

This user agreement ("**User Agreement**") is a legally binding agreement between you, an Indirect Medical Expert ("**IME**") 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**").

RECITALS

MedCo operates the MedCo Database containing certain information about medical experts and medical examinations. The MedCo Database will be populated with data supplied by Medical Reporting Organisations ("**MRO**") and Direct Medical Experts ("**DME**") approved by MedCo to contribute data for the Permitted Purpose and will be available to access (at varying levels) by certain authorised parties who will select a MRO or DME to provide the Claimant with a medical legal report. MedCo operates in accordance with policy decisions made by the Ministry of Justice ("**Moj**") and will from time to time issue MedCo Rules to ensure that the policy decisions are met.

IMEs will be instructed via MROs to provide medical legal reports and the IME's details will be Listed on the MedCo Database. All IMEs are required to have completed their Accreditation Training and to be Accredited by MedCo.

The User Agreement sets out how MedCo will arrange for the provision of Accreditation Training. The User Agreement sets out the terms on which MedCo agrees to List the IME on the MedCo Database as an Accredited IME, once it has completed the Accreditation Training and has satisfied MedCo's Due Diligence checks.

Board authority will be required by any IME seeking to enter into this User Agreement where either any previous agreement between the Parties was terminated by MedCo or where the IME had its Listing on the MedCo Database as an Operational expert, suspended and that suspension was in place when the previous agreement came to an end for any reason.

BY CLICKING ON THE "ACCEPT" BUTTON BELOW YOU AGREE TO THE TERMS OF THIS USER AGREEMENT THIS WILL ONLY BE BINDING ON MEDCO IN CERTAIN CIRCUMSTANCES SEE CLAUSE 2.1 BELOW

1. INTERPRETATION

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

- "Accredited" means the status granted by MedCo once the IME has completed the Accreditation Training;
- "Accreditation Training" means the training MedCo requires a IME to undertake to attain the status of being Accredited by MedCo and which can only be maintained by completing further training as and when required by MedCo. This includes, but is not limited to, Continuous Professional Development (CPD) training;
- "Alternative Business Structure" as defined in the Legal Services Act 2007;
- "Anonymised" means anonymised in line with the ICO code of practice available at <https://ico.org.uk/media/for-organisations/documents/1061/anonymisation-code.pdf>. as updated or amended from time to time;
- "Applicable Law" 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 a Party is subject from time to time including but not limited to those set out in Schedule 2 of this User Agreement;

"Authorised User"	means all individuals and/or organisations, authorised by MedCo from time to time, who access and use the MedCo Database and obtain and use the Database Data;
"Business Hours"	the period from 9.00 am to 5.00 pm on any Working Day;
"Case Data"	means the data items added to the MedCo Database by the MRO after completing a medical legal report, as more particularly detailed in the MedCo Data Validation Rules;
"Charges"	means the definition in Clause 7.1;
"Civil Procedure Rules"	means the rules of court governing the practice and procedure to be followed in civil litigation proceedings in England and Wales as established by the Civil Procedure Act 1997 and updated periodically by the Civil Procedure Rule Committee. For the purposes of this User Agreement, any reference to the Civil Procedure Rules incorporates reference to the relevant Practice Directions and Pre-Action Protocols relating to pre-issue conduct, as made and approved from time to time by the Head of Civil Justice;
"Claim"	means a claim for personal injury brought by a Claimant pursuant to the Relevant Pre-Action Protocol following a road traffic accident;
"Claimant"	means an individual who is the subject of a Claim;
"Commencement Date"	means the date upon which the IME clicked on the "Accept" button in relation to this User Agreement, save in the circumstances set out in Clause 2.1 of this User Agreement;
"Confidential Information"	means all confidential 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) disclosed by a Party to the other Party in connection with this User Agreement, including but not limited to: (a) the terms of this User Agreement; (b) any information that would be regarded as confidential by a reasonable business person relating to: (i) the business, affairs, customers, clients of the disclosing Party; and (ii) the operations, processes of the disclosing Party; and (c) any information developed by the Parties in the course of carrying out this User Agreement;
"Data Contributor(s)"	all individuals and organisations authorised by MedCo from time to time to access and/or use the MedCo Database to contribute Database Data;
"Data Controller"	shall have the meaning set out in the Data Protection Legislation;

