

PRACTITIONERS LICENCE AGREEMENT

between **MediSwitch (Pty) Ltd** (registration no 1999/014122/07)

No 3 River Drive Riverview Park Janadel Ave MIDRAND and P O Box 7045 HALFWAY HOUSE 1685
and the **Practice** (as identified below)

Full name of the Practice		(hereinafter referred to as the " Practice ")	
Company/ CC or ID No	VAT No		
Practice Name	PCNS No		

Please attach a PCNS Confirmation Letter with all NEW practice numbers.

Physical address:		Postal address:	
Street & No		PO Box	
Building		Town/ City	
Town/ City		Postal code	
Postal code		or indicate if same as physical address	Yes No
Contact Person:		Cell	
Tel		Fax	
E-mail		E-mail 2 nd (for confidential Info)*	

PRACTICE MANAGEMENT SYSTEM INFORMATION (ACCOUNTING SOFTWARE)

Package name **Medinol IV** Dealer / Sales **Better Practice Management**

Bureau name (if bureau services are utilised)

CLAIMS SERVICES: Switching Method Preference. Please select ONE.

MediSwitch Batch (QEDI) Yes No MediSwitch Online (SwitchOn) Yes No

ELECTRONIC REMITTANCE ADVICES ("eRAs" – refer to clause 28) Yes No

eRAs in PDF format (allows eRAs to be printed) which are provided at no cost	<input type="checkbox"/> Yes	<input type="checkbox"/> No	eRAs in data format (which enables automatic reconciliation of payments if the PMA makes provision for such service)	<input type="checkbox"/> Yes	<input type="checkbox"/> No
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MARKETING INFORMATION

Do you wish to receive marketing information about MediSwitch products?*	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Do you wish to receive marketing information about related products and companies?*	<input type="checkbox"/> Yes	<input type="checkbox"/> No
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Signed on behalf of the **Practice** by (full name)
who hereby warrants his/her authority and binds himself/herself as surety and co-principal debtor of the **Practice** in terms of this agreement and confirms that he/ she has read the terms and conditions overleaf.

Signature **Date**/...../ 20.....

DEBIT ORDER

The **Account Holder** authorises **MediSwitch** to debit the Bank Account, details of which appear below, in payment of monies payable to **MediSwitch** for **services** rendered (a copy of a cancelled cheque must be enclosed herewith).

BANK NAME: ACCOUNT HOLDER:

ACCOUNT NO: ACCOUNT TYPE

<input type="checkbox"/> Cheque	<input type="checkbox"/> Transmission	<input type="checkbox"/> Savings (except FNB)
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BRANCH CODE: **Signed by (full name)**.....

Signature **Date**/...../ 20.....

See the Terms and Conditions overleaf

* The **Practice** may at any time stop the supply of marketing information to it by giving notice in writing to **MediSwitch**.

TERMS AND CONDITIONS

MediSwitch grants to the **Practice** and the **Practitioners** attached to it, jointly, a non-exclusive and non-transferable licence to use **MediSwitch's services** and the related **software** subject to the following terms and conditions:

The **Practice** qualifies as a "consumer" in terms of the Consumer Protection Act 68 of 2008 if it is a company, a close corporation, a partnership, an association or a trust whose asset value or annual turnover is less than R2 million or if he or she is a natural person (a human being) who conducts the practice on his or her own, irrespective of his or her asset value or annual turnover. In what follows "section" refers to a section of the aforesaid Act.

DEFINITIONS

1 For the purposes of these **Terms and Conditions**:

- 1.1 "agreement" means this Practitioners Licence Agreement including these Terms and Conditions;
- 1.2 "back report" means an electronic response report which sets out the details of each **transaction** received by **MediSwitch** from the **Practitioner**;
- 1.3 "destination" means any destination serviced by **MediSwitch**, *inter alia*, medical schemes, financial institutions, healthcare insurers and other funders of healthcare **services** and, if applicable, includes inter-intermediaries who perform claims evaluation **services** on behalf of **destinations**;
- 1.4 "eRA" means electronic remittance advice;
- 1.5 "LifeDoc" is a web based personal health record application conducted by **MediSwitch** for the storage and strictly controlled disclosure of the health and wellness information of participating individuals who become members of **LifeDoc**;
- 1.6 "month" means a calendar month ending on the 28th, 29th, 30th or 31st day of the month, as the case may be;
- 1.7 "parties" means **MediSwitch** and the **Practice** and "party" means either of them;
- 1.8 "Practitioner" means any person, attached to 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 amended;
- 1.9 "Practice" includes the **Practitioners** or the **Practitioner** in the case of a one-man **Practice**;
- 1.10 "representatives" means a **party's** directors, officers, employees, agents or professional advisers and in the case of the **Practice**, the **Practitioners** attached to it;
- 1.11 "services" means the switching and other services rendered by **MediSwitch** in terms of this **agreement**;
- 1.12 "software" means all the **software** owned or to be developed by **MediSwitch** or licensed to **MediSwitch** including **software** which is embodied in or used in connection with the **services**, the data formats used for the transmission of **transactions** and **LifeDoc**; and
- 1.13 "transaction" means an electronic message and reply, relating to a single patient on a single occasion, which message and reply contain structured data in plain or encrypted language prepared in a format specified for intended transmission from computer to computer;

- 1.14 "VAR" means a Value Added Reseller who has been accredited by **MediSwitch** to render maintenance and support services to the **Practice**.

LICENCE

2 **MediSwitch** retains ownership of all intellectual property rights in and to the **software** as well as any copy thereof. The **Practice** undertakes to keep (and undertakes to procure that its **representatives** will keep) the **software** and all related documents and all intellectual property associated with the submission of **transactions** in strict confidence and will not remove or destroy any proprietary markings of **MediSwitch**.

3 The **software** is not sold and the **Practice** and Practitioners are only entitled to use it under licence.

4 This **agreement** shall commence on the date of signature and shall remain in force until terminated by either the **Practice** or **MediSwitch** by giving the other **party** at least one **month's** written notice of such termination. On termination, for whatever reason, the **Practice** shall forthwith return to **MediSwitch** all concepts, documentation, **software** or trade secrets of or related to **MediSwitch** and its **services** and shall, upon request, certify in writing that it has complied with the foregoing.

5 If this agreement is terminated for whatever reason the onus rests on the **Practice**:

- 5.1 to inform all the relevant **destinations** that the **Practice** will no longer receive its eRAs through **MediSwitch**; and
- 5.2 to retrieve its final **eRAs** from the **MediSwitch** system.

OBLIGATIONS OF MEDISWITCH

6 **MediSwitch** shall render the following **services** to the **Practice**:

- 6.1 transfer the **Practice's transactions** to the **destinations** specified by the **Practice** in the format required by the **destination** for the specific **transaction type**;
 - 6.2 validate the **Practice's transactions** to the best of **MediSwitch's** ability in line with the requirements of the **destinations** concerned to expedite the processing of the **transactions**;
 - 6.3 store the **Practice's transactions** in electronic format;
 - 6.4 subject to the provisions of clauses 26 and 33 below, observe and protect the confidentiality of the **Practice's transaction data**;
 - 6.5 maintain a back-up for a period of 12 (twelve) **months** from the time when a **transaction** is last transmitted by means of the **services** to ensure continuity, security and auditability of its **services** to the **Practice** and the participating **destinations**;
 - 6.6 on request from the **Practice**, provide certification of any **transaction** from its origin to its **destination** and maintain an audit trail of each **transaction** for 12 (twelve) **months**;
 - 6.7 return to the **Practice** a **back report** after each submission of **transactions**.
- 7 **MediSwitch** shall, for the duration of this **agreement**, maintain the **software**, provided always that **MediSwitch's** obligation to maintain the **software** shall be limited to, and comprise only the examination and testing of the **software** and effecting adjustments thereto as necessitated by the normal use of the **software** in terms of its specifications.

Consumers' attention is specifically drawn to the provisions of clause 7 above in compliance with the provisions of **section 49(1)(a)**.

8 **MediSwitch** or a **VAR** shall:

8.1 give telephonic support where the telephone call originates from the **Practice**;

8.2 respond to service calls within a reasonable period of time; and

8.3 make upgrades to the **software** available to the **Practice**.

9 **MediSwitch** warrants that the **software** will perform substantially in accordance with its published specifications, which the **Practice** acknowledges it has received, provided always that the **software** is used on computer hardware, and in conjunction with a **MediSwitch** accredited PMA and an operating system for which the **software** is designed.

10 **MediSwitch** or its **VAR** shall not be liable in respect of any defect in the computer hardware or any third-party data used by the **Practice**. **MediSwitch's** only liability with regard to any malfunctioning of the **software** will be to use its best efforts to remedy any defect as soon as practicably possible. **MediSwitch** shall, in particular, not be liable for any consequential loss that the **Practice** may suffer as a result of any defect in the **software** or **services** and its aggregate liability arising from breach of this **agreement** will, in any event, not exceed the service fee charged by **MediSwitch** for one month.

11 **MediSwitch** or its **VAR** shall not be obliged to maintain the **software** or perform any other obligation in terms of this **agreement** at any time other than between 08:00 and 17:00 from Mondays to Fridays, excluding public holidays.

12 All charges by **MediSwitch** or its **VAR** for maintenance or support which are not covered by clauses 6, 7 and 8 above, will be at **MediSwitch's** or its **VAR's** ruling rate for, *inter alia*, labour, material and travelling expenses.

13 Save for the warranty contained in clause 9 above, **MediSwitch** gives no warranties or makes any representations in relation to the **software** or **services** and the **Practice** acknowledges that no representations have been made and no warranties given on behalf of **MediSwitch**.

Consumers' attention is specifically drawn to the provisions of clauses 9 to 13 above in compliance with the provisions of **section 49(1)(a)**.

OBLIGATIONS OF THE PRACTICE

14 The **Practice** shall

14.1 utilise the **services** for all **destinations**;

14.2 follow up with the **destination**, on a regular basis, on accounts which have not been paid 30 (thirty) days after the service date; and

14.3 within 14 (fourteen) days after being called upon by **MediSwitch** to do so, furnish **MediSwitch** with the names, HPCSA numbers and further details, as may be required, of every **Practitioner** attached to the **Practice**.

15 The **Practice** warrants that each **Practitioner** will comply with the provisions of these Terms and Conditions.

16 The **Practice** 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.

17 The **Practice** shall define its own access code in order to access and utilise the **services**. Such access code may be used by more than one of the **Practice's** authorised **representatives**.

18 The **Practice** shall take all steps necessary to procure that only the **Practice** or the **Practice's** authorised **representatives** shall have access to the access code referred to in clause 17 above. 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 **Practice** shall immediately notify **MediSwitch** thereof, whereupon **MediSwitch** shall, at the **Practice's** cost, replace the access code as soon as is reasonably possible. The **Practice** shall be liable for any loss, liability, damage or expense arising out of the unauthorised use of the access code and indemnifies **MediSwitch** against any claims arising out of such unauthorised use.

19 The **Practice** guarantees the data which it submits to **MediSwitch** will not encroach upon the protection which data subjects enjoy in respect of their personal information and indemnifies **MediSwitch** against any claims which may arise from any such encroachment on its part.

SERVICE FEE

20 In return for the **services** rendered by **MediSwitch** or its **VAR** in terms of this **agreement**, the **Practice** shall, subject to the provisions of clause 12 above and the provisions set out hereunder, pay **MediSwitch** a service fee, based on the **Practice's** **Practice** type and the nature of the **services** rendered, as laid down in **MediSwitch's** pricelist.

