

## **UNDERTAKING**

### **PART 8 OF THE ENTERPRISE ACT 2002 (“EA02”)**

#### **UNDERTAKING TO THE COMPETITION AND MARKETS AUTHORITY (“CMA”) UNDER SECTION 219 OF THE EA02 RELATING TO:**

- **PART 1 OF THE CONSUMER RIGHTS ACT 2015 (“CRA”)**
- **PART 2 OF THE CRA**
- **THE CONSUMER CONTRACTS (INFORMATION, CANCELLATION AND ADDITIONAL CHARGES) REGULATIONS 2013 (“CCRs”)**
- **THE CONSUMER PROTECTION FROM UNFAIR TRADING REGULATIONS 2008 (“CPRs”)**

Aman Ayub in his personal capacity and for and on behalf of the partnership trading as Expert Medicals of 12 New John Street, Bradford, West Yorkshire, BD1 2QY provides the following UNDERTAKING to the CMA pursuant to section 219 of the EA02, in response to the CMA’s consumer protection law investigation into in the supply of PCR Testing Services (the “Undertaking”). In the Undertaking, Mr Ayub and Expert Medicals are referred to together as “EM”.

#### **Undertaking**

In accordance with section 219(4) and section 219(B) of the EA02, EM undertakes (1) on its/their own behalf and (2) in respect of any third party acting in its/their name with its/their authority or on its/their behalf with its/their authority:

- not to engage in any conduct which contravenes paragraphs 4 – 23 or 29 below;
- not to engage in such conduct in the course of its/their PCR Testing services business or any other COVID-19 Testing services business;
- not to consent to or connive in the carrying out of such conduct by a body corporate with which it has/they have a special relationship (within the meaning of section 222(3) of the EA02);
- to comply with the enhanced consumer measures (as such term is defined in s. 219(A) of the EA02) set out in paragraphs 17 - 23 below; and

- to take such steps as are set out in paragraphs 4 – 23 and 29 below to comply with this Undertaking.

## **Interpretation**

1. Defined terms are set out in **Annex 1** to this Undertaking.
2. When a date or time period is specified, the obligation must be met by 17:00 hours in the time zone of the United Kingdom on the relevant day.
3. References to “consumers” or “customers” in this Undertaking mean consumers or customers in the UK.

## **Part 1 – Advertisement and information about the service**

4. All statements and information provided by, or on behalf of, EM to consumers (whether online or otherwise or in whatever location) about PCR Testing, any other COVID-19 Testing, EM's PCR Testing and/or EM's Other COVID-19 Testing must be accurate and Clear.
5. In any advertisement (online or otherwise) or on any website or online platform from which EM sells/markets its/their PCR Testing service or any other COVID-19 Testing service, EM must Clearly and Prominently state the timing within which (1) EM will dispatch PCR or any other COVID-19 test kits to the consumer and (2) the timing within which the test results will be sent to the consumer upon receipt of the test sample by EM.
6. In any advertisement (online or otherwise) or on any website or online platform from which EM sells/markets its/their PCR Testing service or any other COVID-19 Testing service EM must ensure that information about its/their customer service including relevant contact details, and the time within which a reply to a first contact will be provided, is displayed Clearly and Prominently.

## Part 2 – Consumer Contract Terms

7. EM will not use, enforce or otherwise rely on or include in any of its/their Terms and Conditions terms which:
  - (a) are not transparent (within the meaning of section 64 of the CRA);
  - (b) unfairly limit its/their liability (either directly or indirectly);
  - (c) excludes or limits the consumer's statutory rights;
  - (d) imposes disproportionate obligations on the consumer; or
  - (e) transfers inappropriate risk to the consumer.
8. In particular, and without prejudice to the generality of paragraph 7 above, EM will not use, enforce or otherwise rely upon the following clauses in its/their Terms and Conditions in Annex 2 to this Undertaking:
  - (a) 1;
  - (b) 2.1, 2.3 and 2.5 – 2.9;
  - (c) 4;
  - (d) 5.2;
  - (e) 6.9;
  - (f) 6.14 and 6.19.1;
  - (g) 7;
  - (h) 11; and
  - (i) 16.
9. EM will amend its/their Terms and Conditions to comply with the fairness and other requirements of the CRA. In particular, but without limiting that obligation, EM will amend its/their Terms and Conditions relating to the time of its/their performance of its/their obligations to the consumer such that they are fair and consistent with the consumer's rights under Part 1 of the CRA. They will also prescribe the time periods within which EM will provide its/their PCR Testing or any other COVID-19 Testing services in accordance with any applicable legislation.

