

# TERMS & CONDITIONS

## ELECTRONIC APPLICATION

### Terms and Conditions

"We" are Drs. Dietrich, Voigt, Mia & Partners also known as PathCare. The use of this application is strictly subject to your acceptance of our terms and conditions as set out below. By accepting these terms and conditions you have entered into an agreement with us to use this application in a certain manner and subject to the below mentioned conditions. If you do not agree to accept our terms and conditions your use of this application will be terminated.

### Consent

The National Health Act (61 of 2003) states that all patients have a right to privacy which is consistent with the right to privacy as guaranteed by the South African Constitution (Act 108 of 1996). As a healthcare services practice not only is PathCare obligated to ensure that it maintains patient confidentiality by law it also speaks to the very heart of our ethical duty to patients to ensure that they can trust us with their most sensitive information.

This duty to maintain patient confidentiality is a sacrosanct and non-negotiable duty which is applicable to all PathCare employees, temporary employees, contract workers and consultants delivering services to PathCare patients. This is a duty which is also applicable to any service providers, including but not limited to medical professionals rendering service to patients.

As the authorised user you hereby warrant to PathCare that you have received the relevant patient's informed consent to request access to and to view their pathology test results and you hereby indemnify PathCare against any legal action that may stem from your failure to obtain the patient's informed consent to do so. An audit entry will be made on our systems of the user, time and patient records accessed via this mechanism.

This application is for the use of medical professionals, nurses, allied health professionals and veterinarians which means that you, the user, are a qualified professional in your particular field and are duly registered with the Health Professions Council of South Africa, the South African Nursing Council, the Allied Health Professions Council of South Africa, Health Professions Council of Namibia or the Veterinary Council (hereinafter referred to as "the authorised user" or "you").

This application will allow you the authorised user access to view all pathology results requisitioned by you in respect of your patients, including historical results. By agreeing to these terms and conditions you hereby warrant that you have obtained the informed consent of your patient to view requested and historical pathology test results.

This application will allow you, the authorised user, to view pathology test results in respect of patients where you have not requested the test results but have been listed as a medical professional to whom such pathology test results should be copied.

The application will allow you to request access to and to view pathology test results in respect of results requested by another medical professional. The authorised user hereby warrants that you have received the relevant patient's informed consent to request access to and to view their pathology test results and you hereby indemnify PathCare against any legal action that may stem from the failure to obtain the patient's informed consent to do so.

You may use this application to request further pathology tests based on a specific set of patient test results referred to as "after requests". By using this application to make an after request in respect of non-urgent tests (out-of-hospital) you hereby warrant to PathCare that you have discussed the further request for tests with the patient and have obtained their informed consent thereto which includes advising the patient of any cost implications. Patients may contact PathCare directly for cost estimates or quotes in respect of after requests.

You may use this application to request pathology tests based on the patient's clinical presentation referred to as eRequests. By using this application to make an eRequest in respect of non-urgent tests (out-of-hospital) you hereby warrant to PathCare that you have discussed the request for tests with the patient and have obtained their informed consent thereto which includes advising the patient of any cost implications. Patients may contact PathCare directly for cost estimates or quotes in respect of eRequests.

## Test Results

PathCare provides explanatory clinical commentary on its tests results as required. The clinical commentary is, however, written and directed for the understanding of medical professionals and is not suited to interpretation by non-medical professionals. Clinical commentary is reported on episode and specimen reports but may not be reported on cumulative report formats.

Authorised users who have requested pathology test results in respect of their patients are responsible for communicating, explaining and interpreting these results to their patients. Should you require any assistance or clarification in understanding certain test results you may contact the relevant pathologist responsible for signing out the result.

PathCare is obliged in terms of the National Health Act to provide pathology test results directly to patients upon a request to do so from the patient provided the patient is of the age of consent and mentally competent to receive such result.

Although PathCare strives to deliver correct results at all times to patients we rely on you to alert us should the relevant test result not correlate to the clinical presentation of the patients' symptoms.

This application allows authorised users to mark as "viewed" patient records and/or their pathology test results. You hereby acknowledge that you understand that by removing the "unviewed" flag from a patient and/or their test results, PathCare considers the patient record and/or their test results to be reviewed by you, the authorised user. PathCare cannot be held liable for any results or information you, the authorised user, fails to review after taking these actions.

