

This user agreement ("**Agreement**") is a legally binding agreement between you, a Direct Medical Expert ("**DME**") and MedCo Registration Solutions (Company Number 09295557) whose registered office is at Linford Wood House, 6-12 Capital Drive, Linford Wood, Milton Keynes, MK14 6XT ("**Medco**").

The Agreement sets out the basis on which the DME access to contribute certain data to the MedCo Database (as defined below) from time to time, is accepted by MedCo. It also sets the contractual framework within which MedCo can deliver against the Government's policy objectives. The contribution of data is for the purposes specified in this Agreement and strictly on the terms and conditions of this Agreement.

The Agreement also sets out how MedCo will arrange for the provision of Accreditation (defined below). The Agreement sets out the terms on which MedCo agrees to list the DME on its Database as an accredited DME, once it has completed the accreditation course.

BY CLICKING ON THE "ACCEPT" BUTTON BELOW YOU AGREE TO THE TERMS OF THIS AGREEMENT WHICH WILL BIND YOU AND YOUR PERSONNEL. THIS WILL ONLY BE BINDING ON MEDCO IN CERTAIN CIRCUMSTANCES SEE RECITAL (D) AND CLAUSE 2.1 BELOW

## RECITALS

- (A) MedCo operates the Database (as defined below) containing certain details of medical expert and medical examination information. That Database will be populated with data supplied by the DME and other organisations and individuals approved by MedCo to contribute data for the Permitted Purpose (as defined below) and will be available to access (at varying levels) by certain authorised parties. MedCo operates in accordance with policy decisions made by the Government and will from time to time issue Rules to ensure that the policy decisions are met.
- (B) MedCo and the DME have agreed that the DME will contribute certain data to the Database, for specified purposes and strictly on the terms and conditions of this Agreement.
- (C) MedCo will arrange for the provision of Accreditation. The DME will provide medical legal reports of a quality expected of an accredited medical expert and MedCo will monitor the quality standards.
- (D) Board authority will be required by any DME seeking to enter into this agreement where either any previous agreement between the parties was terminated or where the DME had their access to the MedCo Database suspended and that suspension was in place when the previous agreement came to an end.

## OPERATIVE PROVISIONS

### 1. INTERPRETATION

- 1.1 In this Agreement the following expressions shall, unless the context otherwise requires, have the following meanings:

<b>"Accreditation"</b>	Means the status granted by MedCo once the DME has completed the training required by MedCo to be awarded that status and which can only be maintained by completing further training as and when required by MedCo;
<b>"Alternative Business Structure"</b>	as defined in the Legal Services Act 2007;

<b>"Anonymised"</b>	Means anonymised in line with the ICO code of practice available at <a href="https://ico.org.uk/media/for-organisations/documents/1061/anonymisation-code.pdf">https://ico.org.uk/media/for-organisations/documents/1061/anonymisation-code.pdf</a> . as updated or amended from time to time;
<b>"Applicable Law"</b>	means all applicable statutory rules, regulations, instruments and provisions in force from time to time including the rules, codes of practice, practice requirements and accreditation terms stipulated by any Regulatory Body to which each Party is subject from time to time including but not limited to those set out in Schedule 3 of this Agreement;
<b>"Authorised User"</b>	all individuals and organisations authorised by MedCo from time to time to access and use the Database and obtain and use the Database Data;
<b>"Business Hours"</b>	the period from 9.00 am to 5.00 pm on any Working Day;
<b>"Case Data"</b>	the data items added to the Database by the DME after completing a medico-legal report as more particularly detailed in the MedCo Data Validation Rules;
<b>"Change of Control"</b>	a controlling interest in the DME, or in an entity which directly or indirectly has a controlling interest in the DME, is transferred to any party. As used in this clause 1.1, "controlling interest" means, with respect to any form of entity, sufficient power to control the decisions of such entity;
<b>"Charges"</b>	means the definition in clause 8.1;
<b>"the Commencement Date"</b>	the date upon which the DME clicked on the "Accept" button in relation to this Agreement;
<b>"Confidential Information"</b>	means information in whatever form (including, without limitation, in written, oral, visual or electronic form or on any magnetic or optical disk or other memory device and wherever located) relating to the business, clients, customers, products, affairs and finances of either party or any member of its Group for the time being confidential to that party or any of that party's Group and trade secrets including, without limitation, technical data and know-how relating to the business of that party or any of its or its suppliers, clients, customers, agents, distributors, shareholders or management. Confidential information does not include Database Data supplied by the DME in connection with this Agreement;
<b>"Contributors"</b>	the organisations and individuals approved by MedCo to contribute and have access to and use of the Database and Database Data;
<b>"Correct Level of Access"</b>	the appropriate level of access as more particularly detailed in Schedule 1;
<b>"Data Quality Standards"</b>	the required standards for Database Data as stipulated by MedCo from time to time;

<b>"the Database"</b>	the database of Database Data developed and operated by, or on behalf of MedCo from time to time;
<b>"Database Data"</b>	the Expert Data, Case Data, data provided by the Contributors and other data as determined by MedCo from time to time;
<b>"Data Protection Legislation"</b>	<p>means all applicable data protection and privacy legislation, regulations and guidance including:</p> <p>(i) prior to 25 May 2018, the Data Protection Act 1998 and the Privacy and Electronic Communications (EC Directive) Regulations 2003 (each as amended, updated or re-enacted from time to time) and any guidance or codes of practice issued by the Information Commissioner from time to time (all as amended, updated or re-enacted from time to time); and</p> <p>(ii) from 25 May 2018 onwards, Regulation (EU) 2016/679 (the "General Data Protection Regulation" or the "GDPR") and Data Protection Act 2018 (or, in the event that the UK leaves the European Union, all legislation enacted in the UK in respect of the protection of personal data) and the Privacy and Electronic Communications (EC Directive) Regulations 2003 and any applicable guidance or codes of practice issued by any Data Protection Regulator from time to time (all as amended, updated or re-enacted from time to time)</p>
<b>"Data Protection Regulator"</b>	means the Information Commissioner's Office, the Article 29 Working Party and from 25 May 2018 the European Data Protection Board and in each case any successor body from time to time any successor body to either regulator from time to time and any other regulator or supervisory authority with jurisdiction over either party;
<b>"Data Subject(s)"</b>	shall have the meaning set out in the Data Protection Legislation;
<b>"Direct Expert"</b>	a medical expert in relation to soft tissue injuries who will accept instructions to complete a relevant medico-legal report in relation to such injuries directly from an Authorised User and where applicable obtain instructions from a MRO to complete a medico-legal report;
<b>"Direct Financial Link"</b>	<p>means a relationship between the DME and another party which the Government has determined constitutes a direct financial link (or as amended from time to time and set out at <a href="http://www.medco.org.uk">www.medco.org.uk</a>, covering a relationship between the DME and;</p> <p>(a) any Law Firm, Insurer or personal injury claims management company with which DME has a contract of service or by which DME is employed to provide medico-legal reports in soft tissue injury claims within the meaning of paragraph 1.1(16A) of the Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents;</p>
<b>"Ethics Policy"</b>	the MedCo Ethics Policy as attached at Schedule 2 of this Agreement as amended from time to time by MedCo;

