

MEDAPHOR SCANTRAINER CUSTOMER AGREEMENT ("Agreement")

This Agreement is with MedaPhor Limited (Company Number: 05176992) of Suite 16, Cardiff Medicentre, Heath Park, Cardiff, UK CF14 4UJ ("**MedaPhor**").

This Agreement is made up of 3 parts and the following Schedule(s):

- *Part A – relating to the licence of and/or access to the ScanTrainer software ("**Licence Terms**");*
- *Part B – setting out the terms and conditions relating to the provision of equipment, software and associated services ("**Purchase Terms**"); and*
- *Part C – setting out general terms and conditions that apply in this Agreement ("**General Terms & Conditions**").*

- *Schedule 1 – Data Processing, setting out the information referred to in clause 9.3 of Part A*

*The Schedule(s) forms part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedule(s). This Agreement is supplemental and subject to the terms contained in the accompanying letter agreement to which this Agreement is appended (such letter agreement, as amended from time to time by agreement in writing between us, being hereinafter referred to as "**the Letter Agreement**"). The Letter Agreement will set out the specific products and services that you (also referred to as the "**Customer**") have selected and any additional terms and conditions agreed between us. Should there be any conflict or inconsistency between the terms of this Agreement and the terms of the Letter Agreement, the Letter Agreement shall prevail. In the absence of an accompanying letter agreement, the ScanTrainer order placed by you and accepted by us will set out the specific products and services that you have selected. Your attention is particularly drawn to:*

- *the acceptance provisions below;*
- *clause 8 (ScanTrainer Case Generation Engine), clause 12 (Disclaimer) and clause 13 (Limitation of Remedies and Damages) of the Licence Terms;*
- *clause 2 (Customer's Obligations) of the Purchase Terms; and*
- *clause 3 (Termination) of the General Terms & Conditions.*

ACCEPTANCE

*By (i) signing a copy of the Letter Agreement, (ii) installing, using, accessing or copying the Scan Trainer software ("**the Software Product**") or (iii) accessing the ScanTrainer Cloud (as defined in clause 1.2 of the Licence Terms), you accept and agree to be bound by the terms of this Agreement. If you do not agree to all of the terms of this Agreement, you must not delete, use, access or copy the Software Product or access the ScanTrainer Cloud. You shall be responsible for ensuring that your employees, agents, independent contractors, representatives and students who are authorised by you to use the Software Product and/or ScanTrainer Cloud in accordance with the terms of this Agreement ("**Authorised Users**") comply with the relevant terms of this Agreement.*

PART A – LICENCE TERMS

1. GENERAL

- 1.1. The Software Product is available in two different forms. It is either:
- 1.1.1. provided on a storage medium for installation and use on a computer that is part of a ScanTrainer system; or
 - 1.1.2. provided and used via the ScanTrainer Cloud (as defined in clause 1.2 of this Part A) either via a ScanTrainer system or via the internet (as further detailed in clause 3.2 of this Part A).

You will be provided with the Software Product in the format you have agreed with MedaPhor in the Letter Agreement, or as agreed in writing from time to time.

- 1.2. The ScanTrainer Cloud is the cloud based hosting service provided by MedaPhor to you under this Agreement and the Letter Agreement via scantrainercloud.com (or any other website notified to you by MedaPhor from time to time) which allows you and your Authorised Users to run the Software Product, to store and access tests, results and other data generated from your and/or their use of the Software Product, to receive e-mails summarising usage and the ability to share bespoke modules via the internet ("**the ScanTrainer Cloud**"), as more particularly described in the Letter Agreement and/or any other document made available to you by MedaPhor from time to time which sets out a description of the ScanTrainer Cloud and the user instructions for the ScanTrainer Cloud.
- 1.3. MedaPhor or its subsidiaries, affiliates, licensors and suppliers own all intellectual property rights (being all patents, trademarks, trade names, service marks, copyright, moral rights, design, rights in databases, inventions, trade secrets and other confidential information, know-how, business names and all other intellectual property rights of a similar nature in any part of the world, whether registered, registrable or not and including all applications and the right to apply for any of the foregoing rights and the right to sue for past infringements of any of the foregoing rights) ("**IP Rights**") in the Software Product, the ScanTrainer Cloud and the accompanying documentation.
- 1.4. Your licence and/or right (if any) to download, use, copy, access or change the Software Product and/or the ScanTrainer Cloud is subject to these rights and to all the terms and conditions of this Agreement and the Letter Agreement. Except as expressly stated herein, this Agreement does not grant to you any rights to or in the IP Rights or any other rights or licences, in respect of the Software Product, the ScanTrainer Cloud and the accompanying documentation.

2. GRANT

- 2.1. In consideration of you agreeing to abide by the terms of this Agreement and the Letter Agreement, MedaPhor grants to you the non-transferable, non-exclusive licence and/or right:
- 2.1.1. where the Software Product is provided to you on any storage medium other than via the ScanTrainer Cloud, to install and use one copy of the Software Product on a computer which is part of your ScanTrainer system; or
 - 2.1.2. where the Software Product is provided and used via the ScanTrainer Cloud, to use and operate the Software Product via the ScanTrainer Cloud,

in each case for your own internal business purposes and in accordance with the terms of this Agreement and the Letter Agreement. MedaPhor reserves all other rights in the Software Product, the ScanTrainer Cloud and the accompanying documentation.

- 2.2. Where the Software Product is provided to you on any storage medium other than via the ScanTrainer Cloud, this Agreement does not permit the installation or use of multiple copies of the Software Product, or the installation of the Software Product on a computer not supplied by MedaPhor as part of your ScanTrainer system, without the express written permission of MedaPhor.
- 2.3. For further information regarding licensing or this Agreement, please contact MedaPhor Limited at Suite 16, Cardiff Medicentre, Cardiff, CF14 4UJ (+44 (29) 2075 6534) or such other address and telephone number as may be notified to you by MedaPhor from time to time.

3. PROVISION OF THE SOFTWARE PRODUCT, THE SCANTRAINER CLOUD AND OPERATING SYSTEM REQUIREMENTS

- 3.1. MedaPhor shall, provide the Software Product and, where applicable, the ScanTrainer Cloud, to you on and subject to the terms of this Agreement and the Letter Agreement. The Letter Agreement will specify any applicable term of this Agreement or in relation to the use of the Software Product (where relevant) or any technical support services.