## Confidentiality

Pathology test results are the property of the patient and should be dealt with accordingly by any authorised users.

The National Health Act, the Protection of Personal Information Act 4 of 2013, The Health Professions Act and the regulations and ethical guidelines of the Health Professions Council of South Africa lay down strict guidelines for protecting the confidentiality of patient information and specifically in this instance patient test results. You hereby warrant to PathCare that you have familiarized yourself with the provisions of the aforesaid legislation and that use of this application and information stemming therefrom will strictly be in accordance with the aforesaid legislation.

You, the authorised user, hereby warrant that you will take all necessary precautions to safeguard the confidential information contained in this application and will not share your password with other users or unauthorised users.

This application allows for pathology test results to be emailed to the patient and in this regard PathCare cautions you to ensure that the correct email address is used for the patient prior to emailing results to patients. PathCare will do its utmost to provide you with up-to-date contact details for patients including email addresses where a patient has elected to receive results electronically but cannot warrant that such email addresses are always accurate and up to date.

This application allows for pathology test results to be emailed to other healthcare professionals (HCP) and in this regard PathCare cautions you to ensure that the correct email address is used for the HCP prior to emailing results to the HCP. By using this application to share patient results you hereby warrant to PathCare that you have discussed the need for consultation with the patient and have obtained their informed consent thereto.

The ability or right of PathCare and/or you to retain and store patient information and/or pathology tests results is subject to prevalent legislation and the patient has the right to be informed as to what information is held and to request that personal information is deleted. PathCare however reserves the right in its sole discretion to retain certain patient pathology test results for medico legal reasons.

You should contact PathCare immediately at the following email address [stopapp@pathcare.co.za](mailto:stopapp@pathcare.co.za) should your device upon which this application has been stored be stolen or should you become aware thereof that your device has been hacked or that there is any other form of unauthorized use of this application on your behalf by any other person or system.

You, the authorised user, should submit a formal request, via email to [stopapp@pathcare.co.za](mailto:stopapp@pathcare.co.za) should you wish to terminate your access to the application or request the deletion of your account. Your request will be processed in accordance with our data retention policies and applicable legal obligations.

Access to this application will be terminated by PathCare should you, the authorised user, cease to access the application for a period of 3 months.

### **Sendaway Test**

PathCare may in its sole discretion from time-to-time subcontract certain test services referred to as Sendaway test.

### **Intellectual Property**

All test results are, in addition to this application, available to the authorised user and patient in hard copy or upon request in a PDF format;

All internal data, documents and other information generated for the purposes of rendering the Services remains the Intellectual Property of PathCare and may not be used without the express permission of PathCare;

Where test results are used in research projects you must first obtain PathCare's consent thereto prior to any publication thereof.

### **General**

These terms and conditions are governed by South African Law and the parties hereby agree to have any dispute arising herein decided subject to the jurisdiction of the High Court of South Africa, Western Cape Division.

Neither party shall be liable for non-performance or delay to the extent that such delay or non-performance is caused by events or circumstances beyond their control. Any party experiencing such force majeure is however required to give the other party written notice immediately upon the occurrence of such event and again when the event has ceased.

PathCare may amend these terms and conditions at any time by posting the amended terms and conditions on its website.

You acknowledge and accept that this service and/or site may become unavailable from time to time due to various circumstances including but not limited to technical failure or problems and that PathCare may also in its sole discretion and at any time discontinue providing this application or the service or any part thereof or access to you, with or without notice. You will have no claim as a result hereof against PathCare.

PathCare its, directors, shareholders, partners agents and employees are not responsible for the content or privacy policy of any website to which this application may link and makes no warranties and/or representations about such sites.

You authorise PathCare to retain any of your personal information required to provide personal access codes and access to this application, which information will not be retained longer than is necessary.

The use of this application may expose Pathcare to increased risk, including but not limited to negligent use of your password. You therefore indemnify PathCare from any claims of whatsoever nature from whomsoever resulting from your acts or omission from the use of this application or the breach of any term of these terms and conditions, your access (or non- access due to the unavailability of the service at any time) and the use of the services and your access to the medical and personal information of the patient, including but not limited to your transgression of any applicable laws and regulations.

You may not cede or assign any of your rights and obligations hereunder. These terms and conditions shall constitute the whole agreement between you and PathCare relating to this application and service provided, and PathCare shall not be bound by an undertaking, representation, warranty or waiver unless set out herein.