"Database Data"	means the Expert Data and Case Data provided by the Data Contributors and other data as determined by MedCo from time to time;
"Data Protection Legislation"	means all applicable data protection and privacy legislation, regulations and guidance including: 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);
"Data Protection Regulator"	means the Information Commissioner's Office, the Article 29 Working Party, the European Data Protection Board and any other supervisory authority with jurisdiction over either Party, and in each case any successor body from time to time;
"Data Subject(s)"	shall have the meaning set out in the Data Protection Legislation;
"Direct Financial Links"	<p>means a relationship between the IME and another party which the MoJ has determined constitutes a direct financial link (or as amended from time to time and set out at www.medco.org.uk, <u>covering a relationship between the IME and</u> any Law Firm, Insurer or personal injury claims management company with which IME has a contract of service or by which IME is employed to provide medical legal reports in:</p> <ul style="list-style-type: none"> (a) 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; and (b) road traffic accident related personal injury claims, valued at not more than £5,000, to which the Pre-Action Protocol for Personal Injury Claims Below the Small Claims Limit in Road Traffic Accidents applies.
"Direct Medical Expert" / "DME"	a medical expert who will accept instructions direct from an Authorised User or Claimant to complete a relevant medico-medical legal report. Direct means that instructions and payment must be made direct to the direct medical expert;
"Due Diligence"	means the checks that MedCo will undertake before approving the IME's Registration. These checks will be with any relevant Regulatory Body or any other checks that MedCo considers necessary;
"Ethics Policy"	means the MedCo Ethics Policy as attached at Schedule 1 of this User Agreement and as amended from time to time by MedCo;
"Expert Data"	means the full name, contact details and GMC number (or equivalent) / HCPC number of medical experts within the MedCo Database;

“Group”	means any subsidiary or holding company (as defined in section 1159 of the Companies Act 2006) of MedCo from time to time;
“Indirect Medical Expert”	means a medical expert who will only accept instructions to complete a relevant medical legal report in relation to such injuries from an MRO and will not provide a report on direct instruction from an Authorised User ;
“Insurer”	means any insurance company, Lloyd's syndicate or compensator authorised to underwrite motor insurance and “Insurers” shall be construed accordingly;
"Law Firm"	means 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 licence);
"List(ing)"	means a record on the MedCo Database of whether or not the IME is Operational. MROs and Authorised Users can check the IME's listing to ensure that the IME can receive instructions to provide medical legal reports;
"MedCo Articles of Association"	means the Memorandum and Articles of Association of MedCo, as incorporated on 4 November 2014 and as amended from time to time;
“ MedCo Board”	means the board of directors of MedCo;
“MedCo Charging Policy”	the charges for the provision of the Services set out at www.medco.org.uk (as amended by MedCo from time to time);
“MedCo Database”	the MedCo branded online application which shall provide MROs with web based browser access to the Database Data in accordance with the terms and conditions of this User Agreement;
“MedCo Data Validation Rules”	rules set out at www.medco.org.uk (as amended by MedCo from time to time);
"MedCo Rules"	rules made by the MedCo Board from time to time in accordance with their powers as defined in the MedCo Articles of Association;
“MRO”	means a medical reporting organisation that meets the minimum qualifying criteria as outlined in the “Finalised Qualifying Criteria for MROs” document published by the MoJ on www.medco.org.uk (or as otherwise stipulated by MoJ from time to time);
"Operational"	means that the IME can accept instructions to provide medical legal reports from a MedCo registered MRO as the IME has: (a) Registered or Re-affirmed with MedCo; (b) undergone the Due Diligence checks; (c) met the Accreditation requirements (including ongoing requirements); (d) a valid User Agreement which has not been suspended or terminated; and (e) paid any Charges;

"Peer Review"	means a peer review assessment, by a panel of experts appointed by MedCo, of IME's medical legal reports and as further specified in Clause 9;
"Personal Data"	shall have the meaning set out in the Data Protection Legislation;
"Personnel"	all persons employed by or on behalf of MedCo or the IME (as appropriate) to perform respective obligations under this User Agreement together with MedCo's or the IME's (as appropriate) servants, representatives, agents, and suppliers and approved sub-contractors used in the performance of its obligations under this User Agreement;
"Privacy Policy"	shall mean the notice containing the information required to be provided to a Data Subject by the Data Protection Legislation;
"Process(ing)"	shall have the meaning set out in the Data Protection Legislation;
"Quality Assessment"	means a quality assessment of the Case Data provided by the IME and where appropriate by considering Anonymised copies of medical reports and as further specified in Clause 9;
"Reaffirm"	the IME confirming, at least annually, that the obligations and warranties under this User Agreement are met when requested to do so by MedCo in the format required by MedCo;
"Register(ed)"	means completing the online form, as directed to do so by MedCo and accepting the terms of this User Agreement;
"Regulatory Body"	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 User Agreement including the General Medical Council, Health and Care Professions Council, the Solicitors' Regulation Authority, Bar Standards Board, the Financial Conduct Authority, 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;
"Relevant Pre-Action Protocol"	means any Pre-Action Protocol which applies or may apply to road traffic accidents including but not limited to the RTA Protocol, or the RTA Small Claims Protocol, as amended from time to time;
"RTA Protocol"	means the 'Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents';
"Services"	the services to be provided by or on behalf of MedCo of-(a) arranging Accreditation (b) ongoing training as required to maintain Accreditation (c) Listing the IME as Operational on the MedCo Database in order that the IME can continue to receive and accept instructions from a MedCo registered MRO to provide medical legal reports; any Personal Data the IME has collected and provided to MedCo under this User Agreement;

"Shared Personal Data"	means an audit carried out with limited prior notice in accordance with the MedCo Audit Guide which is available at www.MedCo.org.uk , as revised from time to time;
"Short Notice Audit"	are any service level standards prescribed by MedCo and/or
"SLAs"	the MoJ that IMEs are expected to meet;
"Small Claims Track Protocol"	the Pre-Action Protocol for use in RTA claims in the small claims track that requires Claimants to obtain a medical report to be sourced via MedCo;
"Working Day"	any day save for Saturday, Sunday and public holidays in England and Wales.

1.2 In this User 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 Schedules are to Clauses of and the Schedules to this User 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 User Agreement;
- (e) references to the Parties are (unless otherwise stated) to the Parties to this User 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 User Agreement and will have the same force and effect as if expressly set out in the body of this User Agreement.

2. Commencement and Duration

2.1 This User Agreement shall commence on the Commencement Date save in the circumstances set out in 2.2(a) to (c) below and shall continue until terminated by either Party in accordance with Clause 14 of this User Agreement.

If:

- (a) any agreement between the Parties has been terminated at any point by MedCo;
- (b) MedCo has suspended the IME's Listing as an Operational expert on the MedCo Database under any previous agreement and the suspension remained in place when the previous agreement came to an end for any reason; or
- (c) the IME has failed to accept this User Agreement, declare Direct Financial Links and pay any Charges within 2 months from the date they are notified by MedCo under any pre-operational agreement that they are approved to Register as an IME,

MedCo will not be bound by this User Agreement unless the MedCo Board has previously confirmed in writing that the IME may Register.

3. Obligations

MedCo's obligations

- 3.1 From the Commencement Date and until termination of this User Agreement, MedCo will:
- 3.1.1 either provide or arrange for the provision of Accreditation Training modules which must be undertaken by IME to achieve and maintain Accredited status as appropriate; and.
 - 3.1.2 hold and List the IME's details on the MedCo Database, including the IME Accredited status.

IME's obligations

- 3.2 From the Commencement Date and until termination of this User Agreement, the IME will:
- 3.2.1 comply with any requirement for Quality Assessment and/or Peer Review and following which, undertake any additional training or other steps as required by MedCo;
 - 3.2.2 provide any Case Data in accordance with the MedCo Data Validation Rules, via a MRO as required;
 - 3.2.3 provide copies of appropriately Anonymised medical reports if requested by MedCo;
 - 3.2.4 comply with any SLAs published by MedCo from time to time;
 - 3.2.5 comply with the MedCo Rules and the Ethics Policy;
 - 3.2.6 act with reasonable skill and care in performing its obligations under this User Agreement and in compliance with Applicable Law; and
 - 3.2.7 pay the Charges in accordance with Clause 7.

4. Warranties

- 4.1 The IME warrants and undertakes to MedCo that:
- 4.1.1. on the Commencement Date, the IME has notified (and during the term of the Agreement, will immediately notify) MedCo in writing of any Direct Financial Link it has or will have with a third party (together with all details reasonably requested by MedCo relating thereto) and will under no circumstances accept an instruction (either direct or via an MRO) to complete a medical legal report from an Authorised User or any other relevant organisation (as reasonably stipulated by MedCo from time to time) to which the IME has a Direct Financial Link;
 - 4.1.2 the IME will Reaffirm the User Agreement and declare its position with regards to Direct Financial Links on an annual basis when requested to do so by MedCo in the format required by MedCo;
 - 4.1.3 in complying with 4.1.2, it will only declare Direct Financial Links in accordance with the definition provided within the terms of this User Agreement as amended from time to time;
 - 4.1.4 having attained Accredited status, the IME will provide medical reports of the appropriate quality, as determined by MedCo, and will comply with the Accreditation Training process as required by MedCo from time to time;
 - 4.1.5 the IME will not permit any third party to obtain access to the MedCo Database without the prior written consent of MedCo;
 - 4.1.6 the IME will maintain its registration with the General Medical Council or any other relevant Regulatory Body throughout the term of this User Agreement;
 - 4.1.7 the contact details provided to MedCo for the IME are kept up to date;

- 4.1.8 any Shared Personal Data shall have been collected and disclosed to MedCo in accordance with Data Protection Legislation and shall be accurate and up to date; and
- 4.1.9 prior to the disclosure to MedCo in relation to the Shared Personal Data, the IME has provided the Data Subjects of the Shared Personal Data with a Privacy Policy on the IME's own behalf and on behalf of MedCo. MedCo's Privacy Policy can be found at www.medco.org.uk

5. Data

- 5.1 MedCo shall be entitled to disclose any data about IME and any Database Data to:
 - (a) any relevant Regulatory Body;
 - (b) 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) any other party, for any other purpose as permitted by Applicable Law.

6. Intellectual Property

- 6.1 Subject to prior express authorisation obtained from the MedCo Board, which is given entirely at its discretion, nothing in this User Agreement grants the IME the right to use the MedCo logo.

7. Charges

- 7.1 The IME shall pay to MedCo the sums stipulated by MedCo in the MedCo Charging Policy (the "Charges").
- 7.2 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 IME.
- 7.3 The IME 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.
- 7.4 In the event that the IME fails to pay MedCo by the due date any undisputed Charges payable by the IME, MedCo may (without prejudice to any other right or remedy that it may have):
 - (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;
 - (b) suspend the Services until payment has been made in full; and
 - (c) following an IME's suspension for failure to pay, terminate the User Agreement on 28 days' notice.
- 7.5 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 User Agreement against any amounts payable by it to that Party.
- 7.6 All amounts payable by the IME under this User 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 User Agreement by MedCo to the IME, the IME 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 Services.
- 7.7 The IME confirms that all Charges paid to MedCo are non-refundable.

8. Audits

8.1 During the term of this User Agreement, and for a period of two years after the termination or expiry of this User Agreement, MedCo (or its Personnel) may (subject to such representative complying with the confidentiality provisions set out in Clause 15 of this User Agreement) conduct audits of the IME's compliance with this User Agreement. Such audits may include (but shall not be limited to) reviewing the IME's:

- (a) access to and use of the Database Data;
- (b) compliance with this User 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 and Civil Procedure Rules.

The Audit Guide, as revised from time to time, which can be found at www.medco.org.uk, sets out a summary of the audit process and requirements for the provision of Database Data and other matters. The IME should be familiar with and present all information requested by MedCo as detailed in the Audit Guide.

8.2 Short Notice Audit

8.2.1 During the term of this User Agreement, MedCo may carry out a Short Notice Audit if MedCo reasonably believes that there is one (or more) serious breach(es) of a material term of this User Agreement.

8.2.2 The Short Notice Audit will be carried out in accordance with the Audit Guide published at www.medco.org.uk as revised from time to time.

8.3 Except where:

- (a) an audit is imposed on MedCo by a Regulatory Body or government;
- (b) the IME is deemed to have failed a prior audit;
- (c) MedCo reasonably suspects or is aware of a breach of the terms of this User Agreement; or
- (d) a Short Notice Audit is undertaken,

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

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

8.5 The IME and the IME's Personnel shall, on demand, provide to MedCo, its Personnel and any relevant Regulatory Body (or their respective agents or representatives) 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 IME or the IME's Personnel (as appropriate) and to any equipment used (whether exclusively or non-exclusively) in relation to this User Agreement; and
- (c) access to the relevant IME Personnel.

All information provided to MedCo or obtained by MedCo from the IME or the IME's Personnel shall be kept confidential in accordance with the terms of this User Agreement.

- 8.6 Failure to provide access and fully co-operate with the Short Notice Audit may result in MedCo suspending the Services as set out in Clause 13.
- 8.7 MedCo shall, where possible, provide at least 30 days' notice of its (or a regulatory body's) intention to conduct an audit, except where MedCo undertakes a Short Notice Audit.
- 8.8 The IME shall pay such fee as stipulated in the MedCo Charging Policy for an audit under this Clause.

9. Quality Assessment and Peer Review

- 9.1 The MoJ has a policy requirement to improve the quality of medical reporting. MedCo is required by the MoJ to keep the quality of medical reports under review. Quality Assessment and/or Peer Review will be arranged through the expert audit and peer review (EAPR) sub-committee in order that MedCo may meet that requirement.
- 9.2 EAPR may carry out reviews of Case Data at any time and for any reason. Where EAPR, in its sole discretion, considers that issues arise from review, the IME will be contacted by EAPR and should co-operate with EAPR's requests.
- 9.3 During the term of this User Agreement, MedCo may keep the quality of medical reports under review by way of:
 - (a) Quality Assessment – in which the quality of the IME's reports is kept under review. Such review will include, but is not limited to, issues of the IME's conduct where such issues have been raised with EAPR or are apparent from a review of the Case Data. Quality Assessment will include examination of the Case Data provided by the IME and, where appropriate, consideration of Anonymised copies of medical reports;
 - (b) Peer Review – to be carried out by a panel of medical professionals experienced in conducting relevant medical legal work who report their findings to EAPR. The peer review will involve a review of the IME's Anonymised medical reports to establish and ensure that the quality of the medical reports produced is of the highest standard. The identity of the IME will not be notified to the panel, and the identity of the members of the panel will not be notified to the IME;
- 9.4 Quality Assessment or Peer Review may result in the IME's access to the Service being suspended in accordance with Clause 13 if EAPR considers this appropriate. The IME may also be required, at its own expense, to complete further training or other steps as assessed and advised by EAPR.
- 9.5 If MedCo concludes that the findings of the Quality Assessment or Peer Review are such that the IME should no longer be Accredited:
 - (a) that will constitute a material breach of the IMEs obligations under this User Agreement;
 - (b) MedCo will withdraw the IME's Accredited status; and
 - (c) MedCo will terminate this User Agreement forthwith in accordance with the termination procedure set out in Clause 14 of this Agreement.

10. Liability and Indemnities

- 10.1 The IME 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 IME of the warranties contained in Clause 4; and
 - (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 the IME of the Case Data and Expert Data;

- 10.2 The IME hereby acknowledges and agrees that:
- (a) the Data shall be supplied by third parties (which may include the IME or its Personnel);
 - (b) MedCo has no control whatsoever over the accuracy, completeness or usefulness (for a specified purpose or otherwise) of that Database Data; and
 - (c) 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 or the Service.
- 10.2.1 To the extent necessary and to the fullest extent permitted by law, MedCo hereby excludes all representations, undertakings, terms, warranties, conditions and guarantees (whether express or implied) relating to the Provider Data including, but not limited to, the accuracy, completeness or suitability thereof.
- 10.3 The maximum aggregate liability of MedCo under or in connection with this User Agreement, in respect of all claims by the IME 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 the greater of 100% of Charges paid (if any) by the IME to MedCo during the preceding 12 months pursuant to this User Agreement or the sum of £500.
- 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 User 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 User 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 User 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 User Agreement (as appropriate). Each Party shall be liable for the actions or omissions of its Personnel as if they were actions or omissions of the relevant Party.

11. Escalation Procedure

- 11.1 If a dispute arises out of or in connection with this User Agreement or the performance, validity or enforceability of it (a "Dispute"), then except as expressly provided in this User Agreement, the Parties shall follow the procedure as set out in this Clause 11.
- 11.2 Either Party shall, within 14 days of a dispute arising, give to the other written notice of the Dispute, setting out its nature and full particulars together with relevant supporting documents ("Dispute Notice"). 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 the IME shall attempt in good faith to resolve the Dispute.
- 11.3 If the MedCo Representative and the IME 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 MedCo committee (as specified by MedCo) ("MedCo Senior Representative") who shall attempt in good faith to resolve the Dispute with the IME.
- 11.4 If the MedCo Senior Representative and IME 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 Centre for Effective Dispute Resolution ("CEDR")'s 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 requesting a mediation ("ADR Notice") on the other Party to the Dispute,. 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 service of the ADR Notice unless otherwise agreed in writing between the Parties.

- 11.5 Neither 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, save that proceedings may be issued in any case if the right to issue would otherwise be prejudiced.
- 11.6 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 19 of this User Agreement.
- 11.7 MedCo may record the escalation meetings, subject to the attendees of the meeting giving their explicit consent to the meeting being recorded. No other party may record the escalation meetings but MedCo will make transcripts of the meetings available upon request.

12 Written warning

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

13. Suspension

- 13.1 If IME does not comply with any term of this User Agreement, and MedCo is satisfied that a written warning is not appropriate, MedCo may, without liability, suspend the Services or such part of the Services 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).

14 Termination

- 14.1 MedCo shall be entitled to terminate this User Agreement forthwith without liability on written notice to the IME in the event that the provision by MedCo of the Services is discontinued for any reason whatsoever
- 14.2 Both Parties shall be entitled to terminate this User Agreement at any time by service of 90 days’ prior written notice on the other Party.
- 14.3 MedCo shall be entitled to terminate this User Agreement immediately by written notice to the IME in the event that the IME commits any material breach of this User Agreement which, in the reasonable opinion of MedCo, cannot be remedied in accordance with Clause 12 by written warning or Clause 13 by suspension. For the avoidance of doubt, breach of Clause 4.1 will be considered a material breach.
- 14.4 The IME shall be entitled to terminate this User Agreement forthwith by written notice to MedCo in the event that MedCo commits any material breach of this User 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 the IME specifying the breach, requiring that it be remedied and indicating that failure to remedy the breach may result in termination of this User Agreement.
- 14.5 On termination of this User Agreement for any reason:
 - 14.5.1 the IME will no longer be Listed as an Operational expert on the MedCo Database;
 - 14.5.2 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 User Agreement which existed at or before the date of termination;
 - 14.5.3 any Clause which expressly or by implication is intended to come into or continue in force on or after termination of this User Agreement shall remain in full force and effect.
- 14.6 Notwithstanding earlier termination in accordance with Clause 14.2 of this User Agreement, if this User Agreement is terminated by MedCo at any point, a further application by the IME to become Accredited or Operational will be solely at the complete discretion of the MedCo Board.

15. Confidentiality

- 15.1 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 User Agreement.
- 15.2 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 governmental, supervisory or regulatory authority or by any legally binding order of any court or tribunal provided in any such case that:
- 15.2.1 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 15;
- 15.2.2 it gives the other Party as much notice of such disclosure as possible; and
- 15.2.3 its uses reasonable endeavours to ensure the recipient of such Confidential Information is made aware that such information is confidential.
- 15.3 The obligations contained in Clauses 15.1 to 15.2 shall not apply to any Confidential Information of either Party:
- 15.3.1 to the extent that such Confidential Information was publicly available or generally known to the public (other than as a result of its disclosure by the receiving Party in breach of this Clause);
- 15.3.2 if the Confidential Information was lawfully in the possession of the other Party on a non-confidential basis before disclosure;
- 15.3.3 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; or
- 15.3.4 the Parties agree in writing the Confidential Information is not confidential.
- 15.4 Either Party may disclose Confidential Information to its Personnel, officers, insurers or reinsurers or professional adviser who require such Confidential Information for the purpose of carrying out the Party's obligations under this User Agreement. Each Party shall ensure that all of its Personnel, , officers, insurers, reinsurers or professional advisers to which Confidential Information is disclosed are made aware, prior to receiving the Confidential Information in question, that such information is confidential and comply with the obligations set out this Clause 15 as if they were a Party to this User Agreement.
- 15.5 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.
- 15.6 Each Party may, provided that it 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.
- 15.7 Upon termination of this User Agreement, at the request of MedCo, the IME 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.
- 15.8 Each Party acknowledges that damages alone would not be an adequate remedy for the breach of this Clause 15. 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 the Clause 15.
- 15.9 The provisions of Clause 15 shall survive the termination or expiry of this User Agreement.

16. Force Majeure

16.1 Neither Party shall be liable to the other for any failure or delay in performing its obligations under this User 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.

16.2 If any Party is rendered unable, wholly or in part by Force Majeure, to carry out its obligations under this User Agreement for a period in excess of 30 days, then the non-defaulting Party shall be entitled to terminate this User Agreement forthwith on written notice to the others. Subject to the obligations pursuant to Clause 14, neither Party shall have any liability to the other in respect of the termination of this User Agreement pursuant to this Clause 16.

17. Assignment and Sub-Contracting

17.1 This User Agreement is personal to the IME, and all rights under it may not be assigned or transferred by the IME.

17.2 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 User Agreement and may subcontract or delegate in any manner any or all of its obligations under this User Agreement to any third party.

18. Entire Agreement

18.1 This User Agreement (which includes the contents of the Schedules to this User 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 User Agreement and any prior agreements in relation to this subject matter, the provisions of this User Agreement shall prevail.

19. Proper Law and Jurisdiction

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

20. Notices

20.1 Any notice to be given to a Party under or in connection with this User 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 IME's email addresses or such email address as that Party may have specified to the other Party in writing.

20.2 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;
- (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.

21. Variations

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

22. Severability

22.1 If any provision of this User Agreement is held to be illegal, void or invalid by an English court, that shall not affect the legality, validity and enforceability of the other remaining provisions.

23. Waiver

- 23.1 A waiver of any right or remedy under this User Agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default.
- 23.2 Failure or delay by any of the Parties in exercising any right or remedy of that Party under this User 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.
- 23.3 Any waiver of a breach of, or default under, any of the terms of this User Agreement shall not be deemed a waiver of any subsequent breach of default and shall in no way affect the other terms of this User Agreement
- 24. Parties**
- 24.1 A person who is not a Party to this User Agreement has no right under the Contracts (Right of Third Parties) Act 1999 to enforce any term of this User 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

This policy is for Authorised Users, Medical Reporting Organisations (MROs) and Direct and/or Indirect Medical Expert ("Expert"). The policy sets out the standards of conduct, and professional behaviours that you must adhere to.

All Authorised Users, MROs 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, MROs and Experts not adhering to the standards set out in this document will be acting in breach of their agreement(s) with MedCo ("Agreement"). MedCo reserves the right to conduct investigations which may lead to suspension or termination of any of their Agreement. Referrals may also be made to other regulatory agencies or organisations including but not limited to the Solicitors Regulatory Authority, Financial Conduct Authority, General Medical Council, Insurance Fraud Bureau, Health and Care Professions Council and Information Commissioner's Office.

The Standards

As an Authorised User, a MRO 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 MedCo Rules and the Agreement.

Applying the Standards

As an Authorised User, MRO, 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, MRO, 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, MROs and Experts as far as possible. MedCo acknowledges that some of the standards may not apply to all Authorised Users, MROs, or Experts.

MedCo aims to ensure that a high standard of professional conduct is maintained by Authorised Users, MROs and Experts. This is so that the general public and all Authorised Users, MROs and Experts can have confidence in the Services provided by MedCo and those organisations and individuals who use the MedCo Database. 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, MROs and Experts, as autonomous and accountable professionals, will need to make reasonable decisions about their practice and how best to

meet the standards. MedCo has 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.

