

ITECHO HEALTH LIMITED

TERMS AND CONDITIONS FOR THE PROVISION OF SERVICES

INTRODUCTION

These terms and conditions together with the accompanying Work Order and any other documents referred to in, or incorporated into, these terms and conditions and/or that Work Order (collectively referred to as this **Agreement**) set out the entire terms and conditions upon which Itecho Health shall perform and provide the Services for the Customer.

IT IS AGREED THAT:

1 DEFINITIONS AND INTERPRETATION

1.1 In this Agreement the following words have the following meanings:

- (a) **Business Day** means any day which is not a Saturday, Sunday or bank or other public holiday in England.
- (b) **Charges** means the charges as detailed in the Work Order, as may subsequently be adjusted from time to time in accordance with this Agreement and in particular, in accordance with any adjustment mechanism as provided for in the Work Order.
- (c) **Confidential Information** means, subject to Clause 15.5, all information relating to a party's business products and services (including operations, plans, market opportunities, customers, know-how (including designs, processes of production and technology), trade secrets and software) and/or any personal data disclosed to the other party whether in writing, orally or by any other medium.
- (d) **Customer** means the customer as detailed in the Work Order.
- (e) **Customer Materials** means any content, information, data, images, logos, software or other materials provided by or on the behalf of the Customer for use in connection with the Services including such Customer Materials (if any) as the Customer may be required to provide as detailed in the Work Order.
- (f) **Data Protection Laws** means all applicable laws which govern the use of data relating to identified or identifiable individuals, including the Data Protection Act 2018, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and the GDPR (and any implementing laws), to the extent applicable to a party.
- (g) **Force Majeure** means in relation to either party, any circumstance beyond the reasonable control of that party (whether or not foreseeable whether as at the date of this Agreement or otherwise) including any act of God, war, riot, explosion, abnormal weather conditions, outbreak of disease or illness (whether or not declared as a pandemic, epidemic, notifiable disease), loss of utilities, fire, flood, failure or breakdown of telecommunications systems or network infrastructure, malicious network attacks, strike, lock out or industrial dispute, fuel shortages and/or governmental or regulatory authority action.

- (h) **Itecho Health** means Itecho Health Limited (Company Number 11317031) whose registered office is at Unit 26G – 26M, Springfield Mill, Bagley lane, Farsley, West Yorkshire LS28 5LY.
- (i) **Intellectual Property Rights** patents, trade marks, service marks, trade names, registered and unregistered designs, trade or business names, copyright (including rights in software), database rights, design rights, rights in Confidential Information and any other intellectual property rights whatsoever irrespective of whether such intellectual property rights have been registered or not which may subsist in any part of the world.
- (j) **Services** means the services provided by Itecho Health for the Customer as detailed in this Agreement and in particular, in the Work Order.
- (k) **Third Party Products** means the third party software or other products (if any) to be provided or made available with, as part of, or via the Services as are detailed in the Work Order.
- (l) **Work Order** means a written document referencing this Agreement which is signed on the behalf of each party detailing the Services which the parties have agreed are to be provided by Itecho Health for the Customer from time to time under and subject to this Agreement together with any other information relating to the Services in question (including the Charges and any applicable service levels).

- 1.2 In this Agreement: headings are for convenience only and shall not affect the construction or interpretation of this Agreement; references to Clauses are to the Clauses of these terms and conditions; words denoting the singular shall include the plural and vice versa; words denoting any gender shall include all genders; any reference to any law, statute, statutory provision, statutory instrument, directive, subordinate legislation, code of practice or guideline shall be construed as a reference to the same as may be amended, consolidated, modified, extended, re-enacted or replaced from time to time; and use of words such as “include”, “including” and “in particular” shall not limit the generality of any preceding or following words which are not intended to be exhaustive.

2 COMMENCEMENT AND TERM

- 2.1 This Agreement shall come into force on the date that the Work Order is executed by the last party to sign but if any Services have been provided by Itecho Health prior to that date then this Agreement shall be deemed to have retrospective effect on and from the date on which Itecho Health first commenced provision of any of the Services.
- 2.2 Subject at all times to any earlier termination in accordance with its provisions this Agreement shall continue for the term as provided for under the Work Order.

3 SERVICE STANDARDS

Itecho Health shall perform and provide the Services:

- (a) using reasonable skill, care and diligence;
- (b) in all material respects in accordance with any service description, specification, design and/or service levels as may be set out in, or incorporated into, the Work Order;

- (c) in accordance with any law, regulation, statute and/or statutory instrument applicable to the performance of the Services; and
- (d) using its reasonable endeavours to meet any deadlines or time periods for performance as specified in the Work Order or, where no specific deadline or time period is specified or has been agreed, in a timely manner.

4 CUSTOMER RESPONSIBILITIES

4.1 The Customer acknowledges that Itecho Health's ability to perform and provide the Services in accordance with this Agreement is dependent upon the performance by the Customer of any Customer obligations and responsibilities as provided for in this Agreement which the Customer shall perform:

- (a) using reasonable skill, care and diligence;
- (b) in accordance with any law, regulation, statute and/or statutory instrument applicable to the performance of those Customer obligations and responsibilities; and
- (c) using its reasonable endeavours to meet any deadlines or time periods for performance as specified in the Work Order or, where no specific deadline or time period is specified or has been agreed, in a timely manner.

4.2 In addition to any specific Customer obligations and responsibilities as provided for in this Agreement, the Customer shall provide such support, co-operation, information, data, assistance and/or access (whether physical or remote) as Itecho Health may reasonably request from time to time to assist with the performance and provision of the Services. The Customer warrants that any information or data so provided by it shall be complete and accurate.

5 ACCEPTANCE

5.1 Where the Work Order:

- (a) makes specific provision for confirming acceptance of any Services then acceptance of those Services shall be confirmed in accordance with and subject to those specific provisions; or
- (b) does not make specific provision for confirming acceptance of any Services then Itecho Health shall notify the Customer following completion of those Services and at the request of the Customer Itecho Health shall provide such information and evidence as may reasonably be required to enable the Customer (acting reasonably and in good faith) to verify that those Services have been performed in accordance with this Agreement.

5.2 The Customer acknowledges that no app, website or software can be guaranteed to be completely error or bug free. Accordingly and to the extent that any services include the development or provision by Itecho Health of any app, website or software, the Customer acknowledges that the existence of minor errors or bugs which do not result in any acceptance criteria as provided for in the Work Order being failed; and/or do not have any material adverse impact on the Customer shall not constitute a material breach of this Agreement nor grounds for refusing to accept the app, website or software in question.

6 CHANGES TO THIS AGREEMENT (INCLUDING THE SERVICES)

- 6.1 Save only as may be specifically provided for otherwise under this Agreement, no variation or amendment of this Agreement (including to the Services) shall be binding unless made in writing and:
- (a) signed by or on the behalf of each of the parties; or
 - (b) confirmed via email by each of the parties, specifically stating that such confirmation constitutes valid confirmation for the purposes of this Clause 6.1(b).
- 6.2 For the avoidance of doubt, unless and until such time as any variation to this Agreement has become validly made in accordance with this Clause 6, Itecho Health shall remain liable to perform and provide the Services in accordance with the then current version of this Agreement and the Customer shall remain liable to pay the Charges for those Services in accordance with the then current version of this Agreement.
- 6.3 Itecho Health shall be entitled at its discretion to make minor amendments or variations to the Services provided that those do not materially detract from or alter the Services or otherwise have any material adverse impact on the Customer.

7 PROJECT MANAGEMENT

- 7.1 Each party shall appoint a suitably skilled and experienced project manager who shall liaise with the other as may be reasonably necessary from time to time to support the performance and provision of the Services and such project managers shall meet (whether remotely or in person) as may be reasonably necessary from time to time (or otherwise as may be reasonably requested by one party from time to time) for such purpose.
- 7.2 Each party shall be entitled from time to time to replace the individual who is appointed by it as its project manager but shall endeavour to minimise any such changes and to ensure that any replacement project manager who may be appointed by it is suitably briefed on the status and background of the Services prior to their appointment.

8 INTELLECTUAL PROPERTY RIGHTS

- 8.1 All Intellectual Property Rights in or capable of subsisting in the Services and/or the output or product of the Services (including in any deliverables) excluding in any Customer Materials and/or Third Party Products (if applicable) shall be the sole and exclusive property of Itecho Health (unless and only to the extent otherwise provided for in the Work Order) and, subject to the payment of the Charges by the Customer to Itecho Health in accordance with this Agreement, Itecho Health hereby grants the Customer a non-exclusive, non-transferable licence to use such Intellectual Property Rights for the term of the Work Order for the purpose of utilising and receiving the benefit of the Services but not further or otherwise.
- 8.2 The Customer acknowledges that other than the limited licence granted to it under Clause 8.1 and/or under any third party licence as referred to in Clause 9.1, the Customer shall not obtain any right, title, licence or other interest in or to any Intellectual Property Rights which are the property of Itecho Health or its third party licensors (whether by virtue of this Agreement or otherwise) save only to the extent specifically provided for otherwise in the Work Order (if any).

- 8.3 Without prejudice to the foregoing provisions of this Clause 8 and the application of Clause 15 (if applicable), the Customer acknowledges that this Agreement shall not restrict Itecho Health from utilising outside of this Agreement any general know-how, methodology, knowledge or experience developed or gained as a result of the performance or provision of any Services.

9 THIRD PARTY PRODUCTS

- 9.1 Any Third Party Products are supplied or made available by Itecho Health to the Customer subject to the relevant licensor's standard licence terms for the applicable Third Party Product in question from time to time in force and it is a condition of this Agreement that the Customer complies at all times with the terms of any such licence terms.
- 9.2 For the avoidance of doubt, save only to the extent as may specifically be provided for otherwise in the Work Order, the Charges exclude any licence fees which may be payable to or imposed by any licensor of any Third Party Products from time to time with respect to the Customer's use of any Third Party Products and the Customer shall account at its own expense to any relevant licensor in full and on time for any such licence fees which may be payable or imposed from time to time.

10 CUSTOMER MATERIALS

- 10.1 The Customer hereby grants to Itecho Health a non-exclusive and non-transferable licence (but with a right to sub-licence to any applicable Itecho Health sub-contractor) to use any and all Customer Materials to the extent reasonably required to enable Itecho Health to perform and provide the Services and otherwise to comply with its obligations under this Agreement.
- 10.2 Itecho Health acknowledges that other than the limited licence granted to it under Clause 10.1, Itecho Health shall not obtain any right, title, licence or other interest in or to any Intellectual Property Rights which are the property of the Customer or its third party licensors (whether by virtue of this Agreement or otherwise).
- 10.3 The Customer shall ensure that any and all Customer Materials provided by or on its behalf from time to time: are complete, accurate and up to date; are not misleading in any way; comply with all applicable laws and regulations; are not obscene, indecent, pornographic, seditious, offensive, defamatory, threatening, liable to incite racial hatred, menacing or blasphemous; and/or are not in breach of any third party Intellectual Property Rights.

11 CHARGES

- 11.1 Unless and to the extent that any alternative payment terms are provided for under the Work Order, Charges:
- (a) shall be invoiced by Itecho Health to the Customer monthly in arrears; and
 - (b) are exclusive of expenses and the Customer shall reimburse Itecho Health at cost for any travel, accommodation and subsistence expenses which may be reasonably incurred by it in connection with the performance of the Services (subject to the provision of appropriate supporting receipts/copy recipients by Itecho Health and excluding for the avoidance of doubt the cost of any individual travelling between their home and usual place of work) which expenses shall be invoiced by Itecho Health monthly in arrears.

- 11.2 All invoices which are correctly submitted by Itecho Health under this Agreement shall be paid by the Customer in full without set off or deduction on any account within 30 days of receipt by bank transfer into a single bank account as nominated in writing from time to time by Itecho Health.
- 11.3 Without prejudice to any other rights or remedies available to it, Itecho Health shall be entitled to suspend without liability the performance of any Services in the event that payment of the Charges or any other amount owed by the Customer to Itecho Health on any account from time to time is overdue.
- 11.4 For the purposes of Clause 12.1(a), any failure by the Customer to pay in accordance with this Agreement any Charges or other amount owed by the Customer to Itecho Health under this Agreement shall constitute a material breach of this Agreement by the Customer which is capable of remedy.
- 11.5 Where the term of this Agreement exceeds 12 months then in addition to any other adjustment mechanism as may be provided for under the Work Order, the Charges shall be subject to an automatic increase on the first anniversary of the date of this Agreement and on each subsequent anniversary, on each occasion such increase being the percentage value of the most recently published value for the Retail Prices Index (All Index) preceding the anniversary in question.
- 11.6 The Charges and any other amounts which may become payable by the Customer to Itecho Health from time to time under this Agreement are stated exclusive of VAT which if applicable, shall be payable in addition by the Customer at the applicable rate in force from time to time (subject to the provision of a valid VAT invoice by Itecho Health).

12 TERMINATION

- 12.1 Without prejudice to any other rights or remedies available to it, either party may terminate this Agreement at anytime by giving written notice to the other if the other party:
- (a) commits any material breach of this Agreement and either that material breach is:
 - (i) not capable of remedy; or
 - (ii) capable of remedy, but the defaulting party fails to remedy it within 30 days of receiving a written notice from the first party containing full particulars of the material breach in question and requiring it to be remedied;
 - (b) becomes bankrupt or goes into liquidation (whether voluntary or compulsory), becomes insolvent, is dissolved, compounds with its creditors or has a receiver, administrative receiver or administrator appointed over the whole or any part of its assets or a petition is presented, or a meeting is convened for the purpose of considering a resolution, for the making of an administrative order, the winding-up, bankruptcy or dissolution of that party or the other party suffers any similar process in any jurisdiction outside of England and Wales; and/or
 - (c) ceases or threatens to cease carrying on its business, operations or activities.

- 12.2 Termination or expiry of this Agreement on whatever basis shall be without prejudice to any rights or obligations of either party which have accrued prior to the date of termination and shall not affect the continuing in or coming into force of any provision of this Agreement which, whether expressly or by implication, is to continue in or come into force following expiry or termination.

13 LIMITATION OF LIABILITY

- 13.1 Neither party seeks to limit or exclude in any way its liability for death or personal injury caused by negligence; for fraud or fraudulent misrepresentation; and/or for any other matter or liability which cannot be lawfully limited or excluded. Each provision of this Agreement shall be read as subject to this Clause 13.1 and no provision of this Agreement is intended to nor shall be interpreted as seeking to limit or exclude any of the foregoing types of liability.
- 13.2 Subject at all times to Clause 13.3, the maximum aggregate liability of Itecho Health to the Customer for all claims under or in connection with this Agreement howsoever arising (including under any indemnity) shall be limited in aggregate to the value of the Charges actually paid by the Customer to Itecho Health under this Agreement.
- 13.3 Itecho Health shall not be liable for: loss of business; loss of use; loss of profit; loss of anticipated profit; loss of contracts; loss of revenues; loss or damage to goodwill or brand; loss of anticipated savings; loss of data or use of data; product recall costs; damage to reputation; and/or consequential, special or indirect loss or damage in any case, regardless of whether or not Itecho Health was at any time (whether before or after the date of this Agreement) aware (or ought reasonably to have been aware) of the risk that such loss or damage might occur.
- 13.4 Neither party shall be liable to the other for any failure or delay in complying with its obligations under this Agreement where such delay or failure is reasonably attributable to an event of Force Majeure provided that the obligation of the Customer to pay the Charges in accordance with this Agreement shall not be affected by the occurrence of any event of Force Majeure.
- 13.5 This Agreement sets out the full extent of Itecho Health's obligations and liabilities in respect of the performance and provision of the Services and accordingly all conditions, warranties or other terms concerning the same which might otherwise be implied into this Agreement or any collateral contract (whether by statute or otherwise) are hereby expressly excluded to the fullest extent lawfully permitted.

14 DATA PROTECTION

To the extent that any Service requires either party to process personal data on behalf of the other (such expressions being as defined under the Data Protection Laws) then the parties shall execute a data processing agreement which shall form part of and be deemed incorporated into this Agreement by reference.

15 CONFIDENTIALITY

- 15.1 Each party shall maintain in confidence any Confidential Information of the other party and shall not use or disclose that Confidential Information other than as necessary to perform its obligations under this Agreement or as otherwise authorised under this Agreement.
- 15.2 Without prejudice to any specific or additional obligations set out in this Agreement, each party shall as a minimum apply the same degree of care and security to the

Confidential Information of the other party as it applies to its own Confidential Information.

- 15.3 Each party shall be entitled to disclose the Confidential Information of the other party to such of the other members of its corporate group, its employees, authorised sub-contractors, agents, representatives, professional advisors, potential purchasers, investors or funders who have a need to know the same for the purposes of the implementation and operation of this Agreement (or, in the case of potential purchasers, investors or funders for the purposes of carrying out due diligence on the business of the party in question) but not otherwise or further.
- 15.4 Each party shall be liable for the acts or omissions of any person to whom it discloses any Confidential Information of the other party (regardless of whether or not the disclosure in question was authorised under Clause 15.3) and, prior to the disclosure of any Confidential Information of the other party to any such person, the disclosing party shall first make that person aware of their duties of confidentiality in respect of the Confidential Information of the other party to be disclosed to them.
- 15.5 The provisions of this Clause 15 shall apply throughout the term of this Agreement and thereafter without limit in time but shall cease to apply in respect of any Confidential Information of a party which:
- (a) is or becomes public knowledge or enters the public domain other than as result of any breach by the other party of its obligations under this Clause 15 or a as a result of breach by any third party who owes a duty of confidence to the other party in respect of the Confidential Information in question;
 - (b) is lawfully in the possession of the other party without restriction on disclosure prior to the date of its disclosure under this Agreement;
 - (c) is independently developed by the other party without reference to any Confidential Information of the first party;
 - (d) is provided to the other party by a third party who lawfully acquired it and is under no obligation further restricting its disclosure; and/or
 - (e) the other party is required to disclose pursuant to any legal, judicial, arbitral and/or regulatory action or proceeding by any competent authority in any competent jurisdiction provided that where permitted, prior to any such disclosure that other party shall provide the first party with notice of the request to disclose its Confidential Information and shall provide the first party with the opportunity to object to that disclosure and shall provide the first party with such reasonable support and assistance as it may request to assist it making its objection.
- 15.6 Save only to the extent reasonably required to enable each party to comply with its obligations under this Agreement and/or to exercise any of its rights under this Agreement and/or to the extent permitted under Clause 15.7, neither party shall make any announcement concerning this Agreement nor otherwise publicise the existence of this Agreement without the prior written consent of the other party and then, only using such form of words as approved by that other party.
- 15.7 Itecho Health shall be permitted to include in public marketing and promotional materials a reference to the Customer being (or having been) a customer of Itecho Health and/or a general reference to the type and nature of services performed by Itecho Health for the Customer. However, Itecho Health shall not include in any such

materials specific details of the work undertaken by Itecho Health for the Customer or any Confidential Information of the Customer without the prior written consent of the Customer.

