

This user agreement ("Agreement") is a legally binding agreement between you (the Authorised User) 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 Authorised User's access to certain data contained within the MedCo Database (as defined below) from time to time, for the purposes specified in this Agreement and strictly on the terms and conditions of this Agreement. It also sets the contractual framework within which MedCo can deliver against the Government's policy objectives.

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 (C) AND CLAUSE 2.1 BELOW

RECITALS

- (A) MedCo operates the Database (as defined below) containing certain details of medical experts and medical examination information. That Database will be populated with data supplied by Data Contributors 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 Authorised User have agreed that the Authorised User will have access to the Database, for specified purposes and strictly on the terms and conditions of this Agreement.
- (C) Board authority will be required by any Authorised User seeking to enter into this Agreement where either any previous agreement between the parties was terminated or where the Authorised User 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. DEFINITIONS

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

"Alternative Business Structure"	as defined in the Legal Services Act 2007;
"Authorised User"	a third party authorised by MedCo to obtain and use the relevant Data (strictly in accordance with the Permitted Purpose only) and who has entered into a binding written agreement with MedCo in relation to the use of such Data, as stipulated by MedCo 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 each Party is subject from time to time including but not limited to those set out in Schedule 4 of this Agreement.
"Business Hours"	the period from 9.00 am to 5.00 pm on any Working Day
"Change of Control"	a controlling interest in the Authorised User, or in an entity which directly or indirectly has a controlling interest in the Authorised User, is transferred to any party (unless such transfer is for the purposes of the internal reorganisation of the Authorised User only). 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;
"Charges"	means the definition in Clause 7.1;
"Civil Procedure Rules"	means the procedural code relating to the conduct of civil litigation in England and Wales issued by the UK Ministry of Justice;
"Claimant"	means an individual who is the subject of a Claim;
"Claim"	means a claim brought by an occupant of a motor vehicle where the significant physical injury caused is a soft tissue injury (as defined in the Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents as amended from time to time, or any other Rule or Pre-Action Protocol);
"the Commencement Date"	the date upon which the Authorised User clicked on the "Accept" button in relation to this Agreement;
"Confidential Information"	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 group company of that party for the time being confidential to that party or any of that party's group companies and trade secrets including, without limitation, technical data and know-how relating to the business of either party or of any of that party's group companies or any of its or its suppliers, clients, customers, agents, distributors, shareholders or management;
"Correct Level of Access"	the appropriate level of access as more particularly detailed in Schedule 3 (or as otherwise stipulated by MedCo by not less than 90 days prior notice in writing);
"Data"	the data defined as 'Expert Data' in the MedCo Data Validation Rules Document at www.medco.org.uk or as otherwise stipulated by MedCo from time to time;
"Data Contributor"	all individuals and organisations authorised by MedCo from time to time to access and use the Database to contribute data to the MedCo Database;
"Database Rules"	the Database Rules as set out in Schedule 2 of this agreement, or as amended from time to time by MedCo
"Data Protection Legislation"	means all applicable data protection and privacy legislation, regulations and guidance including: (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 (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

	<p>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>
"Data Protection Regulator"	<p>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;</p>
"Data Subject(s)"	<p>shall have the meaning set out in the Data Protection Legislation;</p>
"Direct Financial Link"	<p>Means a relationship between the MRO and another party which the Government has determined constitutes a direct financial link (or as amended from time to time and set out at www.medco.org.uk.) covering a relationship between the Authorised User and/or:</p> <ul style="list-style-type: none">(a) any MRO which is, or has been, wholly or partly owned by the Authorised User or by a partner, senior manager, member, director, employer or employee in the Authorised User's organisation, is, or has been at any time during the previous 3 year period; or(b) any MRO in which the Authorised User, or a partner, senior manager, member, director, employer or employee in the Authorised User's organisation, is a partner, senior manager, member, director, employer or employee, is, or has been, at any time during the previous 3 year period; or(c) any MRO in which the Authorised User, or a partner, senior manager, member, director, employer or employee in the Authorised User's organisation, is or has been a shareholder, with a shareholding above 3%, now or at any time during the previous 3 year period; or(d) where the Authorised User practises under an ABS licence or is part of a group containing an ABS, any MRO which forms part of, or is wholly or partly owned by, the ABS or group; or(e) any medico-legal expert employed by the Authorised User or under contract of service with the Authorised User for the provision of 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;
"Ethics Policy"	<p>the MedCo Ethics Policy as attached at Schedule 1 to this Agreement as amended from time to time by MedCo.</p>

"MedCo Policy"	Charging	the charges for the provision of the Services or audits set out at www.medco.org.uk (as amended by MedCo from time to time);
"MedCo Database"		the MedCo branded online application, including or other applications or software (as modified by MedCo from time to time), which shall provide Authorised Users with web based browser access to the Data in accordance with the terms and conditions of this 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 by the MedCo Articles of Association.
"MRO"		means an organisation that is instructed to arrange an examination with a medical expert and meets the definition of an MRO set out in the Qualify Criteria;
<u>"No Notice Audit"</u>		<u>means an audit carried out without prior notice in accordance with the Audit Guide published at www.medco.org.uk, as revised from time to time;</u>
"Organisation"		will include a partnership, an LLP, a company, group of companies, unincorporated organisation and an individual/sole proprietor". For the purposes of this document "Law Firm" includes an organisation practising under an Alternative Business Structure (ABS) licence;
"Permitted Purpose"		<ul style="list-style-type: none"> (a) the use of the Data for the purposes of instructing an expert to produce a medico-legal report in relation to a soft tissue personal injury claim arising out of a road traffic collision; (b) where the Authorised User is a defendant and has received a medico-legal report it can conduct a compliant search on the Data to confirm the medical expert is listed on the MedCo Database; (c) for such other purposes stipulated by MedCo in writing from time to time;
"Personal Data"		shall have the meaning set out in the Data Protection Legislation
"Personnel"		all persons employed on behalf of MedCo or all persons employed by the Authorised User (as appropriate) to perform its obligations under this Agreement together with MedCo's or the Authorised User's (as appropriate) servants, agents, and suppliers and approved sub-contractors used in the performance of its obligations under this Agreement;
"Privacy Policy"		shall mean the notice containing the information required to be provided to a Data Subject by the Data Protection Legislation;

"Processing"	shall have the meaning set out in the Data Protection Legislation;
"Qualifying Criteria"	the criteria set by the Ministry of Justice (as amended from time to time) to be met by all MROs, with additional criteria specified as required to be met by High Volume National MROs.
"Reaffirm"	the Authorised User 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
"Register"	means completing the online form, as directed to do so by MedCo and accepting the terms of this 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 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);
"RTA Protocol"	means the 'Pre-action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents' and the 'Pre-action Protocol for Low Value Personal Injury (Employers' Liability and Public Liability) Claims issued by the UK Ministry of Justice;
"Sensitive Personal Data"	shall from 25 May 2018 mean Special Category Data and shall have the meaning set out in the Data Protection Legislation;
"Service"	the service to be provided by or on behalf of MedCo of granting the Authorised User access to the MedCo Database and access to the relevant Data in accordance with this Agreement or as otherwise stipulated by MedCo from time to time;
"Shared Personal Data"	the Personal Data contributed and/or uploaded to the Database by Authorised User for the Permitted Purposes;
"User"	any individual authorised by the Authorised User to access the Database on its behalf;
"Working Day"	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 (including but not limited to legislation relating to the protection of personal data);

- (b) references to Clauses are to Clauses of 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.

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 14 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 Authorised User may Register; or

(b) If MedCo has suspended the Authorised User'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 Authorised User may Register.

3 Obligations

3.1 MedCo's Obligations

3.1.1 From the Commencement Date until termination of this Agreement MedCo shall use reasonable endeavours to make the Data available to the Authorised User only in accordance with the terms of this Agreement.

3.2 The Authorised User's Obligations

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

- (a) access the Database in accordance with all terms of this Agreement and to act in accordance with the MedCo Rules, the Database Rules and Ethics Policy;
- (b) use the MedCo Database to source an expert for all medico-legal reports where required to do so pursuant to the Civil Procedure Rules;
- (c) complete the relevant Mandatory Fields as set out in the MedCo Data Validation Rules;
- (d) not attempt to subvert the random allocation process in any way, including by making repeat searches of the MedCo Database for individual claimants;
- (e) act with reasonable skill and care in performing its obligations under this Agreement and in compliance with all Applicable Law;
- (f) adhere, at all times, to any other lawful instructions from MedCo in its use of the MedCo Database or the Data provided by MedCo and in all related documentation supplied to consumers, press and other media;

- (g) will not use for purposes other than the Permitted Purpose any part of any infrastructure, network or communication devices or links relating to the MedCo Database.

4 Access to and Use of MedCo Database

4.1 Subject to the Authorised User fully complying with its obligations pursuant to this Agreement, MedCo grants to the Authorised User a non-exclusive licence to use the Data for the Permitted Purpose during the term of this Agreement.

4.2 The Authorised User may only undertake a search of the MedCo Database and the Data in respect of the Permitted Purpose and may not under any circumstances undertake searches of a general or speculative nature, nor use information obtained from the MedCo Database for purposes of promoting its products or services or soliciting customers. Subject to the Authorised User's statutory obligations pursuant to the DPA, the Authorised User warrants and undertakes to MedCo that:

- (a) it will notify MedCo as soon as reasonably possible if the Authorised User becomes aware of any complaint regarding the use of Data that will lead to or is likely to lead to press involvement or the involvement of a Member of Parliament or other government representative;
- (b) it shall keep, and furnish to MedCo immediately upon request, a written record of each User (including without limitation his or her name, role and category of access (as stipulated by MedCo from time to time)) and remove access from the accounts of any Users who no longer require it;
- (c) without prejudice to the Authorised User's other obligations in relation to audits, it shall ensure that user credentials for any User who ceases to be authorised by the Authorised User to use the system, or who ceases to be employed by the Authorised User are disabled immediately by the Authorised User and that you conduct regular quarterly reviews of users and ensure that the credentials of any User who no longer requires access are disabled immediately;
- (d) it will restrict Users to its own employees or individuals contracted to work on behalf of the Authorised User for personal injury claims handling related activities and shall ensure that each User has been assigned the Correct Level of Access.

4.3 MedCo shall be entitled to create or collect any reasonable data or information about the Authorised User's use of the MedCo Database in respect of the number of enquiries the Authorised User makes regulatory or compliance requirements or by operation of law ("Usage Data").

4.4 MedCo shall be entitled to disclose any Usage 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.

4.5 So far as law allows, the Authorised User shall hold such information as is necessary for the satisfaction of its obligations under this Agreement.

4.6 MedCo reserves the right to issue reports from time to time to the Authorised User setting out the Authorised User's compliance with the MedCo Data Validation Rules Document.

5. Warranties

5.1 The Authorised User warrants and undertakes to MedCo that:

- 5.1.1 on the Commencement Date it has notified and during the term of the Agreement, it 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 instruct a medical expert or MRO or other relevant organisation (as reasonably stipulated by MedCo from time to time) to which it has a Direct Financial Link;
- 5.1.2 it will Reaffirm the Agreement and declare its position with regards to financial links on an annual basis when requested to do so, by MedCo in the format required by MedCo;
- 5.1.3 it will not declare any Direct Financial Links unless it is in accordance with the definition provided within the terms of this Agreement as amended from time to time;
- 5.1.4 the contact details provided to Medco for the Authorised User's primary and secondary users are kept up to date;
- 5.1.5 any Personal Data it 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; and
- 5.1.6 prior to the transfer to MedCo in relation to the Shared Personal Data, it has provided the Data Subjects of the Shared Personal Data with a Privacy Policy on its own behalf and on behalf of MedCo. MedCo's Privacy Policy can be found at www.medco.org.uk

6. Intellectual Property

- 6.1 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 Data Contributor.
- 6.2 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).
- 6.3 Nothing in this Agreement grants the Authorised User the right to use the MedCo logo without prior authorisation which is at the entire discretion of the MedCo Board.

7 Charges

- 7.1 In consideration of the provision of the Service, the Authorised User shall pay to MedCo during the term of this Agreement the sums stipulated by MedCo in the MedCo Charging Policy (the "Charges") (subject to the provisions of clause 7.3).
- 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 Authorised User.
- 7.3 The Authorised User 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 Charges are payable by the Authorised User, without prejudice to any other right or remedy that it may have, if the Authorised User 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 all Services until payment has been made in full.
- 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 Agreement against any amounts payable by it to that party.

7.6 All amounts payable by the Authorised User 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 Authorised User, the Authorised User shall pay to MedCo such additional amounts in respect of VAT as are chargeable on the supply of the Services and audits at the same time as payment is due for the supply of the Services or audits.

7.7 The Authorised User confirms that all Charges paid to MedCo are non-refundable.

8 Change of Control

8.1 If the Authorised User wishes to undergo any Change of Control it shall, as soon as legally permitted to do so, notify MedCo in writing giving sufficient details to be able to assess the effect.

8.2 MedCo shall have the right (at its absolute obligation) to terminate this Agreement forthwith without liability in the event of a Change of Control of the Authorised User.

8.3 Without prejudice to any other right or remedy available to MedCo, in the event of a Change of Control of the Authorised User, the Authorised User 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).

9. Audit

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 (subject to such representative complying with the confidentiality provisions set out in clause 15 of this Agreement) conduct an audit of the Authorised User's compliance with this Agreement. Such audit may include (but shall not be limited to) reviewing the Authorised User's:

- (a) compliance with this Agreement
- (b) access to and use of the Database Data;
- (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, which can be found at www.medco.org.uk, sets out a summary of the audit process and requirements for the provision of data and other matters. The MRO should be familiar with and present all information requested by MedCo as detailed in the Audit Guide.

9.2 No Notice Audit

9.2.1 During the term of this Agreement MedCo may carry out a No Notice Audit if MedCo reasonably believes that there are one or more serious breaches of a material term of this Agreement.

9.2.2 Failure to provide access and fully co-operate with the No Notice Audit may result in MedCo suspending the Services as set out in clause 13.

9.2.3 The No Notice Audit will be carried out in accordance with the Audit Guide published at www.medco.org.uk as revised from time to time.

9.3 Except where-

- (a) an audit is imposed on MedCo by a regulatory body or government;
- (b) the Authorised User 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; or
- (d) a No Notice Audit is undertaken;

MedCo (or its Personnel) may not conduct an audit on more than one occasion in any calendar year, except where MedCo undertakes a No Notice Audit-

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

9.45 Subject to MedCo's obligations of confidentiality, the Authorised User and the Authorised User's 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 requested by the persons above within the permitted scope of the audit;
- (b) reasonable access to any sites controlled by the Authorised User or the Authorised User's Personnel (as appropriate) and to any equipment used (whether exclusively or non-exclusively) in relation to this Agreement in accordance with the Authorised User's internal security policy; and
- (c) access to the relevant Authorised User Personnel.

9.56 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 No Notice Audit.

9.67 The parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under Clauses 9.1 to 9.5-6 (inclusive), unless MedCo determine that the audit identifies a material failure to perform its obligations under this Agreement in any material manner by the Authorised User in which case the Authorised User shall reimburse MedCo for all MedCo's reasonable costs incurred in the course of the audit.

9.78 The rights granted to MedCo pursuant to clauses 9.1 to 9.5-6 will automatically extend to any organisation to whom the Authorised User passes or share data where it was obtained from the MedCo Database.

9.89 Without prejudice to this clause 9, the Authorised User shall keep full, proper and up to date books of account and records showing clearly all transactions and proceedings relating to its use of the Data (as otherwise reasonably stipulated by MedCo from time to time). The Authorised User shall make such books of accounts and records available to MedCo and its Personnel upon reasonable request by MedCo. Subject to the foregoing and unless MedCo is aware of, or reasonably suspects, a breach of this Agreement by the Authorised User MedCo shall not carry out an audit pursuant to this Clause 9.8-9 on more than two occasions during any calendar year.

10. Liability and indemnities

10.1 The Authorised User 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 Authorised User of the warranties contained in clauses 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 The Authorised User hereby acknowledges and agrees that the Data shall be supplied by third parties, 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 Data or the Service 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 Data or the service (as appropriate) 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 Authorised User 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) during the preceding 12 months or the sum of £500.
- 10.4 Save as otherwise expressly stated in this Agreement and without prejudice to clause 10.3, neither party shall be liable 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.

11. Escalation Procedure

- 11.1 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:
- (a) 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, MedCo's Personnel or representative of the relevant MedCo committee (as specified by MedCo) ("MedCo Representative") and a member of the Authorised User's Personnel ("Authorised User's Representative") who is of an equivalent position (in the Authorised User's reasonable opinion) shall attempt in good faith to resolve the Dispute;
 - (b) if the MedCo Representative and the Authorised User's 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 MedCo committee (as specified by MedCo) ("MedCo Senior Representative") and Company Director or member of the Authorised User's Personnel ("Authorised User's Senior Representative") who is of an equivalent position (in the Authorised User's reasonable opinion) who shall attempt in good faith to resolve it; and
 - (c) if the MedCo Senior Representative and Authorised User'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.

- 11.2 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.
- 11.3 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 20 of this Agreement.
- 11.4 MedCo may record the escalation meetings, subject to the attendees of the meeting giving their explicit consent to the meeting being recorded.

12. Written warning

- 12.1 If the Authorised User 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 Authorised User setting out the action that the Authorised User is required to take to resolve the issue

13. Suspension

- 13.1 If the Authorised User 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).

14. Termination

- 14.1 MedCo shall be entitled to terminate this Agreement forthwith without liability, on written notice to the Authorised User in the event that the provision by MedCo of the Data is discontinued for any reason whatsoever.
- 14.2 MedCo or the Authorised User shall be entitled to terminate this 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 Agreement forthwith by written notice to the Authorised User in the event that the Authorised User 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 13 Suspension; 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;
 - (b) has a Change of Control.
- 14.4 The Authorised User 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 the 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.
- 14.5 On termination of this Agreement for any reason:
- (a) save for any Data which the Authorised User is under a statutory or regulatory obligation to retain, the Authorised User shall, forthwith return, delete or destroy all Data (on any medium) in accordance with MedCo's instructions (acting reasonably). MedCo reserves the right to audit the Authorised User's compliance with this provision and, if the Authorised User fails to do so, then MedCo or its representatives may enter

the Authorised User's premises and take possession of them. Until they have been returned or repossessed, MedCo shall be solely responsible for their safe keeping, MedCo reserves the right for it or its representatives to audit the Authorised User's compliance with this clause;

- (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 10; and
- (c) clauses which expressly or by implication have effect after termination shall continue in full force and effect.

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 cause any use or disclosure of any Confidential Information except to the extent permitted under this 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 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 15; and
 - (b) each party shall use 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:
 - (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.
- 15.4 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 15.
- 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 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.
- 15.7 Upon termination of this Agreement, at the request of MedCo, the Authorised User 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 this Clause 15.

15.9 The provisions of clause 15 shall survive the termination or expiry of this agreement.

16 Force Majeure

16.1 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.

16.2 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 14 neither party shall have any liability to the other in respect of the termination of this Agreement pursuant to this clause 16.

17 Assignment and Sub-Contracting

17.1 This Agreement and all rights under it may not be assigned or transferred by the Authorised User without the prior written approval of MedCo (such approval not to be unreasonably withheld or delayed).

18 Third Party Rights

18.1 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.

19 Entire Agreement

19.1 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.

20 Proper Law and Jurisdiction

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

21 Notices

21.1 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 primary user's email addresses or such email address as that party may have specified to the other party in writing.

21.2 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.

22 Variations

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

23 Severability

23.1 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.

24 Waiver

24.1 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.

24.2 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.

25 No partnership or agency

25.1 Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

25.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

Schedule 1

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 Accredited 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 Accredited 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 Accredited 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.

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 Accredited Expert. Each Authorised User, Data Contributor and Accredited 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 Accredited 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 Accredited Expert and your actions should not undermine confidence in the MedCo Service. As an Authorised User, MRO, or Accredited 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 Accredited 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 2

Database Rules

- (1) The Authorised User shall keep its own records of information submitted and received by parties via the MedCo Database and shall not rely on MedCo for any data storage purposes or use or rely on it as a case management system.
- (2) The Authorised User will monitor and enforce appropriate information security controls over its use of the MedCo Database and related data, including only permitting persons to access it who are both employed by the Authorised User and authorised by the Authorised User's management to access the Database and its related data. The Authorised User will not create duplicate cases on the MedCo Database for the same claimant on the same accident date.
- (3) The Authorised User will not use an alternative postcode for a claimant in order to obtain their preferred search results.
- (4) The Authorised User will submit an explanation to MedCo, if required by MedCo where the Authorised User believes it is necessary to conduct a second search for the same claimant on the same accident date prior to commencing such search.
- (5) In accordance with Civil Procedure Rules the Authorised User will not instruct an expert who has previously or is currently providing treatment to the claimant.
- (6) The Authorised User will select via the MedCo Database which expert it has instructed from the search results provided by MedCo.
- (7) It is the principles/senior management's responsibility to ensure all staff are trained to use MedCo and are aware of these Database Rules.
- (8) The Authorised User will ensure once a selection is made on MedCo the Authorised User will forward the instruction on to the selected party in 5 days or if the selection is no longer required the Authorised User will inform the selected party the instruction has been cancelled.
- (9) The Authorised User will ensure sufficient number of agreements are in place with authorised Data Contributor suppliers and agreed terms are in place with medical experts or MROs before a selection is made on the Database.

Schedule 3
Correct Level of Access

User Type	Registration	Registration Maintenance	Maintain Direct Financial Links	Create Administrative Users	Create Operational Users	Search
Primary User	Y	Y	Y	Y	Y	Y
Administrative User	N	N	N	N	Y	Y
Operational User	N	N	N	N	N	Y

Schedule 4

Without limitation to the obligation in Clause 3.2.1 (e) to comply with all Applicable Law, the Parties agree to comply with the specific laws and regulations set out in this Schedule 4.

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

The Authorised User 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 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, the Authorised User 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 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 The Authorised User 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**"). The Authorised User 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 The Authorised User 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 Authorised User shall, within 10 Working Days of receiving a written request, provide to MedCo such information as is reasonably required to satisfy MedCo that the Authorised User 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 Authorised User 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 4 clause 3.1(b), and will enforce them where appropriate.
- 3.2 The Authorised User if requested, shall provide MedCo with any reasonable assistance, at the Authorised User'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 Authorised User 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 set out in Schedule 4 clause 3.1 at the relevant time.
- 3.4 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.
- 3.5 For the purpose of Schedule 4 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.