

Licensed Application End User Licence

1. Introduction

1.1. The “GSH Breast and Endocrine Bookings” mobile application (the “App”) primarily allows for primary healthcare providers to refer patients to the specialist Breast and Endocrine Surgical Team at Groote Schuur Hospital (the functionalities provided by the App are referred to as the “Service”).

1.2. This end user licence agreement (the “EULA”) governs your use of the App, including any modifications or updates to it, and the way we process information through the App. By downloading, installing, or using the App, or in any manner indicating your agreement to these terms, you become bound by the terms of this EULA, which is entered into between you (the user of the App) and us, GSH Breast and Surgical Endocrine Unit.

1.3. You will probably download this App to your mobile device (“Device”) from a third party mobile app store (the “Store”). This EULA and your use of the App are both subject to any conditions imposed on you from time to time by the Store in accessing and downloading the App.

1.4. We may release new versions of the App from time to time. You should download the new version in order to continue to make use of the Service; the Service may not be provided as intended should you not be using the latest version.

1.5. We take data privacy seriously and are committed to data protection in accordance with all relevant laws which, for purposes of this EULA, include the Protection of Personal Information Act 4 of 2013 (“POPI”).

2. Licence

2.1. We grant to you a free, non-transferable licence to use the App on any Device that you own or control for the sole purpose of accessing the Service. If the Store that you download the App from is operated by Apple Inc., then the license is limited to use the App on an iPhone, iPod touch, iPad or other device using the iOS operating system.

2.2. This license does not allow you to use the App on any Device that you do not own or control, and you may not distribute or make the App available over a network where it could be used by multiple devices at the same time. You may not rent, lease, lend, sell, redistribute or sublicense the App. You may not copy (except as expressly permitted by this license), decompile, reverse engineer, disassemble, attempt to derive the source code of, modify, or create derivative works of the App, any updates, or any part thereof (except as and only to the extent any foregoing restriction is prohibited by applicable law or to the extent as may be permitted by the licensing terms governing use of any open sourced components included with the App). Any attempt to do so is a violation of our rights and the rights of our licensors.

2.3. We may change the terms of this EULA at any time, and will display the new EULA for acceptance the next time you access the App. If you do not accept the amended EULA, this this EULA will automatically terminate (see clause 3.1).

3. Term & Termination

3.1. Your rights under this EULA will terminate automatically without notice from us if you fail to comply with any term(s) of this EULA. Upon termination of the EULA, you must cease all use of the App, and destroy all copies, full or partial, of the App.

4. Registration and Creation of Account

4.1. After accepting this EULA, you will still need to register with us before you can use the Service. You will register using the App itself, and you undertake to provide us with accurate information, and to keep this information updated and accurate at all times.

4.2. You warrant that you are a qualified medical professional or registered healthcare student, registered and in good standing as such according to applicable law in your jurisdiction dealing with the qualification and registration of healthcare providers. Should you cease to be so registered, you must immediately cease to use the App.

4.3. We may confirm your registration with the relevant medical profession body or registration body with which you are registered. Your registration will be finalised only after we have satisfied ourselves that you are a medical professional registered and in good standing with such body, and that your registration allows for you to deal with patient personal information as described in this document.

4.4. We will use your personal information only for providing the Service to you via the App, in accordance with this EULA, and will retain information in accordance with the retention periods prescribed by law.

4.5. You must keep usernames and passwords safe to ensure that only you can use the App. You agree that usernames and passwords are issued for individual users only and that you must not share this information with anyone else.

5. Patient Personal Information and Medical Ethics

5.1. Any reference in this EULA to “personal information” includes any data and/or information relating to an identified or identifiable natural or juristic person, including (by way of example only) a person’s name, identity number, professional healthcare speciality, or information relating to their physical or mental health, medical history, and biometric information.

