

Terms and Conditions:
Agreement with healthcare professional member
("**Agreement**")

1. Agreement

- 1.1. This document constitutes the Agreement between Refuah Medical Services (Pty) Ltd ("**RMS**") and the healthcare practitioner who signs this document ("the **HCP**").
- 1.2. The HCP has signed up as a member of the Infinity Medical Concierge Programme which has been established and is administered by RMS ("**Infinity Medical Concierge**").
- 1.3. RMS provides services and has established a platform that facilitates healthcare interactions between patient-members and the HCP, which platform consists of a call centre and an online patient-member portal and health information storage system ("the **Platform**").

2. HCP

- 2.1. The HCP has been screened and hereby agrees to be on RMS's list of health care practitioners on the Platform. The HCP confirms that he/she is a duly registered HCP in the Republic of South Africa ("**South Africa**"), and by registering on Infinity Medical Concierge, the HCP warrants that such registration will be maintained as valid, without any endorsements on the HCP's professional registration that affects or would affect the HCP's ability to work within Infinity Medical Concierge. The HCP also agrees to only provide services within the scope of his/her profession, in line with the HCP's registration at the relevant statutory body.
- 2.2. The HCP undertakes to maintain adequate and appropriate professional indemnity cover, submit proof thereof to RMS as soon as possible, but in any event by no later

than 30 calendar days after the date of signature of this Agreement and after the beginning of each calendar year thereafter, and to comply with any notification criteria set out in such indemnity cover for the services being rendered on the Platform. The HCP warrants that its professional indemnity insurer has been informed of the nature of the work undertaken as a result of the HCP's membership of Infinity Medical Concierge.

- 2.3. This Agreement is linked to the HCP as a natural person, and does not extend to any practice, and cannot be ceded, transferred or assigned to any other party.
- 2.4. This Agreement will endure indefinitely, subject to the right of RMS to terminate this Agreement upon notice in writing to the HCP in the following circumstances:
 - 2.4.1. the HCP is incapacitated for a period in excess of 180 days in any 365-day cycle (or is in the reasonable opinion of RMS subject to any incapacity that is likely to endure for such period);
 - 2.4.2. the HCP's estate is sequestrated, whether provisionally or finally, or the HCP surrenders his/her estate or he or she has an administration order made against him/her;
 - 2.4.3. the HCP emigrates (and is no longer permanently resident in South Africa) or retires from medical practice;
 - 2.4.4. the HCP fails to hold the applicable licence and/or authorisation to practice as a medical practitioner in terms of the Health Professions Act, No. 56 of 1974, and/or in terms of any authorisation issued by the Health Professional Council of South Africa ("**HPCSA**");
 - 2.4.5. the HCP has ceased to actively participate as a member of Infinity Medical Concierge;

- 2.4.6. the HCP commits any breach of this Agreement and fails to remedy such breach within 14 days of notice given by RMS requiring him/her to do so;
- 2.4.7. the HCP has placed himself/herself, or permitted himself/herself to be placed, directly or indirectly, in a position where the interests of the HCP, and those of RMS and/or Infinity Medical Concierge, are in conflict (or potentially in conflict) and the HCP fails to remedy such position and/or conflict to the satisfaction of RMS within a period of 14 days after receiving written notice from RMS to do so;
- 2.4.8. the HCP has performed any action or conduct which brings, or is likely to bring, RMS and/or Infinity Medical Concierge into disrepute;
- 2.4.9. the HCP ceases to practise from the location at which such HCP practised at the time of becoming a member of Infinity Medical Concierge;
- 2.4.10. the HCP ceases to practise from the practice at which such HCP practiced at the time of becoming a member of Infinity Medical Concierge;
- 2.4.11. the area of jurisdiction in which the HCP practises prove not to be a viable area as determined by the Board of Directors of RMS or insufficient patient members of Infinity Medical Concierge reside in the area where this HCP practices from; or
- 2.4.12. the Board of Directors of RMS resolves to terminate the membership of the HCP.

3. Role and duties of RMS

- 3.1. RMS does not deliver any healthcare services. It administrates the Platform to connect patient-members with signed-up HCPs.
- 3.2. RMS is not a funder of healthcare services and does not operate as a medical scheme, insurance or other financial services provider.