<b>"Expert Data"</b>	the pertinent details of the DME as more particularly defined in the MedCo Data Validation Rules Document;
<b>"Group"</b>	any subsidiary or holding company (as defined in section 1159 of the Companies Act 2006) of MedCo from time to time;
<b>"Insurer"</b>	means any insurance company, Lloyd's syndicate or compensator authorised to underwrite motor insurance and <b>"Insurers"</b> shall be construed accordingly;
<b>"Law Firm"</b>	an Organisation which is entitled to carry on a "reserved legal activity" in accordance with the Legal Services Act 2007 (including an organisation practising under an Alternative Business Structure (ABS) licence);
<b>"Mandatory Fields"</b>	the mandatory fields relating to Expert Data and Case Data as set out in the MedCo Data Validation Rules set out at <a href="http://www.medco.org.uk">www.medco.org.uk</a> (as amended by MedCo from time to time);
<b>"MedCo Charging Policy"</b>	the charges for the provision of the Services set out at <a href="http://www.medco.org.uk">www.medco.org.uk</a> (as amended by MedCo from time to time);
<b>"MedCo Database"</b>	the MedCo branded online application, including or other applications or software (as modified by MedCo from time to time), which shall provide DMEs with web based browser access to contribute Database Data in accordance with the terms and conditions of this Agreement;
<b>"MedCo Data Validation Rules"</b>	the document containing the requirements for the supply of Rules set out at <a href="http://www.medco.org.uk">www.medco.org.uk</a> (as amended by MedCo from time to time);
<b>MedCo Rules</b>	Rules made by the MedCo Board from time to time and notified to the DME on reasonable notice in accordance with their powers as defined by the MedCo Articles of Association;
<b>"MRO "</b>	a Medical Reporting Organisation that meets the definition of an MRO and the other minimum qualifying criteria as outlined in the "Qualifying Criteria for Medical Reporting Organisations" document published by the Ministry of Justice ("MoJ") on <a href="http://www.medco.org.uk">www.medco.org.uk</a> (or as otherwise stipulated by MoJ from time to time);
<b>"Non-Direct Expert"</b>	a medical expert in relation to soft tissue injuries who will accept instructions to complete a relevant medico-legal report in relation to such injuries directly from a MRO only;
<b>"Organisation"</b>	will include a partnership, an LLP, a company, group of companies, unincorporated organisation and an individual/sole proprietor;
<b>"Peer Review"</b>	means a peer review assessment, by a panel of experts appointed by MedCo, of DME's medico-legal reports and as further specified in clause 11.
<b>"Permitted Purpose"</b>	(a) to contribute Expert Data for inclusion in the Database to be searched upon and used by MedCo,

	Authorised Users and other individuals and organisations authorised by MedCo from time to time;
	(b) to contribute Case Data for inclusion in the Database to be searched upon and used by MedCo and other individuals and organisations authorised by MedCo from time to time for the purpose of data analysis and measuring the effectiveness of DMEs and the Service;
<b>"Personal Data"</b>	(c) for any other purpose notified to the DME in writing by MedCo from time to time;
	shall have the meaning set out in the Data Protection Legislation
<b>"Personnel"</b>	all persons employed by or on behalf of MedCo or the DME (as appropriate) to perform its obligations under this Agreement together with MedCo's or the DME's (as appropriate) servants, representatives, agents, and suppliers and approved sub-contractors used in the performance of its obligations under this Agreement (including without limitation the Authorised Users);
<b>"Privacy Policy"</b>	shall mean the notice containing the information required to be provided to a Data Subject by the Data Protection Legislation;
<b>"Processing"</b>	shall have the meaning set out in the Data Protection Legislation;
<b>"Qualifying Criteria"</b>	the criteria set by the Ministry of Justice (as amended from time to time) to be met by all MRO's, with additional criteria specified as required to be met by High Volume National MROs.
<b>"Reaffirm"</b>	the DME confirming, at least annually, that the obligations and warranties under this Agreement are met when requested to do so by MedCo in the format required by MedCo
<b>"Register"</b>	means completing the online form, as directed to do so by MedCo and accepting the terms of this Agreement
<b>"Regulatory Body"</b>	means any competent governmental, statutory, regulatory or enforcement authority or regulator concerned with the activities carried on by any party or any part, division or element thereof in respect of the activities carried out pursuant to this Agreement including the General Medical Council, Health and Care Professions Council, the Information Commissioner and HM Revenue and Customs and their relevant successors (for the avoidance of doubt, this does not include any regulator whose authority arises pursuant to any voluntary code of conduct);
<b>"Sensitive Personal Data"</b>	shall from 25 May 2018 mean Special Category Data and shall have the meaning set out in the Data Protection Legislation;

<b>"Shared Personal Data"</b>	the Personal Data contributed and/or uploaded to the Database by DME for the Permitted Purposes;
<b>"the Services"</b>	the service provided by or on behalf of MedCo of granting access to the DME to the Database in accordance with this Agreement including but not limited to randomly offering the DME following a search by Authorised Users;
<b>"TTS Targets"</b>	the required Time to Supply Targets as stipulated by MedCo from time to time;
<b>"User"</b>	any individual authorised by the DME to access the Database on its behalf;
<b>"Working Day"</b>	any day save for Saturday, Sunday and public holidays in England and Wales.

1.2 In this Agreement:–

- (a) any reference to a statutory provision includes a reference to any modification or re-enactment of it from time to time;
- (b) references to clauses and to Schedules are to clauses of and the Schedules to this Agreement;
- (c) reference to any gender includes any other gender and the singular includes the plural and vice versa;
- (d) the headings are for ease of reference only and shall not affect the construction of this Agreement;
- (e) references to the parties are (unless otherwise stated) to the parties to this Agreement; and
- (f) the words 'include', 'includes', 'including' and 'included' will be construed without limitation unless inconsistent with the context.

1.3 The Schedules form part of this Agreement and will have the same force and effect as if expressly set out in the body of this Agreement.

**2. Commencement and Duration**

2.1 This Agreement shall commence on the Commencement Date and shall continue until terminated by either party in accordance with Clause 15 of this Agreement save in the circumstances set out in (a) and (b) below.

- (a) If the Agreement is or any previous agreement between the Parties has been terminated at any point by MedCo, MedCo will not be bound by this Agreement unless the MedCo Board has previously confirmed in writing that the DME may Register; or
- (b) If MedCo has suspended the DME's access to the Database under any previous Agreement and the suspension remained in place when the Agreement came to an end, MedCo will not be bound by this Agreement unless the MedCo Board has previously confirmed in writing that the DME may Register.

### **3. Obligations**

#### **3.1 MedCo's obligations**

3.1.1 From the Commencement Date until termination of this Agreement MedCo shall use its reasonable endeavours to:

- (a) allow the DME access to contribute Database Data to the Database; and
- (b) make the Database available to the DME in accordance with the terms of this Agreement.
- (c) Either provide or arrange for the provision of training modules which must be undertaken by DME to achieve and maintain Accreditation.

#### **3.2 The DME's obligations**

3.2.1 From the Commencement Date until termination of this Agreement, the DME shall:

- (a) provide the Database Data in accordance with MedCo Data Validation Rules and upload case data in accordance with those MedCo Data Validation Rules and the terms of this Agreement within 6 months of the date of selection by an Authorised User and to provide copies of appropriately Anonymised medical reports if requested by MedCo;
- (b) use its best endeavours to ensure that all Expert Data and Case Data is accurate, complete and supplied in a timely manner in accordance with TTS Targets and Data Quality Standards;
- (c) following notification from MedCo that Database Data is inaccurate, together with any necessary documentary evidence reasonably required by the DME, use all reasonable endeavours to ensure that the record is amended to show an accurate reflection of the event within 48 hours;
- (d) pay the Charges in accordance with Clause 8;
- (e) act in accordance with the MedCo Rules and the Ethics Policy;
- (f) comply with any requirement for Peer Review and following which, undertake any additional training or other steps as required by MedCo;
- (g) comply with any service level agreements published by MedCo from time to time; and
- (h) act with reasonable skill and care in performing its obligations under this Agreement and in compliance with all Applicable Law.

### **4. Access to and Use of Database Data**

4.1 Subject to the DME fully complying with its obligations pursuant to this Agreement, MedCo grants to the DME a non-exclusive licence to access the Database for the Permitted Purpose during the term of this Agreement.

4.2 The Database is provided to the DME on an "as is" basis. MedCo makes no warranties as to the accuracy of the Database or its fitness for the purposes envisaged by this Agreement.

- 4.3 The DME warrants and undertakes to MedCo that the DME:
- (a) will not attempt to access or use the Database for any purposes other than the Permitted Purpose;
  - (b) will use the Database in accordance with the terms of this Agreement only;
  - (c) will not permit any third party to obtain access to the Database without the prior written consent of MedCo and will notify MedCo of any circumstances the DME is aware of relating to any use of the Database Data or the Database by the DME or any other party other than for the Permitted Purpose (including marketing purposes);
  - (d) will not use for purposes other than the Permitted Purpose any part of any infrastructure, network or communication devices or links relating to the Database;
- 4.4 For the avoidance of doubt, MedCo reserves the right to amend the level of access initially given in accordance with the Correct Level of Access guidelines by giving not less than 30 days' notice in writing to the DME.
- 4.5 MedCo shall be entitled to create or collect any data or information about the DME's use of the Database ("Usage Data") for the purpose of regulatory compliance requirements or by operation of law or as otherwise stipulated by MedCo from time to time.
- 4.6 MedCo shall be entitled to disclose any Usage Data, Expert Data or Case Data:
- (a) to any relevant Regulatory Body; or
  - (b) to a third party for the purposes of the prevention of fraud including but not limited to Insurance Fraud Bureau and Claims Portal Limited; or
  - (c) to any other party, for any other purpose as permitted by Applicable Law.
- 4.7 In the event that the DME contributes Expert Data to the MedCo Database, MedCo shall not contact the relevant individuals contained within the Expert Data (unless such individuals were known to MedCo prior to, or independently of, the DME's disclosure of such details pursuant to this Agreement) or provide to any third party a DME's complete list of Expert Data without the prior permission of the DME unless MedCo is required to disclose such details by law, by any governmental or other regulatory authority, or by a court or other authority of competent jurisdiction.
- 4.8 The DME shall keep its own records of information submitted and received by parties via the MedCo Database and shall not rely on the MedCo Database for any data storage purposes or use or rely on it as a case management system.
- 4.9 MedCo reserves the right to issue reports from time to time to the DME setting out the DME's compliance with the MedCo Data Validation Rules Document.

## **5. Warranties**

- 5.1 The DME warrants and undertakes to MedCo that:
- (a) having attained Accreditation the DME will provide medical reports of the appropriate quality as determined by MedCo and will comply with the Accreditation process as required by MedCo from time to time.

- (b) prior to the Commencement Date the DME has notified and during the term of the Agreement, will notify MedCo in writing of any third party to which it has or will have a Direct Financial Link (together with all details reasonably requested by MedCo relating thereto) and will under no circumstances accept an instruction to complete a medico-legal report from an Authorised User or other relevant organisation (as reasonably stipulated by MedCo from time to time) to which the DME has a Direct Financial Link.
- (c) the DME has not declared any Direct Financial Link unless it is in accordance with the definition provided within the terms of this Agreement as amended from time to time.
- (d) the DME will Reaffirm the Agreement and declare his/her position with regards to financial links on an annual basis when requested to do so, by MedCo in the format required by MedCo.
- (e) the DME has the right and authority to enter into this Agreement and to perform the actions and undertake the obligations contemplated hereunder. Without prejudice to the foregoing the DME represents and warrants that, subject to the terms of this Agreement, at all times during the term of this Agreement the DME has the right and authority to grant the licence to MedCo to use Expert Data and Case Data in accordance with the terms of this Agreement and to provide the Expert Data and Case Data for the purposes contemplated by this Agreement free from all liens, claims, encumbrances and other restrictions;
- (f) the use of the Expert Data and Case Data by MedCo and any other users of the Database (including without limitation the Authorised Users) will not infringe the intellectual property rights of a third party;
- (g) the transfer to MedCo of any Expert Data or Case Data for the purposes envisaged by this Agreement is in accordance with Data Protection Legislation
- (h) the contact details provided to Medco for the DME are kept up to date;
- (i) any Personal Data the DME has collected and provided to MedCo under this Agreement ("Shared Personal Data") shall have been obtained and transferred to MedCo in accordance with Data Protection Legislation and shall be accurate and up to date;
- (j) prior to the transfer to MedCo in relation to the Shared Personal Data, the DME has provided the Data Subjects of the Shared Personal Data with a Privacy Policy on the DMEs own behalf and on behalf of MedCo. MedCo's Privacy Policy can be found at [www.medco.org.uk](http://www.medco.org.uk)

