

PATIENT ACCESS - TERMS FOR PROFESSIONALS/PHARMACIES

These Terms apply to the licence by Patient to the Service Provider of rights to access the Patient Access for Professionals as detailed in the Order Form, to the exclusion of any other terms that the Service Provider seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

1 Definitions

1.1 The definitions and rules of interpretation in this clause apply in these Terms and to the Contract, unless the context requires otherwise.

“Account Volume Fee” means 0.25% of the total amount received into the Connect Account in the relevant month;

“Activation and On-boarding Fee” means the fee paid by the Service Provider for activation of and training in the use of the Patient Access for Professionals, as set out in the Order Form;

“Appointment Date” means the calendar day on which the relevant Services are to be provided to the relevant Customer;

“Authorised Users” means those employees of the Service Provider who are authorised by the Service Provider to use Patient Access for Professionals;

“Bank Account” means the Service Provider’s bank account as detailed in the Order Form;

“Booking Fee” means £0.20 (twenty pence) plus 2.9% of the fee charged to the relevant Customer by the Service Provider for the relevant Services;

“Booking Service” means the online purchase, order, (facilitated) payment and/or reservation service as offered by Patient in respect of the Services made available by the Service Provider through Patient Access for Professionals;

“Business Day” means any day which is not a Saturday, Sunday or public holiday in England;

“Card Fees” means the fee charged per transaction by the Customer’s credit or debit card payment processor (for example, Visa or Mastercard) of £0.20 (twenty pence) plus 1.4% of the gross transaction for EU cards and £0.20 plus 2.9% for non-EU cards as may vary from time;

“Commission” means 15% of the total amount charged to the Customer by the Service Provider for the relevant Services (excluding NHS Flu Jab or NHS Services), provided always that in respect of any Travel Service the minimum Commission fee due will be £10 (excluding VAT) in respect of each booking;

“Confidential Information” means any information in whatever form which is marked as confidential or which, by its nature or the circumstances of its disclosure, ought to be treated as confidential;

“Connect Account” means the Service Provider’s connect account set up with the Third Party Payment Processor;

“Contract” means these terms together with the Order Form;

“Contract Start Date” means the date on which Patient first provides the Service Provider with access to the Patient Access for Professionals following receipt of a completed Order Form;

“Control” means the ability to direct the affairs of another party whether by virtue of the ownership of shares or otherwise (and **“Controlled”** shall be construed accordingly);

“Controller” shall have the same meaning as in the Data Protection Legislation;

“Customer” means any individual who uses the Booking Service;

“Data Protection Legislation” shall mean the Data Protection Act 2018, the GDPR (as applicable) and any other applicable laws relating to the protection of personal data and the privacy of individuals (all as amended, updated or re-enacted from time to time);

“Fees” means the Commission, Activation and On-boarding Fee, Card Fees, Handling Fees, Monthly Subscription Fee, Monthly Video Service Fee, Video Minutes Fee and any other fees paid or payable by the Service Provider under the terms of the Contract;

“**GDPR**” means the General Data Protection Regulation (EU) 2016/679;

“**Go Live Date**” means the date from which the Service Provider is able to list the Services on the Patient Access for Professionals;

“**Group**” means the subsidiary companies and other organisations Controlled by Patient from time to time, and any organisation which Controls Patient (the “**Controlling Entity**”) as well as any other organisations Controlled by the Controlling Entity from time to time;

“**Handling Fees**” means the account fees charged by the Third Party Payment Processor which shall include the:

- Monthly Active Account Fee;
- Account Volume Fee; and
- Payout Fee;

“**Initial Term**” means the initial term of the Contract which shall be 3 years from the Contract Start Date;

“**Intellectual Property Rights**” means patents, registered trademarks and registered designs (including applications and the right to apply for any of them in any country of the world), any other rights in inventions, discoveries and improvements, unregistered trade marks (including any trade, brand or business names, devices, logos or get-up whether registrable or not), copyright (including any copyright subsisting in any computer software) and typographical rights, design rights, database rights, and any other industrial or intellectual property right subsisting now or in the future in any country in the world;

“**Introducer**” means a third party with which Patient has a commercial arrangement relating to the introduction of the Supplier, whether directly or indirectly, to Patient in connection to the Contract.

“**Monthly Active Account Fee**” means £2 per month per active Connect Account;

“**Monthly Subscription Fee**” means the monthly fee paid by the Service Provider for access to the Patient Access for Professionals as set out in the Order Form;

“**Monthly Video Fee**” means the monthly fee paid by the Service Provider to use Patient Access Video for Professionals;

“**Normal Business Hours**” means 9.00 am to 5.30 pm local UK time, each Business Day and excluding public holidays;

“**Order Form**” means the relevant Patient Access for Professionals Order Form confirming the details of the Service Provider’s

order for access to Patient Access for Professionals;

“**Patient Access for Professionals**” means the portal by which Service Providers access the Booking Service in order to list their Services, manage their appointments calendar, take online bookings for Services, and access Patient Access Video for Professionals; and references to Patient Access for Professionals shall implicitly include Patient Access Video for Professionals unless the context requires otherwise;

“**Patient Access Video for Professionals**” means Patient’s facility within Patient Access for Professionals that enables the Service Provider to conduct remote consultations with its Customers via video and to record it to the Customer’s clinical record;

“**Patient**” means Patient Platform Limited, a company registered in England and Wales under company number 10004395;

“**Payout Fee**” means £0.10 for each transfer or money from the Connect Account to the Bank Account;

“**Personal Data**” has the meaning set out in the Data Protection Legislation in relation to data Processed under the Contract;

“**Premises**” means any store, branch, pop-up site, or other real estate property from which the Services are provided at any point during the Term;

“**Renewal Period**” means the period described in clause 12;

“**Service Provider**” means the professional /pharmacy identified in the Order Form;

“**Services**” means the various services (and related products) that can be ordered, purchased, bought, booked or reserved by a Customer from a Service Provider through the Booking Service;

“**Staff**” means all persons employed or engaged by the Service Provider to perform its obligations under the Contract or for the delivery of any Services including any sub-contractors and person employed or engaged by such sub-contractors;

“**Term**” has the meaning given in clause 12;

“**Third Party Payment Processor**” means Stripe Payments Europe Limited or such other third party processor as may be amended at Patient’s sole discretion;

“Third Party Payment Processor’s Terms” means the Third Party Payment Processor’s terms of service relating to the Connect Account which apply to the Service Provider’s use of the Connect Account which can be found at <https://stripe.com/gb/connect-account/legal> or such other location as may be notified to the Service Provider from time to time;

“Travel Service” means any Service delivered by or on behalf of the Service Provider to any person planning to travel outside Western Europe, North America, Australia or New Zealand (which may include an assessment of the individual’s healthcare needs while travelling, and take into account their individual circumstances (e.g. activities to be undertaken, clinical risk factors), their past medical history and their previous vaccination history);

“User Content” means any content created, published or in any way added on or to Patient Access for Professionals by the Service Provider;

“Video Minutes Fee” means the fee payable by the Service Provider for the usage of airtime minutes in Patient Access Video for Professionals linked to the number of minutes used; and

“Virus” means any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

1.2 In these Terms any words following the terms *‘including’, ‘include’, ‘in particular’, ‘for example’* or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2 Patient Access for Professionals

2.1 Subject to these Terms, Patient hereby grants to the Service Provider a non-exclusive, non-transferable right to permit the Authorised Users to access Patient Access for Professionals during the Term for the purpose of listing their Services on the Booking Service, managing the appointments calendar for Services, taking online bookings via the Booking Service, and conducting video

consultations with its Customers using Patient Access Video for Professionals.

2.2 Except as expressly stated herein, these Terms do not grant or assign the Service Provider any Intellectual Property Rights or any other rights or licences in respect of Patient Access for Professionals or the Booking Service.

2.3 These Terms shall not prevent Patient from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under the Contract.

2.4 The Service Provider grants to Patient a non-exclusive royalty-free, non-transferable licence to:

2.4.1 copy, store and distribute the User Content; and

2.4.2 use any materials, equipment, tools, drawings, relevant specifications and logos supplied by the Service Provider to Patient,

to the extent necessary for providing the Booking Service in accordance with these Terms.

2.5 In consideration of the Activation and On-boarding Fee, Patient shall:

2.5.1 list all of the Service Provider’s branches in respect of which access to Patient Access for Professionals is to be provided, as set out in the Order Form, on the patientaccess.com website;

2.5.2 configure Patient Access for Professionals to enable the Service Provider to list its Services for Customers to access; and

2.5.3 set up the Service Provider’s Connect Account with the Third Party Payment Processor.

2.6 Where the Service Provider conducts the Services with its Customers remotely via video, the Service Provider hereby agrees that it shall use reasonable endeavours to use Patient Access Video for Professionals not any other means of video consultation, for initial consultations and for any follow-up consultations.

3 Terms of use

3.1 The Service Provider shall not and shall procure that Authorised Users shall not:

- 3.1.1 provide access to Patient Access for Professionals to any individual or legal entity other than the Authorised Users;
- 3.1.2 disrupt, interfere with or restrict the use of Patient Access for Professionals;
- 3.1.3 obtain, or assist others in obtaining, access to Patient Access for Professionals except as permitted by these Terms;
- 3.1.4 probe, scan or test the vulnerability of Patient Access for Professionals and/or the Booking Service or circumvent or hack any user authentication or security controls in respect of Patient Access for Professionals and/or the Booking Service, or attempt to do so;
- 3.1.5 reverse compile, disassemble, reverse engineer, decompile, copy, duplicate, modify or adapt any software or other code or scripts forming part of Patient Access for Professionals and/or the Booking Service (except to the extent permitted by law);
- 3.1.6 change, modify, delete, interfere with or misuse any files or other data contained on Patient Access for Professionals; or
- 3.1.7 access, store, distribute or transmit any Viruses, or any material during the course of its use of Patient Access for Professionals that:
 - (i) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
 - (ii) facilitates illegal activity;
 - (iii) depicts sexually explicit images;
 - (iv) promotes unlawful violence;
 - (v) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or

- (vi) is otherwise illegal or causes damage or injury to any person or property;

and Patient reserves the right, without liability or prejudice to its other rights to the Service Provider, to disable the Service Provider's access to any material that breaches the provisions of this clause.

3.2 The Service Provider shall permit Patient to audit: (i) the use of Patient Access for Professionals by the Service Provider and the Authorised Users and/or (ii) the Service Provider's relevant records and systems, as reasonably required to ensure compliance with these Terms. This right shall be exercised by Patient by giving the Service Provider reasonable prior notice.

3.3 If Patient becomes aware that the Service Provider has breached any of its obligations under these Terms, Patient shall have the right to immediately:

3.3.1 suspend and disable the Service Provider's access to Patient Access for Professionals until such breach has been remedied to Patient's satisfaction; and/or

3.3.2 remove or procure the removal from Patient Access for Professionals or Booking Service of any materials, including User Content, which Patient in its absolute discretion deems to be or deems could be interpreted to be false, offensive, defamatory, threatening, obscene, unlawful, or it deems violate export control laws or infringe the rights, including Intellectual Property Rights, of any other person anywhere in the world.

3.4 If Patient becomes aware, through Customer complaints or otherwise, of any material performance, clinical safety or quality issues in relation to the Services provided at any of the Service Provider's Premises, Patient shall have the right to immediately suspend or remove the relevant Premises from the scope of the Booking Service until such time as the issue has been remedied to Patient's satisfaction. Suspension or removal under this clause 3.4 shall not otherwise impact upon the continued operation and effect of the Contract.

3.5 The Service Provider shall:

3.5.1 provide Patient with:

- (i) all necessary co-operation in relation to the Contract; and

- (ii) all necessary access to such information as may be required by Patient,
- in order to provide and audit use of Patient Access for Professionals;
- 3.5.2 comply with all applicable laws and regulations with respect to its activities under the Contract;
 - 3.5.3 carry out all other Service Provider responsibilities set out in these Terms in a timely and efficient manner. In the event of any delays in the Service Provider's provision of such assistance as agreed by the parties, Patient may adjust any agreed timetable or delivery schedule as it may consider necessary;
 - 3.5.4 ensure that the Authorised Users use Patient Access for Professionals in accordance with these Terms and shall be responsible for any such person or entity's breach of these Terms;
 - 3.5.5 use all reasonable endeavours to prevent any unauthorised access to, or use of, Patient Access for Professionals and, in the event of any such unauthorised access or use, promptly notify Patient;
 - 3.5.6 ensure that its network and systems comply with the relevant specifications provided by Patient from time to time;
 - 3.5.7 be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to Patient's datacentres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Service Provider's network connections or telecommunications links or caused by the internet;
 - 3.5.8 inform Patient if it intends to close any of its Premises, giving Patient not less than 60 days' prior notice in writing before the closure date (or if it is unlawful or impossible to give such notice, the Service Provider shall notify Patient as soon as practicable of such intended closure). Patient may (at its discretion) terminate the Contract by giving notice at any point if any Premises are closed during the Term;

- 3.5.9 inform Patient of any change of Control of the Service Provider or acquisition of all or substantially all of its assets (a "Relevant Acquisition"), giving Patient not less than 60 days' prior notice in writing of any proposed Relevant Acquisition (or if it is unlawful or impossible to give such notice, the Service Provider shall notify Patient as soon as practicable of such proposed Relevant Acquisition); and
- 3.5.10 follow all steps and provide all documentation and cooperation required to enable Patient to set up the Connect Account with the Third Party Payment Processor and the Service Provider hereby authorises Patient to accept the Third Party Payment Processor's Terms on behalf of the Service Provider.

4 The Services

- 4.1 The Service Provider shall:
 - 4.1.1 be solely responsible for providing the Services to Customers and shall enter into a direct and legally binding contractual relationship with the Customer; and
 - 4.1.2 comply with all applicable laws and regulations in connection with the Contract, including, delivery of the Services; and
 - 4.1.3 perform the Services in accordance with recognised industry quality standards and best practice (including, any relevant professional standards) and using appropriately qualified, registered, skilled, trained and experienced staff.
- 4.2 The Service Provider warrants, represents and undertakes that:
 - 4.2.1 it has, and shall ensure its Staff shall have, and shall maintain throughout the Term, all appropriate licences and registrations with the relevant bodies to perform the relevant Services;
 - 4.2.2 it has all rights, consents, authorisations, licences and accreditations required to provide the Services and shall maintain such consents, authorisations, licences and accreditations throughout the Term;
 - 4.2.3 it has and shall maintain a properly documented system of quality controls and processes covering all

- aspects of the Services, including their clinical safety, and shall at all times comply with such quality controls and processes;
- 4.2.4 it shall not make any significant changes to its system of quality controls and processes in relation to the Services without notifying the Patient in writing at least seven (7) days in advance of such change (such notice to include the details of the consequences which follow such change being implemented); and
- 4.2.5 where any act of the Service Provider connected with the Services requires the notification to and/or approval by any regulatory or other competent body in accordance with any law and /or guidance, the Service Provider shall comply fully with such notification and/or approval requirements.
- 4.3 Patient acts solely as an intermediary between the Service Provider and the Customer transmitting the relevant details of the Customer's booking to the relevant Service Provider and sending the Customer a confirmation email for and on behalf of the Service Provider. Patient is, therefore, a disclosed agent of the Service Provider and Patient does not itself (re)sell or offer any product or service to Customers.
- 4.4 The information that Patient discloses to Customers through the Booking Service is based on the User Content provided to Patient by the Service Provider. The Service Provider is fully responsible for updating all rates/fees/prices, availability, policies & conditions and other information relevant to the Services it offers.
- 4.5 Patient accepts no responsibility for User Content provided by the Service Provider that is made available on the Booking Service and each Service Provider remains responsible at all times for the accuracy, completeness and correctness of the (descriptive) information (including the rates/fees/prices, policies & conditions and availability) displayed to Customers through the Booking Service.
- 4.6 Patient shall provide the Service Provider with its standard cancellation rules for Customers as part of the digital on-boarding process.
- 5 Support and updates**
- 5.1 Patient shall use commercially reasonable endeavours to make Patient Access for Professionals and the Booking Service available 24 hours a day, seven days a week, except for:
- 5.1.1 planned maintenance carried out during the maintenance window of 10.00 pm to 2.00 am UK time; and
- 5.1.2 unscheduled maintenance performed outside Normal Business Hours, provided that the Patient has used reasonable endeavours to give the Customer at least six Normal Business Hours' notice in advance.
- 5.2 Patient shall provide the following support services during Normal Business Hours via telephone or email, as appropriate:
- 5.2.1 a telephone helpdesk facility, including advice and assistance on issues relating to the listing of Services;
- 5.2.2 where there is a demonstrable fault in Patient Access for Professionals which is capable of replication by Patient, Patient shall provide advice and assistance on its correction; and
- 5.2.3 provision of workarounds, patches or other maintenance releases for Patient Access for Professionals.
- 6 Data and User Content**
- 6.1 Both parties are Controllers of the Personal Data collected from Customers who use the Booking Service to obtain the Services from the Service Provider.
- 6.2 Each party shall comply with its obligations under the Data Protection Legislation and shall not do or omit to do anything that might cause the other party to be in breach of the Data Protection Legislation during the Term.
- 6.3 The Service Provider shall own all rights, title and interest in and to the User Content and the Service Provider shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the User Content.
- 6.4 Patient shall have the right (but not an obligation) to moderate any User Content prior to and/or after publication through Patient Access for Professionals of such User Content and may remove, amend or refuse to publish any User Content in its absolute discretion.
- 6.5 If Patient becomes aware that any User Content infringes the copyright or any other Intellectual Property Right belonging to any third party, or of any allegation to such effect, Patient shall have the right to immediately suspend access to such User Content until it is satisfied that the Service Provider has made, or procured, such alterations, modifications or

- adjustments to the User Content so that it becomes non-infringing.
- 6.6 In the event of any loss of or damage to any User Content, the Service Provider's sole and exclusive remedy shall be for Patient to use reasonable commercial endeavours to restore the lost or damaged User Content from the latest back-up of such User Content maintained by, or provided to, Patient. Patient shall not be responsible for any loss, destruction, alteration or disclosure of User Content caused by any third party (except those third parties sub-contracted by Patient to perform services related to User Content maintenance and back-up).
- 7 Payment terms**
- 7.1 The Service Provider shall pay to Patient the Fees without set-off, deduction, withholding or counterclaim for any reason whatever and in accordance with this clause 7. The Fees are exclusive of value added tax, which shall be added to Patient's invoice(s) at the appropriate rate.
- 7.2 From the Go Live Date, the Service Provider shall pay the Monthly Subscription Fee, the Monthly Video Fee, and the Video Minutes Fee on a monthly basis via direct debit (and the Service Provider shall maintain a direct debit mandate with Patient at all times during the Term for these purposes). For the avoidance of doubt, the Service Provider shall have no obligation to pay the Monthly Subscription Fee, the Monthly Video Fee, and the Video Minutes Fee in relation to the period prior to the Go Live Date.
- 7.3 Where the Customer pays the Service Provider directly for the Service at the time the Service is provided (e.g. at the appointment), the Service Provider shall pay the Commission due to Patient within 30 days of the date of the relevant Patient invoice.
- 7.4 Where Patient facilitates the Customer's payment for the Service through the Third Party Payment Processor, the Service Provider shall confirm when the Service has been provided and then:
- 7.4.1 the Commission and Card Fee will be deducted from the payment received from the relevant Customer by the Third Party Payment Processor in respect of the Services and the Commission shall be paid direct to Patient; and
- 7.4.2 the remainder of the payment received from the relevant Customer by the Third Party Payment Processor in respect of the Services shall be paid to the Service Provider.
- 7.5 The Service Provider shall pay the Handling Fees direct to the Third Party Payment Processor in accordance with the Third Party Payment Processor's terms.
- 7.6 Patient may adjust the Fees referred to in the Order Form or these Terms on the first anniversary of the Contract Start Date and on each subsequent anniversary provided that Patient gives more than 90 days' notice of such adjustment in writing to the Service Provider.
- 7.7 Subject to clause 7.8, if a Customer cancels the Service at least 24 hours before the Appointment Date:
- 7.7.1 the Service Provider will receive the Booking Fee minus the Card Fee; and
- 7.7.2 Patient will not receive the Commission.
- 7.8 If a Customer cancels the Service at least 24 hours before the Appointment Date and within 14 days after the date of their booking the Service Provider shall pay the Card Fee and shall not be entitled to any payment, including the Booking Fee, in respect of the Service that has been cancelled.
- 7.9 If a Customer cancels the Service less than 24 hours before the Appointment Date, or the Customer fails to attend the appointment for the Service:
- 7.9.1 the Service Provider will receive the price paid by the Customer minus the Commission and Card Fee; and
- 7.9.2 Patient will receive the Commission.
- 7.10 If the Service Provider cancels the appointment or fails to provide the Service at the appointment the Service Provider shall pay the Card Fee and shall not be entitled to any payment in respect of the Service that has not been provided.
- 7.11 If Patient has not received payment by the applicable due date specified in this clause 7, then without prejudice to any other rights and remedies of Patient:
- 7.11.1 Patient may, without liability to the Service Provider, disable the Service Provider's access to all or part of Patient Access for Professionals and Patient shall be under no obligation to provide access to Patient Access for Professionals while the invoice(s) concerned remain unpaid; and
- 7.11.2 interest shall accrue on such due amounts at an annual rate equal to

4% over the then current Bank Rate (set by the Bank of England) as at the date the relevant invoice was issued, commencing on the due date and continuing until fully paid, whether before or after judgment.

- 7.12 All amounts and fees stated or referred to in these Terms shall be payable in pounds sterling.
- 7.13 If the Third Party Payment Processor deducts any fees or charges (which relate to the transfer of sums to the Service Provider) from payments to Patient then Patient may invoice the Service Provider in respect of the same and the Service Provider will reimburse Patient in respect of such sums within 30 days of the date of the relevant invoice.

8 Liability

- 8.1 Nothing in these Terms shall exclude or restrict the liability of either party to the other for death or personal injury resulting from the negligent act of one party or for liability for any fraudulent misrepresentation by a party to the Contract.
- 8.2 Subject to the provisions of clauses 8.1 and 8.3 the liability of Patient to the Service Provider for direct loss in contract, tort, negligence, breach of statutory duty or otherwise arising out of or in connection with the Contract or the provision or use of Patient Access for Professionals shall be limited for any one incident or series of connected incidents to the sums paid or payable under the Contract to Patient by the Service Provider in the preceding 12 months.
- 8.3 Subject to the provisions of clause 8.1 in no circumstances shall Patient be liable to the Service Provider whether in contract, tort, negligence, breach of statutory duty or otherwise in respect of loss of profits, revenue, goodwill, business opportunity, loss of or cost of restoration of data or for use of any results obtained by use of Patient Access for Professionals or for any loss or damage suffered by the Service Provider as a result of a claim brought by a third party or any indirect, consequential, financial or economic loss or damage costs or expenses whatever or however arising out of or in connection with the Contract or any use of Patient Access for Professionals.

9 Indemnity

- 9.1 The Service Provider shall defend, indemnify and hold harmless Patient against claims, actions, proceedings, losses, damages, expenses and costs (including court costs and reasonable legal fees) arising out of or in connection with the Service Provider's use of Patient Access for Professionals and the

Services it provides on the Booking Service. In respect of any indemnification under this clause:

9.1.1 Patient will provide the Service Provider prompt notice of any such claim;

9.1.2 Patient will provide reasonable co-operation to the Service Provider in the defence and settlement of such claim, at the Service Provider's expense; and

9.1.3 the Service Provider will be given sole authority to defend or settle the claim.

9.2 Patient shall defend the Service Provider, its officers, directors and employees against any claim that Patient Access for Professionals infringes copyright, trade mark, database right or right of confidentiality, and shall indemnify the Service Provider for any amounts awarded against the Service Provider in judgment or settlement of such claims, provided that:

9.2.1 Patient is given prompt notice of any such claim;

9.2.2 the Service Provider provides reasonable co-operation to Patient in the defence and settlement of such claim, at Patient's expense; and

9.2.3 Patient is given sole authority to defend or settle the claim.

9.3 In the defence or settlement of any claim, Patient may procure the right for the Service Provider to continue using Patient Access for Professionals, replace or modify Patient Access for Professionals so that they become non-infringing or, if such remedies are not reasonably available, terminate the Contract on two Business Days' notice to the Service Provider without any additional liability or obligation to pay liquidated damages or other additional costs to the Service Provider.

9.4 In no event shall Patient, its employees, agents and sub-contractors be liable to the Service Provider to the extent that the alleged infringement is based on:

9.4.1 a modification of Patient Access for Professionals and/or Booking Service by the Service Provider, an Authorised User or any unauthorised user who has been able to access Patient Access for Professionals and/or Booking Service directly or indirectly because of the Service Provider;

9.4.2 the Service Provider's use of Patient Access for Professionals in a manner contrary to the instructions given to the Service Provider by Patient; or

9.4.3 the Service Provider's use of Patient Access for Professionals after notice of the alleged or actual infringement from Patient or any appropriate authority.

10 **Publicity**

The Service Provider shall permit and grant to Patient all rights necessary to allow it to use the Service Provider's name and/or logo(s) for the purposes of any Patient marketing materials.

11 **Confidentiality**

11.1 Subject to clause 11.2, neither party shall at any time after the Contract Start Date:

11.1.1 divulge or communicate to any person, company, business entity or other organisation;

11.1.2 use for its own purposes or for any purposes other than those of the other party; or

11.1.3 through any failure to exercise due care and diligence, cause any unauthorised disclosure of:

any trade secrets or Confidential Information relating to the other party provided that these restrictions shall cease to apply to any such information which shall become available to the public generally otherwise than through a breach of a duty of confidentiality owed to the other party and further provided that neither party shall be restricted from disclosing the Confidential Information or any part of it pursuant to a judicial or other lawful government order, but only to the extent required by such order and subject to the party obliged to comply with such order giving the other party as much notice of the terms of the order as may be reasonably practicable.

11.2 Patient may share Confidential Information pertaining to the Contract with any Introducer including, about the use of Patient Access for Professionals by the Supplier and the Customers.

11.3 This clause 11 shall survive termination of the Contract, however arising.

12 **Term and termination**

12.1 The Contract shall, unless otherwise terminated as provided in this clause 12,

commence on the Contract Start Date and shall continue for the Initial Term and, thereafter, the Contract shall be automatically renewed for successive periods of 12 months (each a "**Renewal Period**"), unless:

12.1.1 either party notifies the other party of termination, in writing, at least 90 days before the end of the Initial Term or any Renewal Period, in which case the Contract shall terminate upon the expiry of the applicable Initial Term or Renewal Period; or

12.1.2 otherwise terminated in accordance with these Terms;

and the Initial Term together with any subsequent Renewal Periods shall constitute the "**Term**".

12.2 Without prejudice to any other rights or remedies to which the parties may be entitled, either party may terminate the Contract immediately without liability to the other if:

12.2.1 the other party commits a material breach of any of these Terms and (if such a breach is remediable) fails to remedy that breach within 14 days of that party being notified in writing of the breach; or

12.2.2 immediately on written notice to the other party if the other party is unable to pay its debts when they fall due, is insolvent or enters into any arrangement with its creditors for the repayment of its debts, or if a petition for a bankruptcy order is presented or a bankruptcy order is made against it, or an administrator, receiver, liquidator, manager or similar officer is appointed over all or any substantial part of its assets, or is subject to an order or a resolution for its liquidation, administration, winding-up or dissolution (other than for the purposes of solvent amalgamation or reconstruction), or if it ceases or threatens to cease business or is subject to any analogous event or proceeding in any applicable jurisdiction.

12.3 On termination of the Contract for any reason:

12.3.1 all licences granted under the Contract shall immediately terminate and Patient Access for Professionals shall no longer be available to the Service Provider save that these licences and access shall continue to the extent that the Service Provider requires access to Patient Access for Professionals in respect of bookings

- made prior to the date of termination which have not yet occurred;
- 12.3.2 each party shall return and make no further use of any equipment, property and other items (and all copies of them) belonging to the other party;
- 12.3.3 Patient may delete any User Content within its control;
- 12.3.4 all amounts then owed by the Service Provider to Patient shall immediately become due and payable if not already so; and
- 12.3.5 the accrued rights of the parties as at termination, or the continuation after termination of any provision expressly stated to survive or implicitly surviving termination, shall not be affected or prejudiced.
- 12.4 In any circumstances where Patient has the right to terminate the Contract it may instead, by serving written notice on the Service Provider, opt to suspend the provision of Patient Access for Professionals to the Service Provider until the relevant material breach has been remedied or for such other period of time as Patient deems reasonable in the circumstances. Any suspension of Patient Access for Professionals pursuant to this clause 12.4 shall not relieve the Service Provider of its obligations to pay the Fees due under clause 7, or entitle the Service Provider to any discount in respect of those Fees.
- 13 General**
- 13.1 No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that (or any other) right or remedy, nor prevent or restrict its further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 13.2 Neither party shall be liable for any delay in or for failure to perform its obligations under these Terms, other than an obligation to make any payment due to the other party, if that delay or failure is caused by circumstances beyond the control of that party including, fires, strikes, insurrection, riots, embargoes, the failure of any telecommunications or internet services provider or the regulations of any civil or military authority.
- 13.3 Patient may amend these Terms at any time by:
- 13.3.1 publishing the amendment online at <http://www.securepharm.co.uk/content/patient-access-for-professionals-tcs/> or any other online address that Patient notifies to the Service Provider; and/or
- 13.3.2 giving notice to the Service Provider in addition to any online publication.
- 13.4 In the event that any amendments to be made pursuant to clause 13.3 are likely to cause material detriment to the Service Provider, Patient will give notice of the changes at least 30 days before the amendment is to take effect, and will give notice and/or publish online at least 1 day before the amendment is to take effect in all other cases.
- 13.5 If Patient makes any changes to the Terms which cause the Service Provider material detriment, the Service Provider shall be entitled to terminate the Contract for convenience on 90 days' notice if such notice is served on Patient within:
- 13.5.1 90 days after the notification if Patient has only published the amendment online in accordance with clause 13.3.1; or
- 13.5.2 30 days after the notification if the notice has been served on the Service Provider in accordance with clause 13.3.2.
- 13.6 The Contract constitutes the entire agreement between the parties relating to Patient Access for Professionals and supersedes all previous representations, agreements, assurances, understandings and other communications between the parties, both oral and written, relating to Patient Access for Professionals.
- 13.7 A person who is not a party to the Contract has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- 13.8 Patient may assign or novate the Contract to any member of its Group or any company Controlled by the same people and/or entities with Control of Patient, provided that such assignment or novation does not increase the risk or cost to the Service Provider in respect of access to Patient Access for Professionals. The Service Provider warrants and represents that it will execute all such documents, and carry out all such acts, as reasonably required to give effect to this clause 13.8.

- 13.9 The Service Provider shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of Patient.
- 13.10 If any provision of these Terms is adjudged by a court of competent jurisdiction to be invalid, void or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of these Terms.
- 13.11 All notices given under the Contract shall be in writing, sent for the attention of the relevant person named below and to the address given in the Order Form (or such other address or person as the relevant party may notify to the other party), and shall be delivered either personally, by courier, or by recorded delivery. A notice is deemed to have been received on signature of a delivery receipt by an individual at the correct address for notices. This clause does not apply to the service of any proceedings or other documents in any legal action or dispute resolution.
- 13.12 These Terms and the Contract shall be governed by and construed in accordance with English law and each party hereby irrevocably submits to the exclusive jurisdiction of the English Courts.