5.2. The personal information that we process may include:

5.2.1. individual personal information and other data collected by us through the App;

5.2.2. personal information of patients which is uploaded to the App by users of the App;

5.2.3. de-identified health information (“Anonymised Data”);

5.2.4. geolocation data of App users;

5.2.5. professional information relating to healthcare providers including, *inter alia*, Health Professions Council of South Africa registration number and the name of the healthcare institution from which the healthcare provider practices;

5.2.6. any other personal information or other information that may be provided to us during the course and scope of conducting our business and rendering the Service; and

5.2.7. reports pertaining to certain personal information of healthcare providers (“Reports”),

(collectively, “Data”).

5.3. We may, from time to time, share personal information contained in the Reports with the South African National Department of Health (or similar governmental institutions in any other applicable jurisdiction) for research purposes. However, we will only share personal information in these Reports insofar as it is necessary for the governmental institution fulfil its functions in advancing public health or other public interests.

5.4. We may also share Anonymised Data with healthcare providers and/or researchers, who may publish this Anonymised Data for research purposes. This Anonymised Data is health information that has been de-identified, does not contain personally identifiable information, and can therefore not be linked to a specific person.

5.5. If you are referring a patient, the App may require you to enter personal information relating to the patient. This personal information will be uploaded to our servers and then shared with specialist medical healthcare providers who are also users of the App. Certain of our users may also use this personal information for ethical research purposes, however, as registered healthcare practitioners, these users are bound by professional confidentiality, and as a result, may not share personal information prior to correctly anonymising such information.

5.6. We provide a patient privacy notice as part of the App explaining how the App deals with patient personal information. Healthcare providers warrant and undertake that they will explain the contents of that notice to patients (and to show it to them if they want further information), and further warrant and undertake to abide by all relevant data privacy laws, and the provision of clause 5.8.

5.7. Whether referring a patient or otherwise, in making use of the App you must comply with law applicable to you in your jurisdiction relating to the collection and

processing of personal information generally and patient medical data in particular. You must also comply with the norms of medical ethics applicable in your jurisdiction relating to the collection, sharing and use of patient personal information, whether these are applicable by established usage or are promulgated by a governmental authority, professional association, or the like.

5.8. The medical practitioner that is liable for the medical advice given to a patient shall be the author of such medical advice. For example, and for the avoidance of doubt, primary healthcare workers shall not be liable for medical advice written by specialists, regardless of whether the primary healthcare worker actually furnished such written medical advice to the patient. Users indemnify other users to the fullest extent permitted by law in this regard.

5.9. You must not use or extract patient personal information accessible via the App for any other purpose than for the provision of medical treatment. If you wish to use the patient personal information for research purposes you can only do so if you have first entered into an agreement with us which will govern that use.

5.10. You agree to indemnify and hold us harmless from any and all damages, losses, fines and/or expenses (including all legal costs on an attorney and own client scale) that we may incur and all claims that may be brought against us by any third party relating to or arising from your failure to adhere to any of your duties as set out in this clause 5.

6. Security

6.1. We are committed to implementing appropriate structural, technical and other security measures to protect the integrity and confidentiality of Data. We protect and manage Data by using electronic and computer safeguards such as firewalls and data encryption. We may authorise access to Data to our employees, affiliates and/or our consultants, but only where they require it to fulfil their designated responsibilities and only where they have been appropriately informed regarding the confidentiality of such Data.

6.2. We will take appropriate technical and organisational measures against the unauthorised or unlawful processing of personal information and against the accidental loss or destruction of, or damage to, personal information.

7. Children

7.1. We process certain sensitive data of patients for healthcare purposes, and, from time to time, this may include sensitive data relating to children under the age of 18 years. You warrant and undertake that you have obtained the necessary consent for the processing of sensitive data from the parent or guardian where the patient is under the age of 16 years, and indemnify us to the fullest extent permitted by law in this regard. We reserve the right to request, at any time, that you furnish us with evidence of such consent having been obtained.

8. Transborder Flow of Information

8.1. The Data we collect may be transferred outside of the Republic of South Africa. You may withdraw your consent to us processing your information across borders, however this may mean that we are no longer able to offer the Service to you.

