

BMJ Advisors - Terms and Conditions of Appointment

These terms and conditions (**Terms**) apply to your appointment and are supplemental to the details of your role described in the *Role Profile*. Unless otherwise defined herein, expressions used in these Terms shall have the meaning set out in your *Letter of Appointment*. References to BMJ (**us, our, we**) shall mean BMJ Publishing Group Limited. References to this **Agreement** shall include the terms and conditions set out in: your *Letter of Appointment*, these Terms, the *Role Profile*, and any other documents and policies referred to in any of the above.

1. **Services**

- 1.1 During your appointment you agree to:
 - 1.1.1 carry out your work for us with all due care, skill and ability;
 - 1.1.2 use your best endeavours to promote the interests of the Committee and BMJ;
 - 1.1.3 perform the work you do for us in an expedient and timely manner; and
 - 1.1.4 unless prevented by ill health or accident, devote sufficient time to the carrying out of your duties and obligations.
- 1.2 If you are unable to work due to illness, injury, holiday arrangements or other circumstances, you shall advise your POC (as detailed in your *Letter of Appointment*) as soon as reasonably practicable.
- 1.3 You agree and acknowledge that you may be asked to work with any one or more persons as we may direct from time to time.
- 1.4 Unless we have specifically authorised you to do so (in writing), you shall not have any authority to incur any expenditure on behalf of us or the Committee, and you must not hold yourself out as having authority to bind us or the Committee.

2. **Our obligations** You may seek advice from your POC at any time. We will use reasonable endeavours to: provide you with all appropriate support; draw your attention to developments in BMJ's publishing and editorial policies and processes; and offer you advice on how you might develop the Committee and its interests together with us.

3. **Honorarium** Where confirmed in your *Letter of Appointment*, in exchange for your work for BMJ, we will pay you the Honorarium. The Honorarium is exclusive of VAT, GST or other applicable sales tax. We shall pay the Honorarium, as directed by you, by direct bank transfer. Specific arrangements for the payment of your Honorarium should be agreed with your POC. Where the Honorarium (or any part thereof) is to be paid to an institution on your behalf, that institution must submit an invoice to BMJ for the relevant amount which complies with our invoicing instructions and is specified to be for "*Consultancy services by [your name]*". We shall be entitled to deduct any sums that you owe BMJ from the Honorarium (and from any other sums due from BMJ to you). You shall be responsible for any expenses you may incur in the course of your appointment.

4. **Terminating your appointment**

- 4.1 **Without cause:** Either you or we may terminate your appointment at any time by giving the other not less than one (1) month's prior written notice.
- 4.2 **With cause:** We may terminate your appointment with immediate effect and without notice or liability to you if at any time:
 - 4.2.1 you commit any act of serious or gross misconduct affecting us or the Committee, or wilfully neglect to perform your duties (otherwise than as a result of illness, accident or incapacity);
 - 4.2.2 you commit any serious or repeated breach or non-observance of any of the provisions of the Agreement, or refuse or neglect to comply with any reasonable and lawful requests made by us;
 - 4.2.3 you are, in our reasonable opinion, negligent or incompetent in the performance of your duties;
 - 4.2.4 you commit any act of fraud or dishonesty or act in any manner which in our opinion brings, or is likely to bring, either BMJ or the Committee into disrepute (in each case whether or not connected with your role);
 - 4.2.5 we determine a conflict of interest exists in respect of your appointment;
 - 4.2.6 you have, in our reasonable opinion, acted in a manner which has, or which may, adversely affect the reputation of either BMJ or the Committee;
 - 4.2.7 you are convicted of any criminal offence (other than an offence under any road traffic legislation for which a fine or non-custodial penalty is imposed);
 - 4.2.8 you are incapacitated for a period of four (4) or more consecutive weeks;
 - 4.2.9 you are declared bankrupt or make any arrangement with or for the benefit of your creditors or have a county court administration order made against you under the Country Court Act 1984 (or equivalent) or any similar or analogous proceedings in any other jurisdiction;
 - 4.2.10 you commit any breach of applicable laws or our policies or procedures.
- 4.3 Our rights under clause 4.2 are without prejudice to any other legal rights that we may have to terminate your appointment or to accept any breach on your part as having brought the Agreement to an end. Any delay in exercising our rights under the Agreement shall not constitute a waiver of those rights.

