



## **TERMS & CONDITION**

FOR PROGRAM PEMANDU SIHAT DAN SELAMAT (PSS)  
SERVICE PROVIDER (PANEL CLINIC)

Pertubuhan Keselamatan Sosial

Menara PERKESO

281, Jalan Ampang,

50538 Kuala Lumpur

## **Program Pemandu Sihat dan Selamat (PSS) Panel Clinics or Doctors.**

**Please read these terms carefully. You are required to read and understand the terms before proceeding further on Medical Examination Standards Application System (MESAS2U). If you do not accept these terms, please do not use the portal or please do not register as PSS Panel Clinics or Doctors.**

**IMPORTANT: BY USING Medical Examination Standards Application System (MESAS2U) at <https://mesas2u.com> (hereinafter referred to as “MESAS2U”), YOU ARE AGREEING TO BE BOUND BY THE FOLLOWING TERMS:**

### **A. PERTUBUHAN KESELAMATAN SOSIAL (hereinafter referred to as “PERKESO”) TERM AND CONDITION FOR PROGRAM PEMANDU SIHAT DAN SELAMAT SERVICE PROVIDER**

#### **B. NOTICES FROM PERKESO**

**PLEASE READ THIS PERKESO TERM AND CONDITION FOR PROGRAM PEMANDU SIHAT DAN SELAMAT SERVICE PROVIDER (HEREINAFTER REFERRED TO AS “AGREEMENT”) CAREFULLY BEFORE COMPLETING THE APPLICATION VIA MESAS2U SYSTEM. BY USING MESAS2U PORTAL, YOU ARE AGREEING TO BE BOUND BY THE TERMS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, DO NOT PROCEED. COMPLETE THE APPLICATION BY MESAS2U PORTAL.**

**IF YOU HAVE ENTER INTO THIS AGREEMENT, YOU MAY COMPLETE A NEW APPLICATION VIA MESAS2U PORTAL BUT YOU SHALL BE SUBJECT TO THE SAME TERMS OF THIS AGREEMENT.**

#### **1. GENERAL**

- a) The application form for the Program Pemandu Sihat Dan Selamat (PSS) Service Provider or its contents, whether in the form of documentation, interfaces, content, fonts, or any data made available through the Medical Examination Standards Application System (MESAS2U), may be updated, replaced, amended, or modified by PERKESO at any time, with or without notice. PERKESO shall not be obliged to notify the Applicant or any party of any such updates, replacements, amendments, or modifications within the MESAS2U system.
- b) PERKESO reserves the right not to expressly include all information required by PERKESO within the MESAS2U system for the purpose of implementing the Program Pemandu Sihat Dan Selamat (PSS), and PERKESO shall further have the right to inquire or request additional information from the Applicant where necessary, whether before or after the application submitted through the MESAS2U system has been duly completed.

- c) PERKESO may, at its discretion, make available or require any information to be submitted by the Applicant through the MESAS2U system or by any other means, and the Applicant shall be obliged to provide all such required information to PERKESO, whether through the MESAS2U system or otherwise.
- d) The Applicant shall not alter, amend, replace, substitute, remove, delete, or perform any action that may affect the original content of the MESAS2U system. PERKESO shall have full rights under the law to take appropriate action against the Applicant should such acts be committed.
- e) These Terms and Conditions shall form an integral and inseparable part of the application and implementation of the Program Pemandu Sihat Dan Selamat (PSS) under PERKESO.
- f) PERKESO intends to appoint the Applicant for the purposes of implementing the Program Pemandu Sihat Dan Selamat (PSS) to provide the medical examination services as stipulated herein. Such medical examinations shall be offered to active and eligible drivers and shall be conducted by clinics registered with the Ministry of Health Malaysia in accordance with the Private Healthcare Facilities and Services Act 1998 and the Private Medical Clinics or Private Dental Clinics Regulations 2006 (hereinafter referred to as “Program Pemandu Sihat Dan Selamat (PSS) Panel Clinics”), and by Medical Practitioners registered with the Malaysian Medical Council (hereinafter referred to as “Program Pemandu Sihat Dan Selamat (PSS) Panel Doctors”).
- g) As at the date of this Program Pemandu Sihat Dan Selamat (PSS) Agreement, the Applicant’s clinic is, and shall at all times throughout the period of appointment remain, a clinic registered with the Ministry of Health Malaysia in accordance with the Private Healthcare Facilities and Services Act 1998 and the Private Medical Clinics or Private Dental Clinics Regulations 2006, and the doctors in charge of the clinic shall be Medical Practitioners fully registered with the Malaysian Medical Council throughout the period of appointment as Program Pemandu Sihat Dan Selamat (PSS) Panel Doctors or Panel Clinics.

## 2. COMPONENTS OF AGREEMENT

2.1 The Appendices or Schedules referred to therein and any written amendment thereto shall be taken, read and construed as an essential and integral part of this Agreement.

### 2.2 Interpretation

- a) The schedules hereto and any documents therein referred to shall be taken, read and construed as an essential and integral part of this Agreement PROVIDED HOWEVER that in the event of any conflict between the clauses and the schedules of this Agreement, the clauses shall prevail.
- b) Reference to clauses and schedules are to be construed as references to clauses and schedules of this Agreement, unless otherwise provided herein.
- c) All references to provisions of statutes include such provisions as amended, modified or re-enacted.
- d) Words applicable to natural persons include any body of persons, Applicant, corporation, firm or partnership, incorporated or unincorporated, and vice versa.
- e) The expression "this Agreement" or any similar expression shall comprise the clauses and schedules of this Agreement and include any supplemental written agreement thereto as may be executed and be in force from time to time or any time.
- f) Words implying any gender shall include any other gender.
- g) Words implying the singular number shall include the plural number and vice versa.
- h) The headings and subheadings to the clauses of this Agreement are for convenience of reference only and shall not affect the interpretation and construction thereof.
- i) Where any word or expression is defined in this Agreement, the definition shall extend to all grammatical variations and cognate expressions of the word or expression so defined.
- j) For the purpose of calculating any period of time stipulated herein, or when an act is required to be done within a specified period after or from a specified date, the period is inclusive of, and time begins to run from the date so specified.
- k) Wherever there shall appear any reference to a time within which an act should be done or agreement reached or consent given, such reference shall be deemed to be read as including the expression "or any other period agreed in writing between the Parties from time to time".

- l) Any technical term not specifically defined in this Agreement shall be construed in accordance with general practice of such relevant medical profession in Malaysia.
- m) Any reference to a “day”, “week”, “month” or “year” is a reference to that day, week, month or year in accordance with the Gregorian calendar.

### 2.3 Entire Agreement

This Agreement contains the entire understanding between the Parties with respect to the subject matter hereof and supersedes all prior agreements or understandings, inducements or conditions, express or implied, oral or written.

## 3. SERVICES

3.1 The Applicant appointed as a PSS Panel Clinic shall provide the following medical examination services to eligible vocational drivers under the Program Pemandu Sihat Dan Selamat (PSS) (hereinafter referred to as the “Services”), for the purpose of assessing medical fitness and identifying health risks relevant to driving safety:

- a) To conduct medical history taking, mental health assessment (where applicable), and physical examination in accordance with PSS guidelines, including but not limited to the measurement of blood pressure, height, weight, and other relevant clinical parameters as prescribed;
- b) To perform and record clinical assessments required under the PSS, including any tests, observations, or declarations mandated by PERKESO and/or JPJ for vocational driver medical certification;
- c) To assess and verify the medical fitness of drivers for the purposes of issuance or renewal of vocational driving licenses (PSV/GDL), and to complete the prescribed digital medical examination form (including JPJL8A, where applicable) through MESAS / MESAS2U;
- d) To inquire into the medical history of the driver strictly for the purposes of the PSS medical examination and only to the extent required for determining medical fitness, such inquiry to be conducted by authorized Panel Doctors;
- e) To inform the driver of the medical examination findings and assessment outcome, including the provision of appropriate medical advice and, where necessary,

recommendations for referral or further medical evaluation, which shall form part of the official medical examination record;

- f) To accurately record, maintain and submit all medical findings, assessments, declarations, recommendations and results of the Services in MESAS2U, ensuring that all records marked as “Submission Completed” are complete, accurate and final; and
- g) To retain and manage records relating to the Services in accordance with applicable laws, PSS guidelines, and directions issued by PERKESO, and to make such records available to PERKESO for audit or verification purposes when required.

3.2 Where prescribed by PERKESO from time to time as part of the implementation of the Program Pemandu Sehat Dan Selamat (PSS), the Applicant appointed as a PSS Panel Clinic shall provide additional services related to vocational driver medical examinations (hereinafter referred to as the “Services”), including but not limited to the following:

- a) To arrange and carry out any additional medical examinations, assessments or procedures directly related to the evaluation of vocational drivers’ medical fitness, as may be determined or directed by PERKESO, and to record such examinations through the Medical Examination Standards Application System (MESAS2U); and

To properly maintain all inquiries, examinations, results, records and recommendations relating to the Services, and to submit the same to PERKESO as required through MESAS2U or by any other means as may be determined by PERKESO from time to time.

#### **4. COMMENCEMENT AND DURATION OF THIS AGREEMENT**

4.1 This Agreement shall commence on the date of implementation of the Program Pemandu Sehat Dan Selamat (PSS) as determined by PERKESO (hereinafter referred to as the “Effective Date”) and shall remain in force tentatively from 15 May 2026 until such date as may be specified and announced by PERKESO from time to time, unless earlier terminated or extended in accordance with the provisions of this Agreement.

#### **5. PAYMENT FOR THE SERVICES**

5.1 In consideration of the Applicant providing the Services under this Agreement, PERKESO shall pay to the Applicant the fees for the Services rendered (hereinafter referred to as the “**Payment for the Services**”), details of which are set out in **Schedule 1**.

- 5.2 The Payment for the Services under this Agreement shall be made on a **case-to-case basis** for each eligible driver undergoing Program Pemandu Sihat Dan Selamat (PSS), and the amount payable by PERKESO to the Applicant shall not exceed the maximum amount specified in **Schedule 1**.
- 5.3 The Payment for the Services shall be inclusive of all costs incurred by the Applicant, including but not limited to labour, consumables, medical supplies, consultations, professional advice, examinations, tests, and any applicable taxes, charges or levies imposed by the relevant authorities or the Government.
- 5.4 PERKESO shall make payment to the Applicant for Services performed under this Agreement through **MESAS Sdn. Bhd. (hereinafter referred to as “MESAS”)**, acting on behalf of PERKESO, within a period of **twenty-one (21) days** upon receipt of complete medical examination results duly uploaded and submitted through the **Medical Examination Standards Application System (MESAS2U)** and in compliance with the required financial processes: **PROVIDED THAT** PERKESO reserves the right to make payment after the said twenty-one (21) days if, in PERKESO’s opinion, further inquiry and/or verification is required to confirm that the Services have been performed in accordance with this Agreement.
- 5.5 Any additional or supplementary medical examination services or packages outside the scope specified in **Schedule 1**, whether offered by the Applicant or requested by the driver, shall be borne entirely by the driver, and PERKESO shall not be liable for such costs.

## **6. PERKESO’S RESPONSIBILITY**

6.1 PERKESO shall be responsible of the following –

- a) to generate and assign a unique identification within the Medical Examination Standards Application System (MESAS2U), containing the relevant details of the eligible driver for the purposes of the Program Pemandu Sihat Dan Selamat (PSS) according to driver’s contributions record to PERKESO;
- b) to provide and maintain MESAS2U as a centralised digital platform for driver registration, booking, eligibility verification, medical examination records and programme data management, at no cost to the Panel Clinic, except for internet access and related infrastructure, which shall be borne by the Panel Clinic;

- c) To make payment to the Panel Clinic for Services rendered in accordance with Clause 5 of this Agreement, subject to proper submission and verification through MESAS2U; and
- d) To ensure the security, confidentiality and proper governance of all driver data, including medical examination results recorded in MESAS2U, except where disclosure is required for the purposes of programme administration, audit, enforcement or compliance with applicable laws.

6.2 All **data and records** generated and maintained within MESAS2U shall remain the property of PERKESO, and PERKESO shall have full rights to access, manage, analyse, share or utilise such data for programme implementation, system integration, audit and policy purposes.

## 7 DATA

- 7.1. Any data of PERKESO active insured person obtained or recorded by the Applicant in relation to PSS, the data shall belong to PERKESO and PERKESO shall have the right to use the data for scientific, research or any purposes of the interest of PERKESO's active insured person/driver, whether the data is recorded in the MESAS2U or otherwise.
- 7.2. PERKESO shall have the right to publish any data obtained or recorded by the Applicant in relation to the Program Pemandu Sehat Dan Selamat (PSS) PROVIDED THAT any such publication shall comply with the Personal Data Protection Act 2010 and all applicable laws.
- 7.3. All data entered by the Applicant into the Medical Examination Standards Application System (MESAS2U), including any data relating to eligible drivers and any information associated with the Program Pemandu Sehat Dan Selamat (PSS), shall be complete, true and accurate.

