requirements that apply from time to time at IHG's premises they access; and

(c) are in sufficient number to enable the Supplier to fulfil its obligations.

8. **Charges and payment**

8.1 The Contract Price for the Goods and/or Services shall be the price set out in the relevant Order.

8.2 The Contract Price payable in connection with the supply of the Goods and/or performance of the Services will be inclusive of all costs and expenses incurred by the Supplier, including all packaging, insurance, transport and delivery costs and any travel, accommodation and subsistence expenses.

8.3 The Supplier may invoice IHG for the Contract Price for the Goods after delivery and for Services following completion of performance (subject to any alternative timings detailed in the relevant Order). The Supplier will ensure that any invoice includes reference to the relevant Order number.

8.4 Subject to clause 8.7 and clause 8.8, IHG shall pay each invoice properly submitted by the Supplier within thirty (30) days of the date of the invoice or in accordance with any agreed credit or payment terms.

8.5 Payment of an invoice does not constitute acceptance or approval of the relevant Goods or Services or prejudice any right IHG may have, including the right to recover any sums overpaid or wrongfully paid.

8.6 All amounts payable under the Contract are inclusive of amounts in respect of VAT chargeable from time to time. Where any taxable supply for VAT purposes is made under the Contract by the Supplier to IHG, IHG shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services or Goods or both, as applicable, at the same time as payment is due for the supply of the Services or Goods.

8.7 If IHG, acting in a bona fide manner, disputes all or part of any invoice then it will be entitled to withhold payment of that sum until the dispute is settled.

8.8 IHG may set off any liability that the Supplier has to IHG against any liability which IHG may have to the Supplier, under the Contract or otherwise, regardless of whether such liability is present or future, liquidated or unliquidated.

8.9 IHG's total liability arising out of or in connection with the Contract, whether in contract, tort, misrepresentation, restitution, under any law or otherwise and in each case howsoever caused (including, by its negligence) will be limited to a sum equal to the total Contract Price payable under the Contract. Nothing in the Contract will operate to limit or exclude IHG's liability (if any) for death or personal injury caused by negligence; fraud or fraudulent misrepresentation; or any liability that cannot legally be limited or excluded.

9. **Contract Management**

9.1 Each party will appoint a Contract Manager to be the primary point of contact in relation the Contract. The Contract Manager should be sufficiently senior to be able to make decisions on the day-to-day operation of the Contract.

9.2 The Supplier will ensure that its Contract Manager:

(a) attends review meetings on a regular basis to review performance under the Contract;

(b) provides IHG, at least ten (10) days in advance of any scheduled review meeting, a written performance report in such format as IHG may reasonably require; and

(c) has the authority to make decisions regarding the day-to-day operation of the Contract.

9.3 Review meetings will take place at the frequency specified in the Order or as otherwise reasonably required by IHG and notified to the Supplier.

9.4 The Supplier will promptly provide IHG with such management information relating to the Contract as it may reasonably request from time to time.

9.5 The Supplier will:

(a) cooperate fully with IHG in reporting and responding to all incidents that may arise in relation to the Goods or Services; and

(b) promptly provide IHG with a copy of any quality, performance and/or safety related reports, notices, alerts or other communications issued by or to the Supplier in relation to the Goods or the Services.

9.6 IHG shall have the right to audit the Supplier's compliance with the Contract. The Supplier shall permit or procure permission for IHG or its authorised representative during normal business hours having given advance written notice of no less than five (5) Business Days, access to any premises and facilities, books and records reasonably required to audit the Supplier's compliance with its obligations under the Contract.

10. **Intellectual property rights**

10.1 IHG and its licensors shall retain ownership of all Intellectual Property Rights in the IHG Materials. IHG grants to the Supplier a non-exclusive, non-transferable licence to use, copy and modify the IHG Materials during the term of the Contract for the sole purpose of providing the Services to IHG in accordance with the Contract.

10.2 The Supplier and its licensors shall retain ownership of all Supplier Materials. The Supplier shall not include any Supplier Materials in the Deliverables unless their inclusion has been approved by IHG in writing in advance. The Supplier grants to IHG a non-exclusive, royalty-free, transferable, perpetual and irrevocable licence (with the right to grant sublicences) to use, copy and modify the Supplier Materials for the purpose of receiving and using the Services and the Deliverables.

