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# NATIONAL HOSPITAL NETWORK

Company Registration No: 2007/005053/08

## MEMBERSHIP POLICY AND PROCEDURE

### VERSION CONTROL:

Document Title	NHN Membership Policy and Procedure
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## 1. Memorandum of Incorporation (section 8)

### ***“8. Members***

*The following persons may, in the sole discretion of the Board, be members of the Company:*

- 8.1. *All persons, conducting a duly licensed and registered independent health care facility, which is owned, conducted or managed by a person other than a Government, Provincial or Local Authority or any Group that is not an independent health care facility, shall be eligible for ordinary membership of the Company;*
- 8.2. *All persons, conducting institutions which are in the opinion of the Board are not eligible for ordinary membership, however, in light of the fact that their special nature complies with some of the criteria of a private hospital, even if it forms part of the public sector, is eligible for associate membership;*
- 8.3. *Institutions wishing to apply for membership of the Company will make application to the Board in such manner, on such application form and on payment of such entrance fee as the Board shall from time to time prescribe;*
- 8.4. *Application for membership by institutions, other than the founding members, shall be recommended by the Board in accordance with the criteria for admission formulated by the Board, from time to time. The Board shall consider each application for membership and the directors shall decide and confirm whether the applicant is to be admitted to membership;*
- 8.5. *An institution that applies for membership in terms of 8.1 above, may be admitted to membership as an ordinary member for a calendar year, renewable annually if the Board is satisfied that it conducts an independent institution or associate member if it conducts an institution referred to in 8.2 above provided that:
  - 8.5.1. *The Board shall be entitled to refuse admission if the applicant’s membership was previously terminated in terms of 9 below and*
  - 8.5.2. *the Board is of the opinion that the conduct that gave rise to such termination of membership, still exists;**
- 8.6. *No independent institution will be admitted to membership unless:-
  - 8.6.1. *Where the institution was a member within the preceding calendar year, the annual subscription or the pro-rata portion thereof, depending on the date of commencement of that institution’s membership, which is due in respect of the said financial year, has been paid in full;*
  - 8.6.2. *Where the applicant was not a member within the preceding calendar year applies for membership before the amount of the monthly subscription for the current financial year has been determined, an amount equivalent to the full monthly subscription for the previous calendar year is paid in full, together with the entrance fee payable in terms of 8.3 above: provided that should there subsequently be a difference between the subscription amount so paid by the institution and the monthly subscription fee for the current year, the said amount shall be adjusted so as to equal the amount of the annual subscription for the current financial year;*
  - 8.6.3. *Where an independent institution which was not a member within the preceding calendar year applies for membership after the subscription for the current calendar year has been determined, the monthly subscription fee for the current financial year, or pro-rata portion thereof, depending on the date of commencement of that institution’s membership, is paid in full together with the entrance fee payable in terms of 8.3 above.**
- 8.7. *Membership of NHN shall be for a specific calendar year. Should a member terminate their membership during a calendar year the member will still be responsible for the membership fee due for the calendar year.”*



## 2. Membership Application Process

### 2.1. Stage one: Completion of the application documentation

- 2.1.1. All applicants are required to confirm that both the applicant and the applicant facilities are eligible for membership of the NHN as per our membership criteria listed below.
- 2.1.2. Proscribed by Competition Commission: Dual membership is not permitted.
- 2.1.3. The following supporting documentation must be provided to NHN by ALL facilities. If no details can be provided due the fact that it does not exist, this must be confirmed explicitly.