9. Third Party Content and Services

9.1. The App may allow access to websites or other applications owned and / or operated by third parties. We are not responsible for the content from such sources, and do not endorse or approve the contents thereof.

9.2. You agree to use the App at your sole risk in this regard and we consequently are not responsible for and do not accept any liability in connection with any third party material that may be accessible via the App (regardless of whether or not we have permitted access to the material).

9.3. If you access such material you undertake not to infringe any intellectual property rights relating to it, whether by making reproductions, derivative works or otherwise.

10. Consent to Use of Technical Data

10.1. You agree that we may collect and use technical data and related information, including but not limited to technical information about your Device, system and application software, and peripherals, that is gathered periodically to facilitate the provision of software updates, product support and other services to you (if any) related to the App. We may use this information, as long as it is in a form that does not personally identify you, to improve our products or to provide services or technologies to you.

11. Geolocation Data

11.1. If your location settings are enabled on your Device, the App will, from time to time, use GPS technology (or similar technology) to tell us about your Device's location, even if you are not directly interacting with the App.

11.2. We use this location information to improve the Service by using it to make referrals and advertisements more relevant and accurate for users, and pursuant to this, we may share your location data with other users or with our affiliates.

11.3. If you do not want us to use your location, you should turn off the location services for the App located in your Device's settings.

12. Advertising and Newsletters

12.1. We may, from time to time, process Data in order to provide you with newsletters and/or advertise services to you. If you do not want to see the advertisements, you may close the advertisement window. Should you not wish to

receive newsletters from us, please let us know by emailing gshsurgonc@gmail.com, and we will remove your details from our mailing list.

13. Relationship with the Store

13.1. This clause 13 only applies to you if the Store that you download the App from is operated by Apple Inc.

13.2. Both parties acknowledge that this EULA is entered into between them only, and that Apple Inc. is not a party to it. The Store is not responsible for the App or its content, and is not responsible for any support and maintenance of the App.

13.3. In the event of a failure of the App to conform to an applicable warranty, you may notify the Store, which may refund the App licence fee to you (if one was paid). To the maximum extent permitted by applicable law, the Store will have no other warranty obligation whatsoever with respect to the App, and any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be our sole responsibility (subject to the other provisions of this EULA).

13.4. Both parties acknowledge that we, and not the Store, are responsible for addressing any of your claims or any third party relating to the App or your possession and/or use of the App including, but not limited to, (i) product liability claims; (ii) any claim that the App fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation.

13.5. Both parties acknowledge that if there is any third party claim that the App or your possession and use of the App infringes that third party's intellectual property rights, we, and not the Store, will be solely responsible for the investigation, defence, settlement and discharge of any such intellectual property infringement claim.

13.6. Both parties acknowledge and agree that this EULA operates as a contract for the benefit of a third party in favour of the Store and its subsidiaries, insofar as the provisions of this EULA create rights in favour of the Store. The Store will have the right (and will be deemed to have accepted the right) to enforce the EULA against you as a third party beneficiary thereof.

13.7. You represent and warrant that (i) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country; and (ii) you are not listed on any U.S. Government list of prohibited or restricted parties.

14. Identity and Contact Details

14.1. Your identity and addresses where you will accept service of any notices or other communications under this EULA is as per the information that you provide to us when registering the App.

14.2. Our identity and addresses where we will accept service of any notices or other communications (including queries and complaints) under this EULA are:

14.2.1. Telephone number: +27 214049111

14.2.2. Email address: gshsurgonc@gmail.com

15. Data Protection

15.1. You acknowledge that we may be processing patient personal information on your behalf, and that we are not acting under your direct authority in this regard.

15.2. We will notify you and the relevant authorities immediately where we have reasonable grounds to believe that any personal information that you have uploaded about yourself or a patient has been accessed or acquired by any unauthorised person.

15.3. We will secure the integrity and confidentiality of Data under our control by taking appropriate, reasonable technical and organisational measures to prevent:

15.3.1. loss of, damage to or unauthorised destruction of personal information;
and

15.3.2. unlawful access to or processing of personal information.