10. EM will notify the CMA of its/their proposed amended Terms and Conditions by no later than 21 days after this Undertaking is signed. The amended Terms and Conditions must address the issues identified at Annex A to the CMA's letter of 21 October 2021.
11. Within 21 days of the notification in paragraph 10 above, and provided that the CMA has not raised any concerns in relation to the amended Terms, EM must implement those Terms and Conditions for all new orders by consumers and seek to vary accordingly the terms applicable to its/their existing contracts with consumers.
12. EM will not seek to make any further material amendments to the Terms and Conditions without giving the CMA 21 days' prior written notice and will not implement any further amendments before the expiry of the period or, where the CMA within that period informs EM of concerns, these concerns have been addressed by EM to the CMA's reasonable satisfaction.

### **Part 3 – Ensuring consumers can exercise their statutory rights**

13. Without prejudice to paragraphs 7 - 12 above, EM shall ensure that its/their Terms and Conditions will be reviewed and amended within the time periods specified in those paragraphs to ensure that they provide for EM's compliance with its/their obligations, and for consumers to be given their rights under, consumer protection law.
14. EM shall ensure that its/their Terms and Conditions and any information provided by it/them to a consumer either before or after a contract is entered into do not mislead the consumer about their statutory rights or hinder, or in any way make more difficult, the exercise of the statutory rights provided by consumer protection law (including but not limited to, the rights provided under Part 1 of the CRA and the CCRs).
15. Where a consumer contacts EM, through its/their customer service function or otherwise, seeking to understand or to exercise their rights to cancellation and/or

refunds under the CCRs, or to complain about an aspect of EM's PCR Testing or any other COVID-19 Testing, EM shall ensure that the consumer is informed, as the case may be, of their rights:

- (a) to cancel provided for in Part 3 of the CCRs where the consumer remains within the cooling off period set out in Regulation 30 of the CCRs or where such a right exists;
- (b) to a refund (which may be the full amount of the price) where EM's PCR Testing or any other EM COVID-19 Testing is not performed within the period specified in its Terms and Conditions (or where a different period has been communicated to the consumer, that period); and
- (c) to repeat performance and/or a price reduction (which may be the full amount of the price) where EM's PCR Testing is not performed with reasonable skill and care or does not conform to the contract.

#### **Part 4 – Provision of Customer Service**

16. Within 21 days from the date this Undertaking is signed, EM will ensure appropriate customer service systems are put in place so that consumers can swiftly and effectively:

- (a) raise a query, concern or complaint about EM's PCR Testing or any other EM COVID-19 Testing;
- (b) initiate and continue and conclude contact with the customer service function, including by:
  - (i) enabling consumers to communicate effectively with customer service agents, for example by telephone, messaging services, web chat service and/or email, with

- Dropped Contacts being minimised as far as reasonably possible;
- (ii) ensuring that consumers who telephone can request a call back within 4 hours if their call is not answered after a reasonable period not exceeding 5 minutes;
  - (iii) ensure consumers receive a response to an initial request to be contacted within 24 hours of their initial contact, unless that is not reasonably practicable in the circumstances;
  - (iv) ensuring consumers receive a response to commencing a chat on an instant messaging service within 60 seconds, unless that is not reasonably practicable in the circumstances;
  - (v) ensuring consumers receive a final response to any complaints promptly, and in any event within 14 days unless that is not reasonably practicable in the circumstances.

#### **Part 5 – Enhanced Consumer Measures – Financial Redress**

17. Within 21 days of signing this Undertaking, and to the extent it has not already done so, EM will refund all Refund Entitled Consumers the price (and any other charges) of each PCR Test in respect of which they are a Refund Entitled Consumer.
18. EM will make the required refund payments to each Refund Entitled Consumer by the same means and using the same payment details as used by the consumer when they purchased EM's PCR Testing (unless the consumer provided updated payment details or reasonably requests a payment through a different means).

#### **Part 6 – Enhanced Consumer Measures – Compliance**

19. If any Eligible Consumer contacts EM by any means enquiring about their rights under the CCRs, EM will inform them of their rights thereunder to cancel their contract and obtain a refund. EM will provide that information in accordance with the requirements of the CCRs within 24 hours of the consumer contacting it/them,

and will comply with any notification of cancellation and demand for a refund that the consumer makes in accordance with the CCRs.

20. Without prejudice to any further statutory information notices the CMA may serve on it/them, EM will provide the information set out in paragraphs 21 – 23 below.
21. By the date falling three months from the date of this Undertaking, EM will produce and submit to the CMA a written report on the implementation of paragraphs 4 to 19 of this Undertaking. The report must include:
  - (a) an explanation of the changes made to implement the Undertaking;
  - (b) the steps taken to comply with Part 5 and paragraph 19 of the Undertaking, including:
    - (i) the total number of Refund Entitled Consumers to whom it has/they have paid refunds and the total amount paid to such consumers;
    - (ii) the total number of consumers contacting EM claiming to be an Eligible Consumer;
    - (iii) the total number of those in sub-paragraph (ii) above whom EM agreed were Eligible Consumers and informed them of their cancellation and refund rights under the CCRs;
    - (iv) the total number of those in sub-paragraph (iii) above who exercised their cancellation and refund rights under the CCRs and the total amount of refunds EM has paid to them; and
    - (v) the total number of those in sub-paragraph (ii) above whom EM did not agree were Eligible Consumers and, in each case, its/their basis for not agreeing and not informing the consumer of their cancellation and refund rights under the CCRs.
22. From the date of signing this Undertaking until the Reporting End Date, EM will maintain adequate records of the content of every Consumer Contact (both written and verbal) concerning or in any way relating to (i) the consumer's rights

to cancellation and refunds under the CCRs; (ii) a delay in receiving the PCR Testing or other COVID-19 Testing kit or the results in relation to a sample returned to EM, (iii) the refund process (including the outcome of that process), (iv) a delay in the payment of a refund, and (v) a delay in the treatment of any Consumer Contact.