ScanTrainer Cloud Provisions

- 3.2. Where you have chosen to have the Software Product provided to you via the ScanTrainer Cloud, you and your Authorised Users will be able to access the ScanTrainer Cloud from any cloud-enabled ScanTrainer system and also remotely via the internet. You acknowledge that different functionality will be available to you and your Authorised Users depending on how the ScanTrainer Cloud is accessed and subject to the specific products and services you have selected as set out in the Letter Agreement.
- 3.3. You will be asked to provide an e-mail address when you first access the ScanTrainer Cloud. This e-mail address will be used by MedaPhor to provide any required notifications under this Agreement. It is your responsibility to ensure that this contact e-mail address is kept up to date at all times.
- 3.4. Subject to the terms of this Agreement, MedaPhor shall use reasonable endeavours to make the ScanTrainer Cloud available for your use 24 hours a day, 7 days a week, except for:
 - 3.4.1. planned maintenance, notified to you by email; and
 - 3.4.2. unscheduled maintenance, in the event that the system performance is severely compromised, in which case MedaPhor will use its reasonable endeavours to provide notice to you by email of the anticipated downtime for the ScanTrainer Cloud.
- 3.5. As at the date of this Agreement, use of the ScanTrainer Cloud requires a minimum internet connection speed of 2Mb/sec for downloads and 1Mb/sec for uploads ("**the Minimum Requirements**"), we reserve the right to amend the Minimum Requirements from time to time and shall notify you of any such amendments by notice in writing. By signing the Letter Agreement or by accessing the ScanTrainer Cloud, you are confirming that where you access and use the Software Product via the ScanTrainer Cloud your internet, network and systems comply with the Minimum Requirements.
- 3.6. You shall be solely responsible for procuring and maintaining your network connections and telecommunications links from your ScanTrainer system to MedaPhor's data centres (via the internet), and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to your network connections or telecommunications links or caused by the internet.
- 3.7. You hereby acknowledge and agree that slower internet connection speeds than the Minimum Requirements will affect the responsiveness of the Software Product run via the ScanTrainer Cloud

and you further acknowledge that MedaPhor shall not be responsible in any way for the performance of the Software Product run via the ScanTrainer Cloud if you do not adhere to the Minimum Requirements.

- 3.8. MedaPhor does not warrant that your use of the Software Product run via the ScanTrainer Cloud, howsoever accessed, will be uninterrupted or error-free.
- 3.9. MedaPhor 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 you acknowledge that the Software Product and/or the ScanTrainer Cloud may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

4. RESTRICTIONS ON USE

- 4.1. Where the Software Product is provided to you on any storage medium other than via the ScanTrainer Cloud, you must not use, copy, or install the Software Product on a computer not supplied by MedaPhor as part of a ScanTrainer system without the express written permission of MedaPhor.
- 4.2. Except to the extent the provisions of this clause 4.2 are prohibited by applicable law, you must not decompile, "reverse-engineer", disassemble, or otherwise attempt to derive, ascertain or list the source code or the source programme for the Software Product or the ScanTrainer Cloud.
- 4.3. Except to the extent the provisions of this clause 4.3 are prohibited by applicable law, you must not decrypt, "reverse-engineer", or otherwise attempt to derive the raw ultrasound data from the Software Product or the ScanTrainer Cloud.
- 4.4. You must not use the database portion of the Software Product in connection with any software other than the Software Product or the ScanTrainer Cloud.
- 4.5. You must not interfere with or attempt to circumvent the operation of any dongle or other device whose function it is to prevent the unlawful copying or use of the Software Product.
- 4.6. You must not use the Software Product or the ScanTrainer Cloud in any unlawful manner, for any unlawful purpose, or in any manner inconsistent with this Agreement or act fraudulently or maliciously.
- 4.7. You must not infringe our intellectual property rights or those of any third party in relation to your use of the Software Product or the ScanTrainer Cloud (to the extent that such use is not licenced by this Agreement).
- 4.8. You must not access, store, distribute or transmit any thing or device (including any software, code, file or programme) during the course of your use of the Software Product or the ScanTrainer Cloud:
 - 4.8.1. which may prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device;
 - 4.8.2. which may prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise);
 - 4.8.3. which may adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices; or

- 4.8.4. any material that:
- 4.8.4.1. is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
 - 4.8.4.2. facilitates illegal activity;
 - 4.8.4.3. depicts sexually explicit images;
 - 4.8.4.4. promotes unlawful violence;
 - 4.8.4.5. is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability, or any other illegal activity; or
 - 4.8.4.6. causes damage or injury to any person or property,

and MedaPhor reserves the right, without liability to you, to disable your access to the Software Product or the ScanTrainer Cloud if any material breaches the provisions of this clause 4.8.

5. RESTRICTIONS ON ALTERATION

- 5.1. You may not alter or modify the whole or any part of the Software Product or the ScanTrainer Cloud or create any derivative work of the Software Product, the ScanTrainer Cloud or its accompanying documentation, or permit the Software Product or any part of it to be combined with, or become incorporated in, any other programs. Derivative works include, but are not limited to, translations.
- 5.2. You may not alter any files or libraries in any portion of the Software Product or the ScanTrainer Cloud.
- 5.3. You may not reproduce the database portion or create any tables or reports relating to the database portion.
- 5.4. You may not derive training material or images to be used in training material, that is to be used outside of the Software Product, from the Software Product or the ScanTrainer Cloud without the express written permission of MedaPhor.
- 5.5. Without prejudice to any other remedy of MedaPhor if you (in breach of this clause 5.5) do modify, alter interfere with or merge the Software Product no such modification, alteration, interference or merger however extensive shall derogate from the obligations of and restrictions on you made under this Agreement which shall hereon apply to the Software Product as so modified, amended, altered, interfered with or merged.

6. RESTRICTIONS ON COPYING

You may not copy any part of the Software Product or the ScanTrainer Cloud except to the extent that licenced use inherently demands the creation of a temporary copy stored in computer memory and not permanently affixed on a storage medium.

7. YOUR OBLIGATIONS

- 7.1. You shall:
 - 7.1.1. provide MedaPhor with:

- 7.1.1.1. all reasonably necessary co-operation in relation to this Agreement; and
- 7.1.1.2. all reasonably necessary access to such information as may be required by MedaPhor,

in order to render the Software Product and/or the ScanTrainer Cloud, including but not limited to User Data (as defined in clause 9 of Part A), access security credentials and configuration services;

- 7.1.2. comply with all applicable laws and regulations with respect to your activities under this Agreement; and
- 7.1.3. ensure that the Authorised Users use the Software Product and/or the ScanTrainer Cloud in accordance with this Agreement and shall be responsible for any Authorised User's breach of this Agreement.

