

TERMS AND CONDITIONS

1. Interpretation

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

- 1.1 These Terms and Conditions are SFR Medical's standard terms operating under the Crown Commercial Service G-Cloud 15 Framework Agreement (RM1557.15) and any documents or provisions incorporated into or referred to therein (the "**Framework Agreement**").
- 1.2 Where any conflict or inconsistency arises between these Terms and Conditions and the documents listed below, the Parties agree that the terms of the higher-ranking document shall prevail:
- (a) The Framework Agreement;
 - (b) The Call-Off Contract (as defined in the Framework Agreement);
 - (c) The Joint Schedules (as incorporated into the Call-Off Contract);
 - (d) The Call-Off Schedules (as incorporated into the Call-Off Contract);
 - (e) These Terms and Conditions.
- 1.3 For the avoidance of doubt, this means that when there is a conflict between the Framework Agreement (i.e. Crown Commercial Service terms) and these Terms and Conditions, the Framework Agreement shall prevail.
- 1.4 Definitions:

Fees means the fees payable by the Client for the supply of the Services in accordance with the relevant Call-Off Contract and clause 4.

Contract means the contract between SFR Medical and the Client for the supply of Services in accordance with these Terms and Conditions.

Client means the person or firm who purchases Services from SFR Medical.

Client Data: the data inputted by the Client, authorised users, or SFR Medical on the Client's instruction for the purpose of using the Services or the Software Services.

Crown Commercial Service: means the executive agency of the Cabinet Office known as the Crown Commercial Service, or any successor body.

Date of Conclusion means the date of the conclusion or termination of the court case to which the Services relate.

Deliverables means the work, including any report, produced as part of the Services.

Documentation: the document(s) and other materials (if any) made available to the Client from time to time which sets out a description of the Software Services and the user instructions for the Software Services.

Expert means the expert or experts engaged by SFR Medical to carry out the Services.

Framework Agreement has the meaning set out in clause 1.2.



Intellectual Property Rights means patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), 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.

Parties SFR Medical and the Client.

Instructing Party means a person or persons authorised in writing by the Client, to instruct SFR Medical in relation to the Services.

Services means the services, including the Deliverables, supplied by SFR Medical to the Client as set out in the relevant Call-Off Contract.

Software: the online software applications provided by SFR Medical as part of the Services.

Software Services: the services provided by SFR Medical to the Client under this agreement via <https://portal.sfrmedical.co.uk> or any other website notified to the Client by SFR Medical from time to time, as more particularly described in the Documentation.

SFR Medical means Streamlined Forensic Reporting Limited registered in England and Wales with company number 11401401 and whose registered office is at 124 City Road, London, United Kingdom, EC1V 2NX.

2. **Supply of Services**

Software Services

- 2.1 Subject to payment of the relevant Fees and compliance with these Terms and Conditions, SFR Medical grants the Client a non-exclusive, non-transferable licence for its authorised users to use the Software Services during the subscription term for internal business purposes only.
- 2.2 SFR Medical will use commercially reasonable efforts to make the Software Services available 24/7, except for planned or unplanned maintenance. Where possible, SFR Medical will give the Client reasonable advance notice of maintenance.
- 2.3 SFR Medical does not warrant that:
- (i) the Client's use of the Software Services will be uninterrupted or error-free;
 - (ii) that the Software Services, Documentation and/or the information obtained by the Client through the Software Services will meet the Client's requirements; or
 - (iii) the Software or the Software Services will be free from vulnerabilities or viruses.
- 2.4 SFR Medical is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Client acknowledges that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