10.3 The Supplier assigns to IHG, immediately on creation, with full title guarantee, all Intellectual Property Rights subsisting in the Deliverables which arise from delivery of the Services (and any such materials will form part of the IHG Materials for the purposes of the Contract).

10.4 The Supplier shall, promptly at IHG's request, do (or procure to be done) all further acts and things and execute (or procure the execution of) all other documents as IHG may from time to time require for the purpose of securing for IHG all right, title and interest in and to the Intellectual Property Rights assigned or licensed to IHG under the Contract.

11. **Data protection**

11.1 For the purposes of this clause 11, the terms **Commissioner, controller**, **data subject**, **personal data**, **personal data breach, processor** and **processing** shall have the meaning given to them in the Data Protection Legislation.

11.2 Each party shall comply with the Data Protection Legislation its processing of personal data under or in connection with the Contract. This clause 11 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.

11.3 Without prejudice to clause 11.2, the Supplier shall, in relation to IHG Personal Data:

(a) process that IHG Personal Data only on the documented written instructions of IHG (including, as may be detailed in the Order), unless the Supplier is required by Applicable Laws to otherwise process that IHG Personal Data. Where the Supplier is relying on Applicable Laws as the basis for processing IHG Personal Data, the Supplier shall promptly notify IHG of this before performing the processing unless prohibited from doing so by those Applicable Laws. The Supplier shall immediately inform IHG if, in the opinion of the Supplier, the instructions of IHG infringe any Data Protection Legislation;

(b) ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of IHG Personal Data and against its accidental loss, damage or destruction, including as appropriate:

(i) the pseudonymisation and encryption of IHG Personal Data;

(ii) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of its processing systems and services;

(iii) the ability to restore the availability of and access to IHG Personal Data in a timely manner in the event of a physical or technical incident; and

(iv) a process for regularly assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing;

(c) ensure that:

(i) access to IHG Personal Data is restricted only to those members of Staff who need access to perform the Services; and

(ii) all Staff who have access to or process IHG Personal Data are obliged to keep the personal data confidential;

(d) promptly assist IHG, in responding to any request from a data subject and in ensuring compliance with IHG's obligations under any Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with the Commissioner or other Regulators. In particular, the Supplier shall promptly notify IHG if it receives any complaint, notice or communication (whether from a data subject, the Commissioner or any other Regulator or third party) which relates to processing of IHG Personal Data;

(e) notify IHG without undue delay (and no later than 48 hours) after becoming aware of a personal data breach;

(f) at the written direction of IHG, delete or return to IHG all IHG Personal Data when it is no longer needed to perform the Contract and in any event at the end of the Term, unless the Supplier is required by Applicable Law to continue to process that IHG Personal Data. The Supplier shall procure that any third party to which the Supplier has disclosed IHG Personal Data does the same and shall certify to IHG in writing that it has complied with this clause 11.3(f); and

(g) maintain complete and accurate records and information to demonstrate its compliance with the Data Protection Legislation and this clause 11 and make them available to IHG on request. The Supplier shall allow for and submit its premises and operations to audits, including inspections, by IHG or IHG's designated auditor to demonstrate its compliance with the Data Protection Legislation and this clause 11.

11.4 The Supplier shall not engage a third party to process any IHG Personal Data without the prior written consent of IHG. The Supplier shall:

(a) ensure that the terms on which it appoints any third party processor comply with the Data Protection Legislation and are consistent with the obligations imposed on the Supplier in this clause 11; and

(b) remain responsible for the acts and omissions of that third party as if they were the acts and omissions of the Supplier.

11.5 The Supplier shall not carry out, via itself or via any other processor, any processing of IHG Personal Data, or transfer any IHG Personal Data, outside of the UK, including processing IHG Personal Data on equipment situated outside of the UK unless the prior written consent of IHG has been obtained and the Supplier:

(a) ensures that the processing is compliant with the Data Protection Legislation, including by ensuring an adequate level of protection for IHG Personal Data; and

(b) complies with any reasonable instructions notified to it by IHG with respect to the processing of IHG Personal Data.