8. SCANTRAINER CASE GENERATION ENGINE

- 8.1. If you subscribe to or have access to the ScanTrainer Case Generation Engine (as further described in the Letter Agreement), the provisions of this clause 8 will apply where you or your Authorised Users add, publish, provide or upload (or attempt to upload) ("**Publish**") to the ScanTrainer Cloud:
 - 8.1.1. copies of any ultrasound 3D scans ("**Scans**"); or
 - 8.1.2. any case information in relation to a Scan (including, without limitation, case histories, any related clinical information) ("**Case Information**").
- 8.2. Dependant on the products, services or other such functionality that you have selected (as set out in the Letter Agreement), you may select that the Scans and / or Case Information that you Publish to the ScanTrainer Cloud be available:
 - 8.2.1. locally for use by your Authorised Users only ("**Local Publication**"); or
 - 8.2.2. globally for use (amongst other things) by your Authorised Users, MedaPhor and its, officers, employees, contractors and customers ("**Global Publication**").
- 8.3. You grant MedaPhor an irrevocable, royalty free, worldwide, perpetual licence (with the right to grant sub-licences) to use the applicable Scans and/or Case Information for the "**Relevant Use**" which means where, in respect of particular Scans and/or Case Information, you select:
 - 8.3.1. Local Publication, to the extent necessary to allow MedaPhor or its contractors to provide the Software Product and / or ScanTrainer Cloud services or functionality to you or your Authorised Users; or
 - 8.3.2. Global Publication, for any purpose within MedaPhor's products (including, without limitation, for ultra sound simulation and / or for use within the Software Product, the ScanTrainer Cloud and the ScanTrainer systems).
- 8.4. You warrant and represent that:
 - 8.4.1. you are the legal and beneficial owner of the Scans (owning the copyright and / or any other intellectual property rights in the same);

- 8.4.2. you have the full right and authority to grant the licence referred to above;
- 8.4.3. the Scans and the Case Information will be uploaded and provided on a fully anonymised basis such that:
 - 8.4.3.1. the relevant patient cannot be identified from the Scan or the Case Information (whether by looking at the Scan / Case Information alone or by looking at the same in combination with any other information);
 - 8.4.3.2. the Scan and / or the Case Information will not constitute personally identifiable information, Personal Data or protected health information (or similarly protected information) under any state or federal law, rule or regulation, of the United States of America (or any similar law, rule or regulation in any applicable jurisdiction);
- 8.4.4. you have complied with all laws, regulations and ethical requirements in respect of obtaining the Scans and / or Case Information and in securing the rights/consents to use and licence the same on this terms of this clause; and
- 8.4.5. MedaPhor is free and unrestricted to use the Scans and the Case Information for the Relevant Use and in respect of such use:
 - 8.4.5.1. you have obtained from the relevant patient full, informed and unequivocal written consent that meets the standards required by the Data Protection Legislation to the same; or
 - 8.4.5.2. you have determined that the consent of the relevant patient is not required and that you have a lawful basis to transfer the Scans and the Case Information to MedaPhor for the Relevant Use; and
 - 8.4.5.3. you have provided appropriate notices to the relevant patient as required by the Data Protection Legislation.
- 8.5. You shall indemnify MedaPhor against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by MedaPhor arising out of or in connection with:
 - 8.5.1. any breach of the warranties contained in clause 8.4 above; and
 - 8.5.2. any claim made against MedaPhor by a third party arising out of or in connection with MedaPhor using the Scans and/or the Case Information for the Relevant Use, including (without limitation) any claims:
 - 8.5.2.1. by (or on behalf of) patients; and/or
 - 8.5.2.2. for actual or alleged infringement of a third party's intellectual property rights.
- 8.6. For the avoidance of doubt, the provisions of this clause 8 will continue to apply to you following termination of this Agreement for any reason or if you no longer subscribe or have access to the ScanTrainer Case Generation Engine (as further described in the Letter Agreement).

9. USER DATA, STORAGE OF INFORMATION AND ACCESS BY MEDAPHOR

- 9.1. You or your Authorised Users (as the case may be) shall own all right, title and interest in and to all

of the data inputted by you, Authorised Users or by MedaPhor on your behalf for the purpose of and during the process of using the Software Product and/or the ScanTrainer Cloud ("**User Data**") and you shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the User Data.

- 9.2. Where the Software Product is to be provided and used via the ScanTrainer Cloud, in the event of any loss or damage to User Data, MedaPhor shall use reasonable endeavours to restore the lost or damaged User Data from the latest back-up of such User Data maintained by MedaPhor. MedaPhor shall not be responsible for any loss, destruction, alteration or disclosure of User Data caused by any third party (except those third parties sub-contracted by MedaPhor to perform services related to User Data maintenance and back-up).
- 9.3. Both parties will comply with all applicable requirements of the Data Protection Legislation. This Clause 9 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.
- 9.4. The parties acknowledge and agree that Schedule 1 – Data Processing, sets out:
 - (i) the scope, nature and purpose of MedaPhor's processing under this Agreement;
 - (ii) the duration of the processing to be undertaken by MedaPhor under this Agreement;
 - (iii) the categories of Data Subjects whose Personal Data may be processed under or in connection with this Agreement and the categories of Personal Data that may be processed under or in connection with this agreement; and
 - (iv) the definitions of data processing terms used in this Agreement.
 - (v) Information regarding the transfer of data outside the EEA

Personal Data

- 9.5 The parties agree that if MedaPhor processes any Personal Data on your behalf when performing its obligations under this agreement, you are the Data Controller and MedaPhor is the Data Processor for the purposes of the Data Protection Legislation (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation) and in any such case:
 - 9.5.1 you acknowledge and agree that the Personal Data may be transferred or stored outside the European Economic Area ("**EEA**") or the country where you or any Authorised Users are located in order to carry out MedaPhor's obligations under this Agreement. If Personal Data is transferred and/or stored outside the EEA through you or any Authorised User using the ScanTrainer Cloud from locations outside the EEA, you shall be solely responsible for such transfer;
 - 9.5.2 you shall ensure that you are entitled to transfer the relevant Personal Data to MedaPhor so that MedaPhor may lawfully use, process and transfer the Personal Data in accordance with this Agreement on your behalf;
 - 9.5.3 without prejudice to the generality of Clause 9.3, you will ensure that you have all necessary appropriate consents and notices in place to enable the lawful transfer of the