- 3.3. The Platform includes services that, *inter alia*,:
- 3.3.1. provide the framework for the development of a “health plan” for patient-members;
 - 3.3.2. facilitate appointments on behalf of patient-members with their chosen HCPs;
 - 3.3.3. allow patient-members to store and access their own digital health records as saved on the Platform and allow the patient-members or linked persons with the option to grant access of such records to designated HCPs; and
 - 3.3.4. facilitate the dispatch of emergency medical services through third-party providers.
- 3.4. RMS does not determine the services to be rendered to a patient-member or the billing of such services, which remains within the purview of the relationship between the HCP and patient-member, or, where applicable, the emergency medical services and the patient-member.
- 3.5. Although RMS will use its best efforts to provide a service that facilitates appointments and the promotion of the Platform, no guarantees can be made in relation to patient-member numbers, turn-around times or financial gains.

4. Role and duties of HCP

- 4.1. The HCP remains responsible for the therapeutic and financial relationship with the patient-member who has sought healthcare, using the Platform, from the specific HCP. The HCP shall use his/her own practice number, professional registration number, and stationery when rendering services and billing for such services.

- 4.2. The HCP must ensure that all record-keeping is done in accordance with the criteria set by law and professional ethics rules.
- 4.3. The HCP shall at all times adhere to the rules, policies and guidelines of the HPCSA or the applicable statutory council where s/he is registered.
- 4.4. The HCP shall not share his/her platform credentials, log-ins and/or passwords with any other person whatsoever.
- 4.5. The HCP will stress to the patient-members that the costs of care, including the costs of healthcare transport and ambulance services, pathology, radiology and his/her own fees, are not included in the membership fees of the Platform.
- 4.6. The HCP will ensure that the patient-member is aware of the implications of the facilitation of the registration of the patient-member on the Platform, the system of appointments and the use of his/her services as facilitated by the Platform. Patient-member's are however not obligated to use the Platform as a means of seeking healthcare, or continuing to seek healthcare.
- 4.7. HCPs are free to act in the best interest of the patient-members, and are not obligated to refer preferentially to RMS's associated HCPs or services.
- 4.8. HCP's will exercise due care, skill and diligence in complying with the following obligations:
 - 4.8.1. introducing HCPs to the Infinity Medical Concierge referral network as necessary;
 - 4.8.2. communicating with patient-members and their families regarding medical issues;
 - 4.8.3. ensuring availability as per a pre-agreed call roster;

- 4.8.4. ensuring that all emergency calls that are routed to the HCP are dealt with timeously;
- 4.8.5. ensuring that all calls of a non-urgent nature are dealt with within a reasonable period of time;
- 4.8.6. referring any patient-members to the appropriate specialists as necessary;
- 4.8.7. making medical reports available to Infinity Medical Concierge within a reasonable period of time; and
- 4.8.8. practicing evidenced based medicine.

5. Privacy Policy and consent to processing of personal information

- 5.1. For the purpose of this Agreement the following words shall bear the following meanings:
 - 5.1.1. "**Data Protection Legislation**" means any and all laws relating to the protection of data or of Personal Information relevant to a party, any applicable law relating to the Processing, privacy, and use of Personal Information including POPIA, and any corresponding or equivalent national laws or regulations; or approved codes of conduct or approved certification mechanisms issued by any relevant regulatory authority and the protection of Personal Information principles agreed to in this Agreement;
 - 5.1.2. "**Data Subject**" means the person (whether natural or juristic) to whom Personal Information relates;
 - 5.1.3. "**Data Security Breach**" means the unlawful and unauthorized access or acquisition of Personal Information by any unauthorized person, or where there are reasonable grounds to believe that Personal Information has been accessed or acquired by any unauthorised person;

