

## Definitions

**Charges:** the charges payable by the Customer for the supply of the Services in accordance with clause 0.

**Conditions:** these terms and conditions.

**Contract:** the contract between the Supplier and the Customer for the supply of Services in accordance with these Conditions.

**Customer:** the person or firm who purchases Services from the Supplier.

**Customer Materials:** all documents, information, items and materials in any form owned by the Customer or a third party, which are provided by the Customer to the Supplier.

**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 and trade dress, 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 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, 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.

**Order:** the Customer's initial request for Services.

**Services:** the services, supplied by the Supplier to the Customer as set out in the Order.

**Supplier:** Operational Research in Health Limited with Company Registration Number: 02676859.

**UK Data Protection Legislation:** all applicable data protection and privacy legislation in force from time to time in the UK.

## 1. Contract and Term

- 1.1 The Order constitutes an offer by the Customer to purchase the Services in accordance with these Conditions. The Order shall only be deemed to be accepted when the Supplier issues a written acceptance of the Order at which point the Contract shall come into existence.
- 1.2 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

## 2. Supply of Services

- 2.1 The Supplier shall supply the Services to the Customer in accordance with the Order in all material respects.
- 2.2 The Supplier shall use all reasonable endeavours to meet any performance dates specified in the Order, but time shall not be of the essence for performance of the Services.
- 2.3 The Supplier reserves the right to amend the Order if necessary to comply with any applicable law or regulatory requirements, or if the amendment will not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.
- 2.4 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.
- 2.5 The Supplier does not warrant any specific result or outcomes from the Services and accepts no liability for any steps taken by the Customer as a result of the Services.

## 3. Customer Obligations

- 3.1 The Customer shall:
  - 3.1.1 pay all Charges due under this Contract;
  - 3.1.2 ensure that the terms of the Order are complete and accurate;
  - 3.1.3 provide the Supplier, its employees, agents, consultants and subcontractors, with access to the Customer's premises and other facilities as reasonably required by the Supplier;
  - 3.1.4 provide the Supplier with such information and materials as reasonably required to supply the Services, and ensure that such information is complete and accurate in all material respects; and
  - 3.1.5 obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start.
- 3.2 If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**), without limiting or affecting any other right or remedy available to it, the Supplier may suspend performance of the Services until the Customer remedies the Customer Default; and the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations set out in these Conditions.

## 4. Charges and Payment

- 4.1 The Charges for the Services shall be as agreed between the parties in writing.
- 4.2 The Customer shall pay each invoice submitted by the Supplier within 30 days of the date of the invoice, in full and cleared funds, to a bank account nominated in writing by the Supplier. Time for payment shall be of the essence of the Contract.
- 4.3 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**).
- 4.4 If the Customer fails to make a payment due to the Supplier under the Contract by the due date, then, without limiting the Supplier's remedies, 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 will accrue each day at 4% a year

above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.

- 4.5 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

## 5. Data Protection

- 5.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. These Conditions are in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
- 5.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Data Controller and the Supplier is the Data Processor.
- 5.3 The Customer shall ensure that it has all necessary and appropriate consents and notices in place to enable the lawful transfer of the Personal Data to the Supplier for the duration and purposes of this Contract.

## 6. Intellectual Property Rights

- 6.1 The Supplier shall retain ownership of all Intellectual Property Rights in the Services.
- 6.2 The Supplier grants the Customer, a fully paid up, worldwide, non-exclusive, non-sublicensable, royalty-free licence for the duration of the Services to the Intellectual Property Rights for the sole purpose of making use of the Services.
- 6.3 The Customer shall retain ownership of all Intellectual Property Rights in the Customer Materials.
- 6.4 The Customer grants the Supplier a fully paid up, worldwide, non-exclusive, non-sublicensable, royalty-free licence to copy and modify the Customer Materials for the purpose of providing the Services to the Customer or for future development of the Services.

## 7. Limitation of Liability

- 7.1 Nothing in the Contract limits any liability which cannot legally be limited, including but not limited to, liability for death or personal injury caused by negligence and fraud or fraudulent misrepresentation.
- 7.2 Subject to clause 7.1, the Supplier's total liability to the Customer in respect of all breaches of duty occurring under the Contract shall not exceed the Charges.
- 7.3 The following types of loss are wholly excluded; loss of profit, loss of sales or business, loss of agreements or contracts, loss of anticipated savings, loss of use or corruption of software, data or information, loss of or damage to goodwill, and indirect or consequential loss.

## 8. Termination

- 8.1 The Contract will terminate automatically on completion and delivery of the Services to the Customer.
- 8.2 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing to do so.

## 9. Consequences of Termination

- 9.1 On termination of the Contract, the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interests and in respect of Services supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- 9.2 Without affecting any other right or remedy available to it, the Supplier may suspend the supply of Services under the Contract or any other contract between the Customer and the Supplier or may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment
- 9.3 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.

## 10. General

- 10.1 Force majeure: neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control.
- 10.2 The Supplier may at any time assign, 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.
- 10.3 The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract.
- 10.4 A party (**receiving party**) shall keep in strict confidence all information which is of a confidential nature and has been disclosed to the receiving party by the other party (**disclosing party**) and keep it in the strictest confidence. The receiving party may only disclose such confidential information as required by law, governmental or regulatory authority or a court of competent
- 10.5 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.
- 10.6 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.