Personal Data to MedaPhor for the duration and purposes of this Agreement, so that MedaPhor may lawfully use, process and transfer the Personal Data in accordance with this Agreement on your behalf;

- 9.5.4 MedaPhor will process Personal Data only on your written instructions unless MedaPhor is required by the laws of any member of the European Union or by the laws of the European Union applicable to MedaPhor to process Personal Data (**Applicable Laws**). Where MedaPhor is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, MedaPhor shall promptly notify you of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit MedaPhor from so notifying you.
- 9.6 MedaPhor shall not transfer any Personal Data outside of the European Economic Area and the United Kingdom unless the following conditions are fulfilled:
- (i) you or MedaPhor have provided appropriate safeguards in relation to the transfer;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) MedaPhor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred;
 - (iv) MedaPhor complies with reasonable instructions notified to it in advance by you with respect to the processing of the Personal Data;
- 9.7 Each party shall ensure that it has in place appropriate technical and organisational measures, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal 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 Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal 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).
- 9.8 To a reasonable extent taking into account the nature of the processing and the information that is available to MedaPhor at the time, MedaPhor will:
- 9.8.1 assist you in complying with your obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and any consultations with supervisory authorities or regulators;
 - 9.8.2 notify you without undue delay on becoming aware of a Personal Data breach;
 - 9.8.3 assist you in responding to any request from a Data Subject.
- 9.9 Unless otherwise agreed, by entering into this Agreement you hereby grant MedaPhor the right to remotely access your ScanTrainer system via the internet. For the avoidance of doubt, MedaPhor will not provide remote access support unless you give remote access permission to MedaPhor.
- 9.10 Where the Software Product is to be provided and used via the ScanTrainer Cloud, by operating the Software Product via the ScanTrainer Cloud, you (and by virtue of clause 9.5.3 of this Part A your Authorised Users) consent to MedaPhor collecting data on all Authorised Users who access the

ScanTrainer Cloud, including but not limited to:

- 9.10.1 the internet domain of the internet service used to access the ScanTrainer Cloud;
- 9.10.2 IP addresses;
- 9.10.3 the type and version of the browser used to access the ScanTrainer Cloud;
- 9.10.4 the type and version of the operating system used to access the ScanTrainer Cloud;
- 9.10.5 the dates and times of access to the ScanTrainer Cloud and the length of visits;
- 9.10.6 the assignments undertaken; and
- 9.10.7 associated metrics and assessment data.

This information may be used by MedaPhor for the operation of the ScanTrainer Cloud, to maintain the quality of the ScanTrainer Cloud, internal monitoring of the ScanTrainer Cloud and to provide customer support.

- 9.10.8 MedaPhor collecting and storing the User Data including results, screenshots and other information which will be stored on the ScanTrainer Cloud;
 - 9.10.9 MedaPhor accessing and viewing the User Data for maintenance purposes; and
 - 9.10.11 MedaPhor using the User Data in accordance with this Agreement (including, if required for maintenance purposes, MedaPhor modifying the User Data).
- 9.11 MedaPhor shall make information available to you on request to demonstrate compliance with the provisions of this Agreement which relate to the processing of Personal Data and shall allow you or any auditor authorised by you to undertake audits and inspections on reasonable written notice to evidence such compliance. MedaPhor will inform you if any request for information appears to infringe any existing Data Protection Legislation
- 9.12 You consent to MedaPhor appointing Amazon group of companies as a third-party processor of Personal Data under this agreement. MedaPhor confirms that it has entered or will enter with the third-party processor into a written agreement substantially on that third party's standard terms of business or incorporating terms which are substantially similar to those set out in this clause 9. As between you and MedaPhor, MedaPhor acknowledges that it shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this Clause 9. MedaPhor shall not engage any other third party processor to Process the Personal Data referred to in clause 9.4 without your prior written consent. MedaPhor shall inform you of any intended changes concerning the addition or replacement of a third-party processor, thereby giving you the opportunity to object to such changes where it is reasonable to do so. In the event that you provide such consent, MedaPhor shall enter into a contract with the Data Processor on substantially similar terms to those set out in this Agreement.
- 9.13 Following the expiry or termination of this Agreement:
- 9.13.1 you shall be entitled to request that any User Data is deleted by MedaPhor, provided that consent is obtained from the relevant Authorised User(s); and
 - 9.13.2 you and/or your Authorised Users shall be entitled to request that any Personal Data processed on your or their behalf by MedaPhor when performing its obligations under this Agreement is deleted or returned to you

and MedaPhor shall endeavour (to the extent practicable) to delete or return such information, save that MedaPhor shall be entitled to retain any copies of such information required by it for the maintenance of proper professional records or which is required to be retained or maintained by law, regulation or any competent judicial, governmental or regulatory authority.

10 AUTHORISED USERS AND ACCESS AND SECURITY CREDENTIALS

- 10.1 Subject to you complying with the terms of this Agreement and the Letter Agreement, MedaPhor hereby grants to you a non-exclusive, non-transferable right to permit the Authorised Users to use the Software Product and/or the ScanTrainer Cloud solely for your internal business operations. Any restrictions on the number of Authorised Users who may use Software Product and/or the ScanTrainer Cloud under this Agreement will be set out in the Letter Agreement.
- 10.2 You acknowledge and agree that you are solely responsible for ensuring that all access security credentials are secure and remain secure at all times.
- 10.3 You shall comply with the terms of any Authorised Users policy provided by MedaPhor to you from time to time.
- 10.4 You hereby acknowledge that User Data may be accessible to non-authorised users of the ScanTrainer Cloud if access security credentials are not properly secured by you and your Authorised Users. MedaPhor accepts no responsibility for any loss whatsoever arising from the mis-use of User Data by non-authorised users resulting as a consequence of insecure access security credentials.
- 10.5 You shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Software Product and/or the ScanTrainer Cloud and, in the event of any such unauthorised access or use, promptly notify MedaPhor.

