

## GENERAL TERMS AND CONDITIONS

### CURADEN - CURAPROX

---

#### 1. DEFINITIONS AND APPLICABILITY

1.1 In these general terms and conditions:

- (a) **Account** means a registered profile of a dental professional or employee on the Mobile Application;
- (b) **Business Day** means any day (except a Saturday or Sunday) on which banks are generally open for business in the Republic of South Africa.
- (c) **Conditions** means these general terms and conditions;
- (d) **Consumer Conditions:** means the general terms and conditions (B2C), (Annex 1 to these Conditions);
- (e) **Content** means any information, documentation or material uploaded on the Mobile Application by Curaden.
- (f) **Curaden** means Curaden AG, with its registered office in Kriens, Switzerland, listed in the Chamber of Commerce under number UID; CHE-105.801.551.
- (g) **Curaden Subsidiary:** means a company owned or controlled by Curaden
- (h) **Curapoints:** means points collected through the use of the Mobile Application as set out in clause 20.
- (i) **Day** means Calendar day;
- (j) **Digital Content** means data that is produced and delivered in digital form;
- (k) **Distance Contract** means a contract that is entered into between Curaden and the User in the context of sales at a distance of the Products whereby, until the contract is entered into, exclusive or partial use is made of one or more Techniques for Communication at a Distance;
- (l) **Durable Medium** means any tool - also including e-mail – that enables the User to store information that is personally addressed to him or her in a way that enables future consultation or use during a period that is attuned to the aim for which the information is intended, and enables the unaltered reproduction of the stored information.

- (m) **End User Licence** means licence following from clause 4 of these Conditions regarding the end user licence entered into between Curaden and User regarding the use of the software provided.
- (n) **Force Majeure** include but are not limited to war, riots, flooding, extreme weather conditions, earthquake and other natural disasters, epidemics, pandemics, explosion, prolonged shortage of energy supplies, blockages, serious disruptions in a party's business including strikes and operational failure, shipping risks, barricades, import and export prohibitions, dispossession, extreme traffic stagnation or transportation delays, boycott, acts of states or governmental action prohibiting or impeding either party from performing its obligations, embargoes, road, sea and inland shipping problems, production bans, unforeseen economic circumstances, and other stagnations in the party's business such as shortcomings by that party's suppliers or other (ancillary) persons or businesses engaged by that party for the performance of its obligations.
- (o) **Intellectual Property Rights** means copyrights, database rights, patents, registered and unregistered design rights, registered and unregistered trademarks and all other industrial, commercial or intellectual property rights existing in any jurisdiction;
- (a) **Long Term Contract** means a contract that provides for the regular delivery of items, services, and/or digital content during a specific period;
- (b) **Loyalty Program:** The Curapoints and Tier Points collection program as referenced in clause 20.
- (c) **Order** means any Product order placed by a User using the Mobile Application;
- (d) **Parties** means jointly Curaden and User.
- (e) **Party** means individually Curaden or User.
- (f) **Personal Data** includes personal information as defined in terms of POPIA.
- (g) **POPIA** means the South African Protection of Personal Information Act 4 of 2013.
- (h) **Practice Admin:** the first User to enrol a dental practice;
- (i) **Products** means all products and Services developed, manufactured, produced, provided or sold by Curaden.
- (j) **Medical Treatment Agreement** means the Medical Treatment Agreement between the User and its patient.
- (k) **Right of withdrawal** means the possibility for the User to cancel the distance contract within the cooling off period;

- (l) **Mobile Application** means Curaden's mobile B2B Curaprox application;
- (m) **Model Withdrawal Form** means this [European model withdrawal form];
- (n) **Services** means granting Users access to the Mobile Application, making Content and functionalities available on the Mobile Application, including a dental professional-patient chat function, offering of educational material, in-app webshop with order-placing functionality, a functionality to create patient campaigns and all other Services Curaden offers through its Mobile Application;
- (o) **Technique to Communicate at a Distance:** resource that can be used for entering into a contract without the User and Curaden having to come together at the same time in the same space;
- (p) **Tier Level:** the level that practices can achieve as referred to in clause 20
- (q) **Tier Points:** the cumulative points that a practice will earn from all the dental professionals in that practice as referred to in clause 20
- (r) **User** means a dental practice, a dental professional or other employee of the dental practice who has a registered Account on the Mobile Application on basis of their profession or business;
- (s) **User Content** means any information, documentation or material provided by the User to its Patients.