5.2 The DME warrants and undertakes to MedCo that:

- (a) the DME will keep its Expert Data current and up to date (including but not limited to its active or inactive status);
- (b) the DME will maintain its qualification with the General Medical Council (GMC), Health and Care Professions Council or other governing body throughout the term of this Agreement;

## **6. Data**

- 6.1 MedCo shall be entitled to disclose any data about DME and any Database Data:
- (a) to any relevant Regulatory Body; or
  - (b) to a third party for the purposes of the prevention of fraud including but not limited to Insurance Fraud Bureau and Claims Portal Limited; or
  - (c) to any other party, for any other purpose as permitted by Applicable Law.

## **7. Intellectual Property**

- 7.1 The parties hereby acknowledge that the intellectual property rights in the Database Data as a whole shall be the property of MedCo and MedCo shall have the right to grant licences to the Authorised Users and other third parties from time to time, to use and access the Expert Data and Case Data inputted onto the Database by the DME.
- 7.2 With effect from the Commencement Date the DME grants to MedCo and its Group (and any of their Personnel), and the Authorised Users a royalty-free, worldwide, non-exclusive, non-transferable, irrevocable licence to use any and all intellectual property rights in the Expert Data and Case Data for the purposes envisaged by this Agreement (including but not limited to incorporation of such Expert Data and Case Data into the Database).
- 7.3 The DME agrees that (save for the Expert Data or Case Data) it will not have any interest or right of ownership whatsoever (including any intellectual property right) in the Database or the Database Data;
- 7.4 MedCo hereby reserves the right to grant a sub-licence in respect of Expert Data and Case Data to any other person (including but not limited to for the purpose of their establishing or administering the Database).
- 7.5 Nothing in this Agreement grants the DME the right to use the MedCo logo without prior authorisation which is at the entire discretion of the MedCo Board.

## **8. Charges**

- 8.1 The DME shall pay to MedCo the sums stipulated by MedCo in the MedCo Charging Policy (the "Charges")
- 8.2 The parties agree that MedCo may review and amend the Charges set out in the MedCo Charging Policy by giving not less than 30 days' notice to the DME.
- 8.3 The DME shall pay each relevant invoice (which shall include VAT and all other applicable taxes and duties (where appropriate)), submitted to it by MedCo in full and in cleared funds, within 30 days of receipt to a bank account nominated in writing by MedCo.
- 8.4 In the event that Charges are payable by the DME, without prejudice to any other right or remedy that it may have, if the DME fails to pay MedCo on the due date any undisputed sum, MedCo may:
- (a) charge interest on such sum from the due date for payment at the annual rate of 3% above the base rate from time to time of Bank of England accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment; and
  - (b) suspend the Service until payment has been made in full.

- 8.5 Each party may, without limiting any other rights or remedies it may have, set off any amounts owed to it by the other party under this Agreement against any amounts payable by it to that party.
- 8.6 All amounts payable by the DME under this Agreement are exclusive of amounts in respect of value added tax chargeable for the time being ("VAT"). Where any taxable supply for VAT purposes is made under this Agreement by MedCo to the DME, the DME shall pay to MedCo such additional amounts in respect of VAT as are chargeable on the supply of the Service at the same time as payment is due for the supply of the Service.
- 8.7 The DME confirms that all Charges paid to MedCo are non-refundable.

## **9. Audits**

- 9.1 During the term of this Agreement and for a period of two years after the termination or expiry of this Agreement MedCo (or its Personnel) may conduct an audit of the DME's compliance with this Agreement. Such audit may include (but shall not be limited to) reviewing the DME's:

- (a) access to and use of the Database Data;
- (b) compliance with this Agreement
- (c) compliance with any MedCo Rules;
- (d) integrity, confidentiality and security of any data relating to MedCo and Data Subjects;
- (e) compliance with Applicable Law.

The Audit Guide, as revised from time to time, sets out a summary of the audit process which can be found at [www.medco.org.uk](http://www.medco.org.uk).

- 9.2 Except where

- (a) an audit is imposed on MedCo by a Regulatory Body;
- (b) the DME is deemed to have failed a prior audit; or
- (c) MedCo reasonably suspects or is aware of a breach of the terms of this Agreement,

MedCo (or its Personnel) may not conduct an Audit on more than one occasion in any calendar year.

- 9.3 MedCo shall use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the DME or its relevant Personnel.

- 9.4 Subject to MedCo's obligations of confidentiality, the DME and their Personnel shall on demand provide, to MedCo, its Personnel and any relevant Regulatory Body (or their agents or representatives) with all reasonable co-operation and assistance in relation to each audit, including:

- (a) all information reasonably requested by the above persons within the permitted scope of the audit;
- (b) reasonable access to any sites controlled by the DME or the DME's Personnel (as appropriate) and to any equipment used (whether exclusively or non-exclusively) in relation to this Agreement; and

- (c) access to the relevant DME Personnel.

- 9.5 MedCo shall, where possible, provide at least 30 days' notice of its (or a regulatory body's) intention to conduct an audit
- 9.6 The DME shall pay such fee as stipulated in the MedCo Charging Policy for an audit under this Clause.