11 AUTOMATIC UPDATES TO YOUR SCANTRAINER SYSTEM AND VARIATIONS TO THIS AGREEMENT

- 11.1 If you access the Software Product via the ScanTrainer Cloud, by entering into this Agreement you hereby agree that MedaPhor may, at its absolute discretion, automatically update your ScanTrainer system via the ScanTrainer Cloud. You acknowledge and accept that in order to implement any such automatic updates of the Software Product that your ScanTrainer system is required to be left operational overnight. Depending on the update installed, you may not be able to use the ScanTrainer system via the ScanTrainer Cloud until you have had the latest update installed.
- 11.2 We may change these terms and conditions at any time by notifying you of a change when you next start the Software Product or log onto the ScanTrainer Cloud. The new terms will be displayed on-screen and you may be required to read and accept them to continue your use of the Software Product or the ScanTrainer Cloud.
- 11.3 You agree to allow MedaPhor staff to access your ScanTrainer system remotely to provide you with any required updates and also any software support and advice requested.

12 DISCLAIMER

- 12.1 MedaPhor makes no warranties, express or implied, including, but not limited to, any implied warranties of merchantability or fitness for a particular purpose other than as expressly set forth as a warranty in this Agreement or in the limited warranty documents provided with the Software Product (if any).
- 12.2 Except as expressly and specifically provided in this Agreement:

- 12.2.1 you assume sole responsibility for results obtained from the use of the Software Product and/or the ScanTrainer Cloud, and for conclusions drawn from such use; and
- 12.2.2 the Software Product and/or the ScanTrainer Cloud are provided to you on an "as is" basis.
- 12.3 Under no circumstances shall MedaPhor, its directors, officers, employees or agents be liable to you or any other party (including your authorised users) for indirect, consequential, special, incidental, punitive, or exemplary damages of any kind (including lost revenues or profits or loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss) resulting from this agreement, or from the furnishing, performance, installation, or use of the Software Product or the ScanTrainer Cloud, whether due to a breach of contract, breach of warranty, or the negligence of MedaPhor or any other party, even if MedaPhor is advised beforehand of the possibility of such damages. To the extent that the applicable jurisdiction limits MedaPhor's ability to disclaim any implied warranties, this disclaimer shall be effective to the maximum extent permitted by law.
- 12.4 MedaPhor shall in no circumstances (whether before or after termination of this agreement) be liable to you for any loss or corruption of data or programs held or used by you or on your behalf.
- 12.5 nothing in this agreement excludes the liability of MedaPhor:
 - 12.5.1 for death or personal injury caused by MedaPhor's negligence; or
 - 12.5.2 for fraud or fraudulent representation.
- 12.6 The exclusions from and limitations of liability set out in this clause 12 and clause 13 of this Part A shall be considered severably. The validity and enforceability of any one clause, sub-clause, paragraph or sub-paragraph of this clause 13 or clause 14 of this part a shall not affect the validity or enforceability of any other part of this clause 13 or clause 14 of this Part A.

13 LIMITATION OF REMEDIES AND DAMAGES

- 13.1 Subject to clause 12 of this Part A, this clause 13 sets out the entire financial liability of MedaPhor (including any liability for the acts or omissions of its employees, agents and sub-contractors) to you:
 - 13.1.1 arising under or in connection with this Agreement, the Letter Agreement or any tortious act or omissions of MedaPhor;
 - 13.1.2 in respect of any use made by you of the Software Product or the ScanTrainer Cloud or any part of them; and
 - 13.1.3 in respect of any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Agreement and/or the Letter Agreement.
- 13.2 Where the Software Product is provided to you on any storage medium other than via the ScanTrainer Cloud, your remedy for a breach of this Agreement or of any warranty included in this Agreement is the correction or replacement of the Software Product. Selection of whether to correct or replace shall be solely at the discretion of MedaPhor. MedaPhor reserves the right to substitute a functionally equivalent copy of the Software Product as a replacement. If MedaPhor is unable to provide a replacement or substitute Software Product or corrections to the Software Product, your sole alternative remedy shall be a refund of the purchase price for the Software Product, exclusive of any costs for shipping and handling.

- 13.3 Any claim under clause 13.2 above must be made within the applicable warranty period. All warranties cover only defects arising under normal use and do not include malfunctions of failure resulting from misuse, abuse, neglect, alteration, problems with electrical power, acts of nature, unusual temperatures or humidity, improper installation, or damage determined by MedaPhor to have been caused by you. All limited warranties on the Software Product are granted only to you and are non-transferable.
- 13.4 Without prejudice to clause 13.2 above, the total liability which MedaPhor shall owe to you in respect of all claims under this Agreement shall not exceed the aggregate monies paid by you to MedaPhor under this Agreement and the Letter Agreement.
- 13.5 You agree to defend, indemnify and hold MedaPhor harmless from all claims, actions, judgements, proceedings, liabilities, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising from your breach of this Agreement and/or out of or in connection with your use of the Software Product, the ScanTrainer Cloud or the accompanying documents.
- 13.6 MedaPhor shall have no liability (on any account whatsoever) to Authorised Users as a result of this Agreement and/or their use of the Software Product and/or the ScanTrainer Cloud and you agree to defend, indemnify and hold MedaPhor harmless against any claims, actions, judgements, proceedings, liabilities, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising from Authorised Users as a result of this Agreement and/or their use of the Software Product and/or the ScanTrainer Cloud.
- 13.7 The provisions of clauses 11, 12 and 13 of this Part A shall survive the termination of the whole or part of this Agreement together with any clauses required to give effect to those provisions.

PART B – PURCHASE TERMS

In this Part B the following expressions shall have the following meanings unless inconsistent with the context:

"Business Day"	means any day other than a Saturday or Sunday or a public or bank holiday in England and Wales;
"Business Hours"	means the hours of 9.00am to 5.00pm inclusive UK time on any Business Day;
"Equipment"	means the items of equipment to be supplied under these Purchase Terms as specified in the Letter Agreement;
"Initial Subscription Term"	means the initial subscription period in respect of the ScanTrainer Cloud as set out in the Letter Agreement;
"Open Source Software"	the open source software incorporated either as a derivative or aggregated work with the System and which is provided to the Customer on an "as is" basis without warranty in any kind and otherwise under the relevant licence terms detailed in the file c:\MedaPhor\licences\README.txt
"Services"	the system technical support services (if any) to be provided to the Customer by MedaPhor as specified in the Letter Agreement;
"Software"	the computer software licensed or made available to the Customer by MedaPhor under the Licence Terms and excluding, for the avoidance of doubt, the Open Source Software, as specified in the Letter Agreement;
"System"	together the Equipment and the Software;
"Subscription Fees"	the fees payable by the Customer to MedaPhor for access to the ScanTrainer Cloud as specified in the Letter Agreement and as updated from time to time by notice in writing from MedaPhor to the Customer;
"System Purchase Price"	the price to be paid for the System and the Services as specified in the Letter Agreement; and
"Warranty Extension Fee"	the fee set by MedaPhor from time to time to extend the warranty period beyond that set out in clause 6.1 of this Part B.