## **2 INFORMATION ABOUT THE MOBILE APPLICATION AND THE SERVICES**

The Mobile Application offers Content and functionalities with regard to dental care in general and the treatment of patients. The Mobile Application also offers a safe environment for patients to get in touch with his or her own dental professional through the in-app chat functionality. Through the Mobile Application, Users can create and publish personalised treatment-related User Content for their clients, including a dental professional-patient chat function and offering of educational material as well as patient campaigns. The Mobile Application also offers an in-app webshop with order placing functionality. Through the use of the Mobile Application and the purchasing of goods in the in-app webshop, Users collect Curapoints which can be used to purchase items in the in-app webshop with discount as further set out in Clause20.

## **3 APPLICABILITY AND EXCLUSIVITY OF THE GENERAL CONDITIONS B2B**

- 3.1 By using the Mobile Application and the Services offered through the Mobile Application, User acknowledges that User has read and understood and hereby agrees to be bound by these Conditions. That means that User agrees to all the rights and obligations stated in the Mobile Application or presented to User through the use of the Services.

3.2 These Conditions apply to and govern:

- (a) the access and usage of the Mobile Application and;
- (b) the usage of the Services;
- (c) Placing orders;
- (d) Accepting offers, proposals, quotations, order confirmations regarding the supply of Products, deliveries of products, and invoices and every related contract between User and Curaden;
- (e) the collection and use of Curapoints;
- (f) the collection and the use of Tier Points for dental practices by Practice Admin accounts.

3.3 User furthermore agrees to be bound by Curaden's Privacy Notice(s) and all supplemental policies which are incorporated herein by reference.

3.4 Any other and/or additional terms and conditions other than expressly set out in these Conditions (**Additional Conditions**) may apply to particular products and/or services. Curaden will inform User regarding these Additional Conditions beforehand. In case of contradictions and/or inconsistencies between these Conditions and the Additional Conditions, the Additional Conditions will prevail.

3.5 The User can only deviate from one or more provisions, when this has been explicitly accepted by Curaden in writing. In case of contradictions and/or inconsistencies between these Conditions / Additional Conditions and the deviations invoked by the User, these Conditions / Additional Conditions shall prevail unless explicitly agreed otherwise.

3.6 Curaden has the right to unilaterally amend or supplement these Conditions / Additional Conditions which changes will become effective upon notification to User. Curaden shall be allowed to make any amendments to these Conditions / Additional Conditions of minor importance, such as an apparent error, omission or any other comparable amendment, without previously informing User thereof.

3.7 The User's terms and conditions do not apply unless explicitly agreed otherwise in writing by both Parties.

## **4 LICENSE AND ACCESS**

4.1 During the Term of the Conditions User is granted a limited, non-exclusive, non-transferable, non-sub licensable right to access and use the Mobile Application and Services on any mobile

device that the User own or controls (**End User Licence**). The End User Licence only provides for the use of the Mobile Application and Services as set out in these Conditions.

4.2 The End User Licence will immediately terminate upon User's breach of its obligations under these Conditions, unless such breach is curable and is actually and immediately cured by User after Curaden provides notice of breach to User. Upon the termination of this End User Licence, User will discontinue all use of the Mobile Application and Services, promptly remove the software regarding the Mobile Application and Services and/or any copies thereof from his or her mobile devices, and, upon request by Curaden, certify in writing to Curaden, that such removal has taken place. These remedies are cumulative and in addition to any other remedies available to Curaden. Clauses 4.4 and 4.5 shall survive such termination.

4.3 This End User License and the access to the Mobile Application and Services automatically ends in case of termination of the Account by User or by Curaden in accordance with Clause 10.3.

4.4 User may not allow third parties to make use of the Mobile Application. Services and any related software and may only use these for its own business purposes.

4.5 User is not allowed and shall not permit any person or entity to:

- (i) Copy, modify, decompile, reverse engineer and/or disassemble the Mobile Application, Services or any documentation comprised in it or provided under these Conditions;
- (ii) use the Mobile Application and Services for purpose of resell, lease, lend, redistribution, sublicencing and/or renting.

