

### PLEASE READ CAREFULLY BEFORE USING OUR PATIENT SERVICES

These are the terms and conditions ("Terms and Conditions") of the PathCare Group, inclusive of Drs. Dietrich, Voigt, Mia & Partners, Dietrich Voigt Mia (Pty) Limited (Reg No. 1971/013873/07), Dr WJH Vermaak (Inc) (Reg No. 2001/007762/21) all with their nominated address of PathCare Park, Neels Bothma Street, N1 City, Cape Town, Western Cape, South Africa. ("our RSA Premises") ("us", "we" or "PathCare") and Drs Shaw, Roux & Partners (Namibia) ("us", "we" or "PathCare") of 155 Nelson Mandela Ave, Windhoek, Namibia, ("our Namibia Premises") where you make use of our Services in/from Namibia, for:

- the technology made available by us (via any App store or message platform (i.e. bots on whatsapp) or website portal), the data supplied with the online technology, and the media (**Tech**);
- any electronic documents that we may make available (**Documents**); and
- the online patient services (**Services**) available through the use of the Tech.

### IMPORTANT NOTICE:

- BY SUBMITTING YOUR DETAILS WHEN REGISTERING FOR OUR PORTAL, OR SUBMITTING A DATA MESSAGE TO ACTIVATE OUR WHATSAPP BOT(S) (OR PROCEED WITH THE WHATSAPP SERVICES) OR DOWNLOADING AN APPLICATION WE MAKE AVAILABLE AND CLICKING ON THE "ACCEPT", "CONSENT", "SUBMIT" OR "YES" BUTTON YOU AGREE THAT YOU HAVE READ THE TERMS AND CONDITIONS AND AGREED TO IT AND CONSENT TO THE USE OF THE SERVICES.
- IF YOU DO NOT AGREE TO THESE TERMS AND CONDITIONS, YOU ARE NOT AUTHORISED TO ACCESS AND USE THE TECH, SERVICES AND DOCUMENTATION.

### AGREED TERMS

#### 1. ACKNOWLEDGEMENTS

- 1.1 These Terms and Conditions apply to the Tech and any of the services accessible through the Tech (Services), including any updates or supplements to the Tech or any Service, unless they come with separate terms, in which case those terms apply.
- 1.2 You confirm that you are 18 years and older and that the Terms and Conditions is a binding contract between you and us and that you hereby agree to be bound by these Terms and Conditions.
- 1.3 **Representative of a third party:** If you are using our Services in your representative capacity on behalf of someone else, then you hereby represent that you have the necessary authorisation.

#### 2. CHANGES TO THESE TERMS AND CONDITIONS

- 2.1 We may change the Terms and Conditions at any time in our sole discretion, with or without notice to you. Your access and use will be subject to the most current version of the Terms and Conditions. Your use of the Tech after such revised Terms and Conditions are made available will signify your acceptance of such revised Terms and Conditions and your agreement to be bound by them. Where any changes may occur during the execution of any Service as agreed to between us, we will with best endeavours notify you of the possible change electronically as per the details you have submitted to us during registration as a user. The new terms may be displayed on-screen and you may be required to read and accept them to continue your use of the Services.
- 2.2 If you do not accept the notified changes you will not be permitted to continue to use the Tech and the Service.

#### 3. THIRD PARTY TERMS AND CONDITIONS

- 3.1 **Third Party Tech:** Certain Services are made available through third party technology ("Third Party Tech"). The use of those Third Party Tech (for example the Whatsapp platform) will be subject to the Third Party terms and conditions (incl. their privacy policies). It is your responsibility to familiarise yourself with the Third Party Tech providers' terms and conditions and to adhere to same.
- 3.2 **Third Party Sites:** The Tech or any Service may contain links to other independent third-party websites (**Third-Party Sites**). Third-Party Sites are not under our control, and we are not responsible for and do not endorse their content or their privacy policies (if any). You will need to make your own independent judgement regarding your interaction with any Third-Party Sites, including the purchase and use of any products or services accessible through them.