The Standards of Conduct and Ethics

1. Act in the best interests of the Claimant

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

You must not allow your views about a Claimant's sex, age, colour, race, disability, sexual orientation, marital status, pregnancy and maternity, 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 data 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. You must also ensure that where you engage a third party' assistance in preparing reports that they are following such best practice and meeting the requirements of the Data Protection Legislation.

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, MROs and Experts will have confidence in you as an Authorised User or as a MRO or an Expert and your actions should not undermine confidence in the Services provided by MedCo. 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 (including any referral on conduct to a Regulatory Body), or about the conduct and competence of any other MedCo Authorised User or MRO or Expert which comes to your attention, to the extent it is permitted by Applicable Law. 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 any report about your conduct and competence in accordance with this policy and the terms of your Agreement. MedCo will take such action as it considers necessary, which may include removing your access to the MedCo Database or your Accredited status 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.

Experts will in any event need to maintain Accredited status as granted by MedCo and will be required to undertake appropriate levels of training, targeted at provision of reports undertaken via MedCo. All Authorised Users and MROs will be required to ensure that they maintain up to date knowledge on Data Protection Legislation and all other relevant Applicable Law.

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 Database.

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

7. Behave with integrity

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

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

You should ensure that you 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

You should ensure that they are familiar with the terms of your Agreement and the MedCo Rules and ensure that these are adhered to. Any revisions will be published and you 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 MROs all MROs should familiarise themselves with and act in accordance with that guidance as updated from time to time.

Schedule 2

Without limitation to the obligation in Clause 3.2.6 to comply with all Applicable Law, the Parties agree to comply with the specific laws and regulations set out in this Schedule 2.

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

The IME 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

2.1 The Parties acknowledge 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, the IME shall ensure that:

2.2.1 any Shared Personal Data:

2.2.1.1 has been collected and disclosed 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 disclosure to MedCo of Shared Personal Data, it has:

2.2.2.1 provided the relevant Data Subjects of the Shared Personal Data with a Privacy Policy on its own behalf and on behalf of MedCo which expressly refers to the disclosure of the Shared Personal Data to MedCo; and

2.2.2.2 referred Data Subjects to MedCo's Privacy Policy at <https://www.medco.org.uk/privacy-policy> for information on how MedCo will Process the relevant Personal Data.

2.2.3 to the extent that consent of the Data Subjects is necessary for compliance with Data Protection Legislation, it has obtained the consent of the Data Subjects to: (i) its transfer of the Shared Personal Data to MedCo; and (ii) the Processing of the Shared Personal Data by MedCo; and it will immediately notify MedCo in the event that a Data Subject withdraws or amends this consent;

2.2.4 it 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 The IME shall notify MedCo promptly, and in any event within 24 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 "**Security Breach**"). The IME shall also notify MedCo of the steps it has taken to remedy and mitigate the Security Breach and will provide MedCo with any information MedCo requests.

2.4 The IME User shall notify MedCo (to the extent legally permitted) promptly, and in any event within 24 hours, should it receive a request, complaint or enquiry from either a Data Protection Regulator or Data Subject with regard to the Shared Personal Data ("**Enquiry**"). The IME shall keep MedCo regularly updated on all such Enquiries and shall notify MedCo when the Enquiry has been resolved.

2.5 The IME shall, within 10 Working Days of receiving a written request, provide to MedCo such information as is reasonably required to satisfy MedCo that the IME 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 User 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 IME in connection with the performance of this User Agreement;
 - (e) have and shall maintain in place throughout the term of this User 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 2, Clause 3.1(b), and will enforce them where appropriate.
- 3.2 The IME, if requested, shall provide MedCo with any reasonable assistance, at the IME'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 IME shall immediately notify MedCo if, at any time during the term of this User Agreement, its circumstances, knowledge or awareness changes such that it would not be able to warrant its compliance with the obligations in Schedule 2, Clause 3.1 at the relevant time.
- 3.4 For the purpose of Schedule 2, 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 User 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.