Any attempt to do so is a violation of Curaden's rights. Any breach of these restrictions may lead to damage claims and prosecution.

4.6 Before Curaden offers Users the opportunity to create an Account on the Mobile Application and start using the Mobile Application and Services, User should complete the signing up process and should be approved by Curaden Subsidiary in case User registers as a dental practice through a Practice Admin, and by Curaden Subsidiary and Practice Admin in case User registers as dental professional or other employee of the dental practice

4.7 Curaden reserves the right to decide without further explanation to decline a User and/or deny or refuse a User to create an Account and to access the Mobile Application and Services, whether in whole or in part.

## **5 USER OBLIGATIONS**

5.1 The User is responsible for its usage of the Mobile Application and Services and shall comply with:

- (a) all Curaden's instructions including these Conditions;
- (b) All applicable laws and legislation.

In addition, the User shall not use the Mobile Application and Services in a manner that could cause damage to Curaden or third parties.

- 5.2 The User warrants that all information, documentation and materials provided to Curaden are correct, complete, accurate and up-to-date at all times. When the information, documentation and materials are no longer up to date, User shall conduct updates in a timely manner.
- 5.3 User is responsible for meeting the requirements necessary to access its Account and the Mobile Application and Services.
- 5.4 The User is responsible for all (unauthorised) use of the Mobile Application and Services via its Account.
- 5.5 As a condition of use, the User hereby agrees that it shall not itself, nor through a third party:
  - 5.5.1 use the Mobile Application and Services provided thereon for any unlawful purpose, including, but without limitation to, laws governing intellectual property or other proprietary rights and data protection and privacy;
  - 5.5.2 copy (other than for backup, archival or disaster recovery purposes), reproduce, translate, adapt, vary, modify, lease, license, sub-license, encumber or in any other way deal with any part of the Mobile Application for any reason and in any manner, unless it is consistent with the intent and purpose of these Conditions.
  - 5.5.3 use or attempt to use any method to gain unauthorised access to any features of the Mobile Application and/or Services; and
  - 5.5.4 create a false identity on the Mobile Application, misrepresent User's identity, impersonate any person, create a profile for anyone other than the User, or use or attempt to use another account.

## **6 AGREEMENT BETWEEN USER AND PATIENT**

- 6.1 User warrants that he or she has a Medical Treatment Agreement (to which Curaden is not a party and with regard to which Curaden has no liability whatsoever regarding the execution of the agreement) in place with the patient before they initiate communication through the Mobile Application.
- 6.2 Curaden does not check or guarantee that there is a Medical Treatment Agreement in place between User and the patient and has no liability whatsoever when there is no Medical Treatment Agreement in place.
- 6.3 User indemnifies Curaden for any patient or third party claims in connection with the Medical Treatment Agreement.

## **7 USAGE, MAINTENANCE AND SUPPORT**

- 7.1 Curaden may temporarily put the whole or a part of the Mobile Application and Services out of operation for preventive, corrective or adaptive maintenance or other forms of service. Curaden shall take reasonable efforts to ensure that the period during which the Mobile Application and Services are out of operation is no longer than necessary.
- 7.2 Curaden reserves the right at any time and from time to time to modify or discontinue, temporarily or permanently, the Mobile Application and Services (or any part thereof) without notice.
- 7.3 Curaden may at its discretion change the Content or scope of the Mobile Application and Services including, but not limited to, change, limit the usage of, charge for continued usage of (requiring User to opt in before recurring any charges) and/or discontinue any Service or part thereof at any point in time.
- 7.4 Curaden may continue to provide the Mobile Application and Services using a new or modified version of the software. If and when new versions become available Curaden will inform Users when these will be installed and made available. Curaden is not obliged to (a) maintain, modify or add certain features or functionalities of the service or software specifically for User, or (b) ensure that Services as part of or for use in connection with the Mobile Application continue to work in a new or modified version of the Mobile Application. If an improved version has been made available to User, Curaden shall no longer fix errors in the previous version and/or perform maintenance work with respect to a previous version.
- 7.5 The User agrees that Curaden shall not be liable to the User or any third party for any modification, suspension, or discontinuance of the Mobile Application and Services as mentioned in Clauses 22.
- 7.6 These Conditions will govern any updates and upgrades provided by Curaden that replace and/or update the Mobile Application and Services or parts thereof. Unless such update or upgrade is accompanied by separate license terms which will in that case qualify as Additional Terms as defined in these Conditions, in which case the Additional Conditions will apply.
- 7.7 Curaden does not guarantee that the Mobile Application and Services:
- (a) are free of errors and;
  - (b) function without interruption.
- 7.8 Based on the information provided by Curaden concerning measures to prevent and limit the effects of malfunctions, defects in the Mobile Application, corruption or loss of data or other incidents, User shall identify and list the risks to its organization and take additional measures if necessary.

- 7.9 Curaden is never obliged to recover data that has been corrupted or lost unless this is required by applicable laws and regulations.
- 7.10 Curaden does not guarantee that the software made available and held in the context of the Mobile Application shall be adapted to changes in relevant legislation and regulations in time.
- 7.11 Unless agreed otherwise or required by applicable laws and regulations, Curaden is not obliged to make specific backups of User's data (including provide extracts thereof).

## **8 THE OFFER**

- 8.1 Curaden offers products in its in-app webshop. If an offer by Curaden is subject to a limited duration or subject to conditions, this will be explicitly stated in the offer;
- 8.2 Every offer by Curaden will include a full and detailed description of the offered products, Digital Content, and/or services. The description will be sufficiently detailed to enable a good evaluation of the offer by the User. If Curaden makes use of images, these will be a true representation of the offered products, Digital Content and/or services. Manifest oversights or manifest errors in the offer will not be binding upon Curaden.
- 8.3 Every offer will include such information so as to make it clear to the User what rights and obligations are connected with the acceptance of the offer.

## **9 THE CONTRACT**

- 9.1 Subject to the provisions of clause6, the contract is concluded, at the time the User accepts the offer and complies with the corresponding conditions.
- 9.2 If the User has accepted the offer by electronic means, Curaden will immediately confirm by electronic means the receipt of the acceptance of the offer. The User can terminate the contract for as long as the receipt of this acceptance is not confirmed by Curaden.
- 9.3 If the contract is concluded electronically, Curaden will take appropriate technical and organisational measures to secure the electronic transfer of data, and will ensure a secure web environment. If the User can pay electronically, Curaden will observe appropriate security measures to this end.
- 9.4 Curaden can, as far as permitted by applicable laws and regulations, investigate whether the User can fulfil his or her payment obligations, as well as investigate all the facts and factors that are of importance for entering into the distance contract responsibly. If, on the basis of this investigation, Curaden has good grounds for not entering into the contract, it is entitled to refuse an order or application, stating reasons, or to attach special conditions to the implementation.



9.5 Curaden will, no later than on the delivery of the product, service, or Digital Content, send the User, in writing or in such a way that it can be stored by the User in an accessible manner on a durable medium, the following information:

- (a) the visiting address of the place of business of Curaden where the User can direct complaints;
- (b) the conditions under which and the manner in which the User can make use of the Right of Withdrawal, or a clear statement concerning the exclusion of the Right of Withdrawal;
- (c) the information on guarantees and existing service after purchase;
- (d) the price, including all taxes, of the product, service, or Digital Content; the costs of delivery insofar as applicable; and the method of payment, delivery or implementation of the distance contract;
- (e) the requirements for termination of the contract if the contract has a duration of more than one year or is of indefinite duration;
- (f) if the User has a right of withdrawal, the model withdrawal form.

9.6 In the case of an extended transaction, the provisions in the foregoing paragraph are only applicable to the first delivery.

## **10 COMPLIANCE WITH SECTION 43(1) OF ECTA**

10.1 In compliance with section 43(1) of the ECT Act, the following is noted in relation to Curaden's South African Distributor:

10.2 Full name: Prime Dental

10.3 Registration number: 2019/532834/07

10.4 Physical address: Cnr Waterfall & Douglas Avenue.  
Craighall, Randburg, 2024

10.5 Telephone number: 011 788 9799

10.6 Website address: [www.primedental.co.za](http://www.primedental.co.za)

10.7 E-mail address: [admin@primedental.co.za](mailto:admin@primedental.co.za)

10.8 Names of office bearer: Richard Martin Meyer

10.9 Registered at: Gauteng, South Africa

## **11 RIGHT OF WITHDRAWAL**

### *In case of products*

11.1 The User can terminate a contract in connection with the purchase of a product during a cooling off period of 30 days without stating reasons. Curaden may ask the User about the reason for withdrawal, but not oblige the User to state their reason(s).

11.2 The cooling off period stated in paragraph 11.1 commences on the day after the User, or a third party designated in advance by the User, who is not the transporter, has received the product, or:

- (a) if the User has ordered multiple products in the same order: the day on which the User, or a third party designated by them, has received the last product. Curaden may, provided that it has informed the User of this in a clear manner prior to the ordering process, refuse an order of multiple products with different delivery times.
- (b) if the delivery of a product consists of different consignments or components: the day on which the User, or a third party designated by them, has received the last consignment or the last component;
- (c) in the case of contracts for regular delivery of products during a particular period: the day on which the User, or a third party designated by them, has received the first product.

## **12 OBLIGATIONS OF THE USER DURING THE COOLING OFF PERIOD**

12.1 During the cooling off period, the User will handle the product and the packaging with care. He or she will only unpack or use the product to the extent that is necessary to establish the nature, the characteristics and the operation of the product. The basic principle in this regard is that the User may only utilise and inspect the product as he or she would be allowed to do in a store.

12.2 The User is only liable for depreciation of the product that is the result of the User handling or dealing with the product in a manner that goes beyond that which is allowed in clause 12.1.

12.3 The User is not liable for depreciation of the product if Curaden has not provided the User with all legally required information on the Right of Withdrawal before or at the time of the contract being entered into.

**13 EXERCISE OF THE RIGHT OF WITHDRAWAL BY THE USER AND COSTS THEREOF**

- 13.1 If the User makes use of their right of withdrawal, they will notify Curaden of this within the Cooling Off Period by means of the Model Withdrawal Form or in another unambiguous manner.
- 13.2 As soon as possible, but within 14 days from the day following the notification referred to in paragraph 13.1, the User will return the product, or hand it over to (an authorised representative of) Curaden. This is not necessary if Curaden has offered to collect the product itself. The User is deemed to have adhered to the Cooling Off Period if he or she returns the product before the Cooling Off Period has expired.
- 13.3 The User will return the product with all supplied accessories, if possible in the original condition and packaging, and in accordance with the reasonable and clear instructions issued by Curaden.
- 13.4 The risk and the burden of proof for the correct and timely exercise of the Right of Withdrawal lies with the User.
- 13.5 The User will bear the direct costs of the return of the product unless Curaden indicates that it will bear the costs of return.
- 13.6 If the User makes use of their right of withdrawal, all ancillary contracts are terminated by operation of law.

**14 OBLIGATIONS OF CURADEN IN THE EVENT OF WITHDRAWAL**

- 14.1 If Curaden enables the notification of withdrawal by the User by electronic means, it will send a confirmation of receipt without delay after receipt of this notification.
- 14.2 Curaden will reimburse all payments made by the User, including any delivery costs charged by Curaden for the returned product, without delay but in any event within 14 days following the day on which the User notifies Curaden of the withdrawal. Unless Curaden offers to collect the product itself, it may delay the repayment until it has received the product or until the User shows that they have returned the product, according to whichever time is earlier.
- 14.3 Curaden will use the same payment method for repayment that the User made use of in paying for the product, unless the User agrees to another method. The repayment is free of charge for the User.
- 14.4 If the User has chosen a more expensive method of delivery than the cheapest standard delivery, Curaden does not have to repay the additional costs of the more expensive method.

## **15 EXCLUSION OF THE RIGHT OF WITHDRAWAL**

Curaden can exclude the following products from the right of withdrawal, but only if Curaden has clearly stated this along with the offer, or in a timely manner before the contract is entered into:

- (a) Products that quickly perish or have a limited storage life;
- (b) Sealed products that for reasons of health protection or hygiene are not suitable to be returned and the seal of which is broken after delivery.

