

15 November 2022

**Mergers, Exemptions & Digital: Competition Exemptions
Australian Competition & Consumer Commission**

For the attention of:

Mr David Hatfield, Director

Mr Anthony Hilton, Director

By email:

exemptions@accc.gov.au

david.hatfield@accc.gov.au

anthony.hilton@accc.gov.au

Dear Mr Hatfield and Mr Hilton

***Re: application for revocation of Authorisation AA1000472
and its substitution; application for interim authorisation***

Please find attached an application for revocation of an authorisation and substitution of a replacement made by eRx Script Exchange Pty Ltd (**eRx**) (the **Application**).

The Application relates to authorisation AA1000472, which was granted by the Australian Competition and Consumer Commission in December 2020. By reason of this authorisation (and its predecessors), a revenue sharing arrangement is permitted between eRx and MediSecure Pty Ltd (to be replaced by its related entity, Operations MDS Pty Ltd (**Op MDS**)); that revenue sharing arrangement in turns facilitates interoperability between the parties' Conformant Prescription Delivery Services (formerly known as a prescription exchange system). This exchange of prescription data helps to fulfil a long-standing policy of the Commonwealth Department of Health to encourage the uptake of electronic prescriptions.

eRx seeks revocation of this authorisation and its substitution in order to facilitate the inclusion of a third provider of Conformant Prescription Delivery Services in the exchange of electronic scripts.

Please find attached:

- an annexure setting out the claims in support of eRx's request for confidentiality over certain material contained in the Application;
- a declaration signed on behalf of eRx;
- public and confidential versions of the Application, including Attachments A-C; and
- confirmation of payment of the application fee, being in the sum of \$2,500.

Interim authorisation

The proposed conduct as set out in the Application is somewhat unusual – whereas an application for authorisation typically seeks to restrict competition, the Application enables the *expansion* of competition from the two incumbents (currently the beneficiaries of the existing authorisation) to include a new entrant in the form of Symbion Pty Ltd t/a Minfos (**Minfos**).

Consequently, interim authorisation is sought in order to permit entry by Minfos as soon as possible. Minfos has indicated that it is willing and able to become a third provider of Conformant Prescription Delivery Services by late 2022/early 2023. Absent interim authorisation, the current authorisation will have the effect of restricting the exchange of data to the two incumbents unless and until it is revoked and substituted in the manner requested. Without also having the capacity to exchange data with eRx and Op MDS, Minfos will be unable to offer a competitive service to its prospective customers. As such, it will be barred from effective entry.

Accelerating Minfos' ability to become a competing provider will not only enhance competition within the market, it will enable pharmacies, medical practitioners and ultimately consumers to benefit from increased choice within the market, with its attendant advantages for efficiency and innovation.

In these circumstances, it is therefore submitted that interim authorisation will promote competition and thereby enhance the welfare of Australians, in accordance with the statutory object as stated in section 2 of *the Competition and Consumer Act 2010* (Cth).

We ask that the decision on this request be provided within 28 days of lodgement, in accordance with the ACCC's *Guidelines for Authorisation of Conduct (non-merger)* (March 2019).

Confidential information

eRx requests that certain material in the Application be excluded from the public register due to its confidential nature. The annexure to this letter sets out its substantiation of this request.

Please do not hesitate to contact me if you have any questions regarding this matter.

Kind regards,



Alexandra Merrett

Independent Competition Counsel

*An Australian Legal Practitioner within the meaning of the Legal Profession Uniform Law (Vic).
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APPLICATION FOR REVOCATION OF AN AUTHORISATION FOR PROPOSED CONDUCT AND SUBSTITUTION OF A REPLACEMENT

To the Australian Competition and Consumer Commission:

Application is hereby made under section 91C of the *Competition and Consumer Act 2010* (Cth) for the revocation of an authorisation and the substitution of a new authorisation for the one revoked.

Parties to the proposed conduct

1. Provide details of the applicants for authorisation, including:

1.1. name, address (registered office), telephone number and ACN

eRx Script Exchange Pty Ltd (eRx)
Level 3, 20 Mollison Street, Abbotsford, Victoria 3067
03 9418 1800
ACN 132 884 658

1.2. contact person's name, position, telephone number and email address

Tanya Fryc
General Counsel & Company Secretary
Fred IT Group Pty Ltd¹

1.3. a description of business activities

The applicant operates what was formerly known as an electronic pharmaceutical prescription exchange system or PES, which is now known as a Conformant Prescription Delivery Service (CPDS).

1.4. email address for service of documents in Australia.

Authorisation to be revoked (the existing authorisation)

2. Provide details of the authorisation sought to be revoked including:

2.1 the registration number and date of the authorisation which is to be revoked

eRx has previously been granted three successive authorisations by the Australian Competition and Consumer Commission (ACCC) for conduct that is substantially the same as the conduct the subject of this application. Three authorisations under subsections 88(1A) and 88(1) of the *Competition and Consumer Act 2010* (Cth) (Act), and three respective interim authorisations under subsection 91(2) of the Act, were granted by the ACCC as follows:

¹ eRx Script Exchange Pty Ltd is a wholly owned subsidiary of Fred IT Group Pty Ltd.

1. On 13 November 2012, eRx lodged an application with the ACCC seeking authorisation to enter into and give effect to a contract for a revenue sharing arrangement with MediSecure Pty Ltd ACN 132 172 957 (now known as IP MDS Pty Ltd (**MDS**)) to facilitate interoperability between the parties' electronic pharmaceutical PESs. On 6 December 2012, the ACCC granted interim authorisation. On 7 March 2013, the ACCC granted authorisation A91348 until 30 June 2017 (**First Authorisation**).
2. On 28 April 2017, eRx lodged an application with the ACCC seeking authorisation to continue to give effect to its revenue sharing arrangement with MDS. On 7 June 2017, the ACCC granted interim authorisation. On 27 September 2017, the ACCC granted authorisation A91579 until 30 June 2020 (**Second Authorisation**).
3. On 2 March 2020, eRx lodged an application with the ACCC seeking authorisation to continue to give effect to its revenue sharing arrangement with MDS. On 4 June 2020, the ACCC granted interim authorisation to allow eRx and MDS to continue to operate their respective systems interoperably while the ACCC considered the merits of the substantive application for re-authorisation. On 10 December 2020, the ACCC issued a determination granting authorisation AA1000472 until 30 June 2025 (**Existing Authorisation**)

(together, the **Earlier Authorisations**).

eRx is seeking revocation of the Existing Authorisation.

2.2 other persons and/or classes of persons who are a party to the authorisation which is to be revoked

Not applicable.

2.3 the basis for seeking revocation, for example because the conduct has changed or because the existing authorisation is due to expire.

Although the Existing Authorisation is due to expire on 30 June 2025, eRx is seeking revocation of that authorisation and substitution of a new authorisation. Revocation and substitution are appropriate because the conduct that is the subject of this application is substantially the same as the conduct authorised by the ACCC under the Existing Authorisation.

While eRx and MDS provide the only two CPDSs that currently operate in Australia, Symbion Pty Ltd ACN 000 875 034 t/a Minfos (**Minfos**) intends to build and operate a third CPDS in the Australian market. Minfos notified the Commonwealth Department of Health of the same in November 2020.

The Proposed Conduct is described in more detail below at section 4. In brief, however, the existing CPDS network is designed for two CPDS providers and if Minfos is to enter the market, a rebuild of the infrastructure supporting the exchange of CPDS data is required. eRx and MDS are committed to accommodate three-way interoperability, as evidenced by eRx, Operations MDS Pty Ltd ACN 169 902 934 (**Op MDS**) and Minfos making the Commercial Interchange Agreement dated 7 July 2022 (**Revised CIA**) and ancillary arrangements. (Following a corporate restructure, Op MDS now stands in the place of MDS

in relation to these arrangements; as with MDS, it is a wholly owned subsidiary of MediSecure Ltd ACN 169 902 443.)

Amongst other things, the Revised CIA gives effect to a revenue sharing arrangement that is substantially similar to the revenue sharing arrangement the subject of the Existing Authorisation. A true and complete copy of the Revised CIA is attached to this Application and marked as “Attachment A”.

To appropriately accommodate Minfos, new and enhanced infrastructure, to be known as the Interoperability Services Bus (**ISB**), is required. The ISB will enable interoperability between the systems used by eRx, Op MDS and Minfos (as well as other prospective entrants who may wish to provide a CPDS in future) – see further the explanation below at paragraph 4.2. The ISB is being developed by Medication Knowledge Pty Ltd ACN 622 493 967 (**MK**). MK will also host the ISB and provide technical support and related services to eRx, Op MDS and Minfos.

The terms and conditions governing the provision of these system services by MK to eRx, Op MDS and Minfos are set out in a System Services Agreement entered into by those parties on 13 July 2022 (**SSA**). Pursuant to the SSA (see clause 5 and Schedule 3), the parties have agreed to an arrangement that has the effect of fixing, controlling or maintaining the price for MK’s services in hosting and supporting the ISB, as payable by eRx, Op MDS and Minfos. A true and complete copy of the SSA is attached to this Application and marked as “Attachment B”.

MK is jointly owned by Fred IT Group Pty Ltd (eRx’s parent) and MediSecure Ltd (Op MDS’s parent). “Attachment C” contains a current and historical ASIC company search for MK dated 22 August 2022.

Note that both the Revised CIA and the SSA are subject to various conditions precedent, including authorisation of the conduct the subject of this application.

eRx seeks revocation of the Existing Authorisation and substitution of a new authorisation to give effect to:

1. the revenue sharing arrangement that will underpin the exchange of prescription data between its CPDS and those of Op MDS and Minfos. The purpose of the revenue sharing arrangement is to allow eRx to continue operating its CPDS interoperably with Op MDS’s CPDS and Minfos’ CPDS; and
2. the fixing, controlling or maintaining of the fees that MK will charge for its services under the SSA to eRx, Op MDS and Minfos. The purpose of this arrangement is to ensure all CPDS operators are charged service fees on precisely the same basis in circumstances where the parent companies of eRx and MDS together own and control MK, such that there may be an incentive for MK to set service fees that are commercially disadvantageous to Minfos. This arrangement is intrinsically linked to the revenue sharing arrangement, ensuring that the cost of using the service is common to all parties.

The revenue sharing arrangement for which a new authorisation is sought is set out in clause 14 of the Revised CIA and provides that the Originating CPDS may – when certain conditions are met (see clause 16 of the Revised CIA) – charge the Dispensing CPDS the Interchange Fee, being a fee that is equal to 50% of the Electronic Prescription Fee² that is paid to the Dispensing CPDS by the Australian Government, for each prescription that

² Being a term which is defined in relevant Community Pharmacy Agreement – see further the discussion below at Section 4.2. The Electronic Prescription Fee is currently 15 cents.

originated on the CPDS of the Originating CPDS. The fixing, controlling or maintaining of the fees that MK charges for its services under the SSA is contained in clause 5 and the accompanying Schedule 3.

eRx notes that the Proposed Conduct (described in detail below at Section 4.1) also includes a right of consultation between MK, eRx, Op MDS and Minfos should further entry be contemplated (see clause 24.3 of the SSA). Ultimately, ACCC authorisation would again be required to accommodate entry of another new CPDS provider.

Authorisation to be substituted (the new authorisation)

3. If applicable, provide details of the other persons and/or classes of persons who also propose to engage, or become engaged, in the proposed conduct. Where relevant provide:

3.1 name, address (registered office), telephone number and ACN

Medication Knowledge Pty Ltd ACN 622 493 967 (MK)
Level 3, 20 Mollison Street, Abbotsford, Victoria 3067
03 9418 1800

3.2 contact person's name, telephone number and email address

Tanya Fryc
Company Secretary

[REDACTED]

3.3 a description of business activities

MK is a joint venture between the parent companies of eRx and MDS/Op MDS respectively. It provides infrastructure and technical services which will support interoperability between the CPDS providers, thereby facilitating the exchange of prescription data.

3.4 name, address (registered office), telephone number and ACN

MediSecure Ltd ACN 169 902 443, IP MDS Pty Ltd ACN 132 172 957 (MDS) and
Operations MDS Pty Ltd ACN 169 902 934 (Op MDS)
2/133 Market Street, South Melbourne Victoria, 3206
03 8677 5533

3.5 contact person's name, telephone number and email address

Paul Frosdick

[REDACTED]

3.6 a description of business activities

MDS owns a CPDS.

Op MDS operates that CPDS under license from MDS.

3.7 name, address (registered office), telephone number and ACN

Symbion Pty Ltd ACN 000 875 034 (Minfos)
Level 7, 737 Bourke Street, Docklands 3008
03 9918 5555

3.8 contact person's name, telephone number and email address

Rosannah Healy
Partner, Allens
101 Collins Street, Melbourne 3000

3.9 a description of business activities.

Minfos provides pharmacy management software (including dispense, point of sale and retail management functions) and full-service support to pharmacies across Australia. For more information, see <https://www.minfos.com.au/>. Minfos is part of the EBOS Group, a wholesaler and distributor of healthcare, medical and pharmaceutical products. For more information, see <https://www.ebosgroup.com/>.