#### 4. SERVICE SPECIFIC TERMS AND CONDITIONS

Our Services are directed to users residing in the Republic of South Africa and Namibia. We do not represent that content available on or through our Tech or Services are appropriate or available in other locations. We may limit the availability of our Tech and Services to any person or geographic area at any time. If you choose to access our Services from outside the Republic of South Africa, you do so at your own risk.

**4.1 Test Request:**

- a. Although the PathCare Group will endeavor to obtain your signature for the tests requested by your doctor, it will not always be practical to do so. You may for example be ill, in-hospital or unable to consent. In circumstances where you are unsure which tests have been requested by your doctor, we request that you contact your doctor directly. We regard your doctor as your agent and will complete tests requested on your behalf by your doctor, even if you have not signed a request form;
- b. If you elect to self-refer for tests to a PathCare depot (i.e., without your doctor referring you) please be aware that this may have the following consequences:
  - i. If you have a medical aid your medical aid may refuse to pay for the test,
  - ii. The PathCare Group reserves the right to refuse to conduct certain tests which in its view should only be conducted under the supervision of a trained medical professional and
  - iii. You take sole responsibility for any follow-up treatment that you may need as a result of such self-referred test.
- c. Your doctor may decide that it is necessary to request further tests from the PathCare Group on your blood and/or other samples provided to the PathCare Group, to arrive at a definitive diagnosis. It is not practical for us to always contact you, when we receive these requests, and your doctor, as your agent, should discuss this with you. If you have any questions in this regard, please refer them to your doctor.
- d. The PathCare Group is a referral practice and is not able to consult with patients directly. Interpretation of your results and management should be discussed with you, by your doctor. Our test result commentary is written for interpretation by a medical professional. If you do not understand the commentary, please refer your questions to your doctor.

**4.2 Test Results:**

- a. The Service shall only be available:-
  - i. on receipt of your request by us;
  - ii. where we are able to verify your identity by matching your user account credentials and/or cell phone number with certain identification details as requested by us; and
  - iii. where we have test results available for submission to you
- b. The PathCare Group will only provide you with your test results if there is a relationship (match) between your user account credentials and/or cell phone number with certain identification details as may be requested by us from time to time;
- c. We will aim to submit the requested results to you via the Tech channel from where we have received your request as applicable.
- d. Where test results have been requested by your doctor, the test results may only be released to you after an applicable time period (e.g. 72 hours) after they have been sent to your referring doctor, to give your doctor the opportunity to consult with you.
- e. Test results for some pathology disciplines, e.g. Clinical and Microbiology Pathology tests can be made available to view on the patient portal.
- f. Selected results, e.g. mostly Histology and Cytology results, must be obtained from your referring doctor, our helpdesk or one of the PathCare Group depots.
- g. If you do not receive any test results that we may have for you or the person that you are authorized to request the result for, then we recommend that you contact us by using our Contact Us page.

**4.3 Account Balances and statement:**

- a. The Service shall only be available:-
  - i. on receipt of your request by us;
  - ii. where we are able to verify your identity by matching your user account credentials and/or cell phone number with certain identification details as requested by us; and
- b. PathCare will only provide you with your account details if there is a relationship (match) between your user account credentials and/or cell phone number and/or email address with certain identification details as may be requested by us from time to time;
- c. The account balances or statement submitted to you, as per your request, shall only reflect the status of the account on a specific date as determined by our accounts department. Submission of the balance or statement without any specific billable item that is due and payable shall not be a waiver our rights to add same under our next statement or to reflect same under our next balance submitted to you;
- d. The requested account details will be submitted to you via the Tech channel from where you have requested same and in the format as confirmed by us from time to time (i.e. in a pdf file). It will be your responsibility to use the required software to open and view the record we may have submitted to you.

- 4.4 **Your details:** You must ensure that the medical aid details, guarantor details and personal contact details that PathCare hold for you are kept up to date or updated when you make use of our Services. **If you have not provided updated details PathCare will use the last details provided by yourself or your medical service provider.**

4.5 **Subsequent Services** may have other terms and conditions, which terms and conditions will be incorporate by reference into these Terms and Conditions.

