



Terms and Conditions

1 THE CONTRACT

- 1.1 The Contract comprises the Key Terms sheet, Terms and Conditions and Schedules 1 to 6 (inclusive) and any attachments to the Schedules.
- 1.2 Parties to The Contract
 - a. The Client is the purchaser of the Services from Hapi Healthcare in accordance with the Contract.
 - b. Hapi Healthcare is the supplier of the Services to the Client in accordance with the Contract.

2 SCOPE OF SERVICES

- 2.1 The Scope of Services is set out in Schedule 5 and includes any variations made under this Contract.

3 TERM

- 3.1 The client engages Hapi Healthcare to provide the Services for the agreed term starting on the Commencement Date.
- 3.2 Once the initial term has ended, the Contract will continue on a 3 month to 3 month basis, unless otherwise notified in writing.
- 3.3 The Client may in its absolute discretion, by written notice, engage Hapi Healthcare for any number of further terms upon the expiry of the Contract.
- 3.4 If Hapi Healthcare receives a notice under clause 3.3, Hapi Healthcare may within 7 days of receipt of such notice, notify The Client in writing of Hapi Healthcare's acceptance of the offer to extend the Term of the Contract.

4 PARTIES' REPRESENTATIVES

- 4.1 The Client's Representative. The Client appoints the representative set out in the Key Terms to act with The Client's full authority in all matters relating to the Contract.
- 4.2 Contractor's Representative. Hapi Healthcare appoints the representative set out in the Key Terms to act with Hapi Healthcare's full authority in all matters relating to the Contract.
- 4.3 Change of Representatives. The Parties may change their representatives by giving 5 days' notice in writing.

5 RELATIONSHIP OF THE PARTIES

- 5.1 This Contract does not create, and must not be construed as creating, any express or implied relationship of employment, agency, partnership or joint venture between The Client and Hapi Healthcare.
- 5.2 In the performance of the Services, Hapi Healthcare agrees that Hapi Healthcare does not have the authority to enter into any contract or other arrangement binding The Client and shall not represent to anyone that Hapi Healthcare has such authority.

6 CONTRACTOR'S RESPONSIBILITIES

- 6.1 Hapi Healthcare's Obligations. Hapi Healthcare must plan and carry out the Services in accordance with the Contract and perform and observe all obligations under the Contract.



- 6.2 Hapi Healthcare's Employees. Hapi Healthcare must:
- a. employ and ensure that its employees and subcontractor's employees hold appropriate qualifications, skills and experience to perform the Services; and
 - b. ensure that its employees and subcontractor's employees comply with all regulations and statutes pertaining to the delivery of the Services.
- 6.3 Removal from the sites. The Client may direct Hapi Healthcare to remove from the sites or from any activity connected with the Services any person engaged in connection with the Services who, in The Client's opinion, is incompetent, negligent or guilty of misconduct. Hapi Healthcare should not thereafter employ such person on the sites or on activities connected with the Services without the prior written approval of The Client.
- 6.4 Resident Inconvenience. Hapi Healthcare must conduct the Services in a manner that avoids unnecessary inconvenience or disruption to the proper performance of any lawful activities occurring at the time, and avoids jeopardizing the health or physical well-being of any resident, employee or the general public. Smoking restrictions apply to all areas of The Client. These restrictions are to be observed whilst working at each site.
- 6.5 Workplace Health, Safety and The Environment. Hapi Healthcare and all agents, carriers and representatives of Hapi Healthcare must:
- a. Comply with the requirements of the Workplace Health and Safety Act, and
 - b. Observe the requirements of the related and associated Acts, Regulations, Orders and Rules including those pertaining to Dangerous Goods, Hazardous Substances, Labelling of Workplace Substances, Material Safety Data Sheets, First Aid and Manual Handling.
- 6.6 Reporting of Incidents and Inquiries. Hapi Healthcare must provide, in writing, within one working day of occurrence or request by The Client, details of any incident involving third parties. Where the request arises from a report or complaint by a third party in relation to Hapi Healthcare's delivery of the Services, Hapi Healthcare must provide the following information in writing:
- a. details of the personnel, facilities, vehicles and equipment involved.
 - b. the date and place of the incident.
 - c. the nature of any damage to property or injury to personnel; and
 - d. any action taken by Hapi Healthcare.
- 6.7 Evidence of Documentation. Prior to the commencement of the Services, Hapi Healthcare shall provide to The Client and maintain the following documentation:
- a. Relevant insurances, including Public & Products Liability, Professional Indemnity.
 - b. Current business registration certificate.
 - c. Current National Criminal History Records Check (DBS) certificates and
- 6.8 Right to Audit. During the Term of this Contract, The Client reserves the right to audit Hapi Healthcare and/or its subcontractors for evidence of documentation as declared in Schedule 2. Failure by Hapi Healthcare to provide the required documentation shall constitute a substantial breach of the Contract.

7 PERFORMANCE OF SERVICES

- 7.1 Subcontracting. Hapi Healthcare shall not, without The Client's prior written approval, which approval shall not be unreasonably withheld, subcontract or allow a Subcontractor to subcontract any part of the Services.



- 7.2 Contractor liable for Subcontractors;
- a. Hapi Healthcare shall be liable to The Client for the acts, defaults and omissions of subcontractors, employees and agents of the Subcontractor as if they were the acts, defaults and omissions of Hapi Healthcare.
 - b. Approval to subcontract shall not relieve Hapi Healthcare from any liability or obligations under this Contract.

8 PERFORMANCE MONITORING

- 8.1 Service Level Agreement (SLA). Hapi Healthcare's performance will be monitored using the Service Level Agreement (SLA) in Schedule 3. Changes to SLA cannot be made without prior discussion and agreement with The Client.
- 8.2 Hapi Healthcare must keep sufficient records of its performance as against the SLA to enable The Client to validate its performance under this Contract. Failure by Hapi Healthcare to meet the elements in the SLA shall constitute a breach of the Contract by Hapi Healthcare.

9 FORCED LABOUR OR MODERN SLAVERY

- 9.1 Hapi Healthcare warrants that:
- a. Hapi Healthcare has investigated its labour practices, and those of its Subcontractors, to ensure that there is no forced labour or modern slavery like practices used anywhere in Hapi Healthcare's business or in any of its supply chains;
 - b. Hapi Healthcare has put in place and will maintain all necessary processes to ensure that there is no slavery like practices in Hapi Healthcare's supply chains;
 - c. Hapi Healthcare will provide reports to The Client on Hapi Healthcare's supply chains and processes, as and when requested by The Client; and
 - d. Hapi Healthcare will comply with any additional obligations under The Client's Ethical Purchasing Policy and Code of Practice (as notified).
- 9.2 Hapi Healthcare must:
- a. take all necessary actions and investigations to validate the warranties made in clause 9.1;
 - b. promptly notify The Client in writing of any modern slavery or human trafficking investigation concerning Hapi Healthcare or identified in its supply chain;
 - c. at all reasonable times, allow The Client and/or The Client's nominee(s) access to all records, relating to Hapi Healthcare's obligations under this clause.

10 INSURANCE

- 10.1 Insurance Required. Hapi Healthcare must, before any of the Services are commenced, obtain and maintain the insurances set out below, for the Term of the Contract:
- 10.2 A public liability policy with a minimum insurance of £10 million which lists The Client as an interested party to cover loss, damage, injury or death out of the Services;
- 10.3 A professional indemnity policy with a minimum insurance of £5 million to cover liability for errors and design, documentation, supervision and other professional duties of the Contract and extended to include cover for all such professional duties carried out on behalf of Hapi Healthcare by subcontractors or consultants; and



- 10.4 If work under the Contract includes the use of motor vehicles, a motor vehicle policy of insurance to cover the use of such vehicle.
- 10.5 Employers Liability. In the case of employees liability insurance, Hapi Healthcare must ensure that:
- a. It is extended to indemnify The Client for its statutory liability to persons employed by Hapi Healthcare; and
 - b. Each of its subcontractors has at least equivalent insurances to that which Hapi Healthcare is required to have in place.
- 10.6 Evidence of Insurance. Upon request, Hapi Healthcare shall produce evidence to The Client of the insurances affected and obtained for the Term of the Contract. Failure by Hapi Healthcare to provide evidence of insurances when requested by The Client shall constitute a substantial breach of the Contract by Hapi Healthcare. Hapi Healthcare must bear all excess under the policies of insurance taken out by Hapi Healthcare which relates to the Services.

11 INDEMNITY

- 11.1 Hapi Healthcare shall indemnify The Client against:
- a. All costs, expenses, losses and damages suffered or incurred by The Client arising out of or in connection with a breach of the Contract by Hapi Healthcare or arising out of any negligent act, default or neglect of Hapi Healthcare in the performance of its obligations under the Contract;
 - b. Any liability to or claim by any other person who has entered into a contract with The Client to conduct work in respect of any cost, expense, loss or damage incurred by the other person:
 - I. By reason of any negligent act, default or neglect of Hapi Healthcare and performance of its obligations under the Contract;
 - II. or Arising out of, or as a consequence of, any delays by Hapi Healthcare in executing or failing to complete the Services.
 - III. Any costs and expenses (including legal costs) that may be incurred by The Client in connection with any claim referred to in paragraph (b).
 - c. This clause 12.1 will not apply to the extent that any cost, expense, loss or damage arises out of any negligent act of The Client.

12 PROHIBITION ON ADVERTISING

- 12.1 Hapi Healthcare must not, without prior written approval of The Client:
- a. Display any advertising or promotional sign or material, or any corporate identification motifs, within any of the vicinity of any of the sites;
 - b. Release any advertising or promotional material which uses photographs, illustrations of The Client, personnel, or premises which states or implies any endorsement by The Client of its goods and services; or
 - c. Take any photographs on the sites.

13 VARIATIONS

- 13.1 Variation. The Client may request a variation in writing at any time to Hapi Healthcare.
- 13.2 Notice. If Hapi Healthcare receives a variation notice under clause 14.1 or, Hapi Healthcare considers that a variation has been directed by The Client, then Hapi Healthcare must, within 5 business days of receiving a notice, give The Client representative details of:
- a. The adjustments which Hapi Healthcare considers should be made to the Contract; and
 - b. Any other matter specified by The Client representative.



- 13.3 Adjustment fee. The Client will not be liable for any adjustment to the Fee arising out of, or in connection with, a variation unless:
- a. The Client has issued a variation notice under clause 14.1; and
 - b. Hapi Healthcare has strictly complied with clause 14.2.
- 13.4 Subject to clause 14.2, the Fee will be adjusted (either upward or downward) from the date advised by The Client by an amount agreed between the Parties.

14 PAYMENT

- 14.1 Payment Due Date. The Client will pay the amount certified as payable to Hapi Healthcare within 30 days from invoice date in which Hapi Healthcare submits a correctly rendered tax invoice with a valid purchase order number to the address for service of invoices set out in the Key Terms.

15 CLAIMS AND RESOLUTION

- 15.1 Notice of Dispute. If a dispute (Dispute) between the Parties arises in connection with the subject matter of the Contract then, either Party may give the other a written notice of dispute adequately identifying and providing details of the Dispute (Notice of Dispute).
- 15.2 Mediation. If within seven days of receipt of the Notice of Dispute by a Party, the Parties cannot resolve the Dispute, the Parties shall mediate the Dispute in accordance with the Mediation and Conciliation Rules of the Institute of Arbitrators and Mediators Australia in force on the date of the referral to mediation and the President of the Institute of Arbitrators and Mediators Australia or the President's nominee will select a mediator and determine the mediation remuneration.

16 TERMINATION

- 16.1 If Hapi Healthcare does not conduct the Services to the satisfaction of The Client, or comply with any direction in accordance with this Contract, or otherwise is in breach of this Contract, The Client may give a written notice to Hapi Healthcare which states:
- a. That this is a notice under this clause 17.1;
 - b. Identifying the breach relied upon; and
 - c. That Hapi Healthcare must rectify the breach within the period set out in the notice.
- 16.2 If Hapi Healthcare does not rectify the breach within the time stated in the notice under clause 17.1, then The Client may, by notice in writing to Hapi Healthcare, without prejudice to any other right which The Client may have, terminate this Contract from the date stated in the notice.
- 16.3 The Client has the right to terminate the Contract with 30 days' notice in the event of there being an Insolvency Event in Hapi Healthcare's shareholding and/or ownership structure.
- 16.4 Without prejudice to any of The Client's other rights under this Contract, The Client may:
- 16.5 At any time for its sole convenience, by 90 days' notice to Hapi Healthcare terminate the Contract with Hapi Healthcare's written agreement.
- 16.6 If The Client terminates this Contract under any of clauses 17.2, 17.3 and 17.4, then Hapi Healthcare will be entitled to payment of the Fee to the date of termination (less any amount previously paid to Hapi Healthcare for those costs).
- 16.7 The amount which Hapi Healthcare is entitled to under clause 17.5 will be in full compensation for the termination and The Client will not be liable upon any claim in respect



of that termination other than for the amount payable under clause 17.5.

17 NOTICE

- 17.1 All notices must:
- a. Be in writing or confirmed in writing as soon as possible; and
 - b. Be sent to the relevant person at the relevant address or number specified in the Key Terms.
- 17.2 Any Notice given under the Contract is deemed received by the other party three business days after posting if posted and in any other case on receipt of the Notice by the Party to which it is given.

18 PRIVACY

- 18.1 Hapi Healthcare must:
- a. comply with all Laws relating to health and personal information,
 - b. only use or disclose personal information obtained in the course of providing the Services for the purposes of this Contract;
 - c. not take any photographs or collect any information about our residents or clients or any other person at the site without The Client's prior written consent;
 - d. not do anything that would breach Hapi's privacy policy
 - e. must immediately inform The Client when Hapi Healthcare has become or been made of any breach or possible breach of any obligation.

19 CONFIDENTIALITY

- 19.1 Hapi Healthcare must:
- a. Not disclose or provide to any person other than the person engaged in the Services, any particulars concerning the Contract, the Services, the sites, or the plant and equipment or any other confidential information within which it has been entrusted by The Client, the site manager or any consultant engaged by The Client without the prior written consent of The Client, except where disclosure is required by law or an act of any court of competent jurisdiction; and
 - b. Ensure that its Subcontractors and employees, and employees of the Subcontractors comply with this clause.
 - c. If required by The Client, ensure that all persons to whom it intends to or has disclosed information, sign an The Client confidentiality deed relating to the non-disclosure of confidential information.

20 INTELLECTUAL PROPERTY

- 20.1 Hapi Healthcare warrants any design, materials, documents and necessary work as specified in this Contract are provided by Hapi Healthcare or any Subcontractor of the Contract will not infringe any copyright or any other protected right.
- 20.2 Ownership of any design, materials and documents created in relation to this Contract (Design Documents) and Intellectual Property in the Design Documents vests in The Client. However, The Client grants to Hapi Healthcare an irrevocable non-exclusive license to use, reproduce, adopt, create, modify, correct, develop, or sub-license the Intellectual Property solely for the purposes of the Services.
- 20.3 This clause 21 survives termination of this Contract.



21 SEVERABILITY

- 21.1 Any clause of this Contract which is invalid in any jurisdiction, is invalid in that jurisdiction to that extent, without invalidating or affecting the remaining clauses of this Contract or the validity of that clause in any other jurisdiction.

22 MISCELLANEOUS

- 22.1 The construction, interpretation and performance of this Contract is governed by the laws of Great Britain and Northern Ireland.
- 22.2 A reference to legislation or to a legislative provision includes all regulations, orders, proclamations, notices other requirements under that legislation or legislative provision. It also includes any amendments, modifications or re-enactments of that legislation or legislative provision substituted for, and any statutory instrument issued under, that legislation or legislative provision.
- 22.3 A failure or delay in exercise or partial exercise of a right arising from a breach of any provision of this contract is not a waiver of that right and cannot be relied on as a waiver of that right.

23 DEFINITIONS

- 23.1 Commencement Date means the date on which the Contract starts.
- 23.2 Contract Services (also Services) means the Scope of Services in Schedule 5.
- 23.3 Fee means the price charged for the Contract Services exclusive of VAT & as provided in Schedule 4.
- 23.4 Insolvency Event means if:
- a. Hapi Healthcare informs The Client, or creditors generally, that Hapi Healthcare is insolvent or is financially unable to proceed with the Contract; and/or;
 - b. In relation to Hapi Healthcare being a corporation;
 - I. notice is given of a meeting of Creditors with a view to the corporation entering in a Deed of Company arrangement;
 - II. it enters a Deed of Company arrangement with Creditors;
 - III. controller or an administrator is appointed;
 - IV. an application is made to a court for its winding up and not stayed within 14 days;
 - V. a winding up order made in respect of it;
 - VI. it resolves by special resolution that it be wound up voluntarily (other than for a members' voluntary winding up);
 - VII. a mortgagee of any of its property take possession of that property.
- 23.5 Intellectual Property means any patent, registered design, trademark or name, copyright or other protected right.
- 23.6 Subcontractor means any party subcontracted by Hapi Healthcare to carry out any part of the Services.