11.6 The Supplier shall not do anything which may cause IHG to be in breach of the Data Protection Legislation or damage its reputation with data subjects.

11.7 If the Supplier will be processing special category data on behalf of IHG then it may be required to comply with a separate Data Protection Protocol.

12. **Indemnity**

12.1 The Supplier shall indemnify IHG against all Losses incurred by IHG as a result of:

(a) any claim that the supply, receipt or use of the Goods or any of the Services or Deliverables infringes the Intellectual Property Rights of any third party;

(b) any claim by a third party arising out of or in connection with any Goods or Services supplied or provided by the Supplier; or

(c) any claim by any person, or any action or investigation by a regulator, arising out of or in connection with the Supplier's failure to comply with Data Protection Legislation or breach of clause 11.

12.2 The Supplier will not be liable under the indemnity in clause 12.1 to the extent that any Losses result from IHG's breach of the Contract, negligence or wilful misconduct.

13. **Insurance**

At all times during the term of the Contract the Supplier will maintain professional liability insurance, product liability insurance and public liability insurance to cover any liability which may arise under or in connection with the Contract. The Supplier will provide a copy of the relevant insurance certificate(s) to IHG upon request.

14. **Termination**

14.1 If the relevant Order specifies a specific term for the Contract, then the Contract will automatically expire at the end of that period (subject to any earlier termination in accordance with these Conditions).

14.2 Without limiting its other rights or remedies, and without prejudice to clause 3.5, IHG may terminate the Contract at any time for convenience by giving the Supplier not less than one (1) month's written notice (and IHG's sole liability will be to pay fair and reasonable compensation for work-in-progress at the time of cancellation (excluding any loss of profits or any indirect or consequential losses).

14.3 If IHG chooses to terminate the Contract and both Goods and Services are being supplied, then it may terminate the Contract in respect of the Goods, or in respect of the Services, or both at its discretion and the Contract shall continue in respect of the remaining supply.

14.4 Without limiting IHG's other rights or remedies, IHG may terminate the Contract with immediate effect by giving written notice if the Supplier:

(a) commits a material breach of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within ten (10) days of receipt of issuing notice in writing to do so;

(b) presents a petition or have a petition presented by a creditor for its winding up, enters compulsory or voluntary liquidation (other than for the purpose of a bona fide reconstruction or amalgamation), has a receiver of all or any of its undertakings or assets appointed, is deemed by virtue of the applicable law to be unable to pay its debts, or ceases to carry on business; or

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

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

14.6 Expiry (where a fixed term is specified in the Order) or termination of the Contract for any reason (whether under these Conditions or otherwise) will not affect any provision of the Contract which is expressly or by implication intended to come into effect on, or to continue in effect after, such expiry or termination (including, clauses 8, 11, 12, 14.7, 15 and 29).

14.7 On termination or expiry of the Contract, the Supplier shall immediately (or on any alternative timeframe specified by IHG):

(a) deliver to IHG all Deliverables, whether or not then complete and any Goods paid for in advance;

(b) return to IHG all customer property in the possession or control of the Supplier;

(c) cease using (and return or destroy if required by IHG) all IHG Materials and IHG Confidential Information in the possession or control of the Supplier;

(d) comply with the requirements of clause 11.3(f) in relation to IHG Personal Data; and

(e) remove any Supplier equipment from IHG's premises.

15. **Confidentiality**

15.1 Each party shall keep the other party's Confidential Information secret and confidential and shall not:

(a) use that Confidential Information except for the purpose of exercising or performing its rights and obligations under or in connection with the Contract (**Permitted Purpose**); or

(b) disclose that Confidential Information in whole or in part to any person, except as permitted by clause 15.2.

15.2 Each party may disclose the other party's Confidential Information:

(a) to those of its and its affiliates' employees, officers, representatives, independent contractors, sub-contractors and advisers who need to know that information for the Permitted Purpose (**Representatives**). Each party shall ensure that its Representatives comply with confidentiality obligations which are substantially equivalent to those set out in this clause 15; and

(b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority, provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of the disclosure as possible.

15.3 The provisions of this clause 15 shall continue to apply for a period of five years after termination or expiry of the Contract.

16. **Assignment and other dealings**

16.1 The Supplier shall not assign, novate, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract without the prior written consent of IHG.

16.2 IHG may at any time assign, novate, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.

16.3 Where the Supplier subcontracts any of its obligations under the Contract, the Supplier remains responsible for the performance of the Contract and liable for all acts and omissions of its sub-contractors as if they were its own.

17. **Anti-bribery, fraud & conflicts of interest**

17.1 The Supplier shall ensure that neither it nor any employee, agent or sub-contractor is placed in a position where there is, or is likely to be, an actual or potential conflict between the personal or financial interests of the Supplier (or such persons) and the duties owed to IHG under the Contract. The Supplier will notify IHG upon becoming aware of any such conflict of interest.

17.2 The Supplier shall take all reasonable steps to prevent any instances of fraud by Staff and/or the Supplier and it will notify IHG immediately if it has reason to suspect that any fraud has occurred.

17.3 The Supplier shall during the term of the Contract:

(a) comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010;

(b) notify IHG if it becomes aware of any breach of clause 17.3(a), or has reason to believe that it has received a request or demand for any undue financial or other advantage in connection with the performance of the Contract.

17.4 The Supplier shall ensure that any of its agents, sub-contractors or other persons engaged in performance of the Supplier's obligations do so only on the basis of a written contract which imposes on such persons terms equivalent to those imposed on the Supplier in this clause 17.

18. **Modern Slavery**

18.1 In performing its obligations under the Contract, the Supplier shall:

(a) comply with all applicable anti-slavery and human trafficking laws, statutes, regulations from time to time in force (Anti-Slavery Laws) including the Modern Slavery Act 2015;

(b) comply with IHG's anti-slavery policy;

(c) include in contracts with its sub-contractor(s) anti-slavery and human trafficking provisions that are at least as onerous as those set out in this clause 18; and

(d) maintain a complete set of records to trace the supply chain of all Goods and Services provided to IHG; and permit IHG to inspect the Supplier's premises, records, and to meet the Staff to audit the Supplier's compliance with its obligations.

19. **Variation**

19.1 Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions shall be effective unless it is agreed in writing and signed by IHG.

19.2 IHG may update these Conditions from time to time and the Contract will be governed by the latest version in effect at the Commencement Date.

20. **Waiver**

20.1 A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed to be a waiver of any subsequent right or remedy.

20.2 A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

21. **Rights and remedies**

The rights and remedies provided under the Contract are in addition to, and not exclusive of, any rights or remedies provided by law.

22. **Severance**

If any provision or part-provision of the Contract 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 the Contract.

23. **Entire agreement**

The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous and contemporaneous agreements, promises, assurances, and understandings between them, whether written or oral, relating to its subject matter.

24. **Conflict**

If there is an inconsistency between any of the provisions in these Conditions and the Order, the provisions in the relevant Order prevail.

25. **Announcements**

The Supplier shall not make, or permit any person to make, any public announcement concerning the existence, subject matter or terms of the Contract, the wider transactions contemplated by it, or the relationship between the parties, without the prior written consent of IHG, except as required by law, any governmental or regulatory authority (including any relevant securities exchange), any court or other authority of competent jurisdiction.

26. **No partnership or agency**

26.1 Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party as the agent of the other party, or authorise any party to make or enter into any commitments for or on behalf of the other party.

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

27. **Third party rights**

27.1 Unless it expressly states otherwise the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

27.2 The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

28. **Notices**

28.1 Any notice given to a party under or in connection with the Contract shall be in writing and shall be:

(a) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or

(b) sent by email to the following address (or an address substituted in writing by the party to be served):

(i) for notices to IHG: INHG.procurement@nhs.net.

(ii) for notices to the Supplier: such email address as it may have from time to time communicated from for such purpose.

28.2 Any notice shall be deemed to have been received:

(a) if delivered by hand, at the time the notice is left at the proper address;

(b) if sent by next working day delivery service or email, at 9.00 am on the Business Day after sending.

28.3 This clause 28 does not apply to the service of any proceedings or any documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

29. **Governing law & Jurisdiction**

29.1 The Contract 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 England and Wales.

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