21 **MediSwitch** may from time to time change the service fee by an amount which is fair and reasonable in view of:

21.1 any enhancement of the **services** that **MediSwitch** renders to the **Practice**; or

21.2 any increase in the cost to **MediSwitch** of providing the **services**; provided that **MediSwitch** gives the **Practice** 30 (thirty) days' notice of its intention to do so. If the **Practice** does not terminate this **agreement** within the aforesaid notice period of 30 (thirty) days, it shall be deemed to have accepted the increase.

22 A minimum **monthly** fee, based on the **Practice's** **Practice** type, as laid down in **MediSwitch's** pricelist will be charged regardless of whether the **Practice** submitted any **transactions** during the **month** concerned or not.

23 All accounts are payable strictly within 30 (thirty) days from date of statement.

24 If it should become necessary for **MediSwitch** to institute legal proceedings to recover service fees from the **Practice**, the **Practice** shall be liable for tracing fees, collection commission and legal costs (on the attorney and own client scale) reasonably incurred by **MediSwitch**.

25 Irrespective of the foregoing, **MediSwitch** shall be entitled to cancel this **agreement** and terminate its **services** forthwith if the **Practice** should fail to pay the service fee timeously, or if the debit order given by or on behalf of the **Practice** is not honoured.

26 **MediSwitch** is entitled to use data extracted from the **MediSwitch** system for comparative or commercial purposes as long as the identity of the **Practice**, the patient and member is not disclosed.

MINIMUM CONNECTION REQUIREMENTS

27 The **Practice**'s computer system shall comply with the minimum specifications as published by **MediSwitch** from time to time.

ELECTRONIC REMITTANCE ADVICES

28 By indicating on the attached form that **eRAs** must be delivered electronically, the **Practice** gives consent that **destinations** are authorised to furnish **MediSwitch** with electronic remittance advices pertaining to the PCNS number specified on this form.

29 **MediSwitch** 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 **Practice** as a result of or in connection with the use of or reliance on incorrect data provided by the **destinations** or the **Practice**'s omission to inform **MediSwitch** of any change in the **Practice**'s details.

Consumers' attention is specifically drawn to the provisions of clause 29 in compliance with the provisions of **section 49(1)(a)**.

30 **MediSwitch** is responsible for the upload of **eRA** files into the relevant mailboxes for access by the **Practice**. The **Practice** is responsible for the download of the **eRA** files from the mailboxes.

31 The **Practice** shall only receive electronic remittance advices from **destinations** with **eRA** capability, and shall cease to receive printed remittance advices from these **destinations**.

32 Only practices with the required **eRA** capable **software** shall be able to receive eRAs. (A list of such practice accredited software is published on www.mediswitch.co.za).

The **Practice** and all the **Practitioners** attached to it give their consent that information relating to their patients, who are members of **LifeDoc**, may be collected by **MediSwitch** from the **transactions** transmitted through **MediSwitch**. The information may include the HPCSA number, the date when a healthcare service was provided, ICD10 code, procedure code, dispensed medicines and vital signs, which information will be accessible, with the **LifeDoc** member's consent (given by means of an OTP), to healthcare providers, including the **Practice** and **Practitioners**.

33 By giving their aforesaid consent, the **Practice** and **Practitioners** furthermore consent that their names and contact details may be disclosed to **LifeDoc** members as healthcare providers who will participate in **LifeDoc** to keep members' healthcare records complete and up-to-date.

NON-TRANSFERABILITY

34 The **Practice** shall not without the prior written consent of **MediSwitch** cede, assign, delegate or otherwise transfer its rights in terms of this **agreement** to any third party nor shall it allow any third party to use the **software**.

35 The license will *ipso facto* lapse if there is a change in the membership, ownership or control of the **Practice**. In such event the **Practice** will have to apply for a new licence.

DISPUTE RESOLUTION

36 In the event of any dispute or difference arising between the **parties** relating to or arising out of this **agreement**, the **parties** will immediately meet to attempt to settle such dispute or difference, and failing such settlement within a period of 14 (fourteen) working days, the dispute or difference will be referred to arbitration in terms of the rules of the Arbitration Foundation of South Africa.