

## 1. About us

1.1 **Company details.** UK Independent Medical Services Limited (company number 04530717) (**we and us**) is a company registered in England and Wales and our registered office is at Brenner House, Rainton Bridge Business Park, Houghton le Spring, Tyne and Wear, DH4 5RA. Our VAT number is 898 4551 59. We operate the website <https://on-demand.ukim-oh.com/> .

1.2 **Contacting us.** To contact us, telephone our customer service team at 0191 512 8220 or email us at [wellbeing@ukim-oh.com](mailto:wellbeing@ukim-oh.com). How to give us formal notice of any matter under the Contract is set out in clause 17.2.

## 2. Our contract with you

2.1 **Our contract.** These terms and conditions (**Terms**) apply to the order by you and supply of Services by us to you (**Contract**). They apply to the exclusion of any other terms that you seek to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

2.2 **Entire agreement.** The Contract is the entire agreement between you and us in relation to its subject matter. You acknowledge that you have not relied on any statement, promise or representation or assurance or warranty that is not set out in the Contract.

2.3 **Language.** These Terms and the Contract are made only in the English language.

2.4 **Your copy.** You should print off a copy of these Terms or save them to your computer for future reference.

## 3. Placing an order and its acceptance

3.1 **Placing your order.** Please follow the onscreen prompts to place your order. You may only submit an order using the method set out on the site. Each order is an offer by you to buy the services specified in the order (**Services**) subject to these Terms.

3.2 **Correcting input errors.** Our order process allows you to check and amend any errors before submitting your order to us. Please check the order carefully before confirming it. You are responsible for ensuring that your order is complete and accurate.

3.3 **Acknowledging receipt of your order.** After you place your order, you will receive a confirmation notification on screen which will include a unique reference number (**URN**). Please make a note of the URN. Please note that this does not mean that your order has been accepted. Our acceptance of your order will take place as described in clause 3.4.

3.4 **Accepting your order.** Our acceptance of your order takes place when we send an email to you to accept it (**Order Confirmation**), at which point and on which date (**Commencement Date**) the

Contract between you and us will come into existence. The Contract will relate only to those Services confirmed in the Order Confirmation.

- 3.5 **If we cannot accept your order.** If we are unable to supply you with the Services for any reason, we will inform you of this by email and we will not process your order. If you have already paid for the Services, we will refund you the full amount.

#### **4. Charges**

- 4.1 In consideration of us providing the Services you must pay our charges (**Charges**) in accordance with this clause 4.

4.2 The Charges are the prices quoted on our site at the time you submit your order.

4.3 If you wish to change the scope of the Services after we accept your order, and we agree to such change, we will modify the Charges accordingly.

4.4 We take all reasonable care to ensure that the prices stated for the Services are correct at the time when the relevant information was entered into the system.

4.5 Our Charges may change from time to time, but changes will not affect any order you have already placed.

4.6 Our Charges are exclusive of VAT. Where VAT is payable in respect of some or all of the Services you must pay us such additional amounts in respect of VAT, at the applicable rate, at the same time as you pay the Charges.

#### **5. How to pay**

5.1 Payment for the Services is in advance. We will take your payment upon submission of your order.

5.2 You can pay for the Services via PayPal or by such other method as we may notify you from time to time.

#### **6. Cancelling your order**

6.1 To cancel the Contract, you must notify us by email or telephone using the contact details set out at clause 1.2. Please provide details of your order to help us to identify it. We will email you to confirm we have received your cancellation and the date on which your Contract is deemed to have been cancelled.

6.2 Where the Services do not commence or progress to completion due to:

- (a) lack of engagement with us by you or your employee;

- (b) a request from you to cancel, suspend or delay provision of the Services; or
- (c) circumstances beyond our reasonable control, no refund (full or partial) will be paid to you.

6.3 Where the Services do not commence or progress to completion as a result of any act or omission on our part, we may pay a full or partial refund to you in our sole and absolute discretion.

## 7. Our services

7.1 **Descriptions.** Any descriptions on our site are published for the sole purpose of giving an approximate idea of the services described in them. They will not form part of the Contract or have any contractual force.

7.2 **Compliance with specification.** Subject to our right to amend the specification (see clause 7.3) we will supply the Services to you in accordance with the specification for the Services appearing on our website at the date of your order in all material respects.

7.3 **Changes to specification.** We reserve the right to amend the specification of the Services if required by any applicable statutory or regulatory requirement or if the amendment will not materially affect the nature or quality of the Services.

7.4 **Skill and care.** We warrant to you that the Services will be provided using such skill and care as is to be expected from a provider experienced in the provision of occupational health services in line with (where applicable) SEQOHS standards, the COHPA Code of Conduct, HSE requirements and the NHS Green Book.

7.5 **Time for performance.** We will use all reasonable endeavours to meet any performance dates specified in the Order Confirmation, but any such dates are estimates only and failure to perform the Services by such dates will not give you the right to terminate the Contract.

7.6 **Compliance with laws.** We will obtain and maintain all registrations, licences and consents necessary to perform our obligations under the Contract. We will carry out our obligations under the Contract so as to comply with all relevant laws which are binding on us.

## 8. Your obligations

8.1 It is your responsibility to ensure that:

- (a) the terms of your order are complete and accurate;
- (b) you cooperate with us in all matters relating to the Services;

- (c) you provide us with such information and materials we may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
- (d) you 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; and (e) you comply with all applicable laws, including health and safety laws.

8.2 If our ability to perform the Services is prevented or delayed by any failure by you to fulfil any obligation listed in clause 8.1 (**Your Default**):

- (a) we will be entitled to suspend performance of the Services until you remedy Your Default, and to rely on Your Default to relieve us from the performance of the Services, in each case to the extent Your Default prevents or delays performance of the Services. In certain circumstances Your Default may entitle us to terminate the Contract under clause 15 (Termination);
- (b) we will not be responsible for any costs or losses you sustain or incur arising directly or indirectly from our failure or delay to perform the Services; and
- (c) it will be your responsibility to reimburse us on written demand for any costs or losses we sustain or incur arising directly or indirectly from Your Default.

## **9. Services in UK only**

9.1 Unfortunately, we are unable to perform the Services at addresses outside the UK.

9.2 You may place an order for the Services from an address outside the UK, but the order must be for performance of the Services to an address in the UK.

## **10. Complaints**

If a problem arises or you are dissatisfied with the Services, please contact us in accordance with clause 1.2 setting out details of your complaint so that we may investigate.

## **11. Intellectual property rights**

11.1 All intellectual property rights in or arising out of or in connection with the Services will be owned by us.

11.2 We agree to grant you a fully paid-up, worldwide, non-exclusive, royalty-free licence during the term of the Contract to copy the deliverables specified in your order (excluding materials provided you) for the purpose of receiving and using the Services and such deliverables in your business.

You may not sub-license, assign or otherwise transfer the rights granted in this clause 11.2.

11.3 You agree to grant us a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify any materials provided by you to us for the term of the Contract for the purpose of providing the Services to you.

## **12. How we may use personal information**

12.1 We will use any personal information you provide to us to:

- (a) provide the Services;
- (b) process your payment for the Services; and
- (c) inform you about similar services that we provide, but you may stop receiving these at any time by contacting us.

12.2 We will process any personal information you provide to us in accordance with our Privacy Policy – the terms of which are incorporated into this Contract.

12.3 You acknowledge and agree that, under the Access to Health Records Act 1990, your employees may refuse to consent to the release to you of any advice provided or report produced by us in the provision of the Services. Any failure to provide such advice or reports to you for this reason shall not constitute a breach of this Contract.

## **13. Limitation of liability: YOUR ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE.**

13.1 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:

- (a) death or personal injury caused by negligence;
- (b) fraud or fraudulent misrepresentation; and
- (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

13.2 Subject to clause 13.1, we will not be liable to you, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Contract for:

- (a) loss of profits;
- (b) loss of sales or business;
- (c) loss of agreements or contracts;
- (d) loss of anticipated savings;
- (e) loss of use or corruption of software, data or information;
- (f) loss of or damage to goodwill; and (g) any indirect or consequential loss.

- 13.3 Subject to clause 13.1, our total liability to you arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, will be limited to £500,000.
- 13.4 The terms implied by sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 13.5 Unless you notify us that you intend to make a claim in respect of an event within the notice period, we shall have no liability for that event. The notice period for an event shall start on the day on which you became, or ought reasonably to have become, aware of the event having occurred and shall expire 6 months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.
- 13.6 This clause 13 will survive termination of the Contract.

#### **14. Confidentiality**

- 14.1 We each undertake that we will not at any time disclose to any person any confidential information concerning one another's business, affairs, customers, clients or suppliers, except as permitted by clause 14.2.
- 14.2 We each may disclose the other's confidential information:
- (a) to such of our respective employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of exercising our respective rights or carrying out our respective obligations under the Contract. We will each ensure that such employees, officers, representatives, subcontractors or advisers comply with this clause 14; and
  - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 14.3 Each of us may only use the other's confidential information for the purpose of fulfilling our respective obligations under the Contract.

#### **15. Termination, consequences of termination and survival**

- 15.1 **Termination.** Without limiting any of our other rights, we may suspend the performance of the Services, or terminate the Contract with immediate effect by giving written notice to you if:
- (a) you commit a material breach of any term of the Contract and (if such a breach is remediable) fail to remedy that breach within 14 days of you being notified in writing to do so;
  - (b) you fail to pay any amount due under the Contract on the due date for payment;

- (c) you take any step or action in connection with you entering administration, provisional liquidation or any composition or arrangement with your creditors (other than in relation to a solvent restructuring), applying to court for or obtaining a moratorium under Part A1 of the Insolvency Act 1986, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of your assets or ceasing to carry on business;
- (d) you suspend, threaten to suspend, cease or threaten to cease to carry on all or a substantial part of your business; or
- (e) your financial position deteriorates to such an extent that in our opinion your capability to adequately fulfil your obligations under the Contract has been placed in jeopardy.

15.2 **Consequences of termination.** Termination of the Contract will not affect your or our rights and remedies that have accrued as at termination.

15.3 **Survival.** Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination will remain in full force and effect.

## 16. Events outside our control

16.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under the Contract that is caused by any act or event beyond our reasonable control (**Event Outside Our Control**).

16.2 If an Event Outside Our Control takes place that affects the performance of our obligations under the Contract:

- (a) we will contact you as soon as reasonably possible to notify you; and
- (b) our obligations under the Contract will be suspended and the time for performance of our obligations will be extended for the duration of the Event Outside Our Control. We will arrange a new date for performance of the Services with you after the Event Outside Our Control is over.

16.3 You may cancel the Contract affected by an Event Outside Our Control which has continued for more than 90 days. To cancel please contact us. If you opt to cancel we will refund the price you have paid, less the charges reasonably and actually incurred us by in performing the Services up to the date of the occurrence of the Event Outside Our Control.

## 17. Communications between us

17.1 When we refer to "in writing" in these Terms, this includes email.

17.2 Any notice or other communication given under or in connection with the Contract must be in writing and be delivered personally, sent by pre-paid first class post or other next working day delivery service, or email.

17.3 A notice or other communication is deemed to have been received:

- (a) if delivered personally, on signature of a delivery receipt or at the time the notice is left at the proper address;
- (b) if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second working day after posting; or
- (c) if sent by email, at 9.00 am the next working day after transmission.

17.4 In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an email, that such email was sent to the specified email address of the addressee.

17.5 The provisions of this clause will not apply to the service of any proceedings or other documents in any legal action.

## 18. General

### 18.1 Assignment and transfer

- (a) We may assign, sub-contract or transfer our rights and obligations under the Contract to another entity.
- (b) You may only assign or transfer your rights or your obligations under the Contract to another person if we agree in writing.

18.2 **Variation.** Any variation of the Contract only has effect if it is in writing and signed by you and us (or our respective authorised representatives).

18.3 **Waiver.** If we do not insist that you perform any of your obligations under the Contract, or if we do not enforce our rights against you, or if we delay in doing so, that will not mean that we have waived our rights against you or that you do not have to comply with those obligations. If we do waive any rights, we will only do so in writing, and that will not mean that we will automatically waive any right related to any later default by you.

18.4 **Severance.** Each paragraph of these Terms operates separately. If any court or relevant authority decides that any of them is unlawful or unenforceable, the remaining paragraphs will remain in full force and effect.

18.5 **Third party rights.** The Contract is between you and us. No other person has any rights to enforce any of its terms.

18.6 **Governing law and jurisdiction.** The Contract is governed by English law and we each irrevocably agree to submit all disputes arising out of or in connection with the Contract to the exclusive jurisdiction of the English courts.