The proposed conduct**4. Provide details of the proposed conduct, including:****4.1 a description of the proposed conduct and any documents that detail the terms of the proposed conduct**

The proposed conduct, evidenced by the Revised CIA and SSA, has the purpose of:

1. accommodating future entry by additional CPDS providers – in this specific instance, Minfos;
2. allowing eRx's, Op MDS's and Minfos' respective CPDSs to operate interoperably with each other;
3. allowing eRx, Op MDS and Minfos to share equally between the dispensing CPDS and originating CPDS an amount equal to the Electronic Prescription Fee that is currently paid by the Commonwealth to pharmacies for a qualifying electronic prescription;
4. ensuring that eRx, Op MDS and Minfos share on an equal and non-discriminatory basis the ongoing operational costs of the IT infrastructure necessary to facilitate interoperability, that is provision of the hosting and technical support services by MK,

(collectively, the **Proposed Conduct**).

The Proposed Conduct is substantially the same as the conduct authorised by the ACCC under the Earlier Authorisations, except for the addition of Minfos as a new CPDS provider and the inclusion of MK in order to support the technical infrastructure necessary to allow for

the exchange of prescription data. The Proposed Conduct will permit interoperability between the existing CPDS operators and Minfos, substantively on the same revenue sharing arrangements which are the subject of the Earlier Authorisations.

The revenue sharing arrangements for which authorisation is sought are set out in Clause 14 of the Revised CIA and clause 5 (and the accompanying Schedule 3) of the SSA. The interoperability between the various CPDSs is facilitated by way of the services provided by MK pursuant to the SSA. There is limited specific reference to new entry (other than Minfos) within the Revised CIA and SSA, although note clause 24 of the SSA.

4.2 an outline of any changes to the conduct between the existing authorisation and the new authorisation

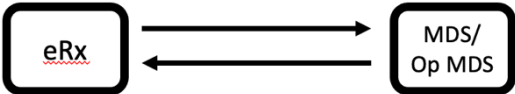
Inclusion of a new CPDS operator

The most significant change between the Proposed Conduct and the conduct the subject of the Existing Authorisation is the involvement of a third CPDS operator, Minfos. While eRx and MDS had always contemplated the inclusion of new CPDS operators,³ the Existing Authorisation reflects the terms of the Commercial Interchange Agreement between eRx and MDS dated 17 December 2012 (the **Original CIA**, which agreement is both the subject of the Earlier Authorisations and the predecessor to the Revised CIA). For the conduct which is the subject of the Existing Authorisation to encompass Minfos effectively, new arrangements pertaining to the Interchange Fee (see clause 14 of both the Original and Revised CIA) need to be implemented.

Recognition of MK’s role in providing the technical support required to facilitate interoperability

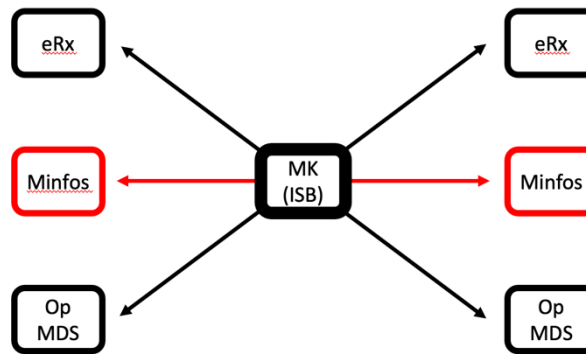
As noted above, the accommodation of Minfos imposes build requirements (that is, the development of the ISB) and subsequently the provision of more complex IT support to ensure interoperability, with such services to be provided by MK. The change in the IT requirements necessary to enable the exchange of electronic prescription data between three CPDS providers as opposed to two is shown via the following (simplified) diagrams:

Arrangement as per Existing Authorisation:



End-to-end arrangement, with no central hub

³ See clause 49 of the 2012 Commercial Interchange Agreement between eRx and MDS (being the agreement which governed the conduct described in the Earlier Authorisations).

Arrangement as per Proposed Conduct:

MK acting as central hub, supporting efficient exchange of data between three (or more) participants; identical fee payable by each CPDS to MK for the provision of hosting services & technical support to enable the exchange of data

The need for the ISB and the support services required to support its operation mean it is necessary to stipulate the Transaction Fee and the service level arrangements as set out in the SSA. This has the effect of:

- a. ensuring the commercial interests of eRx and MDS are appropriately protected, as they will not be bearing all the ongoing operational costs associated with providing the services necessary to support interoperability with Minfos;
- b. ensuring the commercial interests of Minfos are appropriately protected, as it will not be subject to discriminatory pricing practices or service levels which favour MK's owners over itself; and
- c. supporting the revenue sharing arrangement, by ensuring that the cost of using the service is the same for all parties and that the principle of equal revenue sharing is not undermined by different fee structures as between users of the infrastructure.

Nonetheless, as was made clear during the Earlier Authorisations, new entry was always contemplated. As such, the commercial arrangements surrounding the provision of IT services by MK are the natural consequences of Minfos' inclusion in the exchange of electronic prescription data. It is therefore submitted they do not constitute a material change to the conduct the subject of the Existing Authorisation.

Prospective changes to the regulatory environment

To recapitulate the explanation provided in the Earlier Authorisations, the electronic transfer of prescriptions (**ETP**) process involves a PES (now a CPDS):

- a. connecting to the information systems of prescribers and collecting secure electronic prescriptions and/or medication charts;
- b. holding electronic prescriptions and/or medication charts in a central repository;
- c. connecting to the pharmacy dispensing systems to download the electronic prescriptions or medication chart at the patient's nominated pharmacy when the pharmacy scans the unique identifier on the paper or electronic copy of the prescription;
- d. after dispensing, receiving a dispense record from the dispensing pharmacy's system and, if applicable, an electronic version of the repeat authorisation document. The repeat authorisation document holds a unique identifier that is scanned by the patient's pharmacy to dispense the next repeat prescription.

The operation of the ETP process was originally set out in the Fifth Community Pharmacy Agreement (**5CPA**). Under that agreement, the Commonwealth of Australia made an Electronic Prescription Fee of 15 cents to the dispensing pharmacy as defined by clause 2.1 and clause 12.8 of the 5CPA where an eligible electronic prescription (known as a “qualifying prescription” or **QP**) had been dispensed (see further clauses 2.1 and 12.10 of the 5CPA). The Electronic Prescription Fee was also paid for any repeat authorisation document of a QP provided that the original QP was dispensed electronically.

The ETP process and Electronic Prescription Fee continued under the Sixth Community Pharmacy Agreement and is currently governed by Seventh Community Pharmacy Agreement (**7CPA**). As foreshadowed in the 7CPA (see clause 9.4), however, the Commonwealth is reviewing the amount and process for paying the Electronic Prescription Fee, including whether it should be paid directly to the CPDS operator (instead of the dispensing pharmacy). This review has prompted a request for tender process which is currently unresolved⁴ – it is entirely possible that the outcome of that tender process will result in significant changes to the structure of CPDS operations in Australia. Pending full implementation of whatever model the Commonwealth chooses, however, the parties wish to proceed on the current arrangements, amended in accordance with the Proposed Conduct to incorporate Minfos as a new entrant.

Since March 2013, eRx and MDS have had an agreement under which an interchange fee is payable which is equal to 50% of the fee for each ETP that is charged by the dispensing CPDS provider to the dispensing pharmacist for each QP that originated on the other’s system. This conduct was initially authorised via the First Authorisation (7 March 2013) and then re-authorised on two subsequent occasions by the ACCC under Division 1 of Part VII of the Act (see the Second Authorisation and the Existing Authorisation),

The Existing Authorisation, being the most recent re-authorisation of the conduct by the ACCC, was made on 10 December 2020.

The uptake and use of electronic prescriptions was identified as a priority by the Australian Government via the 5CPA, which allocated \$75.5 million in funding to provide payment to pharmacies for each eligible prescription downloaded. This continued under the 6CPA, with a total funding of \$61 million. Under the 7CPA, there was funding of \$18m in year 1, with a contemplated change of payment arrangements for the years thereafter (as discussed below).

eRx notes that the current tender process contemplates that the market will be serviced either by multiple operators (as it is now) or – in a significant departure from the status quo – by a single operator. The Commonwealth’s initial timetable suggested contracts with the successful tenderer(s) would be executed in October 2022, but the process has been delayed. Notwithstanding this tender process, the Proposed Conduct (assuming authorisation is granted) is likely to remain on foot for some time. Even if the Commonwealth’s preferred model were to result in a significant change to the structure of the market, transitional arrangements would need to be made to support all market participants (for example, pharmacies and medical practitioners using CPDSs which were not favoured by the final outcome would need time to convert to a supported system). Until such transitional arrangements are finally resolved, eRx submits that there would be an ongoing need for interoperability and hence authorisation. Given the fundamental uncertainty surrounding the tender process – both as to preferred model and the timing of its implementation – eRx submits that it should therefore be put aside for the purposes of the ACCC’s consideration of this application.

⁴ See “Request for Tender: Electronic Prescription Services, Health/E21-576909” released by the Commonwealth on 31 March 2022. See further <https://www.tenders.gov.au/Atm/ShowClosed/f318621c-7a5e-4a7f-8337-8e6a74114f6a?PreviewMode=False> (viewed 10 September 2022).

Conclusions

In conclusion, it is submitted that the Proposed Conduct does not involve a material change to the conduct the subject of the Existing Authorisation. The inclusion of additional CPDS providers was always contemplated; their inclusion necessarily involves adjustments to the commercial arrangements for the IT support required to facilitate their inclusion; and the prospective regulatory changes are both uncertain at this stage and – even if they ultimately prove substantial – will almost certainly require the Proposed Conduct to continue if only as part of a transitional arrangement.

4.3 the relevant provisions of the Act which might apply to the proposed conduct, i.e:

- cartel conduct (Division 1 of Part IV)
- contracts, arrangements or understandings that restrict dealings or affect competition (section 45)
- concerted practices (section 45)
- secondary boycotts (sections 45D, 45DA, 45DB, 45E, 45EA)
- misuse of market power (section 46)
- exclusive dealing (section 47)
- resale price maintenance (section 48) and/or
- a dual listed company arrangement (section 49)

eRx, Op MDS and Minfos are likely to be considered competitors in the provision of CPDSs for the purposes of the Act. As such, in the absence of authorisation, the Proposed Conduct (including the Revised CIA and the SSA) may be characterised as giving rise to provisions which have:

1. the purpose or effect of fixing, controlling or maintaining the price for services supplied or likely to be supplied or acquired or likely or be acquired, by the parties (i.e. a cartel provision prohibited under sections 45AD(2), 45AF, 45AG, 45AJ and 45AK of the Act);
2. the purpose of preventing, restricting or limiting the supply or likely supply or acquisition or likely acquisition, of goods or services by the parties (i.e. a cartel provision prohibited under sections 45AD(3)(a)(iii), 45AF, 45AG, 45AJ and 45AK of the Act); and
3. the purpose or effect of substantially lessening competition within the meaning of section 45 of the Act.

4.4 the rationale for the proposed conduct

The Proposed Conduct is essentially a continuation of the Commonwealth's PES Interoperability Project, which was funded by the Department of Health and Ageing (as it

then was).⁵ This project had the purpose of enabling electronic prescriptions to be accessed by all pharmacies, no matter which CPDS the electronic prescription was originally lodged with. This has been achieved – CPDS users are now able to share all prescriptions and repeats.

eRx and MDS previously negotiated between themselves an "Inter-PES Transaction Fee" to apportion the charge paid to the relevant CPDS by the dispensing pharmacy in circumstances where a qualifying prescription originated on the CPDS of the other party. In order to eliminate the incentive for one CPDS to profit at the expense of the other (which would subvert the intended outcome of maximum interoperability), eRx and MDS agreed (subject to authorisation) to divide this fee equally. This conduct was then authorised (initially via the First Authorisation) and encapsulated in the Original CIA, including notably clause 14 which allowed for the equal sharing of the relevant fee.

Equal sharing is fair and equitable and eliminates any economic incentive for a CPDS to 'hoard' prescriptions or in any other way hinder interoperability in a manner that would reduce the public benefits described below. The ongoing interoperability of CPDS systems will foster ongoing growth in the use of electronic prescriptions. The Proposed Conduct only enhances the potential use of electronic prescriptions via its inclusion of Minfos, which – although a new CPDS provider – is a well-known and regarded industry participant with extensive links to pharmacies across Australia. Minfos' inclusion of course is only possible with an appropriate IT framework; accordingly, the arrangements between the respective CPDS operators as set out in the SSA for the ongoing operations of the ISB, are a necessary consequence of its emergence as a third provider.

4.5 the term of authorisation sought and reasons for seeking this period.

Authorisation is sought until the expiry of the new 7CPA on 30 June 2025 (that is, the same term as for the Existing Authorisation). This will facilitate interoperability during a period where progress in electronic and digital health technologies has been identified as key. Interoperability will promote progress in these areas as it will foster continuing growth in the use of electronic prescriptions.