## **16 THE PRICE**

16.1 The prices of the products and/or services offered cannot be increased during the validity period stated in the offer, except for price changes as a result of changes in VAT rates.

16.2 The prices stated in the offer of products or services include VAT.

## **17 COMPLIANCE WITH CONTRACT**

Curaden guarantees that the products are in compliance with the contract, the specifications stated in the offer, the reasonable standards of soundness and/or utility and the legal provisions and/or government prescriptions existing on the date upon which the contract is entered into. If agreed, Curaden also guarantees that the product is suitable for such purposes other than the ordinary purpose for which the product is used.

## **18 DELIVERY AND IMPLEMENTATION**

18.1 Curaden will observe the greatest possible care in the reception and implementation of orders for products.

18.2 The address stated by the User to Curaden is deemed the place of delivery.

18.3 In compliance with that which is stated in this respect in paragraph 18.1 of these Conditions, Curaden will carry out accepted orders with appropriate rapidity, but in any event within 30 days, unless another delivery period is agreed to between the parties. If the delivery is delayed, or if an order cannot be or can only be partially carried out, the User will be informed of this no later than 30 days after they had placed the order. In that case the User is entitled to terminate the contract free of charge, and in certain instances with compensation of damages incurred.

18.4 After termination in accordance with the foregoing paragraph Curaden will refund the amount that the User has paid without delay.

18.5 The risk of damage to and/or loss of products rests with Curaden until the time of delivery to the User or a representative previously designated and made known to Curaden, unless expressly agreed otherwise.

## 19 FEES AND PAYMENTS

### With regard to the Mobile Application and Services

19.1 The Mobile Application and Services are free of charge, unless otherwise agreed.

### With regard to the ordering of products

19.2 Insofar as not otherwise determined in the contract or supplementary conditions, the User is obliged to make payment within 14 days of the commencement of the Cooling Off Period, or in the absence of a Cooling Off Period, within 14 days of the contract having been entered into.

19.3 The User has the duty to immediately notify Curaden of inaccuracies in the payment details which the User has provided to Curaden.

19.4 If the User does not fulfil its payment obligation(s) in a timely manner, he or she is liable, after the late payment has been pointed out to them by Curaden and Curaden has granted the User a period of 14 days to fulfil his or her payment obligations, and in absence of payment within this 14-day period, to pay the statutory interest rate on the amount that is still payable, and Curaden is entitled to charge the extrajudicial collection costs incurred by Curaden. These collection costs will amount to a maximum of: 15% of outstanding amounts up to € 2,500; 10% of the subsequent € 2,500 and 5% of the following € 5,000, with a minimum of € 40. Curaden can diverge from the stated amounts and percentages to the benefit of the User.

## 20 LOYALTY PROGRAM

### Curapoints

20.1 User collects Curapoints through the use of the Mobile Application and Services. The amount of rewarded Curapoints per action, the value of the Curapoints and the conditions for collecting Curapoints are explained in the App under “my Curapoints”. Curapoints are rewarded upon:

Action
Signing up
Referral sign up (affiliate)
Perform a BoB test on a patient
Purchase a Product in the in app webshop
Perform patient check-up
Complete educational Content
Complete educational Content correctly

Recommend educational Content to patient
Recommend a Product to a patient

- 20.2 User can use his or her Curapoints to get discount on items in the Curaprox webshop.
- 20.3 Curapoints are saved on the Users Curapoints balance for a period of 12 months. If the Curapoints are not used within that period of 12 months, they will be deducted from the Users Curapoints balance.

#### Tier Points

- 20.4 Only the Practice Admin accounts, which anroll a new dental practice, can collect Tier Points for the dental practice. Tier points are the cumulative amount of Curapoints collected by all the dental professionals working at the dental practice with a Curaprox account. Whether the dental professionals spend their Curapoints is not effecting the balance of Tier Points.
- 20.5 Tier points are calculated on 12 month basis from the moment the practice is approved by Curaden.
- 20.6 An explanation regarding the collecting of Tier points, the Tier levels and benefits per Tier level, are explained in the Mobile Application under "Point & Tier".