### 2.2. Mandatory Documents:

- 2.2.1. A duly completed and signed NHN membership application form.
- 2.2.2. Department of Health Certificate/Department of health certificate of compliance
- 2.2.3. Department of Health's inspection report
- 2.2.4. PCNS Information sheet (BHF certificate)
- 2.2.5. BBBEE certificate
- 2.2.6. Certificate of Occupancy
- 2.2.7. Pharmacy Certificate – (only if the facility has its own pharmacy)
- 2.2.8. The Companies and Intellectual Property Commission ("CIPC") documentation confirming the registration and directorship of the company/legal entity.
- 2.2.9. Conflict of interest disclosure.
- 2.2.10. A valid South African Revenue Service (SARS) Tax Compliance Status (TCS) certificate.
- 2.2.11. A complete organogram of the applicant detailing the full name and surname as well as the identity number (ID) of all senior staff.
- 2.2.12. Details of all shareholders, trustees or members holding shares, trusteeship, a membership interest, or another interest in the applicant.
- 2.2.13. Details of all companies, trusts, closed corporations or legal entities in which any of the applicant entity or any of its directors, trustees, shareholders or members has or had an interest in.
- 2.2.14. Details of any other healthcare facility that any of the applicant entity's directors, trustees, shareholders, members or senior staff has or had an interest including details of those facilities' practice numbers irrespective of whether or not such facilities are still operational or not.
- 2.2.15. Details of all specialists, general practitioners or dentists with admission privileges at the facility together with their proof of registration with the HPCSA and their BHF practice numbers (see attached excel spreadsheet).
- 2.2.16. A copy of your facility's admission privileges policy.
- 2.2.17. Details of all service providers such as psychologists, physiotherapists, occupational therapists, dietitians, speech therapists together with practice numbers (see attached excel spreadsheet).
- 2.2.18. Any outcomes of assessment for funding conducted by Medical Aid Schemes and/or Administrators.
- 2.2.19. Details of any investigations conducted by a Medical Aid Scheme or Administrator on a facility where any of the applicant facility's directors, trustees, shareholders, members or senior staff has or had an interest in as well as the outcome thereof.
- 2.2.20. Practice 55 Facilities: Defined minimum standards for psychiatric facilities: There are defined minimum requirements that must be met by all psychiatric facilities, in line with the Medical Schemes Act and the Mental Health Care Act as well as the Psychiatric subgroup. The Psychiatric subgroup which represents psychiatric hospitals and facilities. In terms of the relevant provisions in law, the following services must be available in a psychiatric facility:
  - 2.2.20.1. Full-time psychiatrist services: An exception to this rule will only be considered with strong motivation.
  - 2.2.20.2. Full-time services by clinical and/or counselling psychologists and/or neuropsychologists: No part-time services will be acceptable.
  - 2.2.20.3. A dedicated psychiatric facility: This can be either a free-standing psychiatric hospital or psychiatric ward in a general/sub-acute hospital.
  - 2.2.20.4. A functional interdisciplinary team: This includes psychiatrists, clinical psychologists, counselling psychologists, occupational therapists, physiotherapists, social workers and psychiatric nurses available on a full-time basis. Other medical services, including a dietitian may be available on a part-



- time basis. Kindly provide us with a treatment programme.
- 2.2.20.5. Practice 55 Facilities that offers Addiction Treatment are required to supply us with a Department of Social Development Permit/Social Welfare Certificate and a Treatment Programme for Substance Abuse.
  - 2.2.21. Practice 49 Facilities: Defined minimum standards for sub-acute facilities: There are defined minimum requirements that must be met by all sub-acute facilities, in line with the Medical Schemes Act. The sub-acute subgroup which represents sub-acute facilities. In terms of the relevant provisions in law, the following services must be available in the facility:
    - 2.2.21.1. Full-time medical services: An exception to this rule will only be considered with strong motivation.
    - 2.2.21.2. Full-time services by core service providers: No part-time services will be acceptable if physical rehabilitation services are rendered.
    - 2.2.21.3. A dedicated sub-acute facility:
    - 2.2.21.4. A functional interdisciplinary team: This includes occupational therapists, physiotherapists, social workers, speech therapist and nurses available on a full-time basis. Other medical services, including a dietitian may be available on a part-time basis. Kindly provide us with a treatment programme.
    - 2.2.21.5. Psychiatric services within a sub-acute facility: Must also comply with all psychiatric requirements as stipulated in 3.2.17.

### 2.3. Stage two: Application initial internal assessment

NHN commences with industry investigation and to enable same the applicant hereby:

- 2.3.1. Gives NHN irrevocable permission to confirm the good standing of the applicant within the medical scheme, administrator and clinical community and credit bureau. Medical schemes and/or Administrators will be approached for comment on the reputation and standing of the Applicant facility and their feedback will be taken into consideration in view of the application. They will also be required to comment on any investigations or billing related concerns they may have.
- 2.3.2. The Applicant acknowledges that NHN is required to provide Medical Schemes and/or Administrators sufficient notice (which could take up to three month's) for them to consider and load the Applicant's membership and pay the NHN negotiated tariffs should their application be successful.

### 2.4. Stage three: NHN Board Review

- 2.4.1. The Applicant hereby consents that a director of the NHN Board/NHN officer/s shall visit the Applicant facility within 6 (six) months.
- 2.4.2. In the event that the NHN Director is unavailable within a reasonable time to do an inspection, membership may be granted based on information provided, and a Directors' visit may be scheduled within 6 (six) months period of such approval. Any delay in this inspection will not delay the membership application process.
- 2.4.3. Once the physical inspection is complete and NHN has completed a report, the Applicant member will be informed about the results, conditions or otherwise of the application and the commencement date of full membership.
- 2.4.4. During this process NHN will endeavour to ensure that any Director appointed to perform such inspection shall not be a direct competitor with the applicant. Such inspection will as far as possible be performed by someone with no conflict of interest and with due consideration to the intellectual property and appropriate confidentiality sensitivities of the applicant.

### 2.5. Stage four: Final approval process

- 2.5.1. Should the application be successful the Applicant shall be afforded provisional membership and the required fees will be levied and require to be paid by the provisional member.
- 2.5.2. Application for membership is at the sole discretion of the Board and the application will after completion of stage 2 be presented to the Board.
- 2.5.3. The Board is not obliged to furnish reasons for an unsuccessful membership application and the application with all supporting documentation will be considered and evaluated.
- 2.5.4. Board meetings are every four months. If the next Board meeting is further away than three weeks the decision will be requested on a round robin basis.
- 2.5.5. Membership applications are reviewed at closed NHN Board meetings. Only complete original



applications with all the required supporting documents are presented. The Applicant is thus required to produce all necessary supporting documentation. In the event that all supporting documentation is not provided the application will be considered as being incomplete and may be summarily rejected.

- 2.5.6. The Board will then either approve or reject the application.
  - 2.5.6.1. The Board approval process may take up 4 (four) to 6 (six) weeks from the satisfactory receipt of all compliance documents.

**2.6. Stage five: Finalisation of application**

- 2.6.1. Successful applicants whose membership is approved by the board must sign all the membership terms and conditions, documents and contracts in order to finalise and confirm their membership as applicable.

**3. Membership criteria**

- 3.1. The Applicant must have and maintain for the full duration of being a NHN member a current valid licence issued by the Department of Health (DoH) and a valid Practice Code Numbering System (PCNS) information sheet.
- 3.2. In the event that a member does not have a current valid licence from the DoH, the member is required to notify the NHN offices immediately of this and what the reasons are for not having a valid licence.
- 3.3. Failure to comply with this clause and for not having a valid DoH licence will result in the applicant's membership being terminated.
- 3.4. The Applicant's Facility may not be owned or managed by Government, Provincial or Local Authority.
- 3.5. No listed hospital group or any of major hospital groups may own shares directly or indirectly in any applicant or member. The Competition Commission exemption granted to NHN (which enables NHN to negotiate and contract fees, tariffs, ARMs and central procurement on behalf of all of its members), is conditional upon NHN Member Facilities being 100% independently owned.
- 3.6. The member hereby confirms that none of the listed and major hospital groups have shareholding in their facility/ies.
- 3.7. Members are responsible to ensure that the NHN is notified of any changes with immediate effect.
- 3.8. The NHN reserves the right to vet any member at any time.

**4. Terms and conditions of membership**

**4.1. Membership fees**

- 4.1.1. Membership fees are based on a calendar year and are payable on a monthly basis. Payment by debit order is required.
- 4.1.2. If a member resigns or if his membership is terminated for any reason within the course of the year, the full year's membership will remain due and payable as per the provisions of the NHN Memorandum of Incorporation.
- 4.1.3. **NHN Membership Application Fee**
  - 4.1.3.1. The NHN membership application fee is a mandatory and part-refundable payment for the application of membership to the NHN.
  - 4.1.3.2. The NHN membership application fee is determined by the NHN Board of Directors.
  - 4.1.3.3. The NHN membership application fee is payable with the submission of the membership application. The application will not be considered until the proof of payment is presented to NHN.
  - 4.1.3.4. NHN Membership Application Fee (applicable 01 April 2024):

Application Type	Fees	Part-refundable (membership declined)
Non-member application	R50,000.00 (excl. VAT)	20% of application fee
Existing NHN Member application (new facility/ies)	R50,000.00 (excl. VAT) less 15% discount	20% of discounted application fee.