## **8 REPORTING AND RECORD MANAGEMENT**

- 8.1 The Applicant shall be responsible for ensuring that all medical examination details for each eligible driver undergoing the Program Pemandu Sihat Dan Selamat (PSS) at its clinic are properly recorded in the Medical Examination Standards Application System (MESAS2U) in accordance with the format and requirements prescribed by PERKESO.
- 8.2 The Applicant shall submit all information required by PERKESO in relation to such medical examinations, including but not limited to the driver's medical history, examination findings, test results and recommendations, through MESAS2U or by any other method as may be determined by PERKESO from time to time.
- 8.3 The Applicant shall be responsible for maintaining supporting records relating to eligible drivers in accordance with the Private Healthcare Facilities and Services Act 1998 for the purposes of inspection and verification by PERKESO, which shall include, but not be limited to, the following information:
- a) Name and identification number of the eligible driver;
  - b) Date of medical examination conducted under PSS;
  - c) Unique record or identification generated in MESAS2U;
  - d) Results of any third-party services engaged by the Applicant (if applicable);
  - e) Findings of medical examination, assessment and tests; and
  - f) Details of any supporting facilities or service providers involved (if applicable).
- 8.4 All records and supporting documentation relating to eligible drivers under this Agreement shall be retained by the Applicant for a period of seven (7) years, after which such records may be disposed of, subject to any applicable legal requirements and further instructions issued by PERKESO from time to time.

## **9. PROCESS FLOW OF PROGRAM PEMANDU SIHAT DAN SELAMAT (PSS)**

- 9.1 Subject to any amendment by PERKESO from time to time, the Applicant shall adhere and follow the latest PSS process flow as set out in Schedule 2 of the Agreement or such further amendment, whichever is later.

## 10. REPRESENTATION AND WARRANTY

### 10.1 The Applicant represents and warrants to PERKESO–

- a) it is a corporation validly existing under the laws of Malaysia;
- b) it has the corporate power to enter into and perform its obligations under this Agreement and to carry out the transactions and to carry on its business as contemplated by this Agreement;
- c) it has taken all necessary corporate actions to authorize the entry into and performance of this Agreement and to carry out the transactions contemplated by the Agreement;
- d) as at the execution date, neither the execution nor performance by it of this Agreement nor any transaction contemplated by this Agreement will violate in any respect any provision of –
  - (i) its Memorandum and Articles of Association; or
  - (ii) any other document or agreement which is binding upon it or its asset;
- e) no litigation, arbitration, tax claim, dispute or administrative proceeding is presently current or pending or, to its knowledge, threatened, which is likely to have material adverse effect upon it or its ability to perform its financial or other obligations under this Agreement;
- f) this Agreement constitutes a legal, valid and binding obligation of the Applicant and is enforceable in accordance with its terms and conditions;
- g) it has necessary financial and technical capability to undertake the service, and the Applicant acknowledges that PERKESO has entered into this Agreement in reliance on its representations and warranties as aforesaid;
- h) to comply with all notices and instructions issued, given or notified by PERKESO from time to time in respect of the Services; and
- i) not to impinge any intellectual property rights of PERKESO or any person.

## 11. THE APPLICANT, PANEL CLINIC AND PANEL DOCTORS OBLIGATIONS AND RESPONSIBILITIES

11.1 The Applicant shall ensure, throughout the duration of this Agreement, that all clinics and medical practitioners under its responsibility comply with the requirements of the Program Pemandu Sihat Dan Selamat (PSS) as follows:

(a) The Clinics shall –

- (i) Be duly registered with PERKESO through the **Medical Examination Standards Application System (MESAS2U)**;
- (ii) Maintain valid registration under the *Private Healthcare Facilities and Services Act 1998* (Private Medical Clinics or Private Dental Clinics Regulations 2006);
- (iii) Be equipped with adequate infrastructure including telephone access, internet connectivity, computers and printing facilities to support MESAS operations; and
- (iv) Maintain valid bank account details for payment purposes.

(b) Panel Doctors shall:

- (i) Be registered in MESAS2U under the respective Panel Clinic;
- (ii) Be fully registered with the Malaysian Medical Council; and
- (iii) Hold a valid Annual Practising Certificate at all material times.

11.2 Where any diagnostic tests or investigations are required under PSS, the Applicant or Panel Doctor may engage a laboratory or relevant service provider registered with the Ministry of Health Malaysia or any relevant authority. The Applicant shall:

- Ensure such services comply with required medical standards;
- Remain fully responsible for all actions, results and services provided by such third parties; and
- Ensure all data shared is accurate, complete and necessary for the purposes of PSS.

- 11.3 The Applicant, Panel Clinics and Panel Doctors shall not appoint or engage any agent or unauthorised third party to perform their obligations under this Agreement, except for approved third party service providers (e.g. laboratories) as permitted above.
- 11.4 The Applicant shall not unreasonably refuse to provide Services to any eligible driver who has been successfully registered and verified in MESAS2U. Notwithstanding the above, the Applicant may defer or decline to provide the Services where:
- (a) there are valid clinical or medical reasons;
  - (b) there are safety, operational or capacity limitations; or
  - (c) such refusal or deferment is reasonably justified and properly recorded in MESAS2U.
- 11.5 The Applicant or the PSS Panel Clinics or Doctors under the responsibility of the Applicant shall strictly adhere to guidelines set by Malaysian Medical Council (Code of Professional Conduct Adopted by the Malaysian Medical Council on 9 December 1986) with regard to advertisement of the PSS;
- 11.6 The Applicant or the PSS Panel Clinics or Doctors under the responsibility of the Applicant shall, except for any investigation or test related to PSS which requires laboratory investigation or test, all examination and test for PERKESO's active insured person shall be performed and held in the Clinic's premises.
- 11.7 The Applicant or the PSS Panel Clinics or Doctors under the responsibility of the Applicant shall ensure that the laboratory do the test or investigation for PSS in accordance to the highest standard of medical profession and shall inform PERKESO of the action to be taken against the laboratory including to revoke the appointment of the laboratory if, in the opinion of PERKESO or the Applicant, the performance of the laboratory is not conforming to the standard of the medical profession or substandard, accordingly.
- 11.8 The Applicant shall ensure the PSS Panel Doctors under the responsibility of the Applicant do the examination, test, investigation or perform the Services for PSS in accordance to the highest standard of medical profession and shall inform PERKESO of the action to be taken against the PSS Panel Doctors including to replace the PSS Panel Doctors if, in the opinion of PERKESO or the Applicant, the performance of the PSS Panel Doctors is not conforming to the standard of the medical profession or substandard, accordingly.

- 11.9 The Applicant shall ensure the premise or the personnel of the PSS Panel Clinics under the responsibility of the Applicant perform the Services for PSS in accordance to the highest standard of medical profession and shall inform PERKESO of the action to be taken to the PSS Panel Clinics including to make any ratification necessary of such Clinics if, in the opinion of PERKESO or the Applicant, the premise or personnel of the PSS Panel Clinics is not conforming to the standard of the medical profession or substandard, accordingly.
- 11.10 The Applicant shall be responsible to ensure that only the authorized personnel provided with the username and password shall have the access of the MESAS2U portal and take necessary precaution that the authorized personnel shall safeguard the username and password from unauthorized usage or personnel and shall take action to change the username and password frequently to ensure the security of the access including to change the same if there is any suspicion that the username and password has been used by any unauthorized person.
- 11.11 The Applicant shall ensure the PSS Panel Clinics or Doctors under the responsibility of the Applicant not to use the Services for any unlawful purpose including for criminal purposes.
- 11.12 The Applicant shall ensure the PSS Panel Clinics or Doctors under the responsibility of the Applicant shall not obtain or keep any unauthorized access or information on PERKESO's system or procedures.
- 11.13 The Applicant shall also be responsible to perform the following obligations–
- (a) perform the Services and its obligations under this Agreement;
  - (b) perform the Services in a proper manner and in accordance with good management practice and to the best advantage of PERKESO and shall comply with the present laws and statutes;
  - (c) perform the Services and discharge its obligations as contained in this Agreement by exercising professional judgment and practice, requisite skill, care and diligence. In performing the Services, the Applicant shall provide all necessary services, facilities and personnel as specified in this Agreement. The Applicant shall provide well-outlined procedures in the form agreed by PERKESO for reporting and co-ordination purposes:

- (d) at all times perform the Services in such manner as will always safeguard and protect PERKESO interest and take all necessary and proper steps to prevent abuse or uneconomical use of facilities, if any, made available by PERKESO to the Applicant; and
- (e) inform PERKESO immediately in writing of the occurrence of any factor or event, which is likely to affect the Services. Such notification shall not be construed as a discharge of any of the Applicant's obligations under this Agreement.

11.14 The Applicant, including its Panel Clinics and Panel Doctors, shall ensure that all eligible drivers registered and verified in the Medical Examination Standards Application System (MESAS2U) are managed in accordance with the prescribed PSS operational workflow as set out in Schedule 2, and shall provide the Services in accordance with this Agreement, including the applicable service level requirements set out in Schedule 4. All Services performed and records submitted in MESAS2U shall be subject to the terms and conditions governing the Program Pemandu Sihat Dan Selamat (PSS), including any amendments, variations, updates or revisions issued by PERKESO from time to time.

11.15 The Applicant, its Panel Clinics, Panel Doctors and authorised personnel shall be responsible for the safe management, confidentiality and proper use of all driver-related records and information maintained within MESAS2U, and shall ensure that such records are handled and utilised strictly in accordance with the provisions of this Agreement and any applicable directions issued by PERKESO.

11.16 Where there is any suspicion or reasonable grounds to believe that the authenticity or integrity of any driver record or information within the Medical Examination Standards Application System (MESAS2U) submitted by an eligible driver is compromised during the validation process, including but not limited to the following circumstances:

- (a) the information appears to be forged or tampered with;
- (b) the information contains false, inaccurate or misleading details; or
- (c) the individual presenting the information is not the same person as the eligible driver recorded in MESAS2U;

Where there is any suspicion or reasonable ground to believe that the authenticity or integrity of any record or information submitted by an eligible driver in the Medical Examination Standards Application System (MESAS2U) during the validation process has been tampered with or compromised, including but not limited to the following circumstances:

- (a) the record or information appears to have been forged or altered;
- (b) the record or information contains false, inaccurate or misleading details; or
- (c) the individual presenting the information is not the same person as the eligible driver recorded in MESAS2U;

The Applicant, including its Panel Clinics, Panel Doctors and personnel, shall notify PERKESO within twenty-four (24) hours via the Medical Examination Standards Application System (MESAS2U) or through any other communication channel approved by PERKESO to obtain further instructions upon the occurrence of any such suspicion, and shall:

- (i) retain and preserve the relevant record or information in MESAS2U without alteration;
- (ii) obtain and record all necessary particulars of the individual involved, including but not limited to name, identification number, address and contact details, as deemed relevant by the Applicant or its authorised personnel;
- (iii) suspend or defer the provision of the Services pending further instructions from PERKESO; and
- (iv) maintain strict confidentiality and shall not disclose the reasons for such suspension or deferment to any third party.

## **12. CONFIDENTIALITY**

12.1 For the purposes of this clause, “Confidential Information” means all information (whether commercial, financial, technical or otherwise) relating to the disclosing Party, its subcontractors, customers, suppliers and any eligible drivers, which is disclosed to or otherwise obtained by the receiving Party under or in connection with this Agreement through the Medical Examination Standards Application System (MESAS2U) or otherwise, and which is designated as confidential or is, by its nature, clearly confidential.

Notwithstanding the foregoing, Confidential Information shall exclude any information that is required to be disclosed or used by PERKESO for the implementation and administration of the Program Pemandu Sehat Dan Selamat (PSS) or for compliance with any applicable law, regulation or statutory obligation.

12.2 Each Party hereby undertakes to:

- (a) treat all Confidential Information as strictly confidential;

- (b) maintain the confidentiality of all data and records relating to eligible drivers at all times, whether obtained through the Medical Examination Standards Application System (MESAS2U) or otherwise;
- (c) not, without the prior written consent of the disclosing Party, disclose or communicate any Confidential Information to any person except in the following circumstances:
  - (i) to its employees, agents, subcontractors or service providers strictly on a need-to-know basis, who are directly involved in the performance of obligations under this Agreement;
  - (ii) to its auditors, professional advisers, or any person or entity having a legal right or obligation to access such Confidential Information in connection with the recipient Party's business;
  - (iii) to ensure that all such persons or entities are informed of the confidential nature of the Confidential Information prior to disclosure, and that they are bound by obligations of confidentiality no less stringent than those contained in this Agreement;
  - (iv) not to use, reproduce or circulate the Confidential Information within its organisation except to the extent necessary for the purposes of this Agreement; and
  - (v) ensure that the obligations under this clause shall continue in full force and effect notwithstanding the expiry or termination of this Agreement for any reason whatsoever.

12.3 The Applicant shall be subject to and shall comply with the provisions of the Non-Disclosure Agreement set out in Schedule 5, in relation to all information, data, documents and any materials of whatever nature obtained, accessed or generated during the performance and duration of this Agreement, including those processed or stored within MESAS2U.

12.4 Notwithstanding any provision to the contrary, all information relating to eligible drivers acquired, accessed or processed by the Applicant, its Panel Clinics, Panel Doctors, agents or personnel, whether through MESAS2U or by any other means, shall remain strictly confidential and shall not be disclosed to any third party except to PERKESO for purposes related to the implementation, administration or regulatory requirements of the Program Pemandu Sihat Dan Selamat (PSS).

- 12.5 Except with the prior written consent of PERKESO, the Applicant, their agents, personnel, servants or employees shall not at any time communicate to any person, body or entity, any confidential information disclosed to them for the purpose of the provision of this Agreement or discovered by them in the course of the provision and performance of this Agreement, nor shall make or cause to be made any press statement or otherwise relating to this Agreement nor publish or cause to be published any material whatsoever relating to the provisions of this Agreement without prior approval of PERKESO.
- 12.6 This clause shall not apply to the disclosure of basic information relating to the Applicant, its Panel Clinics or Panel Doctors, including but not limited to the clinic name, registration number, address, telephone number, facsimile number and website address, which may be published in a directory within the MESAS2U or any official platform designated by PERKESO.