Authorisation until the new 7CPA's expiry will also bolster a significant policy component of the 7CPA, including by supporting consumers and the pharmacy sector. It will do so by advancing and coordinating activity between healthcare professionals, and allowing for the recording and sharing of the medicines prescribed and dispensed by pharmacies using a CPDS. This will lead to a reduction in transcription errors as pharmacies will not have to re-key this information.

Authorisation for this period will also facilitate the delivery of joint initiatives involving eRx, Op MDS and Minfos. Specifically, an initiative led by the Australian Digital Health Agency and the Department over the term of the 7CPA is the removal of the existing paper prescription as the legal document and its replacement with an electronic prescription. This initiative relies on the CPDS infrastructure, and demonstrates the ongoing extension of the prescription exchanges and the CPDS providers' continued investment in their development.

eRx notes that the outcome of the Commonwealth's current tender process may give rise to a significant change to the current management of electronic prescriptions in Australia. The outcomes contemplated by the tender, however, span a broad range of options. Further, there is no certainty as to when the preferred option may be implemented. Even if the Commonwealth sought to impose significant structural changes (for example, by moving to a single CPDS operator), there would be a need for transitional arrangements. As such, eRx

⁵ The Funding Agreement was Annexure B to the application for the First Authorisation.

submits that aligning the lifetime of authorisation to the 7CPA remains the most appropriate course.

- 5. Provide the name of persons, or classes of persons, who may be directly impacted by the proposed conduct (e.g. targets of a proposed collective bargaining arrangement; suppliers or acquirers of the relevant goods or services) and detail how or why they might be impacted.**

Consumers would be positively impacted by the Proposed Conduct by way of:

1. a reduction in transcription errors of medical prescriptions (which reduces the potential to receive the wrong medicine, the wrong dosage and/or incorrect instructions);
2. an increase in choice and convenience by being able to access electronic prescription services at more pharmacies, regardless of which CPDS their medical practitioner may have used; and
3. an increase in efficiencies by pharmacies in dispensing prescriptions, which may reduce wait times.

Dispensers (usually pharmacists) would also be positively impacted by the Proposed Conduct by way of:

1. an increase in costs savings via a reduction in the time spent re-keying (and then checking) the prescription information into their systems; and
2. an increase in efficiencies by facilitating the widespread use of electronic prescriptions by medical practitioners and pharmacists.

eRx further notes that users of CPDS systems, both medical practitioners and pharmacists, will have increased choice by reason of the entry of Minfos as a CPDS provider, and its inclusion in the current interoperability arrangements.

Market information and concentration

- 6. Describe the products and/or services, and the geographic areas, supplied by the applicants. Identify all products and services in which two or more parties to the proposed conduct overlap (compete with each other) or have a vertical relationship (e.g. supplier-customer).**

The services supplied by the applicant consist of electronic (i.e. computerised) services for the communication of prescription information between prescribers (usually doctors), their patients and the pharmacies (by which the overwhelming majority of pharmaceutical prescriptions are dispensed). These services comprise sophisticated computer systems, programs and equipment designed to ensure communication of prescription information. The geographic area supplied by the applicant is Australia-wide. The applicant and Op MDS currently compete in the supply of these services and authorisation of the Proposed Conduct would enable Minfos to also compete in the supply of these services.

While the Proposed Conduct relates specifically to the provision of CPDS systems, each of eRx, Op MDS and Minfos (whether themselves or via related entities) actively participate in other aspects of the industry, including through the provision of software services for prescribers and/or dispensers. Each party's existing operations within the industry mean it is well-placed to promote even greater use of electronic prescriptions.

7. Describe the relevant industry or industries. Where relevant, describe the sales process, the supply chains of any products or services involved, and the manufacturing process.

As per the Earlier Authorisations, the relevant industries are the information technology industry, and the healthcare industry.

The relevant area of the information technology industry is technology software, which includes companies that develop software in various fields such as systems and programs.

The Global Industry Classification Standard and the Industry Classification Benchmark identify activities within the healthcare industry as falling within two main groups, being:

1. healthcare equipment and services; and
2. pharmaceuticals, biotechnology and related life sciences.

In the case of the Proposed Conduct, the computer systems, programs and equipment designed to ensure communication of prescription information are for use in the provision of healthcare services in Australia. The healthcare services industry group includes entities that primarily provide direct treatment to patients or perform auxiliary services in support of treatment.

The pharmaceutical industry group is also relevant as CPDS systems are for use by pharmaceutical prescribers and dispensers, and facilitate the dispensing of pharmaceutical prescriptions safely, accurately, quickly and securely.

8. In respect of the overlapping products and/or services identified, provide estimated market shares for each of the parties where readily available.

Based on interchange activity during FY22, eRx's share of originating and dispensing electronic prescriptions is in the order of 90%, with MDS constituting the remainder. As noted, Minfos does not currently operate a CPDS.

9. In assessing an application for authorisation, the ACCC takes into account competition faced by the parties to the proposed conduct. Describe the factors that would limit or prevent any ability for the parties involved to raise prices, reduce quality or choice, reduce innovation, or coordinate rather than compete vigorously. For example, describe:

- 9.1 existing competitors**
- 9.2 likely entry by new competitors**
- 9.3 any countervailing power of customers and/or suppliers**
- 9.4 any other relevant factors.**

As per the Earlier Authorisations, eRx and MDS operate the only two CPDS systems that currently exist in Australia. Minfos, however, is a potential new CPDS provider and is expected to be operational by late 2022/early 2023.

As demonstrated by the successful negotiation and signing of the Revised CIA, the Proposed Conduct is unlikely to prevent or deter competitors from entering the market. The Revised

CIA (see clause 53) provides that the parties are free to enter into similar interchange agreements with any other person who develops a CPDS and is permitted to commercialise the use of its CPDS by the Commonwealth. If a new entrant were to emerge, the parties are willing to negotiate to extend the Revised CIA to that party as well. Indeed, the SSA expressly contemplates further entry (see clause 24).⁶

In addition, given revenue sharing arrangements the subject of this authorisation application only arise when a qualifying script originates on one party's software but terminates on another's, each party will still compete vigorously to supply its respective CPDS to medical practitioners and pharmacies. This analysis is supported by clause 17 of the Revised CIA, which provides that there is no agreement between the CPDS providers on the fees they will charge a dispensing pharmacy.

Interoperability between the three CPDSs will also enhance, rather than reduce, choice as patients will be able to access electronic prescription services via more medical practitioners and at more pharmacies.

Ultimately, eRx observes that the main influence on the future structure of the market will almost inevitably be the Commonwealth Government. In the short to medium term (at least), future entry by prospective CPDS providers will largely be shaped – if not determined entirely – by the outcome of the current tender process.

Public benefit

10. Describe the benefits to the public that are likely to result from the proposed conduct. Refer to the public benefit that resulted under the authorisation previously granted. Provide information, data, documents or other evidence relevant to the ACCC's assessment of the public benefits.

The Proposed Conduct facilitates interoperability and enhances competition.

Interoperability is best promoted if a party does not have any economic or commercial incentive to capture or retain prescriptions down to the point of dispensing (at which point payments are made and received for the pharmaceuticals, including the costs associated with their supply). The Proposed Conduct eliminates any incentive for any party to ensure that prescriptions that have originated on its system (i.e. at the point of original prescribing) remain on its system at the point of dispensing (i.e. in the pharmacy).

Further, the SSA ensures that – notwithstanding that the interoperability services are provided by a company ultimately owned by two of the three CPDS operators (i.e. MK) – the third is not exposed to a risk of discriminatory treatment (whether that be with respect to service levels or pricing).

Without the Proposed Conduct, there would be insufficient commercial incentives for the parties to invest in interoperability, which is of course key to the effective and efficient provision of electronic script services.

Prior to interoperability, if a prescriber lodged an electronic prescription for a patient with a CPDS, the patient was only able to have this prescription downloaded by a pharmacy if the pharmacy software connected to the particular CPDS where the prescription was lodged by the prescriber.

⁶ eRx notes that clause 24.3 of the SSA allows for any of eRx, Op MDS or Minfos “to raise any reasonable concerns” with MK regarding new entry – the use of “reasonable” provides an important qualifier here. This clause would permit concerns of a logistical or technological nature to be raised, for example concerns relating to the prospective time or process (such as seeking authorisation) involved in accommodating new entry.

There was no interconnection between the computer systems operated by the (then) two CPDS providers to enable a pharmacy connected to one CPDS to access electronic prescriptions which were held by the other (if the pharmacy was not also connected to the other CPDS, as was usually the case). Since the First Authorisation, the use of electronic prescriptions has grown substantially and continues to grow – indeed, between May 2020 and September 2022, nearly 81 million electronic prescriptions were issued.⁷

Interoperability is likely to continue to result in the following public benefits:

1. a reduction in transcription errors of medical prescriptions (which reduces the potential for patients to receive the wrong medicine);
2. an increase in choice and convenience for patients by being able to access electronic prescription services at more pharmacies, regardless of which CPDS the medical practitioner used;
3. an increase in choice for ePrescribing vendors through the emergence of a third CPDS provider as well as additional security and redundancy in the system by virtue of there being three CPDS providers rather than two;
4. an increase in efficiencies for pharmacies in dispensing prescriptions;
5. an increase in costs savings for pharmacies via a reduction in the time spent re-keying the prescription information into their systems; and
6. an increase in the uptake and use of electronic transfer of prescriptions via a CPDS, which:
 - a. promotes quality use of medicines through efficient and safe dispensing of medicines, and the generation of large volumes of prescription information that is used for the Australian Government's My Health Record; and
 - b. reduces unnecessary burdens on the Australian health system and eliminates pharmaceutical wastage caused by errors in prescription dispensing.

Annexure C to the application for the Second Authorisation contained a graph showing the number of users (both medical practitioners and pharmacists) of the eRx CPDS. The graph showed that, once interim authorisation was granted on 6 December 2012, the number of users increased markedly and that, between that date and the application for the Existing Authorisation, the number more than doubled. Since the Existing Authorisation came into effect, these numbers have continued to grow. Presently, an estimated 80%+ of doctors and 90%+ of pharmacies use a CPDS. Given the public benefits described above, it is hoped (and indeed expected) that these numbers will continue to grow.

Ultimately, the electronic prescription exchange market is characterised by significant network effects, requiring arrangements to facilitate commencement on one service and termination on another. The Proposed Conduct ensures the effective operation (and potential enhancement) of the market, underpinning all the benefits delivered by the use of electronic prescriptions.

In addition to the above benefits continuing, should the Existing Authorisation be substituted in the manner requested, the Proposed Conduct will enable new entry; without the current arrangements extending to Minfos, its prospective market entry would be severely curtailed and possibly prevented

⁷ Sourced from <https://www.digitalhealth.gov.au/initiatives-and-programs/electronic-prescriptions> (viewed 13 November 2022).

altogether. Indeed, in a future without the Proposed Conduct, it is difficult to envisage Minfos emerging as an effective competitor.

Public detriment including any competition effects

11. Describe any detriments to the public likely to result from the proposed conduct, including those likely to result from any lessening of competition. Refer to the public detriment that may have resulted under the authorisation previously granted. Provide information, data, documents, or other evidence relevant to the ACCC's assessment of the detriments.

eRx submits there are no public detriments generated by the Proposed Conduct for the following reasons:

1. it is not aware of any other prospective new providers who are developing or considering developing a CPDS;
2. in any event, the Proposed Conduct is unlikely to prevent or deter new providers of CPDSs from entering the market. If anything, it might encourage new entry as the functionality in the ISB can support more than three CPDSs. The Revised CIA in Clause 53 provides that the parties are free to enter into similar interchange agreements with any other person or persons who develop a CPDS and who are permitted to commercialise the use of their CPDS by the Commonwealth and further entry is expressly contemplated by clause 24 of the SSA. If a new entrant were to emerge, the parties are willing to negotiate to extend the Revised CIA as required. In the event that the parties were unwilling to extend the current arrangements to a prospective new entrant, this would amount to a material change in circumstances providing grounds for the ACCC to review the authorisation;⁸
3. the relatively short period of authorisation sought. eRx seeks authorisation until the 7CPA expires, of which a significant policy component is finalising the framework to enable the prescribing, dispensing and claiming of Pharmaceutical Benefits Scheme medicines in a seamless electronic manner; and
4. given the Proposed Conduct is only relevant when a qualifying script originates on the software of another CPDS provider, eRx, Op MDS and Minfos will still vigorously compete to supply their CPDSs to medical practitioners and pharmacies.

Additionally, there is no evidence of any public detriment having occurred during the periods covered by the Earlier Authorisations. Rather, as stated above, the conduct previously authorised has resulted in significant public benefits which are likely to continue.

eRx notes that, over the course of the Earlier Authorisations, conduct which is substantively similar to the Proposed Conduct has resulted in public benefits. During its consideration of the Earlier Authorisations, the ACCC did not express concerns as to the existence or significance of these benefits. The claimed public benefits are likely to persist. Indeed, eRx submits that the public benefits arising from the Proposed Conduct will only be enhanced over time and there will be no public detriment. In particular, the Proposed Conduct ensures a level playing field for the new entrant, entrenching terms which have been negotiated on an arm's length basis and avoiding potential discrimination against the new entrant.

