

# UDG HEALTHCARE PLC (“UDG”) – TERMS AND CONDITIONS FOR THE PROVISION OF GOODS AND/OR SERVICES

## 1. DEFINITIONS & INTERPRETATIONS

1.1. The following words and/or expressions shall, for the purposes of these Terms and Conditions, have the following meanings:

“**Business Day**” a day (other than a Saturday, Sunday or public holiday) when banks in place the Goods and/or Services are to be delivered are open.

“**Conditions**”: these terms and conditions of purchase. “**Commencement**

**Date**”: the earlier of the date of the Contract is deemed to come into force in accordance with Condition 2.3. “**Confidential Information**”: information of any nature in whatsoever form relating to UDG or any of its businesses and UDG’s customers, competitors, shareholders, associates, prospective business(es), technical processes, computer software, IPR or finances, or compilations of two or more items of such information, whether or not each individual item is in itself confidential, which comes into the Supplier’s possession by virtue of its entering into a Contract or which UDG reasonably regards as confidential. “**Contract**”: any contract between UDG and the Supplier for the purchase of Goods and/or Services comprising either (i) a Supply Agreement, or (ii) the Conditions and any relevant P.O. and (where applicable) any RFP, and in either case, as formed in accordance with Condition 2; “**Deliverables**”: any deliverable(s) specified in the Contract. “**Delivery Address**”: the address or addresses set out in the Supply Agreement or P.O. “**Delivery Date**”: the date or dates set out in the Supply Agreement or P.O., or if no date or dates are set out, within 14 days of the Commencement Date. “**Expiry Date**”: the expiry date set out in the Supply Agreement or P.O. or RFP “**Fees**”: means the fees and charges specified in the Supply Agreement or P.O. “**Goods**”: any goods which the Supplier provides to UDG (including without limitation any of them or any part of them) under the Contract which includes any Goods as specified in the Supply Agreement or P.O. or RFP. “**Good Industry Practice**”: good standards, practices, methods and procedures conforming to a degree of skill and care, diligence, prudence and foresight, which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking under the same or similar circumstances. “**IPR**”: means patents (including patent applications), registered designs, trademarks and service marks (whether registered or otherwise), copyright, database rights, design rights and other intellectual property rights, including in other jurisdictions that grant similar rights as the foregoing, including those subsisting in inventions, drawings, performances, software, improvements, discussions, business names, goodwill and the style of presentation of goods or services, and in the applications for the protection thereof throughout the world.

“**Materials**”: means all Deliverables and records, reports, text, leaflets, sketches, notes, papers, documents, drawings, designs, transparencies, photos, graphics, logos, typographical arrangements, products, software, and all other material in whatever form, including but not limited to hard copy and electronic form. “**Policies**”: all of UDG’s policies notified from time to time, including those on health and safety, site security, anti-bribery and corruption and corporate social responsibility. “**P.O.**” UDG’s purchase order in respect of the Goods and/or Services. “**RFP**” means, where applicable, UDG’s request for a proposal provided to the Supplier in connection with the purchase of Goods and/or Services “**Services**” any service performed by the Supplier to the requirements of and at the request of UDG, (including any of them or part of them) under the Contract including any services specified in the Supply Agreement, the P.O. or any RFP. “**Specification**” means the written specification as may be set out in the Supply Agreement or the P.O. or the RFP (as applicable) or as otherwise agreed by UDG and the Supplier in writing.

“**Supplier**” means the entity and/or person named as the supplier in Contract.

“**Supplier Materials**” means all Materials developed by the Supplier or its agents, sub-contractors, consultants and employees for the purpose of the Contract whether before or after the Commencement Date but excluding any existing intellectual property owned or licensed by the Supplier prior to the Contract. “**Supply Agreement**” an express written agreement duly executed by UDG in connection with the purchase of Goods and/or Services. “**Territory**” means the territory where UDG purchases the Goods and/or Services. “**UDG**”: means UDG or the UDG Affiliate identified on the P.O. as the purchaser of the Goods and/or Services. “**UDG Affiliate**” means any of UDG’s subsidiaries or any person controlled by UDG (where “**control**” means the possession, directly or indirectly of the power to direct or cause the direction of the management and policies of any such person, whether through ownership of more than 50% of the voting and/or equity rights, by contract or otherwise) as is named on the P.O. and is part of the same group of companies (as such term is defined in s.8(3) of the Companies Act 2014) . “**UDG Materials**”: means all Materials owned created by or licenced to UDG. “**writing**” includes communications by way of electronic mail.

1.2. Any reference to “UDG” in these Conditions shall be deemed to be a reference to any UDG Affiliate as may be notified to the Supplier as the purchaser of Goods and/or Services pursuant to the Contract.

1.3. A “**person**” includes a natural person, corporate or unincorporated body (whether or not having separate legal personality); references to a party includes its successors or permitted assigns; a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted and any subordinate legislation made under such statute or statutory provision; any phrase introduced by the terms “including, include, in particular” or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

## 2. FORMATION

2.1. Unless expressly agreed otherwise in advance in writing and signed by a duly authorised representative of both parties, the Contract excludes all other terms and conditions, including any terms and conditions which the Supplier purports to apply under any acknowledgement or confirmation of order, quotation, specification, delivery note, invoice or any similar document whether or not such document is referred to in the Contract.

2.2. Any quotation for the Goods and/or Services provided by the Supplier shall be deemed to be an offer by the Supplier to sell the Goods and/or Services on the terms of the Contract. All quotations provided by the Supplier, including the price provisions, will remain open for a minimum of 60 days from the date they were provided.

2.3. Acceptance of any P.O. (which shall also be deemed conclusive evidence of the Supplier’s acceptance of these Conditions and the formation of the Contract) shall be deemed to have been given on the earliest of:

2.3.1. the actual despatch from the Supplier to UDG of any form of acceptance, order confirmation, order acknowledgement or similar (whether given in writing, electronically or verbally); or

2.3.2. the Supplier’s commencement of any form of work in connection with the fulfilment of the P.O.; or

2.3.3. despatch or delivery of the Goods or the supply of Services by the Supplier.

2.4. If there is any conflict between any terms contained within any Supply Agreement, the Conditions, the P.O. and/or any RFP, then such conflict shall be resolved in the following order of priority of precedence:

2.4.1. the Supply Agreement (where applicable);

2.4.2. the P.O;

2.4.3. the RFP;

2.4.4. the Conditions.

## 3. PROVISION OF GOODS AND/OR SERVICES

3.1. The Supplier shall provide to UDG the Goods and/or Services (i) in the quantities and at the quality specified in the Contract; (ii) in accordance with the Specification; (iii) in accordance with the description of the Goods and/or Services specified in the Contract; and (iv) all applicable statutory and regulatory requirements in connection with sale of the Goods and/or Services in the Territory. This is a condition of the Contract which allows UDG to terminate the Contract for material breach if the Supplier fails to meet it.

3.2. The Supplier shall promptly provide UDG with any information reasonably requested relating to the supply of Goods and the provision of Services under the Contract.

3.3. The Supplier shall comply with the Policies relevant to the supply of Goods and/or Services notified to it from time to time by UDG.

## 4. PAYMENT

4.1. In return for the supply of the Goods and/or Services and for the proper performance of the Contract in full, UDG shall pay the Fees on the terms of the Contract after receipt of a valid invoice from the Supplier.

4.2. All invoices must be sent to the address specified by UDG, addressed to the correct legal entity, clearly state the P.O. number and include all specified supporting documentation.

4.3. Unless otherwise stated in the Supply Agreement or P.O. or RFP (as applicable), valid and current invoices will be paid within 60 days from the invoice date, providing all required supporting documentation are included. Queried invoices will be paid 30 days from the end of the month in which there is a resolution of all relevant queries to the satisfaction of UDG (acting reasonably).

4.4. On payment by UDG of the invoice, the Supplier irrevocably and expressly waives and releases any and all liens or claims on any of the Goods charged for therein.

4.5. Value Added Tax (“**VAT**”) or any equivalent applicable sales/supply tax, where applicable, will be shown separately on all invoices.

4.6. The total invoice amount shall be deemed to include all taxes (other than VAT), levies and duties of any kind and, where applicable, all packaging, delivery and insurance.

4.7. UDG may, without limiting its other rights or remedies, set off any amount owing to it by the Supplier against any amount payable by UDG to the Supplier, whether under the Contract or otherwise.

4.8. Unless otherwise agreed in advance in writing by UDG, all Supplier expenses in connection with the provision of Services will be borne by the Supplier. To the extent that it is expressly agreed that UDG will reimburse any reasonable expenses, these must be agreed in writing with UDG in advance of such expenses being incurred.

## 5. DELIVERY

5.1. The Goods and/or Services shall be delivered or performed, without any extra charge in addition to the agreed price, to UDG, to the Delivery Address and, unless otherwise required by UDG in writing shall be delivered or performed (as the case may be) on or by the Delivery Date. The Supplier shall notify UDG promptly of any anticipated or actual late or incomplete deliveries which may or which have occurred.

5.2. Time for delivery is of the essence and failure by the Supplier to supply the Goods and/or Services to UDG by the Delivery Date shall constitute a material breach.

5.3. Unless otherwise agreed in writing, delivery of the Goods is DDP (Incoterms, 2010 ©) and the Goods are to be off-loaded by the Supplier at its own risk and as directed by UDG.

5.4. The Supplier shall ensure that:

5.4.1. Goods are marked in accordance with UDG's instructions (and any applicable laws or requirements of the carrier) and properly packaged and stored so as to reach their destination in an undamaged condition;

5.4.2. Goods deliveries shall be accompanied by a delivery note, which shows the details of the Supplier, details of the Goods, the number of packages and contents; and

5.4.3. it has and maintains in force during the term of the Contract all licences, permissions, authorisations, consents and permits required or needed to manufacture (where applicable) and supply the Goods and/or Services in accordance with the terms of the Contract.

5.4.4. The Supplier may not deliver the Goods or perform the Services by separate instalments unless specifically agreed to in writing by UDG.

5.4.5. Risk in and ownership of the Goods shall pass to UDG on delivery, with full title guarantee free from any encumbrances, save where the Goods are returned upon delivery due to defect.

## 6. CANCELLATION

6.1. UDG may cancel a Contract, or any part of it, by giving written notice to the Supplier at any time:

6.1.1. before any Goods have been delivered, or the Services have commenced, or

6.1.2. as may otherwise be expressly specified in the Contract.

## 7. INTELLECTUAL PROPERTY

7.1. UDG allows the Supplier to use any IPR in any UDG Materials provided to it by UDG solely for the purposes of performing the Contract. The Supplier shall have no other rights in respect of the IPR in any UDG Materials and nothing in these conditions shall be deemed to assign any IPR in the UDG Materials to the Supplier.

7.2. In consideration of the Fees, the Supplier assigns to UDG with full title guarantee and free from all third party rights, all its right, title and interest in and the IPR of the Supplier in any Supplier Materials.

7.3. The Supplier shall indemnify UDG for all costs, expenses, liabilities, losses, damages, claims, demands, proceedings, judgments and reasonable legal costs, which UDG incurs or suffers in respect of any claim brought against it by any third party at any stage claiming that the possession, use or resale by UDG of the Goods and/or Services infringes a third party's IPR.

## 8. WARRANTIES AND UNDERTAKINGS

8.1. The Supplier warrants, represents and undertakes to UDG that:

8.1.1. all information communicated to UDG by the Supplier in connection with the Contract and, where applicable, during any tender process relating to the Contract is true, complete and accurate in all material respects;

8.1.2. the Goods and/or Services will correspond in every respect with the Contract and any requirements for the Goods and/or Services otherwise agreed in writing;

8.1.3. the Goods will be of satisfactory quality and fit for purpose;

8.1.4. the Goods will be free from defects in design, materials and workmanship;

8.1.5. the Goods shall comply with all applicable laws and industry codes and/or regulations;

8.1.6. the Services shall be performed by appropriately qualified and trained personnel with the necessary expertise;

8.1.7. the Supplier Materials and/or the Services do not infringe the IPR of any third party and that the Supplier is not otherwise restricted from providing such Supplier Materials and/or the Services (and/or Goods where applicable); and

8.1.8. the Services shall be performed in accordance with Good Industry Practice.

8.2. The Supplier shall, in so far as is possible, pass on to UDG the benefit of any warranties or guarantees received by the Supplier from any other person or entity relating to the Goods and/or Services.

## 9. TERM

9.1. The Contract shall start on the Commencement Date and end on the Expiry Date.

9.2. Where any Contract makes no reference to an expiry date, the Contract shall terminate in accordance with Condition 10.

## 10. TERMINATION

10.1. Either party may end the Contract immediately by giving written notice to the other party if the other party commits a material breach of the Contract and, where the breach is incapable of being remedied, fails to remedy the breach within 30 days of that written notice.

10.2. Either party may end the Contract immediately by giving written notice to the other if the other ceases (or threatens to cease) to trade, goes into liquidation or bankruptcy as applicable (or has a petition for its winding up or bankruptcy presented or passes a company resolution for its winding up), goes into administration (or is subject to an administration order), has a receiver appointed over its assets, proposes an arrangement or compromise with people whom it owes money or enters into (or proposes to enter into) any insolvency related event in any jurisdiction analogous to any of the above.

10.3. Without prejudice to any other rights, UDG may terminate the Contract at any time by giving not less than 30 days' prior written notice to the Supplier.

10.4. The election by either party to terminate does not affect or limit that party's right to pursue any other legal or equitable remedies available to them.

## 11. CONSEQUENCES ON TERMINATION

11.1. Following termination of the Contract:

11.1.1. each party shall keep any accrued rights, obligations or liabilities to the extent arising prior to the end of the Contract;

11.1.2. those terms of the Contract which are expressed, or by implication are intended to continue in force on or following the end of the Contract shall do so, including those under Conditions 7, 8, 11, 12, 14, 21 and 22.

11.1.3. On the date the Contract is ended, each party shall promptly return any Confidential Information, data or property of the other party to that other party.

## 12. LIABILITY

12.1. Without prejudice to any other right or remedy available to UDG, if any Goods and/or Services are not supplied in accordance with, or the Supplier fails to comply with, any of the terms of the Contract, UDG will be entitled (but not obliged) at its discretion to avail itself of any of the following remedies whether or not any part of the Goods and/or Services have been accepted by UDG:

12.1.1. to reject the Goods (in whole or in part) and return them to the Supplier at the risk and cost of the Supplier on the basis of a full refund for the Goods so returned being paid immediately by the Supplier;

12.1.2. at UDG's option to give the Supplier the opportunity, at the Supplier's expense, either to remedy the discrepancy in respect of the Goods or to re-perform the Services (if appropriate) or supply replacement goods and carry out any other necessary work required to ensure that the terms of the Contract are fulfilled;

12.1.3. to refuse to accept any further deliveries of Goods or the performance of Services, but without any liability to UDG;

12.1.4. where Goods and/or Services (as applicable) do not comply with Condition 3.1 or Condition 8.1, the Supplier shall pay all costs associated with remedying any discrepancy or replacing the Goods or re-performing the Services including the costs of any recall of Goods (where required), the costs reasonably incurred in obtaining substitute services from third party supplier and any costs UDG is obliged to pay to its customers as a result of a failure by the Supplier in accordance with this Condition.

12.2. Neither UDG nor the Supplier excludes or limits its liability to the other:

12.2.1. for personal injury or death resulting from its negligence (or that of its employees, agents or contractors) or arising as a result of defective Goods supplied by the Supplier;

12.2.2. for breach of a third party's intellectual property rights in accordance with Condition 7.3;

12.2.3. a breach of Condition 14 or Condition 15;  
12.2.4. for fraud or fraudulent misrepresentation; or  
12.2.5. for any matter for which it is not permitted by law to exclude or limit.  
12.3. Subject to Condition 12.2, UDG's maximum aggregate liability to the Supplier whether in tort, contract or howsoever arising, shall be limited to the price payable by UDG pursuant to the Contract in the 12 month period preceding the event giving rise to the claim.  
12.4. Where Condition 12.1 applies, the Supplier shall promptly provide an explanation to UDG in writing describing the reasons why the Goods and/or Services are not supplied in accordance with any of the terms of the Contract.  
12.5. The Supplier shall indemnify UDG and shall keep UDG indemnified at all times hereafter in relation to:  
12.5.1. any claims, losses, liabilities, damages, expenses and costs (including reasonable legal expense) ("**Liability Expenses**") which result from personal injuries or property damage of UDG its employees, directors, contractors or agents, arising out of any act, omission (whether or not negligent) of the Supplier or any of its employees, agents or representatives;  
12.5.2. any Liability Expenses which otherwise occur and UDG suffers as a result of a breach or negligent performance or a failure in performance by the Supplier (or its employees, agents or contractors) of the Contract; or  
12.5.3. any and all claims made by or on behalf of or in respect of any persons employed or engaged by the Supplier, including for the avoidance of doubt all persons employed or engaged by any sub-contractor of the Supplier appointed in accordance with Condition 18, in relation to the provision of any or all of the Goods and/or Services hereunder (the "**Claimant**") and whether arising during the Contract, or on or after the termination of the Contract, and including any claim by or on behalf of any such Claimant pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006 or any equivalent applicable legislation in respect of Council Directive 2001/23/EC.

### 13. INSURANCE

13.1. The Supplier shall (at its own cost) have in place insurance cover with reputable insurers of sufficient value and of the sufficient standing to cover the Supplier's activities carried out under the Contract, including the following:  
13.1.1. Employers Liability Insurance – not less than €10,000,000 per occurrence;  
13.1.2. Public Liability Insurance – not less than €5,000,000 per occurrence and not less than €15,000,000 in the annual aggregate;  
13.1.3. Products Liability Insurance – not less than €3,500,000 per occurrence (Goods Contracts only); and  
13.1.4. Professional Indemnity Insurance – not less than €3,500,000 per occurrence (Service Contracts only).  
13.2. The Supplier shall promptly on request supply UDG with written evidence of such insurances.

### 14. CONFIDENTIALITY

14.1. The Supplier hereby undertakes and covenants with UDG that it shall not and will procure that each of its employees, servants or agents will not (save as may be required by applicable law) at any time divulge, communicate, photocopy, re-produce, use or disclose in any manner any Confidential Information and any disclosure to employees, servants or agents shall be strictly on a 'need to know' basis.

### 15. WORK ON SITE

15.1. Where the Supplier undertakes the installation of equipment or work on any of UDG's sites as part of the provision of the Goods and/or Services, the Supplier shall comply with any instructions issued to it and comply with all Policies (relevant to the site) and procedures notified to it from time to time whilst the Supplier or its personnel are on site.

### 16. INSPECTION

16.1. The Supplier shall permit UDG and its employees or agents access to any site connected with the supply of the Goods and/or Services upon reasonable prior written notice during normal business hours for the purpose of inspecting, auditing, verifying, monitoring or testing the manner and performance of the Supplier's obligations under the Contract provided that in the exercise of its right under this Condition 16, UDG shall use reasonable commercial endeavours not to disrupt the business of the Supplier.  
16.2. UDG shall be entitled upon reasonable prior written notice to Supplier during normal business hours to inspect or cause to be inspected such records, documents and other relevant information (in whatever tangible or intangible form) as UDG will reasonably require, and will be entitled to be supplied, without charge with any copies or extracts therefrom.

### 17. NOTICES

17.1. Any notices must be in writing and may be delivered only by hand, special delivery post or fax, addressed to the recipient at its registered office, or to any

other address or fax number as notified in writing to the sender by the other party. Notices shall be deemed to be served on the Business Day following receipt of the recipient of the notice.

### 18. SUBCONTRACTING & ASSIGNMENT

18.1. The Supplier may not subcontract, assign or transfer any of its rights or obligations under the Contract without the prior written consent of UDG. Where the Supplier is permitted to subcontract by UDG, the Supplier shall remain responsible and liable for the acts and omissions of its subcontractors.

18.2. UDG may subcontract, assign or transfer its rights or obligations under the Contract at any time.

### 19. FORCE MAJEURE

19.1. A party shall not be liable for failure to perform the party's obligations if such failure is as a result of an act of God (including fire, flood, earthquake, severe storm, hurricane or other natural disaster), war, invasion, act of foreign enemies, civil war or circumstances outside of the control of the relevant party. No party is entitled to terminate the Contract pursuant to Condition 10 in such circumstances save in the event that the force majeure event continues for a consecutive period of 30 days or an aggregate period of 30 days in any 12 month period.

19.2. If a party asserts force majeure as an excuse for failure to perform the party's obligation, then the non-performing party must prove that the party took steps to minimize delay or damages caused by foreseeable events, that the party substantially fulfilled all non-excused obligations, and that the other party was timely notified of the likelihood or actual occurrence of the event described in this Condition 19.

### 20. GOVERNING LAW AND JURISDICTION

The Contract shall be governed by and construed in accordance with the laws of Ireland and the parties agree to submit to the exclusive jurisdiction of the courts of Ireland. The UN Convention on contracts for the international sale of goods is hereby expressly excluded.

### 21. GENERAL

21.1. If any part of the Contract is found by any court or authority to be illegal, invalid or unenforceable then that part will be removed from the Contract to the extent required, but the other parts of the Contract will remain in full force and effect. If, at any time, either party fails to exercise any right or remedy in connection with any part of the Contract, this will not operate as a waiver of that right or remedy.

21.2. The Contract contains all the terms and conditions, which UDG and the Supplier have agreed, in relation to the Goods and/or Services and supersedes any previous written or oral agreements or representations between the parties relating to the provision of the Goods and/or Services. The Supplier acknowledges that it has not relied upon any warranty, representation, statement or understanding made by UDG which is not set out in the Contract.

21.3. Unless otherwise agreed in writing with UDG, the Contract shall not imply any commitment by UDG to contract with the Supplier exclusively or on an ongoing basis. Any changes to these Conditions must be agreed by UDG in writing.

21.4. In performing its obligations under the Contract, the Supplier shall ensure that neither its officers, employees or agents shall offer, promise or give a financial or other benefit to any UDG employee, representative, agent or other entity acting on behalf of UDG with the intention of inducing that person to improperly perform any activity connected with the Supplier's or UDG's business, or to reward that person for the improper performance of any activity connected with the Supplier's or UDG's business.

21.5. Nothing in the Contract is intended or shall be deemed to constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose.