

## Personal medical claims assist (PMCA) terms and conditions for contract

### Debit order Subscriber Agreement

#### **1. Definitions**

In this Agreement unless the context clearly indicates a contrary intention, the words herein below defined shall have the meanings assigned to them, and similar expressions shall bear corresponding meanings:

- 1.1 "Activation" means the enabling of the service on the designated system by PMCA to enable the subscriber to operate the solution in terms of this Agreement.
- 1.2 "Agreement" means the schedule and these terms and conditions in part 1 between PMCA and client;
- 1.3 "Charges" means the connection charges, subscription charges, usage charges and any other charges pertaining to the provision of PMCA services, and any other services how so ever described, by PMCA to the subscriber as detailed in the price list from time to time.
- 1.4 "Connection Charge" means the charge levied by PMCA on the subscriber and connection for activating the subscribers service;
- 1.5 "PMCA" shall mean Personal Medical Claims Assist, registration number 2013/083897/07, a Private Company, (Pty)Ltd registered in terms of the laws of the Republic of South Africa;
- 1.6 "Monthly Subscription" means the monthly subscription fee levied by PMCA in consideration for the subscribers access to and use of PMCA services as detailed in a price list from time to time;
- 1.7 "PMCA Premises" means the offices of PMCA currently being 166 Glen street Weavind Park Pretoria 0184, with due written notice to all parties should premises change but specifically excludes any agent or intermediary acting on behalf of PMCA or any other party;
- 1.8 "PMCA services" means any solution including value added services, made accessible to the subscriber by PMCA in terms of this Agreement;
- 1.9 "Order" means an order placed by a subscriber to PMCA as per schedule or in any other form approved by PMCA for the provision of its solutions or services;
- 1.10 "Package Option" means any one of the tariff plans under which PMCA has made accessible to subscribers whereby tariff plans are set out in the price list and vary according to the various package benefits, value added services included and other variables determined by PMCA from time to time, but subject to the requirements, conditions and or approvals of the regulatory authority, where applicable;
- 1.11 "Price List" means the fee schedule on which the charges levied by PMCA as determined and approved from time to time which price list is available on request from PMCA;
- 1.12 "The Schedule" means the order or application form section of this Agreement and to which these terms and conditions are attached or printed overleaf;
- 1.13 "Subscriber" means the party whose particulars appear on the schedule and has fully accepted all terms and conditions with the relevant financial implications: fees levied;
- 1.14 "Usage Charges" means the charges charged by PMCA to the subscriber for recorded usage of its services, as published in the price list from time to time;
- 1.15 "Value Added Services" means the secondary services designated as such by PMCA which are part of PMCA services except that they may be provided only to subscribers under certain package options to the exclusions of other subscribers, or may be provided at additional charges and may be introduced by PMCA at its discretion from time to time.
- 1.16 "Suspended Service" means that services provided by PMCA will be adjourned for a month should the client default on month- to-month payment of the subscription fee. Thereafter if outstanding payment is still not made the Agreement will be terminated and all services rendered discontinued.

#### **2. Commencement and Termination**

- 2.1 This Agreement shall run from a month- to -month basis and continue unless the subscriber gives written notice of termination a full calendar before desired termination.
- 2.2 Commencement: Notwithstanding the use of agents or other intermediaries by PMCA, the order by the subscriber to PMCA and will be considered once received by PMCA at PMCA premises. PMCA acceptance of the offer (if accepted) shall consist of the activation of the PMCA service as contemplated in and upon which activation of the said Agreement shall become binding between PMCA and the subscriber whether or not the subscriber received notification of the acceptance of the offer. The subscriber hereby expressly dispenses with notification of acceptance of the offer by PMCA.
- 2.3 PMCA reserves the right to terminate the agreement with no prior written notice to the subscriber in the event of the default payment, any mala fide act taken by the subscriber contrary to the provisions of this agreement or law governing contractual agreements; non-performance by subscriber; PMCA duly performed thus bringing a conclusion to the agreement or any other reason whatsoever.
- 2.4 Reasons for termination may be requested at the subscribers own discretion but must be done within (7) seven days of termination and such a request must be made in writing. PMCA will have a further (14) fourteen days to respond to the subscribers request for reasons thereof.

#### **3. PMCA services**

- 3.1 The order placed by the subscriber on PMCA is subject to the approval of PMCA in their sole discretion. If PMCA does not approve the order, it shall not be under any obligation to the subscriber to give reasons for its decision.
- 3.2 PMCA shall utilise its best endeavours to promptly comply with any supply and/or delivery and/or integration requirements recorded in the order, but shall not be liable to the subscriber in the event that such supply and /or delivery and / or service is delayed or cancelled, for whatsoever reason. The subscriber waives all and any claims from whatsoever cause arising against PMCA or any other party arising out of the provision of its services.
- 3.3 The subscriber shall be responsible for obtaining all necessary debit order mandates as defined by PMCA from each client prior to submitting a debit order submission for the client. The subscriber indemnifies PMCA against any claim or liability suffered by PMCA by reason of such approval not having been obtained. The subscriber waives all and any claims against PMCA arising out of the conclusion of this Agreement.
- 3.4 The subscriber hereby warrants and undertakes in favour of PMCA that the subscriber:
  - 3.4.1 shall adhere to all debit order rules as defined by PMCA, PASA, and the Reserve bank of South Africa and not use nor allow the PMCA services to be used for any improper or unlawful purposes;
  - 3.4.2 shall adhere to all dispute management processes as defined by PMCA, PASA, and the Reserve Bank of South Africa;

#### **4. Charges**

- 4.1 In consideration for the provision of the PMCA services, and any other services supplied by PMCA to the subscriber, the subscriber shall effect payment to PMCA of the applicable charges as detailed in the price list, and whether or not the PMCA services have been utilised by the subscriber.
- 4.2 PMCA may, by written notice to the subscriber vary future charges either in whole or in part, with effect from the date specified in such notice.
- 4.3 PMCA may at any time on reasonable written notice to the subscriber vary its invoicing and payment procedures and requirements.
- 4.4 In the event that PMCA requires payment for the services provided to the subscriber to be made by debit order, the subscriber will commit a breach of this Agreement which is actionable, if the subscriber:
  - 4.4.1 cancels any such debit orders without written consent of PMCA;
  - 4.4.2 changes his/her banking details upon which the debit order relies without giving PMCA prior notification of such change and providing PMCA with the subscribers new banking details.
- 4.5 The subscriber hereby authorises PMCA to debit any bank account held by the subscriber between the first and thirty first of the month for costs owed by the subscriber in terms of this Agreement.
- 4.6 The monthly statement or 'bill' shall be sent by PMCA to the subscriber at the address supplied by the subscriber in the schedule or in writing to PMCA. It shall be the duty of the subscriber to check the bill in order to ensure that the contents thereof are correct. Unless a query is raised in respect of the contents of a bill within (30) thirty days from date thereof the contents shall be deemed as correct.

#### **5. Rds(Debit Order) and charge backs (Credit Card)**

The subscriber is aware that in terms of PMCA Agreement with its bank, payments received by PMCA in respect of a particular debit order or credit card transaction may be reversed by the bank due to unpaid, insufficient funds, debit order disputes, incorrect banking detail, credit card holder dispute or any other reversal types and PMCA will be debited by the bank in respect of such amount, which transaction is referred to as a RD for debit orders reversals and a chargeback for credit card reversals.

#### **6. Suspension:**

- 6.1 PMCA may at any time, without notice to the subscriber and in any manner, whatsoever, suspend the subscribers access to the PMCA services in the event that:
  - 6.1.1 Any modification, maintenance or remedial work is required to be undertaken pertaining in any manner whatsoever, to the PMCA services;
  - 6.1.2 The subscriber fails to perform any of his obligations, or breaches in terms of this Agreement;
  - 6.1.3 The subscriber at any time exceeds the credit limit which PMCA in their absolute discretion and notify the subscriber of, from time to time.
- 6.2 PMCA reserves the right to require the subscriber to effect payment of any applicable reconnection charges pursuant to the restoration of PMCA services suspended in the circumstances.
- 6.3 In the event that the subscriber access to the PMCA services is suspended, the subscriber shall still be liable for the

subscription charges during any such period of suspension.

#### **7. Limitation of Liability:**

- 7.1 Without detracting from any of the other provisions of this Agreement, PMCA shall not be liable to the subscriber for any loss or damage suffered by the subscriber and whether same is direct or consequential in the event that:
- 7.1.1 PMCA fails for any reason whatsoever to supply and / or deliver and/ or provide integration of PMCA services on the required date or at all due to unforeseen circumstances or circumstances beyond PMCA's control or any natural disaster or technical difficult by suppliers that hinder delivery of services; and / or
- 7.1.2 PMCA services are interrupted, suspended or terminated for whatsoever reason; and / or
- 7.1.3 PMCA fails to suspend the provision of the PMCA services to the subscribers in terms of any usage Agreement between PMCA and the subscriber or after the subscriber has specifically requested PMCA to do so in order to limit the usage charges ; and /or
- 7.1.4 Such loss or damage was caused by any negligent act or omission on the part of PMCA, its employees or its agents.

#### **8. Indemnity**

- 8.1 Notwithstanding anything to the contrary contained herein, the subscriber hereby indemnifies PMCA against any and all loss, liability and / or damage of whatsoever kind and howsoever sustained and/or incurred by PMCA as a result of the performance and/ or non-performance of any of the subscribers duties herein contemplated.
- 8.2 In addition thereto, the subscriber indemnifies PMCA against any loss, liability , damage or expense that may be occasioned to PMCA as a result of the breach of any of the representations or undertakings set out in this Agreement.

#### **9. Breach**

- 9.1 In the event that the subscriber breaches any term of this Agreement , or any warranty given by it hereunder, or fails to fulfil any obligation resting upon the subscriber including a failure to pay any amount owing to PMCA on the due date, then without prejudice to PMCA other rights in terms of this Agreement or the common law, PMCA may for with and without notice to the subscriber , either terminate this Agreement, or call for specific performance of all the subscriber s obligations and immediate payment of all sums of money owing by the subscriber, whether or not then due.
- 9.2 Withstanding the aforesaid and pending PMCA's election in terms of this clause, PMCA shall not be obliged to perform any of their obligations under this Agreement and the subscriber shall remain liable for the payment of all amounts owing by the subscriber in terms of this Agreement, whether or not such amounts are hen due.
- 9.3 PMCA shall be entitled for with without notice, to terminate this Agreement in the event that the subscriber is sequestered, liquidated, or placed under judicial management, whether provisionally or finally, and whether voluntary or compulsory.
- 9.4 Without detracting from any of the other provisions of this clause 7, in the event of a breach of any provisions of this Agreement or the subscriber prematurely terminating this Agreement and PMCA electing to cancel same, the subscriber shall be liable to effect payment to PMCA of all the subscription charges which would have been payable to PMCA in respect of the remainder of the period of this Agreement.

#### **10 Arbitration**

Should any dispute arise between PMCA and the subscribe from the terms of this Agreement of any suspension or termination thereof such dispute shall be referred to arbitration by an arbitrator by the parties or failing Agreement thereon by the president for the time being of the Tshwane law society or its successor whose decision shall be final and binding on the parties. Such arbitration shall be conducted as informally and as inexpensively as possible at any venue in Tshwane selected by the arbitrator and otherwise in accordance with the provisions of the arbitration act 1965 as amended.

#### **11 General**

- 11.1 In the event of the subscriber failing to effect payment of any amounts due in terms of this Agreement on due date , without derogating from PMCA rights in terms of clause 7 , the subscriber shall be liable to effect payment of interest to PMCA on the amount at the maximum permissible rate from time to time as set forth in the usury act as amended or any other applicable legislation.
- 11.2 The subscriber consents to PMCA performing an ITC credit enquiry on all members or directors of the entity subscribing for service.
- 11.3 All prices and charges in this Agreement and any price list are exclusive of value added tax and any other applicable tax or duty , the liability for which shall vest with the subscriber.
- 11.4 The rights and obligations of the subscriber in terms of this Agreement may not be ceded or delegated to any third party. 11.5 The rights and obligations of PMCA in terms of this Agreement may be ceded and delegated by it to any other party without any written notice to the subscriber.
- 11.6 PMCA may change the terms and conditions of this Agreement as a result in changes in tax laws, regulations, the terms and conditions of the licence issued to the bank and the terms and conditions of any Agreement between the bank and any other party to this Agreement or circumstances or events similar to the a foresaid. PMCA shall notify the subscriber of any changes as contemplated herein writing.
- 11.7 This document contains the entire Agreement between the parties regarding the matters contained herein, and no other warranties, undertakings and/or representations have been made by PMCA or any purported agent of PMCA.
- 11.8 No indulgence , leniency or extension of time which PMCA may show to the subscriber shall in anyway prejudice PMCA or preclude PMCA from exercising any of its rights in the future.
- 11.9 This Agreement and all matters or disputes arising here from or incidental hereto shall be governed and construed in accordance with the laws of the republic of south Africa
- 11.10 The subscriber, by his/her signature hereto and in terms of the provisions of section 45 of the Magistrates Court Act 32 of 1944, as amended, consents to the jurisdiction of the magistrates court in relation to any actions or proceedings instituted against the subscriber in terms of or arising out of the provisions of this Agreement , provided the PMCA, in their sole and absolute discretion shall be entitled to institute any such actions or proceedings in any division of the High Court of SouthAfrica possessed of the requisite jurisdiction.
- 11.11 A certificate under the hand of any manager of PMCA certifying the sum of any amount owing by the subscriber to PMCA shall be prima facie proof of its contents and sufficient proof for the purposes of enabling PMCA to obtain any judgements or order against the subscriber.

END

Signed at \_\_\_\_\_ on this \_\_\_\_\_ of \_\_\_\_\_ 20\_\_\_\_\_

\_\_\_\_\_  
SIGNATURE OF SUBSCRIBER

WITNESS 1

\_\_\_\_\_

\_\_\_\_\_  
WITNESS 2