⁸ *Competition and Consumer Act 2010* (Cth), section 91C(3).

Contact details of relevant market participants

- 12. Identify and/or provide names and, where possible, contact details (phone number and email address) for likely interested parties such as actual or potential competitors, customers and suppliers, trade or industry associations and regulators.**

Simon Cleverley
A/g Assistant Secretary
Benefits Integrity and Digital Health Division
Australian Government Department of Health
23 Furzer Street
Phillip ACT 2606

**Additional information**

- 13. Provide any other information or documents you consider relevant to the ACCC's assessment of the proposed application.**

Clause 52 of the Revised CIA provides that if interim or final authorisation granted by the ACCC ends for any reason then the Revised CIA shall automatically end regardless of any other express or implied rights of termination. For this reason, eRx's preference is for revocation of the Existing Authorisation and substitution with a new authorisation (rather than a new authorisation) to avoid having in place two authorisations for the same or similar conduct. If the revocation and substitution application is not granted, the Existing Authorisation will continue unchanged.

Attachment A

Please see following pages.

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THIS Commercial Interchange Agreement is made the _____ day of _____ 2022

BETWEEN

eRx Script Exchange Pty Ltd, ACN 132 844 658 of Level 3, 20 Mollison Street, Abbotsford, Victoria 3067
eRx

and

Operations MDS Pty Ltd ACN 169 902 934 of 2/133 Market Street, South Melbourne Victoria 3205 **MDS**
and

Symbion Pty Ltd t/a Minfos ACN 000 875 034 Minfos of Level 7/737 Bourke St, Docklands Victoria 3206
Minfos

Background

1. The electronic transfer of prescriptions (ETP) process involves a PES:
 - a. connecting to the information systems of prescribers and collecting secure electronic prescriptions or medication charts (e-scripts);
 - b. holding e-scripts in a central repository;
 - c. connecting to the pharmacy dispensing systems to download the e-script at the patient's nominated pharmacy when the pharmacy scans the unique identifier on the paper or electronic copy of the prescription;
 - d. after dispensing, receiving a dispense record from the dispensing pharmacy's system; and if applicable, an electronic version of the repeat authorisation document (**RA**). The RA holds a unique identifier that is scanned by the patient's pharmacy to dispense the next repeat prescription.
2. The operation of the ETP process was originally set out in the Fifth Community Pharmacy Agreement. Under the Fifth Community Pharmacy Agreement, the Commonwealth made an electronic prescription fee of 15 cents to the dispensing pharmacy as defined by clause 2.1 and clause 12.8 of the 5CPA (**Electronic Prescription Fee**) where an eligible electronic prescription as defined in clause 2.1 and 12.10 of the Fifth Community Pharmacy Agreement has been dispensed (**QP**. The Electronic Prescription Fee was also paid for any RA of a QP provided that the original QP was dispensed electronically (**QP RA**).
3. The ETP process and Electronic Prescription Fee has continued under the Sixth Community Pharmacy Agreement and the current Seventh Community Pharmacy Agreement. However, as noted in the Seventh Community Pharmacy Agreement, the Commonwealth is reviewing the amount and process for paying the Electronic Prescription Fee, including whether it should be paid directly to the PES (instead of the dispensing pharmacy).
4. eRx and MDS agreed that an interchange fee payable equal to 50% of the fee for each ETP that was charged by the dispensing PES provider to the dispensing pharmacist for each prescription that originated on the PES of the other party (**Original Revenue Sharing Arrangement**), which was authorised by the ACCC under Division 1 of Part VII of the Competition and Consumer Act 2010 (Cth) (**CCA**) in March 2013 (Authorisation Number A91348) (**Original Authorisation**).
5. The Original Authorisation was most recently authorised by the ACCC on 10 December 2020 Authorisation Number AA1000472.
6. Following receipt of the Original Authorisation, eRx and MDS entered into a Commercial Interchange Agreement on or about 17 December 2012 to document the Original Revenue Sharing Arrangement (**Original Commercial Interchange Agreement**).
7. In addition to eRx and MDS, Minfos now wishes to become a PES. Minfos must obtain the PES Approvals to become a PES.

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8. Minfos needs to connect into an interoperable solution with eRx and MDS being developed and provided by Medication Knowledge Pty Ltd ACN 622 493 967 (**Medication Knowledge**) under the SBA and to enter into an equivalent Revenue Fee Sharing Arrangement with eRx and MDS, subject to the ACCC granting authorisation to it under the CCA.

It is therefore Agreed as Follows:-

9. The making of this agreement (hereafter, **Agreement**) and each party's duty to perform this Agreement, is conditional upon:
- a. Minfos obtaining all PES Approvals;
 - b. Completion occurring under the SBA;
 - c. the PES Providers entering into the SSA;
 - d. the ACCC granting authorisation to eRx under Division 1 of Part VII of the CCA in relation to the revenue sharing arrangement contemplated by this Agreement (**ACCC Authorisation**):
 - (i) without conditions or requirements; or
 - (ii) with conditions or requirements that are acceptable to all parties (acting reasonably).

Condition precedent a is for the benefit of eRx and MDS and may only be satisfied, waived or deferred by agreement between eRx and MDS on the one hand, and Minfos on the other hand. Conditions precedent b, c and d in this clause 9 are for the mutual benefit of all parties and may only be satisfied, waived or deferred by agreement between all parties.

Each party must co-operate with the other parties and use their respective best endeavours to procure that the condition precedents are satisfied as soon as reasonably possible. No party may deliberately take action to frustrate the satisfaction of the conditions precedent.
10. In respect of condition precedent 9d, the parties agree that
- a. eRx must submit an authorisation application to the ACCC as soon as practicable following the date of this Agreement and consult with MDS and Minfos in relation to the authorisation application and any draft submissions arising from it, including providing copies of any documents reasonably requested by MDS or Minfos; and
 - b. no party may represent or engage with the ACCC on behalf of any other party without the other party's prior written consent.
11. eRx and MDS respectively agree that the Original Commercial Interchange Agreement shall automatically terminate on the day immediately following the satisfaction of conditions precedent set out in clause 9. Termination of the Original Commercial Interchange Agreement does not prejudice the rights and obligations of each of eRx and MDS accrued up to and including the date of such termination and does not limit the remedies available to it in respect of any breach of the Original Commercial Interchange Agreement occurring before such date.

Definitions

12. For the purposes of this Agreement:
- a. **ACCC Authorisation** has the meaning given in clause 9d.
 - b. **CCA** means the Competition and Consumer Act 2010 (Cth), as amended or replaced from time to time.
 - c. **Claims** means any demand, claims (including without limitation for intellectual property infringement or misappropriation, invasion of privacy, defamation, violation of public rights or misleading conduct) proceeding, regulatory proceeding, cause of action, loss, damage, liability, cost (including without limitation settlement costs) or expense (including without limitation reasonable legal fees and costs).
 - d. **Confidential Information** means, in relation to a party, all information relating to that party and its related bodies corporate (as the term 'related body corporate' is defined by the Corporations Act 2001 Cth (as amended or replaced from time to time), including all information concerning the business, products, services, systems, procedures and records (in whatever form, including in electronic format) of that party and its related bodies corporate, and their relationships with their customers and suppliers, any document marked "Confidential", or any information which a party has been informed is confidential or which a party might reasonably expect the other party to regard as confidential. Any Transaction Report generated by a party is confidential.
 - e. **Completion** has the meaning given in the SBA.
 - f. **Contract Manager** is the Contract Manager appointed by a party under the SSA from time to time.

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- g. **Direction** has the meaning given in clause 23.
- h. **Dispensing PES** is defined as the PES that delivers the QP or the QP RA to the dispensing pharmacy.
- i. **Dispute** has the meaning given in clause 46.
- j. **Electronic Prescription Fee** has the meaning given in paragraph 2 of the Background, as this may be amended by the operation of paragraph 3 of the Background.
- k. **ETP** has the meaning given to that term in paragraph 1 of the Background.
- l. **Initial DR Period** has the meaning given in clause 47.
- m. **Interchange Fee** is 50% of the Electronic Prescription Fee.
- n. **Interoperability Service** means the interoperability service between PES made available by the ISB.
- o. **ISB** means the Interoperability Service Bus.
- p. **Original Authorisation** and **Original Revenue Sharing Arrangement** have the respective meanings given to those terms in paragraph 4 of the Background.
- q. **Original Commercial Interchange Agreement** has the meaning given in paragraph 6 of the Background.
- r. **Originating PES** is defined as the PES that collects the QP from the prescriber or holds the QP RA from the dispensing pharmacy (as the case may be).
- s. **Medication Knowledge** has the meaning given in paragraph 8 of the Background.
- t. **Personal Information** has the meaning given to that term in the Privacy Legislation.
- u. **PES** means a person that provides prescription exchanges services and holds data relating to prescription orders throughout Australia.
- v. **PES Approvals** means all approvals, declarations, permits, licences, registrations and approvals required under and in accordance with all relevant laws or otherwise required by a Regulator (other than the ACCC Authorisation) in order to become a PES, including as these relating to obtaining certifications that meets the Commonwealth's required privacy and security requirements.
- w. **PES Provider** means each of Rx, MDS and Minfos **PES Providers** means all of them.
- x. **Privacy Legislation** means the Privacy Act 1988 (Cth) and any applicable analogous legislation in any jurisdiction from time to time;
- y. **QP** has the meaning given in paragraph 2 of the Background.
- z. **QP RA** has the meaning given in paragraph 2 of the Background.
- aa. **Regulator** means, in relation to a party, any statutorily recognised supervisory or government agency, body or authority having regulatory or supervisory authority over a party's assets, resources or business, including any organisation reporting to such bodies, to the extent that such entity has jurisdiction over that party.
- bb. **RA** has the meaning given in paragraph 1d of the Background.
- cc. **SBA** means the System Build Agreement dated on or about the date of this Agreement between Medication Knowledge and the PES Providers pursuant to which the ISB will be developed by Medication Knowledge.
- dd. **SSA** means the System Services Agreement dated on or about the date of this Agreement between Medication Knowledge and the PES Providers governing Medication Knowledge's provision of System Services related to the ISB.
- ee. **System Services** are the services relating to the ongoing operation and maintenance of the ISB and has the meaning given to that term by the SSA.

Process

13. Where a Dispensing PES does not hold the QP or QP RA, the Dispensing PES may use the Interoperability Service to call the Originating PES, who must deliver the relevant QP or QP RA to the Dispensing PES to on-forward to the dispensing pharmacy.
14. The Originating PES may charge the Dispensing PES the Interchange Fee for each QP or QP RA delivered to the Dispensing PES.
15. Where a Dispensing PES receives a QP RA from the dispensing pharmacy it may retain a copy of the QP RA. The Dispensing PES is not obliged to send a copy of the QP RA to the Originating PES. The Dispensing PES is not precluded from sending a copy of the QP RA to the Originating PES.
16. For the avoidance of doubt, the Interchange Fee is only payable by the Dispensing PES to the Originating PES where the Dispensing PES does not hold the relevant QP or QP RA and must use the Interoperability Service to obtain the QP or QP RA from the Originating PES. No Interchange Fee

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is payable where the Dispensing PES has the QP or QP RA and does not need to use the Interoperability Service.

17. The Dispensing PES will be responsible for the invoicing and collection of any fees or charges that the Dispensing PES unilaterally determines to apply to the dispensing pharmacy.
18. Each party retains the right to accept or reject any QP or QP RA received from another party.

Invoicing, payment and reporting

19. Invoicing, payment and reporting applicable to the payment of Interchange Fees to eligible parties in accordance with this Agreement is governed by the SSA.
20. Each party will be responsible for its own costs in acquiring and storing the QP (or QP RA as the context requires) if it is the Originating PES and in delivering the QP (or QP RA as the context requires) to the pharmacy if it is the Dispensing PES. For the sake of clarity these costs include the vendor partner fees negotiated by each party with the clinical system vendors and the pharmacy dispensing vendors.

Confidentiality and Statements

21. Subject to the provisions of clauses 22 to 25, each party must:
 - a. treat as strictly confidential and only use another party's Confidential Information solely for the purposes contemplated by this Agreement;
 - b. not, without the prior written consent of the party from whom the Confidential Information was obtained (which may be withheld in that party's absolute discretion), publish, use or otherwise disclose to any person another party's Confidential Information except for the purposes contemplated by this Agreement;
 - c. maintain adequate security for another party's Confidential Information while in its possession or control, including protecting the same against any use, disclosure, access, damage or destruction which is inconsistent with the terms and conditions of this Agreement; and
 - d. not make use of another party's Confidential Information to the commercial, financial or competitive disadvantage of the relevant other party.
22. Each Party may disclose Confidential Information which it would otherwise be prevented from disclosing pursuant to clause 21 if, but only to the extent, it can demonstrate that:
 - a. such disclosure is required by applicable law or by any securities exchange or regulatory or governmental body having jurisdiction over it, wherever situated;
 - b. the Confidential Information was lawfully in its possession prior to disclosure by the other party (as evidenced by written records) and had not been obtained from the other party; or
 - c. the Confidential Information has come into the public domain, other than as a result of a breach of this Agreement or any other obligation of confidence,

provided that any such disclosure must not be made without prior consultation with the party from whom the Confidential Information was obtained and in the case of disclosures under clause 22a must be made so as to minimise any such disclosure.
23. Each party may for the purposes contemplated by this Agreement and on a strictly 'need-to-know' basis disclose another party's Confidential Information to the following persons or any of them, provided that such persons have first been directed (**Direction**) by the disclosing party to keep it confidential:
 - a. the PES Provider's officers and employees; and
 - b. its professional advisers, auditors, bankers, financiers and insurers, acting as such.
24. The disclosing party under clause 23 must enforce each Direction at its own cost.

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25. Each party must promptly give notice in writing to the other party if it becomes aware of any unauthorised or suspected unauthorised disclosure to any third party of any of the other party's Confidential Information and provide the other party with all information and assistance reasonably required by the other party in respect of such unauthorised disclosure.
26. The parties agree that any public communications or announcements regarding interoperability, this Agreement and the associated agreements must be jointly agreed by all parties prior to release (each party acting reasonably).
27. Each party must obtain the prior written consent of a party before using any trade marks or logos of that party.

Privacy

28. Each party must:
 - a. obtain and maintain consents from patients to enable the QP (or QP RA as the context requires) to be forwarded to other PES Providers as contemplated by this Agreement;
 - b. only forward QP (or QP RA as the context requires) to each other party in the manner contemplated by this Agreement where the patient to which the QP (or QP RA as the context requires) relates has given informed consent to participate in the ETP process;
 - c. only process, use or disclose Personal Information collected in the course of this Agreement as required for the purpose of fulfilling its specific functions, activities and obligations under this Agreement;
 - d. in the course of fulfilling its obligations under this Agreement, comply with the Privacy Legislation;
 - e. except as provided in subclause (b) above or as required by law, not disclose without the written permission of the other party any Personal Information obtained in connection with this Agreement;
 - f. take all reasonable steps to prevent the misuse or loss of and unauthorised use, modification, access and disclosure of Personal Information;
 - g. ensure that only employees or agents who are authorised to fulfil the obligations of this Agreement and who need to have access to any Personal Information have access to the particular Personal Information.
29. If a party has reasonable grounds to suspect there has been or may have been an event which amounts to an Eligible Data Breach in respect of the Services (as defined in the Privacy Legislation):
 - a. that party must as soon as possible notify the other parties of that event;
 - b. each party must comply with its obligations under the Privacy Legislation in relation to that event;
 - c. each party must provide the other parties with all reasonably required information and assistance about the event (including any updates on the results of any investigation as it impacts the other parties); and
 - d. each party has the right to determine in its discretion if it must notify the privacy commissioner of that Eligible Data Breach under the Privacy Legislation and drafting of any notification.

Indemnities and Liability

30. Each party (an Indemnifier) indemnifies each other PES Provider against all Claims suffered, paid or otherwise incurred by a PES Provider which arise out of or relate to:
 - a. a breach of this Agreement by the Indemnifier;
 - b. any material modifications which the Indemnifier (including its officers, employees, agents or subcontractors) makes to any data or information which the Indemnifier obtained (directly or indirectly) from the PES Provider's systems;
 - c. the storing, transmission and ultimately dispensing of a script where the data has been corrupted

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- so as not to reflect the original intent of the prescribing practitioner or causes any loss or damage to the receiving PES Provider. This includes claims which arise out of or relate to any dealings or other conduct (whether direct or indirect) which a PES Provider had or has with a vendor not integrated directly with any PES Provider and/or supported by an agreement;
- d. any fraud of the Indemnifier, its officers, employees, agents or subcontractors;
 - e. any negligent act or omission or wilful misconduct of the Indemnifier, its officers, employees, agents or subcontractors;
 - f. any infringement by the Indemnifier, its officers, employees, agents or subcontractors of the intellectual property rights or moral rights of a third party;
 - g. illness or death of any person caused or contributed to by any act or omission of the Indemnifier, its officers, employees, agents or subcontractors;
31. The indemnities in this Agreement are continuing obligations independent from the other obligations of the parties under this Agreement and continue after this Agreement ends. It is not necessary for a party to incur expense or make payment before enforcing a right of indemnity under this Agreement. Each indemnity is an additional, separate and independent obligation and no one indemnity limits the generality of another indemnity.
32. A party's liability under this Agreement will be reduced proportionally to the extent that any breach, negligence or other wrongful act or omission of the other party (or parties) caused or contributed to the liability.
33. Each party must use all reasonable endeavours to mitigate its losses arising out of or in connection with a breach of this Agreement, or in tort (including negligence), or for any other common law, equitable or statutory cause of action arising out of or in connection with this Agreement.
34. The exclusions and limitations on a party's liability in this Agreement do not apply in the case of any liability to the extent that:
- a. the same may not be excluded or limited as a matter of applicable law;
 - b. it relates to a party's breach of the confidentiality provisions set out in clauses 21 to 25; and
 - c. it relates to death or personal injury.

Term and Termination

37. Other than clauses 9, 10 and this termination provision insofar as it relates to clauses 9 and 10, this Agreement shall commence on the date the last party signs this Agreement, but only commences as between eRx and MDS from the day immediately following the satisfaction of the conditions precedent referred to in clause 9).

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38. Any party may terminate this Agreement immediately as it applies to one or both of the other parties on written notice to the party or parties in the event of a material breach by either party (the Party or Parties in Breach) of this Agreement if:
 - a. the breach cannot be rectified; or
 - b. if the breach can be rectified but is not rectified within 30 days of that party giving the Party or Parties in Breach notice that that breach is to be rectified (such notice does not need to specify the manner in which the breach may be rectified as this is a matter for the Party in Breach to resolve).
39. A party may terminate this Agreement immediately on written notice to another party if that party becomes, threatens to become or is in jeopardy of becoming subject to any form of insolvency administration.
40. Without limiting any other rights of the parties, a party may remove itself as a party to this Agreement with immediate effect by providing written notice to the other parties:
 - a. in order to comply with any applicable laws or the direction of any government agency or Regulator, including if any interim or final ACCC Authorisation is subsequently withdrawn or otherwise ends for any reason;
 - b. if that party ceases to be a party to the SSA or the SSA is terminated.
41. Termination, expiration or cessation of this Agreement does not prejudice the rights and obligations of the party accrued up to and including the date of such termination, expiration or cessation and does not limit the remedies available to it in respect of any breach of this Agreement occurring before such date and will not have the effect of terminating this Agreement as it applies to the non-defaulting parties.

GST

42. Words that are defined in *A New Tax System (Goods and Services Tax) Act 1999* have the same meaning as their definition in that Act.
43. Except as otherwise provided by this clauses 43 or 44, all consideration payable under this Agreement in relation to any supply is exclusive of GST.
44. If GST is payable in respect of any supply made by a supplier under this Agreement, subject to clause 45, the recipient will pay to the supplier an amount equal to the GST payable on the supply at the same time and in the same manner as the consideration for the supply is to be provided under this Agreement.
45. The supplier must provide a tax invoice to the recipient before the supplier will be entitled to payment of the GST payable under clause 44.

Resolution of Disputes

46. A party claiming that a dispute (**Dispute**) has arisen under or in connection with this Agreement must notify the other parties in writing giving details of the dispute.
47. During the ten (10) Business Day period after a notice is given under clause 46 (or any longer period agreed in writing between the parties) (the **Initial DR Period**) the parties' Contract Managers must work in good faith to resolve the Dispute.
48. If the Dispute is not resolved by the parties within the Initial DR Period, the Dispute must be referred to each party's chief executive officer (or her / his nominated and duly authorised delegate), who must work together in good faith to resolve the Dispute within a period of ten (10) Business Days (or any longer period agreed in writing between the parties).
49. While the procedure set forth in clauses 46, 47 and 48 is being followed, the relevant parties must continue to fulfil their obligations under this Agreement.

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50. The procedure set out in this clauses 46, 47 and 48 does not limit or exclude a party's rights under this Agreement or at common law or equity (including the right to make applications for interim relief, including injunctions).

Authorisation and Other Interchange Agreements

51. If any interim or final authorisation is granted by the ACCC required under clause 9d with conditions the parties shall undertake to give effect to such measures, in accordance with the law, as the ACCC require. The parties must comply with any conditions imposed by the ACCC under any authorisation.
52. If the interim or final authorisation granted by ACCC is subsequently withdrawn or otherwise ends for any reason then this Agreement shall automatically end regardless of any other express or implied rights of termination.
53. The parties are free to enter into similar interchange agreements with any other person or persons who become a PES and who are permitted to commercialise it by the Commonwealth.

General

54. This Agreement constitutes the entire agreement between the parties and supersedes all communications, negotiations, arrangements and agreements, either oral or written, between the parties with respect to the subject matter of this Agreement.
55. A reference to a right or obligation of any two or more persons confers that right, or imposes that obligation, as the case may be, severally.
56. This Agreement is governed and must be construed by and in accordance with the laws of the State of Victoria and each of the parties to this Agreement submits to the exclusive jurisdiction of the courts of that State and of all courts competent to hear appeals from those courts in relation to any legal action, suit or proceeding arising out of or relating to this Agreement (but not otherwise) and agrees that any such action, suit or proceeding may be brought in that State.
57. This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and those counterparts shall together constitute one and the same instrument.

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This Commercial Interchange Agreement is signed as an agreement.

Executed by **eRx Script Exchange Pty Ltd** (ACN 132 884 658) in accordance with s 127 (1) of the Corporations Act 2001 (Cth) by authority of its directors:
Paul Naismith

Director

Paul Naismith

Print Name

Anthony Johnston

Director/Secretary

Anthony Johnston

Print Name

Date: 06-Jul-22 | 8:57:55 PM AEST

Executed by **Operations MDS Pty Ltd** ACN 169 902 934 in accordance with s 127 (1) of the Corporations Act 2001 (Cth) by authority of its directors:
Paul Montgomery

Director

Paul Montgomery

Print Name

Paul Frosdick

Director/Secretary

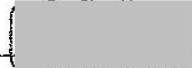
Paul Frosdick

Print Name

Date: 07-Jul-22 | 6:26:40 AM AEST

Executed by **Symbion Pty Ltd** t/a Minfos ACN 000 875 034 in accordance with s 127 (1) of the Corporations Act 2001 (Cth) by authority of its directors:

Director



John Cullity

Print Name



Director/Secretary

Janelle Cain

Print Name

Date: 04 July 2022 | 09:32 AEST

Attachment B

Please see following pages.



Maddocks

System Services Agreement

Medication Knowledge Pty Ltd
ACN 622 493 967
and

Symbion Pty Ltd trading as Minfos
ACN 000 875 034
and

eRx Script Exchange Pty Ltd
ACN 132 844 658
and

Operations MDS Pty Ltd
ACN 169 902 934

Final Execution Version – 24 June 2022



Maddocks

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System Services Agreement

Parties

Name	Medication Knowledge Pty Ltd
ACN	622 493 967
Address	Level 3, 20 Mollison Street, Abbotsford, Victoria 3067
Short name	Medication Knowledge

Name	Symbion Pty Ltd (trading as Minfos)
ACN	000 875 034
Address	Level 7/737 Bourke St, Docklands Victoria 3206
Short name	Symbion

Name	eRx Script Exchange Pty Ltd
ACN	132 844 658
Address	Level 3, 20 Mollison Street, Abbotsford Victoria 3067
Short name	eRx

Name	Operations MDS Pty Ltd
ACN	169 902 934
Address	2/133 Market Street, South Melbourne Victoria 3205
Short name	MDS

each a **Party** and together the **Parties**

Background

- A. The PES Providers provide prescription exchange services and hold data relating to prescription orders throughout Australia (**Prescription Exchange Services**).
- B. The PES Providers have agreed to interoperate each of their Prescription Exchange Services.
- C. In order to interoperate each of their Prescription Exchange Services, the PES Providers need to procure certain systems integration services from Medication Knowledge.
- D. Each of the PES Providers wish to procure, and Medication Knowledge agrees to provide, the System Services in accordance with the terms of this Agreement.

The Parties agree

1. Conditions Precedent

- 1.1 This Agreement (other than this clause 1 and clauses 9, 10, 11, 12.1, 13, 16, 17, 20, 21, 23, 25 and 26, which will commence on the Commencement Date) will be conditional on and have no force or effect, unless and until the following conditions (**Conditions Precedent**) are satisfied or waived in accordance with clause 1.2 or 1.3:
- 1.1.1 the PES Providers have entered into a new revenue sharing arrangement on terms which are similar to the CIA (the **Replacement CIA**);
 - 1.1.2 Symbion has obtained all Authorisations (other than the ACCC Authorisation) required in order to provide its Prescription Exchange Service in accordance with all relevant laws, including as these relate to obtaining certifications that Symbion meets the Commonwealth's required Prescription Exchange Service privacy and security requirements;
 - 1.1.3 Completion has occurred under the System Build Agreement; and
 - 1.1.4 the ACCC Authorisation being provided by the ACCC.
- 1.2 The Conditions Precedent in clauses 1.1.1 and 1.1.4 are for the benefit of each of the Parties and may only be satisfied, waived or deferred by agreement between the Parties.
- 1.3 The Conditions Precedent in clauses 1.1.2 and 1.1.3 are for the benefit of Medication Knowledge and may only be satisfied, waived or deferred by the written agreement of Medication Knowledge.
-

2. Term

- 2.1 This Agreement is deemed to commence on the Commencement Date (notwithstanding the date of its execution by each of the Parties) and continues until it is terminated by a Party in accordance with its terms (the **Term**).
-

3. Medication Knowledge's Obligations

System Services

- 3.1 Medication Knowledge will provide the System Services in accordance with the terms and conditions of this Agreement.
- 3.2 Medication Knowledge acknowledges that the System Services are critical infrastructure and Medication Knowledge must provide the Support Services in accordance with the terms and conditions of this Agreement.
- 3.3 All Software upgrades which are provided as part of the Services must be approved by and scheduled with the PES Providers prior to installation by Medication Knowledge.

Quality of Services

- 3.4 The Services must:
- 3.4.1 be performed by appropriately qualified and trained personnel; and
 - 3.4.2 be performed with due care and skill.

3.5 Medication Knowledge must:

- 3.5.1 only process, use or disclose Personal Information collected in the course of this Agreement as required for the purpose of fulfilling its specific functions, activities and obligations under this Agreement;
- 3.5.2 in the course of fulfilling its obligations under this Agreement, comply with the Privacy Legislation;
- 3.5.3 except as provided in subclause 3.5.2 above or as required by law, not disclose without the written permission of the relevant PES Provider any Personal Information obtained in connection with this Agreement; and
- 3.5.4 ensure that only employees or agents who are authorised to fulfil the obligations of this Agreement and who need to have access to any Personal Information have access to the particular Personal Information,

however, Medication Knowledge will not be in breach of this clause 3.5 to the extent such breach is caused or contributed to by a failure by the relevant PES Provider to comply with its obligations under clause 7.

Medication Knowledge Systems

3.6 Medication Knowledge acknowledges and agrees that it must:

- 3.6.1 ensure that it has and maintains in place on its relevant Systems up to date anti-Virus measures in accordance with Good Industry Practice; and
- 3.6.2 use its best endeavours in accordance with Good Industry Practice not to introduce any Virus into the System Services or any System of Medication Knowledge or any other PES Provider.

Information and documents provided by each PES Provider

- 3.7 Each PES Provider must, within a reasonable time that does not delay Medication Knowledge in providing the Services, make available to Medication Knowledge all information, documents and other details, access and permissions reasonably required for Medication Knowledge to provide the Services (**PES Provider Information**) and must ensure the PES Provider Information is accurate, complete and correct.
- 3.8 For the avoidance of doubt, Medication Knowledge will not be required to check whether the PES Provider Information is accurate, complete and correct and may rely on the PES Provider Information as if it were accurate, complete and correct.

4. Use of the System Services

Generally

- 4.1 The PES Providers must only access and use the Services in accordance with this Agreement, the requirements of any Authorisation and all applicable laws (including the Privacy Legislation).

Adverse changes

- 4.2 If any Party becomes aware of any matter which may adversely affect:
- 4.2.1 the composition, characteristics or provision of the System Services; or
 - 4.2.2 whether the System Services comply with all applicable laws and Regulatory Requirements,
- that Party must immediately notify full details to the other Parties.
- 4.3 Upon receipt of a notice from a Party under clause 4.2, the Parties will promptly meet and negotiate in good faith to agree the actions required to remedy the issue, each Party's obligations in respect of such actions and the fees or other charges payable to Medication Knowledge in carrying out the agreed actions.

Material Change

- 4.4 If there is a Material Change then:
- 4.4.1 a party may notify the other parties of the Material Change;
 - 4.4.2 if a party provides notice in accordance with clause 4.4.1, the Parties will promptly meet and negotiate in good faith and use their best endeavours to reach an agreement on any actions required to address the Material Change (including any amendments to this Agreement), each Party's obligations in respect of such actions and any fees or charges or other compensation payable to carry out any actions;
 - 4.4.3 if the Parties are not able to agree on the actions required within sixty (60) days of the meeting referred to in clause 4.4.2, then:
 - (a) a party may elect to remove itself from being a Party to this Agreement with 30 days notice and clauses 17.1 and 17.2 will apply;
 - (b) the parties may agree to terminate the agreement with immediate effect or as such time agreed between the parties and clause 17.3 will apply.
- 4.5 The parties acknowledge and agree that, for the purposes of clause 4.4 that:
- 4.5.1 it is their objective that each party will be put in a position which, to the extent that is reasonably practicable in all of the circumstances, does not disadvantage (or favour) one party more than any others; and
 - 4.5.2 it is their intention that the System Services will continue to be used (subject to any required changes), however, if that is not possible the parties will consider, amongst other things, whether the System Services may be provided by alternative means or methods, or alternative systems could be used to deliver an interoperability service.

5. Fees and payment**Fees**

- 5.1 Medication Knowledge and each other Party may issue invoices at the times contemplated by Schedule 3 in respect of:
- 5.1.1 the Fees for the System Services;
 - 5.1.2 Interchange Fees; and
 - 5.1.3 any other amounts for which the PES Providers are liable under this Agreement.

- 5.2 Each PES Provider must pay each invoice issued by Medication Knowledge or another PES Provider to the PES Provider within the time frames set out in Schedule 3.
- 5.3 Medication Knowledge may charge a PES Provider interest at an annual rate equal to five per cent (5%) above the then current base rate of the Reserve Bank of Australia at the date the invoice was issued on any invoices paid late.
- 5.4 All amounts payable under or in connection with this Agreement are exclusive of GST and any other taxes, duties and levies, which, if applicable, are payable by the PES Providers in addition to the Fees at the rate prevailing at the relevant time.

6. GST

- 6.1 In this clause 6 words that are defined in *A New Tax System (Goods and Services Tax) Act 1999* have the same meaning as their definition in that Act.

Exclusive of GST

- 6.2 Except as otherwise provided by this clause 6, all consideration payable under this Agreement in relation to any supply is exclusive of GST.

Recipient must pay

- 6.3 If GST is payable in respect of any supply made by a supplier under this Agreement, subject to clause 6.4 the recipient will pay to the supplier an amount equal to the GST payable on the supply at the same time and in the same manner as the consideration for the supply is to be provided under this Agreement.

Tax invoice

- 6.4 The supplier must provide a tax invoice to the recipient before the supplier will be entitled to payment of the GST payable under clause 6.3.

7. The PES Providers' Responsibilities

PES Provider obligations

- 7.1 Each PES Provider acknowledges and agrees that it:
- 7.1.1 is solely responsible for its access to and use of the System Services and its Prescription Exchange Service;
 - 7.1.2 must comply with the Privacy Legislation in relation to any Personal Information contained in the PES Provider Content and the disclosure of Personal Information to Medication Knowledge and/or any other PES Provider; and
 - 7.1.3 must obtain all consents and make all notifications necessary to enable Medication Knowledge to access, use and disclose such Personal Information for the purposes of providing the Services to the PES Providers in accordance with this Agreement.

PES Provider Systems

- 7.2 Each PES Provider acknowledges and agrees that it must:
- 7.2.1 at its own expense, provide and maintain all Systems required for accessing and using the Services;
 - 7.2.2 ensure that its Systems used to access and use the Services, provide Prescription Exchange Services and interoperate with the Prescription Exchange Services of the other

PES Providers are available and operational all times and comply with the System Specifications, except where written notice of maintenance or an outage has been provided at least one month in advance or within 24 hours for any emergency maintenance or outages;

- 7.2.3 not access or attempt to access Medication Knowledge's Systems used in connection with the performance of Medication Knowledge's obligations under this Agreement, except to the extent specified in or expressly contemplated by this Agreement;
- 7.2.4 ensure that it has and maintains in place on its relevant Systems appropriate and up to date anti-Virus measures in accordance with Good Industry Practice; and
- 7.2.5 use its best endeavours in accordance with Good Industry Practice not to introduce any Virus into the System Services or any System of Medication Knowledge or any other PES Provider.

PES Provider Content

- 7.3 Each PES Provider acknowledges and agrees that it is solely responsible for the development, content, operation, maintenance, and use of PES Provider Content, including:
 - 7.3.1 the technical operation of PES Provider Content;
 - 7.3.2 compliance of PES Provider Content with all applicable laws (including the Privacy Legislation);
 - 7.3.3 any claims relating to PES Provider Content;
 - 7.3.4 obtaining all necessary licences, permissions and consents in respect of PES Provider Content; and
 - 7.3.5 properly handling and processing notices sent to the PES Provider by any person claiming that PES Provider Content violates such person's rights, including notices pursuant to any copyright laws or other applicable laws relating to the protection of Intellectual Property Rights.

Other Security and Backup

- 7.4 Each PES Provider acknowledges and agrees that it is responsible for properly configuring its Systems and using the System Services and taking its own steps to maintain appropriate security, protection and backup of its Systems and the PES Provider Content.

Service Issues

- 7.5 A PES Provider must promptly notify Medication Knowledge in writing if it becomes aware of any issues relating to the System Services (including any failure in the System Services).

8. Security and Permitted Use

Security

- 8.1 Medication Knowledge will maintain reasonable physical, technical and security measures with respect to the security of the Services in accordance with Good Industry Practice, including any Personal Information and in respect of PES Provider Information contained within the System Services.

Permitted Use

- 8.2 Unless otherwise set out in this Agreement or as necessary to comply with any applicable laws or a binding order of a governmental body, Medication Knowledge will not:
- 8.2.1 access or use PES Provider Content except as is reasonably necessary to provide the Services; or
 - 8.2.2 disclose PES Provider Content to any government or third party.

Security Incidents

- 8.3 If any party becomes aware of an event that could amount to a Security Incident that party must, as soon as possible, but in any event within twenty four (24) hours, notify all parties of the Security Incident.
- 8.4 In the event of a Security Incident, each party must provide such information and assistance as may be required by the other parties in relation to the Security Incident.
- 8.5 Each Party must comply with its obligations under applicable laws in relation to a Security Incident (where applicable).

Data Breaches

- 8.6 If a party has reasonable grounds to suspect there has been or may have been an event which amounts to an Eligible Data Breach in respect of the Services (as defined in the Privacy Legislation):
- 8.6.1 that party must as soon as possible notify the other parties of that event;
 - 8.6.2 each party must comply with its obligations under the Privacy Legislation in relation to that event;
 - 8.6.3 each party must provide the other parties with all reasonably required information and assistance about the event (including any updates on the results of any investigation as it impacts the other parties);and
 - 8.6.4 each party has the right to determine in its discretion if it must notify the privacy commissioner of that Eligible Data Breach under the Privacy Legislation and drafting of any notification.

This clause 8.6 survives termination of this Agreement.

9. Intellectual Property Rights**PES Provider Content**

- 9.1 As between the Parties, each PES Provider (or its licensors) own all right, title, and interest in and to its PES Provider Content. Except as provided under this Agreement, Medication Knowledge obtains no rights to PES Provider Content, including any related Intellectual Property Rights.
- 9.2 Each PES Provider grants to Medication Knowledge a non-exclusive, sub-licensable, royalty free licence to use, copy, modify, display and distribute the PES Provider Content for the purposes of providing the Services and otherwise performing its obligations under and in accordance with this Agreement.

Medication Knowledge's Intellectual Property Rights and Licence

- 9.3 As between the Parties, Medication Knowledge (or its licensors) own all right, title, and interest in and to the System Services and Medication Knowledge Content (including all modifications, enhancements and customisations of the System Services and Medication Knowledge Content made from time to time). Except as provided under this Agreement, the PES Providers obtain no rights to the System Services or the Medication Knowledge Content (including all modifications, enhancements and customisations of the System Services and Medication Knowledge Content made from time to time), including any related Intellectual Property Rights.
- 9.4 Medication Knowledge grants each PES Provider a limited, irrevocable (other than as contemplated by this Agreement), royalty free, non-exclusive, non-sublicensable, non-transferrable licence to do the following during the Term:
- 9.4.1 access and use the Services solely in accordance with this Agreement; and
- 9.4.2 copy and use the Medication Knowledge Content solely in connection with the PES Provider's permitted use of the Services.

Licence Restrictions

- 9.5 A PES Provider must not use the System Services or Medication Knowledge Content in any manner or for any purpose other than as expressly permitted by this Agreement.
- 9.6 Except to the extent permitted by applicable law, the PES Providers must not attempt to:
- 9.6.1 modify, alter, tamper with, repair, or otherwise create derivative works of any software included in the System Services;
- 9.6.2 reverse engineer, disassemble, or decompile any of the System Services or apply any other process or procedure to derive the source code of any software included in the System Services (in each case except to the extent these things cannot be prohibited under applicable law); or
- 9.6.3 resell or sublicense the System Services.
- 9.7 All licences granted to a PES Provider in this Agreement are conditional on the PES Provider's continued compliance with this Agreement.
- 9.8 During and after the Term, each PES Provider must not assert, nor will it authorise, assist, or encourage any third party to assert, against Medication Knowledge or any of its Affiliates, customers, vendors, business partners, or licensors, any patent infringement or other intellectual property infringement claim regarding the System Services.