- 4.1.4. The NHN monthly membership fee (excluding VAT) is charged per registered bed per month, at R120.76 per bed per month.
  - 4.1.4.1. Minimum fees: Facilities with 30 (thirty) beds or less are obliged to pay the minimum fee of R3600 per month for the 2025/26 financial year.
  - 4.1.4.2. Minimum fees: Facilities with 30 (thirty) beds or less are obliged to pay the minimum fee of



R5000 per month for the 2026/27 financial year.

- 4.1.5. The NHN Board reserves the right to review the membership fees from time to time.
- 4.1.6. The member agrees to switch all their claims electronically and to sign all required documentation to secure the confidentiality and process as prescribed by the NHN as well as any other documentation or agreements reasonably required by the Board.
- 4.1.7. An annual increase in membership fees is applicable as decided by the Board of Directors, per the Memorandum of Incorporation (MoI).

#### 4.2. Change of ownership structure

- 4.2.1. In the event of any non-disclosed shareholder purchasing shares in the member hospital such sale of shares must be disclosed to the NHN board immediately.
- 4.2.2. Continued membership of the member of NHN is subject to NHN Board approval.
- 4.2.3. Should a member sell a portion of the ownership of the facility or the total ownership of the facility to any one of the three major hospital groups, the member's membership shall automatically terminate on the conclusion and/or signing of the sale agreement at which point the member must immediately notify NHN of such sale and settle the outstanding year's membership fees should any still be due.
- 4.2.4. Should any member embark on a process of concluding a sale or possible sale as contemplated in clause 4.2.3 hereof, it shall ensure that in those deliberations and in any discussions pertaining thereto that any contract between NHN and any funder is not disclosed to any member of a hospital group or its professional advisors at any time and also not pursuant to any due diligence investigation.

#### 4.3. Tariffs and Contracting

- 4.3.1. The NHN member hereby agrees and abides by the terms and conditions to be undertaken presently and in the future between NHN and the respective Medical Scheme/s and/or aforesaid Scheme's Administrator/s, Health Insurers, hereinafter referred to as Funders.
- 4.3.2. The NHN member hereby consents to be bound by the terms and conditions of the NAP margin transfers in respect of the billing of surgicals. The NHN member further agrees to utilise the iQest price file prices as the billing prices and abstain from any rebate negotiation in and during the procurement process.
- 4.3.3. NHN undertakes pursuant to its exemption status to undertake annual and/or multi-year contracting with funders to contract for tariffs and Alternative Re-imburement Models (ARMs).
- 4.3.4. NHN undertakes pursuant to its exemption status to participate in tenders and/or request for proposals (RFPs), all NHN facilities in good standing and which meet the requirements shall be included for participation.
- 4.3.5. Funders prescribe reporting, switching or other requirements that NHN is required to comply with, including anonymised data extracts to facilitate negotiations. NHN members are bound by these requirements.
- 4.3.6. The NHN member may annually apply to opt-out of contracting prior to the commencement of the negotiations. This opt-out application together with a full motivation must be submitted in writing to the NHN on or before the 01<sup>st</sup> June of each year and as prescribed by the NHN.
  - 4.3.6.1. Each application shall be assessed by the NHN Board on its own merits.
  - 4.3.6.2. The decision of the NHN Board shall be final and binding on all parties.
  - 4.3.6.3. If approved, this decision shall be binding for the full duration of the applicable year.
  - 4.3.6.4. Terms and conditions shall be applicable to opting out, such as but not limited to, access permissions to NHN Tariff files and ARM manuals being removed.
- 4.3.7. The NHN member hereby consents to remove all of the NHN tariff information from its IT system, including if this function is outsourced to an IT vendor or any other approved third party, immediately upon resignation from NHN, per clause 4.4 below.
- 4.3.8. Furthermore, the NHN member agrees not to disclose, share, or transfer any of the NHN tariff information and/or any intellectual proprietary information relates to NHN to any third party whether as an existing member or ceased to be a member. Documentary proof of the above shall be required.
- 4.3.9. Direct contracting with Funders is strictly prohibited.

#### 4.4. Termination of membership

- 4.4.1. Membership of NHN shall be for a specific calendar year. Should a member terminate their membership during a calendar year the member will still be responsible for the membership fee



- due for the calendar year.
- 4.4.2. A member shall cease to be a member of the Company on expiry of a period of 6 (SIX) calendar months from the date of receipt by the Company of written notice of a resignation from the member, such to be effective at the earliest of the 6 months' notice period or the end of the calendar year.
  - 4.4.3. A member who ceases to be a member shall nevertheless remain liable in terms of the guarantee for the liabilities of the Company as provided for in terms of this memorandum of incorporation for the membership fees for a calendar year.
  - 4.4.4. See Annexure A: '**NHN Voluntary Exit Agreement**'.
- 4.5. Switching of claims**
- 4.5.1. It is a condition of membership of NHN that payment claims should be submitted through the NHN approved switch (currently Medikredit).
  - 4.5.2. Per the informed consent granted, members herewith grant NHN permission to receive and/or extract data as may be required and use such data to assist in benchmarking, costing analysis, contract negotiations and for any other reason for the benefit of Members
  - 4.5.3. The NHN tariff information shall be made available on the NHN Web Portal, with the requisite permissions.
  - 4.5.4. The following rules shall apply where the Switch directly engages with and concludes a claims switching services or similar agreement with an NHN member:
    - 4.5.4.1. the relevant NHN member shall, 2 (two) business days prior to conclusion of the claims switching services agreement with the Switch, notify the NHN in writing of such an intention;
    - 4.5.4.2. the written notification shall include a written undertaking to the NHN that such member will procure written confirmation from the Switch that there will be adherence to the requirement of this paragraph 5.4.4 by the Switch;
    - 4.5.4.3. within a period of 5 (five) business days of the NHN member concluding the claims switching services agreement with the Switch, it shall produce and submit a duly executed Certificate by the member, which shall take the form of annexure 'A', certifying compliance with this paragraph 5.4.4;
    - 4.5.4.4. within 3 (three) business days, the NHN shall take appropriate measures to issue written confirmation and acknowledgment of receipt of the Certificate executed by the member.
    - 4.5.4.5. a claims switching services agreement which is concluded between a member and a Switch contrary to any of the above shall render the member non-compliant with this membership policy and procedure.
    - 4.5.4.6. any non-compliance with this paragraph 5.4.4 may result in the NHN issuing a Non-Compliance Notice, which shall afford the member an opportunity to remedy the non-compliance within 3 (three) business days of receipt of the Non-Compliance Notice.
    - 4.5.4.7. failure to adhere to the Non-Compliance Notice shall entitle the NHN to act against such member and take such remedial steps as may be appropriate, including invoking the provisions of the NHN MOI.
- 4.6. Marketing, publicity, data collection and ancillary**
- 4.6.1. The Member undertakes to purchase an NHN Membership plaque (a quote will be provided for printing and courier service once the application is approved).
  - 4.6.2. The member agrees to display the membership plaque in their reception area. The member undertakes to remove the membership certificate immediately upon resignation or termination of their NHN membership.
  - 4.6.3. The Board may embark on one-off marketing/data collection or lobbying projects from time to time. The Board may levy additional fees to fund such projects.
- 5. General**
- 5.1. The member, in the case of a juristic person binds itself or in the case of a natural person binds himself/herself personally, as well as his/her or it's, hospital/clinic or whichever the case may be to the provisions of the NHN Memorandum of Incorporation which may be amended by the Board from time to time and warranty that the representative that signs this application is duly authorised to complete the application for membership and to join NHN for an on behalf of the applicant.
  - 5.2. The NHN Memorandum of Incorporation can be obtained from the NHN offices and the Applicant acknowledges that their membership is governed by such document.
  - 5.3. It remains the responsibility of all NHN members to familiarise themselves with the additional registration



processes required by Medical Aid Schemes and/or Administrators relating to registration of banking details for purposes of reimbursement of claims submitted, linking practitioners and/or any other registration requirements.

- 5.4. The applicant hereby and by signing this application acknowledges that he is familiar with and accept the conditions of NHN membership as imposed on NHN and its members by the Competition Commission of South Africa.



Annexure "A"

## VOLUNTARY EXIT AGREEMENT

entered into by and between:

### NATIONAL HOSPITAL NETWORK (NPC) (‘NHN’)

a non-profit company incorporated in accordance with the laws of South Africa, with registration number 2007/005053/08, situated at NHN House, Block P – Office 01, Greenford Office Estate, Punters Way, Kenilworth, 7700

E-mail: [neil@nhn.co.za](mailto:neil@nhn.co.za)

and

**Member Name**  
(‘Member’)

a **Discipline** with practice number **9990550003300881** and a **division of Proprietor** situated at **Address**

## Recital

**Whereas** Member Name ('Member') is a member of the NHN as described in clause 1.3.6 of the NHN MOI.

**AND whereas** Member has signified its intention not to be bound by the NHN MOI and NHN Membership Conditions as to resign its membership from the NHN.

**AND whereas** by fixing its signature hereto, Member acknowledges that it has freely and voluntarily tendered its resignation without duress or undue influence by the NHN.

**AND whereas** both Member and the NHN hereby conclude this document as to outline the conditions of exit which shall be binding as between the NHN and Member.

## AND NOW THE PARTIES HEREBY AGREE AS FOLLOWS:

### Definitions

1. Unless inconsistent with the context, words and expressions set forth below shall bear the following meanings and cognate expressions shall bear corresponding meanings:
  - 1.1 'Agreement' means this document in its entirety, including annexures thereof;
  - 1.2 'Member' means the Member listed in this Agreement;
  - 1.3 'Day' means any day other than a Saturday, Sunday or statutorily gazetted public holiday in the Republic of South Africa;
  - 1.4 'Confidential Information' means all NHN Materials and in relation to a party, any information of a commercially sensitive nature, howsoever obtained or received and whether or not marked confidential, including any technical, commercial, financial or scientific information, know how, trade secrets, processes, marketing and business information, customer and supplier information, pricing information and/or any other information or Material of whatever description or nature proprietary to a Party, whether in written, oral, magnetic, or machine-readable or other format.
  - 1.5 'Effective Date' means 1 January 2025, being the date when the resignation by Member takes effect;

- 1.6 'Intellectual Property Rights' includes all current and future intellectual property rights of any kind whatsoever and however embodied which may subsist or be capable of protection wheresoever worldwide, including (without limitation) patents, trademarks, present and future rights of copyright, rights in and to designs, rights in and to trade secrets, rights in and to trade names, business names, domain names and logos, the right to keep information confidential and private, rights in and to know-how, rights in and to databases (including rights of extraction), and all rights and forms of protection of a similar nature or having equivalent effect to any of them which may subsist or be capable of protection as at the Signature Date or thereafter wheresoever worldwide, whether or not any of these is registered and including applications for any such rights or registration thereof and any goodwill related to or arising from such rights;
- 1.7 'Interim period' means the period between the Signature Date and 31 December 2024;
- 1.8 'Materials' means all tariffs, tariff files, data, products, goods, software, software documentation, documentation, literature, materials, tools, information, databases, modules, components, compilations of data, methodologies, processes, policies, procedures, techniques, models, configurations, protocols, routines, interfaces (including API interfaces), reports, plans, notes, files, diagrams, manuals, templates, schematics, correspondence, designs, circuit designs, algorithms, specifications, records, equipment, hardware, servers, computers, platforms, computer code, derivative works, and works of authorship, and irrespective of the form and format of the foregoing and whether tangible or intangible;
- 1.9 'NHN' means the National Hospital Network (NPC) a non-profit company incorporated in accordance with the Company laws of South Africa, with registration number 2007/005053/08;
- 1.10 'NHN Materials' means
- 1.10.1 Materials that are owned or acquired by the NHN or any the NHNs Affiliates;
  - 1.10.2 Materials that are licensed by a third party to the NHN or to any of the NHN Affiliates;
  - 1.10.3 the Confidential Information of the NHN and that of the NHNs Affiliates;
  - 1.10.4 and all trademarks. logos. designs and brand names used by the NHN and/or any of the NHNs Affiliates;

- 1.11 'Parties' means the NHN and **Member**, jointly;
- 1.12 'Personal Information' has the meaning assigned in the Protection of Personal Information Act, 2013;
- 1.13 'Signature Date' means the date of signature of this Agreement by the Party last signing, when the provisions of this Agreement and obligations of the Parties become enforceable;
- 1.14 'Third Party Materials' means Materials and belonging to a third-party service provider of the NHN (excluding any part thereof which are the NHN's Materials):

## **INTERPRETATION**

### 2. In this Agreement:

- 2.1 words importing the singular include the plural and *vice versa*;
- 2.2 words importing any one gender include the other genders;
- 2.3 reference to a natural person includes juristic persons and *vice versa*;
- 2.4 if any word or phrase is defined in any clause, that word or phrase shall bear the same meaning wherever used in this Agreement;
- 2.5 if any provision in a definition is a substantive provision conferring rights or imposing duties on any Party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision in this Agreement;
- 2.6 the clause headings are intended for convenience only and shall not affect the construction or interpretation of this Agreement;
- 2.7 the rule of construction that the provisions of this Agreement will be interpreted against the Party responsible for the drafting or preparation thereof, shall not apply;
- 2.8 where any number of days is stated in this Agreement, such number shall be reckoned exclusively of the first and inclusive of the last day unless the last day falls on a Saturday, Sunday or public

holiday in South Africa, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday;

- 2.9 any reference in this Agreement to a Party shall, if such Party is liquidated, placed under business rescue, or sequestrated, be applicable also to and binding upon that Party's liquidator, business rescue practitioner, or trustee as the case may be;
- 2.10 The termination of this Agreement shall not affect such of the provisions of this Agreement which are expressly provided to operate after any such termination, or which implicitly must continue to have effect after such termination, notwithstanding that the relevant provisions themselves do not provide as such.

### **COMMENCEMENT AND DUARTION**

3. Notwithstanding the Signature Date, the resignation of **Member** shall take effect on the Effective Date in accordance with clause 9.6 of the NHN MOI.
4. All Intellectual Property Rights of a Party and/or its licensors prior to the Signature Date will remain vested in that Party and/or its licensors for the duration of this Agreement.
5. **Member** shall, during the Interim Period, return all of NHN's Material and all Confidential Information it received, and which is in its possession or under its control.
6. This Agreement shall not, under any circumstances, terminate.

### **OBLIGATIONS OF MEMBER**

7. Notwithstanding that membership automatically terminates annually, **Member** shall during the Interim Period, ensure that:
- 7.1 it has returned all confidential Information of the NHN;
- 7.2 all due payments and annual subscriptions or the *pro-rata* portion thereof are paid in full; and
- 7.3 all Intellectual Property Rights in and to any NHN Materials shall vest in and shall remain vested in the NHN and where **Member** is provided access to any the NHN Materials, **Member** shall use such

the NHN Materials strictly in accordance with the terms of the NHN MOI, NHN Membership Policy, and this Agreement.

8. On the Effective Date, **Member** shall cease to incorporate any reference to the NHN or its membership to the NHN in any notice, document, advertisement or signage.
9. **Member** shall not disclose the Personal Information of the NHN and its members.

#### **NHN TARIFF INFORMATION**

10. **Member** shall not, under any circumstances, disclose any NHN tariff information to third parties, including any negotiated prices, rates, reimbursement models and associated matters that NHN has negotiated with funders.
11. **Member** shall comply with clause 5.3.5 of the NHN Membership Policy and provide written assurance of such compliance during the Interim Period, that it:
  - 11.1 shall not use or replicate NHN Tariff and/or Alternative Reimbursement Model Agreements in any form whatsoever in direct contracting;
  - 11.2 will remove its facilities from all NHN contracts by informing all schemes and/or funders, including from multi-year agreements and Hospital Designated Service Provider Network contracts; and
  - 11.3 will remove its facilities from all centrally procured contracts and/or arrangements.
12. The assurances contemplated in clause 11 above shall be in the form of a written notice in a **Member** letterhead delivered to the NHN during the Interim Period.

#### **OBLIGATIONS OF THE NHN**

13. The NHN undertakes to enable authorization, access and permission as to enable **Member** to give effect to the resignation as well as the terms of this Agreement, including:
  - 13.1 using its best endeavours to promptly consider and respond to all communications, proposals, specifications, requests, documents and other information relating to the resignation;
  - 13.2 facilitating the process to embargo access by **Member** to the:

13.2.1 NHN Tariff Files;

13.2.2 Alternative Reimbursement Model manuals; and

13.2.3 Medikredit Portal.

14. During the Interim Period, the NHN shall alert all medical schemes and/or funders of the resignation by **Member** and facilitate the exit of **Member** from all NHN negotiated contracts and/or tariff agreements with medical schemes and/or funders.
15. The NHN shall upon satisfactory compliance by **Member** of its obligations during the Interim Period, issue a written discharge of **Member** from the NHN on or before 31 December 2024.

## **CONFIDENTIALITY**

16. Each Party agrees to keep confidential the details of this Agreement, the details of the negotiations leading to and pursuant to this Agreement, and any information handed over to such Party during the course of negotiations as well as the details of all the transactions or agreements contemplated in this Agreement, confidential.
17. Despite resignation, **Member** shall maintain confidentiality as stipulated in clause 28.14 of the NHN MOI.

## **WARRANTIES**

18. Both the NHN and **Member** warrant and confirm that they each:
- 18.1 have the authority to conclude this Agreement;
- 18.2 are duly authorised and have full power to discharge the respective obligations contemplated in this Agreement;
- 18.3 will in no way discredit each other in any manner whatsoever; and
- 18.4 have the necessary consents and authorizations for the giving and implementation of this Agreement.

19. The individuals signing this Agreement on behalf of **Member** and the NHN, respectively, are authorised to bind the Parties to this Agreement.
20. **Member** warrants and undertakes not to disclose the Confidential Information, which shall be kept private and confidential.

#### **CESSION AND ASSIGNMENT**

21. This Agreement, including the rights and obligations thereof, shall not be transferable.

#### **NOTICES AND DOMICILIUM**

22. The Parties select as their respective *domicilia citandi et executandi* the physical addresses set out on the cover sheet of this Agreement, and choose all the addresses thereat for the purposes of giving or sending any notice provided for or required hereunder, or such other physical address, or e-mail address as may be substituted by notice given in writing as herein required.
23. Unless the contrary is proved, any notice to be given by any Party to the other shall be deemed to have been duly received by the other Party if:
  - 23.1 delivered to the addressee's *domicilium citandi et executandi* by hand during business hours on the day of delivery thereof; or
  - 23.2 sent by e-mail to the addressee, on the date of transmission, provided that it has been transmitted on such day during normal business hours.
24. The Parties record that formal notice of any proposed amendment or variation of this Agreement may be given or concluded via e-mail.

#### **EXEMPTION**

25. The Parties agree that all the clauses contained in this Agreement are usual and expected and **Member** hereby exempts the NHN from all liability of whatsoever nature, including, but not restricted to any liability for direct and/or consequential loss or damages arising from the loss, damage, or from any other cause arising, whether such liability, loss or damage is caused by or arises from breach or negligence by the NHN, its agents and employees.



## **WAIVER**

26. No delay or omission of either Party in exercising any right, power or privilege under this Agreement shall impair or be construed as a waiver of such right, power or privilege nor shall any single or partial exercise of any such right, power or privilege preclude any further exercise of such right, power or privilege or the exercise of any other right, power or privilege.
27. The rights and remedies provided for in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.
28. A waiver given or consent granted will be effective only if given in writing and then only in the instance and for the purpose for which it is given.
29. A waiver shall not constitute a continuing waiver and shall not prevent either Party from subsequently enforcing any of the provisions of this Agreement.

## **SEVERABILITY**

30. The invalidity, illegality or unenforceability in part of any provision of this Agreement shall not affect the validity, legality and enforceability of the remaining part or provisions thereof.

## **GOVERNING LAW AND JURISDICTION**

31. The provisions of the Agreement shall be governed by and shall be construed in accordance with the laws of the Republic of South Africa.
32. Should there be breach of this Agreement, the Parties consent to the non-exclusive jurisdiction of any Division of the High Court of South Africa for any proceedings arising out of or in connection with this Agreement.
33. The NHN may, in its discretion, institute any proceedings in the appropriate Court or forum to recover damages suffered as a result of any breach of this Agreement by **Member**, including referral to the Competition Commission of South Africa, should the need arise.

## **ENTIRE AGREEMENT**

34. This Agreement contains the whole agreement between the Parties and supersedes all previous agreements.

- 35. Each Party acknowledges that in concluding this Agreement it has not relied on any representation, warranty, collateral contract or other assurance (except those set out herein and the documents referred to in it) made by or on behalf of any other Party before the date hereof.
- 36. No contract varying, adding to, deleting from or cancelling this Agreement, shall be effective unless reduced to writing and signed by or on behalf of all the Parties.

**NO STIPULATION FOR THE BENEFIT OF A THIRD PERSON**

- 37. Except as set out in this Agreement, the NHN Member Facilities shall not individually be entitled to enforce the provisions of this Agreement.

**GENERAL**

- 38. By signature hereof the Parties record that they have carefully read and reviewed its contents and acknowledge that they fully understand all of its terms, and hereby conclude this Agreement freely, voluntarily and without duress or undue influence.

**FOR: NATIONAL HOSPITAL NETWORK (NPC)**

Signed and dated at \_\_\_\_\_ on this the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
 Name and surname of duly  
 authorised representative.

\_\_\_\_\_  
 Signature

**MEMBER:**

Signed and dated at \_\_\_\_\_ on this the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
 Name and surname of duly  
 authorised representative.

\_\_\_\_\_  
 Signature