### **13. INDEMNITY**

13.1 The Applicant agrees with PERKESO that –

- (a) The Applicant shall perform all of its obligations under this Agreement at as its own risk and releases, to the fullest extent permitted by law, PERKESO and their agents and servants from all claims and demands of every kind resulting from any accident, damage, injury or death arising from the carrying out of the services and PERKESO shall have no responsibility or liability whatsoever in relation to such accident, damage, injury or death;
- (b) The Applicant shall indemnify and keep indemnified PERKESO from and against all action, suits, claim or demands, proceedings, losses, damages, compensation, costs (including legal costs), charges and expenses whatsoever to which PERKESO shall or may be or become liable in respect of or arising from –
  - (i) the negligent use, misuse or abuse by the Applicant or its personnel servants, laboratory, agents or employees appointed by the Applicant;
  - (i) any loss or damage to property or injury of whatsoever nature or kind and howsoever or wherever sustained or contributed to by carrying out of the Services by the Applicant to any person and not caused by the negligence or willful act, default or omission of PERKESO, its agents, laboratory or servants; or
  - (iii) any loss damage or injury from any cause whatsoever to property or persons affected by the services to the extent to which the same is occasioned or contributed to by the act, omission, neglect, breach or

default of the Applicant or personnel, laboratory, agents or employees;  
and

- (c) The obligation under this clause shall continue after the expiry or earlier termination of this Agreement in respect of any act, deed, matter or thing happening before such expiration or termination of this Agreement.

13.2 The Applicant or its authorized agent or its assignee shall indemnify, protect and defend as its own cost and expense PERKESO and its agents and servants from and against all actions, claims and liabilities arising out of acts done by the Applicant in the performance of this Agreement including the use of violation of any copyright works or literary property or patented invention, article or appliances.

13.3 In all circumstances, the Applicant shall be fully liable where the damage can be proven to be as a result of any negligence on part of its PSS Panel Clinics or Doctors and laboratory or personnel assigned to provide the Services.

#### **14. WAIVER**

A failure by any Party here to insist upon a strict performance of any stipulation, term or condition in this Agreement or to exercise any right or remedy provided in this Agreement shall not be construed as a continuing waiver by such Party of such stipulation, term or condition and the same shall continue and remain in full force and effect. Any waiver, to be effective, must be in writing and signed by the Party waiving its rights.

#### **15. FORCE MAJURE**

15.1 Neither party shall be liable for any delay in performing any obligation or failure to perform any obligation if such delay or failure was caused by strikes, lockouts, fire, war, riot or Acts of God (flood, lightning etc.) or any other circumstances beyond the control of either party. Either party shall give the other party prompt notice of the cause of delay. Upon such notification either party shall have the following options –

- (a) to proceed under this Agreement; or
- (b) to terminate this Agreement, in which event PERKESO shall pay to the Applicant all fees and charges imposed upon PERKESO under this agreement to the date of the occurrence of the condition, and upon such payment, the contractual relationship between the parties shall cease; or

- (c) to terminate this Agreement, in which event the Applicant shall refund to PERKESO all fees and charges paid in advance imposed upon PERKESO under this agreement to the date of the occurrence of the condition, and upon such payment, the contractual relationship between the parties shall cease.

## **16. DEFAULT AND TERMINATION**

### **16.1 Termination by PERKESO**

- (a) Default by the Applicant In the event the Applicant without reasonable cause –
  - (i) suspends the Services and fails to proceed regularly and diligently with the performance of its obligations under this Agreement;
  - (ii) fails to execute the Services in accordance with this Agreement or persistently neglects to carry out its obligations under this Agreement;
  - (iii) defaults in performing the duties under this Agreement;
  - (iv) breaches any of its obligations or fails to comply with any other terms and conditions of this Agreement;
  - (v) engages in professional misconduct, fraudulent conduct, negligence, malpractice or unlawful activities;
  - (vi) has provided false or incomplete information to PERKESO; or

then PERKESO shall give notice in writing to the Applicant specifying the default and requiring the Applicant to remedy such default as soon as possible and within thirty (30) days from the date of the notice. If the Applicant fails to remedy the relevant default within such period or such other period as may be determined by PERKESO, PERKESO shall have the right to terminate this Agreement within thirty (30) days after the expiry of such notice at any time by giving notice to that effect.

- (b) General Default

If at any time during the term period -

- (i) an order is made or a resolution is passed for the winding-up of the Applicant, except for the purpose of reconstruction or amalgamation not involving the realization of assets in which the interest of creditors is protected;

- (ii) the Applicant goes into liquidation, or a receiver is appointed over the assets of the Applicant, or the Applicant makes an assignment for the benefit of or enters into an arrangement or composition with its creditors or stops payment or is unable to pay its debts; or
- (iii) execution is levied against a substantial portion of the Applicant's assets, unless it has instituted proceedings in good faith to set aside such execution;

Then PERKESO shall have the right to terminate this Agreement forthwith by giving notice to that effect.

(c) Consequences of Termination by PERKESO

Upon termination of the Agreement under this clause -

- (i) the powers and rights granted by and the obligations in this Agreement shall terminate immediately;
- (ii) the Applicant shall -
  - (aa) forthwith cease all the Services;
  - (bb) submit to PERKESO the detailed reports of the cost of the services and other payments which has become due and owing from PERKESO prior to the termination for verification and approval by PERKESO; and
- (d) PERKESO shall claim against the Applicant for any losses and damages suffered as a result of the termination of this Agreement;

PROVIDED THAT the termination shall not affect or prejudice the rights of any party which have accrued prior to the date of termination of this Agreement and the obligations under this Agreement shall continue even after the termination of this Agreement in respect of any act, deed, matter or thing happening prior to such termination of this Agreement.

## **17. TERMINATION ON CORRUPTION, UNLAWFUL OR ILLEGAL ACTIVITIES**

- 17.1 Without prejudice to any other rights of PERKESO, if the Applicant, its personnel, servants or employees is convicted by a court of law for corruption or unlawful or illegal activities in relation to this agreement or any other agreement that the Applicant may have with PERKESO, PERKESO shall be entitled to terminate this agreement at any time, by giving immediate written notice to that effect to the Applicant.
- 17.2 Upon such termination, PERKESO shall be entitled to all losses, costs, damages and expenses (including any incidental costs and expenses) incurred by PERKESO arising from such termination.
- 17.3 For the avoidance of doubt, the Parties hereby agree that the Applicant shall not be entitled to any form of losses including loss of profit, damages or whatsoever upon termination of this Agreement.

## **18. GENERAL TERMINATION**

- 18.1 Any party to this Agreement may terminate this Agreement without specifying the grounds of such termination by giving the other party thirty (30) days written notice of such intention.
- 18.2 Upon the termination of this Agreement under clause 16 the relevant consequence of the termination will come into effect.

## **19. RIGHTS SURVIVE UPON TERMINATION**

The right of each party to pursue any legal action under this Agreement shall survive irrespective of the termination of this Agreement.

## **20. ASSIGNMENT**

- 20.1 This Agreement or the Services under this Agreement shall not be assigned without the expressed prior written consent of PERKESO.

## **21. NOTICES**

- 21.1 Any notice, approval, consent, request or other communication required or permitted to be given or made under this Agreement shall be in writing in Bahasa Melayu or the English language and delivered to the address or facsimile number or e-mail of PERKESO or the Applicant, as the case may be, shown below or to such other address, or facsimile numbers or e-mail as either Party may have notified the sender and shall unless otherwise provided herein be deemed to be duly given or made, in the case of delivery in person or by facsimile transmission or e-mail, when delivered to the recipient at such address or facsimile number which is duly acknowledged –

### **To PERKESO**

Address:

Ketua Bahagian  
Bahagian Pencegahan Perubatan dan Pemulihan  
Tingkat 15, Menara PERKESO  
281, Jalan Ampang  
50538 Kuala Lumpur  
Fax. No.: 03-42645399  
E-mail: [hsp@perkeso.gov.my](mailto:hsp@perkeso.gov.my)

### **To the Applicant**

As per information and detail in MESAS2U

- 21.2 It shall be the duty of the Parties to notify the other if there is a change of address or entity by giving a written notice within fourteen (14) days of such change taking place.

## **22. DISPUTE RESOLUTION COMMITTEE**

- 22.1 Any dispute between the Parties in respect of any matter under this Agreement (except in relation to PERKESO exercising its sole discretion under this Agreement) may be referred to a dispute resolution committee (which is referred to as “the Dispute Resolution Committee” in this Agreement) comprising of –

- (a) Group Chief Executive Officer of PERKESO or any person appointed by him as the chairman;
  - (b) One (1) representative to be appointed by PERKESO; and
  - (c) One (1) representative to be appointed by the Applicant.
- 22.2 The Dispute Resolution Committee may appoint an independent expert in the relevant field or an independent expert in each of the relevant fields (if there is more than one field) to advise it on any matter referred to it and all costs, fees and expenses of any independent expert so appointed shall be borne equally by the Parties.
- 22.3 The Dispute Resolution Committee shall determine its own procedures. The Dispute Resolution Committee shall meet and endeavour to achieve an amicable settlement between the Parties in respect of any matter referred to it.
- 22.4 If any matter, dispute or claim which is referred to the Dispute Resolution Committee cannot be agreed by the relevant parties within thirty (30) days after the date of referral, either Party may refer that matter, dispute or claim to Arbitration. Each member to the Dispute Resolution Committee including the Chairman shall have one vote each.

## **23. ARBITRATION**

- 23.1 If any matter, dispute or claim arising out of or relating to the Agreement or the breach or termination hereof which cannot be agreed upon by the Parties or which cannot be settled amicably by the Parties, the matter, dispute or claim shall be referred to an arbitrator to be agreed between the Parties, and failing such agreement, to be nominated on the application of either Party by the Director General of the Regional Centre for Arbitration in Kuala Lumpur and any such reference shall be deemed to be a submission to arbitration within the meaning of Arbitration Act 2005. The decision of the arbitrator shall be final and binding on each of the Parties.
- 23.2 Any such arbitration shall be heard at the Kuala Lumpur Regional Centre for Arbitration using the facilities and system available at the Centre.
- 23.3 The reference of any matter, dispute or claim to arbitration pursuant to this clause and/or the continuance of any arbitration proceedings consequent thereto shall in no way operate as waiver of the obligations of the Parties to perform their respective obligations under this Agreement.

23.4 Each Party shall bear its own costs of the arbitration proceedings.

#### **24. TIME**

Time wherever mentioned in this Agreement shall be of the essence of this Agreement.

#### **25. GOVERNING LAW**

This Agreement shall be governed by and construed in accordance with the laws of Malaysia and the Parties irrevocably submit to the exclusive jurisdiction of the courts of Malaysia.

#### **26. SEVERABILITY**

If any provision in this Agreement is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable and this Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part hereof and the remaining provision remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its, severance herefrom.

#### **27. ADVERTISEMENTS**

No advertisement or reference in respect of this Agreement shall be published in any newspaper, magazine or in any other forms of advertisement without the prior written approval from PERKESO.

#### **28. BINDING ON SUCCESSORS**

This Agreement shall be binding upon the respective personal representatives, any authorized agent, assignee, successors-in-title and assigns of the Parties hereto.

## **29. CAPACITY**

The parties hereto represent and warrant that they have full power and legal capability to enter into and perform their obligations this Agreement.

## **30. MODIFICATION, VARIATION AND AMENDMENT**

30.1 PERKESO reserve the right to modify, vary or amend this Agreement or any Schedules of the Agreement from time to time and the modification, variation and amendment shall be communicated through MESAS2U portal or other means as determine by PERKESO at least thirty (30) days before modification, variation and amendment take effect. If after the expiration of the thirty (30) days and the Applicant does not make any objection to such modification, variation and amendment, it shall take effect.

30.2 PERKESO shall have the right whether or not to make any changes to the modification, variation and amendment based on the objection by the Applicant and the modification, variation and amendment shall take effect immediately with or without changes or any extension of time agreed by PERKESO.

## **31. NO AGENCY AND NO PARTNERSHIP**

The Applicant shall not hold itself out to be the principal or agent of PERKESO for any purpose and under no circumstances shall any action of the Applicant have authority to bind PERKESO. Nothing contained in this Agreement shall be construed as creating or be deemed to imply a Partnership between the Parties.

## **32. DISCLAIMER**

32.1 The Applicant hereby acknowledges and agrees that save for its obligations and responsibilities to make all reasonable efforts to provide and to ensure the continuity of the Services, PERKESO makes no representations or warranties, express or implied, as to the completeness, feasibility, reliability or effectiveness of the Service, or that the Service shall be uninterrupted or error free, or that defects have been or will be corrected.

32.2 In no event shall PERKESO be liable to the Applicant or any other persons for any loss or damage including any loss of business opportunity, consequential, indirect,

special or incidental damages arising out of or in connection with or by reason of the operation, provision or use of the Services and/or equipment provided by it or for any suspension, termination, failure, disruption, downtime, interruption, miscalculation, incorrect linkage, delay in activation or access, inaccuracy or the non-performance of the Services or for any loss of information or otherwise.

- 32.3. The Applicant shall be solely responsible, and PERKESO shall not be liable in any manner whatsoever, for ensuring that in using the Services all applicable laws, rules and regulations for the use of any telecommunications systems, service or equipment shall be at all times complied with.
- 32.4 PERKESO is not liable for any charges levied on the Applicant by its telecommunications carrier or by any network to which the Applicant gains access to the Service.
- 32.5 PERKESO shall take reasonable steps to ensure the availability and functionality of MESAS2U but does not warrant that the system will be uninterrupted or error-free. To the extent permitted by law, PERKESO shall not be liable for any indirect or consequential loss arising from system interruptions or performance issues.

### **33. SUSPENSION OF THE APPLICANT AS PROGRAM PEMANDU SIHAT DAN SELAMAT (PSS) PANEL CLINICS OR DOCTORS**

- 33.1 Notwithstanding Clauses 16, 17 or 18, PERKESO reserves the right, at its sole discretion, to suspend the appointment of the Applicant as a Panel Clinic and/or Panel Doctor under the Program Pemandu Sihat Dan Selamat (PSS) with immediate effect, at any time and without prior notice, where PERKESO determines that the Applicant has breached any term or condition of this Agreement. The duration, scope and conditions of such suspension shall be determined solely by PERKESO.

### **34. REVIEW OF THE APPLICANT AS PROGRAM PEMANDU SIHAT DAN SELAMAT (PSS) PANEL CLINICS OR DOCTORS**

- 34.1 Notwithstanding any provision to the contrary in this Agreement, it is hereby expressly agreed that the performance of the Services by the Applicant, including its Panel Clinics and Panel Doctors under the Program Pemandu Sihat Dan Selamat (PSS), shall be subject to periodic review by PERKESO on a yearly basis. Such review shall be conducted to determine whether the Applicant meets the required service level standards as set out in Schedule 4, and in accordance with any additional criteria or requirements as may be prescribed by PERKESO from time to time.

34.2 For the purpose of this clause, PERKESO shall have the right to suspend the Applicant as stipulated under clause 33 of this Agreement.

### **35. COPYRIGHT AND OWNERSHIP**

All intellectual property rights, including copyright and any other proprietary rights (collectively referred to as “Proprietary Rights”) in the Medical Examination Standards Application System (MESAS2U), including all software, applications, systems, materials and content developed, provided or supplied by PERKESO under this Agreement for use by the Applicant, its Panel Clinics, Panel Doctors or authorised personnel, shall remain vested in and be the sole and exclusive property of PERKESO. The Applicant, its Panel Clinics, Panel Doctors, personnel or any authorised third party shall not, directly or indirectly, infringe, misuse, copy, modify, reproduce, distribute or otherwise violate such Proprietary Rights.

### **36. COMPLIANCE OF THE EMPLOYEES’ SOCIAL SECURITY ACT 1969**

The Applicant shall comply with the Employees’ Social Security Act 1969 by registering and contributing the contribution for all of its employees during the period of this Agreement and shall produce the employer’s code number to PERKESO as evidence that the Applicant is registered and contributing to PERKESO.

## SCHEDULE 1

### PROGRAMME FEE STRUCTURE

#### 1.1 Subsidised Program Fee (Eligible Drivers)

For drivers eligible for PERKESO subsidy under Program Pemandu Sihat dan Selamat, the payment structure shall be as follows:

<b>Component</b>	<b>Amount (RM)</b>
Driver Payment	30.00
PERKESO Subsidy	55.00
<b>Total Cost for PSS</b>	<b>85.00</b>
<b>Total Fee Payable to Panel Clinic</b>	<b>79.00</b>

## **SCHEDULE 2**

### **Process Flow of Program Pemandu Sihat Dan Selamat (PSS)**

1. Before screening process
  - 1.1 The Applicant shall verify that the MyKad identification number presented corresponds with the eligible driver registered in the Medical Examination Standards Application System (MESAS2U).
  - 1.2 The Applicant shall ensure that the driver presents a valid vocational licence, either in physical or digital form, and verify that the driver fulfils the eligibility criteria stipulated under the PSS.
  - 1.2 The Applicant shall verify the driver's eligibility status for PERKESO contribution through MESAS2U prior to conducting any medical examination.
  - 1.3 Verification of the eligible driver shall be conducted using the MyKad number recorded in MESAS2U. Where such verification cannot be confirmed in MESAS2U, the verification shall be deemed unsuccessful, and no Services shall be performed.
  - 1.4 All registration, eligibility checks and validation processes shall be conducted through MESAS2U. The Applicant shall not proceed with any medical examination unless the driver's details are successfully verified in the system.
  - 1.5 Alternatively verification can be done through a phone call to the PERKESO. The telephone numbers are 03-8091 5551.
2. During screening process
  - 2.1 All eligible drivers shall be examined by duly registered Panel Doctors under the Program Pemandu Sihat Dan Selamat (PSS).
  - 2.2 Panel Doctors shall at all times conduct themselves in accordance with the highest standards of professional medical ethics and practices, including compliance with guidelines issued by the Malaysian Medical Council and all applicable laws.
  - 2.3 Panel Doctors shall take a medical history, complete PERKESO Health Assessment questionnaire, perform medical examination, relevant

investigation and offer medical advice. All examination details, findings and results shall be accurately recorded and submitted in MESAS2U.

3. After screening process

- 3.1 Upon completion of the medical assessment, the Panel Doctor shall provide appropriate medical advice to the eligible driver based on the examination findings and, where necessary, recommend further medical evaluation or referral if necessary.
- 3.2 The outcome of the medical examination shall be communicated to the eligible driver during the consultation session, and the corresponding record shall be made available in MESAS2U for verification by PERKESO.
- 3.3 The Panel Doctor shall ensure that all required information is completed in MESAS2U and submitted accordingly. Any record marked as "Submission Completed" shall be deemed final and valid for programme purposes.
- 3.3 The Applicant shall ensure that all required data and information relating to the medical examination are submitted through MESAS2U and comply with PERKESO's reporting requirements.
- 3.6 Payment to the Applicant shall be made upon the successful completion of the medical examination and the proper submission and verification of all records in the Medical Examination Standards Application System (MESAS2U), in accordance with the fee structure set out in Schedule 1.

### **SCHEDULE 3**

1. The Program Pemandu Sihat Dan Selamat (PSS) is a medical examination program offered by PERKESO to its eligible drivers as follows:
  - Malaysian citizens;
  - Age between 40 years to 59 years old;
  - An active PERKESO contributor
  - Holder of vocational licence PSV E (Bus), GDL E (Rigid) or GDL E (Articulated) who intends to renew the said licence.
2. The Programme is non-refundable and cannot be exchanged for cash, whether in part or in full. The registration record in the Medical Examination Standards Application System (MESAS2U) cannot be combined or accumulated and is valid for a single transaction only. PERKESO reserves the right to reject any record in MESAS2U that has been tampered with or is found to be unacceptable in any manner.

## **SCHEDULE 4**

### **SERVICE LEVEL REQUIREMENT**

1. The Panel Doctor shall key in all medical examination results into the Medical Examination Standards Application System (MESAS2U) within seven (7) days after the completion and verification of the medical examination.
2. The Applicant or Panel Clinic shall ensure that all examination findings and assessments are properly recorded and submitted into MESAS2U within the prescribed timeframe, in accordance with the requirements of the Program Pemandu Sihat Dan Selamat (PSS).
3. All submissions made in MESAS2U must be complete, accurate and submitted within the stipulated period, and any delay or failure to submit the required information may affect validation and payment processing by PERKESO.

## SCHEDULE 5

### NON-DISCLOSURE AGREEMENT

- A. PERKESO and the Applicant, including its Panel Clinics, Panel Doctors, personnel or any authorised service providers, agree to enter into this Agreement for the purpose of ensuring data security in relation to all data and information obtained or processed in the course of the Services under the Program Pemandu Sihat Dan Selamat (PSS).
- B. In the course of providing the Services under this Agreement, the Applicant, its Panel Clinics, Panel Doctors, personnel or authorised service providers shall have access to confidential and/or proprietary information belonging to PERKESO, whether through the Medical Examination Standards Application System (MESAS2U) or otherwise.
- C. In order to protect such Confidential Information, the Applicant, including its Panel Clinics, Panel Doctors, personnel or authorised service providers, agrees with PERKESO as follows:
  - 1. Confidential Information as used in this Agreement means information relating to PERKESO including without limitation (i) pricing and costing information and general financial data, technical information and know-how, current and future product information, customer names and data, information relating to product plans, designs, developments, software configuration, processes and developments, forecasts, practices, methodologies, marketing, financial and business plans, documents, drawings, reports, inventions, samples (ii) any information marked “Confidential” or “Proprietary” or the equivalent at the time of disclosure and (iii) any information which can reasonably be regarded as confidential. Confidential Information may include information belonging to a third party such as customers or suppliers, or potential customers or suppliers, of PERKESO.
  - 2. Confidential Information shall include all Confidential Information existing or conveyed or accessible to, used by or in possession of the Applicant or Panel Clinics or Doctors or its personnel or authorised service providers prior to or subsequent to the date of this Agreement. For the avoidance of doubt, Confidential Information shall include all extracts, copies or reproductions in any media, not restricted to photocopies and recordings, or the conversion from any media to other media.
  - 3. Except as otherwise agreed in writing, the obligations under this Agreement shall continue indefinitely.

4. The Applicant or Panel Clinics or Doctors or its personnel or the laboratory shall receive and hold the Confidential Information in strictest confidence, and install and maintain sufficient processes, precautions and mechanisms for the security and confidentiality of the Confidential Information. Confidential Information shall not be disclosed to any person and may only be disclosed to the Applicant or Panel Clinics or Doctors or its personnel or the laboratory or its employees who are under non-disclosure obligations no less restrictive than in this Agreement, on a need-to-know basis. The Applicant or Panel Clinics or Doctors or its personnel or the laboratory will advise its employees who receive Confidential Information of its confidential nature and shall ensure that each of its employees who have access to the Confidential Information shall execute an undertaking in the form as specified by PERKESO. The Applicant or Panel Clinics or Doctors or its personnel or the laboratory shall cooperate with PERKESO in fully enforcing any obligations against its employees.
5. The Applicant or Panel Clinics or Doctors or its personnel or the laboratory shall use the same degree of care but no less than a reasonable degree of care as the Applicant or Panel Clinics or Doctors or its personnel or the laboratory uses to protect its own proprietary or confidential information of a like nature.
6. No copies may be made of the Confidential Information without the prior written consent of PERKESO and in the event approval is given, all confidential or proprietary legends or markings on the original must be retained on the copies.
7. The confidentiality obligations in this Agreement shall not apply to any information which (a) is or becomes publicly available to the public through no fault of the Applicant or Panel Clinics or Doctors or its personnel or the laboratory; (b) is rightfully received by the Applicant or Panel Clinics or Doctors or its personnel or the laboratory from a third party without proprietary or confidential limitations; (c) is independently developed by the Applicant or Panel Clinics or Doctors or its personnel or the laboratory without use of the Confidential Information; or (d) was known to the Applicant or Panel Clinics or Doctors or its personnel or the laboratory before first receipt from PERKESO.
8. This Agreement will not apply to prevent the Applicant or Panel Clinics or Doctors or its personnel or the laboratory from disclosing Confidential Information to the extent required by law or regulations, provided the Applicant or Panel Clinics or Doctors or its personnel or the laboratory asserts the confidentiality of the Confidential Information to the body seeking disclosure and notifies PERKESO may contest the disclosure or seek a protective order.
9. PERKESO warrants that it has the right to disclose the Confidential Information. No other warranties are made, and no responsibility or liability is or will be

accepted by PERKESO in relation to the accuracy or completeness of the Confidential Information wherein Confidential Information is provided “as is”. In no event shall PERKESO be liable for incidental, indirect, or consequential damages in relation to the Confidential Information.

10. Upon the written request of PERKESO, the Applicant or Panel Clinics or Doctors or its personnel or the laboratory shall return or destroy, at PERKESO’s election, all documents or media containing Confidential Information including all copies and extracts and provide PERKESO with documentation attesting to that fact.
11. No waiver of any provision of this Agreement shall be binding unless executed in writing by the party making the waiver. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of such provision on any other occasion, nor the waiver of any other provision, whether or not similar. No delay in the enforcement of any provision in this Agreement shall constitute a waiver of the right to enforce such provision in that or any other instance.
12. This Agreement does not create any agency or partnership relationship or exclusivity obligations.
13. This Agreement imposes no obligation on PERKESO to disclose Confidential Information and PERKESO has no obligation under this Agreement to continue any discussions, or to offer or purchase any product or service, or to take or refrain from taking any other action except as expressly set out in this Agreement. Nothing in this Agreement shall prevent PERKESO from pursuing similar discussions or transactions with third parties.
14. This Agreement does not confer on the Applicant or Panel Clinics or Doctors or its personnel or the laboratory any intellectual property rights to or over the Confidential Information.
15. The Applicant or Panel Clinics or Doctors or its personnel or the laboratory acknowledges that damage for improper disclosure of Confidential Information may be irreparable; therefore, PERKESO is entitled to seek equitable relief, including injunction and preliminary injunction in addition to all other remedies.
16. The Applicant or Panel Clinics or Doctors or its personnel or the laboratory shall comply with the Security Policy of ICT PERKESO (“Dasar Keselamatan ICT PERKESO”) (DKICT PERKESO).
17. This Agreement is the full understanding of the Parties relative to the protection of Proprietary Information and supersedes all other understandings with respect thereto.

18. The Parties hereby subscribe, acknowledge and adhere that the provisions of the Official Secrets Act 1972 (Act 88), and the Personal Data Protection Act 2010 (Act 709) shall be applicable to this Agreement.
19. This Agreement is made under and shall be construed according to the laws of Malaysia.