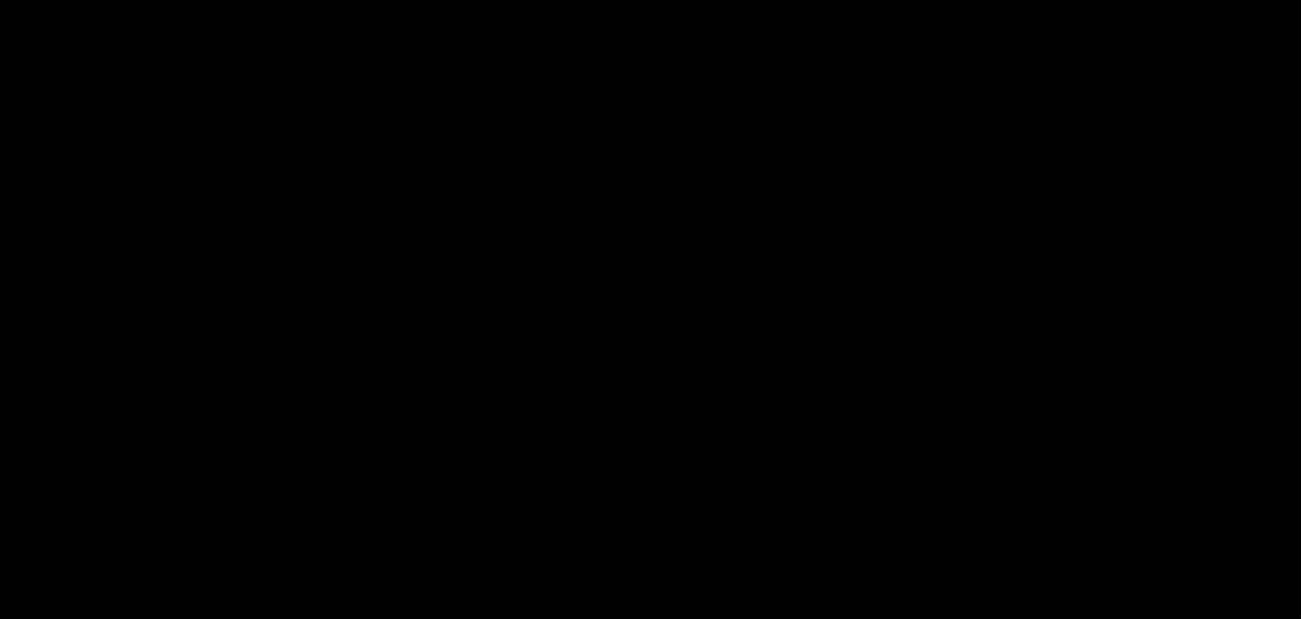
10. Confidentiality

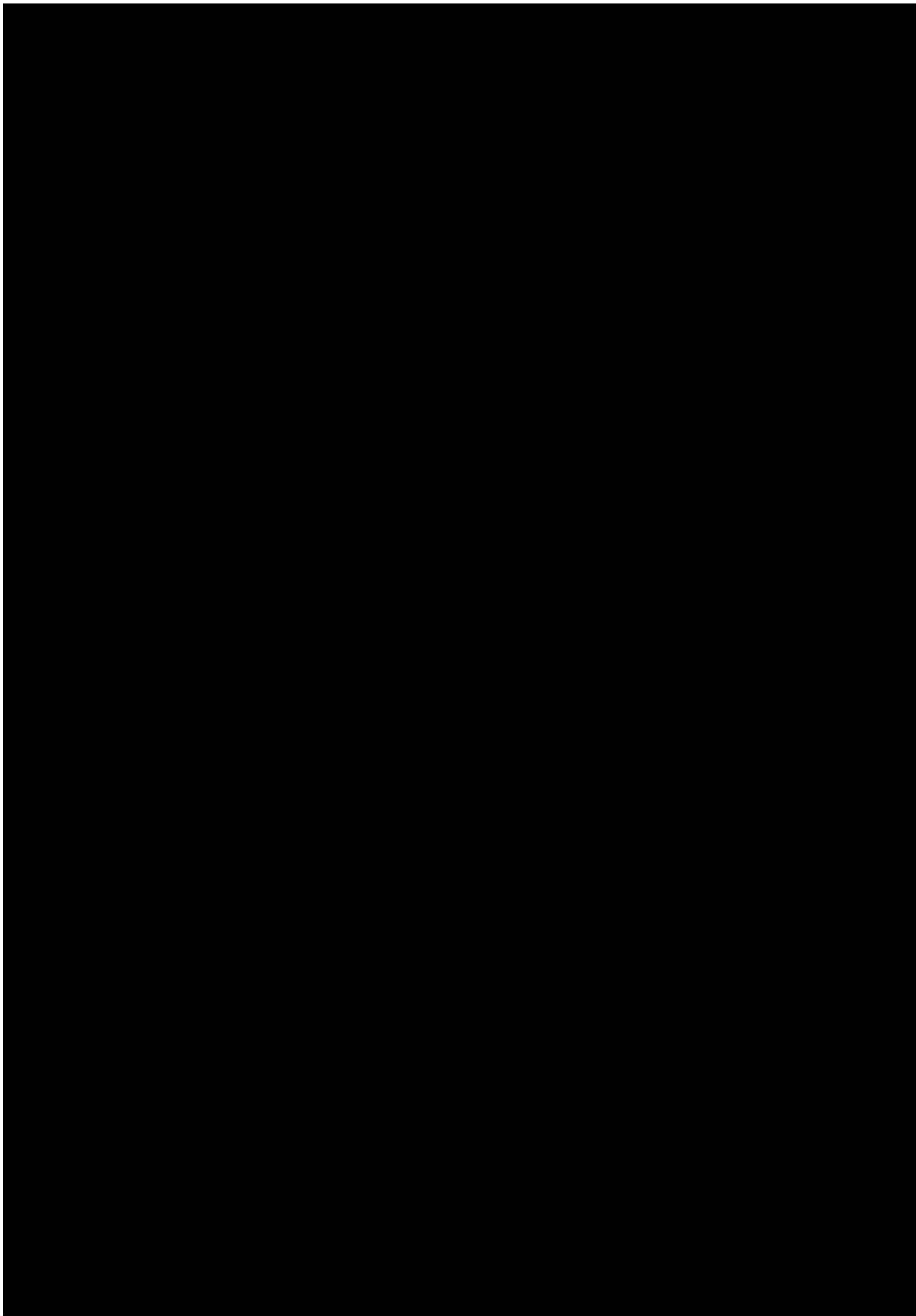
- 10.1 Subject to the provisions of clauses 10.2 to 10.4, each Party must:
- 10.1.1 treat as strictly confidential and only use another Party's Confidential Information solely for the purposes contemplated by this Agreement;
- 10.1.2 not, without the prior written consent of the Party from whom the Confidential Information was obtained (which may be withheld in that Party's absolute discretion), publish, use or otherwise disclose to any person another Party's Confidential Information except for the purposes contemplated by this Agreement;
- 10.1.3 maintain adequate security for another Party's Confidential Information while in its possession or control, including protecting the same against any use, disclosure, access, damage or destruction which is inconsistent with the terms and conditions of this Agreement; and

- 10.1.4 not make use of another Party's Confidential Information to the commercial, financial or competitive disadvantage of the relevant other Party.
- 10.2 Each Party may disclose Confidential Information which it would otherwise be prevented from disclosing pursuant to clause 10.1 if, but only to the extent, it can demonstrate that:
 - 10.2.1 such disclosure is required by applicable law or by any securities exchange or regulatory or governmental body having jurisdiction over it, wherever situated;
 - 10.2.2 the Confidential Information was lawfully in its possession prior to disclosure by the other Party (as evidenced by written records) and had not been obtained from the other Party; or
 - 10.2.3 the Confidential Information has come into the public domain, other than as a result of a breach of this Agreement or any other obligation of confidence,

provided that any such disclosure must not be made without prior consultation with the Party from whom the Confidential Information was obtained and in the case of disclosures under clause 10.2.1, must be made so as to minimise any such disclosure.
- 10.3 Each Party may for the purposes contemplated by this Agreement and on a strictly 'need-to-know' basis disclose another Party's Confidential Information to the following persons or any of them, provided that such persons have first been directed (**Direction**) by the disclosing Party to keep it confidential:
 - 10.3.1 if the disclosing Party is a PES Provider, the PES Provider's officers and employees;
 - 10.3.2 if the disclosing Party is Medication Knowledge, Medication Knowledge's Personnel; and
 - 10.3.3 its professional advisers, auditors, bankers, financiers and insurers, acting as such.
- 10.4 The disclosing Party under clause 10.3 must enforce each Direction at its own cost.
- 10.5 Each Party must promptly give notice in writing to the other Party if it becomes aware of any unauthorised or suspected unauthorised disclosure to any third party of any of the other Party's Confidential Information and provide the other Party with all information and assistance reasonably required by the other Party in respect of such unauthorised disclosure.

11. Indemnification





12. Warranties**12.1** Each Party warrants to the other Parties that:

- 12.1.1 it is validly existing under the laws of the place of its incorporation and has the power and authority to carry on its business as that business is now being conducted;
- 12.1.2 it has the power, capacity and authority to enter into and observe its obligations under this Agreement; and
- 12.1.3 this Agreement and the obligations created hereunder are binding upon it and enforceable against it in accordance with their terms and do not and will not violate the terms of any other agreement or any judgment or court order to which it is bound.

12.2 Medication Knowledge warrants to the other parties that:

- 12.2.1 it holds all permits, licences, authorisations and accreditations required for it to perform its obligations under this Agreement and the performance of its obligations under this Agreement will comply with such permits, licences, authorisations and accreditations;
- 12.2.2 it will perform the Services in a manner which is consistent at all times with Good Industry Practice; and
- 12.2.3 the use of the Services by the PES Providers in accordance with this Agreement will not infringe the Intellectual Property Rights of any person.

12.3 Each PES Provider warrants to Medication Knowledge that:

- 12.3.1 It holds all permits, licences, authorisations and accreditations required for it to perform its obligations under this Agreement and the performance of its obligations under this Agreement will comply with such permits, licences, authorisations and accreditations; and
- 12.3.2 the access to and use of PES Provider Information or PES Provider Content by Medication Knowledge in accordance with this Agreement will not infringe the Intellectual Property Rights or other rights of any person.

Statutory Rights

12.4 Nothing in this Agreement is intended to exclude, restrict or modify the application of any consumer statutory rights to the extent such exclusion, restriction or modification is not permitted by the relevant consumer statutory laws.

12.5 The following applies when Services are purchased under this Agreement by a Consumer, and only applies to the extent required by the Consumer Law:

- 12.5.1 the Services come with guarantees that cannot be excluded under the relevant Consumer Law;
- 12.5.2 the PES Provider is entitled, in respect of a major failure in the Services to cancel the PES Provider's service contract with Medication Knowledge and to a refund for the unused portion, or to compensation for its reduced value;
- 12.5.3 if a failure in the Services does not amount to a major failure, the PES Provider is entitled to have the failure rectified in a reasonable time. If this is not done, the PES Provider is entitled to cancel the contract for the Services and obtain a refund of any unused portion; and
- 12.5.4 the PES Provider is also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the Services.

13. Limitation of Liability

- 13.1 The exclusions and limitations on a Party's (or its Affiliates') liability in this Agreement, including this clause 13, do not apply in the case of any liability to the extent that:
- 13.1.1 the same may not be excluded or limited as a matter of applicable law;
 - 13.1.2 it relates to a party's breach of clause 10; and
 - 13.1.3 under the indemnities contained in clause 11.2 or clause 11.3.
- 13.2 A Party's (or its Affiliates') liability under this clause 13 and this Agreement will be reduced proportionally to the extent that any breach, negligence or other wrongful act or omission of the other Party (or Parties) or its Affiliates caused or contributed to the Losses.
- 13.3 Each Party must use all reasonable endeavours to mitigate its Losses arising out of or in connection with a breach of this Agreement, or in tort (including negligence), or for any other common law, equitable or statutory cause of action arising out of or in connection with this Agreement.

14. Insurance**Required Insurance Policies**

- 14.1 Each Party must effect and maintain the Required Insurance Policies.
- 14.2 The Required Insurance Policies must be maintained at all times during the Term and for a period of six years after the expiry or termination of this Agreement.

Requirements for Required Insurance Policies

- 14.3 Medication Knowledge must ensure that each subcontractor (if any) will maintain and effect insurance policies of the same, or substantially the same, type and extent and terms as the Required Insurance Policies, unless otherwise agreed.
- 14.4 Each party must not do anything to invalidate an indemnity under any of the Required Insurance Policies;

Evidence

- 14.5 On request from another party a party must provide a copy of the certificate of currency to show that the Required Insurance Policies have been affected and are being maintained.