## **10. Liability and Indemnities**

- 10.1 The DME shall indemnify MedCo against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by MedCo arising out of or in connection with:
  - (a) any breach by the DME of the warranties contained in clause 4.3 and clause 5;
  - (b) any claim made against MedCo for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the use by MedCo or Authorised Users of the Case Data and Expert Data;
- 10.2 Notwithstanding that MedCo shall use its reasonable endeavours to procure that the Database Data is accurate, the DME acknowledges that the Database Data has been supplied by third parties (which may include the DME or its Personnel), and that MedCo has no control whatsoever over the accuracy, completeness or usefulness (for a specified purpose or otherwise) of that data and MedCo does not make or include any representations, warranties or guarantees relating to and including but not limited to the accuracy, completeness or suitability of the Database Data and MedCo hereby excludes to the fullest extent permitted by law all representations, undertakings, terms, warranties, conditions and guarantees (whether express or implied) relating to the Database Data in that regard.
- 10.3 The maximum aggregate liability of MedCo under or in connection with this Agreement in respect of all claims by the DME against MedCo giving rise to the liability of MedCo whether for breach of contract, negligence or other tort or breach of statutory duty or otherwise shall not exceed 100% of Charges paid by the DME to MedCo during the preceding 12 month period pursuant to this Agreement.
- 10.4 With the exception of liability under an indemnity, which shall be unlimited, neither party shall be liable to the other party under this Agreement for any loss of profit or for any indirect special or consequential loss or damage of any kind (including without limitation, any loss or damage to profit, revenue, contracts, anticipated savings, goodwill or business opportunities whether direct or indirect) howsoever arising and whether caused by negligence, breach of contract or otherwise.
- 10.5 Nothing in this Agreement shall limit the liability of any party for death or personal injury caused by the negligence of that party, its servants or agents; fraud or fraudulent misrepresentation; any matter of which liability cannot be excluded by law; or any claim for payment under an indemnity contained in this Agreement.
- 10.6 Unless expressly stated to the contrary, each party shall ensure that its Personnel comply with the terms and conditions set out in this Agreement (as appropriate). Each party shall be liable for the actions or omissions of its Personnel (including without limitation the Users) as if they were actions or omissions of the relevant party. Notwithstanding the foregoing, for the avoidance of doubt, MedCo shall not be liable for actions or omissions of Users.

## **11. Quality Assessment and Peer Review**

- 11.1 During the term of this Agreement MedCo may:

- (a) keep the quality of the DME's reports under review, such review will include issues of conduct, via assessment ("Quality Assessment") of the Case Data provided by the DME and where appropriate by considering Anonymised copies of medical reports; or
  - (b) conduct Peer Reviews in order to establish and ensure that the quality of the medical reports produced is of the highest standard.
- 11.2 Peer Review and Quality Assessment will be arranged through the expert audit and peer review (EAPR) sub-committee and DME will, where appropriate and practicable as decided at MedCo's discretion, be provided with 14 days' notice of such review. A Quality Assessment or Peer Review may result in DME being required to complete further training or other steps as assessed and advised by the MedCo EAPR committee.
- 11.3 Should, following Quality Assessment or Peer Review, MedCo conclude that the DME's reports are not of an appropriate quality, such that DME should no longer be Accredited then that will constitute a material breach of the DME's obligations under this Agreement and the Accreditation status will be withdrawn and the Agreement will be terminated forthwith in accordance with the termination procedure set out in clause 15 this Agreement.

## **12 Escalation Procedure**

- 12.1 If a dispute arises out of or in connection with this Agreement or the performance, validity or enforceability of it (a "Dispute") then except as expressly provided in this Agreement, the parties shall follow the procedure set out in this clause:
- 12.2 Either party shall give to the other written notice of the Dispute, setting out its nature and full particulars ("Dispute Notice"), together with relevant supporting documents. On service of the Dispute Notice, a member of MedCo's Personnel or representative of the relevant MedCo committee (as specified by MedCo) ("MedCo Representative") and a member of the DME's Personnel (DME Representative) who is of an equivalent position (in the DME's reasonable opinion) shall attempt in good faith to resolve the Dispute;
- 12.3 If the MedCo Representative and DME Representative are for any reason unable to resolve the Dispute within 30 days of service of the Dispute Notice, the Dispute shall be referred to a more senior member of MedCo's Personnel or representative of the relevant committee (as specified by MedCo) ("Medco Senior Representative") and Company Director or member of the DME's Personnel (DME Senior Representative) who is of an equivalent position (in the DME's reasonable opinion) who shall attempt in good faith to resolve it; and
- 12.4 If the MedCo Senior Representative and the DME's Senior Representative are for any reason unable to resolve the Dispute within 30 days of it being referred to them and where both parties agree, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR Solve. To initiate the mediation, a party must serve notice in writing ("ADR notice") to the other party to the Dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR Solve. The mediation will start not later than 30 days after the date of the ADR notice unless otherwise agreed in writing between the parties.
- 12.5 No party may commence any court proceedings in relation to the whole or part of the Dispute until 30 days after service of the ADR notice, provided that the right to issue proceedings is not prejudiced by a delay.
- 12.6 If the Dispute is not resolved within 30 days after service of the ADR notice, or either party fails to participate or to continue to participate in the mediation before the expiration of the said period of 30 days, or the mediation terminates before the expiration of the said period of 30 days, the Dispute shall be finally resolved by the courts of England and Wales in accordance with clause 21 of this Agreement.
- 12.7 MedCo may record the escalation meetings, subject to the attendees of the meeting giving their explicit consent to the meeting being recorded.

**13 Written warning**

- 13.1 If the DME does not comply with any term of this Agreement and MedCo are satisfied that a written warning is appropriate, MedCo will issue a written warning to the DME setting out the action that the DME is required to take to resolve the issue.

**14. Suspension**

- 14.1 If the DME does not comply with any term of this Agreement, MedCo may, without liability, suspend the Service or such part of the Service as is relevant until such time as the non-compliance has been remedied to MedCo's reasonable satisfaction (either by way of audit or as otherwise agreed by MedCo)

**15 Termination**

- 15.1 MedCo or the DME shall be entitled to terminate this Agreement at any time by service of 90 days prior written notice on the other party.
- 15.2 MedCo shall be entitled to terminate this Agreement forthwith by written notice to the DME in the event that the DME or its Personnel:
- (a) commits any material breach of this Agreement which in the reasonable opinion of MedCo cannot be remedied in accordance with Clause 14 Suspension. For the avoidance of doubt the parties consider a breach of clause 2 or 3 of Schedule 3 to be a material breach of this Agreement which is not capable of remedy;
  - (b) enters into liquidation whether compulsorily or voluntarily (otherwise than for the purposes of and followed by amalgamation or reconstruction of insolvency) or compounds its creditors or has a receiver, manager, administrator or administrative receiver appointed over all or any substantial part of its undertaking, assets or income or takes or suffers any similar action in consequence or debt; or
  - (c) undergoes a Change of Control (unless MedCo has provided its written consent in accordance with the terms of this Agreement).
- 15.3 DMEs shall be entitled to terminate this Agreement forthwith by written notice to MedCo in the event that MedCo commits any material breach of this Agreement and has failed (in the case of a breach capable of remedy) to remedy the breach within 30 days of the receipt of a written notice from an Authorised User specifying the breach, requiring that it be remedied and indicating that failure to remedy the breach may result in termination of this Agreement.
- 15.4 On termination of this Agreement for any reason:
- (a) the DME will no longer have access to the Database or the Database Data;
  - (b) the accrued rights, remedies, obligations and liabilities of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of this Agreement which existed at or before the date of termination, subject to the limitations set out in clause 9;
  - (c) clauses which expressly or by implication have effect after termination shall continue in full force and effect; and
  - (d) termination or suspension of this Agreement shall not affect MedCo's rights under clause 3.2.1(a) in relation to any Expert Data or Case Data provided by the DME or User.

**16 Confidentiality**

- 16.1 Each party shall ensure that all Confidential Information of the other party is kept confidential and shall apply the same security measures and degree of care to the Confidential Information it applies to its own Confidential Information. Neither party shall make or cause or permit to be made or caused any use or disclosure of any Confidential Information except to the extent permitted under this Agreement.
- 16.2 Each party shall be permitted to disclose Confidential Information of the other party to the extent that it is required to do so by any Applicable Law or regulations or by any public, governmental, supervisory or regulatory authority or by any legally binding order of any court or tribunal provided in any such case that:
- (a) the disclosure or use is limited strictly to those parts of the Confidential Information of the other party which are required to be disclosed pursuant to this clause 16; and
  - (b) each party shall use reasonable endeavours to ensure the recipient of such Confidential Information is made aware that such information is confidential.
- 16.3 The obligations contained in clauses 16.1 to 16.2 shall not apply to any Confidential Information of either party:
- (a) to the extent that such Confidential Information was publicly available or generally known to the public or lawfully in the possession of the other party at the time of the disclosure except as a result of any breach by that other party of its obligations hereunder; or
  - (b) to the extent that the other party acquires or has acquired such Confidential Information free from any obligation of confidentiality from a third party who is not in breach of any obligation as to confidentiality.
- 16.4 Either party may disclose Confidential Information to its Personnel, officers, insurers or reinsurers who require such Confidential Information for the purpose of carrying out the party's obligations under this Agreement. Each party shall ensure that all of its Personnel or officers to which Confidential Information is disclosed are aware prior to receiving the Confidential Information in question of the confidential nature of the Confidential Information and of the relevant party's obligations pursuant to this clause.
- 16.5 Neither party shall make any announcement in relation to the matters contemplated in this clause, in each case, save with the prior written consent of the other party.
- 16.6 Each party may, provided that the other party has reasonable grounds to believe that the other party is involved in activity that may constitute a criminal offence under the Bribery Act 2010, disclose Confidential Information to the Serious Fraud Office without first notifying the other party of such disclosure.
- 16.7 Upon termination of this Agreement, at the request of MedCo, the DME shall destroy or return to MedCo all documents and materials (and any copies) containing, reflecting, incorporating or based on MedCo's Confidential Information and certify in writing to MedCo that it has complied with this clause;
- 16.8 Each party acknowledges that damages alone would not be an adequate remedy for the breach of this Clause, accordingly, without prejudice to any other rights and remedies it may have, each party shall be entitled to the granting of equitable relief (including without limitation injunctive relief) concerning any threatened or actual breach of this Clause.
- 16.9 The provisions of clause 16 shall survive the termination or expiry of this agreement.

**17. Change of Control**

- 17.1 Without prejudice to any other right or remedy available to MedCo, in the event of a Change of Control of the DME, the DME shall not be entitled to exercise its rights under this Agreement until it has notified MedCo of the Change of Control and obtained MedCo's consent in writing to such Change of Control (which shall not be unreasonably withheld, delayed or conditioned).

**18. Force Majeure**

- 18.1 None of the parties shall be liable to the other for any failure or delay in performing its obligations under this Agreement which is due to any cause beyond that party's reasonable control ('**force majeure**') that party having used all its reasonable endeavours to remove or avoid such force majeure with all reasonable despatch.
- 18.2 If any party is rendered unable wholly or in part by force majeure to carry out its obligations under this Agreement for a period in excess of 30 days then the non-defaulting party shall be entitled to terminate this Agreement forthwith on written notice to the others. Subject to the obligations pursuant to clause 15 neither party shall have any liability to the other in respect of the termination of this Agreement pursuant to this clause.

**19. Assignment and Sub-Contracting**

- 19.1 This Agreement and all rights under it may not be assigned or transferred by the DME without the prior written approval of MedCo (such approval not to be unreasonably withheld or delayed).
- 19.2 MedCo may at any time assign, transfer, mortgage, charge, declare a trust over or deal in any other manner with any or all of its rights under this Agreement, and may subcontract or delegate in any manner any or all of its obligations under this Agreement to any third party.
- 19.3 To the extent either party is permitted to sub-contract their rights or obligations under this Agreement in accordance with this clause 19, it should
- (a) enter into a written agreement with its sub-contractors which contain terms no less onerous than in this Agreement, which should include, for the avoidance of doubt, the provisions contained in Schedule 3; and
  - (b) remain liable to the other party for the acts and omissions of any of its sub-contractors.

**20. Entire Agreement**

- 20.1 This Agreement (which includes the contents of the Schedules to this Agreement) constitutes the entire agreement between the parties in respect of the subject matter covered by it and supersedes all previous communications, negotiations, understandings or representations whether oral or written between the parties. For the avoidance of doubt, in the event of any inconsistency or conflict between the terms of this Agreement and any prior agreements in relation to this subject matter (which the parties hereby acknowledge and agree has been lawfully terminated) the provisions of this Agreement shall prevail.

**21. Proper Law and Jurisdiction**

- 21.1 This Agreement shall be governed by the laws of England and Wales and shall be subject to the exclusive jurisdiction of the English courts.

**22. Notices**

22.1 Any notice to be given to a party under or in connection with this Agreement shall be in writing and shall be:

- (a) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing; or
- (b) sent by email to the DME's email addresses or such email address as that party may have specified to the other party in writing.