1. COMPANY'S OBLIGATION

- 1.1. MedaPhor shall supply the System and Services, at the System Purchase Price (plus, where relevant, the Subscription Fees), at the agreed location subject to this Agreement and the Letter Agreement.
- 1.2. MedaPhor shall supply the ScanTrainer Cloud, in return for the Subscription Fees. The Customer acknowledges and agrees that, if it does not pay all relevant Subscription Fees or does not maintain a subscription to the ScanTrainer Cloud, it will only have access to certain functionality in respect of the System.
- 1.3. The Customer shall pay the System Purchase Price to MedaPhor upon receipt of a valid invoice, such sum to be paid within twenty-eight (28) days of such invoice.

- 1.4. The Customer shall pay the Subscription Fees to MedaPhor for access to the ScanTrainer Cloud, such sum to be paid as follows:
 - 1.4.1. within 28 days of the date of invoice for the Subscription Fees payable in respect of the Initial Subscription Term; and
 - 1.4.2. within 28 days of the date of invoice for the Subscription Fees in respect of each successive period of 12 months or such other period agreed by the parties falling after the Initial Subscription Term. MedaPhor will provide such invoice on or around the date that your subscription to the ScanTrainer Cloud is due for renewal.
- 1.5. If any sum payable under these Purchase Terms or the Letter Agreement is not paid when due then, without prejudice to MedaPhor's other rights under these Terms and Conditions, that sum will bear interest from the due date until payment is made in full, both before and after any judgment, at the interest rate at the lesser of (a) 1.5% per month, or (b) the highest rate allowed under applicable law.
- 1.6. If the Customer fails to pay any monies on the due date or does not comply with an obligation imposed upon the Customer under these Purchase Terms or the Letter Agreement then, without prejudice to any other right or remedy available to MedaPhor, MedaPhor shall be entitled to:
 - 1.6.1. withhold the supply of any Equipment, Software and/or Services (including suspending access to the ScanTrainer Case Generation Engine (as further described in the Letter Agreement)) to be provided to the Customer by or on behalf of MedaPhor until such payment is made;
 - 1.6.2. suspend the performance of any other obligation owed by MedaPhor under this Agreement until such payment is made; and/or
 - 1.6.3. require payment in full by the Customer for all the Equipment, Software and Services which the Customer has agreed to purchase under these Purchase Terms before supplying the Equipment, Software and Services.

2. CUSTOMER'S OBLIGATIONS

The Customer shall:

- 2.1. purchase the System subject to the terms of this Agreement and the Letter Agreement;
- 2.2. pay all sums, fees and other charges due under these Purchase Terms or the Letter Agreement upon the dates provided under these Purchase Terms or the Letter Agreement;
- 2.3. implement any required minor upgrades to the System notified to it by MedaPhor within 30 days of such notification and, when requested allow MedaPhor's personnel access to the Customer's premises and the System to implement such minor upgrades; and
- 2.4. take all necessary precautions to protect the health and safety of MedaPhor's personnel whilst at its premises or any other location of the Customer.

3. CONTROL, RISK AND TITLE

- 3.1. Control of and risk in the Equipment passes to the Customer upon despatch of the Equipment from Medaphor's premises in the UK.

- 3.2. Ownership of the Equipment shall not pass to the Customer until:
 - 3.2.1. the System Purchase Price has been paid in full; and
 - 3.2.2. payment is made to MedaPhor of any sum which is at the date of the Letter Agreement or may thereafter become due or owing from the Customer to MedaPhor.
- 3.2. Until ownership of the Equipment has passed to the Customer, the Customer will hold the Equipment in a fiduciary capacity, will not obliterate any identifying mark on the Equipment or its packaging and will keep the Equipment separate from other goods.
- 3.3. For the avoidance of doubt, you shall not own the Software which is provided on the Licence Terms.

4. DOCUMENTATION

MedaPhor shall provide the Customer with such documentation as it, in its reasonable discretion, considers necessary for the proper use of the System.

5. WARRANTY

- 5.1. Without prejudice to clauses 12 and 13 of Part A, MedaPhor will remedy a material defect in the Equipment notified to MedaPhor in a twelve (12) month period following the date of delivery of the Equipment, provided always that if MedaPhor is unable to do so MedaPhor may, at its option, replace the Equipment.
- 5.2. The warranty contained in clause 5.1 of this Part B is subject to the Customer complying with its obligations in this Agreement and the Letter Agreement and to there having been no alterations to the System by any person other than MedaPhor (for the avoidance of doubt no other software is to be loaded onto the system or this warranty will be invalidated).
- 5.3. The warranty period in clause 5.1 of this Part B may be extended upon payment of the Warranty Extension Fee by the Customer to MedaPhor.

6. VALUE ADDED TAX

Any sum payable by one party to the other under this Agreement and the Letter Agreement will be exclusive of Value Added Tax, sales tax, and any other similar tax which may be chargeable and which will be payable to MedaPhor in addition to the sum in question at the rate for the time being presented by law on delivery of a valid invoice.

PART C – GENERAL TERMS & CONDITIONS

1. RESTRICTIONS ON TRANSFER

- 1.1. Without first obtaining the express written consent of MedaPhor, you may not assign or transfer your rights and obligations under this Agreement or the Letter Agreement, or redistribute, encumber, sell, rent, lease, sub-licence, charge or otherwise transfer your rights to the Software Product or the ScanTrainer Cloud under this Agreement or the Letter Agreement.
- 1.2. MedaPhor may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement and the Letter Agreement.
- 1.3. This Agreement and/or the Letter Agreement shall not prevent MedaPhor from entering into similar agreements with third parties, or from independently developing, using, selling or licensing software, documentation, products and/or services which are similar to those provided under this Agreement and the Letter Agreement.
- 1.4. MedaPhor shall be free to sub-contract any or all of its rights and obligations under this Agreement and the Letter Agreement as it in its discretion sees fit.

2. CONFIDENTIALITY

In this clause 2 "**Confidential Information**" means any information relating to the business of the disclosing party which is not publicly available including, but not limited to any information specifically designated by the disclosing party as confidential, any information supplied to the disclosing party by any third party in relation to which a duty of confidentiality is owed or arises and any other information which should otherwise be reasonably regarded as possessing a quality of confidence or as having commercial value in relation to the business of the disclosing party.

- 2.1. Each party may be given access to Confidential Information from the other party in order to perform its obligations under this Agreement. A party's Confidential Information shall not be deemed to include information that:
 - 2.1.1. is or becomes publicly known other than through any act or omission of the receiving party;
 - 2.1.2. was in the other party's lawful possession before the disclosure;
 - 2.1.3. is lawfully disclosed to the receiving party by a third party without restriction on disclosure;
 - 2.1.4. is independently developed by the receiving party, which independent development can be shown by written evidence; or
 - 2.1.5. is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.
- 2.2. Subject to clause 2.5 of this Part C, each party shall hold the other's Confidential Information in confidence and, unless required by law, not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of this Agreement.
- 2.3. Each party shall take all reasonable steps to restrict the disclosure of relevant and necessary parts of the Confidential Information to such of its employees who of necessity need the same in the performance of this Agreement and in your case in such circumstances to ensure that such employees and others are aware of the confidential nature of the Confidential Information.

- 2.4. Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this Agreement.
- 2.5. Subject to clause 9.13 of Part A, on request, MedaPhor shall be entitled to provide to an Authorised User:
 - 2.5.1. information about the Personal Data which it holds about that Authorised User; and
 - 2.5.2. copies of any User Data relating to that Authorised User, which has been inputted by the Authorised User via its individual user account,
- 2.6. Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.
- 2.7. This clause 2 shall survive termination of this Agreement, however arising.
- 2.8. No party shall make, or permit any person to make, any public announcement concerning this Agreement without the prior written consent of the other party (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.

3. TERMINATION

- 3.1. Without prejudice to any other rights or remedies to which the parties may be entitled, MedaPhor shall be entitled to terminate this Agreement with immediate effect by giving written notice to you if:
 - 3.1.1. you fail to pay any undisputed amount due under this Agreement on the due date for payment and remain in default not less than 14 days after being notified in writing to make such payment; or
 - 3.1.2. you commit a material breach of your obligations under this Agreement and (if such breach is remediable) fail to remedy that breach within a period of 60 days after receipt of notice in writing requiring you to do so; or
 - 3.1.3. you commit a series of persistent minor breaches which when taken together amount to a material breach; or
 - 3.1.4. you suspend, or threaten to suspend, payment of your debts or are unable to pay your debts as they fall due or admit inability to pay your debts or is deemed unable to pay your debts; or
 - 3.1.5. you commence negotiations with all or any class of your creditors with a view to rescheduling any of your debts, or make a proposal for or enter into any compromise or arrangement with your creditors other than for the sole purpose of a scheme for a solvent amalgamation of you with one or more other companies or the solvent reconstruction of you; or
 - 3.1.6. a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of you other than for the sole purpose of a scheme for a solvent amalgamation of you with one or more other companies or the solvent reconstruction of you; or

- 3.1.7. a creditor or encumbrance of you attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of your assets and such attachment or process is not discharged within 14 days; or
 - 3.1.8. an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over you; or
 - 3.1.9. a floating charge holder over the assets of you has become entitled to appoint or has appointed an administrative receiver; or
 - 3.1.10. a person becomes entitled to appoint a receiver over the assets of you or a receiver is appointed over the assets of you; or
 - 3.1.11. any event occurs, or proceeding is taken, with respect to you in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 3.1.4 to clause 3.1.10 (inclusive) of this Part C; or
 - 3.1.12. you cease, or threaten to cease, to carry on all or substantially the whole of your business; or
 - 3.1.13. any Force Majeure Event (as defined in clause 7 of this Part C) prevents you from performing your obligations under this Agreement for any continuous period of 3 months.
- 3.2. On termination of this Agreement for any reason:
- 3.2.1. all licences granted under this Agreement shall immediately terminate and you shall immediately cease to use the Software Product (including under the Licence Terms) and/or the ScanTrainer Cloud. However, if you so request, MedaPhor shall permit you to retain a copy of the Software Product or to retain access to the ScanTrainer Cloud for 7 days following the date of termination in order for you to retrieve any data (including User Data) and programs belonging to you stored on the Software Product or the ScanTrainer Cloud. You shall accept all responsibility for any such retrievals.
 - 3.2.2. where relevant, access to the ScanTrainer Cloud may end or be restricted and you recognise and agree that the Equipment may have limited or reduced functionality;
 - 3.2.3. if the Software Product has been provided to you on any storage medium other than via the ScanTrainer Cloud, you shall return all copies (whether authorised or unauthorised) of the Software Product and any associated documentation and manuals to MedaPhor in accordance with this Agreement and/or the Letter Agreement; and
 - 3.2.4. the accrued rights of the parties as at termination, or the continuation after termination of any provision expressly stated to survive or implicitly surviving termination, shall not be affected or prejudiced.

4. SEVERABILITY

If any provision of this Agreement and/or the Letter Agreement shall be held to be invalid or unenforceable, the remainder of this Agreement and Letter Agreement shall remain in full force and effect. To the extent that any express or implied restrictions are not permitted by applicable laws, these express or implied restrictions shall remain in force and in effect to the maximum extent permitted by such applicable laws.

5. AMENDMENT

No variation to this Agreement and/or the Letter Agreement shall be effective unless in writing signed by a director of MedaPhor and by an authorised representative of the Customer.

6. WAIVER

If MedaPhor fails to insist that you perform any of your obligations under this Agreement and the Letter Agreement, or if MedaPhor does not enforce its rights against you, or if MedaPhor delays in doing so, that will not mean that MedaPhor has waived its rights against you and will not mean that you do not have to comply with those obligations. If MedaPhor does waive a default by you, it will only do so in writing, and that will not mean that MedaPhor will automatically waive any later default by you.