5. **Consequences of termination or expiry of your appointment** Upon termination or expiry of your appointment (and at any stage during your appointment), you will promptly on request:

- 5.1 return to us: (a) any equipment, hardware, software and any other property which we provided to you or which otherwise belongs to us and which may be in your possession or control (**BMJ Property**); and (b) all originals and hard copies of any of our confidential information, documents, records, papers, correspondence, materials, files, notes, reports, books

- manuals and information (on whatever media and wherever located) which belong to or relate to us or the Committee and which may be in your possession or control (**BMJ Documents**);
- 5.2 email a copy to us (or print and return a copy by mail) of any BMJ Documents stored on: (a) your computer systems or other electronic equipment (including but not limited to smartphones and tablets); (b) your emails; and/or (c) any internet server which you have access to (but we do not) including but not limited to iCloud, Google Drive, Drop Box, OneDrive, Evernote, Box, and then irretrievably delete those BMJ Documents from such locations. You agree not to make or keep any copies, drafts, extracts, notes, or summaries of any BMJ Property or BMJ Documents in any form.
6. **Other activities** In order to protect the legitimate business interests of the Committee and BMJ, you agree that, except for those existing activities (as declared in your *Competing Interests* form), you shall not at any time during your appointment: (a) be engaged, concerned or interested in; or (b) assist in any way, any publication, service or other business concern which is (or intends to be) in competition with BMJ's products and/or services (which shall be determined by BMJ acting in its full discretion) without BMJ's prior written consent.
7. **Intellectual Property**
- 7.1 In these Terms **Intellectual Property Rights** shall mean all intellectual property rights arising in connection with any of the work you do for us including all copyright and related rights, trade marks, rights in goodwill or to sue for passing off, rights in confidential information and any other intellectual property rights, in each case whether registered or unregistered and all similar or equivalent rights or forms of protection in any part of the world.
- 7.2 You hereby assign to BMJ absolutely, with full title guarantee, all existing and future Intellectual Property Rights to the fullest extent permitted by law. Insofar as they do not vest in us automatically, you agree to hold legal title to the Intellectual Property Rights on trust for BMJ.
- 7.3 In the event the assignment made pursuant to clause 7.2 is invalid for any reason, all Intellectual Property Rights shall remain with you (or your employer as the case may be) and, in consideration of our obligations to you, you grant (or you shall procure the grant) to us of a worldwide, irrevocable, royalty free, licence in perpetuity to:
- 7.3.1 edit, adapt, publish, distribute, display, reproduce, translate and store the Intellectual Property Rights (and any derivative works based on the Intellectual Property Rights created under this licence) in all media and on all distribution platforms including social media platforms, whether now known or in the future developed or discovered, and whether as part of our products and services or as part of other content owned, controlled or represented by us;
- 7.3.2 include the Intellectual Property Rights in collections of other work and create summaries, extracts, abstracts and other derivative works based in whole or in part on the Intellectual Property Rights;
- 7.3.3 convert the Intellectual Property Rights into any format, including audio;
- 7.3.4 exploit all subsidiary rights that exist or may exist in the future in the Intellectual Property Rights including in relation to metadata;
- 7.3.5 include electronic links from the Intellectual Property Rights to any third party material; and
- 7.3.6 licence third parties to do any or all of the above.
- 7.4 The licence granted in clause 7.3 is an exclusive licence other than where:
- 7.4.1 you are a UK Crown employee whose work is subject to Crown copyright and the Intellectual Property Rights cannot be licensed on an exclusive basis, in which case the Intellectual Property Rights shall be licensed pursuant to clause 7.3 on a non-exclusive basis; or
- 7.4.2 you are a US Federal Government officer or employee and the Intellectual Property Rights have been created (either in whole or in part) as part of your official duties, in which case no licence shall be required from you (provided that, in respect of any new Intellectual Property Rights, the terms of this Agreement shall continue to apply other than where they are inconsistent with law).
- 7.5 You agree to provide your full assistance to us (at any time, including after your appointment has come to an end) to procure the assignment with full title guarantee from yourself (or your employer, as the case may be) of rights referred to in this clause 7.
- 7.6 You unconditionally and irrevocably waive in favour of us, all moral rights to which you may now or at any future time be entitled.
- 7.7 You authorise us to take all such steps as we may consider necessary to prevent infringement of the Intellectual Property Rights or infringement of rights granted to us by you under this clause 7 (without recourse to you).
- 7.8 You agree that we may retract or publish a correction or other notice in connection with the Intellectual Property Rights at any time and without recourse to you.
- 7.9 You undertake:
- 7.9.1 not to register nor attempt to register any of the Intellectual Property Rights unless we ask you to do so in writing;
- 7.9.2 not to reproduce, exploit or otherwise make use of any of the Intellectual Property Rights (or any copies of any part of them) without our express written authority (and you shall not permit any other person, firm or company to so reproduce, exploit or use those Intellectual Property Rights);
- 7.9.3 to disclose in writing any works or inventions arising from the work you do for us or the Intellectual Property Rights created or arising from them.
8. **Warranty**

