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**Terms and Conditions for the supply of  
services from**

**Rehab Without Walls**

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## OPERATIVE PROVISIONS

### 1 Interpretation

1.1 The definitions and rules of interpretation in this Condition 1 apply in these terms and Conditions (**Conditions**).

**Appointment:** an appointment with the Supplier pursuant to the provision of the Services

**Case Management:** the formulation and delivery of care plans for Service Users to facilitate rehabilitation more particularly described or referred to in the Engagement Letter

**Consumer:** has the meaning in the Consumer Rights Act 2015

**Contract:** together these Conditions, the Engagement Letter and the Schedule of Fees entered into pursuant to these Conditions

**Client:** the person, firm or company who purchases the Services from the Supplier

**Data Controller:** has the same meaning as within the Data Protection Legislation

**Data Processor:** has the same meaning as within the Data Protection Legislation

**Data Protection Legislation:** the UK Data Protection Legislation and (for so long as and to the extent that the law of the European Union has legal effect in the UK) the GDPR and any other directly applicable European Union regulation relating to privacy.

**Deliverables:** the Services including all or any reports, care plans and Documents prepared or provided pursuant to the Services

**Document:** includes, without limitation, in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, report, tape, disk or other device or record embodying information in any form

**Engagement Letter:** the letter issued by the Supplier confirming acceptance of instructions from the Client to provide the Services to which these Conditions are attached

**GDPR:** General Data Protection Regulation ((EU) 2016/679)

**Intellectual Property Rights:** all copyright and related rights, trade marks, service marks, trade, business and domain names, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world

**Medical Legal Work:** expert witness services in respect of (i) neuropsychology; or (ii) care and case management more particularly described or referred to in the Engagement Letter

**Personal Data:** has the same meaning as within the DPA

**Records:** all personal records, data and information including without limitation medical and legal records relating to the Service User and his history, family and background as required by the Supplier for the provision of the Services

**Schedule of Fees:** the fee schedule attached to the Engagement Letter that sets out the Supplier's fees from time to time for the relevant Services

**Sensitive Data:** has the same meaning as within the DPA

**Service User:** the individual named in the Engagement Letter which shall include any person appointed to act on his behalf (whether legally or otherwise) and which, in some case, may also be the Client

**Services:** the services being the Case Management and/or the Medical Legal Work services (as appropriate) to be provided by the Supplier to the Client as confirmed in the Engagement Letter

**Supplier:** REHAB WITHOUT WALLS LIMITED (company number 03110896) whose registered office is at Silbury Court, 420 Silbury Boulevard, Milton Keynes, MK9 2AF

**Supplier's Privacy Policy:** the Supplier's privacy policy (as amended from time to time) a copy of which can be found at [www.rehabwithoutwalls.co.uk](http://www.rehabwithoutwalls.co.uk)

**VAT:** value added tax chargeable at the prevailing rate from time to time under English law for the time being and any similar additional tax

**Working Day:** means a day other than Saturday, Sunday and any bank or public holiday when banks in London are open for business

1.2 Headings in these Conditions shall not affect their interpretation.

1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.4 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.5 A reference to **writing** or **written** includes faxes but not e-mail.

1.6 Any obligation in the Contract on a person not to do something includes, without limitation, an obligation not to agree, allow, permit or

acquiesce in that thing being done.

- 1.7 References to Conditions are to these Conditions.
- 1.8 Words in the singular include the plural and vice versa.
- 1.9 Where there is more than one person identified as the Client, liability shall be joint and several.