22.2 Any notice shall be deemed to have been received:

- (a) if delivered by hand at the time the notice is left at the proper address; or
- (b) if sent by pre-paid first-class post, at the expiration of two clear days after the time of posting; or
- (c) if sent by email, at the time of transmission, or, if this time falls outside Business Hours, it shall be deferred until Business Hours resume.

**23. Variations**

23.1 MedCo may, subject to Board approval, make reasonable changes to this Agreement on 30 days prior written notice.

**24. Severability**

24.1 If any provision of this Agreement is or becomes illegal, void or invalid, that shall not affect the legality and validity of the other provisions.

**25. Waiver**

25.1 Failure or delay by any of the parties in exercising any right or remedy of that party under this Agreement shall not in any circumstances operate as a waiver of it nor shall any single or partial exercise of any right or remedy in any circumstances preclude any other or further exercise of it or the exercise of any other right or remedy.

25.2 Any waiver of a breach of, or default under, any of the terms of this Agreement shall not be deemed a waiver of any subsequent breach of default and shall in no way affect the other terms of this Agreement.

**26. Parties**

26.1 A person who is not a party to this Agreement has no right under the Contracts (Right of Third Parties) Act 1999 to enforce any term of this Agreement but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

**Schedule 1****Correct Level of Access**

<b>User Type</b>	<b>All DMEs</b>				
	<b>Registration</b>	<b>Registration Maintenance</b>	<b>Maintain Direct Financial Links</b>	<b>Pay Fee</b>	<b>Case Data Input</b>
Primary User	Y	Y	Y	Y	Y

## **Schedule 2**

### **Ethics Policy**

This policy is for the Authorised Users of and Data Contributors to the Service and Direct or Indirect Medical Experts ("Experts"), which sets out the standards of conduct, and professional behaviours that you must adhere to.

All Authorised Users, Data Contributors and Experts should at all times conduct themselves in accordance with their own professional regulator's standards. This policy is intended to complement those professional standards. If in the unlikely event you consider that there is any conflict between the provisions of this policy and your own regulator's professional standards then those standards should prevail. Any such conflict must be advised to MedCo immediately.

Authorised Users, Data Contributors and Experts not adhering to the standards set out in this document will be acting in breach of the Agreement. MedCo reserves the right to conduct investigations which may lead to suspension or termination of the Agreement. Referrals may also be made to other regulatory agencies including but not limited to the Financial Conduct Authority (FCA), General Medical Council (GMC) and Health and Care Professions Council (HCPC).

#### **The Standards**

As an Authorised User or Data Contributor of MedCo, or an Expert the standards of conduct, performance and ethics that you must keep to are to:

1. Act in the best interests of the Claimant;
2. Respect the confidentiality of the Claimant;
3. Keep high standards of personal and professional conduct;
4. Provide to MedCo any important information about your conduct and competence;
5. Keep your professional skills and knowledge up to date;
6. Keep accurate records;
7. Behave with integrity;
8. Comply with the relevant Civil Procedure Rules, Practice Directions and Protocols;
9. Comply with the Agreement.

#### **Applying the Standards**

As an Authorised User, Data Contributor, or Expert you must make sure that you are familiar with the standards and that you keep to them. If concerns are raised about you as an Authorised User, Data Contributor, or Expert, MedCo may consider such factors as it at its own discretion considers necessary (including without limitation the factors set out in this policy) when deciding whether it needs to take any action.

The standards are written in broad terms and are designed to apply to all Authorised Users, Data Contributors and Experts as far as possible. MedCo acknowledge that some of the standards may not apply to all Authorised Users, Data Contributors, or Experts.

MedCo aims to ensure that a high standard of professional conduct is maintained by Authorised Users, Data Contributors and Experts. This is so that the general public and all Authorised Users, Data Contributors and Experts can have confidence in the MedCo Service and all other Authorised Users, Data Contributors and Experts. The standards are to be considered objectively and there are no hard and fast rules as to how the standards are to be met. Authorised Users, Data Contributors and Experts, as autonomous and accountable professionals, will need to make reasonable decisions about their practice and how best to meet the standards. MedCo have however set out general guidelines to provide a little more detail as to what is expected of you. If you have any queries, please contact [enquiries@medco.org.uk](mailto:enquiries@medco.org.uk).

## **The Standards of Conduct and Ethics**

### **1. Act in the best interests of the Claimant**

Each case involves an injured Claimant. The claimant must be kept at the centre of all decisions made when acting as an Authorised User or Data Contributor of MedCo or an Expert. Each Authorised User, Data Contributor and Expert involved in the process is responsible for promoting the Claimant's best interests. You must respect that those interests will vary when providing a service as an Authorised User or Data Contributor of MedCo or an Expert.

You must not allow your views about a Claimant's sex, age, colour, race, disability, sexuality, social or economic status, lifestyle, culture, religion or beliefs to impact on the way that you deal with each individual Claimant.

You must maintain and uphold your professional standards at all times when dealing with the Claimant.

### **2. Respect the confidentiality of the Claimant**

You must treat information about the Claimant as confidential and use it only for the purposes for which they have provided it. You must not knowingly release any personal or confidential information to anyone who is not entitled to it, and you should check that people who ask for the information are entitled to it.

You must keep to the conditions of the Data Protection Legislation and always follow and keep up to date with best practice for handling confidential information.

### **3. Keep high standards of personal and professional conduct**

You must maintain high standards of both personal and professional conduct so as to ensure that the general public and all other Authorised Users, Data Contributors and Experts will have confidence in you as an Authorised User or Data Contributor of MedCo or as an Expert and your actions should not undermine confidence in the MedCo Service. As an Authorised User, MRO, or Expert you are expected to co-operate with MedCo and its Personnel in a professional manner including, but not limited to,

responding to MedCo's correspondence and dealing with complaints in a timely manner. Any unacceptable behaviour towards MedCo Personnel will not be tolerated.

#### **4. Provide to us any important information about your conduct and competence**

You must inform MedCo immediately if you have important information about your conduct or competence, or about the conduct and competence of any other MedCo Authorised User or Data Contributor or Expert which comes to your attention. In particular you must advise MedCo immediately if you are:

- Convicted of a criminal offence, receive a conditional discharge for an offence or accept a police caution;
- Disciplined by your professional regulator;
- Suspended or placed under a practice restriction because of concerns about your conduct or competence;
- If you have been declared bankrupt, entered into any individual voluntary arrangements or had a County Court judgment issued against you.