**5. YOUR PRIVACY.** the terms of our privacy policy from time to time, available at [Privacy Policy](#) are incorporated into the Terms and Conditions by reference.

## 6. GRANT OF RIGHTS

6.1 In consideration of you agreeing to abide by the Terms and Condition, we grant you a non-transferable, non-exclusive, non-sublicensable, personal limited licence to use the Tech for purposes of the Services only, subject to these terms, the Privacy Policy and the Third Party Tech or Appstore Rules, incorporated into the Terms and Conditions by reference;

## 7. USE RESTRICTIONS

7.1 Except as expressly set out in the Terms and Conditions or as permitted by any local law, you agree:

- a. not to copy the Tech except where such copying is incidental to normal use of the Tech;
- b. not rent, lease, sub-license, loan, provide, or otherwise make available, the Tech or the Services in any form, in whole or in part to any person without prior written consent from us;
- c. not translate, merge, adapt, vary, alter or modify, the whole or any part of the Tech or Services nor permit the Tech or the Services or any part of them to be combined with, or become incorporated in, any other programs, except as necessary to use the Tech and the Services on devices as permitted;
- d. not to disassemble, decompile, reverse-engineer or create derivative works based on the whole or any part of the Tech or attempt to do any such thing;
- e. not to interfere with or circumvent the security features of the Tech (incl. Third Party Tech) or our Services.

7.2 You must further not:

- a. remove any copyright, trademark or other proprietary notices from any portion of our Tech, Services or Documentation;
- b. use (or allow any person to use) the Tech or any Service in any unlawful manner, for any unlawful purpose, or in any manner inconsistent with the Terms and Conditions or act fraudulently or maliciously;
- c. in any way use the Tech or Services that breaches any applicable local, national or international law or regulation;
- d. infringe our intellectual property rights or those of any third party in relation to your use of the Tech or any Service, including the submission of any material (to the extent that such use is not licensed by the Terms and Conditions);
- e. transmit any material that is defamatory, offensive or otherwise objectionable in relation to your use of the Tech or any Service;
- f. submit false or misleading information;
- g. use the Tech or any Service in a way that could damage, disable, overburden, impair or compromise our systems or security or interfere with other users; and
- h. transmit, or procure the sending of, any unsolicited or unauthorised advertising or promotional material or any other form of similar solicitation (for example: Spam);
- i. knowingly transmit any data, send or upload any material that contains viruses, Trojan horses, worms, time-bombs, keystroke loggers, spyware, adware or any other harmful programs or similar computer code designed to adversely affect the operation of any computer software or hardware;
- j. collect or harvest any information or data in any way whatsoever from any Service or our systems or attempt to decipher any transmissions to or from the servers running any Service or in any way reproduce or circumvent the navigational structure or presentation or look and feel of the App or Services without our prior written consent.

7.3 Take note: E-mail addresses, names, telephone numbers, physical addresses and/ or fax numbers published on our Tech and in our Services may not be incorporated into any database used for commercial purposes or electronic marketing or similar purposes. The presentation of such details is no "opt-in"/ permission from us to utilise same.

## 8. YOUR ONLINE USER ACCOUNT

8.1 In order to use certain of our Services, you may be required to register first;

8.2 On registration, you agree that i) you are 18 years and older, ii) you will submit to us the information we may require from time to time to enable us to provide the Services; iii) you will maintain accurate, complete, and up-to-date information and that your failure to maintain accurate, complete, and up-to-date User Account information, may result in your inability to access and use the Services or our termination of our contract with you; and iv) we may use the information you provide us with to provide the Services.