## **21 CONTENTS**

- 21.1 All Content available on the Mobile Application and Services is the property of Curaden.
- 21.2 User only acquires a non-exclusive, non-transferable, non-pledgeable and non-sublicensable right to use the Content within the online environment of the Mobile Application, in accordance with these Conditions.
- 21.3 Curaden is not liable for any damage caused by incorrect, incomplete, outdated, infringing or otherwise unlawful User Content. User Content is entirely at the risk and responsibility of the User.
- 21.4 At all times, Curaden may delete (User) Content from the Mobile Application, for example, if Curaden is instructed to do so by a governmental body, if the User Content infringes any third party rights, including IP rights, or if the User violates these Conditions, provides incorrect, outdated, offensive or misleading User Content or is engaged in fraudulent activities.

## **22 LIABILITY**

- 22.1 Curaden shall not be liable for any damages, losses or costs caused by it, its employees and/or third parties that it engages in connection with the Mobile Application and Services or arising out of Users access or use or inability to access or use the Mobile Application and Services

and any third party content and services, unless such damages and/or costs have been caused due to wilful intent, deliberate recklessness, or gross negligence on the part of Curaden, its employees and/or third parties engaged by it.

22.2 User shall use the Mobile Application and Services as provided by Curaden for their intended use only as set out in these Conditions and relevant instructions. Curaden is not liable for any damages if User uses the Mobile Application and Services for a different purpose than the intended use as stated in the aforementioned instructions.

22.3 Curaden is not liable for any damages that result from:

- (a) incorrect, incomplete or unreliable User Content; or
- (b) any acts or omissions of, or on behalf of, User.

22.4 Without prejudice to the foregoing provisions, Curaden shall only be liable for direct damages and costs sustained. By "direct damages and costs", it is exclusively meant:

- (a) damages to User's equipment that are the direct consequence of Services provided by Curaden, provided that such equipment is not part of the Orders provided within the scope of these Conditions;
- (b) reasonable costs to prevent or limit the damage which could be expected as a result of the event given rise to the User's liability;
- (c) demonstrable, reasonable costs for determining the nature and scope of the damage as far as this determination concerns the determination of the damage within the meaning of this clause.

22.5 User indemnifies Curaden for all damages, costs and other losses which Curaden may or may not incur as a result of any breach of these Conditions, Order or other contract by or on behalf of User.

22.6 Unless explicitly agreed otherwise, or except where these Conditions provide otherwise, any claim against Curaden will lapse after one (1) year from the moment the User was, or should have been, aware of the claim, provided that the User has not given written notice to Curaden of such claim or instituted Summons. To the extent that the Consumer Protection Act 68 of 2008 ("CPA") is applicable, the above time limitation, insofar as it contravenes the CPA, will not apply and should be severed in accordance with the provisions of 27. In such case, the ordinary laws of prescription and/or common law will apply. Nothing in these Conditions intends to limit or exclude liability that by law cannot be limited or excluded.

## **23 TERM OF THESE CONDITIONS**

- 23.1 These Conditions between Curaden and the User are established by the activation of the User's Account, whereby the User has accepted these Conditions.
- 23.2 These Conditions will continue until the termination of the Account. The following clauses will survive termination: clauses 6.3, 26.1, 7.5, 22, 23.6, 19.4, 22.1, 21.3, 23, 27.4 and 28.
- 23.3
- 23.4 The User can terminate the Account by following the instructions provided on the Mobile Application or by sending an email to [info@curaprox.app](mailto:info@curaprox.app).
- 23.5 Curaden can terminate the Account with immediate effect by sending an e-mail to the User's registered e-mail address if an Account is inactive for over a year.
- 23.6 Curaden is not liable for the termination of these Conditions in accordance with the provisions herein or for suspension of the user's right to access the Mobile Application.