23. From the date this Undertaking until the Reporting End Date, EM will within 10 Working Days of the end of each Reporting Period produce a Compliance Report to the CMA relating to that Reporting Period which provides:

- (a) the total number of Consumer Contacts together with details of what steps EM has taken to address or resolve these;
- (b) the total number of cancellations of contracts requested or notified to EM by consumers and the total number of cancellations that occurred;
- (c) the total number of refunds sought by consumers and the reasons therefor; and
- (d) the total number of refunds (and the total value in GBP) made by EM and the reasons therefor.

***Other matters relating to compliance***

24. Nothing above shall preclude the CMA from exercising any statutory right or power to seek to prevent EM from implementing any change to its/their consumer-facing business practices or to require it/them to reverse any such change.

25. In relation to any information EM provides to the CMA under this Undertaking, no evidence relating to the information provided may be adduced by or on behalf of the prosecution in any criminal proceedings against EM or its partners or employees.

**Supplemental**

26. Nothing in this Undertaking:



- (a) represents or shall be construed as an admission by EM or its/their employees that it has/they have infringed consumer law;
- (b) limits or restricts consumers' existing statutory or contractual rights (or EM's obligations in respect of these rights) in any way;
- (c) constitutes approval or certification of EM's compliance with consumer protection laws; or
- (d) precludes EM from making further changes which are consistent with this Undertaking, including but not limited:
  - (i) to any required by law;
  - (ii) to comply with any ruling of the ASA or other relevant governmental body; or
  - (iii) to those which provide a higher standard of consumer protection or improved consumer experience,

and EM will not make any statement or claim, either publicly or to any consumer, that says, implies or could be taken to imply the opposite.

- 27. Subject to any express provision to the contrary made herein, the Undertaking is effective at the date at which it is signed.
- 28. In the Undertaking, unless an alternative meaning is expressly provided for, any reference to 'day' means calendar day. Where a deadline provided for in the Undertaking ends on a non-working day, the reference shall be taken to mean the deadline falling on the following Working Day.
- 29. EM undertakes to provide the CMA, within 5 Working Days of the date this Undertaking is signed, the contact details of an appropriate partner or employee for the purpose of EM promptly responding to any requests the CMA may have in relation to compliance with this Undertaking. EM further undertakes to

promptly provide the CMA with any update to such contact details in the event the identity and/or location of the relevant partner or employee changes.

30. The Undertaking and any dispute, claim and/or enforcement action (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute arising out of or in connection with the Undertaking or its subject matter or formation.

**BY SIGNING THIS UNDERTAKING, EM AND EACH RELEVANT INDIVIDUAL IS AGREEING TO THE TERMS OF THE UNDERTAKING.**

**IF HAVING SIGNED THIS DOCUMENT EM OR A RELEVANT INDIVIDUAL BREACHES ANY PART OF THE ABOVE UNDERTAKING, THEY ARE AWARE THAT THEY MAY BE THE SUBJECT OF AN APPLICATION TO THE COURT FOR AN ENFORCEMENT ORDER UNDER SECTION 215 OF THE EA02.**

Signed by:

Signature



Print name

Aman Ayub

Position

Principal

Date

29/12/2021

## **Annex 1 to the Undertaking**

### **Definitions**

For the purpose of this Undertaking:

- **Clear** means
  - displayed in plain English and succinctly;
  - complete;
  - correct; and
  - not misleading either by action or omission.
  
- **Clear and Prominent Information** means, having regard to the overall impression of the display in its entirety including commonly used features of website design, information which is:
  - Clear;
  - presented in such a way as a whole to enable the consumer to easily identify, read and understand the information;
  - clearly visible in each location or is directly accessible;
  - not obscured by the addition of other information which may compete for the consumer's attention; and
  - except as permitted by this Undertaking does not require the user to take any further action to access the information.

And 'Clear(ly) and Prominent(ly)' should be interpreted consistently.

- **Compliance Report** means a written statement supplied by EM to the CMA by email relating to the Reporting Period in question, in the agreed format, providing the information specified in paragraph 23 of the Undertaking.
  
- **Consumer Contact** means any query, request or complaint from a consumer or someone acting on their behalf (whether in writing or verbally) concerning or in any way relating to (i) the consumer's rights to cancellation and refunds under the CCRs; (ii) a delay in receiving the PCR Testing or other COVID-19 Testing kit or the results in relation to a sample returned to EM, (iii) the refund process

(including the outcome of that process), (iv) a delay in the payment of a refund, and (v) a delay in the treatment of any Consumer Contact.

- **COVID-19 Testing** means any testing in relation to coronavirus (COVID-19) other than PCR Testing and where appropriate includes references to the testing service and/or the testing kit sent out to consumers (as the case may be). It includes but is not limited to what is commonly known as “lateral flow testing.”
- **Dropped Contact** means a communication with customer service agents which fails, due to a technical problem or disconnection or other error.
- **Eligible Consumer** means a consumer who purchased EM PCR Testing before the Terms and Conditions are amended in accordance with this Undertaking unless EM can show to the CMA’s reasonable satisfaction that in respect of that consumer the right to cancel under the CCRs no longer exists because:
  - the consumer was provided with all the information which EM is required to provide pursuant to paragraph (l) of Schedule 2 of the CCRs; and
  - the PCR Testing was provided to the consumer:
    - outside the cancellation period (including as extended pursuant to Regulation 31 in relevant cases); or
    - within the cancellation period and the conditions in Regulation 36(4) of the CCRs are satisfied, or
    - the right to cancel did not exist under the CCRs.
- **EM’s Other COVID-19 Testing** means any other COVID-19 Testing offered by EM to consumers.
- **EM’s PCR Testing** means any PCR Testing offered by EM to consumers.
- **PCR Testing** means polymerase chain reaction testing in relation to coronavirus (COVID-19) and where appropriate includes references to the

testing service and/or the testing kit sent out to consumers (as the case may be). For the avoidance of doubt, unless specified in this Undertaking, it includes:

- Fully vaccinated Amber Arrivals – Day 2 Test (Home Kit)
  - Day 2 and 8 Testing Packages (Home Kit)
  - Green List Day 2 Test (Home Kit)
  - Covid-19 Fit to Fly Certificate
  - Day 8 Test
  - Day 5 Release from Isolation Test
- **Refund Entitled Consumer** means a consumer who purchased EM's PCR Testing and:
  - sought to exercise their rights to cancellation and a refund in accordance with the CCRs and was refused their right to do so by EM (or EM has otherwise failed to provide the consumer with the rights); or
  - received their PCR Test kit from EM more than **5 working days** after the day the order was placed by the consumer; or
  - received their test results from EM more than **24 hours** after returning a properly completed test to EM in the case of a Covid-19 Fit to Fly Certificate or more than **48 hours** afterwards in relation to any other type of PCR Testing.
- **Reporting Start Date** means the date this Undertaking is signed.
- **Reporting End Date** means the date falling 12 calendar months after the Reporting Start Date.
- **Reporting Period** means each 12-week period starting from the date the Undertaking is signed and the last Reporting Period will be the 4-week period ending at the end of the 12<sup>th</sup> calendar month.

- **Terms and Conditions** means all the terms and conditions (whether in writing or verbal) which govern the supply by EM of PCR Testing or any other COVID-19 Testing to consumers.
- **UK** means the United Kingdom of Great Britain and Northern Ireland.
- **Working Day** means any day other than (a) a Saturday (b) a Sunday (c) Christmas Day (d) Good Friday (e) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in the relevant part of the UK or (f) a day which is a national holiday in the Republic of Ireland.
- **Webchat Function** means a system that allows users to communicate in real-time using easily accessible web interfaces.

# Terms of service

## Terms and Conditions of Business

### 1. Agreement

When you book a Covid testing kit it means that you have accepted our full terms and conditions of booking.

These Terms and Conditions of Business governs the relationship which will exist between us. By continuing to use the services of Expert Medicals we shall be entitled to assume you have agreed to the terms and conditions set out here. Unless otherwise agreed, these Terms and Conditions of Business shall apply to any future instructions given by you to Expert Medicals. Nobody is authorised to alter these terms other than in writing.

### 2. Our COVID-19 Testing Services

2.1. Purpose: To determine the presence of COVID-19 virus including various strains/variants in a correctly, properly returned and intact swab sample, using the sample collection kit provided. The test will be performed using an evaluated COVID-19 testing procedure accepted by Public Health England.

2.2 "You" are the customer and have either accessed our website, entered one of our clinics or called our telephone number and you intend to place or have placed an order for our Service.

2.3 Throughout our Service, website and during any telephone call or written correspondence between you and us these terms and conditions along with our Privacy policy will apply. If there is any conflict between these Terms and any terms or conditions found elsewhere on our website, or in any written or verbal communication between you and us, these Terms will prevail.

2.4 By purchasing our Service you are giving Expert Medicals and its partner laboratories your informed consent to perform the tests you have ordered. Service may be facilitated by third party subcontractors, servants or agents, professionally trained who will abide by strict protocols, health and safety and privacy requirements.

2.5 Services are offered subject to availability at the time of booking. Expert Medicals reserves the right to cancel, reschedule appointments or deliveries.

2.6 Please note that the service that Expert Medicals provides does not include collection from your address. If you are purchasing a Home Test Kit, it is your obligation to arrange for the Home Test Kit to be returned to the designated laboratory address to fit your time scale. Such time scale or time frame is your prerogative, and not the obligation of Expert Medicals.

2.7 Time is not of the essence in this contract and Expert Medicals do not accept any responsibility or liability for any losses arising if the test result is not provided to you within your required timescale, which may have been stipulated by third

parties. Please note any such time frames are subject to privity of contract, between you and the third party, and to which Expert Medicals are therefore not bound.

2.8 Any couriers used by Expert Medicals are not acting as employees, servants or agents of Expert Medicals and as such, do not have any actual or ostensible authority on behalf of Expert Medicals nor will Expert Medicals accept vicarious liability for their actions. Expert Medicals will not be held responsible for their service with regard to the delivery of Samples to Expert Medicals or our partner laboratories on your behalf.

2.9 Failure to comply with any of your obligations in this agreement is an anticipatory breach, inter alia. It will render performance of Expert Medicals obligations under contract impossible and you are therefore committing a repudiatory breach. In such circumstances, Expert Medicals is entitled to accept your repudiation and choose to be no longer bound by the contract and relinquish all and any liability that Expert Medicals may have had to you for the service.

2.10 Expert Medicals offer the following Covid-19 Testing services:

- Mandatory Day 2 and Day 8 International Arrival Covid-19 (PCR) Tests. Booked online on our website;
- Fit to Fly Certificate Covid-19 PCR Test in store only and
- Release from isolation on Day 5 Covid-19 PCR Test in store only.

### **3. Your Obligations**

3.1 The sample must be taken by you in line with our operating procedures as detailed in the instructions provided to you and available on our website, and included in your contractual obligations below. This includes both throat and nasal swab. If, for any reason, you are not able to provide a sample as per the procedure we cannot guarantee that the sample provided will be suitable for analysis and a valid result forthcoming and Expert Medicals accepts no responsibility for losses arising in such circumstances.

3.2 It is crucial that you register your tests in accordance with the registration process as detailed in our instructions and available on our website, as without it, Expert Medicals and our partner laboratories will not be able to provide you with results. You will not be able to receive your results if you have not registered your tests online. By submitting a sample to Expert Medicals or our partner laboratories you are consenting to the testing of that sample.

3.2 In order to meet these requirements you must follow the instruction supplied with your testing kits.

### **4. Deliveries & Returns**

Our Day 2 and Day 8 Testing Package is sent via our Delivery Partners.

Sample collection kit orders are despatched Monday – Saturday.

Once your order has been accepted by Expert Medicals an order confirmation email will be sent out to the email address used at time of order placement.

It is not possible to change the delivery address, amend or cancel orders once accepted by Expert Medicals.



Please note we aim, but do not guarantee, to dispatch your order in **5 working days after the day** you place your order. The reason for this is due to the exceptional demand, processing times and delivery schedules.

The arrival date recorded as part of the ordering process has no impact on delivery schedule except for Day 5 (Test to release) orders.

We remind you the government guidance is *"You must book your tests before you travel and leave enough time for them to be delivered to your address in England."* <https://www.gov.uk/find-travel-test-provider>

Please note orders are not dispatched on Saturday or Sunday; Bank Holidays or other Statutory Holidays. Working days are Monday to Friday.

When the products you ordered dispatch, an email and/or text message will be sent out by the courier to confirm delivery schedule. If there are any changes regarding delivery, it is the customers responsibility to communicate with the courier once courier has taken receipt of the order.

Once the order is with the courier all delivery queries must be directed to the courier, using the contact information provided in the email/ text communication at dispatch.

## **5. Expert Medicals Obligations**

5.1 Expert Medicals will make every reasonable endeavour to analyse your sample and to provide you with a results report. However, on rare occasions, anomalies can occur during laboratory analysis, for example, issues with sample collection or processing errors. Expert Medicals will endeavour to identify and correct any such issue. Additional samples may be required, if remaining sample is insufficient for repeat analysis. And as a consequence, results/reports may be delayed. Expert Medicals will not be held accountable or liable for delays with testing that is outside of their control.

5.2 Following receipt of your sample, we will make every reasonable endeavour to provide your test results within a reasonable timeframe following our laboratory receiving your sample. Delivery dates for test results are approximate only and Expert Medicals will not be held liable for any delay in delivery, particularly in light of global shortages in raw materials and the unprecedented level of demand for our services in the current challenging circumstance, as well as subject to further terms in this agreement. You acknowledge that you will receive your results to the email address provided by you when booking your test. It is your responsibility to ensure that Expert Medicals has the correct information pertaining to your email address.

## **6. Provision of our COVID-19 Testing Kits**

Expert Medicals will not be liable for any loss or damage (including refunds) suffered by you due to:

6.1 Failure by you to enter your correct email when booking the test on our website resulting in you not receiving the travel test package booking reference number to complete the passenger locator form;

6.2 Incorrect use of any test kits by you;

6.3 Failure to follow instructions provided and available on our website;

6.4 Failure to activate the kit on the laboratory portal as per instructions provided;

- 6.5 Failure to enter a correct email;
- 6.6 Failure to follow instructions to post the test kit to the laboratory;
- 6.7 Posting the kit without activating the kit as directed in the instructions;
- 6.8 Posting the kit without taking the test;
- 6.9 Failures or delays by third parties used in connection with the provision of our Covid-19 testing service such as the postal system, couriers and our partner laboratories;
- 6.10 Reliance on any guidance on travel regulations by us. It is your responsibility to comply with the current travel regulations in force.
- 6.11 If you do not receive your confirmation, please check your spam or junk email before contacting us.
- 6.12 The sample must be taken by you in line with our operating procedures as detailed in the instructions provided to you and included in your contractual obligations below. This includes both throat and nasal swab. If, for any reason, you are not able to provide a sample as per the procedure we cannot guarantee that the sample provided will be suitable for analysis and a valid result forthcoming and Expert Medicals accepts no responsibility for losses arising in such circumstances.
- 6.13 In order to meet these requirements you must follow the instruction supplied with your testing kits:

#### **6.13.1 Intended Use**

6.13.1.1 The COVID-19 Screening Sample Collection Kit is intended for use in the collection and transport of nasopharyngeal swabs to be analysed by Expert Medicals for the detection of the 2019-Novel Coronavirus (SARS-CoV-2).

6.13.1.2 Before you start, read all the instructions in the enclosed leaflet, and make sure you fully understand how the test should be done. Do not unpack the test kit until you are ready to take the test.

6.13.1.3 Only take this test if it is addressed to you. This test can be conducted on multiple age levels, please follow this guide for who should administer the test: 18+ Years Old – Self-administer test (unless unable to do so), 12 – 17 Years Old – Self-administer test with adult supervision, 11 Years and Under – Adult to administer test on the child. If for any reason you cannot complete the test continue to self-isolate as a household as per the government guidance.

6.13.1.4 Prior to taking your swab sample, please locate your nearest Royal Mail priority postbox, or ensure you have arranged the return of your kit via your courier of choice. After taking your sample please endeavour to return your sample as soon as possible.

#### **6.13.2 Sample Collection**

6.13.2.1: Please ensure you follow all the instructions in the enclosed leaflet.

#### **6.13.3 Sample Registration Guidelines**

6.13.3.1 It is crucial that you register your URN (barcode number) at <https://expert-testing.co.uk/activate>. This registration process is essential, as without it, Expert

Medicals will not be able to provide you with results. You will not receive your results if you have not registered your URN online. By submitting a sample to our laboratory, you are consenting to the testing of that sample.

Your URN is found within your COVID-19 Sample Collection Kit on pre-printed labels.

You must use your URN to register your kit.

Please note that it is the customers responsibility to ensure that they have removed any blocks on their email system that may prevent the registration notification and subsequent reports of results coming through. Also we advise customers to ensure that they check SPAM / JUNK folders for email correspondence.

Expert Medicals hold no liability where the customers own email provider has blocked communication from Expert Medicals.

Please note that Expert Medicals Results / Reports are supplied in PDF format.

#### **6.13.4 Packing Guidelines**

6.13.4.1 Please ensure you follow all the instructions in the enclosed leaflet.

#### **6.13.5 Return Guidelines**

6.13.5.1 Please arrange delivery via courier of your completed kit to the address printed on the UN3373 Return Envelope.

6.13.5.2 Please ensure your chosen courier is able to handle biological samples according to UN3373 requirements. We recommend you select a tracked service.

6.13.5.3 Expert Medicals may provide return label as a Goodwill gesture. Ultimately it is the obligation of the customer to ensure the test gets to Expert Medicals in good time.

6.13.5.4 It is your obligation to ensure that the sample is returned to Expert Medicals in good order, with sufficient time for Expert Medicals to be able to test the sample and provide you with result. Expert Medicals will aim to provide results in 24Hrs once sample is received at our Laboratory in West Yorkshire. This time frame is subject to change, and is approximate only, noting the above provision that time is not of the essence.

6.14 This agreement dictates the terms regarding the agreement. Expert Medicals are not bound to adhere to any time frames that you require or may be set by a third party.

6.15 Should Covid 19 restrictions be in place in your area when you are seeking to return a sample to Expert Medicals, if you are not legally able to travel, you must ensure that the sample is delivered by an alternative means. This is not the responsibility of Expert Medicals and no liability will attach in this regard.

6.16 Expert Medicals is not a travel agent and does not provide travel advice. It is your obligation to establish the requirements for travel for your journey. Different countries have different requirements. Expert Medicals are not liable for any losses arising because you have not met your travel requirements, or if those requirements change after the date of order.

6.17 By agreeing to these Terms & Conditions, you are providing Expert Medicals with consent to test a sample that you have provided for the detection of SARS-CoV-2. This may be completed using a multitude of scientific methodologies, for further improvements of COVID specific testing systems and for the detection of mutations and Variants of concerns (VOCs).

6.18 Expert Medicals aims and expects to securely and safely destroy all samples once all testing has been completed. It is not possible to return your sample to you.

## **6.19 Results**

6.19.1 Following receipt of your sample, we will make every reasonable endeavour to provide your test results within a reasonable timeframe following our laboratory receiving your sample. For samples returned via an alternative courier, we aim to provide results within 24-48 hours of receipt of sample into the lab. Delivery dates for test results are approximate and Expert Medicals will not be held liable for any delay in delivery, particularly in light of global shortages in raw materials and the unprecedented level of demand for our services in the current challenging circumstance, as well as subject to further terms in this agreement.

6.19.2 It is important to note that we are dealing with sensitive biological samples, which in rare circumstances may require secondary testing. Expert Medicals will not release a result until a thorough review has been carried out and we are satisfied with the deliverable result. This is in line with good laboratory practice.

6.19.3 You will receive your results via email, as well as a certificate of your results to use whilst travelling. In order for your certificate to be correct, please ensure the information used during the registration process matches the details on your passport. Please note Expert Medicals are unable to amend any details once they have been registered due to strict government guidelines.

6.20 Please review the booking carefully and ensure all the details are accurate and correct. Please carefully check the correct UK postal address details have been entered to ensure your test kits can be delivered to you. **Use capital letters when entering your UK postcode.**

**6.21 You are reminded when you book a Covid testing package it means that you have accepted the full terms and conditions of booking.**

## **7. Refunds Policy & Returns Policy**

We operate a strict no refund and returns policy with no exceptions. Any despatched kits for self-test that are unused will NOT be refunded under any circumstances due to health and safety reasons. Therefore, once booked, the Covid testing kits are non-changeable and non-refundable.

7.1 Due to the proficiency of our services, our logistical response to orders is instantaneous and thus when the order is placed, things are set in motion which cannot be undone, and the order shall be delivered accordingly.

7.2 We are unable to provide refunds because the test kits are not suitable for return due to health protection or hygiene reasons, as per Article 28(3)(a) of the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 ("2013 Regs").

7.3 It is a government requirement to meet UKAS accreditation which requires us to maintain a full chain of custody of samples so that they are traceable. Each test kit is personalised with a unique reference number for the purposes of the testing process and further personalised with a unique booking reference number (EXMED number) due to government requirements for passenger locator forms. The kit is therefore exempt from refunds as per Article 28(3)(b).

7.4 Depending on the shelf life of the subject kit, the test kits are liable to deteriorate or expire rapidly and therefore they are exempt from returns under Article 28(1)(c) of the 2013 Regs.

7.5 If the test booking reference number (EXMED number) has been generated by us and sent to you we cannot provide a refund.

7.6 The Covid-19 testing kits cannot be returned to us once received by you. This is due to risk of transmission of the virus and for reasons stated at 6.2 above.

7.7 We cannot provide a refund for leakage from the sample collection bottle or missing swab. In these circumstances a replacement item will be dispatched on request.

7.8 We will not provide a refund if you have not received your test kit by day 2 of your isolation. The day 2 and day 8 tests can be undertaken on or after day 2 and 8.

7.9 We cannot provide a refund for delays in receipt of the testing kits or results from the laboratory as a result of factors outside of our control such as delays in the postal system or delays in processing the kits by the laboratory.

7.10 We cannot provide a refund as a result of one or more of the failures at paragraph 3 above.

7.11 We cannot provide a refund following government advice, on a zero-tolerance approach to fraud, criminal activity and breaches of Covid restrictions and in the interests of Public Health Protection.

7.12 Test kits are a prescribed Medical Diagnostic Product, not a service, for use by the customer to facilitate their passenger transport requirements and therefore exempt from a right to cancel.

7.13 You cannot terminate the contract, in accordance with paragraph 8, between us if 6.5 above has occurred.

## **8. Statutory Rights**

Nothing in these terms or conditions excludes the liability of Expert Medicals as follows:

1. for death or personal injury caused by our negligence;
2. under section 2 of the Consumer Protection Act 1987;
3. for fraud or fraudulent misrepresentation;
4. by the conditions implied under section 12 of the Sale of Goods Act 1979;
5. by the conditions implied under section 2 of the Supply of Goods and Services Act 1982.

Expert Medicals shall not be liable to you for any loss of profit, loss of business, loss of opportunity, loss of goodwill, or any claims for indirect compensation whatsoever,

which may arise out of, or in connection with, the use of the goods or services provided. Expert Medicals total liability in contract, tort, misrepresentation or otherwise; arising in connection with the performance of these conditions, shall be limited to losses which are a foreseeable consequence of the failure to comply with these terms and conditions only.

## **9. Restrictions**

9.1 Expert Medicals does not condone or encourage any breach of Covid-19 restrictions. You must consider the current legislated position in your area at the time of booking. It is your responsibility to ensure that your Obligations under contract as listed above are not in breach of local laws or restrictions. Expert Medicals will not be held liable should any restrictions apply to you and you are unable to meet your obligations, this applies in circumstances where these restrictions change after the date of booking the Service, rendering you unable to perform your obligations.

9.2 If due to Covid-19 restrictions, you are not able to travel to return your sample then it is your obligation to arrange an alternative means for the sample to be returned to Expert Medicals or their partner laboratories to meet your timeframe.

## **10. How we will use your personal information**

10.1 We will use the personal information you provide to us:

- to provide Covid-19 testing services to you as detailed at paragraph 2.10 above ; and
- to process your payment for the services.

10.2 We may also, with your agreement, use certain of the personal information you provide to us to market to you. By using our services, you agree that we may use your data relating to you on an anonymous aggregated basis.

10.3 Where you provide us with special types of personal information, we will only process such information in so far as it is necessary in order to provide you with health care or treatment or to comply with the law. We will not process this information for any other purpose without your express consent.

10.4 We will only give your personal information to third parties if it is necessary to complete the service you have requested from us, with your consent or where the law either requires or allows us to do so.

10.5 We will only retain your personal information for as long as is necessary to provide the services to you.

## **11. Termination of Contract**

11.1 Under the Consumer Contracts Regulations 2013, you have the right to cancel this contract within 14 days without giving any reason. This only applies where contracts are agreed away from our premises or where we are not both physically present. To exercise the right to cancel, you must inform us of your decision to cancel this contract by a clear statement (e.g. a letter sent by post, fax or e-mail). To meet the cancellation deadline, it is sufficient for you to send your communication concerning your exercise of the right to cancel before the cancellation period has expired.



Please note the termination of contract provisions are not applicable if the service has already been provided in accordance with paragraph 3 and 4 above.

You can make contact with us in one of the following ways to cancel the contract:

- Call us on 01274 397 650;
- Email us: [mail@expert-medicals.co.uk](mailto:mail@expert-medicals.co.uk); or
- By post to: 12 New John Street, Bradford, BD1 2QY

11.2 Notice of termination will be effective from the date and time of receipt.

11.3 Please note termination of the contract between us is subject to paragraphs 4 and 7 above, specifically 7.12.

## **12. Rights of Third Parties**

12.1 A person who is not a party to this agreement shall not be entitled to enforce any of its terms.

## **13. Applicable Law**

13.1 Any dispute or legal issue arising from our terms of business will be determined by English law to the exclusive jurisdiction of the English courts.

## **14. Equality and Diversity**

14.1 We are committed to promoting equality and diversity in all of our dealings with clients, third parties and employees. Please contact us for a copy of our equality and diversity policy.

## **15. Data Protection**

15.1 We use the information you provide primarily for the provision of Covid-19 testing to you and legal and regulatory compliance.

15.2 Our use of that information is subject to your instructions, the Data Protection Act 1998, General Data Protection Regulation and our duty of confidentiality. You have a right of access under data protection legislation to the personal data that we hold about you.

Expert Medicals shall not be held liable for any failure to perform its obligations under this contract, if it is prevented or delayed in performing those obligations by an event of force majeure, without prejudice to the generality of the foregoing, such events may include the following:

## **16. Force Majeure**

Expert Medicals shall not be held liable for any failure to perform its obligations under this contract, if it is prevented or delayed in performing those obligations by an event of force majeure, without prejudice to the generality of the foregoing, such events may include the following:

16.1 Adverse events (such as, but not limited to, fires, explosions, earthquakes, drought, tidal waves and floods);

16.2 War, hostilities (whether war be declared or not), invasion, act of foreign enemies, mobilisation, requisition, or embargo;

16.3 Rebellion, revolution, insurrection, or military or usurped power, or civil war;

16.4 Contamination by radio-activity from any nuclear fuel, or from any nuclear waste from the combustion of nuclear fuel, radio-active toxic explosive, or other hazardous properties of any explosive nuclear assembly or nuclear component of such assembly;

16.5 Riot, commotion, strikes, go slows, lock outs or disorder, unless solely restricted to employees of the Supplier or of his Subcontractors; or

16.6 Acts or threats of terrorism.

16.7 Supply or delivery restrictions arising as a result of governmental Pandemic response.

16.8 Any supply/delivery limitations arising out of an Act of Government, or with respect to any border travel, customs delay or trade restrictions arising as a result of Brexit.

16.9 Any changes in Government policy that has impacted on your travel plans.

## **17. Severability**

The unenforceability or invalidity of any clause in this Agreement whether in whole or in part, shall not have an impact on the enforceability or validity of any other clause. Any unenforceable or invalid clause shall be regarded as removed from this Agreement to the extent of its unenforceability and invalidity at the finding of a competent Court.