## **2 Basis of Contract and Application of Conditions**

- 2.1 These Conditions shall:
  - 2.1.1 apply to and be incorporated into the Contract; and
  - 2.1.2 prevail over any inconsistent terms or conditions contained, or referred to, in any Client purchase order, confirmation of order, acceptance of an estimate of hours, or specification or other document supplied by the Client, or implied by law, trade custom, practice or course of dealing whatsoever, save that if there are any inconsistencies between these Conditions and the Engagement Letter (which shall include any document referred to in the Engagement Letter) the terms of the Engagement Letter (and any document referred to in the Engagement Letter) shall take precedence.
- 2.2 For the avoidance of doubt the receipt of instructions by the Supplier from prospective clients shall not constitute an acceptance by the Supplier to provide the Services and (subject to Condition 2.3) only the issue of an Engagement Letter by the Supplier shall constitute an acceptance by the Supplier to provide the Services to the Client on terms set out in these Conditions.
- 2.3 The Contract shall come into existence on the earlier of:
  - 2.3.1 the issue of an Engagement Letter by the Supplier; or
  - 2.3.2 by the Supplier starting to provide any part of the Services.
- 2.4 The Supplier reserves the right to amend these Conditions from time to time (which shall include the right (without limitation) to increase or otherwise vary its fees (the Schedule of Fees shall be amended accordingly) subject to notification to the Client of the new Conditions which shall then apply to all Services not yet provided.
- 2.5 The Client hereby acknowledges:
  - 2.5.1 the Client has read and understood these Conditions; and
  - 2.5.2 checked that the details in these Conditions and the Engagement Letter are complete and accurate. If there is a mistake the Client must immediately submit a request to the Supplier to confirm any changes in writing as the Supplier shall only accept responsibility for any statement or representations in writing; and
  - 2.5.3 the Client is bound by the Conditions once a Contract comes into existence pursuant to Condition 2.2 and 2.3.

## **3 Duration of Contract**

The Services supplied under the Contract shall continue until the Contract is terminated by either party pursuant to Condition 10.

## **4 Supplier's Obligations**

- 4.1 If a particular employee or agent of the Supplier cannot provide the Services in whole or in part due to illness, injury, cessation of employment or engagement by the Supplier or for any other reason, the Supplier shall advise the Client and Service User of that fact as soon as reasonably practicable and appoint a suitably qualified and skilled substitute to perform the Services.
- 4.2 Subject to the Client complying with Condition 5 the Supplier shall use reasonable endeavours to:
  - 4.2.1 manage the Services, and to deliver the Services to the Client, in accordance in all material respects with the Engagement Letter provided always that whilst the Supplier shall endeavour to meet all performance dates specified in the Engagement Letter (or any subsequent notification of performance dates) such dates shall be estimates only and failure to meet such dates does not give the Client the right to terminate the Contract;
  - 4.2.2 manage the Services and to deliver the Services to the Client with reasonable care and skill; and observe all health and safety rules and regulations, and any other reasonable security requirements that apply at any of the Client's premises and that have been previously communicated to the Supplier in writing, provided that it shall not be liable under the Contract if, as a result of such observation, it is in breach of any of its obligations under the Contract.
- 4.3 The Services shall be supplied subject to the provisions of any guidance issued by the Care Quality Commission (or its replacement body), the Civil Procedure Rules (as amended from time to time) and any other regulations or guidance issued by any other organisation governing the Supplier and/or the provision of the Services in existence from time to time.

4.4 If at any time during the Contract the Services are in the reasonable opinion of the Supplier unsuitable or the scope of the Services needs to be changed, the Supplier shall be entitled (at the cost of the Client) to identify and redefine the scope of the Services being provided. If at any time during the Contract the Client requests any changes to the Services, the Supplier shall only change the Services if in its reasonable opinion this is in the best interests of the Service User and shall notify the Client of any additional costs to be borne by the Client. The Supplier reserves the right to change the Services if necessary to comply with any applicable law or regulatory requirement.

## **5 Client's Obligations**

5.1 The Client shall:

5.1.1 co-operate and (where relevant) shall use reasonable endeavours to procure that the Service User and any relevant third parties co-operate with the Supplier in all matters relating to the Services;

5.1.2 promptly provide the Supplier, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, with access to the Client's property, other facilities and Records as required by the Supplier for the purposes of providing the Services and, where necessary, with the appropriate consent to enable the Supplier to obtain such Records from third parties;

5.1.3 promptly provide to the Supplier to its satisfaction proof of funding confirming its ability to be able to satisfy the Supplier's charges and/or fees, disbursements and taxes payable (if any) under the Contract in advance of when they become due; and

5.1.4 where any appointment is at the premises of the Client or the premises of the Service User, to use reasonable endeavours to procure the Service User (particularly but not limited to when it is for the purposes of an assessment of the Service User) to provide a safe and quiet environment which is free from distractions.

5.2 If the Supplier's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Client, its agents, subcontractors, consultants or employees, Service User (or his family) or any other third party (including without limitation any suspension of the Services pursuant to Condition 6.11.2) the Supplier shall not be liable for any costs, charges or losses sustained or incurred by the Client arising directly or indirectly from such prevention or delay.

5.3 The Client shall be liable to pay to the Supplier, on demand, all reasonable costs, charges or losses sustained or incurred by the Supplier (including, without limitation, any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property and those arising from injury to or death of any person and loss of opportunity to deploy resources elsewhere) arising directly or indirectly from the Client's fraud, negligence, action or omission, supply of incomplete, inaccurate or misleading information, failure to perform or delay in the performance of any of its obligations under the Contract, subject to the Supplier confirming such costs, charges and losses to the Client in writing.

## **6 Charges and Payment**

6.1 In consideration of the provision of the Services by the Supplier, the Client shall pay the charges as set out in the Schedule of Fees or the Engagement Letter (as appropriate) subject to the provisions of this Condition 6.

6.2 Any estimates relating to charges, hours or otherwise provided by the Supplier are not binding and are provided on the basis that the Supplier will not be held to any such estimate. Rather the Supplier shall charge for the actual amount of time spent.

6.3 Services are provided on a time and disbursements basis and:

6.3.1 the charges payable for the Services shall be calculated in accordance with the Supplier's standard hourly fee rates, as set out in the Schedule of Fees and as amended from time to time (any such changes to be notified to the Client);

6.3.2 subject to Condition 6.7.1 the Supplier's standard hourly fee rates for each individual person are calculated on the basis of one-twelfth of an hour or part thereof worked;

6.3.3 all charges quoted to the Client (contained in the Schedule of Fees or otherwise) shall be exclusive of VAT, which the Supplier shall add to its invoices at the appropriate rate;

6.3.4 the Supplier shall procure that every individual whom it engages in the supply of Services completes time sheets recording time spent on the Services, and the Supplier shall use such time sheets to calculate the charges covered by each monthly invoice referred to in Condition 6.3.5; and

6.3.5 the Supplier shall invoice the Client monthly in arrears for its charges for time, disbursements and any other expenses incurred by the Supplier in connection with the performance of the Services (together with VAT where appropriate) for the month concerned, calculated as provided in this Condition 6.3. Each invoice shall set out the time spent by each individual whom the Supplier engages in the provision of Services and provide a breakdown of any expenses incurred in connection with performing the Services.

6.4 If the Supplier needs to cancel an Appointment the Supplier shall notify the Client and/or the Service User (as is appropriate) as soon as reasonably practicable and endeavour to arrange another Appointment as soon as reasonably practicable and the cost of the original Appointment shall not be charged to the Client.