## **24 INTELLECTUAL PROPERTY RIGHTS**

- 24.1 All Intellectual Property Rights with respect to the Mobile Application, Content, Services and Products made (available), sold and delivered by Curaden (including packaging), and any descriptions, technical data, specifications and/or other documents provided to the User, will remain the property of Curaden or its suppliers and licensors. Unless explicitly agreed otherwise, nothing in these Conditions or an Order should be construed as the transfer of any of Curaden's Intellectual Property Rights to the User.
- 24.2 Curaden grants the User a non-exclusive, non-transferable, non-sub-licensable, royalty free licence for the term of these Conditions or applicable Order to use Curaden's Intellectual Property Rights insofar as necessary for the usage of the Mobile Application, Content, the access to the Services or use of the Products delivered under these Conditions or applicable Order.
- 24.3 User warrants that it is fully authorized to make content available for his or her patients through the Mobile Application, and has all necessary rights to do so. The User also warrants that it does not infringe any rights of third parties.
- 24.4 User is fully responsible and liable for the User Content that it makes available to his or her on the Mobile Application. User indemnifies Curaden against all claims from third parties in this respect and against all related damage and costs, including legal fees on an attorney and own client scale.
- 24.5 If the User infringes any Intellectual Property Rights of Curaden or its Subsidiaries, suppliers and licensors, Curaden may claim a penalty from the User of the ZAR value equivalent of EUR



3,000 for each infringement and for each day the infringement continues. The penalty will be payable immediately, not be open to set-off and without prejudice to Curaden's other rights.

## **25 FORCE MAJEURE**

25.1 A Party shall not be responsible for any failure to or delay in the performance of its obligations under these Conditions if such failure or delay is due to an event of Force Majeure.

25.2 In case of an event of Force Majeure, the Party prevented from or delayed in performing its obligations shall (i) immediately notify the other Party giving full particulars of the event of Force Majeure and the reasons for the event of Force Majeure preventing that Party from, or delaying it in performing its obligations and (ii) use its reasonable efforts to mitigate the effect of the event of Force Majeure upon its performance.

25.3 If a Force Majeure, regardless of whether it affects Curaden or User, lasts more than ten (10) Business Days, Curaden is entitled to cancel the affected Order(s). Such suspension or cancellation shall not impose any obligation for Curaden to pay any compensation to User.

25.4 In case of Force Majeure affecting Curaden, Curaden is still entitled to demand payment for its obligations already performed under an Order before the Force Majeure arose.

## **26 DATA PROTECTION**

26.1 If User processes information that concerns identifiable natural persons, such Personal Data shall be processed in accordance with all applicable data protection laws, including the EU Regulation 2016/679 on General Data Protection ("**GDPR**") as well as POPIA. User indemnifies Curaden against all claims from third parties in this respect and against all related damage and costs, including the full attorney's fees.

26.2 Please see our **Curaden's Privacy Notice** for more information on how we process your Personal Data in accordance with the GDPR and/or POPIA.

## **27 MISCELLANEOUS**

27.1 If the Curaden does not invoke the Conditions towards the User, this should not be construed as a waiver of any right Curaden may have. No indulgence, extension of time, relaxation or latitude which any party ("the grantor") may show, grant or allow to the other shall constitute a waiver by the grantor of any of the grantor's rights and the grantor shall not thereby be prejudiced or stopped from exercising any of its rights against the other party ("grantee") which may have arisen in the past or which might arise in the future.

27.2

27.3 It is not the intention of the parties to contravene the CPA and, to the extent that they are interpreted as contravening the CPA, the relevant clauses must be severed from these

Conditions, with the remainder of the Conditions remaining intact. The invalidity, nullification or unenforceability of one or more of the provisions of the Conditions does not affect the validity of the other provisions. Curaden and User will, in spirit of these Conditions, and in good faith consultation, replace the invalid or non-binding provision with another provision that is valid and binding, and whose legal consequences approach as closely as possible those of the invalid or non-binding provision.

27.4 These Conditions and User's respective rights and obligations hereunder may not be assigned, pledged, transferred or sold by User without the prior written approval of Curaden.

27.5 The headings of these Conditions are for convenience only and shall not affect the interpretation of any provision of the Conditions.

27.6 The singular includes the plural and vice versa, and each gender includes the other gender.

## **28 GOVERNING LAW AND JURISDICTION**

28.1 These Conditions are governed by and construed in accordance with the law of the Republic of South Africa, with the exclusion of its conflicts of law rules. Applicability of the United Nations Convention on the International Sale of Goods (CISG, 1980) is explicitly excluded].

28.2 The competent courts of the Republic of South Africa shall have jurisdiction to the exclusion of any other court for all disputes and disagreements arising out or in connection with any these Conditions or an Order, including disputes regarding the existence and validity thereof.