- 8.1 You warrant to us that:
- 8.1.1 you are authorised to enter into the Agreement;
 - 8.1.2 the work you do for us will be your own original work and will not infringe the rights of any third party;
 - 8.1.3 you have not entered into any agreement or arrangement which might conflict with our rights under the Agreement, or which might interfere with your obligations to us under the Agreement;
 - 8.1.4 during your appointment you will use your best endeavours to ensure that the work you do for us (including any aspect thereof) is not: (a) obscene or indecent; (b) libellous or otherwise defamatory to individuals or organisations; (c) knowingly false or unlawful; or (d) otherwise objectionable;
 - 8.1.5 all information supplied to us shall be true and correct in all material respects;
 - 8.1.6 you will not make any use of the work you do for us (other than as permitted under 'fair dealing' provisions of the Copyright Design and Patents Act 1988), without our prior written consent.
- 8.2 IF YOU ARE AN EMPLOYEE ACTING IN THE COURSE OF EMPLOYMENT WITH A THIRD PARTY (FOR EXAMPLE A UNIVERSITY OR HOSPITAL), YOU WARRANT THAT YOU HAVE OBTAINED FROM YOUR EMPLOYER ALL NECESSARY WRITTEN RELEASES REQUIRED TO ASSIGN AND GRANT THE RIGHTS SPECIFIED IN ACCORDANCE WITH CLAUSE 7.
9. **Liability** To the fullest extent permitted by law and other than expressly provided for herein, we shall not be liable to you for any indirect, incidental or consequential losses or expenses arising out of the Agreement. Nothing in the Agreement seeks to exclude liability for death or personal injury caused by our negligence or fraudulent misstatement. If we have any liability under the Agreement, our aggregate liability, whether arising from contract, negligence or otherwise, shall in no event exceed the sum of £150 (GBP).
10. **Confidentiality**
- 10.1 All information we supply to you (whether in writing or discussed and including, without limitation, the financial information relating to us or the Committee or any of BMJ's products or services including BMJ's database of authors and reviewers) shall be treated as confidential unless: we state otherwise; it is in the public domain; or, it has been obtained by you without any breach of any confidentiality obligations.
 - 10.2 You warrant that our confidential information shall not be disclosed to anyone else during your appointment (and at any time after your appointment has ended), other than if you are required to by law, it is in the public domain (or becomes in the public domain other than through a breach of this clause 10) or we have agreed in writing that you may disclose it.
11. **Declaration of interests**
- 11.1 Before commencing work for us (and annually thereafter on our request), you must complete our *Declaration of Competing Interests Form* and send it to us. We will provide a link to access this form following your acceptance of this agreement. You must notify us immediately if, at any time during your appointment, any new (undeclared) conflict of interest arises or the nature of any existing (previously declared) conflict of interest changes.
 - 11.2 You consent to us publishing any interests you declare pursuant to clause 11.1 (or otherwise), on BMJ's website.
 - 11.3 If we determine that a conflict of interest exists in respect of your appointment, we shall have the right to immediately terminate your appointment pursuant to clause 4.2.5 of these Terms.
12. **Data protection**
- 12.1 For the purposes of this clause 12 the term **DP Laws** means the UK General Data Protection Regulation, Data Protection Act 2018, the Privacy and Electronic Communications Regulations 2003 and all other applicable laws relating to the processing of personal data (each as amended or replaced from time to time).
 - 12.2 Your personal data will be processed in accordance with our *Contractor Privacy Notice*.
 - 12.3 As part of your role you may have access to personal data which could include author and patient names, locations, affiliations, and data about patients' medical history and/or medical conditions. To the extent that your appointment involves the processing of any personal data, you shall be a processor of that personal data for the purposes of the DP Laws and you must:
 - 12.3.1 only process that personal data according to our written instructions and in accordance with the DP Laws;
 - 12.3.2 not modify, amend or alter that personal data other than as strictly necessary for the purposes of your work for us;
 - 12.3.3 only use our secure systems to save and store copies of any documents and any personal data;
 - 12.3.4 inform us of any laws in your jurisdiction that you are aware of that would negatively affect the security of your work for us;
 - 12.3.5 on our request, assist us to respond to requests from identifiable individuals;
 - 12.3.6 on our request, contribute to work to assess and mitigate risks to the personal data in the work you do for us.
 - 12.4 You must not:
 - 12.4.1 save or otherwise reproduce a copy of the personal data onto your own personal IT systems;
 - 12.4.2 print or otherwise reproduce copies of the personal data for your own use;
 - 12.4.3 share the documents you receive access to (including any personal data) with anyone else outside the Committee without our prior written permission; or
 - 12.4.4 further transfer documents (including any personal data) outside the UK or European Economic Area without our prior written consent.
 - 12.5 You must notify us immediately if you become aware of any security breach involving your work for BMJ or the disclosure of personal data.

12.6 If you are located outside of the UK or European Economic Area then any work you do for us will be deemed to be subject to the [European Commission's Standard Contractual Clauses \(SCCs\)](#) (including any updated or modified versions of the same which are released by the Information Commissioner's Office under the UK General Data Protection Regulation, or if appropriate, European Commission for the purposes of Data Protection Directive 95/46/EC and in accordance with Article 46(5) of the General Data Protection Regulation ((EU) 2016/679). You will comply with all obligations of the 'data importer' described in Module Two of the SCCs.

13. **Compliance**

13.1 *Policies:* You must comply with the following policies, guidelines and recommendations (each as updated or revised from time to time):

13.1.1 any industry-standard checklists and advice for good research and reporting issued from time to time; and

13.1.2 [BMJ's Code of Conduct](#) and BMJ's policies (available on request) including BMJ's diversity & equal opportunities policy, those BMJ policies pertaining to use of information and communication systems, BMJ's data protection policies, BMJ's anti-bribery and corruption policy, and BMJ's modern slavery and human trafficking policy.

13.2 *Laws:* You must comply with all applicable laws, regulations, codes and sanctions relating to the provision of the work you do for us including those that relating to anti-bribery, corruption, modern slavery and human trafficking.

13.3 *Fraud, bribery and corruption:* You must notify us immediately if you become aware of, or have grounds for suspecting, any fraud or any action, including giving or receiving any financial or other advantage, that may be construed as a bribe under applicable law (**Malpractice**), relating to this agreement or to the Committee. Without prejudice to any other remedy we may have, if we have grounds for believing that you have committed fraud or Malpractice relating to this agreement or the Committee, we may, in our absolute discretion suspend you and your work for us until we have fully investigated and determined whether or not there has been any fraud or Malpractice.

13.4 If you fail to comply with your obligations in this clause 13, then your appointment could be immediately terminated pursuant to clause 4.2.10.

14. **Status and tax liability**

14.1 The relationship between you and us will be that of an independent contractor and nothing in this Agreement shall render you our employee, worker, agent or partner, and you shall not hold yourself out as such.

14.2 This Agreement constitutes a contract for the provision of services and not a contract of employment and accordingly you shall be fully responsible for and shall indemnify us for and in respect of:

14.2.1 any income tax, National Insurance and social security contributions (or any similar or analogous payments in any other jurisdiction) and any other liability, deduction, contribution, assessment or claim arising from or made in connection with either your work for us or any payment or benefit received by you in respect of your work for us, where such recovery is not prohibited by law and you shall further indemnify us against all reasonable costs, expenses and any penalty, fine or interest accrued or payable by us in connection with or in consequence of any such liability, deduction, contribution, assessment or claim;

14.2.2 any liability arising from any employment-related claim or any claim based on worker status (including reasonable costs and expenses) you may make against us arising out of or in connection with the work you do for us.

14.3 We may, at our option, satisfy the indemnity in clause 14.2 (in whole or in part) by way of deduction from payments due to you. You consent to any such deductions made by us pursuant to this clause.

15. **General**

15.1 You must not assign, sub-contract or transfer any of your rights or obligations under this Agreement without our prior written consent. We may assign our rights and transfer our obligations under this agreement by written notice to you.

15.2 If either you or we delay or fail to exercise any of our respective powers, rights or remedies under this Agreement, that delay or failure will not mean that those powers, rights or remedies have been waived and cannot still be exercised. Any single or partial exercise of any such powers, rights or remedies shall not prevent a party from further exercising them. Any waiver, to be effective, must be in writing and signed by each party.

15.3 Variations to this Agreement are only valid if recorded in writing and signed by both parties.

15.4 If any provision of this Agreement is held to be invalid, the remainder of the provisions shall continue in full force and effect.

15.5 Only you and BMJ shall be entitled to enforce the terms of this Agreement. Any rights for third-party enforcement are expressly excluded.

15.6 To send a notice to BMJ under this Agreement your notice must be in writing and must be delivered or sent to us by either first class post to our registered office (BMJ Publishing Group Limited, BMA House, Tavistock Square, London, WC1H 9JR) or emailed to contractnotices@bmj.com. If we need to send a notice to you under this Agreement, that notice will be in writing and will be delivered or sent to you by either first class post to your contact address we have on file for you, or emailed to you at the email address we have on file for you. If you need to update your contact information at any time you must let us know as soon as possible by emailing both your BMJ POC. Any notice sent under this Agreement shall be deemed to have been received seven (7) days from the date of posting or upon successful transmission of email (subject to proof) as appropriate.

15.7 To the fullest extent permitted by law, this Agreement (including your *Letter of Appointment*, *Role Profile*, and *BMJ Contractor Privacy Notice*) constitutes the entire agreement between us and you with respect to your appointment and the work you do for us and supersedes any prior terms you may have seen or agreed (whether written or verbal).

- 15.8 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the law of England and Wales. The courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter.