

## AGREED TERMS

### 1 Interpretation

The following definitions and rules of interpretation apply in these Terms.

#### **Consent**

means the consent you give to the GP Surgery to submit the Medical Record through the eMR and for us to provide the Medical Record to you.

**Controller, Processor, Data Subject, Personal Data, Personal Data Breach, processing and appropriate, technical and organisational measures**  
as defined in the Data Protection Legislation.

#### **Data Protection Legislation**

means all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426), as amended and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party to the contract relating to the use of Personal Data.

#### **eMR**

means the electronic medical reporting system the GP Surgery uses to submit the Medical Record through.

#### **GP Surgery**

means a GP Surgery who provides the Medical Record following a Request.

#### **Intellectual Property Rights**

patents, rights to inventions, copyright and related rights, moral rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

#### **Medical Record**

means the Medical Record submitted by the GP Surgery through the eMR following a Request and supplied to you through the URL.

#### **Privacy Policy**

means the privacy policy of MediData Exchange Limited, as amended from time to time.

#### **Request**

means a new request by you or such other third party who is authorised by you to make a request for a Medical Record.

#### **Secure Access Portal**

means the secure access portal you will be provided access to through the URL to view the Medical Record.

#### **Services**

means us providing the Medical Record to you through the URL.

#### **SMS Token**

means the SMS token code requested by you following receipt of the URL in order to access the Services.

#### **Terms**

means these terms and conditions, as amended from time to time.

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## **URL**

means the secure URL we send to you to access the Medical Record.

A reference to a statute or statutory provision is a reference to it as amended or re-enacted from time to time. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.

Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

## **2 These terms**

- 2.1 These Terms apply to us providing you with the Service and your access to the URL.
- 2.2 Please read these Terms carefully before you use the Service. These Terms tell you who we are, how we will provide the Services to you, your obligations, how you and we may change or end the contract, what to do if there is a problem and other important information.

## **3 Information about us and how to contact us**

- 3.1 'We', 'us' or 'our' means MediData Exchange Limited a company limited by shares, registered in England and Wales. Our company registration number is 09481183 and our registered office is at Ty Derw, Lime Tree Court Mulberry Drive, Cardiff Gate Business Park, Pontprennau, Cardiff, Wales, CF23 8AB, United Kingdom. Our registered VAT number is 272368684.
- 3.2 'You' or 'your' means the person receiving the Services from us.
- 3.3 **How to contact us.** You can contact us by telephoning us at +3333055774 or by sending us an email to [emr@medi2data.com](mailto:emr@medi2data.com).
- 3.4 **How we may contact you.** If we have to contact you, we will do so by telephone or sending you an email to the email address or by writing to you at the postal address you most recently provided to us.

## **4 Our contract with you**

- 4.1 By accepting the Services from us and by selecting the tick box below, you confirm that you accept these Terms and that you agree to be legally bound by them.
- 4.2 You engage us to provide the Services in accordance with these Terms and we agree to provide the Services to you in accordance with these Terms.

## **5 Our obligations**

- 5.1 We are not obliged to continue to provide the Services or access to the URL to you. We may withdraw access to the URL at any time by giving a minimum of thirty (30) days' notice in writing to you without liability or fault on our part.
- 5.2 We may have to suspend availability of the URL to:
  - 5.2.1 deal with technical problems or make minor technical changes;
  - 5.2.2 update the URL to reflect changes in relevant laws and regulatory requirements.
- 5.3 If the URL is unavailable due to an event outside our control, then we will contact you as soon as possible to let you know and we will take steps to minimise the effect of the delay. Provided we do this, we will not be liable for delays caused by the event.
- 5.4 Time shall not be of the essence for performance of the Services. We shall use our reasonable endeavours to meet estimated dates for performance, but any such dates are approximates only.
- 5.5 When we supply the Services to you:

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- 5.5.1 we will use all reasonable efforts to ensure they are free from defects; viruses and other malicious content; and
  - 5.5.2 we do not promise that they are compatible with any third-party software or equipment.

## 6 Your rights and obligations

- 6.1 In order to access the Services, you must request an SMS Token through the URL we send to you. If you do not request an SMS Token, you will not be able to access the Services and we will not have any responsibility or liability to you for failing to provide the Services.
- 6.2 It is your responsibility to ensure that:
  - 6.2.1 you co-operate with us in all matters relating to the Services and provide to us all information we reasonably require to make the Services available to you, and you will ensure such information is complete and accurate in all material respects at all times;
  - 6.2.2 you obtain and maintain all necessary licences, permissions and consents which may be required to use the Services;
  - 6.2.3 you shall comply with all applicable laws, regulations, regulatory policies, guidelines or industry codes which may apply from time to time to the use of the Services;
  - 6.2.4 you keep the SMS Token you receive secure and confidential and do not share this with any third party and if you know or suspect that anyone other than you knows the SMS Token provided to you, you must promptly notify us at [emr@medi2data.com](mailto:emr@medi2data.com); and
  - 6.2.5 you shall not do or omit to do anything which may cause us to lose any licence, authority, consent or permission on which we rely for the purpose of conducting our business.
- 6.3 Should you share the Medical Record with any third party, whether through the Secure Access Portal or in any other format, you do so at your own discretion and at your own risk. We will have no responsibility or liability to you for you making the Medical Report available to such third parties.
- 6.4 If our ability to make the Services available to you is prevented or delayed by any failure by you to fulfil any obligation listed in clause 6.3 (**Your Default**):
  - 6.4.1 we will be entitled to withdraw the availability of the URL unless and until you remedy Your Default; and
  - 6.4.2 we will not be responsible for any costs or losses you or others sustain or incur arising directly or indirectly from our failure to make the URL available.

## 7 Data Protection

- 7.1 Both you and us will comply with all applicable requirements of the Data Protection Legislation. This clause 7 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation. In this clause 7, **Applicable Laws** means (for so long as and to the extent that they apply) the law of the European Union, the law of any member state of the European Union and/or Domestic UK Law; and **Domestic UK Law** means the UK Data Protection Legislation and any other law that applies in the UK.
- 7.2 Your privacy and Personal Data is important to us. Subject to clause 7.3, any Personal Data that you provide to us will be dealt with in accordance with our Privacy Policy which can be accessed [here](#). Our Privacy Policy explains what Personal Data we collect from you, how and why we collect, store, use and share such information, your rights in relation to your Personal Data and how to contact us and supervisor authorities in the event you have a query about the use of your Personal Data.
- 7.3 Any Personal Data relating to your health or medical records ("**Special Category Data**") in the Medical Record provided through the URL will be processed by us as a Data Processor on behalf of the relevant GP Surgery as the Data Controller and in accordance with the Consent. The processing of this Special Category Data will not be subject to the Privacy Policy and you

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will need to review the contents of the Data Controller's privacy policy in respect of the processing of this Special Category Data. We have data processing agreements in place with relevant Data Controllers.

## **8 Termination**

- 8.1 Without affecting any other right to remedy available to us, we may end the Contract at any time by notice in writing to you because of Your Default and we reserve the right to withdraw access to the URL and the Services upon termination of this contract.
- 8.2 Without affecting any other right or remedy available to us, we may end the contract at any time by notice in writing to you:
- 8.2.1 if you commit a material breach of any term of this contract and (if such breach is remediable) fail to remedy that breach within fourteen (14) days of you being notified in writing to do so; or
  - 8.2.2 if we suffer an insolvency event including but not limited to us suspending payment of our debts or being unable to pay our debts as they fall due or are deemed unable to pay our debts within the meaning of section 123 of the Insolvency Act 1986; a petition is filed, a notice is given, a resolution is passed or an order is made, for or in connection with our winding up; or a receiver is appointed over all or any of our assets; or
  - 8.2.3 if we suspend or cease to carry on all or a substantial part of our business; or
  - 8.2.4 if we wish to stop providing the Services and/or the URL for any reason.
- 8.3 If we end the contract pursuant to this clause 8, we will use our reasonable endeavours (wherever possible) to write to you or email you to let you know that we are going to withdraw the availability of the URL and cease providing the Services in advance of doing so but we accept no liability to you for failing to do so.
- 8.4 Termination of the contract will not affect your or our rights and remedies that have accrued as at termination.
- 8.5 Any provision of this contract that expressly or by implication is intended to come into or continue in force on or after termination will remain in full force and effect.

## **9 Charges**

Subject always to clause 12.4, we will provide the Services to you free of charge.

## **10 Limitation of liability**

- 10.1 Nothing in these terms shall limit or exclude our liability for:
- 10.1.1 death or personal injury caused by our negligence;
  - 10.1.2 fraud or fraudulent misrepresentation; or
  - 10.1.3 any matter in respect of which it would be unlawful for us to exclude or restrict liability.
- 10.2 Subject to clause 10.1:
- 10.2.1 we shall not be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise arising under or in connection with the contract or any other contract between us for losses that:
    - (a) were not foreseeable to you and us when the contract was formed; or
    - (b) were not caused by any breach on our part,
  - 10.2.2 our total liability to you for all other losses arising under or in connection with these Terms and any other contract between us, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall be limited to £100,000.

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10.3 This clause 10 will survive termination of the contract.

## **11 Communication between us**

11.1 When we use the words "writing" or "written" in these terms, this includes emails.

11.2 Any notice or other communication given by one of us to the other under or in connection with the Terms must be in writing and sent by pre-paid first-class post or other next working day delivery service, or by email.

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

11.3.1 if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second working day after posting; or

11.3.2 if sent by email, at 9.00 am the next working day after transmission.

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

## **12 Other important terms**

12.1 Neither of you or us shall be in breach of these Terms nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure results from events, circumstances or causes beyond its reasonable control. If the period of delay or non-performance continues for one month, you or us (as the non-affected party) may terminate the contract by giving fourteen (14) days' written notice to the other.

12.2 We may transfer our rights and obligations under these Terms to another organisation. We will always tell you in writing if this happens and we will ensure that the transfer will not affect your rights under the Terms.

12.3 You may only transfer your rights or your obligations under these Terms to another person if we agree to this in writing.

12.4 We shall be entitled to alter the provisions of these Terms from time to time by giving you thirty (30) days' notice in writing of such change to these Terms.

12.5 This contract is between you and us. This contract does not give rise to any rights under the Contract (Rights of Third Parties) Act 1999 to enforce any term of this contract.

12.6 Each of the paragraphs of the Terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining paragraphs will remain in full force and effect.

12.7 If we do not insist immediately that you do anything you are required to do under these Terms, or if we delay in taking steps against you in respect of your breaching these Terms, that will not mean that you do not have to do those things and it will not prevent us taking steps against you at a later date.

12.8 This contract constitutes the entire agreement between us and you and supersedes and extinguishes all previous agreements, promises, warranties, representations and understandings between the, whether written or oral relating to its subject matter. Each of you and us agree that we shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in these Terms. Each of you and us agree that we shall have no claim for innocent or negligent misrepresentation based on any statement in these Terms.

12.9 Any dispute or claim arising out of or in connection with these Terms or their subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales and the courts of England and Wales shall have exclusive jurisdiction to settle any such dispute or claim.