- 6.5 If the Client or Service User (as the case may be) cancels an Appointment the charges for the relevant Service set out in the Schedule of Fees shall apply.
- 6.6 The Supplier is entitled to terminate an Appointment early:
- 6.6.1 if in the reasonable opinion of the Supplier it is not in the best interests of the Service User to continue with the Appointment; or
  - 6.6.2 due to any abusive, aggressive, intimidating, threatening, inappropriate behaviour whatsoever by the Client, Service User, family member of the Service User or any other third party; or
  - 6.6.3 for any other reason which the Supplier deems appropriate subject to the Supplier acting reasonably.
- 6.7 If any of the circumstances set out in Condition 6.6 applies or an Appointment is terminated early by the Client, Service User or other person other than the Supplier (other than as a result of the Supplier's acts or omissions) the following charges for the Appointment shall apply:
- 6.7.1 in respect of Medical Legal Work (neuropsychology) the cost for the duration of the full Appointment as scheduled by the Supplier and notified in writing previously to the Client;
- OR** *Where the Client is dealing as a Consumer Condition 6.7.1A shall apply in replacement of Condition 6.7.1.*
- 6.7.1A in respect of Medical Legal Work (neuropsychology) the cost of the actual time incurred immediately up to the time of termination of the Appointment but including any travel or other disbursements in connection with the Appointment incurred thereafter
  - 6.7.2 in respect of Medical Legal Work (care and case management) the cost of the actual time incurred immediately up to the time of termination of the Appointment but including any travel or other disbursements in connection with the Appointment incurred thereafter;
  - 6.7.3 in respect of Case Management the cost of the actual time incurred immediately up to the time of termination of the Appointment but including any travel or other disbursements in connection with the Appointment incurred thereafter.
- 6.8 If the Supplier is late to an Appointment the Appointment shall commence on the Supplier's arrival and continue until the time when it was scheduled to end. At the request of the Client or the Service User (as the case may be), the Supplier shall endeavour to continue with the Appointment beyond the scheduled time subject always to the Supplier's other commitments. The Client shall be charged for the actual amount of time spent by the Supplier from the Supplier's arrival.
- 6.9 If the Client or the Service User (as the case may be) is late to an Appointment:-
- 6.9.1 it shall be responsible for the cost of the Appointment from the scheduled commencement time of the Appointment and the cost at the standard rate (as set out in the Schedule of Fees) for any additional time incurred beyond the scheduled duration of the Appointment; and
  - 6.9.2 at the request of the Client or the Service User (as the case may be) the Supplier shall endeavour to continue with the Appointment beyond the scheduled time subject always to the Supplier's other commitments.
- 6.10 The Client shall pay each invoice submitted to it by the Supplier, in cleared funds without deduction or set off, within 21 days of receipt by either BACS (to the bank account detailed on the Supplier's invoice from time to time) or by cheque.
- 6.11 Without prejudice to any other right or remedy that it may have, if the Client fails to pay the Supplier on the due date, the Supplier may:
- 6.11.1 charge interest on such sum from the due date for payment at the annual rate of 4% above the base lending rate from time to time of Barclays Bank plc, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment and the Client shall pay the interest immediately on demand or, the Supplier at its discretion, may claim interest under the Late Payment of Commercial Debts (Interest) Act 1998; and
  - 6.11.2 suspend all Services until payment has been made in full.
- 6.12 Where the Supplier uses third party services to recover any amount due to the Supplier in accordance with these Conditions which remains unpaid by the Client, the Client shall be responsible for and shall pay to the Supplier such amount paid by the Supplier for such third party recovery services.

## **7 Intellectual Property Rights**

- 7.1 All rights, title and interest in and to any Intellectual Property Rights and all other rights in the Deliverables shall be owned by and remain the property of the Supplier to the fullest extent permitted by law.

## **8 Data Protection**

- 8.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This Condition 8 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation. In this Condition 8 **Applicable Laws** means (for so long as and to the extent that they apply to the Supplier) the law of the European Union, the law of any member state of the European Union and/or Domestic UK Law; and **Domestic UK Law** means the UK Data Protection Legislation and any other law that applies in the UK.
- 8.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Client is the data controller and the Supplier is the data processor (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation).
- 8.3 Without prejudice to the generality of Condition 8.1, the Client will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data (as defined in the Data Protection Legislation) to the Supplier for the duration and purposes of the Contract.
- 8.4 Without prejudice to the generality of Condition 8.1, the Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under the Contract:
- 8.4.1 process that Personal Data only on the instructions of the Client unless the Supplier is required by Applicable Laws to otherwise process that Personal Data. Where the Supplier is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, the Supplier shall promptly notify the Client of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Supplier from so notifying the Client;]
- 8.4.2 ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Client, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
- 8.4.3 ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
- 8.4.4 not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Client has been obtained and the following conditions are fulfilled:
- (a) the Client or the Supplier has provided appropriate safeguards in relation to the transfer;
- (b) the Data Subject (as defined in the Data Protection Legislation) has enforceable rights and effective legal remedies;
- (c) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
- (d) the Supplier complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data
- 8.4.5 assist the Client, at the Client's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- 8.4.6 notify the Client without undue delay on becoming aware of a Personal Data breach;
- 8.4.7 at the written direction of the Client, delete or return Personal Data and copies thereof to the Customer on termination of the agreement unless required by Applicable Law to store the Personal Data; and
- 8.4.8 maintain complete and accurate records and information to demonstrate its compliance with this Condition 8.
- 8.5 Subject always to the Supplier complying with its obligations under this Condition 8.4.8, the Client consents to the Supplier appointing third-party processors (**Subprocessors**) of Personal Data under the Contract. The Location of any such Subprocessors and a description of the processing carried out by the Subprocessors shall be notified by the Supplier to the Client. The Supplier confirms that it has entered or (as the case may be) will enter into a written agreement with any such Subprocessor substantially on the Subprocessor's standard terms of business or incorporating terms which are substantially similar to those set out in this Condition As between the Client and the Supplier, the Supplier shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this Condition 8.5.

## **9 Limitation of Liability - THE CLIENT'S ATTENTION IS PARTICULARLY DRAWN TO THIS CONDITION**

- 9.1 This Condition 9 sets out the entire financial liability of the Supplier (including any liability for the acts or omissions of its employees, agents, consultants, and subcontractors) to the Client and/or the Service User in respect of:
- 9.1.1 any breach of the Contract;
- 9.1.2 any use made by the Client of the Deliverables or any part of them; and
- 9.1.3 any representation, statement or tortious act or omission (including negligence) arising under or in connection with the

Contract.

- 9.2 All warranties, Conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- OR** *If the Client is dealing as a Consumer Condition 9.2A shall apply in replacement of Condition 9.2.*
- 9.2A Nothing in these Conditions limits or excludes the liability of the Supplier for:
- 9.2.1 any breach of the obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
  - 9.2.2 losses for which it is prohibited by section 7 of the Consumer Protection Act 1987 to limit liability; or
  - 9.2.3 any other matter for which it would be illegal or unlawful for the Supplier to exclude or attempt to exclude liability.
- 9.3 Nothing in these Conditions limits or excludes the liability of the Supplier:
- 9.3.1 for death or personal injury resulting from negligence; or
  - 9.3.2 for any damage or liability incurred by the Client as a result of fraud or fraudulent misrepresentation by the Supplier.
- 9.4 Subject to Condition 9.2A and Condition 9.3
- 9.4.1 the Supplier shall not be liable for:
- (i) loss of profits; or
  - (ii) loss of business; or
  - (iii) depletion of goodwill and/or similar losses; or
  - (iv) loss of anticipated savings; or
  - (v) loss of goods; or
  - (vi) loss of contract; or
  - (vii) loss of use; or
  - (viii) loss of corruption of data or information; or
  - (ix) any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses
- OR** *Where the Client is dealing as a Consumer Condition 9.4.1(ix)A shall apply in replacement of Condition 9.4.1(ix).*
- (x) A any special, indirect, pure economic loss, loss which was not reasonably foreseeable by the parties or not directly caused by the Supplier's default, costs, damages or expenses but for the avoidance of doubt this Condition shall not prevent claims for foreseeable loss of, or damage to, the Client's physical property.
- 9.4.2 subject to Condition 9.4.1 other than a loss which is covered by the Supplier's Professional Indemnity Insurance, details of which are available on request, the Supplier's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance, or contemplated performance, of the Contract shall be limited to the price paid for the Services.
- 9.5 Where the Supplier has introduced or recommended a third party to provide services to the Service User, the Client or the Service User shall enter into a separate contract with such third party and the Supplier will have no liability to the Client, the Service User or anyone else for the actions or omissions of such third party or service.
- 9.6 The Client acknowledges that in making an introduction, recommendation or referral of third parties to the Client or Service User (as the case may be) the Supplier is reliant on the contents and accuracy of information provided by such third parties including without limitation the third parties' compliance with statutory and regulatory requirements and the Supplier shall have no liability to the Client, the Service User or anyone else for any inaccurate representations made by such third parties (whether made innocently, recklessly or negligently).
- 9.7 All assessments carried out by the Supplier are based strictly on the information provided to the Supplier either directly by the Client or through a third party and the Supplier shall not be liable for any incorrect or inaccurate assessments as a result of any mistakes, errors,

inaccuracies, omissions, incomplete or misleading information provided to the Supplier.

## **10**     **Termination**

- 10.1     Without prejudice to any other rights or remedies which the parties may have, the Supplier may terminate the Contract without liability to the Client and/or the Service User immediately on giving notice to the Client and the Service User if:
- 10.1.1     the Client suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts as they fall due within the meaning of the insolvency legislation applicable to that party; or
  - 10.1.2     a petition is filed, a notice is given, a resolution is passed, or an order is made, for or on connection with the winding up of the Client;
  - 10.1.3     other than in the court of protection an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Client or an administration or winding up order is made against the Client, or the Client enters into administration; or
  - 10.1.4     a person becomes entitled to appoint a receiver over the assets of the Client or a receiver is appointed over the assets of the Client; or
  - 10.1.5     a creditor or encumbrancer of the Client attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days; or
  - 10.1.6     the Client suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business involved in the performance of the Contract; or
  - 10.1.7     where the Client is an individual is declared bankrupt or makes any arrangement with or for the benefit of his creditors or has a county court administration order made against him under the County Court Act 1984; or
  - 10.1.8     the Client's financial position deteriorates to such an extent that in the Supplier's opinion the Client's capability adequately to fulfil its obligations under the Contract has been placed in jeopardy.
- 10.2     The Supplier may terminate the Contract at any time on giving the Client and the Service User not less than 1 months' prior written notice in the following circumstances:
- 10.2.1     the Client fails to pay any amount due under the Contract on the due date for payment and remains in default not less than 5 Working Days after being notified in writing to make such payment; or
  - 10.2.2     the Client commits a material breach of any of the terms of the Contract (other than a breach of Condition 10.2.1) and (if such a breach is remediable) fails to remedy that breach within 10 Working Days of being notified in writing of the breach and requiring its remedy; or
  - 10.2.3     the Client repeatedly breaches any of the terms of the Contract 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 the Contract; or
  - 10.2.4     any obstructive behaviour (other than that of the Supplier) during Appointments or the provision of the Services; or
  - 10.2.5     an irretrievable breakdown in the relationship between the Client and/or the Service User (as the case may be) and the Supplier.
- 10.3     The Client may terminate the Contract with immediate effect at any time on giving prior written notice to the Supplier.
- 10.4     On expiry or termination of the Contract for any reason:
- 10.4.1     the Client shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Supplier may submit an invoice, which shall be payable immediately on receipt; and
  - 10.4.2     the accrued rights and liabilities of the parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination, shall not be affected; and
  - 10.4.3     the Supplier may, without prejudice to any other rights it may have, set off any liability of the Client to the Supplier against any liability of the Supplier to the Client.
- 10.5     On termination of the Contract (however arising), the following Conditions shall survive and continue in full force and effect:
- 10.5.1     Condition 7;
  - 10.5.2     Condition 9;

- 10.5.3 Condition 10;
- 10.5.4 Condition 17; and
- 10.5.5 Condition 18.

## **11 Force Majeure**

- 11.1 The Supplier shall have no liability to the Client under the Contract if it is prevented from, or delayed in performing, its obligations under the Contract or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including (without limitation) strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors (**Force Majeure Event**).
- 11.2 If a Force Majeure Event continues for a period of more than 20 Working Days, the Supplier may terminate the Contract by giving not less than 5 Working Days written notice to the Client.

## **12 Variation**

- 12.1 Without prejudice to Condition 4.4 the Supplier may, from time to time change the Services, provided that such changes do not materially affect the nature or quality of the Services and, where practicable, it will give the Client at least 5 Working Days prior written notice of any change.

## **13 Waiver**

- 13.1 A waiver of any right under the Contract is only effective if it is in writing and it applies only to the circumstances for which it is given. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that (or any other) right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that (or any other) right or remedy.
- 13.2 Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

## **14 Severance**

- 14.1 If any provision of the Contract (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part- provision shall, to the extent required, be deemed not to form part of the Contract, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- 14.2 If a provision of the Contract (or part of any provision) is found to be illegal, invalid or unenforceable, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

For the purposes of the Contracts (Rights of Third Parties) Act 1999 a person who is not a party to the Contract shall not have any rights under or in connection with it.

## **15 Notices**

- 15.1 Any notice or other communication required to be given under the Contract shall be in writing and shall be delivered personally, or sent by pre-paid first-class post, recorded delivery or by commercial courier to the other party at its address set out in the Engagement Letter (or such other address as a party may notify to the other from time to time).
- 15.2 Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at the address or, if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second Working Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.
- 15.3 This Condition 17 shall not apply to the service of any proceedings or other documents in any legal action.
- 15.4 A notice or other communication required to be given under or in connection with the Contract shall not be validly served if sent by facsimile or e-mail.

## **16 Governing Law and Jurisdiction**

- 16.1 The Contract, and any dispute or claim arising out of or in connection with it or its subject matter, shall be governed by, and construed in accordance with, the law of England and Wales.
- 16.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with, the Contract or its subject matter.