15.4. In order to give effect to the above, we will take reasonable measures to:

15.4.1. identify all reasonably foreseeable internal and external risks to personal information in our possession or under our control;

15.4.2. establish and maintain appropriate safeguards against the risks identified;

15.4.3. regularly verify that the safeguards are effectively implemented; and

15.4.4. ensure that the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards.

15.5. We will have due regard to generally accepted information security practices and procedures which may apply to us in the processing of personal information.

16. Your Rights in Respect of your Data

16.1. You have the following rights in respect of your personal information:

16.1.1. right of access, which includes the right to request a copy of the personal information that we hold about you (which request may be subject to a reasonable administrative fee);

16.1.2. right of rectification, which allows you to request that the personal information we hold about you to be corrected;

16.1.3. right to be forgotten, which allows you to request that the personal information we hold about you to be erased in circumstances where such erasure is permissible (which request may be subject to a reasonable administrative fee);

16.1.4. right of portability, which includes the right to have your personal information transferred to a third party;

16.1.5. right to object to certain types of processing, for instance, to direct marketing, and to object to automatic processing or profiling of data;

16.1.6. right to judicial review, which includes the right to complain to any relevant authority regarding our use of personal information; and

16.1.7. right to withdraw your consent to us for processing your personal information.

17. No Warranty

17.1. Save as expressly set out in this EULA and to the maximum extent permitted by law, we make no representations and give no warranties or guarantees of any nature whatsoever in respect of the App, which is provided on an “as is” and “reasonable effort” basis, and all warranties, whether statutory or which are implied or residual or at common law are hereby expressly excluded. Should the App prove defective, you assume the entire cost of all necessary servicing, repair or correction. Some jurisdictions do not allow the exclusion of implied warranties or limitations on applicable statutory rights of a consumer, so the above exclusion and limitations may not apply to you.

18. Limitation of Liability

18.1. We are not liable for any loss or damages of whatsoever nature and howsoever arising (including consequential, indirect, aggravated, special or incidental loss or damages which will include but will not be limited to loss of property, data, profit, business, goodwill, revenue or anticipated savings) or any costs (including legal costs on the scale as between attorney and own client and any additional legal costs), claims or demands of whatsoever nature and howsoever arising, whether out of breach of express or implied warranty, breach of contract, misrepresentation, negligence, strict or vicarious liability, in delict or otherwise, and whether either party anticipates the damage or not, and whether arising from or relating to this EULA, or otherwise.

19. Interpretation & General

19.1. *Whole Agreement.* This EULA is the whole of the agreement between the parties, and no document or statement not mentioned above will form part of it. Only

a written variation, waiver or cancellation agreed to by both parties will be of any effect.

19.2. *Applicable Law & Jurisdiction.* The law of the Republic of South Africa will apply to this EULA, its interpretation and any matter or litigation relating to or arising from it, and the parties consent to the jurisdiction of the courts of Republic of South Africa in this regard.

19.3. *Survival.* For the avoidance of doubt, any provision of this EULA that anticipates any right or duty extending beyond the termination or expiry of this EULA will survive the termination or expiry of this EULA and continue in full force and effect.

19.4. *No Indulgence.* If one party chooses not to enforce any part of this EULA, that does not mean that the party cannot enforce that part at a later time. If any part of the EULA is found to be unenforceable, the rest will still be enforceable.

19.5. *Reading Down.* If a provision of this EULA is reasonably capable of an interpretation which would make that provision valid and enforceable and an alternative interpretation that would make it void, illegal, invalid or otherwise unenforceable, then that provision shall be interpreted, so far as is possible, to be limited and read down to the extent necessary to make it valid and enforceable.

19.6. *Severance.* In the event that any part of this EULA is found to be partially or fully unenforceable because it does not comply with any law, or for any other reason, this will not affect the application or enforceability of the remainder of this EULA.