7. FORCE MAJEURE

Any delay in or failure of performance of any obligation by either party (save an obligation in respect of the payment of monies) shall not constitute a breach of such obligation, but only to the extent that such a delay or failure is caused by an event which is not within the reasonable control of the party otherwise in default and which such party is unable to prevent or to circumvent by the exercise of reasonable diligence, including without limitation an event such as a strike, lock-out or other industrial action or trade dispute (whether or not involving the workforce or a part of the workforce of the party otherwise in default) (a "**Force Majeure Event**").

8. THIRD PARTY RIGHTS

This Agreement and the Letter Agreement does not confer any rights on any person or part (other than you and MedaPhor and, where applicable, any successors and permitted assigns of you or MedaPhor).

9. NO PARTNERSHIP OR AGENCY

Nothing in this Agreement and/or the Letter Agreement is intended to or shall operate to create a partnership between you or MedaPhor, or authorise you or MedaPhor to act as agent for the other, and neither you nor MedaPhor shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

10. NOTICES

In this clause 10 "**Business Day**" shall have the meaning set out in Part B.

10.1. Unless expressly stated otherwise in this Agreement and/or the Letter Agreement, any notice in connection with this Agreement and the Letter Agreement shall be in writing and may be delivered by hand, pre-paid first class post or special delivery post (but not by e-mail), addressed to the recipient at its registered office.

10.2. The notice shall be deemed to have been duly served:

10.2.1. if delivered by hand, when left at the proper address for service; or

10.2.2. if given or made by prepaid first class post or Special Delivery post, forty eight (48) hours after being posted (excluding days other than Business Days),

provided that, where in the case of delivery by hand such delivery occurs either after 4.00pm on a Business Day, or on a day other than a Business Day, service shall be deemed to occur at 9.00am on the next following Business Day (such times being local time at the address of the recipient).

11. ENTIRE AGREEMENT

- 11.1. This Agreement and any documents referred to in it, constitute the entire agreement between you and MedaPhor for the use of the Software Product and/or the ScanTrainer Cloud and completely replace and supersede any prior agreement between you and MedaPhor in relation to the same, including where you have entered into any previous version of the End User Licence Agreement or Customer Agreement with MedaPhor relating to the Software Product and/or the ScanTrainer Cloud.
- 11.2. Both you and MedaPhor acknowledge and agree that in entering into this Agreement and any documents referred to in it there has been no reliance on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this Agreement or not) relating to the subject matter of this Agreement, other than expressly set out in this Agreement.

12. GOVERNING LAW, JURISDICTION AND COSTS

- 12.1. This Agreement, the Letter Agreement and any disputes of claims arising out of or in connection with it or its subject matter and its formation (including non-contractual disputes or claims) are governed by, and construed in accordance with, the laws of England and Wales.
- 12.2. Any dispute, controversy or claim arising out of or relating to this Agreement or to a breach thereof, including its interpretation, performance or termination, shall be finally resolved by arbitration. The arbitration shall be conducted in English and in accordance with the rules of JAMS, which shall administer the arbitration and act as appointing authority. The arbitration, including the rendering of the award, shall take place in London, United Kingdom and shall be the exclusive forum for resolving such dispute, controversy or claim. The decision of the arbitrators shall be binding upon the Parties hereto, and the expense of the arbitration (including without limitation the award of attorneys' fees to the prevailing Party) shall be paid as the arbitrators determine. The decision of the arbitrators shall be executory, and judgment thereon may be entered by any court of competent jurisdiction. Notwithstanding the foregoing, each Party shall have the right to institute an action in a court of proper jurisdiction for preliminary injunctive relief pending a final decision by the arbitrator, provided that a permanent injunction and damages shall only be awarded by the arbitrator.

SCHEDULE 1 – DATA PROCESSING

1. DATA PROCESSING DEFINITIONS

In the Agreement and this Schedule the following expressions shall have the following meanings unless inconsistent with the context:

"Data Controller"	shall have the meaning set out in the Data Protection Legislation;
"Data Processor"	shall have the meaning set out in the Data Protection Legislation;
"Data Protection Legislation"	means the GDPR and all applicable laws and regulations relating to the processing of personal data and privacy and the equivalent of any of the foregoing in any relevant jurisdiction;
"Data Subject"	shall have the meaning set out in the GDPR;
"GDPR"	means the General Data Protection Regulation - Regulation (EU) 1016/679 of the European Parliament and of the Council of the 27 th April 2016;
"Personal Data"	shall have the meaning set out in the Data Protection Legislation;
"Personal Data Breach"	shall have the meaning set out in the Data Protection Legislation;
"Processing"	shall have the meaning set out in the GDPR and Process and Processed shall be interpreted accordingly;

2. PROCESSING BY MEDAPHOR

2.1 SCOPE

We process Your Personal Data or that of Your Authorised Users for the purposes of providing the products and services specified in the Agreement. We also process Your Personal Data or that of Your Authorised Users for the purpose of providing technical support services.

2.2 NATURE

We receive data uploaded to the service by You or Your Authorised Users where it is stored in a cloud environment or on premise in accordance with the options selected by You.

2.3 PURPOSE OF THE PROCESSING

Use of the products and services and the provision of technical support services as set out in the Agreement (including the Letter Agreement).

2.4 DURATION OF THE PROCESSING

During the term of the Agreement. After termination or expiry of the Agreement, the Personal Data may be returned to You, or deleted at Your option.

3. TYPES OF PERSONAL DATA

The data may contain the following types of Personal Data:

- Name
- Professional registration number
- E-mail address
- IP address
- Dates and times of access to the services
- Assignments undertaken
- Associated metrics and assessment data.
- The internet domain of the internet service used to access the ScanTrainer Cloud
- The type and version of the browser used to access the ScanTrainer Cloud
- The type and version of the operating system used to access the ScanTrainer Cloud

4. CATEGORIES OF DATA SUBJECT

The data may relate to the following categories of Data Subject:

You or your Authorised Users, which may include:

- Your employees
- Students
- Independent contractors
- Your Agents
- Your representatives

5. TRANSFER OF PERSONAL DATA

The Personal Data of Customers of Cloud-based systems who are situated in the European Economic Area will be contained within the European Economic Area and may be transferred by MedaPhor to third party servers based in North America.

In the case of non-Cloud systems the Personal Data will be stored within the computer at Your premises and may be accessed by MedaPhor UK. For customers based in North America, the Personal Data may also be accessed remotely by MedaPhor in North America.