- 8.3 Submission of your information as per the registration form does not automatically give you the right to access the Services. We have the right not to grant you access to our Services or to revoke such right and disable any user identification code, whether chosen by you or allocated by us, at any time, if in our reasonable opinion you have failed to comply with any of the provisions of the Terms and Conditions.
- 8.4 On acceptance of your registration information you will be allowed to select or provided with the necessary access credentials or any other piece of information as part of our security procedures; You must treat such information as confidential. You must not disclose it to any third party.
- 8.5 You are responsible for all activity that occurs under your Online User Account, and you agree to maintain the security and secrecy (and confidentiality) of your Online User Account details at all times, and will be liable for all activities and transactions, and any other misuse of the Application, that occurs through your Online User Account (whether initiated by you or any third party), except to the extent caused or contributed by Us.
- 8.6 You may only possess one Online User Account and may not assign or transfer your User Account to any person.
- 8.7 You must notify us in writing [helpdesk@pathcare.co.za](mailto:helpdesk@pathcare.co.za). immediately: -
- If the device you utilise for purposes of our Services is lost or stolen and ensure that the Services as accessible through the Tech on the device is immediately blocked, suspended or deactivated.
  - If you cannot access your User Account, you know of or suspect any unauthorised access or use of your data, login details or User Account, or the security of your User Account has been compromised in any way.
- 8.8 We may suspend, disable, or delete your account (or any part thereof) if we determine that you have violated any provision of the Terms and Conditions or that your conduct or content would tend to damage our reputation and goodwill. If we delete your account for the foregoing reasons, you may not re-register for our Services. We may block your email address and Internet protocol address to prevent further registration.

## 9. SECURITY

- 9.1 Although we are not obliged to provide security on our website(s), we feel it is important that your information, or any communication between us, is dealt with in the most secure manner reasonably possible. We take reasonable security measures to ensure the safety and integrity of our Services and to exclude viruses, unlawful monitoring and/ or access to our Services. However, because of the nature of the Internet, we cannot guarantee that your communications with us via our Services are completely secure at all times.
- 9.2 To provide adequate security to all our users, and to monitor activities prohibited under section 86 of the ECT Act, you hereby agree to our right to intercept, monitor, block, read, delete or access all data sent to our Services or any of our other communication facilities, for example, email, instant messaging or fax-to-email applications, subject to the conditions as set out under the RIC Act.
- 9.3 It is our policy to virus check documents and files before they are uploaded to our Services. However, we cannot guarantee that documents or files submitted by us to you or downloaded from our Services will be free from viruses and we do not accept any responsibility for any damage or loss caused by any such virus. Accordingly, for your own protection, you must use virus-checking software when using Services. Further, you agree not to upload or provide, via our Services any document or file that may contain a virus. You are required to virus check any document or file which you intend to upload or provide to our website(s).
- 9.4 It is your responsibility to enable security mechanisms on your devices to protect them from unauthorised access, e.g. screen lock, pass codes, etc.

## 10. FEES & PAYMENTS

- 10.1 **Tech use:** there is no fee charge for the use of our Tech, however may have in-Tech purchase options which will only apply subsequent to your consent;
- 10.2 **Services:** Services may be subject to Service specific fees as presented to you before using our Services (online patient services). PathCare has numerous different rate structures in place and you can obtain a quote from making use of the the PathCare Fees Lookup function or to Contact us or to phone: 0800 205 356 (Pathcare pricing/quotes), 0264 614 313 040 (Namibia queries) or 012 414 2303 (Vermaak pricing/quotes);
- 10.3 **Payment:** see Service specific term and conditions.
- By providing PathCare with your medical aid details, you consent to PathCare requesting your medical aid for payment of your tests.
  - Should your medical aid decline to make payment for whatever reason you will be held liable for any amount due.
  - Payments to PathCare may be made by Visa, MasterCard, Diners or American Express cards, or by bank transfer into PathCare's nominated bank account available on request.
  - Where available via our Services, card transactions will be acquired for PathCare via PayGate (Pty) Ltd., who are the approved payment gateway for all South African acquiring Banks. DPO PayGate uses the strictest form of encryption, namely Secure Socket Layer 3 (SSL3) and no Card details are stored on the website. Users may go to [www.paygate.co.za](http://www.paygate.co.za) to view their security certificate and security policy. Customer details will be stored by PathCare separately from card details which are entered by the client on DPO PayGate's secure site. For more detail on DPO PayGate refer to [www.paygate.co.za](http://www.paygate.co.za).
  - The merchant outlet country at the time of presenting payment options to the cardholder is South Africa. Transaction currency is South African Rand (ZAR).

- f. PathCare takes responsibility for all aspects relating to electronic payment transaction including Services provided, customer service and support, dispute resolution and delivery of goods.
- g. Any refund due to you will be paid within 15 (fifteen) days of receipt of confirmation of your banking details sent to [refunds@pathcare.co.za](mailto:refunds@pathcare.co.za).
- h. PathCare has numerous different rate structures in place and you can obtain a quote from PathCare by contacting the numbers as listed in 10.2 above.

## 11. INTELLECTUAL PROPERTY RIGHTS

- 11.1 You acknowledge that all intellectual property rights in the Tech, the Documents and the Services anywhere in the world belong to us or our licensors, that rights in the Tech and the Services and any reports or other outputs from the Services are licensed (not sold) to you, and that you have no rights in, or to, the Tech (including the object code and source code of the Tech), the Documents or the Services other than the right to use each of them in accordance with the terms of the Terms and Conditions.
- 11.2 All trademarks, service marks, trade names, and logos are proprietary to us or used by us with the permission of our third party providers. Nothing contained under the Terms and Conditions should be construed as granting, by implication, estoppel, or otherwise, any license or right to use any trademark displayed on our Services without our written permission. Your use of the trademarks displayed in our Services, or any other content in the Services, except as provided herein, is strictly prohibited.

## 12. LIMITED WARRANTY

- 12.1 OTHER THAN AS AGREED TO UNDER THE TERMS AND CONDITIONS, THE TECH AND SERVICES ARE PROVIDED ON A "AS-IS" BASIS, CONSEQUENTLY WE, AND OUR DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, LICENSORS, THIRD PARTY PROVIDERS AND AFFILIATES MAKE NO, AND DISCLAIM, ALL OTHER WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT, SATISFACTORY QUALITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.
- 12.2 WE DO NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE TECH WILL BE UNINTERRUPTED OR ERROR-FREE, THAT DEFECTS WILL BE CORRECTED OR THAT THE TECH IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. WE DO NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE USE OR THE RESULTS OF THE USE OF THE TECH. YOU AGREE TO CONDUCT YOUR OWN DUE DILIGENCE TO ASSESS THE ACCURACY, RELIABILITY AND QUALITY OF ALL CONTENT PROVIDED BY THE TECH.

## 13. LIMITATION OF LIABILITY

- 13.1 You acknowledge that the Tech has not been developed to meet your individual requirements, and that it is therefore your responsibility to ensure that the facilities and functions of the Tech as described in the Documents and the Services available meet your requirements.
- 13.2 WE ONLY SUPPLY THE TECH, DOCUMENTS AND SERVICES FOR GENERAL INFORMATION AND PRIVATE USE. ALTHOUGH WE MAKE REASONABLE EFFORTS TO UPDATE THE INFORMATION PROVIDED BY THE TECH AND THE SERVICE, WE MAKE NO REPRESENTATIONS, WARRANTIES OR GUARANTEES, WHETHER EXPRESS OR IMPLIED, THAT SUCH INFORMATION IS ACCURATE, COMPLETE OR UP TO DATE. YOUR USE OF THE INFORMATION VIA OUR SERVICES ARE AT YOUR OWN RISK AND YOUR OWN DISCRETION.
- 13.3 TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL WE OR OUR AFFILIATES, OR ANY OF OUR OR THEIR DIRECTORS, PARTNERS, EMPLOYEES, RESPECTIVE LICENSORS OR SERVICE PROVIDERS, HAVE ANY LIABILITY ARISING FROM OR RELATED TO YOUR USE OF OR INABILITY TO USE THE TECH OR THE SERVICES: (a) PERSONAL INJURY, PROPERTY DAMAGE, LOST PROFITS, COST OF SUBSTITUTE GOODS OR SERVICES, LOSS OF DATA, LOSS OF GOODWILL, COMPUTER FAILURE OR MALFUNCTION OR ANY OTHER CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES (b) DIRECT DAMAGES IN AMOUNTS THAT IN THE AGGREGATE EXCEED THE AMOUNT ACTUALLY PAID BY YOU FOR THE TECH OR SERVICES. THE FOREGOING LIMITATIONS WILL APPLY WHETHER SUCH DAMAGES ARISE OUT OF BREACH OF CONTRACT, DELICT (INCLUDING NEGLIGENCE) OR OTHERWISE AND REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE OR WE WERE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- 13.4 YOU (AND NOT US) ASSUME THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR OR CORRECTION IN RESPECT OF YOUR DEVICE.

## 14. INDEMNIFICATION.

YOU AGREE TO INDEMNIFY, DEFEND AND HOLD HARMLESS US, OUR OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AFFILIATES, SUCCESSORS AND ASSIGNS FROM AND AGAINST ANY AND ALL LOSSES, DAMAGES, LIABILITIES, DEFICIENCIES, CLAIMS, ACTIONS, JUDGMENTS, SETTLEMENTS, INTEREST, AWARDS, PENALTIES, FINES, COSTS, OR EXPENSES OF WHATEVER KIND, INCLUDING REASONABLE ATTORNEYS' FEES, ARISING FROM OR RELATING TO YOUR USE OR MISUSE OF THE TECH OR SERVICES OR YOUR BREACH OF THE TERMS AND CONDITIONS OR CONTENT YOU PROVIDE TO US.

## 15. TERMINATION

- 15.1 You may terminate the Terms and Conditions at any time by uninstalling the Tech (App). Where an user account was created by you we will close same within a reasonable time from receipt of your written request via email.

- 15.2 You agree that we may, under certain circumstances and without prior notice, immediately suspend or terminate your access to the Services. Cause for such suspension or termination shall include, but not be limited to,
- breaches or violations of the Terms and Conditions other incorporated agreements, policies or guidelines,
  - requests by law enforcement or other government agencies,
  - a request by you (self-initiated user account deletions),
  - discontinuance or material modification to the Services (or any portion thereof),
  - unexpected technical or security issues or problems and/or
  - non-payment of any fees owed by you to us.
- 15.3 Termination of your account may include (i) removal of access to all offerings within the Services, (ii) deletion of your information, files and user content associated with your account, and (iii) barring of further use of the Services.
- 15.4 Further, you agree that all suspensions or terminations for cause shall be made in our sole discretion and that we will not be liable to you or any third party for any suspension or termination of your account or access to the Services.
- 15.5 On termination for any reason:
- all rights granted to you under the Terms and Conditions shall cease;
  - you must immediately cease all activities authorised by the Terms and Conditions, including your use of any Services;
  - you must immediately delete or remove the Tech (App) from all devices, and immediately destroy all copies of the Tech (App) and Documents then in your possession, custody or control and certify to us that you have done so;
  - If you wish us to remove all your Personal Information from our Services you can email us at: [helpdesk@pathcare.co.za](mailto:helpdesk@pathcare.co.za). On receipt of your notice and confirmation that no fees are outstanding we will terminate the Terms and Conditions and remove your Personal Information within a reasonable time;
  - Each Party will promptly return to the other Party all property and materials provided to it by the other Party under the terms and Conditions or any Service terms and conditions.

## 16. CONTACT US / NOTICES BETWEEN US

- 16.1 **Tech and Service Support** (functionality or any recommendations), If you think the Tech or the Services are faulty or misdescribed or wish to contact us for any other reason, please email our customer service team at [helpdesk@pathcare.co.za](mailto:helpdesk@pathcare.co.za).
- 16.2 **For accounts:** Follow our instructions via our Whatsapp number +27860100442 and select the Contact Us option (#4)
- 16.3 **For complaints:** it is important to us that you are satisfied with our Services. Please contact us first if you have a complaint or any other services issue. You can use the contact information as per our Contact Us page. Please ask for reference number if you speak to any of our representatives;
- 16.4 For any legal documentation or notices (hopefully this will never be required) we select the following address:
- Physical address: RSA Premises (RSA matters) and Namibia Premises (Namibia matters)
  - Email: [helpdesk@pathcare.co.za](mailto:helpdesk@pathcare.co.za). (heading: "Legal")
  - (Marked for the attention of: **Managing Director/Partner** (Legal))
- 16.5 **How we will communicate with you:** If it is required to send you any legal document or notice you agree that we can send it via such electronic means as per the contact details you have provided us with or if delivery to the aforesaid addresses is not successful then such contact details we may find about you on the internet.
- 16.6 Any notice to either party which is -
- sent by prepaid registered post in a correctly addressed envelope to the address specified for it under clause 16.3(a) above shall be deemed to have been received, unless the contrary is proved, within 10 (ten) days from the date on which it was posted; or
  - delivered to the party by hand, shall be deemed to have been received on the day of delivery, provided that it has been delivered to a responsible person during ordinary business hours; or
  - sent by a Data Message to the addressee shall be deemed to be received as per clause 17.3.

## 17. ELECTRONIC COMMUNICATIONS

- 17.1 Data Messages sent from us to you have been sent from our RSA Premises;
- 17.2 A Data Message is deemed to be sent:-
- By us, at the time shown on the message as having been sent, or if not so shown, at the time shown on our information system as having been sent;
  - By you, at the time when we confirm receipt thereof.



- 17.3 A data message is deemed to be received:-
- By us: only when an authorised representative responds thereto (excluding an automated response). Such acknowledgement further does not give legal effect to that message, unless specifically indicated by us that it does give legal effect to the Data Message;
  - By you: once it enters your information system.
- 17.4 All information that are incorporated by using hyperlinks and / or other methods of reference form part of the Terms and Conditions;
- 17.5 You agree and warrant that a Data Message sent from the device with the use of whatsapp or a Tech(App) or via the Pathcare portal to us was sent by you.

## **18. EVENTS OUTSIDE OUR CONTROL**

- 18.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under the Terms and Conditions that is caused by any act or event beyond our reasonable control, including failure of public or private telecommunications networks or utility services, or legislation or labour unrest (Event Outside Our Control).
- 18.2 If an Event Outside Our Control takes place that affects the performance of our obligations under the Terms and Conditions:
- our obligations under the Terms and Conditions will be suspended and the time for performance of our obligations will be extended for the duration of the Event Outside Our Control; and
  - we will use our reasonable endeavours to find a solution by which our obligations under the Terms and Conditions may be performed despite the Event Outside Our Control.

## **19. OTHER IMPORTANT TERMS**

- 19.1 The Terms and Conditions are personal to you and does not give rise to any rights to any other third party.
- 19.2 Any infringement of any of our licensor(s) intellectual property rights in terms of Tech, shall entitle them to enforce the Terms and Conditions against you.
- 19.3 We may transfer our rights and obligations under the Terms and Conditions to another organisation, but this will not affect your rights or our obligations under the Terms and Conditions.
- 19.4 If we fail to insist that you perform any of your obligations under the Terms and Conditions, or if we do not enforce our rights against you, or if we delay in doing so, that will not mean that we have waived our rights against you and will not mean that you do not have to comply with those obligations. If we do waive a default by you, we will only do so in writing, and that will not mean that we will automatically waive any later default by you.
- 19.5 Each of the conditions of the Terms and Conditions operates separately. If any court or competent authority decides that any of them are unlawful or unenforceable, the remaining conditions will remain in full force and effect.
- 19.6 Please note that the Terms and Conditions, its subject matter and its formation, are governed by the laws of the Republic of South Africa in respect of South African entities and Namibian law in respect of Drs. Shaw, Roux & Partners. You irrevocably and unconditionally consent to the non-exclusive jurisdiction of the High Court of South Africa, Western Cape Division, Cape Town in respect of South African services or a jurisdiction agreed to by the Parties in regard to the enforcement of any rights to all matters arising from the Terms and Conditions.

END OF DOCUMENT