- 5.1.4. "**Operator**" means a person who processes personal information for a responsible party in terms of a contract or mandate, without coming under the direct authority of that party;
- 5.1.5. "**Permitted Recipients**" mean, in relation to a party, its directors, officers, employees, or professional advisors and any other person to whom the party discloses Personal Information with the prior written consent of the other party;
- 5.1.6. "**Personal Information**" means any information which can be used or reasonably used to identify or which relates to a Data Subject, or as otherwise defined under applicable Data Protection Legislation;
- 5.1.7. "**POPIA**" means the Protection of Personal Information Act, No. 4 of 2013 and all regulations thereto, as amended from time to time;
- 5.1.8. "**Process**" shall have the meaning ascribed thereto in applicable Data Protection Legislation;
- 5.1.9. "**Responsible Party**" means a public or private body or any other person which, alone or in conjunction with others, determines the purpose of and means for Processing Personal Information;
- 5.2. RMS will Process and store the Personal Information of the HCP and his/her RMS patient-member's Personal Information (being the Data Subjects) for the purposes of facilitating the HCP and patient-member's interaction. The parties acknowledge that for the purposes of Data Protection Legislation, RMS is the Responsible Party of the HCP's Personal Information and Operator in respect of the patient-members' Personal Information. RMS's privacy policy is available on its website being: <https://www.infinity-mc.com/privacy-policy>.

- 5.3. RMS will Process and store the Personal Information (inclusive of health records) of the patient-member which Personal Information the patient-member elects to upload or make available to RMS and/or the HCP via the Platform, including all notes made by the HCP relating to that patient-member. All calls, consultations and other interactions between the HCP and the patient-member, where the Platform is used, may be recorded and such recordings stored in the patient file on the Platform. All Personal Information pertaining to the patient-member and which RMS shall Process pursuant to this Agreement is the "**Patient Data**".
- 5.4. All HCPs who are treating the patient-member, will have access to all the patient-member's Personal Information and health records, if the patient-member so consents, including the notes of other health care practitioners who have consulted with the patient-member. The purpose of this is to ensure that each authorized HCP is able to have a complete picture of the patient-member's health and healthcare and that, in case of an emergency, all records are easily accessible.
- 5.5. RMS, as the Operator of the Patient Data, shall:
- 5.5.1. treat all Patient Data that comes to its knowledge or into its possession as confidential and not disclose such Patient Data to any third party, excluding Permitted Recipients, without the prior written consent of the HCP or as authorised in terms of applicable law or this Agreement;
 - 5.5.2. process the Patient Data only:
 - 5.5.2.1. in compliance with Data Protection Legislation, HCP's Processing Instructions, and this Agreement;
 - 5.5.2.2. for the purposes connected with performing in terms of this Agreement or as specifically otherwise instructed or authorised by HCP in writing; and

- 5.5.2.3. in accordance with HCP's technical and organizational security measures or as agreed between the Parties.
- 5.6. RMS warrants that it shall secure the integrity of the Patient Data in its possession or under its control by taking appropriate, reasonable technical and organisational measures to prevent loss of, or damage to, or unauthorised destruction of the Patient Data; and/or unlawful access to or unlawful Processing of the Patient Data.
- 5.7. RMS shall notify the HCP in writing as soon as reasonably possible and no later than five calendar days from the date of obtaining actual knowledge of any Data Security Breach or where there are reasonable grounds to believe that the Patient Data has been accessed or acquired by any unauthorised person.
- 5.8. All HCPs and patient-member's Personal Information is stored on a server based in the UK and Ireland, and constitute transborder information transfer as governed by section 72 of the Protection of Personal Information Act, 2013. To that effect RMS has entered into a written, binding agreement with its server provided, SDFC Ireland Limited, to ensure that (i) the Personal Information of all South African Data Subjects which are Processed and specifically stored on the server, is done so in line with the principles entrenched in the POPIA and specifically (ii) which written agreement provides an adequate level of protection that effectively upholds the protection of Personal Information principles contained in Data Protection Legislation.
- 5.9. The HCP warrants that all the Personal Information which it discloses to RMS is true, accurate and up-to-date and undertakes to timeously report to RMS any changes to its Personal Information. The HCP warrants that where it discloses the Personal Information of another person to RMS (inclusive of any patients and patient-members) that it has obtained that person's consent to do so or is otherwise authorised to make such disclosure to RMS in accordance with Data Protection Legislation.

- 5.10. RMS will keep the information on the Platform for as long as the patient-member remains a member and will archive information for seven years thereafter, and for children until they reach the age of 21 years.
- 5.11. When a patient-member terminates their membership with RMS, the HCP must download and preserve the information he/she has uploaded in his/her usual record-keeping system, pursuant to the HCP's legal and ethical obligations in relation to patient records. No guarantees can be made in relation to information not so downloaded from the system.
- 5.12. HCPs who have been treating patient-members will be informed in writing if a patient-member has terminated his/her RMS membership.

6. Consents to- or notification of- disclosures

- 6.1. The HCP agrees to his/her contact details (full name, email address and telephone number) and HPCSA-registered qualifications being added to the RMS Platform as potential service providers to patient-members.
- 6.2. No Personal Information, HCP information, patient information or any other Personal Information kept and/or used by RMS will be disclosed to any third party (except Permitted Recipients), without the written consent of the person whose information it is.
- 6.3. Where applicable, RMS will obtain the consents from its patient members and linked persons to store and Process their Personal Information on the Platform. This consent does not absolve the HCP from their duties to obtain all consents necessary in law and ethics, and the HCP remains a Responsible Party under POPIA.
- 6.4. Where a law or court compels disclosure, RMS will give effect to such disclosure, but will inform the relevant HCP and/or patient-member of such disclosure.

- 6.5. RMS may keep de-identified statistics including numbers of patient-members, numbers of HCPs and broad geographic locations so as to improve its service offering

7. Intellectual property

- 7.1. The source codes, programming and related aspects, information, content, products or services including (without limitation) any text, software, icons, images, sound clips, trade names, logos, designs, trademarks and service marks which are displayed on, available on, incorporated into or associated with the Platform, belong to RMS and/or its contractors and all use- and/or tampering therewith is prohibited, without the written consent of RMS.
- 7.2. No person shall acquire any right, title or interest, including any intellectual property rights, in or to the Platform or services provided by the Platform other than rights of use as expressly granted in this Agreement.

8. Indemnity and liability

- 8.1. Use of the Platform and its services is entirely at the risk of the HCP.
- 8.2. Subject to the provisions of Consumer Protection Act, the POPIA and the Electronic Communications and Transactions Act and to the fullest extent allowed by law, RMS shall not have any liability whatsoever in relation to the Platform and the services provided by the Platform. The HCP indemnifies RMS against any loss arising from the use of or reliance on the Platform and the services provided by the Platform or arising out of any of the events contemplated in paragraph 8.3 below, or any actions or transactions resulting therefrom, even if RMS has been advised of the possibility of such loss.
- 8.3. Although we take all reasonable steps to secure the Platform and the technology that enables the services provided on the Platform, RMS will not be liable for any

unavailability, interruption, downtime, malfunction, or failure of the Platform and/or the Services for any reason whatsoever. Please report any technical- or other difficulties at concierge@infinity-mc.com.

- 8.4. The HCP will use its best endeavours to ensure that all information, when uploaded, printed or amended, is done so securely and accurately, in line with relevant laws and ethical rules, policies and guidance. The HCP shall make his/her back-ups and/or copies of information.
- 8.5. To the fullest extent allowed by law and subject to the provisions of the Consumer Protection Act and the POPIA, if any of the limitations or exclusions of liability in this Agreement are held by any competent court, arbitrator or authority to be invalid or unenforceable, in no event will the total cumulative liability exceed R100.
- 8.6. The HCP acknowledges that the Platform and services provided on the Platform are not intended to, and do not, constitute professional healthcare services or advice and do not replace such advice or services, including (without limitation) in respect of any diagnosis, treatment or care to a specific health question or condition. In particular:
 - 8.6.1.1. the HCP remains solely responsible for the professional relationship with any patient-member and acknowledges that RMS only creates an environment within which such services can be rendered;
 - 8.6.1.2. patient-members must address all healthcare queries, concerns or questions to their chosen HCP or another healthcare professional;
 - 8.6.1.3. decisions in relation to healthcare must be made by patient-members based on the advice and information provided by their HCP, irrespective of the healthcare services being facilitated by RMS. All healthcare decisions, and the interpretation of information, must be done in conjunction with chosen HCP or healthcare professionals.

- 8.7. The Platform and services provided on the Platform do not constitute a healthcare professional-patient relationship nor do they replace the relationship between a health care professional and their patients.
- 8.8. Patient-members take full responsibility for their decisions to provide access to HCPs, and/or to withdraw such access, and RMS will not interfere in such decisions. In instances of such access being withdrawn, or in the event of a cancellation of membership, the matter remains one relating to the professional relationship between patient and healthcare professional. RMS will not be responsible for the access granted or refused to any HCP by a patient-member.

9. Miscellaneous

- 9.1. Subject to the variations or amendments provided for in terms of clause 9.2 below, no other variation or amendment, in any form whatsoever, of this Agreement will be enforceable or binding on RMS unless RMS has agreed to such variation or amendment in writing.
- 9.2. RMS is entitled and reserves the right to vary or amend this Agreement from time to time and in its sole discretion. Any amendments to this Agreement will be communicated to the HCP and if not agreed to by the HCP within 14 (fourteen) days of communication, will lead to a termination of the relevant HCP membership. Upon notification, HCP members will be required to re-click/check: I have read, and I agree to all the Terms & Conditions as contained in the Agreement with RMS".
- 9.3. In the event that any part of this Agreement is found to be invalid, unlawful or unenforceable, such terms will be severable from the remaining terms, which will continue to be valid and enforceable.
- 9.4. No relaxation, indulgence or waiver which RMS may grant to the HCP will be deemed to be a waiver of any of its rights in these Terms or in law.

- 9.5. The termination of any agreement created by this Agreement will be without prejudice to any other rights or remedies that either party may be entitled to under this Agreement or at law, and will not affect any of the parties accrued rights or liabilities nor the coming into or continuance in force of any provision of these Terms which is expressly or by implication intended to come into or continue in force on or after such termination.

10. Disputes

- 10.1. In the event of there being any dispute or difference between the parties arising out of this Agreement, the said dispute or difference shall on written demand by either party be submitted to arbitration in Johannesburg in accordance with the rules of the Arbitration Foundation of Southern Africa (“AFSA”), which arbitration shall be administered by AFSA.
- 10.2. Should AFSA, as an institution, not be operating at that time or not be accepting requests for arbitration for any reason, or should AFSA refuse to accept the particular request for arbitration for whatever reason, then the arbitration shall be conducted in accordance with the AFSA rules for commercial arbitration (as last applied by AFSA) before an arbitrator appointed by agreement between the parties or failing agreement within 14 days of the demand for arbitration, then either party shall be entitled to forthwith call upon the chairperson of the Johannesburg Bar Council to nominate the arbitrator, provided that the person so nominated shall be an advocate of not less than 10 years standing as such. The person so nominated shall be the duly appointed arbitrator in respect of the dispute. In the event of the attorneys of the parties failing to agree on any matter relating to the administration of the arbitration, such matter shall be referred to and decided by the arbitrator whose decision shall be final and binding on the parties.
- 10.3. Any party may appeal the decision of the arbitrator or arbitrators in terms of the AFSA rules for commercial arbitration.

- 10.4. Nothing herein contained shall be deemed to prevent or prohibit a party from applying to the appropriate court for urgent relief or for judgment in relation to a liquidated claim.
- 10.5. Any arbitration in terms of this clause 10 (including any appeal proceedings) shall be conducted *in camera* and the parties shall treat as confidential details of the dispute submitted to arbitration, the conduct of the arbitration proceedings and the outcome of the arbitration.
- 10.6. This clause 10 will continue to be binding on the parties notwithstanding any termination or cancellation of the Agreement.
- 10.7. The parties agree that the written demand by a party in terms of clause 10.1 that the dispute or difference be submitted to arbitration, is to be deemed to be a legal process for the purpose of interrupting extinctive prescription in terms of the Prescription Act, No 68 of 1969.

Signed at _____
on this ____ day of _____ 202__

Signed at _____
on this ____ day of _____ 202__

For HCP
Name:
Registered number:

For RMS
Name:
Capacity: