

## PRODUCT TERMS AND CONDITIONS

### 1 Interpretation & Definitions

In this Agreement, unless clearly inconsistent with or otherwise indicated by the context:

- 1.1 **"Affiliates"** means in relation to each Party, any associated company, any partnership in which a Party is a partner, any company which is a subsidiary company of the Party, any division of such holding company and/or joint venture company of the Party or if such holding company is shareholder, any controlling shareholders and/or holding company or subsidiary company of such Party and any other subsidiary company undertaking of any such holding company and includes any director, officer, employee, consultant, representative, agent or adviser of any of the aforementioned entities. For these purposes, the terms "holding company" and "subsidiary company" shall have the meaning attributed to them in the Companies Act, No. 71 of 2008, as amended.
- 1.2 **"Agreement"** means the Licence and Services Agreement concluded between Altron HealthTech and the User, which includes these Terms and Conditions, as updated from time to time;
- 1.3 **"Altron HealthTech Learning Hub"** means the Altron HealthTech online cloud-based platform that Altron HealthTech hosts its virtual training sessions through to its Users. The Altron HealthTech Learning Hub hosts all of Altron HealthTech's training content and product updates.
- 1.4 **"Application"** means the customised integration of the RecoMed software, and the integration software developed by Altron HealthTech, to enable Altron HealthTech to on-sell and provide the Appointment Services to the User;
- 1.5 **"Appointments Option"** means an option which:
- 1.5.1 is open to the Practice as a User; and
  - 1.5.2 if exercised, by indication on the Schedule attached hereto, entitles the Practice, as the User, to utilise the Appointment Services with regard to the management of the Practice's appointments;
- 1.6 **"Appointment Services"** means the services to be rendered by RecoMed to Altron HealthTech, the User and Patients by means of the RecoMed Platform;
- 1.7 **"Backup"** means the storage of data in a secure repository;
- 1.8 **"Benefit Model"** means the costs and outcomes modelling incorporated into or derived from the Treatment Plans utilized that forms part of the HealthOne Connect Oncology solution;
- 1.9 **"Business Day"** means any day of the week, excluding Saturdays, Sundays and public holidays gazetted as such in the Republic of South Africa;
- 1.10 **"Claim"** means all Transaction lines that pertain to a single Patient's visit on a single treatment occasion, or, in the case of a Pharmacy, a single prescription dispensed in respect of a single Patient, which is submitted to Altron HealthTech in a single instance and switched to a Destination for payment;
- 1.11 **"Commencement Date"** means the last date of signature indicated on the front page of the Licence and Services Agreement;
- 1.12 **"Confidential Information"** means in relation to a disclosing Party, its confidential information, including, without limiting the generality of the foregoing, any information relating to its strategic objectives and planning for both its existing and future needs, any information relating to its business plans, activities, financial affairs, business and strategic relationships, products, services, customers and clients, any information contained in its software and associated material documentation, any of

its technical, scientific, commercial, financial and market information, and Intellectual Property Rights, any information relating to shareholders, client and supplier lists, any data concerning its business or affairs, including business relationships, employee, customer, client and supplier lists, management strategies and techniques, contracts, designs, demonstrations and/or processes, any of its plans, designs, drawings, functional and/or technical requirements and/or specifications, howsoever such Confidential Information may be recorded or disclosed, including, without limiting the generality of the foregoing, whether orally, visually or in computer language or by reason of inspection of documentation or other matter, including any modification, variation or adaption of such information and includes Personal Information;

- 1.13 “**Consumer**” means a User who is also a consumer, as defined in the CPA;
- 1.14 “**Contact Centre Support**” means first-line, first call-resolution support for the purposes for administering incoming product support or information inquiries from Users and as more fully outlined in clause 5.1 below;
- 1.15 “**CPA**” means the Consumer Protection Act, 68 of 2008;
- 1.16 “**Customer Support**” means the second-line service support focused on resolution of technical and/or products support or information inquiries from Users that have been escalated and/or that are not within the scope of Contact Centre Support;
- 1.17 “**Dealer**” means a dealer who has been accredited by Altron HealthTech to render maintenance and Support services to the User;
- 1.18 “**Destination**” means any destination designated and serviced by Altron HealthTech, including *inter alia*, medical schemes, financial institutions, healthcare insurers and other funders of healthcare services and, if applicable, includes intermediaries who perform claims evaluation services on behalf of Destinations;
- 1.19 “**Drug List**” means the preferred list of drugs or dosage forms which forms part Treatment Plans inclusive in the HealthOne Connect Oncology solution;
- 1.20 “**Electronic Response**” means a message returned by Altron HealthTech in response to a Transaction received from the User;
- 1.21 “**eRA**” means electronic remittance advice;
- 1.22 “**Fees**” means the license fees, service fees, prices and charges for the Products and Services, as set out in the pricing schedule attached hereto;
- 1.23 “**Funder**” means a medical scheme, medical scheme administrator, healthcare insurer, organ of the State or other third party which pays for healthcare services rendered to Patients on their behalf;
- 1.24 “**Hardware**” means the hardware as selected on the Product Schedule on the front page and which will be purchased or rented by the User from Altron HealthTech;
- 1.25 “**HealthONE**” means the web-based electronic health record clinical solution developed and owned by Altron HealthTech, which provides the tools for the Practice to securely store, access, analyse and share clinical information of a Patient;
- 1.26 “**HealthONE Cloud**” means the cloud-based electronic health record clinical solution developed and owned by Altron HealthTech, which provides the tools for the Practice to securely store, access, analyse and share clinical information of a Patient;
- 1.27 “**HealthONE Connect Oncology**” means the web-based electronic clinical solution developed and owned by Altron HealthTech, and includes the Treatment Plans, Risk Management Models, Benefit Models, and Drug List. The template driven oncology prescription module provides the tools for the Practice by acting as a guide in assisting the Practitioner in selecting the treatment plan and protocol;

- 1.28 **“Individual User”** means a natural person user of the Software at the Practice and, without detracting from the generality of the foregoing, may be an employee, technical assistant, independent contractor or the Practitioner;
- 1.29 **“Intellectual Property Rights”** means all patents, rights to inventions, copyright and related rights, moral rights, trademarks, trade names and domain names, rights in get-up, rights in computer software, database rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which may now or in the future subsist in any part of the world;
- 1.30 **“Medical Service Provider”** means any medical practitioner, pharmacy, hospital, nursing home, clinic, pathology laboratory, optician or other entity, which provides medical services;
- 1.31 **“Month”** means a calendar month ending on the 28th, 29th, 30th or 31st day of the month, as the case may be;
- 1.32 **“Parties”** means Altron HealthTech and the User and **“Party”** means either of them;
- 1.33 **“Patient”** means a person to whom the Practice renders healthcare services;
- 1.34 **“Personal Information”** means information as defined in POPIA, relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to:
- 1.34.1 information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;
  - 1.34.2 information relating to the education or the medical, financial, criminal or employment history of the person;
  - 1.34.3 any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person;
  - 1.34.4 the biometric information of the person;
  - 1.34.5 the personal opinions, views or preferences of the person;
  - 1.34.6 correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
  - 1.34.7 the views or opinions of another individual about the person; and
  - 1.34.8 the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person;
- 1.35 **“Pharmacist”** means any duly appointed person, working at the Pharmacy, who is registered as a pharmacist with the South African Pharmacy Council in terms of the Pharmacy Act 53 of 1974, as amended;
- 1.36 **“Pharmacy”** means the Pharmacy, the details of which is set out on the front page hereof;
- 1.37 **“POPIA”** means the Protection of Personal Information Act, 4 of 2013 as amended from time to time;
- 1.38 **“Practice”** means the Pharmacy or practice of healthcare professionals, practising under one name or a single healthcare professional practising in his own name, as reflected on the front page hereof and in one or more medical disciplines;
- 1.39 **“Practitioner”** means any duly appointed person practising at the Practice, who is registered as a health practitioner with the Health Professions Council of South Africa in terms of the Health Professions Act 56 of 1974, as a Pharmacist or as an allied health practitioner with the Allied Health Professions Council in terms of the Allied Health Professions Act 63 of 1982 and who shall be liable,

jointly and severally, for the debts and obligations of the Practice under this Agreement and for purposes of POPIA is the Responsible Party as defined in POPIA;

- 1.40 **"Processing"** means processing of Personal Information as defined in POPIA, and **"Process"** and **"Processed"** shall have a corresponding meaning;
- 1.41 **"Product"** means the Hardware, Software and firmware embedded in the Hardware as reflected on the Product Schedule attached hereto;
- 1.42 **"Risk Management Models"** means the processes aimed at the reduction of financial and/or clinical outcomes risk associated with treatments that forms part of the HealthOne Connect Oncology solution;
- 1.43 **"RecoMed"** means RMed Online (Pty) Ltd, a company with registration number 2013/089029/07;
- 1.44 **"RecoMed Platform"** means a cloud-based software system developed and owned by RecoMed, which provides an open online calendar in which Practitioners can book and manage appointments for their Patients and Patients can book and handle their own appointments with Practitioners;
- 1.45 **"RecoMed Software"** means the software embodied in or used in connection with the operation of the RecoMed Platform and includes enhancements, developments, modifications, improvements and adaptations of such software and the RecoMed Platform;
- 1.46 **"Representatives"** means a Party's directors, officers, employees, agents or professional advisers and in the case of the User, the Practitioners;
- 1.47 **"Services"** means the practice management, switching, healthONE, healthONE Cloud, healthONE Connect Oncology, and other services rendered by Altron HealthTech whether directly or indirectly by contracted value-added service providers, in terms of this Agreement and as reflected in the Services schedule attached hereto including the required Service levels selected;
- 1.48 **"Software"** means all the software owned or developed by Altron HealthTech or licensed to Altron HealthTech, including software which is embodied in or used relating to the Services, Backup, the RecoMed Software and the software embodied in the Application (if the User exercised the Appointments Option for the Appointment Services to be rendered), and the data formats used for the transmission of Transactions, all as set out and forming part of the Product Schedule attached hereto;
- 1.49 **"Training"** means in relation to the Altron HealthTech Services, facilitation of virtual classroom-led training sessions subject to clause 5.4;
- 1.50 **"Transaction"** means an electronic message and/or reply, relating to a single Patient on a single occasion, which message and/or reply contain structured data in plain or encrypted language prepared in a format specified for intended transmission from computer to computer;
- 1.51 **"Treatment Templates"** means the specific combinations of drugs, materials and tariff codes linked to clinical datasets within the electronic health record and utilised to manage treatment delivery with the HealthOne Connect Oncology solution and the transfer of the billing data;
- 1.52 **"User"** means the Practice or such authorised individual acting on behalf of the Practice;
- 1.53 **"User's Data"** means the data and information (including Personal Information and Special Personal Information as defined in POPIA) of and owned by the Practice including information of Patients' provided and consented to the Practice under POPIA and/or applicable common law, which for clarity shall exclude:
- 1.53.1 Altron HealthTech's Intellectual Property and Software; and
  - 1.53.2 Any Patient information not consented to by a Patient to be processed, and accordingly communicated to Altron HealthTech;

- 1.54 **"VAR"** means a Value-Added Reseller who has been accredited by Altron HealthTech to render maintenance and support services to the Practice;
- 1.55 **"VAT"** means value added tax levied in terms of the Value Added Tax Act 89 of 1991, as amended;
- 1.56 **"Vendor"** means a supplier of Pharmacy management software to the Pharmacy who has been accredited by Altron HealthTech to render maintenance and support services to the Pharmacy;
- 1.57 **"Force Majeure"** includes (without detracting from any other occurrences covered by the rules and principles relating to Force Majeure) casus fortuitus, plague, epidemic, pandemic, Government action and regulation, as well as shortages, interruptions, fluctuations or the unavailability of electrical power, water supply or means of communication, which cannot, according to objective standards of reasonable conduct, be avoided by the party whose performance is affected thereby;
- 1.58 words importing the singular shall include the plural and vice versa, words importing the masculine gender shall include the feminine and neuter genders and vice versa;
- 1.59 references to a **"person"** include any natural person, firm, company, corporation, legal entity, government, organ of state or state agency or any association, trust, consortium or partnership (whether or not having a separate legal personality);
- 1.60 references to clauses, paragraphs, schedules or annexes are, unless otherwise stated, references to clauses, paragraphs, schedules or annexes (as the case may be) of or to this Agreement;
- 1.61 The word **"including"** and its other grammatical forms shall not limit the general effect of the words which precede and shall be construed without any limitation and accordingly, the eiusdem generis rule shall not be applied in the interpretation of such general wording or such specific example/s;
- 1.62 A reference to any agreement, contract, document or deed shall be construed as a reference to it as varied, amended, supplemented and/or novated from time to time;
- 1.63 Any reference to any statute, regulation or other legislation and/or legislative provision shall be deemed to include such legislation and/or legislative provision as modified, consolidated, enacted or re-enacted from time to time;
- 1.64 The headings to the clauses of this Agreement are inserted for reference purposes only and shall not affect the interpretation of any of the provisions to which they relate;
- 1.65 If any provision in a definition is a substantive provision conferring a right or imposing an obligation on any Party then, notwithstanding that it is only a definition, effect shall be given to that provision as if it were a substantive provision in the body of this Agreement;
- 1.66 Where any term is defined within a particular clause other than in this clause 1, that term shall bear the meaning ascribed to it in that clause wherever it is used in this Agreement;
- 1.67 When any number of days is prescribed in this Agreement, the same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day is not a Business Day, in which event the last day shall be the next succeeding Business Day and any reference to days (other than a reference to Business Days), months or years shall be a reference to calendar days, months or years as the case may be;
- 1.68 Where figures are referred to in numerals and in words, if there is any conflict between the two, then the words shall prevail;
- 1.69 No provision herein shall be construed against or interpreted to the disadvantage of any Party by reason of such Party having or being deemed to have structured, drafted or introduced such provision and accordingly, the contra proferentem rule shall not be applicable hereto.

## **2 Grant And Terms Of Licence And Sale Or Rental Of Hardware**

- 2.1 Altron HealthTech grants the User a non-exclusive and non-transferable license to use the Software, on the terms as set out in this Agreement. If the RecoMed Software is included in the Software, such license is granted for the utilisation of the Appointment Services, subject to the terms and conditions of this Agreement.
- 2.2 Altron HealthTech retains ownership of all the Intellectual Property Rights in and relating to the Services, the Altron HealthTech Learning Hub, the Software and any copy thereof. RecoMed retains ownership and all Intellectual Property Rights in and relating to the RecoMed Software. RecoMed and Altron HealthTech retain ownership and all Intellectual Property Rights in and relating to the Application.
- 2.3 The Software is not sold, and the User is only entitled to use it under licence while paying the agreed Fees and using it for its intended purpose.
- 2.4 The User undertakes to keep (and undertakes to procure that its Representatives will keep) the Software and all related documents and all the Intellectual Property Rights and the submission of Transactions in strict confidence and not to remove or destroy any proprietary markings of Altron HealthTech.
- 2.5 The User acknowledges that the Software contains copyrighted material, trade secrets and other Intellectual Property Rights. The User shall not merge, modify, alter or adapt the Software in any way, including disassembling or de-compiling the Software, or permit any third party to modify, alter or adapt the Software in any way, or remove or alter any proprietary notices, logos or labels on or in the Software or the front-end User interface.
- 2.6 Altron HealthTech shall be entitled to confirm, after termination of this Agreement, that the User does not continue to use the Software without paying the applicable licence fees in terms of clause 11. The User shall for this purpose co-operate and give Representatives of Altron HealthTech at any time during business hours full and unfettered access to its records at any of its sites. The foregoing provision shall remain in force despite the expiry or termination of this Agreement.
- 2.7 If the User has purchased the Hardware, all risk in the Hardware shall pass to the User upon delivery thereof to the User and ownership therein shall pass upon payment in full of the Hardware by the User. The User shall comply with all terms and conditions which may be applicable to the Hardware from the third-party manufacturer or distributor, which terms and conditions will be provided to the User, as well as those reflected on the quotation for the Hardware as supplied by Altron HealthTech to the User (acceptance of such quotation by the User which shall constitute an agreement for the sale or rental of the Hardware). In other instances, the terms applicable to the sale or rental of the Hardware shall be agreed upon between Altron HealthTech and the User and contained in a written agreement for the sale or rental of such Hardware.

## **3 Duration and Termination**

- 3.1 This Agreement shall commence on the Commencement Date and shall remain in force for the duration opted for in the product schedule.
- 3.2 Notwithstanding anything to the contrary contained in this Agreement, the User agrees that the subscription of the Product is either on a month-to-month basis or on a fixed 12 (twelve) month period depending on the subscription option opted for by the User.
- 3.3 If the User opted for the 12 (twelve) months' subscription and elects to terminate its subscription prior to the effluxion of the 12 (twelve) month period mentioned above, the User shall be held liable for the repayment of the implementation fees to Altron HealthTech within 30 (thirty) days of receipt of an invoice. Such repayable implementation fees shall be calculated on a pro-rata basis and made

by electronic funds transfer into Altron HealthTech's nominated bank account within 30 (thirty) days of receipt of an invoice reflecting said amount due.

- 3.4 If the User opted for the month-to-month subscription option the User shall pay all implementation fees upfront prior to the Services commencing. The same principle shall apply in respect of the monthly subscription fees, which shall be paid upfront monthly in advance.
- 3.5 Clause 3.2, 3.3 and 3.4 above shall not apply if the User opted for the HealthOne Connect Oncology product and User is specifically referred to the provisions set out for subscriptions partnered by Altron HealthTech with Dis-Chem Oncology (Pty) Ltd, which terms are set out separately in clause 21 of this Agreement.
- 3.6 Taking into consideration the provisions of all of the subscriptions opted for, either Party may provide at least one calendar month's written notice of termination to the other Party. The User must send a formal cancellation letter to [cancellations@altron.com](mailto:cancellations@altron.com).
- 3.7 On termination of this Agreement for whatever reason, the User shall forthwith cease to be entitled to use the Software and the Services. If the Software resides on the User's system, computers or network, it shall return the Software and any copy thereof and all documentation (including specifications) relating thereto to Altron HealthTech and certify in writing that it has done so, failing which Altron HealthTech shall be entitled to have unhindered access at any reasonable time to the User's premises and computers to remove the Software. If the Software does not reside on the User's system, computers or network, for instance if it is cloud-based or hosted remotely, Altron HealthTech shall immediately on termination of the Agreement terminate all access of the User to the Software and the Services.
- 3.8 If this Agreement is terminated for whatever reason the onus rests on the User:
- 3.8.1 to inform all the relevant Destinations that the User will no longer receive its eRAs through Altron HealthTech;
- 3.8.2 and to retrieve its final eRA's from the Destinations or Altron HealthTech.
- 3.9 Altron HealthTech shall, if it or a third party acting on its behalf, hosts the Software in its data centre, on termination of the Agreement for any reason and at its cost, extract all of the User's Data and provide it to the User in comma delimited files or another appropriate format, which the User can use in order to migrate to another platform, the cost of which migration shall be for the User's account. Altron HealthTech shall, once it has so provided the User's Data to the User, delete and purge the User's Data from Altron HealthTech's systems, computers, data centre, third party data centre or network, at Altron HealthTech's cost, unless it is obliged to retain the User's Data pursuant to POPIA or any other applicable legislation, regulation or law. If the Software resides on the User's computers, network or system, the User shall be solely responsible to extract the User's Data and/or to migrate it to another platform, all at its own cost.

#### **4 Obligations of Altron HealthTech**

- 4.1 Altron HealthTech, or its accredited Dealer designated to service the User, shall, as relevant, depending on the Software and Services selected by the User:
- 4.1.1 before or on the Commencement Date install the Software at the site or sites of the User (if applicable);
- 4.1.2 transfer the User's Transactions to the Destinations specified by the User in the format required by the Destination for the specific Transaction type;
- 4.1.3 validate the User's Transactions to the best of Altron HealthTech's ability in line with the requirements of the Destinations concerned to expedite the processing of the Transactions;
- 4.1.4 store the User's Transactions in electronic format;
- 4.1.5 subject to the provisions of clauses 6, 7 and 8 below, observe and protect the confidentiality of the User's Transaction data;

- 4.1.6 maintain a back-up of each Transaction for a period of at least 12 (twelve) months from the time when it is last transmitted by means of the Services, to ensure continuity, security and auditability of its Services to the User and the participating Destinations;
- 4.1.7 on request from the User, provide certification of any Transaction from its origin to its Destination and maintain an audit trail of each Transaction for 12 (twelve) months from date of Transaction;
- 4.1.8 return to the Practice an Electronic Response for each Transaction received.

## **5 Software Maintenance, Support and Services**

### **5.1 General services**

- 5.1.1 Altron HealthTech or the Dealer or Vendor shall, irrespective of the Service as selected on the Services Schedule attached hereto, provide the following to the User:
  - 5.1.1.1 Contact Centre Support and Customer Support to the User, or if relevant, the VAR or Vendor (provided the call is made by the VAR or Vendor);
  - 5.1.1.2 Altron HealthTech shall provide guidance to the User on the appropriate utilization of the Services. This does not include the completion of duties and/or User-required inputs on behalf of the User;
  - 5.1.1.3 The Altron HealthTech Contact Centre Support team shall refer the User, if required and dependant on the nature of the support request, to the Customer Support team to escalate the support request appropriately. The User acknowledges that the Customer Support may result in additional fees which will be charged on a time and materials basis at Altron HealthTech's, the Dealer's, VAR's, or Vendor's ruling rate.
  - 5.1.1.4 Software enhancements, updates (including new releases) and upgrades, which will comply with all legal requirements as well as the requirements of the South African Medical Association and the Board of Healthcare Funders of Southern Africa;
  - 5.1.1.5 Customised developments, professional and other Services requested by the User and subject to Altron HealthTech's prior approval, which may be subject to additional charges that will be communicated to the User by Altron HealthTech, the Dealer, VAR or Vendor.

**The attention of the Consumer is specifically drawn to the provisions of the following clause 5.2 in compliance with the requirements of section 49(1)(a) of the CPA.**

### **5.2 Corrective maintenance**

- 5.2.1 On notification of a breakdown or deterioration in any Services due to a fault in the Software, Altron HealthTech or the Dealer or Vendor as the case may be, shall carry out repairs including the replacement of Software, if necessary, and restore Services, provided always that Altron HealthTech's obligation to maintain the Software shall be limited to and comprise only of the examination and testing of the Software and effecting adjustments thereto necessitated by the normal use of the Software within the specifications of the Software.

### **5.3 Fault Reporting**

- 5.3.1 The User shall report a breakdown of the Software or Services to Altron HealthTech, the Dealer or the Vendor as the case may be. Altron HealthTech, the Dealer or Vendor shall respond to such report within a reasonable time.

### **5.4 Training:**

- 5.4.1 Altron HealthTech shall provide Services training, subject to the selected Product's pricing schedule to the User's Individual Users. The User shall ensure that every Individual User completes the Altron HealthTech basic training course on the use of the Software. It is also



the continued responsibility of the User to keep Individual Users trained in the use of the Software and Services.

- 5.5 Altron HealthTech will make available, and updated from time to time, the online learning platform for Users to access subject to the following terms and conditions:
- 5.5.1 All new Users that attend the virtual training sessions will have access to the Altron HealthTech Learning Hub for 30 (thirty) days from the date of the User's enrolment on the Altron HealthTech Learning Hub.
  - 5.5.2 Each individual Practice will obtain 1 (one) non-transferable, perpetual and non-exclusive sole licence to access and use the Altron HealthTech Learning Hub whilst they remain a User of the Services.
- 5.6 Availability of maintenance and support services
- 5.6.1 The telephonic and on-site support and maintenance referred to in clauses 5.1.1 and 5.2 above shall be available between 08:00 and 17:00 on Business Days.
- 5.7 Server Back-up Services
- 5.7.1 The User acknowledges that, while Altron HealthTech undertakes general routines and maintenance regarding the back-up of the User's Data, owing to the very nature of data management, Altron HealthTech cannot warrant that the User's Data back-ups will in all circumstances remain intact and available.
  - 5.7.2 The making of back-ups of the User's Data, of any nature whatsoever, does not form part of the Services and it is accordingly, entirely the responsibility of the User to make its own back-ups on a regular basis or upon such basis as may be prescribed by Altron HealthTech or by a duly authorised representative of Altron HealthTech, unless the User is unable to make its own back-ups due to the Software being hosted in the data centre of Altron HealthTech or of a third party acting on its behalf, in which event Altron HealthTech shall be responsible to make such back-ups.
  - 5.7.3 Monitoring of backups and backup success and the selection of data for backup purposes is the responsibility of the User.
  - 5.7.4 Due to encryption, loss of encryption keys will result in a total loss of all data and a failure to recover in the event of a disaster. Preservation of such data is solely the responsibility of the User. Altron HealthTech therefore accepts no liability in the event of failure to recover data due to such data not being available.
  - 5.7.5 The User hereby agrees to indemnify and hold Altron HealthTech and its Representatives harmless against all and any loss, damage or action that Altron HealthTech or its Representatives may suffer or incur in consequence of the failure of any or of all the back-ups of the User or any failure to make such back-ups.
- 5.8 Nothing in this Agreement shall prevent Altron HealthTech from rendering services similar to the Services to other practices, persons, firms or companies carrying on business similar to or in competition with the business of the Practice or the User.

**The attention of the Consumer is specifically drawn to the provisions of the following clause 5.2 in compliance with the requirements of section 49(1)(a) of the CPA.**

## **6 Use of the Software, Data and Personal Information**

- 6.1 The The User shall be fully responsible for the supervision, use, care and control of the Software, including operating procedures of the designated computer. The Software shall be used on a computer and operating system approved for that purpose by Altron HealthTech, failing which any warranties given by Altron HealthTech will lapse and be null and void.
- 6.2 The User and Practitioners acknowledge and agree that their use of the Software and the Services is subject to Altron HealthTech's Privacy Policy, which is available at <https://www.altron.com/privacy-policy/> and which describes how Altron HealthTech collects and uses the User's and Practitioners'

and User's personal information, with whom it shares it ( including its Sub Operators) and the User's and Practitioners' choices and rights in relation to the User's and the Practitioners' Personal Information.

- 6.3 Without limitation to the foregoing, the User and Practitioners agree and acknowledge that Altron HealthTech is entitled to collect and process data, business and financial information of the Practice and personal information (which shall include special personal information as defined in POPIA) ("PI") extracted from the Altron HealthTech Software or system wherein the Software resides ("**Altron HealthTech System**") for purposes of providing the Products and Services under this Agreement and for such other purposes which are compatible with the original purpose and for such other purposes as may be consented to by the User and/or Practitioners from time to time, as well as for historical, statistical or research purposes, provided that Altron HealthTech shall at all times comply with the relevant provisions of POPIA with regard to such processing, unless otherwise advised by the User in accordance with clause 6.2 & 8.5;
- 6.4 Altron HealthTech shall, unless entitled to as contemplated in clauses 6.2 and 6.3 or otherwise in terms of POPIA, not disclose and keep confidential and not process any PI of the User, Practitioner, Patient or member of a Destination ("Member") in the Altron HealthTech System, except with the consent of the User, Practitioner, Patient or Member to whom such PI relates, which consent the User and its Practitioners give and are deemed to have given and/or obtained from Patients and Members, by the User or Practitioner selecting the relevant Products and Services on the Product and Services Schedule of this Agreement.
- 6.5 Unless expressly provided to the contrary in this Agreement, the Parties shall each be solely responsible for the preservation, privacy and security of PI whilst in their possession or under their control and the prevention of any unauthorised access or disclosure to such PI.
- 6.6 Altron HealthTech shall take appropriate, reasonable, technical and organisational measures to prevent any loss of or damage to or unauthorised destruction of PI and unlawful access to or processing of PI.
- 6.7 Altron HealthTech shall identify all reasonably foreseeable internal and external risks to PI under its control, establish and maintain appropriate safeguards against such risks identified, regularly verify that the safeguards are effectively implemented and ensure that the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards.
- 6.8 Altron HealthTech shall immediately notify the User where there are reasonable grounds to believe that the PI of the User, Patient and/or Member has been accessed or acquired by any unauthorised person. The User shall similarly inform Altron HealthTech if it believes PI has been accessed by an unauthorised person.
- 6.9 In the event that the HealthOne Software (including the HealthONE Cloud and HealthONE Connect Oncology Software) is licensed by the User, a Patient's PI recorded in the HealthOne Software system may be made available to Funders of medical services and Medical Service Providers other than the User, however only if the User has obtained the prior consent of the Patient, or of the Patient's guardian, curator or caretaker, if the Patient is not legally competent to give such consent. It shall be the sole responsibility of the Practitioner or the User to obtain such consent. Altron HealthTech shall have no obligation to obtain such consent and the User indemnifies and shall keep Altron HealthTech indemnified and harmless against any claim, loss, damages, costs, fines and expenses by any third party including the Patient or the Patient's guardian, curator or caretaker arising from such consent not having been obtained.
- 6.10 Notwithstanding the foregoing, the User shall furnish the Patient or his guardian, curator or caretaker with a pin number where applicable, which shall be used by the Patient, guardian, curator or caretaker to enable a Funder or Medical Service Provider to gain access to the Patient's information, provided that, if the Patient is in need of urgent medical care to prevent suffering irreparable physical or mental harm, the User agrees that the Funder or Medical Service Provider concerned will be entitled to dispense with the use of the pin number and will be allowed access to the Patient's information at

such level as may, in the discretion of the Funder or Medical Service Provider, be necessary and justified in the best interests of the Patient.

- 6.11 The User acknowledges that whilst Altron HealthTech will endeavour to ensure that the Treatment Plans, Drug Lists, Risk Management and Benefit Models (collectively referred to as “the Materials”) that form part of the HealthOne Connect Oncology solution are regularly updated, Altron HealthTech does not guarantee the accuracy or completeness of the information provided or generated through the HealthOne Connect Oncology solution.
- 6.12 The User acknowledges that they are entirely responsible for all data and inputs provided to the HealthOne Connect Oncology solution. The HealthOne Connect Oncology solution generates the Materials based on User-provided data. Altron HealthTech does not assume responsibility for the accuracy, relevance or effectiveness of the generated Materials. Users are required to review and verify the generated Materials before implementation.
- 6.13 The User acknowledges that Altron HealthTech shall not be held responsible nor liable for any consequences arising from the use or implementation of the generated Materials and use of the HealthONE Connect Oncology Solution. Additionally, the User agrees and acknowledges that they remain solely responsible for ensuring and reviewing the automated billing integration before submission to the relevant Funders.
- 6.14 Altron HealthTech and our affiliates make no representation or warranties that the HealthOne Connect Oncology solution and the medical information and training provided on the HealthOne Connect Oncology solution and ancillary Software: (a) will be constantly available, or available at all; or (b) is error-free, complete, true, accurate, up to date and/or non-misleading. Your use of the HealthOne Connect Oncology solution is with full knowledge and awareness that you waive any claim you may have against Altron HealthTech and our affiliates for reliance on any information or training presented through the solution. To that further extent, the User shall ensure that its systems are kept up to date to ensure that the systems, including any third-party systems that the User relies on, are compatible with the HealthOne Connect Oncology solution and ancillary Software and shall take all steps to ensure future compatibility with the HealthOne Connect Oncology solution. Altron HealthTech shall not be liable for any reduced functionality in any means whatsoever in the HealthOne Connect Oncology solution (or part thereof) should the User fail to ensure that the system is kept up to date, alternatively, should the User or a third party introduce an update to the systems which impacts the HealthOne Connect Oncology solution and its functionality.
- 6.15 Altron HealthTech reserves the right to terminate the provision of any of our Services subscribed for by the User (upon reasonable notice) in the event that the Service(s) is provided, procured and/or dependant on a third-party trading partners and said third party trading partner is no longer or unable to provide said Service.

## **7 Information Security**

- 7.1 Where the User is required to make use of a username, password or other security mechanism in order to use the Software, the User shall notify Altron HealthTech in writing of any unauthorised or fraudulent use of such username, password or security mechanism. The User indemnifies and shall hold Altron HealthTech and its Representatives harmless from any claims, losses, damages and expenses caused by any unauthorised or fraudulent use of the User’s username, password or security mechanism.
- 7.1 Where the User is required to connect to the Internet in order to make use of the Software, the User shall bear all the risks involved in the use of Internet applications, including the risks of exposure of sensitive or confidential information to persons for whom it was not intended, hacking, viruses, exposure to contaminated files and objectionable material, spamming, electronic fraud and other security risks. Altron HealthTech shall not be liable for any intrusion or hack to the Software nor for any unauthorised access to the information (including personal and special personal information) or data stored or communicated by the User or any other person using the Software or the Services. It is the User’s own responsibility to ensure that only authorised persons have access to such

information or data through adequate information security standards and procedures to be implemented and monitored by the User.

## **8 Collection and Use of Patient Records and Information**

- 8.1 The User gives its consent that information relating to their Patients and the Practice may be collected, Processed and used by Altron HealthTech for any lawful purpose and that such collection, Processing and use may include information taken from the Transactions transmitted through Altron HealthTech in the course of the provision of the Products and Services by Altron HealthTech pursuant to this Agreement, subject to the provisions of clauses 8.2 to 8.6 (inclusive) and compliance by Altron HealthTech with the provisions of POPIA at all times.
- 8.2 The information referred to in clause 8.1 may include (but shall not be limited to) the HPCSA number, the date when a healthcare service was provided, ICD10 code, procedure code, diagnoses (if provided), procedures and prescriptions, prescribed pharmaceutical products, dispensed medicines and vital signs, including any encrypted information which will be accessible in respect of individual Patients, but without the disclosure of the identity of the Patients concerned, unless the concerned Patient's consent has been provided by the Patient directly to Altron HealthTech or its third party contracting parties, or to the User, Practitioners or Funders, or unless such collection and use constitutes lawful processing as contemplated in POPIA, or if Altron HealthTech collects and uses such information for statistical, historical or research purposes. The provisions of clauses 6.2, 6.3, 6.4 and 8.1 shall apply to such Processing, *mutatis mutandis*.
- 8.3 The User and Practitioners warrant that they have adequately informed their Patients regarding the collection and use of Patients' information as contemplated in clauses 8.1 and 8.2 and that the Practice and Practitioners have obtained each and every Patient's written consent for this purpose.
- 8.4 The User and Practitioners will make and keep available for inspection by Altron HealthTech or any third party legitimately requiring it, the Patients' record of the consents as referred to in clause 8.3 and the User and Practitioners will provide copies of any such record on 5 (five) days written notice from Altron HealthTech.
- 8.5 The User and Practitioners will immediately inform Altron HealthTech in writing of any objection received from a Patient regarding the collection or use of his or her records and information as contemplated in clauses 8.1 and 8.2, upon receipt of which notification Altron HealthTech will cease to collect or use any records or information relating to the objecting Patient and, if possible and so requested by the Patient, will destroy all records and information already collected by Altron HealthTech, unless Altron HealthTech is obliged by a law, Court order or regulatory authority to retain such records and/or information for such period and on such terms as so obliged.

## **9 Obligations of the User**

- 9.1 For Practice Management Application ("PMA") related and switching Services, the User shall:
- 9.1.1 utilise the Services for all Destinations;
  - 9.1.2 follow up with the Destinations, on a regular basis, on accounts which have not been paid within 30 (thirty) days after the Service date; and
  - 9.1.3 within 5 (five) days after a change in the Practitioners, furnish Altron HealthTech with the names, HPCSA numbers and further details of every Practitioner who joins or leaves the Practice.
- 9.2 The User warrants that each Practitioner and Individual User will comply with the provisions of this Agreement.
- 9.3 The User is responsible to acquire and maintain, at its cost, its own hardware, software, servers and communications equipment required to connect to and access the Services as well as its own security systems to ensure the integrity of its system.

- 9.4 The User shall define its own access code to access and utilise the Services, unless the User is a Pharmacy, in which event Altron HealthTech shall define the username and password for the Pharmacy and such access code may be used by more than one of the Pharmacy's authorised Representatives. For all other Users, all additional Practitioners or Representatives using the Services shall define their own access codes to utilise the Services as defined.
- 9.5 The User shall take all steps necessary to procure that only the User or the User's authorised Representatives, based on User roles as identified by the User and advised to Altron HealthTech, shall have access to the access code. If for any reason the access code is no longer secure or becomes accessible to or falls into the possession of any unauthorised person, the User shall immediately notify Altron HealthTech thereof, whereupon Altron HealthTech shall, at the User's cost, replace the access code as soon as is reasonably possible. The User shall be liable for any loss, liability, damage or expense arising out of the unauthorised use of the access code and indemnifies Altron HealthTech against any claims arising out of such unauthorised use.
- 9.6 The User guarantees the data and PI which it submits to Altron HealthTech will not encroach upon the protection which data subjects enjoy in respect of their PI and indemnifies Altron HealthTech against any claims which may arise from any such encroachment on its part. Without limiting the foregoing, the User indemnifies and shall keep Altron HealthTech harmless against any claims, damages, losses, costs, fines or expenses arising from a breach or contravention of any applicable data protection or privacy regulations including POPIA, with regard to the PI of data subjects of which the User is the responsible party (as "responsible party" is defined in POPIA) or data controller.
- 9.7 The User shall, subject to the provisions of clause 9.9.2 below, not at any time use or attempt to use the Software on a stand-alone basis at more than one site.
- 9.8 The User shall notify Altron HealthTech in writing:
- 9.8.1 at least 30 (thirty) days in advance of any change of its physical or postal address;
  - 9.8.2 timeously if it should wish to have the Software installed at an additional site;
  - 9.8.3 forthwith if there is an increase in the number of Practitioners at the Practice; and
  - 9.8.4 timeously if it should wish to change its selected Service level.
- 9.10 In any of the events referred to in clauses 9.8.2, 9.8.3 or 9.8.4 above the Fees payable in terms of this Agreement will be adjusted accordingly.
- 9.11 The User shall at all times maintain a full set of current back-up data and Altron HealthTech shall not be responsible for any loss or damage howsoever arising from the loss of such data, unless the User is unable to make its own back-ups due to the Software hosted in the data centre of Altron HealthTech or of a third party acting on its behalf, in which event Altron HealthTech shall be responsible to make such back-ups.
- 9.12 Altron HealthTech, its internal or external auditors shall be entitled to audit the records of the User to establish compliance with the User's obligations in terms of this Agreement, including without limitation the number of Practitioners and Individual Users and the license and other Fees paid and payable by the User. The User shall give the auditors or Representatives of Altron HealthTech full and unfettered access to its records at any of its sites and allow Altron HealthTech, its Representatives and auditors to inspect them, take extracts from them or make copies of them for the aforesaid purposes. The User shall co-operate fully with Altron HealthTech, the auditors or Representatives of Altron HealthTech when they carry out such an inspection.
- 9.13 Such audit shall be held during business hours and on 3 (three) Business Days' notice to the Practice. If the audit reveals that there was an underpayment of any Fees, the User shall make payment to Altron HealthTech within 7 (seven) Business Days of demand made by Altron HealthTech in this regard. If the audit reveals an overpayment of Fees, Altron HealthTech shall make payment to the Practice of the amount of such overpayment within 7 (seven) Business Days from having received the audit report. The cost of the audit report shall be borne by Altron HealthTech, unless the discrepancy in underpaid Fees is 5% (five percent) or more, in which event the Practice shall pay such costs, at the same time as payment of the amount of underpayment.

- 9.14 The User undertakes to abide by the instructions of the User guide or manual, should this be available for the Product in use (which the User acknowledges it has received), and as displayed on program installation and to observe the instructions given during the initial basic training.
- 9.15 The Practice's computer system shall comply with the minimum specifications as published by Altron HealthTech from time to time.
- 9.16 The User undertakes that it will on a regularly review and access Altron HealthTech's official website ([altronhealthtech.com](http://altronhealthtech.com)) to stay informed about the latest updates, changes and modifications to the products, services, policies and terms and conditions offered by Altron HealthTech. The User acknowledges that Altron HealthTech's official website is one of the official platforms for communication of information, updates and changes relating to Altron HealthTech's Services and offerings. Therefore, the User agrees that any information posted on Altron HealthTech's official website shall be deemed as valid and effective communication for all intents and purposes.
- 9.17 The User undertakes that it shall specifically review the terms and conditions of Altron HealthTech as posted on Altron HealthTech's official website. Altron HealthTech reserves the right to modify or update the terms and conditions without prior notice to the User. By accessing Altron HealthTech, the User accepts that it is their responsibility to review the latest terms and conditions and agrees to be bound by the most recent version. By accepting this obligation, the User agrees to comply with the review and access requirement stipulated herein. Failure to review Altron HealthTech's website regularly may result in the User's lack of awareness of important changes or updates that could affect their business relationship with Altron HealthTech. Altron HealthTech shall not be held liable for any consequences arising from the User's failure to adhere to this obligation.

## **10 Electronic Remittance Advices**

- 10.1 By indicating on the attached form that eRAs must be delivered electronically, the User gives consent that Destinations are authorised to furnish Altron HealthTech with electronic remittance advices pertaining to the PCNS number specified on such form.
- 10.2 The onus rests on the User to ensure that it receives all the payments indicated in the eRAs by checking the eRAs against deposits on its bank statements. Altron HealthTech is responsible for the upload of eRA files into the relevant mailboxes for access by the Practice. The Practice is responsible for the downloading of the eRA files from such mailboxes.
- 10.3 The User shall only have access to electronic remittance advices from Destinations with eRA capability and shall cease to receive remittance advices from these Destinations directly.
- 10.4 Only a User with the required eRA capable Software shall be able to receive eRAs.

## **11 Fees**

- 11.1 The User shall pay Altron HealthTech:
- 11.1.1 the monthly or, if so agreed by the Parties, annual licence Fees, the Fees for the Appointment Services (if applicable) and the Fees for the use of the -Services relating to it (if applicable), as set out in the Pricing Schedule attached hereto, in advance before or on the 7<sup>th</sup> day of each Month; or alternatively at the discretion of Management due to non-business days including public holidays;
  - 11.1.2 the installation and activation Fees as per date on pricing schedule, at the end of the Month when such Services were rendered.
  - 11.1.3 the Fees for the switching Services, before or on the 7<sup>th</sup> day of each Month;
  - 11.1.4 for all other Services as well as Hardware sold or rented, before the end of the Month which immediately follows on the Month when such Services were rendered, or Hardware was delivered to the User;

- 11.1.5 all charges by Altron HealthTech or its Vendor for maintenance or support which are not covered by clauses 5, 9.1, 9.2, 9.3 and 9.4 above, will be at Altron HealthTech's or its Vendor's ruling rate for, inter alia, labour, material and travelling expenses.
- 11.2 Altron HealthTech shall timeously furnish the User with tax invoices required for purposes of the aforesaid payments.
- 11.3 The User authorises Altron HealthTech, in terms of the debit order as set out on the attached Method of Payment, to withdraw all the amounts due by the User in terms of this Agreement from the relevant nominated account, by the 2<sup>nd</sup> day of the month, should this fall on a non-processing day thus weekends and/or public holidays, the deduction will be done on the next business day; and will display in the bank account as "Altron HealthTech".
- 11.4 If the User should fail to pay any amount due in terms of this Agreement timeously:
- 11.4.1 Altron HealthTech shall be entitled forthwith to suspend the Services and withdraw the use of the Software by withholding access thereto;
- 11.4.2 Altron HealthTech shall be entitled to re-submit any debit order or cheque that is returned "unpaid" by the Bank and all the resulting bank charges will be debited to the User's account; and
- 11.4.3 if it should become necessary for Altron HealthTech to institute legal proceedings to recover Fees from the User, the User shall be liable for tracing fees, collection commission and legal costs (on the attorney and own client scale) incurred by Altron HealthTech.
- 11.5 Irrespective of the foregoing but subject to clauses 3, 11.8 and 16.1, Altron HealthTech shall be entitled to cancel this Agreement, terminate the Services and be entitled to return of the Software if the User should fail to pay any Fees timeously, or if the debit order given by or on behalf of the User is not honoured.
- 11.6 Altron HealthTech may from time to time increase the Fees by an amount which is fair and reasonable in view of:
- 11.6.1 any enhancement of the Software and/or Services that Altron HealthTech licenses and/or renders to the User;
- 11.6.2 any increase in the Consumer Price Index (all groups and all areas), as published by Statistics South Africa or its successor, since the previous fixing of the Fees; and
- 11.6.3 any increase in the cost to Altron HealthTech of providing the Services; provided that in the event of any increase pursuant to clauses 11.4.1, 11.4.2 or 11.4.3 Altron HealthTech shall give the User at least 30 (thirty) days' written notice of its intention to do so. If the User does not terminate this Agreement within the aforesaid notice period of 30 (thirty) days, it shall be deemed to have accepted the increase.
- 11.7 For switching Services, a minimum monthly Fee, based on the Practice's practice type, as set out in Altron HealthTech's Price Schedule attached hereto, will be charged regardless of whether the Practice submitted any Transactions during the month concerned or not.
- 11.8 If the User is a Pharmacy, no Service Fees shall be payable by the Pharmacy to Altron HealthTech if such Fees are paid by the Destinations to which the Pharmacy submits Transactions. However, Altron HealthTech reserves the right to make the continuance of the Services dependent on the payment of Service Fees by the Pharmacy if at any stage Destinations or some of the Destinations should cease to pay the Service Fees in respect of Transactions submitted by the Pharmacy.
- 11.9 The User agrees that all payment instructions issued by Altron HealthTech shall be treated by the User's bank as if the instruction had been issued by the User personally.
- 11.10 The User agrees that although the debit order authority and mandate may be cancelled by the User, such cancellation will not cancel this Agreement. The User also understands that he cannot reclaim

amounts which have been withdrawn from the User's account in terms of this debit order authority and mandate if such amounts were legally owing to Altron HealthTech.

- 11.11 The User acknowledges that the debit order authority and mandate may be ceded or assigned to a third party if this Agreement is also ceded or assigned to that third party.
- 11.12 The debit order authorisation shall not be withdrawn by the User without the prior written consent from Altron HealthTech.
- 11.13 The User is responsible for all banking costs in respect of all amounts in terms of the Agreement.

## **12 Warranty and Limits of Altron Healthtech's Liability**

- 12.1 Altron HealthTech warrants that the Software will perform substantially in accordance with its published specifications, which the User acknowledges it has received, provided always that the Software is used on computer hardware and in conjunction with an operating system for which the Software is designed and an Altron HealthTech accredited PMA and in accordance with Altron HealthTech's instructions.
- 12.2 Altron HealthTech or its Dealer or any third-party software supplier such as a Vendor shall not be liable in respect of any defect in the computer hardware or Software or any solution or third-party data used by the User. Altron HealthTech's only liability with regard to any malfunctioning of the Software will be to use its best efforts to repair the defect as soon as practicably possible or, at Altron HealthTech's sole discretion, to replace the malfunctioning Software with Software that performs in accordance with the specifications. Altron HealthTech's aggregate liability arising from a breach of this Agreement, howsoever arising and from whatsoever cause will, in any event, not exceed the total of all Fees charged by Altron HealthTech for all Products and Services under this Agreement for the immediately preceding year.
- 12.3 Altron HealthTech shall not be liable whether in contract, delict or otherwise, for any direct, indirect, special or consequential loss or damage or any loss of profit suffered or sustained by the User, Practitioners or their Patients as a result of or in connection with the User's omission to inform Altron HealthTech of any change in the User's details, or the use of or reliance by the User of incorrect data provided by the Destinations, or the failure by the User to apply or the incorrect application by the User, of the tariff files, rules, payment plans, payment arrangements, billing arrangements and network contract rules of the Destinations.
- 12.4 The User agrees that and in no event will Altron HealthTech and our affiliates be liable for any personal injury, loss of use, loss of profit, loss of data, interruption of business, or any indirect, special, incidental, punitive or consequential damages of any kind, regardless of the form of action, whether in contract, delict (including negligence), strict product liability, or otherwise, howsoever arising, even if Altron HealthTech and their affiliates have been advised or should have been aware of the possibility of such damages. It is further understood that Altron HealthTech shall also have no liability whatsoever concerning damages arising out of or relating to unauthorized access, use and/or alteration or destruction, by any third party, including any users, of the System or any data contained thereon or created by the System or the User's computer system.
- 12.5 Altron HealthTech shall not be liable whether in contract, delict or otherwise, for any direct, indirect, special or consequential loss or damage or any loss of profit suffered or sustained by the User, Practice, Practitioners or their Patients as a result of or in connection with the use of information, data or Patient records which is necessary to supplement the processing of a Patient's information concerning his or her health with the view to properly treat or care for such a Patient or for the performance of an insurance or medical scheme agreement, for which usage adequate consent has not been obtained by the User, Practice or Practitioners.
- 12.6 Save for the warranty contained in clause 12.1 above, Altron HealthTech gives no warranties and makes no representations in relation to the Products including Software and Services and the User acknowledges that no representations have been made and no other warranties have been given by or on behalf of Altron HealthTech.



**The attention of the Consumer is specifically drawn to the provisions of clause 12 in compliance with the requirements of section 49(1)(a) of the CPA.**

### **13 Exclusions**

- 13.1 The support and maintenance services do not include the following:
- 13.1.1 all items of any nature not forming an integral part of the Software;
  - 13.1.2 the repair of equipment or Software data corruption due to virus attack, User interference, acts or omissions, User generated errors, failure to do back-ups, failure to do month-end routines, ignoring unbalanced or error reports or allowing an inadequately trained Individual User to use the Software or Altron HealthTech System or any other third-party interference, acts, omissions or generated error;
  - 13.1.3 the repair of damage to the User's equipment, the Products including Software or the restoration of lost service or data resulting from Force Majeure;
  - 13.1.4 services necessitated by relocation or removing the User's equipment or any part thereof;
  - 13.1.5 the cost incurred as a result of a request by the User to attend to an apparent fault or the restoration of Service apparently lost or impaired due to misuse, malicious damage, incorrect operation or negligence or the failure of lines or other equipment or apparatus either directly or indirectly connected to the equipment, whether due to the User, its Representatives or anyone on the User's premises or any other person or cause beyond the control of Altron HealthTech;
  - 13.1.6 additional assistance if the User employs untrained staff or staff is on leave or ill;
  - 13.1.7 maintenance or repairs of electrical works or telecommunication lines, computing equipment, hardware, circuits and apparatus connected to computers or any accessories or devices;
  - 13.1.8 repair of damaged equipment or restoration of service impaired directly or indirectly by the connection of accessories, attachments, devices or software, without the prior written consent of Altron HealthTech;
  - 13.1.9 alterations or additions to the equipment or the service of the Practice's facilities or equipment, unless expressly agreed to the contrary in writing by the Parties; or
  - 13.1.10 Services necessitated by relocation or removing the equipment or any part thereof.
- 13.2 Altron HealthTech or its Dealers shall not be liable for any break in Services or for loss of data beyond the control of Altron HealthTech. Altron HealthTech undertakes reasonably necessary precautions to protect the User's Data as stored in the cloud or at an off-site facility provided by Altron HealthTech or its third-party provider.

### **14 Assignment**

- 14.1 The User shall not, without Altron HealthTech's prior written consent, cede, assign, delegate or otherwise transfer its rights and/or obligations in terms of this Agreement to any third party nor shall it allow any third party to use the Software or to receive the Services.
- 14.2 Altron HealthTech shall not, without the User's prior written consent, cede, assign, delegate or otherwise transfer its rights and/or obligations in terms of this Agreement to any third party, provided that Altron HealthTech may, without having to obtain the User's consent, cede, assign, delegate or otherwise transfer its rights and/or obligations in terms of this Agreement to another company in the Altron Group, as constituted by Altron Limited and its subsidiaries from time to time.
- 14.3 The Software licence will *ipso facto* lapse if there is a change in the membership, ultimate ownership or control of the User. In such event the User will have to apply for a new Software licence and pay the applicable registration fees.

### **15 Breach and Termination**

- 15.1 If either Party commits a material breach of this Agreement and fails to remedy the breach within 10 (ten) Business Days after receipt from the other Party of written notice calling upon it to do so, then

the Party aggrieved by the breach may, in addition to and without prejudice to any right that it may have as a result of the breach, either:

- 15.1.1 enforce the performance of the terms of this Agreement; or
- 15.1.2 cancel this Agreement with immediate effect; and
- 15.1.3 recover such damages as it may sustain in consequence of the breach.

15.2 Without limiting the generality of clause 15.1, a material breach shall include non-payment by the User of the monthly Software subscription licence fees, Service fees or any other charges as set out in this Agreement, either Party being provisionally or finally wound-up, sequestrated or entering business rescue proceedings.

## **16 Confidentiality**

16.1 Each Party undertakes to the other Party, for the continuance of this Agreement and for a period of 2 (two) years from the termination or expiration thereof:

- 16.1.1 to keep the Confidential Information confidential;
- 16.1.2 not, without the other Party's written consent, to disclose the Confidential Information in whole or in part to any anyone save its Representatives who are involved in the implementation of this Agreement and who have a need to know the Confidential Information; and
- 16.1.3 to use the Confidential Information solely in connection with the implementation of this Agreement and not for its own or any third party's benefit.

16.2 The provisions of this clause 16 shall not apply to the whole or any part of information which is:

- 16.2.1 already known to the recipient without obligation of confidence;
- 16.2.2 independently developed by the recipient;
- 16.2.3 publicly available without breach of this Agreement;
- 16.2.4 lawfully received from a third party;
- 16.2.5 released for disclosure by the disclosing party with its written consent;
- 16.2.6 required to be disclosed by any competent legal or regulatory authority or on the strength of a court order or in the course of court proceedings, provided that the Party required to make the disclosure has consulted with the other Party before making such disclosure and has taken all reasonable steps to oppose or prevent the disclosure or to limit, as far as reasonably possible, the extent of such disclosure; or
- 16.2.7 and any or more of the provisions of clauses 6.2, 6.3, 6.4 and 6.9 apply to the disclosure of such PI.

16.3 Each Party:

- 16.3.1 shall make all its Representatives, referred to in clause 16.1.2 above, aware of the confidentiality of the Confidential Information and of the provisions of this clause 16;
- 16.3.2 shall take all such steps as shall from time to time be necessary to ensure compliance by its Representatives with the provisions of this clause 16; and
- 16.3.3 warrants that its Representatives to whom the Confidential Information is disclosed, shall have bound themselves in terms of equivalent undertakings and obligations as assumed by the recipient in terms of this Agreement and guarantees that the aforesaid Representatives will comply with such undertakings and obligations.

16.4 Upon the expiration or termination of this Agreement for any reason, each Party shall promptly return all the Confidential Information of the other Party, to it.

16.5 A Party may at any time by written notice request that the Confidential Information disclosed to the other Party, be destroyed, deleted or returned to the disclosing party by the other Party at the disclosing party's cost.

16.6 If a disclosing party requests that the other Party destroy or delete the Confidential Information, a senior member or director of the latter Party's or his duly authorised substitute shall within 10 (ten) Business Days furnish the disclosing party with an affidavit confirming that the information in question has been destroyed or deleted, as the case may be.

## **17 Dispute Resolution**

17.1 In the event of any dispute or claim arising between the Parties relating to or arising out of this Agreement, the designated Representatives of the Parties will attempt to settle such dispute or difference and failing such settlement within a period of 15 (fifteen) Business Days after written notification by a Party of such dispute to the other Party.

17.2 In the event that the Representatives of the Parties are unable to resolve such dispute or claim within the period stated in clause 17.1, either Party may refer the dispute or claim to the courts and in this regard the Parties hereby irrevocably submit to the non-exclusive jurisdiction of the Gauteng local division of the High Court of South Africa or such other Court to which they may agree in writing for adjudication.

## **18 Force Majeure & Excused Performance**

18.1 Neither Party shall have any claim of any nature whatsoever against the other Party for any failure to carry out any of its obligations under this Agreement because of Force Majeure.

18.2 If performance by either Party should become objectively impossible in consequence of Force Majeure, that Party's obligations will be suspended with effect as from the time when performance became impossible.

18.3 If a party's performance of an obligation becomes impossible owing to Force Majeure as contemplated in clause 18.2, that Party shall:

18.3.1 as soon as reasonably possible after the Force Majeure sets in, notify the other Party, by whichever means available and, as soon as it becomes possible also in writing, of the incidence of the Force Majeure;

18.3.2 be released from performance or observance of the affected obligation for so long as the Force Majeure prevails;

18.3.3 use its best endeavors to recommence performance or observance of the affected obligation/s, to whatever extent reasonably possible, without delay; and

18.3.4 co-operate with the other Party in implementing such contingency measures as that other Party may reasonably require.

18.4 Should the circumstances of Force Majeure continue or be likely to continue for an unreasonably long time, having regard to the nature of the affected obligation/s and the surrounding circumstances, either Party shall be entitled to terminate this Agreement by giving written notice to that effect to the other Party.

18.5 Altron HealthTech shall be relieved of the obligation to perform in accordance with the provisions of this Agreement and shall in addition not be liable for any loss (including but not limited to loss of data, profits and goodwill), liability, damages (whether direct, indirect or consequential) or expense of whatsoever nature and howsoever arising where Altron HealthTech's failure, delay or inability to perform its obligations in terms of this Agreement is due to:

18.5.1 User's failure to perform or delay in performing its obligations in terms of this Agreement;

18.5.2 Circumstances beyond Altron HealthTech's reasonable control or events that constitute an event of Force Majeure in terms of this clause;

18.5.3 Any form of telecommunications and communications line faults;

18.5.4 power failure or power interruption at either Party's premises;

18.5.5 failure or unreasonable delay by the User to report faults/problems to Altron HealthTech;

18.5.6 User making changes to its information technology system or environment or any portion thereof;

- 18.5.7 The failure of any hardware, software program, application/s or any other computer systems (or component thereof) of any third party on whom the User relies (whether directly or indirectly) to use the Software and/or which Altron relies on to provide the Services;
  - 18.5.8 Loss or damages caused directly or indirectly by the negligent and/or incorrect use of the Software or Services by the User;
  - 18.5.9 Diagnosis and/or rectification of problems not associated with the Services and/or Software; and
  - 18.5.10 The suspension of the Services and/or Software for maintenance, repair and improvements; provided that, and where possible, Altron HealthTech shall provide the User reasonable notice of any such suspension.
- 18.6 The only remedy that the User shall have in the event that the User establishes that there is a defect in the quality of the Services (or component thereof) is to notify Altron HealthTech of the alleged defect and request Altron HealthTech to remedy such defect in the quality of the Services delivered, where possible.

## **19 Domicilium**

- 19.1 The Parties choose as their *domicilium citandi et executandi* ("domicilium"), their respective addresses set out in clauses 19.2 and 19.3 hereof, at which addresses all legal processes and notices arising out of or in connection with this Agreement and any breaches or termination, may validly be served upon or delivered to the Parties.
- 19.2 In respect of the User, at the address on the front page under the heading "Practice (User) Details".
- 19.3 In respect of Altron HealthTech:
- 19.3.1 Altron Campus, Block H, Woodlands Office Park, 20 Woodlands Drive, Woodmead, 2191, for the attention of the Divisional Managing Director / Postal address: PO Box 7045, Halfway House, 1685;
  - 19.3.2 or at such other valid physical street address in the Republic of South Africa, not being a post office box or poste restante, of which the Party concerned may notify the other Party in writing.
- 19.4 Any notice given in terms of this Agreement shall be in writing and shall:
- 19.4.1 if delivered by hand, be deemed to have been duly received by the addressee on the date of delivery;
  - 19.4.2 if posted by prepaid registered post, be deemed to have been received by the addressee on the 8th (eighth) Business Day following the date of such posting;
  - 19.4.3 if sent electronically, shall be deemed to have been received on the first Business Day following the successful transmission thereof as evidenced by the electronic confirmation of receipt (unless the contrary is proven).

## **20 Ethical Conduct**

- 20.1 Altron Limited ("Altron"), the ultimate holding company of Altron HealthTech, adheres to the highest levels of lawful, ethical and responsible business conduct and it requires its subsidiaries, as well as suppliers, customers, contractors and stakeholders of the Altron Group (as constituted by Altron and its subsidiaries from time to time), in their interaction with the Altron Group, to adhere to similar principles.
- 20.2 The User is referred to the Altron Statement of Business Principles and Conduct that can be viewed on Altron's public internet website at **[altron.com](http://altron.com)**.
- 20.3 The User confirms that it has read and understands the above-mentioned Statement of Business Principles and Conduct and that it endorses the principles of lawful and ethical business conduct as

are expressly or implicitly dealt with in the said document. For the sake of clarity, the relevant principles are summarised as follows:

- 20.3.1 Fair competition and avoidance of anti-competitive conduct;
- 20.3.2 Integrity in business dealings – no corruption or bribery;
- 20.3.3 Sustainability – no inappropriate risks for human health and the environment;
- 20.3.4 Equal opportunities in securities trading – no insider trading;
- 20.3.5 Proper record keeping and accurate financial reporting – no deception;
- 20.3.6 Fair and respectful working conditions – no discrimination;
- 20.3.7 Respecting the legal rights of others – no infringement of intellectual property rights;
- 20.3.8 No conflicts of interest between business and personal interests;
- 20.3.9 Cooperation with the authorities – no misinformation;
- 20.3.10 Compliance with laws, regulations, rules and standards, in South Africa and elsewhere;
- 20.3.11 Observance of ethical obligations without causing harm to others other than by fair commercial competitive practices;
- 20.3.12 Not to supply defective or dangerous products;
- 20.3.13 Not to improperly induce or influence someone by the provision of gifts, entertainment or other gratification;
- 20.3.14 To report any events or suspected events of bribery, corruption, improper inducement or influencing, or any other unlawful conduct;
- 20.3.15 To respect human rights and to uphold fair labour practices – no abuse of basic human rights or unfair labour practices (including child and forced labour).

20.4 The Altron Group distances itself from any conduct that deviates from the principles referred to in 20.3 above and reserves the right not to deal with any party whose conduct is contrary to these principles. Altron HealthTech hereby reserves the right to terminate this Agreement forthwith in the event that any information comes to its attention which causes it to conclude, in its sole opinion, that the User has engaged in an act or omission which constitutes a material breach or disregard of the above-mentioned principles of lawful and ethical business conduct. Such termination shall be justified and lawful and shall not be capable of giving rise to any damages claims against or any other liability for Altron HealthTech.

## **21 HealthOne Connect Oncology special conditions:**

- 21.1 In consideration of the implementation fees paid for by our partner, Dis-Chem Oncology (Pty) Limited (“DCO”), for the HealthOne Connect Oncology solution, the User agrees to the following:
  - 21.1.1 Notwithstanding anything to the contrary contained in this Agreement, the User agrees that the subscription of the HealthOne Connect product is for a contract period of 24 (twenty-four) months commencing from the Commencement Date.
  - 21.1.2 In the event that the User elects to terminate its subscription of the HealthOne Connect Oncology solution, prior to the effluxion of the 24 (twenty-four) month period mentioned in clause 1(a) above, the User shall make repayment to Altron HealthTech of the implementation fees within 30 (thirty) days of receipt of an invoice.
  - 21.1.3 The implementation fee shall be calculated on a pro-rata basis and made by electronic funds transfer into Altron HealthTech’s nominated bank account within 30 days of receipt of an invoice reflecting said amount due.

## **22 General**

- 22.1 The Parties shall not be liable to each other for any indirect or consequential loss or damage, loss of profit, revenue, anticipated savings, goodwill and business opportunity, whether arising from negligence or breach of contract or otherwise in connection with this Agreement and whether foreseen or foreseeable by either Party or both Parties at any time.
- 22.2 In the event that any one or more of the provisions of this Agreement shall for any reason be held to be invalid, illegal or unenforceable, the remaining provisions shall remain valid and enforceable. Furthermore, the unenforceable, illegal and invalid provision(s) shall be modified to carry out to the full extent possible the intent of the provision(s) deemed unenforceable, invalid or illegal.

- 22.3 The waiver (whether expressed or implied), by a Party of any breach of the terms of this Agreement by the other Party, shall not prejudice any remedy of the waiving Party in respect of any continuing or other breach of the terms hereof.
- 22.4 No failure, delay, relaxation or indulgence on the part of either Party in exercising any power or right conferred on such Party in terms of this Agreement shall operate as a waiver of such power or right nor shall any single or partial exercise of any such power or right preclude any other or further exercises thereof or the exercise of any other power or right under this Agreement.
- 22.5 This document embodies the whole and entire agreement concluded between the Parties hereto in relation to the subject matter hereof and replaces all other agreements, terms, conditions, warranties and/or representations, whether oral or in writing, that was made or entered into by the Parties prior to this Agreement.
- 22.6 Altron HealthTech reserves its right to update, modify, or revise this Agreement in its sole discretion. Any changes will be communicated to the User through a notification, which may be provided by e-mail, website announcement or other appropriate means. It is the responsibility of the User to review and familiarize themselves with the updated terms and conditions. Continued use of the Services and after receiving notification of changes implies acceptance of the modified terms and conditions.
- 22.7 This Agreement may be signed in any number of counterparts and the copies signed in counterpart shall each constitute an original and together shall constitute the Agreement. This shall include emailed copies of each counterpart.
- 22.8 Altron HealthTech, its Representatives and Dealers shall act as intermediaries in RecoMed's provision of the Appointment Services to the User and its Patients.
- 22.9 The User shall not communicate or forge direct relationships with RecoMed and, conversely, it is recorded that RecoMed is prohibited in terms of its agreement with Altron HealthTech from communicating or forming relationships with the User or its Patients.
- 22.10 This Agreement shall be governed by the laws of the Republic of South Africa and the Parties hereby submit to the exclusive jurisdiction of the South African courts.
- 22.11 Each Party shall bear and pay its own costs of or incidental to the drafting, preparation and execution of this Agreement.