MedCo will investigate the circumstances of any report into conduct and competence in light of this policy, the Agreement, the terms of your qualifying criteria or your Accreditation and will take action, which may include removing your Authorised User or Data Contributor access to the MedCo Database or your MedCo Accreditation should that be considered necessary and reporting you to your regulatory body.

#### **5. Keep your professional skills and knowledge up to date**

You must make sure that your professional skills, knowledge and performance are of good quality, up to date, and relevant to your scope of practice.

Medical experts will in any event be accredited by MedCo and will be required to undertake appropriate levels of training, targeted at provision of reports in soft tissue injury cases. All Authorised Users and Data Contributors will be required to ensure that they maintain up to date knowledge on data protection issues.

#### **6. Keep accurate records**

Accurate records should be maintained of all engagement with the Claimant and on all aspects relating to use of the MedCo Service.

MedCo have a right of audit and may wish to examine your records should this prove necessary.

#### **7. Behave with integrity**

All Authorised Users, Data Contributors and Experts will be expected to behave with integrity at all times. This covers their dealings with Claimants, MedCo and other Authorised Users, Data Contributors and Experts.

This will include (but is not limited to):

Making full and frank disclosure of any Direct Financial Link that one Authorised User may have with a Data Contributor or Direct Medical Expert (or vice versa) and keeping that disclosure updated if there are any changes. ;

Ensuring that referral fees are not requested, paid or received in breach of the Legal Aid Sentencing and Provision of Offenders Act 2012;

Not providing any misleading information in their dealings with MedCo;

Not engaging in any other practice that would undermine the public confidence in MedCo, the Service, Authorised Users or Data Contributors or Experts.

#### **8. Comply with the relevant Civil Procedure Rules, Practice Directions and Protocols**

Authorised Users and Data Contributors should ensure that they are up to date with all relevant provisions and that the provisions are adhered to. This should include making the relevant fraud checks required by the RTA protocol.

#### **9. Comply with the MedCo Rules and the Agreement**

Authorised Users, Data Contributors and Experts should ensure that they are familiar with the terms of their relevant agreement and the MedCo Rules and ensure that these are adhered to. Any revisions will be published and Authorised Users, Data Contributors and Experts should familiarise themselves with any updated versions. MedCo has also published Guidance as to how it will interpret the Qualifying Criteria. Such Guidance will form the basis of audit of Data Contributors all Data Contributors should familiarise themselves with and act in accordance with that Guidance as updated from time to time.

### Schedule 3

Without limitation to the obligation in Clause 3.2.1 (h) to comply with all Applicable Law, the Parties agree to comply with the specific laws and regulations set out in this Schedule 3.

#### 1. Legal Aid, Sentencing and Punishment of Offenders Act 2012.

The DME hereby confirms and agrees that it shall not request, receive or pay referral fees in contravention of Legal Aid, Sentencing and Punishment of Offenders Act 2012.

#### 2. Data Protection Requirements

The parties confirm that each party shall be a Data Controller of the Shared Personal Data. Each party shall comply with its obligations as a Data Controller under Data Protection Legislation.

2.2. Without prejudice to clause 2.1 of this Schedule, DME shall ensure that:

2.2.1 any Shared Personal Data:

2.2.1.1 has been obtained and transferred to MedCo in accordance with the Data Protection Legislation; and

2.2.1.2 is accurate and up to date.

2.2.2 prior to the transfer to MedCo of Shared Personal Data, it has:

2.2.2.1 provided the Data Subjects of the Shared Personal Data with a Privacy Policy on its own behalf and on behalf of MedCo that allows MedCo to Process the relevant Personal Data; and

2.2.2.2 referred Data Subjects to MedCo's Privacy Policy at [www.medco.org.uk](http://www.medco.org.uk) for information on how MedCo will Process the relevant Personal Data.

2.2.3 implements and maintains appropriate technical and organisational measures to preserve the confidentiality and integrity of the Shared Personal Data and prevent any unlawful Processing or disclosure or damage, taking into account the state of the art, the costs of implementation, the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of the Data Subjects (the "**Security Measures**");

2.3. DME shall notify MedCo promptly, and in any event within 72 hours, of any known breach of technical and organisational Security Measures where the breach has affected or could have affected the Shared Personal Data (the "**Data Protection Breach**"). DME shall also notify MedCo of the steps it has taken to remedy the Data Protection Breach and will provide MedCo with any information and assistance in respect handling of the Data Protection Breach.

2.4 DME shall notify MedCo promptly, and in any event within 24 hours, should it receive a request or enquiry from a Data Protection Regulator or Data Subject with regard to the Shared Personal Data and keep MedCo regularly updated on all such enquiries.

- 2.5 The DME shall, within 10 Working Days of receiving a written request, provide to MedCo such information as is reasonably required to satisfy MedCo that the DME is compliant with the Data Protection Legislation.

### **3. Anti-Bribery**

- 3.1 Each party shall ensure that it and persons associated with it or other persons who are performing services in connection with this Agreement shall:
- (a) comply with all applicable laws, statutes, regulations relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 ("Relevant Requirements");
  - (b) not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
  - (c) not do, or omit to do, any act that will cause or lead MedCo to be in breach of any of the Relevant Requirements or Relevant Policies.
  - (d) immediately report to MedCo any request or demand for any undue financial or other advantage of any kind received by the DME in connection with the performance of this Agreement;
  - (e) have and shall maintain in place throughout the term of this Agreement its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010 ("the Relevant Policies"), to ensure compliance with the Relevant Requirements, the Relevant Policies and schedule 3 clause 3.1(b), and will enforce them where appropriate.
- 3.2 The DME if requested, shall provide MedCo with any reasonable assistance, at the DME's reasonable cost, to enable MedCo to perform any activity required by any relevant government or agency in any jurisdiction for the purpose of compliance with any of the Relevant Requirements
- 3.3 The DME shall immediately notify MedCo if, at any time during the term of this Agreement, its circumstances, knowledge or awareness changes such that it would not be able to warrant its compliance with the obligations in Schedule 3 clause 3.1 at the relevant time.
- 3.4 For the purpose of schedule 3 clause 3, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively.
- 3.5 Regardless of any other provision in this Agreement, MedCo shall not be obliged to, or omit to do any act which would, in its reasonable opinion put it in breach of any of the Relevant Requirements.