Medical Reporting Services

- 2.5 SFR Medical shall supply the Services to the Client in accordance with the relevant Call-Off Contract in all material respects. The Client acknowledges that any Expert engaged to provide the Services owes an overriding duty to the court under Part 35 of the Civil Procedure Rules (CPR 35), and that any report prepared as part of the Services will be prepared in compliance with CPR 35 and the associated Practice Direction. The Client acknowledges that Experts are independent contractors and that SFR Medical acts solely as an agency. SFR Medical shall have no liability for any acts or omissions of the Expert beyond its obligations under clause 2.4 (reasonable care and skill).
- 2.6 SFR Medical shall use all reasonable endeavours to meet any performance dates specified in the relevant Call-Off Contract but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
- 2.7 SFR Medical shall request the right (not to be unreasonably withheld) to amend the relevant Call-Off Contract if necessary to comply with any applicable law or regulatory requirement.
- 2.8 SFR Medical warrants to the Client that the Services will be provided using reasonable care and skill.
- 2.9 SFR Medical reserves the right to substitute the Expert with another suitably qualified expert if the originally appointed Expert becomes unavailable, provided that the substitute has equivalent qualifications and experience.
3. **Client's obligations**
- 3.1 The Client may notify SFR Medical, in writing, that it wishes to appoint an Instructing Party. SFR Medical may require that the Instructing Party enters into written terms with SFR Medical, particularly in relation to intellectual property, confidentiality, data protection and non-solicitation.
- 3.2 The Instructing Party must have written authority from the Client to provide all instructions in relation to the Services, including in relation to any changes to the Fees. Unless and until it is notified otherwise, in writing by the Client, SFR Medical shall engage directly with the Instructing Party, but shall have no liability to the Instructing Party under the Contract or otherwise. References to the Client in the Contract shall include the Instructing Party where applicable.
- 3.3 The Client shall remain liable for the acts and omissions of the Instructing Party and shall remain liable to carry out its obligations under the Contract, including the payment of the Fees.
- 3.4 The Client shall:
- (a) procure that the Instructing Party (if different to the Client), complies with the obligations under the Contract as though it were a party to the Contract;
 - (b) ensure that the terms of the relevant Call-Off Agreement, and any information it provides are complete and accurate;
 - (c) co-operate with SFR Medical in all matters relating to the Services;
 - (d) provide SFR Medical with such information and materials as SFR Medical may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
 - (e) comply with any additional obligations as set out in the relevant Call-Off Agreement.

- 3.5 If SFR Medical's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Client or the Instructing Party, or failure by the Client or Instructing Party to perform any relevant obligation, SFR Medical shall have no liability for any losses or costs sustained by the Client or the Instructing Party arising from SFR Medical's failure or delay, and SFR Medical may (without affecting any other right available to it) suspend performance of the Services.
- 3.6 If the Services are cancelled or the instructions withdrawn after SFR Medical has commenced performance (including but not limited to booking an Expert or scheduling an examination), the Client shall pay SFR Medical's reasonable abortive fees and expenses incurred up to the date of cancellation, including any cancellation charges imposed by the Expert.
- 3.7 The Client shall indemnify SFR Medical against any claims, losses, damages, costs or expenses arising from the inaccuracy, incompleteness or infringement of third party rights in any materials or information provided by the Client.

In respect of the Software Services

- 3.8 The Client must not use the Software Services to store or transmit viruses or any content that is unlawful, offensive, discriminatory, or harmful. SFR Medical may suspend access to such content if this clause is breached.
- 3.9 The Client must not:
- (a) copy, modify, distribute or reverse engineer the Software Services without the express permission in writing of SFR Medical;
 - (b) use the Software Services to build competing products;
 - (c) provide the Software Services to third parties;
 - (d) make the Software Services available to anyone other than its authorised users;
 - (e) attempt to gain unauthorised access; or
 - (f) introduce viruses or security vulnerabilities to the Software.
- 3.10 The Client will take reasonable steps to prevent unauthorised access and notify SFR Medical if it occurs.

4. Fees and payment

- 4.1 Fees shall be as set out in the relevant Call-Off Contract (as defined in the Framework Agreement) and shall remain fixed for the duration of the Framework Agreement. SFR Medical accepts the payment terms and benchmarking provisions set out in the Framework Agreement. There are no minimum spend or volume commitments under the Contract.
- 4.2 The Fees for the Services and the Software Services shall be set out in the relevant Call-Off Contract (as defined in the Framework Agreement) but shall also be subject to the provisions of this clause.
- 4.3 SFR Medical shall be entitled to charge the Client for any expenses in accordance with the relevant Call-Off Agreement.
- 4.4 SFR Medical shall invoice the Client on completion of the Services, and the invoice shall be payable by the Client by the date given in the relevant Call-Off Agreement.

- 4.5 To the extent relevant, the Client may purchase additional user subscriptions at any time during the Subscription Term by written request. SFR Medical will activate the additional subscriptions and invoice the Client accordingly. Fees will be payable within 30 days of invoice and pro-rated for the remainder of the current subscription period.
- 4.6 Notwithstanding the relevant Call-Off Agreement, the Fees must be paid immediately on notification from SFR Medical that it considers that the Client's financial position has deteriorated to such an extent that in its opinion the Client's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 4.7 All amounts payable by the Client under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by SFR Medical to the Client, the Client shall, on receipt of a valid VAT invoice from SFR Medical, pay to SFR Medical such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.
- 4.8 If the Client fails to make a payment due to SFR Medical under the Contract by the latest due date set out in the relevant Call-Off Agreement then, without limiting SFR Medical's remedies under the Contract, the Client shall pay interest on the overdue from the latest due date set out in the relevant Call-Off Agreement, until payment of the overdue sum, whether before or after judgment. Interest under this clause 4.8 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.
- 4.9 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 5. Intellectual property rights**
- 5.1 The parties acknowledge that the provisions of Call-Off Schedule 1 – Intellectual Property Rights (IPR Option B4), as defined in the Framework Agreement, apply to the Contract. In the event of any conflict between those provisions and these Terms and Conditions, the provisions of Call-Off Schedule 1 shall take precedence in accordance with clause 1.3.
- 5.2 The Client shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of all such Client Data.
- 5.3 All Intellectual Property Rights in or arising out of or in connection with the Services and the Software Services (other than Client Data) shall be owned by SFR Medical.
- 5.4 SFR Medical grants to the Client, or shall procure the direct grant to the Client of, a fully paid-up, worldwide, non-exclusive, royalty-free licence during the term of the Contract and until the Date of Conclusion to copy the Deliverables (excluding materials provided by the Client) for the purpose of receiving and using the Services, Software Services and the Deliverables. For the avoidance of doubt, this license shall include any pre-existing Intellectual Property Rights of SFR Medical for which there be no additional charge.
- 5.5 The Client shall not sub-license, assign or otherwise transfer the rights granted in clause 5.4.
- 5.6 The Client grants SFR Medical a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify any materials provided by the Client to SFR Medical for the term of the Contract for the purpose of providing the Services to the Client.

6. Information Security and Data Protection

- 6.1 SFR Medical shall meet the information security requirements set out in the Framework Agreement, including maintaining Cyber Essentials (or equivalent) certification where required pursuant to a Call-Off Contract. SFR Medical's policy is to accept reasonable client-led assurance activities and will cooperate with audits by or on behalf of the Client, provided such audits are on reasonable notice, during normal business hours, and solely for the purpose of verifying compliance with the Contract.
- 6.2 The parties shall comply with their data protection obligations as set out in the Data Processing Agreement at Schedule 1.

7. Limitation of liability

- 7.1 References to liability in this clause 7 include every kind of liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 7.2 Nothing in this clause 7 shall limit the Client's payment obligations under these Terms and Conditions.
- 7.3 In respect of the Software Services and except as expressly and specifically provided in these Terms and Conditions:
- (a) the Client assumes sole responsibility for results obtained from the use of the Software Services by the Client or its authorised users, and for any conclusions drawn from such use. SFR Medical shall have no liability for any damage caused by errors or omissions in any Client Data, information, instructions or scripts provided to SFR Medical by the Client in connection with the Software Services, or any actions taken by SFR Medical at the Client's direction;
 - (b) all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from these Terms and Conditions; and
 - (c) the Software Services are provided to the Client on an "as is" basis.
- 7.4 SFR Medical will use all reasonable endeavours to ensure that any report prepared pursuant to the Services is prepared in good faith, and it will check the qualifications of the Experts prior to instructing them in relation to the Services. However, SFR Medical will have no liability for losses or damages relating to any report prepared pursuant to the Services, the Client's use of such report, any reliance the Client places on such report, or the factual or scientific accuracy of such report.
- 7.5 Nothing in the Contract limits any liability which cannot legally be limited, including but not limited to liability for death or personal injury caused by negligence and fraud or fraudulent misrepresentation.
- 7.6 Subject to clauses 7.4 and 7.5, SFR Medical's total aggregate liability to the client shall not exceed the greater of:
- (a) the total Fees paid or payable by the Client in the previous 12 months; and
 - (b) the minimum liability cap set out in the Framework Agreement.
- 7.7 Neither party shall be liable for:

- (a) loss of profits.
- (b) loss of sales or business.
- (c) loss of agreements or contracts.
- (d) loss of anticipated savings.
- (e) loss of use or corruption of software, data or information.
- (f) loss of or damage to goodwill; and
- (g) indirect or consequential loss.

7.8 Unless the Client notifies SFR Medical that it intends to make a claim in respect of an event within the notice period, SFR Medical shall have no liability for that event. The notice period for an event shall start on the day on which the Client became, or ought reasonably to have become, aware of the event having occurred and shall expire 12 months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.

7.9 This clause 7 shall survive termination of the Contract.

8. Termination

8.1 Either of the Parties may terminate the Contract (including the Framework Agreement and any Call-Off Contract thereunder) at any time for convenience by giving 30 days' written notice. No early termination or exit fees shall apply.

8.2 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of its obligations under the Contract and (if such breach is remediable) fails to remedy that breach within 14 days written notice;
- (b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction; or
- (c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business;
- (d) either party commits a breach of Data Protection Legislation (as defined in the Data Processing Agreement at Schedule 1) or commits a material breach of its obligations under the Data Processing Agreement at Schedule 1 and (if such breach is remediable) fails to remedy that breach within 14 days written notice.

8.3 Without affecting any other right or remedy available to it, in its absolute discretion, SFR Medical may suspend the supply Services or terminate the Contract with immediate effect by giving written notice to the Client if:

- (a) the Client fails to pay any amount due under the Contract on the due date for payment pursuant to clause 4.6; or
- (b) there is a change of control of the Client.

8.4 On termination of the Contract:

- (a) the Client will pay to SFR Medical all of its outstanding unpaid invoices and interest, and, in respect of Services supplied but for which no invoice has been submitted, SFR Medical may submit an invoice which will be payable immediately on receipt;
- (b) all licences granted under this agreement shall immediately terminate and the Client shall immediately cease all use of the Software Services;
- (c) SFR Medical shall provide reasonable assistance to enable the orderly handover of the Services to the Client or a replacement supplier, including access to relevant personnel, information, and systems; and
- (d) SFR Medical shall return or securely delete all Client Data in accordance with Schedule 1 (Data Processing Agreement), unless required to retain it by law.

9. **Non-solicitation**

9.1 In order to protect SFR Medical's confidential information and business connections to which the Client has access as a result of the Services, the Client covenants with SFR Medical that it shall not at any time during the term of the Contract and for 12 months after the termination of the Contract:

- (a) offer to employ or engage or otherwise endeavour to entice away from SFR Medical anyone employed or engaged by SFR Medical, with whom the Client dealt in the 12 months before the termination of the Contract in the course of receiving the Services (**Restricted Person**); or
- (b) employ or engage or otherwise facilitate the employment or engagement of any Restricted Person, whether or not such person would be in breach of contract as a result of such employment or engagement.

The restriction in clause 9.1 shall also apply to any employee or contractor of SFR Medical (not limited to Experts).

To the extent there is any breach of any of the covenants in this clause 9.1 by the Client, Client will by way of liquidated damages as a genuine pre-estimate of reasonable loss decided by the parties, pay to SFR Medical, a fee of 25% of such employee's or contractor's annual salary or fee (if necessary, extrapolated to 12 months in the event said person has worked for less than a year).

9.2 This clause 9 shall survive termination of the Contract.

10. **General terms**

10.1 **Confidentiality.** Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except to its personnel on a "need to know" basis to perform its obligations under the Contract, to its professional advisers, or as permitted by law. Neither party shall make any public announcement or issue any publicity or marketing materials referring to the other party or the Contract without the prior written consent of the other, such consent not to be unreasonably withheld or delayed.

10.2 **Freedom of Information.** Nothing in these Terms and Conditions prevents the Client from complying with its obligations under the Freedom of Information Act 2000, applicable transparency requirements, or the Framework Agreement. SFR Medical shall provide reasonable assistance to the Client, at the Client's cost, to enable it to comply with such obligations, including responding to information requests where relevant.

- 10.3 **Notices.** Notices served under the Contract shall be sent by email to the email address the parties have provided to each other, and such notice shall be deemed served as soon as such email arrives.
- 10.4 **Assignment.** Neither party may assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of their rights and obligations under the Contract without prior written approval of the other.
- 10.5 **Third party rights.** The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- 10.6 **Force Majeure.** Neither Party shall be in breach of the Contract nor liable for damages (including consequential loss) in respect of delay in performing, or failure to perform, any of its obligations under the Contract if that delay or failure results from a cause of event out of its reasonable control.
- 10.7 **No partnership or agency.** Nothing in the Contract sets up a partnership or joint venture between the parties.
- 10.8 **Entire Agreement.** The Contract (and any documents referred to within it) is the entire agreement between the parties and supersedes all previous agreements between the parties relating to the same subject matter.
- 10.9 **Severability.** If any provision of the Contract is held by a court or other competent authority to be invalid, illegal or unenforceable in whole or in part, that provision or part-provision shall, to the extent required, be deemed deleted or (where possible) modified to the minimum extent necessary to make it valid, legal and enforceable, and the validity, legality and enforceability of the remaining provisions of the Contract shall not be affected. This shall not affect the validity or enforceability of that provision (or any other provision) in any other jurisdiction. The parties agree that they intend the Contract to remain in full force and effect to the maximum extent possible consistent with their original commercial intentions.
- 10.10 **Variation.** Subject to clause 2.7, no variation of the Contract shall be effective unless it is in writing and signed by both parties and processed in accordance with the variation procedure set out in the Framework Agreement. Any proposed innovation or improvement shall be optional for the Client, who may reject it without cost or penalty.
- 10.11 **Governing law and jurisdiction.** The Contract and any dispute or claim arising out of or in connection with it or its 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 English courts shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Contract.



SCHEDULE 1

Data Processing Agreement

This data processing agreement is part of the contract for the Supply of Services (the **Contract**) that may require SFR Medical to process Personal Data on behalf of the Client.

BACKGROUND

- (A) This data processing agreement (Data Processing **Agreement**) sets out the additional terms, requirements and conditions on which SFR Medical will process Personal Data when providing services under the Contract.

AGREED TERMS

1. Definitions and Interpretation

The following definitions and rules of interpretation apply in this Data Processing Agreement.

- 1.1 The Parties acknowledge that the provisions of Joint Schedule 10 (Processing Data), as defined in the Framework Agreement, apply to this Data Processing Agreement. In the event of any conflict between those provisions and this Data Processing Agreement, the provisions of Joint Schedule 10 shall take precedence.

- 1.2 Definitions:

Business Purposes: the services to be provided by SFR Medical to the Client as described in the Contract and any other purpose specifically identified in ANNEX A.

Commissioner: the Information Commissioner (see Article 4(A3), UK GDPR and section 114, DPA 2018).

Controller, Processor, Data Subject, Personal Data, Personal Data Breach and Processing: have the meanings given to them in the Data Protection Legislation.

Data Protection Legislation: all applicable data protection and privacy legislation in force from time to time in the UK including without limitation the UK GDPR; the Data Protection Act 2018 (and regulations made thereunder) (**DPA 2018**); and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended; 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 (including, without limitation, any law of the European Union or any member state of the European Union which relates to the protection of Personal Data.

EEA: the European Economic Area.



- 1.3 This Data Processing Agreement is subject to the terms of the Contract and is incorporated into the Contract. Interpretations and defined terms set forth in the Contract apply to the interpretation of the Contract.
- 1.4 The Annexes form part of the Contract and will have effect as if set out in full in the body of the Contract. Any reference to the Contract includes the Annexes.
- 1.5 A reference to writing or written includes email.
- 1.6 In the case of conflict or ambiguity between any provision contained in the body of the Contract and the Data Processing Agreement (including the Annexes), the provisions in the body of the Contract will prevail.

2. Personal data types and processing purposes

- 2.1 The Client and SFR Medical agree and acknowledge that for the purpose of the Data Protection Legislation:
 - (a) the Client is the Controller and SFR Medical is the Processor.
 - (b) the Client retains control of the Personal Data and remains responsible for its compliance obligations under the Data Protection Legislation, including but not limited to, providing any required notices and obtaining any required consents, and for the written processing instructions it gives to SFR Medical.
 - (c) ANNEX A describes the subject matter, duration, nature and purpose of the processing and the Personal Data categories and Data Subject types in respect of which SFR Medical may process the Personal Data to fulfil the Business Purposes.

3. SFR Medical's obligations

- 3.1 SFR Medical will only process the Personal Data to the extent, and in such a manner, as is necessary for the Business Purposes in accordance with the Client's written instructions. SFR Medical will not process the Personal Data for any other purpose or in a way that does not comply with this Data Processing Agreement or the Data Protection Legislation. SFR Medical must promptly notify the Client if, in its opinion, the Client's instructions do not comply with the Data Protection Legislation, provided that such notification will not constitute a general obligation on the part of SFR Medical to monitor or interpret the laws applicable to the Client (as Controller) and such notification will not constitute a legal advice to the Client.
- 3.2 SFR Medical must comply promptly with any Client written instructions requiring SFR Medical to amend, transfer, delete or otherwise process the Personal Data, or to stop, mitigate or remedy any unauthorised processing.

- 3.3 SFR Medical will maintain the confidentiality of the Personal Data and will not disclose the Personal Data to third-parties unless the Client or this Data Processing Agreement specifically authorises the disclosure, or as required by domestic or EU law, court or regulator (including the Commissioner). If a domestic or EU law, court or regulator (including the Commissioner) requires SFR Medical to process or disclose the Personal Data to a third-party, SFR Medical 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 or EU law prohibits the giving of such notice.
- 3.4 SFR Medical will reasonably assist the Client, at no additional cost to the Client, with meeting the Client's compliance obligations under the Data Protection Legislation, taking into account the nature of SFR Medical's processing and the information available to SFR Medical, including in relation to Data Subject rights, data protection impact assessments and reporting to and consulting with the Commissioner under the Data Protection Legislation.
- 3.5 SFR Medical will maintain adequate and up-to-date written records regarding any processing of the Personal Data that enable the Client to verify the compliance by SFR Medical with this Data Processing Agreement and the Data Protection Legislation and SFR Medical will provide the Client with copies of these records upon written request.

4. SFR Medical's employees

- 4.1 SFR Medical will ensure that all of its employees:
- (a) are informed of the confidential nature of the Personal Data and are bound by written confidentiality obligations and use restrictions in respect of the Personal Data;
 - (b) have undertaken training on the Data Protection Legislation and how it relates to their handling of the Personal Data and how it applies to their particular duties; and
 - (c) are aware both of SFR Medical's duties and their personal duties and obligations under the Data Protection Legislation and this Data Processing Agreement.

5. Security

- 5.1 SFR Medical must at all times implement appropriate technical and organisational measures against accidental, unauthorised or unlawful processing, access, copying, modification, reproduction, display or distribution of the Personal Data, and against accidental or unlawful loss, destruction, alteration, disclosure or damage of Personal Data.
- 5.2 Taking into account the risks involved in the Processing, such measures will include as appropriate:
- (a) the pseudonymisation and encryption of personal data;

- (b) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;
- (c) the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident; and
- (d) a process for regularly testing, assessing and evaluating the effectiveness of the security measures.

6. Personal data breach

6.1 SFR Medical will notify the Client without undue delay and in any event within 24 hours of becoming aware of:

- (a) the loss, unintended destruction or damage, corruption, or unusability of part or all of the Personal Data;
- (b) any accidental, unauthorised or unlawful processing of the Personal Data; or
- (c) any Personal Data Breach.

6.2 Where SFR Medical becomes aware of (a), (b) and/or (c) above, it will, without undue delay, also provide the Client with the following written information:

- (a) description of the nature of (a), (b) and/or (c), including the categories of in-scope Personal Data and approximate number of both Data Subjects and the Personal Data records concerned;
- (b) the likely consequences; and
- (c) a description of the measures taken or proposed to be taken to address (a), (b) and/or (c), including measures to mitigate its possible adverse effects.

6.3 Immediately following any accidental, unauthorised or unlawful Personal Data processing or Personal Data Breach, the parties will co-ordinate with each other to investigate the matter. Further, SFR Medical will reasonably co-operate with the Client at no additional cost to the Client, in the Client's handling of the matter, including but not limited to:

- (a) assisting with any investigation;
- (b) providing the Client with physical access to any facilities and operations affected;
- (c) facilitating interviews with SFR Medical's employees, former employees and others involved in the matter including, but not limited to, officers and directors;
- (d) making available all relevant records, logs, files, data reporting and other materials required to comply with Data Protection Legislation or as otherwise reasonably required by the Client; and
- (e) taking reasonable and prompt steps to mitigate the effects and to minimise any damage resulting from any such event.

- 6.4 SFR Medical will not inform any third-party of any accidental, unauthorised or unlawful processing of all or part of the Personal Data and/or a Personal Data Breach without first obtaining the Client's written consent, except when required to do so by domestic or EU law.
- 6.5 SFR Medical will cover all reasonable expenses associated with the performance of the obligations under **Error! Bookmark not defined.** **Error! Reference source not found.** to clause 6.3 unless the matter arose from the Client's specific written instructions, negligence, wilful default or breach of the Contract, in which case the Client shall cover all reasonable expenses.
- 6.6 SFR Medical will also reimburse the Client for actual reasonable expenses that the Client incurs when responding to an incident of accidental, unauthorised or unlawful processing and/or a Personal Data Breach to the extent that SFR Medical caused such.

7. Cross-border transfers of personal data

- 7.1 SFR Medical (and any subcontractor) must not transfer or otherwise process the Personal Data outside the UK or, the EEA unless specifically agreed upon in writing and up front with the Client and taking into account the requirements under applicable Data Protection Legislation. [ANNEX A provides a list of transfers for which the Client grants its authorisation upon the conclusion of this Data Processing Agreement, subject to SFR Medical implementing appropriate safeguards such as the International Data Transfer Agreement (IDTA) or equivalent mechanism required under Data Protection Legislation.]
- 7.2 To the extent that the Client or SFR Medical are relying on a specific statutory mechanism (such as standard contractual clauses, adequacy decision or international data transfer agreement) to normalize international data transfers and that mechanism is subsequently modified, revoked, or held in a court of competent jurisdiction to be invalid, the parties agree to cooperate in good faith to promptly suspend the transfer or to pursue a suitable alternate mechanism that can lawfully support the transfer.

8. Contracting with Sub-processors

- 8.1 The Client hereby gives general authorisation for SFR Medical to engage sub-processor(s), provided that SFR Medical shall remain fully liable to Client for the sub-processor's performance of this Data Processing Agreement, as well as for any acts or omissions of the sub-processor in regard to its Processing.
- 8.2 Where SFR Medical seeks to appoint a new sub-processor:

- (a) prior to engaging the new sub-processor, SFR Medical shall carry out an appropriate due-diligence to ensure that the sub-processor is capable to Process Personal Data in accordance with this Data Processing Agreement;
- (b) SFR Medical shall give the Client reasonable notice of the proposed appointment, including full details of the Processing to be undertaken by the new subprocessor; and
- (c) if, within thirty (30) days of receipt of the SFR Medical's notice of the proposed appointment, the Client notifies SFR Medical in writing of any reasonable objections to the proposed appointment, the parties agree to negotiate in good faith in respect of maintain the hired sub-processor or engaging a different one. If no such objection is raised within the timeframe above, the proposed sub-processor shall be deemed accepted and SFR Medical may proceed with the formalities to effect the appointment.

8.3 SFR Medical shall warrant that sub-processors are contractually bound to the same obligations with respect to the Processing as those which SFR Medical is bound to under this Data Processing Agreement. In addition, and in case Personal Data is transferred by SFR Medical to a sub-processor outside the UK or the EEA, SFR Medical shall take into account the requirements for such transfer under Data Protection Legislation. These requirements can include Parties agreeing to standard contractual clauses within the meaning of article 46(2)(c) or 46(2)(d) of GDPR or any such other appropriate safeguard.

9. Complaints, data subject requests and third-party rights

9.1 SFR Medical must take such technical and organisational measures as may be appropriate, and promptly provide such information to the Client as the Client may reasonably require, to enable the Client to comply with:

- (a) the rights of Data Subjects under the Data Protection Legislation, including, but not limited to, subject access rights, the rights to rectify, port and erase personal data, object to the processing and automated processing of personal data, and restrict the processing of personal data; and
- (b) information or assessment notices served on the Client by the Commissioner or other relevant regulator under the Data Protection Legislation.

9.2 SFR Medical must notify the Client immediately in writing if it receives any complaint, notice or communication that relates directly or indirectly to the processing of the Personal Data or to either party's compliance with the Data Protection Legislation.

9.3 SFR Medical must notify the Client within two (2) days if it receives a request from a Data Subject for access to their Personal Data or to exercise any of their other rights under the Data Protection Legislation.



9.4 SFR Medical will give the Client, at no additional cost to the Client, its full co-operation and assistance in responding to any complaint, notice, communication or Data Subject request.

9.5 SFR Medical must not disclose the Personal Data to any Data Subject or to a third-party other than in accordance with the Client's written instructions, or as required by domestic or EU law.

10. Data return and destruction

10.1 At the Client's request, SFR Medical will give the Client, or a third-party nominated in writing by the Client, a copy of or access to all or part of the Personal Data in its possession or control in the format and on the media reasonably specified by the Client.

10.2 On termination of the Contract for any reason or expiry of its term, SFR Medical will securely delete or destroy or, if directed in writing by the Client, return and not retain, all or any of the Personal Data related to the Contract in its possession or control (unless retention of documents containing Personal Data is otherwise required for SFR Medical to comply with any obligation under a specific law, regulation, government or regulatory body, in which case deletion of the data shall be carried out once the retention requirement ends).

10.3 Upon Client's request, SFR Medical will certify in writing to it that it has deleted or destroyed the Personal Data within 5 days of any such request (or as otherwise mutually agreed between the parties).

11. Audit

11.1 SFR Medical shall make available to the Client all information necessary to demonstrate compliance with the provisions of this Data Processing Agreement. Such information will in any case include information on (i) the security measures, (ii) sub-processor agreements, (iii) Personal Data Breaches, (iv) return or destruction of Personal Data, (v) international data transfers and the safeguards taken to address transfer restrictions and (vi) measures in place to allow the Client to comply with its obligations in relation to data subject's rights.

11.2 The Client and Crown Commercial Service (or their respective authorised representatives) shall have the right, on reasonable notice, to conduct audits and inspections of SFR Medical's processing of Personal Data, including access to premises, personnel, systems, and relevant records, to the extent necessary to verify compliance with this Data Processing Agreement and applicable Data Protection Legislation. Such access shall not require the disclosure of confidential information unrelated to the Contract or in breach of applicable law or third-party obligations of confidence.



- 11.3 The Client shall procure that reasonable efforts are used to minimise any disruption to SFR Medical's business caused by the performance of the audit.

12. Indemnification

- 12.1 Subject to clause 7 (Limitation of Liability) of the Terms and Conditions, SFR Medical agrees to indemnify, keep indemnified and defend at its own expense the Client against all costs, claims, damages or expenses incurred by the Client or for which the Client may become liable due to any failure by SFR Medical or its employees, subcontractors or agents to comply with any of its obligations under the Contract and/or the Data Protection Legislation.



ANNEX A Personal Data processing purposes and details

Subject matter of processing: *Processing of the data subjects personal data as collected by the Client (e.g., victims of crime), either directly or through the engagement of the Expert, for the production of the medical reports.*

Duration of Processing: *So long as is required to enable SFR Medical to provide the Services under the Contract, in accordance with its terms.*

Nature of Processing: *Collection, recording, organisation, structuring, storage, backup, access to, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction and any other processing of Personal Data (whether or not by automated means) necessary to provide the Services.*

Types of Personal Data: *Victim's name, date of birth, gender, address, email address, telephone number, psychometric or other test results or any such other information as may be required for the Expert to produce the medical report.*

Special Categories of Personal Data: *Details of a victim's health, race, ethnic origin, sex life or sexual orientation.*

Categories of Data Subject: *Victim's information on the Client's systems to which the Services (as defined in the Terms and Conditions) relate or which the Client provides to SFR Medical in connection with SFR Medical's performance of the Services.*

Approved Cross-border Transfer Outside the UK and EEA:

- South Africa, India, Canada