16 NOTICES

16.1 Any notice given under this Agreement must be made in writing and signed by or on behalf of the party giving it and must be served by delivering it by hand or sending it by pre-paid recorded delivery; registered post; or courier service with signature on delivery or by email with a delivery receipt requested to the party due to receive it at its address or email address as referred to in Clause 16.4 (or to such other address and/or email address as last notified in writing by that party for the service of formal notices in accordance with the requirements of this Clause 16.1).

16.2 Subject to Clause 16.3, notices correctly served in accordance with this Clause 16 shall be deemed to have been received:

- (a) if delivered by hand, at the time of actual delivery;
- (b) in the case of pre-paid recorded delivery or registered post, two Business Days after the date of posting; and/or
- (c) if sent by email, at the time of issue by the sender's IT system of a notice of successful delivery, provided that the notice sent by e-mail is also validly delivered by hand or by pre-paid recorded delivery or registered post.

PROVIDED THAT in each case the sender retains evidence of sending and produces the same on request.

16.3 If deemed receipt under Clause 16.2 occurs before 9.00 on a Business Day, the notice in question shall instead be deemed to have been received at 9.00 on that Business Day. If deemed receipt occurs after 17:00 on a Business Day or on any day which is not a Business Day, the notice in question shall instead be deemed to have been received at 9.00 on the next Business Day.

16.4 As at the date of this Agreement the authorised addresses and email address for notices for the purposes of this Clause 16 are:

Itecho Health :

Address: Unit 26G – 26M, Springfield Mill, Bagley lane, Farsley,
West Yorkshire LS28 5LY

For the attention of: Adrian Brown

Email address: adrian@itechohealth.com

Customer:

Address: The Customer's registered office address at the time of sending of the notice in question (unless another address is specified in the Work Order for the service of formal notices on the Customer).

Email address: Any email address from which the Customer has previously corresponded with Itecho Health in connection with the Work Order (unless another email address is specified in the Work Order for the service of formal notices on the Customer).

- 16.5 Whilst the parties may make operational communications concerning this Agreement and/or any Work Order via fax, formal notice may not be served via fax.

17 GENERAL

- 17.1 The parties are with respect to each other independent contractors and nothing in this Agreement and no actions taken by the parties under it shall be deemed to constitute any agency, partnership, association, joint venture or other co-operative enterprise between the parties.
- 17.2 This Agreement together with any documents referred to in or incorporated into it in accordance with its terms represents the entire agreement between the parties relating to its subject matter and supersede all previous presentations made and/or agreements, negotiations and discussions between the parties relating to the same.
- 17.3 Neither party may assign or transfer any of its rights and/or obligations under this Agreement without the prior written consent of the other (such consent not to be unreasonably withheld, delayed or conditioned).
- 17.4 Itecho Health may sub-contract (subject to the requirements for doing so under any data processing agreement as referred to in Clause 14 if applicable) the performance of any or all of its obligations under this Agreement but shall remain primarily liable to the Customer for the acts and omissions of any such sub-contractors as if those were the acts or omissions of Itecho Health itself under this Agreement.
- 17.5 If any provision of this Agreement is declared by any judicial or other competent authority to be void, voidable, illegal or otherwise unenforceable, the remaining provisions shall remain in full force and effect.
- 17.6 The failure to exercise or delay in exercising any right or remedy under this Agreement shall not be regarded as a waiver of such right or remedy, or a waiver of other rights or remedies. No single or partial exercise of any right or remedy under this Agreement shall prevent any further exercise of the right or remedy or any other right or remedy.
- 17.7 A person who is not a party to this Agreement shall have not right to enforce any term of this Agreement pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 17.8 This Agreement and any dispute or claim arising out of or in connection it or its subject matter or formation (including any non-contractual disputes or claims) shall be governed by English law and, save in respect of the enforcement of any judgment, the parties agree to submit to the exclusive jurisdiction of the English courts.