

MEDIGOLD PROTECT – TERMS AND CONDITIONS OF SUBSCRIPTION

1. Definitions and Interpretation

“Additional Services”	Means any additional services and/or Deliverables which Medigold Health provides or agrees to provide to the Client in connection with this Agreement.
“Agreement”	Means the Agreement between the Parties in respect of the Subscription and provision of the Services incorporating these Conditions.
“Business Day”	Means a day on which the clearing banks are open for business in the City of London, other than Sunday.
“Client”	Means the business which is purchasing the Subscription.
“Client Data”	Means any data reports, specifications, images or other information provided by or on behalf of the Client to Medigold Health (in any form of media), or otherwise made accessible to Medigold Health by the Client, to enable Medigold Health to perform the Services, together with all data and information calculated, processed or otherwise derived therefrom by Medigold Health in connection with this Agreement, but specifically excluding the Controller Services Data and the Processor Services Data.
“Client Equipment”	Means any computers, tools, network equipment, systems, cabling and associated infrastructure provided by the Client (including the Client's server) owned and/or operated by the Client, which is used directly or indirectly in the supply of the Services and/or with which the Medigold Health Equipment is required to interface.
“Conditions”	Means the terms and conditions set out in this document as amended from time to time in accordance with clause 17.3.
“Confidential Information”	Means any information which is marked as confidential, or is by its nature clearly confidential, including, without limitation, any information relating to that Party's services, operations, plans or intentions, service information, design rights, trade secrets, market opportunities and business affairs or those of its clients and is disclosed (whether in writing, verbally or by any other means and whether directly or indirectly) by either Party to the other.
“Controller”	Has the meaning given in the UK GDPR.
“Controller Services”	Means the Core Services and such of the Additional Services which may be provided by Medigold Health under this Agreement in the capacity of Controller.
“Controller Services Data”	Means the Personal Data processed by the Parties in connection with the Controller Services.
“Core Services”	Means the standard services and Deliverables to be provided by Medigold Health under this Agreement as set out in Schedule 1 Part 1.
“Covered Staff”	Means the Client's staff in relation to whom the Services are to be provided

“Data Protection Laws”	<p>Means all applicable data protection and privacy legislation, regulations and guidance including:</p> <ul style="list-style-type: none"> (i) Regulation (EU) 2016/679) (as incorporated into UK legislation by way of the European Union (Withdrawal Agreement) Act 2020 and as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2020, together forming the “UK GDPR”) and the Privacy and Electronic Communications (EC Directive) Regulations 2003; (ii) the Data Protection Act 2018; and (iii) all applicable law about the processing of Personal Data and privacy; <p>and all other legislation and regulatory requirements in force from time to time which apply to a Party relating to the use of Personal Data.</p>
“Data Subject”	Has the meaning given in the UK GDPR.
“Deliverables”	Means all documents, products and materials developed by Medigold Health or its agents, subcontractors, consultants or employees in connection with this Agreement in any form.
“Effective Date”	Means the date this Agreement comes into force as set out in clause 2.3.
“Force Majeure”	Means any act, omission, event or circumstance, beyond the reasonable control of the Party affected, including but not limited to, any act of God, fire, disaster, war, civil commotion, insurrection, embargo, prevention from or hindrance in obtaining raw materials, energy or other supplies, explosion, industrial dispute affecting a third party for which a substitute third party is not reasonably available, breakdown of plant or machinery, computer system failure, flood, severe weather conditions, riots, accident, or any act of any governmental, regulatory or other official body.
“Head Count”	Means the total number of Covered Staff as advised to Medigold Health by the Client, to whom the Services will be provided.
“Initial Subscription Period”	Has the meaning given in clause 3.1.
“Intellectual Property Rights”	Means know how, trade secrets and other confidential information, registered designs, copyrights, data, database rights, design rights, rights affording equivalent protection to copyright, database rights and design rights, trademarks, service marks, logos, domain names, business names, trade names, moral rights, and all registrations or applications to register any of the aforesaid terms, rights in the nature of any of the aforesaid items in any country or jurisdiction and rights to sue for passing off.
“Medigold Health”	Means Medigold Health Consultancy Limited, a registered company no. 3507491 whose registered address is Medigold House, Queensbridge, Northampton, NN4 7BF and the supplier of the Services for the purposes of this Agreement.

“Medigold Health Equipment”	Means any computers, tools, network equipment, systems, cabling and associated infrastructure owned and/or operated by Medigold Health or its subcontractors and used directly or indirectly in the supply of the Services, which is not the subject of a separate agreement between the Parties under which title passes to the Client.
“Medigold Health Personnel”	Means all persons engaged or employed from time to time by Medigold Health in connection with the Agreement, including employees, consultants, contractors and permitted agents.
“Party”	Means either the Client or Medigold Health and any reference to "Parties" means both the Client and the Medigold Health.
“Personal Data”	Has the meaning given in the UK GDPR.
“Personal Data Breach”	Has the meaning given in the UK GDPR.
“Pre-existing Materials”	Means all documents, information and materials provided by Medigold Health in connection with Implementation and/or supply of the Services which existed prior to the Effective Date, including pre-existing Software, data, reports and specifications and any other pre-existing materials.
“processing”	Has the meaning given in the UK GDPR and “process” and “processed” shall be construed accordingly.
“Processor”	Has the meaning given in the UK GDPR.
“Processor Services”	Means such of the Additional Services that may be provided by Medigold Health under this agreement pursuant to which Medigold Health processes Personal Data in the capacity of Processor.
“Processor Services Data”	Means the Personal Data processed by Medigold Health in order to deliver the Processor Services and as further specified in a data processing schedule to be agreed between the Parties in the form attached at Schedule 2.
“Renewal Period”	Has the meaning given in clause 3.1.
“Services”	Means the Core Services and the Additional Services (as applicable).
“Software”	Means all software used and/or supplied by Medigold Health in connection with the Services (and as may be updated or upgraded by Medigold Health from time to time), including the Thrive application, any software which is inherent to the provision of the Services, any software comprised within the Medigold Health Equipment or the Pre-existing Materials and all software comprised within the Web Portal.
“Subscription”	Means the order submitted via the Web Portal or otherwise to Medigold Health for Medigold Health to provide the Services.
“Subscription Fees”	means the fees payable by the Client to Medigold Health in respect of the Core Services.
“Subscription Period”	Has the meaning given in clause 3.1.

“Subscription Term”	Has the meaning given in clause 3.1.
“UK GDPR”	Has the meaning given within the definition of “Data Protection Laws” above.
“VAT”	Means value added tax chargeable under English law for the time being and any similar additional tax.
“Web Portal”	Means the online portal to which the Client shall be granted access in connection with its use of the Services, as may be updated or upgraded by Medigold Health from time to time.
“Web Portal Terms of Use”	means the agreement between each user of the Web Portal and Medigold Health in connection with the use of the Web Portal

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

- 1.1. Any reference in this Agreement to "writing", and any cognate expression, includes a reference to any communication effected by facsimile transmission, email, or similar means.
- 1.2. Any reference in this Agreement to a statute or any provision of a statute shall be construed as a reference to that statute or provision as amended or re-enacted at the relevant time.
- 1.3. The headings in this Agreement are for convenience only and shall not affect its interpretation.
- 1.4. Any attachments or enclosures (such as schedules, appendices or addendums) form part of this Agreement and shall have the same force and effect as if expressly set out in the body of this Agreement and any reference to this Agreement shall include such attachments and enclosures;
- 1.5. To the extent that there is an inconsistency between the terms of the body of these Conditions and the attachments or enclosures, the terms of the body of these Conditions shall prevail, save that any addendums signed by both Parties after the Effective Date shall prevail over the body of these Conditions.
- 1.6. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.7. Words in the singular shall include the plural and vice versa.

2. **Basis of Agreement**

- 2.1 These Conditions apply to the Agreement to the exclusion of any other terms that the Client seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.2 The Subscription constitutes an offer by the Client to purchase the Services in accordance with these Conditions.
- 2.3 The Subscription shall only be deemed to be accepted when Medigold Health issues a written confirmation of the Subscription to the Client, at which point the Agreement shall come into existence (the **“Effective Date”**).
- 2.4 The Client waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Client that is inconsistent with these Conditions.

- 2.5 Any brochure, sales literature or advertising produced by Medigold Health are produced for the sole purpose of giving an approximate idea of the Services referred to in them. They shall not form part of the Agreement nor have any contractual force.
- 2.6 Any quotation for the Services given by Medigold Health shall not constitute an offer.
- 2.7 Prices for any Additional Services are available upon request and requests for such Additional Services by the Client, whether written or oral, shall constitute an offer by the Client to purchase such Additional Services in accordance with these Conditions.
- 2.8 The Services are available to businesses with registered addresses in United Kingdom only.
- 2.9 The Client is encouraged to print or download a copy of these Conditions for future reference.

3. Term

- 3.1. This Agreement shall come into force on the Effective Date and shall continue in full force and effect for a period of 12 months (the “**Initial Subscription Period**”) and shall continue thereafter for successive 12-month periods (each a “**Renewal Period**”) unless terminated earlier by either Party in accordance with clause 13. The Initial Subscription Period and any subsequent Renewal Periods, are each a “**Subscription Period**”, and shall together constitute the “**Subscription Term**”.

4. Medigold Health’s Obligations

- 4.1. Medigold Health warrants that it will provide the Services with all reasonable skill, care and diligence including but not limited to good industry practice and (without limiting the generality of this clause) in accordance with its own established internal procedures. All other warranties and representations, whether express or implied by law, are excluded to the extent permitted by law.
- 4.2. The Services shall be performed in compliance with all applicable laws and regulations. The Client acknowledges and agrees that changes to any applicable law, regulation or relevant code of practice which come into effect after the Effective Date may result in changes to the Services.
- 4.3. Medigold Health shall maintain, and test, appropriate Business Continuity and Disaster Recovery plans in respect of the Services and will provide summaries of these plans to the Client upon request.

5. The Client’s Obligations

- 5.1. The Client shall:
- 5.1.1. appoint a contract manager who shall be the Client's key contact and representative throughout the contract and who shall have the authority to make decisions on behalf of the Client;
- 5.1.2. provide Medigold Health with all necessary co-operation in relation to this Agreement and all necessary access to such information as may be required by Medigold Health in order to provide the Services;
- 5.1.3. reasonably assist Medigold Health in all other relevant matters relating to the Services;
- 5.1.4. promptly, and in any event within 30 days of such change, inform Medigold Health of any material change to the information provided to Medigold Health via the Web Portal during the Subscription process, including (without limitation) primary contact details, VAT number, registered address and Head Count;

- 5.1.5. provide Medigold Health Personnel with access to the Client's premises, office accommodation, data and other facilities as reasonably required by Medigold Health for the performance of the Services;
- 5.1.6. inform Medigold Health of all health and safety rules and regulations and any other reasonable security requirements that apply at the Client's premises;
- 5.1.7. maintain records of and report to the Health and Safety Executive (the HSE) all accidents, incidents and diseases in compliance of The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR);
- 5.1.8. provide Medigold Health with a minimum of two complete Business Days' notice of the cancellation or postponement of any Services to have been provided at one of Medigold Health's medical centres;
- 5.1.9. provide Medigold Health with a minimum of 10 Business Days' notice of the cancellation or postponement of any Services to have been provided at the Client's premises or elsewhere.
- 5.1.10. adhere to and ensure that each of its representatives adheres to the Web Portal Terms of Use.
- 5.1.11. without affecting its other obligations under this Agreement, comply with all applicable laws and regulations with respect to its activities under this Agreement; and
- 5.1.12. obtain and maintain all necessary licences, consents, and permissions necessary for Medigold Health, its contractors and agents (where applicable) to perform their obligations under this Agreement.
- 5.2. In the event that the Client fails to give adequate notice, as described in clauses 5.1.8 and 5.1.9 above, Medigold Health reserves the right to charge the Client in respect of the cancelled or postponed Services including, in the case of 5.1.9, a daily charge as specified in Schedule 1 Part 2, for each day or part of a day for which a mobile clinic would otherwise have been required. Such charges shall either be added to the Subscription Fees for the following Renewal Period or invoiced to the Client at Medigold Health's sole discretion.
- 5.3. Neither Party shall, without the other Party's prior written consent, at any time from Effective Date to the expiry of six months after the last date of supply of the Services, solicit or entice away from the other Party or employ or attempt to employ any person who is, or has been, engaged as an employee or sub-contractor of the other Party in the provision of the Services save for anyone who has responded to a publicly advertised position.
- 5.4. Any consent Medigold Health gives in accordance with clause 5.3 above shall be subject to the Client paying Medigold Health a sum equivalent to 20% of the then current annual remuneration of such Medigold Health employee or sub-contractor or, if higher, 20% of the annual remuneration to be paid by the Client to that employee or sub-contractor.
- 5.5. The Client warrants any use by Medigold Health of the Client Data and/or the Client Equipment in connection with the performance of Medigold Health's obligations under this Agreement will not infringe any third-party rights, including any third-party Intellectual Property Rights, or cause Medigold Health to be in breach of any applicable laws, regulations or other statutory requirements

6. Service Right

- 6.1. Medigold Health hereby grants to the Client a non-exclusive, non-transferable, revocable right, without the right to grant sub-licences, to access and use and to permit authorised members of the Client's staff to access and use, the Web Portal as required during the Subscription Term in order to receive the full benefit of the Services, subject to the terms of these Conditions.

- 6.2. The Client shall not access, store, distribute or transmit any virus, Trojan, worm, logic bomb or other material which is malicious or technologically harmful during the course of its use of the Software.
- 6.3. The Client shall not, except as may be allowed by any applicable law which is incapable of exclusion by agreement between the Parties and except to the extent expressly permitted under this Agreement:
- 6.3.1. attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software (as applicable) in any form or media or by any means;
- 6.3.2. attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software;
- 6.3.3. access all or any part of the Software in order to build a product or service which competes with the Software;
- 6.3.4. use the Software to provide services to third parties;
- 6.3.5. licence, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Web Portal available to any third party except the authorised members of its Covered Staff; or
- 6.3.6. attempt to obtain, or assist third parties in obtaining, access to the Web Portal.
- 6.4. The Client shall use its best endeavours to prevent any unauthorised access to, or use of, the Web Portal and, in the event of any such unauthorised access or use, promptly notify Medigold Health.

7. Indemnity & Limitation of Liability

- 7.1. For the purposes of this clause 7, the expression "Consequential Loss" shall mean:
- 7.1.1. Consequential, special, pure economic or indirect loss or damage under English Law; and
- 7.1.2. Loss and / or deferral of production, loss of product, use, revenue, profit or anticipated profits (if any), business opportunities, goodwill, goods, contracts, anticipated savings and similar losses in each case whether direct or indirect to the extent that these are not included in clause 7.1.1, and whether or not foreseeable by either Party.
- 7.2. Neither Party shall, in any event, be liable to the other for Consequential Loss.
- 7.3. Liability of either Party in respect of any claim for breach of contract (including failure to perform or delay of any obligations under this Agreement), negligence, breach of statutory duty, misrepresentation, restitution or other claim in relation to this Agreement shall in the aggregate be limited as follows:
- 7.3.1. in respect of any claim for personal injury or death caused by the negligence of either Party or fraud by either Party, no limit shall apply; and
- 7.3.2. in respect of any other claim, (whether caused by negligence, by way of indemnity, or otherwise) shall in no event exceed a sum equal to £10,000,000.
- 7.4. Neither Party shall have any liability in respect of any claim for breach of contract, negligence, breach of statutory duty or other claim in respect of any delay or failure by that Party to perform any of its obligations under this Agreement where such failure results directly or

indirectly from any negligent or wilful act or omission of the other Party, its agents, subcontractors or contractors.

- 7.5. The Parties agree that the foregoing limitations and exclusions represent the Parties' agreement based on the level of risk assumed by Medigold Health and the Client in connection with this Agreement.
- 7.6. Subject at all times to the exclusions and limitations contained in this clause 7, each Party shall indemnify the other on demand in respect of all liabilities, costs, expenses, damages or losses incurred that arise directly from the other Party's fraud, negligence, failure to perform or delay in the performance of, any of its obligations under this Agreement.
- 7.7. The Parties expressly agree that should any limitation or provision contained in this clause 7 be held to be invalid under any applicable statute or rule of law, it shall to that extent be deemed omitted but if any Party thereby becomes liable for loss or damage which would otherwise have been excluded such liability shall be subject to the other limitations and provisions set out herein.

8. Subscription Fees

- 8.1. In consideration of the supply of the Core Services, the Client shall pay the Subscription Fees.
- 8.2. In consideration of the supply of any Additional Services, the Client shall pay such additional fees as shall be agreed between the Parties from time to time.
- 8.3. Payment of all charges for Services shall be in accordance with this clause 8.
- 8.4. The Client shall pay Subscription Fees in the amount displayed on the Web Portal as at the Effective Date in respect of the Initial Subscription Period.
- 8.5. Payment for the Core Services shall be in advance of the relevant Subscription Period save where the Client is paying by monthly instalments, in which case the payment of each instalment shall be in advance of the relevant month's provision of Core Services during each Subscription Period.
- 8.6. In respect of the Subscription Fees, the Client shall at its discretion either:
 - 8.6.1. make payment via the Web Portal and such payments may be processed by a third-party payment services provider (e.g. Stripe); or
 - 8.6.2. elect to receive an invoice for the full annual Subscription Fees and make payment in full for the whole Subscription Period by electronic transfer (e.g. BACS), cheque or by such other method as detailed on the invoice.
- 8.7. Payment of the Subscription Fees may be made either annually in respect of the Subscription Fees for the entire Subscription Period, or monthly in equal instalments.
- 8.8. The Client hereby authorises Medigold Health or any third-party payments provider instructed by Medigold Health to automatically charge the payment method provided by the Client in respect of the Subscription Fees for each Subscription Period on an annual (on or around each anniversary of the Effective Date) or monthly basis, as applicable.
- 8.9. The amount of Subscription Fees for each Renewal Period shall be set by Medigold Health at its discretion and communicated to the Client 90 days prior to the end of the current Subscription Period.
- 8.10. Payment in respect of each Renewal Period will be taken automatically at the frequency previously elected by the Client at Subscription and via the original payment method unless

Medigold Health is otherwise instructed by the Client or such payment method is updated by the Client via the Web Portal prior to the end of the current Subscription Period..

- 8.11. All charges under this Agreement are exclusive of VAT or other government excise or sales duties and taxes in force from time to time, which shall be paid additionally by the Client at the rate prevailing.
- 8.12. The Client acknowledges and agrees that any changes to the Services during any given Subscription Period resulting from any change to any applicable law, regulation or relevant code of practice may result in a change to the Subscription Fees for the subsequent Renewal Period.
- 8.13. The Client will pay any invoices issued by Medigold Health in connection with this Agreement in full and in cleared funds, within 30 days of the date of the invoice without set off or deduction.
- 8.14. The Client acknowledges and agrees that it will not be entitled to access the Web Portal or to use the Services until Medigold Health has received payment in cleared funds in accordance with this clause 8.
- 8.15. Time for payment shall be of the essence of the Agreement.
- 8.16. If the Client fails to pay any sum due under this Agreement, Medigold Health may charge interest on any unpaid amounts at a rate of 4% per annum above the Barclays Bank Plc. base lending rate until the Client has paid all amounts due.
- 8.17. Without prejudice to any other right or remedy that Medigold Health may have, if the Client fails to pay in full any sums owed to Medigold Health on the due date, Medigold Health may suspend all Services (if such Services are active) until payment has been made in full.
- 8.18. Unless otherwise stated, all payments hereunder shall be made in pounds sterling (GBP).
- 8.19. The Parties acknowledge that the Subscription Fees have been calculated on the assumption that Medigold Health is entitled to full recovery of input VAT wholly or partly attributable to the provision of such Services. If, for any reason whatsoever there is a change in VAT rates or the applicability of VAT or the amount of VAT due or paid, then the Parties will agree revisions to Subscription Fees to restore them to the same position as they had been in prior to the relevant change.
- 8.20. Except where a sum is in dispute, all sums payable to Medigold Health under this Agreement shall become due upon its termination, despite any other provision. This clause 8.20 is without prejudice to any right to claim for interest under the law, or any such right under this Agreement.
- 8.21. Medigold Health and the Client shall use their respective reasonable endeavours to resolve any such dispute in accordance with clause 15.
- 8.22. On settlement of the dispute Medigold Health shall submit an invoice for sums due and the Client shall make the appropriate payment within 30 days, in accordance with the provisions of clause 8.13.
- 8.23. Charges under this Agreement for Services delivered via a mobile clinic are based on attendance at the Client's premises during office hours (Monday –Friday, 9am -5pm, excluding public holidays). Medigold Health reserves the right to charge additional fees for the delivery of Services outside office hours
- 8.24. In the event that it is necessary or expedient for the efficient delivery of the Services for an employee or agent of Medigold Health to stay overnight in the vicinity of the Client's premises,

Medigold Health may re-charge reasonable overnight accommodation and subsistence costs to the Client at cost or a pre-agreed flat rate per instance (including VAT Medigold Health incurs where appropriate) as noted in Schedule 1 Part 2.

- 8.25. For Services delivered at the Client's premises Medigold Health may charge the Client reasonable travel costs. Mileage costs shall be calculated based upon a rate per mile as outlined in Schedule 1 Part 2.
- 8.26. For Services delivered via a mobile clinic Medigold Health reserves the right to charge a minimum fee as outlined in Schedule 1 Part 2.

9. Intellectual Property Rights

- 9.1. The Client acknowledges and agrees that:
 - 9.1.1. all Intellectual Property Rights and all other rights in the Medigold Health Equipment, the Pre-existing Materials and the Web Portal shall be the sole property of Medigold Health (and/or its licensors, as applicable); and
 - 9.1.2. all Intellectual Property Rights and all other rights in the Deliverables (including all such rights in the Software) shall, as at the Effective Date or (if later) on creation of the rights, vest in Medigold Health.
- 9.2. Medigold Health acknowledges and agrees that all Intellectual Property Rights and all other rights in the Client Data and the Client Equipment shall be the sole property of the Client. The Client hereby grants to Medigold Health a non-exclusive licence for the duration of the Subscription Term to use the Client Data for the purposes of Medigold Health complying with its obligations and enforcing its rights under this Agreement and for anonymised and/or aggregated management information and benchmarking purposes.
- 9.3. Medigold Health hereby grants to the Client a sole, perpetual and irrevocable licence to use and reproduce the reports, completed questionnaires and other Deliverables of a similar nature delivered to the Client by Medigold Health in the performance of the Services.

10. Sub-Contracting and Assignment

- 10.1. The Client may not sub-contract, assign or otherwise transfer any part of this Agreement without Medigold Health's prior written consent (such consent not to be unreasonably withheld or delayed).

11. Data Protection

The Parties expressly acknowledge and agree that the services to be provided by Medigold Health under this Agreement give rise to different respective obligations and responsibilities on the Parties in respect of the Data Protection Laws, and in particular that the remainder of this clause 11 sets out the respective responsibilities of the Parties in respect of both Controller Services Data and Processor Services Data.

Controller Services

- 11.1. The Parties expressly acknowledge and agree that both Parties are independent Controllers in respect of their respective processing of Controller Services Data, on the basis that each Party determines the purpose and means of processing that data.
- 11.2. When processing Controller Services Data, the Parties shall comply with the obligations set out in this Agreement and the Data Protection Laws.

- 11.3. The Parties agree that the Controller Services Data will only be processed as far as is necessary according to the purposes, in order to fulfil the obligations as set out in the Agreement and otherwise only in compliance with the Data Protection Laws.

Processor Services

- 11.4. The Parties expressly acknowledge and agree that, to the extent applicable, the Client acts as a Controller in respect of the Processor Services Data and Medigold Health as a Processor in respect of such data, on the basis that the Client determines the purposes and means of processing the Processor Services Data and Medigold Health acts solely under the instructions of the Client.

- 11.5. The Parties acknowledge that for the purposes of the Data Protection Laws, where applicable, the addendum(s) to these Conditions sets out the scope, nature and purpose of processing by Medigold Health of the Processor Services Data including the duration of the processing and the types of Personal Data categories of Data Subject.

- 11.6. The Client will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Processor Services Data to Medigold Health for the duration and purposes of this Agreement.

- 11.7. Without prejudice to the generality of clause 11.6, Medigold Health shall, in relation to any Processor Services Data processed in connection with the performance by Medigold Health of its obligations relating to the Processor Services Data under this Agreement:

11.7.1. process that Processor Services Data only to the extent and in such a manner as is necessary for the performance of this Agreement in accordance with the written instructions of the Client. Where Medigold Health believes the Client's instructions do not comply with the Data Protection Laws, it will promptly notify the Client;

11.7.2. maintain the confidentiality of the Processor Services Data and will not disclose the Processor Services Data to third parties unless the Client or these Conditions specifically authorises the disclosure, or as required by domestic law, court or regulator (including the ICO). If a domestic law, court or regulator (including the ICO) requires Medigold Health to process or disclose the Processor Services Data to a third party, Medigold Health must first inform the Client of such legal or regulatory requirement and give the Client an opportunity to object or challenge the requirement, unless the domestic law prohibits the giving of such notice;

11.7.3. ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Client, to protect against unauthorised or unlawful processing of Processor Services Data and against accidental loss or destruction of, or damage to, Processor Services Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Processor Services Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Processor Services Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

11.7.4. ensure that all personnel who have access to and/or process Processor Services Data are obliged to keep the Processor Services Data confidential; and

11.7.5. not transfer any Processor Services Data outside of the European Economic Area or the United Kingdom unless the prior written consent of the Client has been obtained and the following conditions are fulfilled:

- 11.7.5.1. The Client or Medigold Health has provided appropriate safeguards in relation to the transfer;
- 11.7.5.2. the Data Subject has enforceable rights and effective legal remedies;
- 11.7.5.3. Medigold Health complies with its obligations under the Data Protection Laws by providing an adequate level of protection to any Processor Services Data that is transferred; and
- 11.7.5.4. Medigold Health complies with reasonable instructions notified to it in advance by the Client with respect to the processing of the Processor Services Data;
- 11.7.6. assist the Client, at Client's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- 11.7.7. notify the Client without undue delay on becoming aware of a Personal Data Breach affecting Processor Services Data;
- 11.7.8. at the written direction of the Client, delete or return Processor Services Data and copies thereof to the Client on termination of the Agreement unless required by law to store the Processor Services Data; and
- 11.7.9. maintain complete and accurate records and information to demonstrate its compliance with this clause insofar as it relates to Processor Services Data and allow for audits by the Client or the Client's designated auditor within mutually agreed timescales.
- 11.8. Upon written approval from the Client, Medigold Health may appoint a third-party processor subject to entering into a written agreement incorporating terms which are substantially similar to those set out in this clause. As between the Client and Medigold Health, Medigold Health shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause.
- 11.9. Either Party may, at any time on not less than 30 days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming party of an applicable certification scheme (which shall apply when replaced by attachment to these Conditions).
- 11.10. Both Parties agree that they shall at all times during the term of this Agreement respect the medical confidentiality of the Covered Staff and comply with all relevant provisions of the Data Protection Laws and any statutory rules or instruments enacted or made pursuant to it.
- 11.11. Liability for loss or destruction of any data shall be in accordance with and subject to clause 7.

12. Confidentiality

- 12.1. Each Party undertakes to keep confidential all Confidential Information belonging to the other and to disclose such Confidential Information only to those of its employees, agents and sub-contractors involved in the provision or receipt of the Services and who need to know the Confidential Information in question.
- 12.2. Each Party undertakes to the other to make all relevant employees and sub-contractors aware of the confidentiality of the Confidential Information belonging to the other and the provisions of this clause, to take all such steps as shall from time to time be necessary to ensure compliance by its employees, agents and sub-contractors with the provisions of this clause 12.

- 12.3. For the purpose of the undertakings under clauses 12.1 and 12.2 above, the Confidential Information shall be deemed to include Client Data and the intellectual property of both Parties.
- 12.4. Nothing in this clause 12 shall prevent Medigold Health or the Client from using data processing techniques, ideas and know-how gained during the performance of this Agreement in the furtherance of its normal business. Nothing in this clause 12 herein shall prevent Medigold Health using data gained during the performance of this Agreement in an anonymous way and for statistical purposes, subject to compliance with the Data Protection Laws.

13. Termination

- 13.1. Either Party may terminate this Agreement immediately if:
- 13.1.1. the other Party commits any material breach of this Agreement and fails to remedy such breach within 30 days of written notice notifying the breach and requiring its remedy;
- 13.1.2. the other Party becomes bankrupt or makes any arrangement with or for the benefits of its creditors or (being a company) enters into compulsory or voluntary liquidation or amalgamation (other than for the purpose of a bona fide reconstruction or amalgamation without insolvency) or has a receiver or manager appointed of the whole or substantially the whole of its undertakings or if any distress or execution is threatened or levied upon any property of the other Party or if the other Party is unable to pay its debts as they fall due; or
- 13.1.3. an event of Force Majeure, which prevents the supply of the Services, persists for 3 (three) months or more.
- 13.2. Medigold Health may terminate this Agreement for convenience by giving the Client not less than 90 days' prior written notice.
- 13.3. The Client may terminate this Agreement for convenience by giving written notice at least 30 days prior to the end of the relevant term (being either the Initial Subscription Period or the applicable Renewal Period) whereupon this Agreement will terminate at the end of such term. If valid notice is not given in accordance with the previous sentence the Subscription shall automatically renew for a further 12 month period in accordance with clause 3.1 and the Client will be liable to pay the Subscription Fees for such period in accordance with these Conditions.

14. Consequences of Termination

- 14.1. Upon termination of this Agreement for any reason:
- 14.1.1. the Client shall immediately pay to Medigold Health all of Medigold Health's outstanding unpaid Subscription Fees for the current Subscription Period, invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, Medigold Health may submit an invoice for the balance, which shall be payable immediately on receipt.
- 14.1.2. the Client shall not be entitled to a refund of any Subscription Fees paid to Medigold Health under this Agreement;
- 14.1.3. the right referred to in clause 6.1 shall automatically terminate and the Client shall procure that all members of its Covered Staff shall immediately cease use of the Web Portal and Software; and immediately destroy or return to Medigold Health (at Medigold Health's option) all copies of the Software then in its possession, custody or control and, in the case of destruction, certify to Medigold Health that it has done so;
- 14.1.4. both Parties shall return or destroy all Confidential Information belonging to the other Party, and any copies thereof, in accordance with that Party's reasonable instructions;

- 14.1.5. Medigold Health shall return or destroy all copies of the Client Data, in accordance with any reasonable Client instructions;
- 14.1.6. Termination of this Agreement will be without prejudice to any accrued rights and remedies available to either Party and the continuation of any provision expressly stated to survive or implicitly surviving termination shall not be affected. For the avoidance of doubt, termination will not relieve the Client of its obligation to pay the Subscription Fees in respect of any Services supplied by Medigold Health to the Client prior to the date of termination.

15. Dispute Resolution

- 15.1. If a dispute arises in relation to any aspect of this Agreement, the representatives of the Client and Medigold Health responsible for the administration of this Agreement shall first consult and discuss in good faith in an attempt to come to an agreement in relation to the disputed matter. If the Parties fail to resolve the dispute at that level within a reasonable period of time (having due regard for the nature of the dispute and the operational necessity for its resolution), the dispute shall be escalated to the respective responsible company directors within each Party for resolution.
- 15.2. If the dispute remains unresolved between the Parties after 14 days after it has been referred to the directors of the Parties pursuant to clause 15.1 above, then:
 - 15.2.1. if the Parties so agree, the Parties may proceed to mediation provided by the Centre for Dispute Resolution (or such other body as the Parties may agree); or
 - 15.2.2. if the Parties so agree, the Parties may proceed to arbitration by an arbitrator recognised by the Chartered Institute of Arbitrators; or
 - 15.2.3. the Parties may employ any other method or procedure for the resolution of disputes as may be agreed between them; and
 - 15.2.4. if no such agreement is reached between the Parties as to which course of action to take pursuant to clause 15.2 above within a period of seven days, both Parties shall be entitled to pursue the matter in law.
- 15.3. Each Party shall provide all reasonable assistance to the other in resolving any dispute that may arise between Medigold Health and the Client which relates in any way to the performance, acts or omissions of that Party.

16. Force Majeure

- 16.1. Any act, event, omission, happening or non-happening will only be considered Force Majeure if it is not attributable to the wilful act, neglect or failure to take reasonable precautions of the affected Party, its agents or employees.
- 16.2. Neither Party shall in any circumstances be liable to the other for any loss of any kind whatsoever including but not limited to any damages or abatement of Subscription Fees whether directly or indirectly caused to or incurred by the other Party by reason of any failure or delay in the performance of its obligations hereunder which is due to Force Majeure. Notwithstanding the foregoing, each Party shall use all reasonable endeavours to continue to perform, or resume performance of, such obligations hereunder for the duration of such Force Majeure event.

17. General

- 17.1. The Agreement constitutes the entire agreement and supersedes any previous agreements, prior representations (except for fraudulent representations), arrangements and understandings between the Parties relating to the subject matter of this Agreement.

- 17.2. All business with Medigold Health relating to the provision of Services is transacted on the Conditions which the Client has accepted on the Effective Date, as amended in accordance with this Agreement.
- 17.3. Medigold Health may, from time to time and without notice, make changes to these Conditions in order to comply with any applicable legal, regulatory, or code of practice requirements. Medigold Health may, from time to time also make changes to these Conditions at its discretion, provided that such change does not materially affect the nature or quality of the Services and, where practicable, Medigold Health will give the Client at least 14 days' notice of any such changes.
- 17.4. Save in respect of fraudulent misrepresentation, the Agreement including any correspondence, quotes, estimates or addendums annexed hereto and shall constitute the whole of the terms agreed between the Parties hereto in respect of the subject matter of the Agreement.
- 17.5. This Agreement is severable in that if any provision is determined to be illegal or unenforceable by any court of competent jurisdiction such provision shall be deemed to have been deleted without affecting the remaining provisions of this Agreement.
- 17.6. Nothing in this Agreement shall constitute or be deemed to constitute a partnership, agency or joint venture between the Parties hereto or constitute or be deemed to constitute either Party the agent of the other for any purpose whatsoever and neither Party shall have any authority or power to bind the other or to contract in the name of or create a liability against the other.
- 17.7. Unless otherwise agreed in writing, neither failure by either Party to exercise any right or remedy available to it hereunder nor any delay so to exercise any such right to remedy shall operate as a waiver of it nor shall any single or partial exercise of any right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy.
- 17.8. This Agreement shall not give rise to any rights enforceable by a third party pursuant to the Contract (Rights of Third Parties) Act 1999 but without prejudice to any rights or remedies that exist or are available apart from that Act.
- 17.9. To give notice under this Agreement, a letter must be delivered personally or sent by pre-paid recorded first class post to the address set out below or to any other address given in writing or via the Web Portal. The Parties may serve notice by e-mail. A notice delivered by hand is served when delivered, a notice sent by first class recorded post is served 48 hours after posting and a notice served by email is served when the email sent and receipt confirmed by the intended recipient.

For Medigold Health:

Medigold Health Consultancy Limited
Medigold House, Queensbridge,
Northampton NN5 7BF
Email: protect@medigold-health.com

Schedule 1 - Services and Charges

Part 1

The following Services are included in the Subscription as Core Services:

- Thrive Standard Subscription
- GP Reports - GP/Consultant report request
- GP Reports - OHP - Report to client from GP/Consultant report
- MR - OHA Telephone Management Referral
- MR - OHA Management Referral
- MR - OHP Management Referral
- MR - OHP Telephone Management Referral
- Placement - Questionnaire
- Placement - Nurse Telephone Consultation
- Placement - OHA Consultation
- Placement - OHP Consultation
- COVID-19 RTW Questionnaire*
- COVID-19 RTW Nurse Telephone Consultation*

*Only applicable to Subscriptions purchased up to and including 30 September 2021 and until the end of such Subscription Terms. Thereafter and for Subscriptions purchased from 1 October 2021, these services will no longer form part of the Services purchased in the Subscription.

Part 2

Services and Pricing Notes

1. Other occupational health services are available and priced upon request (Additional Services).
2. Additional services charges may be incurred as follows:
 - a. Accommodation & Subsistence for clinicians where an overnight stay is required – cost recharge up to a maximum of £120 per night
 - b. Mileage for travel to sites or mileage undertaken on behalf of the Client – 50p per mile
3. Cancellation terms – the Client shall be liable for additional costs if appropriate notice has not been provided to Medigold Health for any cancellation or postponement of any Services. These cancellation costs are detailed below:
 - a. DNA (Did Not Attend) or cancellation <2 Business Days before the appointment = 100% charge
 - b. Cancellation between 2 and 5 Business Days before the appointment = 50% charge
 - c. Cancellation more than 5 Business Days before the appointment = no charge
 - d. Onsite or Mobile services cancelled <10 Business Days before the appointment = 100% charge
 - e. Onsite or Mobile services cancelled with more than 10 Business Days before the appointment = no Charge.
4. The Client is obliged to advise any personnel attending for medicals that include a drug screen that they must bring suitable photographic ID with them to their appointment. Failure to do so will require another appointment to be booked for which the Client will be charged.
5. GP/Consultant reports will be charged at documented costs plus an administration fee of £10.00
6. Any additional disbursements incurred on behalf of the Client will be charged at documented costs plus an administration fee of £10.00
7. All fees are quoted exclusive of VAT, which shall be charged as applicable at the prevailing rate
8. Evidential drug testing costs will vary if more than one substance is required to be tested for, resulting in repeat tests. Should this be the case additional fees will become chargeable.



Keeping people in work, safe and well.

Schedule 2 – Details of Processor Data

This Schedule is to be populated and appended to these Conditions in respect of each Additional Service that is a Processor Service.

Description	Details
Service to be provided	<i>[i.e. to which Additional Service agreed does the following apply]</i>
Categories of Data Subjects	<i>[For example employees, customer contacts]</i>
Types of Personal Data	<u><i>[For example:</i></u> <ul style="list-style-type: none">• <i>Personal and contact details</i>• <i>First and last name</i>• <i>Age</i>• <i>Sex</i>• <i>National Insurance Number or other personal identity code such as employee number</i>• <i>Home address</i>• <i>Contact information (address, telephone number, and email address)</i>• <i>IP address and other technology log information]</i>
Types of Special Category Data	<u><i>[For example:</i></u> <ul style="list-style-type: none">• <i>Data concerning health such as background medical history, symptoms and ailments etc</i>• <i>Racial or ethnic origin</i>• <i>Sex life or sexual orientation]</i>
Nature and purposes of Processing	<u><i>[For example 'To provide the Processor Services, such as carrying out COVID-19 testing on behalf of the Customer, or in order to arrange vaccinations on behalf of the Customer']</i></u>
Duration of Processing	Until termination of the Agreement insofar as it relates to Medigold Health's provision of Processor Services.
Plan for return or destruction of Personal Data upon termination of the Agreement	As set out under clause 11.7.8 of the Conditions.