15. Temporary Suspension

- 15.1 Medication Knowledge may suspend a PES Provider's right to access or use the System Services (in whole or in part) with immediate effect by notice in writing to the PES Provider, if Medication Knowledge determines:
- 15.1.1 the PES Provider's use of or registration for the System Services:
 - (a) poses a security risk to the System Services or any third party;
 - (b) may adversely impact the System Services or the Medication Knowledge Content or any of Medication Knowledge's Systems; or
 - (c) may be fraudulent or in breach of any applicable laws;
 - 15.1.2 the PES Provider is in breach of this Agreement, including if the PES Provider is overdue on any payment obligations by more than thirty (30) days and the PES Provider has not remedied the breach within thirty (30) days of being notified of the breach; or
 - 15.1.3 the PES Provider has ceased to operate in the ordinary course, made an assignment for the benefit of creditors or similar disposition of its assets, or become the subject of any bankruptcy, reorganisation, liquidation, dissolution or similar proceeding.

16. Events of Default and Termination

Events of Default

- 16.1 If a Party (the **Defaulting Party**) is:
- 16.1.1 in material breach of this Agreement and the breach is either incapable of being remedied or the Defaulting Party has failed to remedy the breach within thirty (30) days of its receipt of a written notice from any other Party (the **Non-Defaulting Party**); or
 - 16.1.2 becomes, threatens or resolves to become or is in jeopardy of becoming subject to any form of insolvency administration;
- then:
- 16.1.3 if the Defaulting Party is Medication Knowledge, a PES Provider may remove itself as a Party to this Agreement with immediate effect by providing written notice to Medication Knowledge, in which case clause 17.1 will apply; and
 - 16.1.4 if the Defaulting Party is a PES Provider, Medication Knowledge may remove the Defaulting Party as a Party to this Agreement with immediate effect by providing written notice to the Defaulting Party, in which case clause 17.1 will apply.
- 16.2 Without limiting any other events which constitute a material breach of this Agreement, the Parties acknowledge and agree that any act or omission by a PES Provider which results in any suspension of the System Services (in whole or in part) under clause 14 will constitute a deemed material breach of this Agreement for the purposes of clause 16.1.

Immediate Termination

- 16.3 Without limiting any other rights of the Parties:
- 16.3.1 a PES Provider may remove itself as a Party to this Agreement with immediate effect by providing written notice to the other Parties, in which case clause 17.1 will apply; and / or
 - 16.3.2 Medication Knowledge may terminate this Agreement with immediate effect by providing written notice to the other Parties,

in order to comply with any applicable laws or the direction of any government agency or Regulator, including if any interim or final ACCC Authorisation is subsequently withdrawn or otherwise ends for any reason.

Termination by a PES Provider

- 16.4 If a PES Provider determines that it no longer wishes to provide Prescription Exchange Services the PES Provider must notify the other Parties in writing at least 30 days prior to the date on which the PES Provider will cease to provide Prescription Exchange Services.
- 16.5 If a PES Provider ceases to provide Prescription Exchange Services the PES Provider must remove itself as a Party to this Agreement with immediate effect by providing written notice to the other Parties, in which case clause 17.1 will apply.

17. Effect of Termination

Removal of Defaulting Party

- 17.1 If a PES Provider is removed as a Party to this Agreement in accordance with clauses 16.1, 16.3.1 or 16.5:
- 17.1.1 the rights and obligations under this Agreement between the PES Provider and Medication Knowledge and the other PES Providers (the **Remaining Parties**) will be deemed to be terminated with immediate effect and clause 17.2 will apply to the PES Provider; and
- 17.1.2 this Agreement will otherwise continue in full force and effect between the Remaining Parties with the necessary adjustments to the Agreement being made to reflect that the PES Provider has been removed as a Party (i.e. a reference to 'a Party' or 'the Parties' will be taken to be a reference to 'a Remaining Party' or 'the Remaining Parties').
- 17.2 Upon the removal of a PES Provider in accordance with clauses 16.1, 16.3.1 or 16.5:
- 17.2.1 all of the PES Provider's rights under this Agreement, including the right to access or use the System Services, immediately terminate;
- 17.2.2 the PES Provider remains responsible for all Fees incurred up to and including the date of termination or expiry; and
- 17.2.3 the PES Provider must immediately return or, if instructed by Medication Knowledge, destroy all Medication Knowledge Content in its possession or control.

Termination or Expiry

- 17.3 Upon the termination of this Agreement in accordance with 16.3.2 or the expiry of this Agreement:
- 17.3.1 all of the PES Providers' rights under this Agreement, including the right to access or use the System Services, immediately terminate;
- 17.3.2 the PES Providers remain responsible for all Fees incurred up to and including the date of termination or expiry;
- 17.3.3 the PES Providers must immediately return or, if instructed by Medication Knowledge, destroy all Medication Knowledge Content in its possession or control; and
- 17.3.4 Medication Knowledge must immediately return or, if instructed by the PES Provider, destroy all PES Provider Information.
- 17.4 Clauses 17.2.3, 17.3.3 and 17.3.4 do not require a party to return or destroy Medication Knowledge Content, PES Provider Information or PES Provider Content (as the case may be) that is stored on

computer back-up, archiving or disaster recovery systems in accordance with the usual business practices of a party (or its Affiliates) and which is not readily accessible to that party (or its Affiliates) or that a party (or its Affiliates) must retain to comply with applicable laws, regulations or professional standards, for audit purposes or to comply with insurance or risk management policies.

17.5 Termination or expiry of this Agreement for whatever reason does not affect the ability of either Party to enforce any rights or remedies that may have accrued to it under or in connection with this Agreement prior to the date of termination or expiration.

17.6 On termination or expiry of this Agreement:

17.6.1 the obligations of confidentiality (but not the rights to use or disclose) under clause 10; and

17.6.2 any other provision of this Agreement which expressly or by implication is intended to come into or remain in force on or after termination or expiration of this Agreement,

will continue in full force and effect notwithstanding any such termination or expiry.

18. Not used

19. Contract management

19.1 Each party must appoint a person to be its Contract Manager for the purposes of this Agreement.

19.2 The Contract Managers at the Commencement Date are the persons identified in Schedule 1.

19.3 A party may change its Contract Manager at any time by giving notice to the other parties. The notice must include the name, address, phone number and email address of the new Contract Manager.

19.4 Each Contract Manager:

19.4.1 is the first point of contact for any issues and Disputes relating to the operation of this Agreement;

19.4.2 manages and administers this Agreement on behalf of the party he or she is representing;

19.4.3 has authority to give and receives notices under this Agreement; and

19.4.4 must act in accordance with this Agreement.

19.5 The Parties must act in close consultation and cooperation with each other in relation to performance of the Services and other obligations under this Agreement.

20. Resolution of Disputes

20.1 A Party claiming that a dispute (**Dispute**) has arisen under or in connection with this Agreement must notify the other Parties in writing giving details of the dispute.

20.2 During the ten (10) Business Day period after a notice is given under clause 20.1 (or any longer period agreed in writing between the Parties) (the **Initial DR Period**) the Parties' Contract Managers must work in good faith to resolve the Dispute.

- 20.3 If the Dispute is not resolved by the Parties within the Initial DR Period, the Dispute must be referred to each PES Provider's chief executive officer (or her / his nominated and duly authorised delegate) and Medication Knowledge's managing director (or her / his nominate and duly authorised delegate), who must work together in good faith to resolve the Dispute within a period of ten (10) Business Days (or any longer period agreed in writing between the Parties).
- 20.4 While the procedure set forth in this clause 20 is being followed, both Parties must continue to fulfil their obligations under this Agreement.
- 20.5 The procedure set out in this clause 20 does not limit or exclude a Party's rights under this Agreement or at common law or equity (including the right to make applications for interim relief, including injunctions).

21. Force Majeure

- 21.1 Notwithstanding any other provision of this Agreement, no Party will be in breach of this Agreement or otherwise liable to the other Parties (or their Affiliates) as a result of any delay or other failure in the performance of its obligations under this Agreement (other than an obligation to pay money, including the Fees) if and to the extent that such delay or other failure is caused by or arises from any event or circumstance not within the reasonable control of the Party concerned (**Force Majeure Event**), and the time for performance of the relevant obligation(s) is extended accordingly.
- 21.2 A Party whose performance of its obligations under this Agreement is delayed or prevented by a Force Majeure Event must:
- 21.2.1 notify the other Parties of the nature, extent, effect and likely duration of the circumstances constituting the Force Majeure Event as soon as reasonably practicable; and
- 21.2.2 after cessation of the Force Majeure Event, as soon as reasonably practicable notify the other Parties thereof and resume full performance of its obligations under this Agreement.

22. Audit Rights

Medication Knowledge Audit

- 22.1 During the Term, in order to verify the PES Providers' compliance with the terms and conditions of this Agreement, including in particular any relevant licence or payment terms in relation to any of the System Services, Medication Knowledge or its nominated representative has the right at all reasonable times during business hours and on reasonable notice to visit each PES Provider's premises and audit and inspect all records, procedures and Systems of the PES Provider which relate to the use of the System Services and the calculation of the Fees.
- 22.2 Each PES Provider must (and must procure that its Affiliates) fully co-operate with Medication Knowledge in relation to any audit or inspection conducted pursuant to clause 22.1.
- 22.3 Medication Knowledge is liable for its own costs of any audit or inspection conducted pursuant to clause 22.1, except where a PES Provider is found to be in breach of this Agreement, in which case the PES Provider must within five (5) Business Days of a request by Medication Knowledge and subject to the Medication Knowledge providing sufficient evidence of its costs, reimburse Medication Knowledge for its reasonable costs in connection with such audit or inspection.

PES Provider Audits

- 22.1 During the Term, to verify Medication Knowledge's compliance with the terms and conditions of this Agreement, each PES Provider or its nominated representative has the right during business hours and on reasonable notice to visit Medication Knowledge's (or any subcontractor's) premises and audit and inspect all records, procedures and information which relate to Medication Knowledge's performance of its obligations under this Agreement

- 22.2 Medication Knowledge must (and must procure that its Affiliates and Personnel) fully co-operate with the PES Provider in relation to any audit or inspection conducted pursuant to clause 22.1.
- 22.3 The PES Provider is liable for its own costs of any audit or inspection conducted pursuant to clause 22.1, except where Medication Knowledge is found to be in breach of this Agreement, in which case the Medication Knowledge must within five (5) Business Days of a request by the PES Provider and subject to the PES Provider providing sufficient evidence of its costs, reimburse Medication Knowledge for its reasonable costs in connection with such audit or inspection.

23. Assignment and Subcontracting

- 23.1 Subject to clause 23.2 No party may assign, novate, transfer, sub-contract, sub-licence or otherwise dispose of any or all of its rights and/or obligations under this Agreement without the prior written consent of all of the other parties (which may be withheld in its absolute discretion).
- 23.2 Medication Knowledge may enter into any sub-contract with any third party for the performance of its obligations under this Agreement without the prior written consent of the PES Providers. Any such sub-contract does not excuse Medication Knowledge from performing its obligations under this Agreement, and Medication Knowledge will be liable for the acts and omissions of its subcontractors as if those acts and omissions were of Medication Knowledge.

24. Accession of additional PES Providers

- 24.1 Subject to clause 24.2 and 24.3, Medication Knowledge may permit certain third-parties to join as a party to this Agreement from time to time as a 'PES Provider' under this Agreement.
- 24.2 No third-party will be permitted to join as a party to this Agreement as a 'PES Provider' unless Medication Knowledge and the third-party enter into a deed whereby the third-party accedes to the terms and conditions of this Agreement as a new 'PES Provider', which deed will be in the same form as this Agreement with such changes as are agreed between the Parties.
- 24.3 Prior to permitting a third-party to join as a party to this Agreement in accordance with clauses 24.1 and 24.2, Medication Knowledge will notify the PES Providers. The PES Providers may raise any reasonable concerns with the third-party in writing to Medication Knowledge within five (5) Business Days' receipt of the notice from Medication Knowledge. Medication Knowledge agrees to consider any reasonable concerns raised by a PES Provider before it proceeds with the deed contemplated by clause 24.2.

25. General

25.1 Entire Agreement

- 25.1.1 This Agreement constitutes the whole agreement between the Parties relating to its subject matter and supersedes and extinguishes any prior drafts, agreements, undertakings, representations, warranties and arrangements of any nature, whether in writing or oral, relating to such subject matter.
- 25.1.2 Each Party acknowledges that it has not been induced to enter into this Agreement by any representation or warranty other than those contained in this Agreement and, having negotiated and freely entered into this Agreement, agrees that it will have no remedy in respect of any other such representation or warranty except in the case of fraud.

25.2 Variation

Except as provided otherwise in this Agreement, this Agreement may only be varied by a document executed by the Parties.

25.3 Rights etc Cumulative and Other Matters

- 25.3.1 The rights, powers, privileges and remedies provided under any provision of this Agreement, including under any indemnity, are cumulative and are not exclusive of any rights, powers, privileges or remedies provided under any other provision of this Agreement or by applicable law or otherwise.
- 25.3.2 A failure to exercise, or any delay in exercising, any right, power, privilege or remedy under this Agreement by any Party will not impair such right, power, privilege or remedy, or operate as a waiver thereof, in whole or in part.
- 25.3.3 No single or partial exercise of any right, power privilege or remedy under this Agreement prevents any further or other exercise thereof or the exercise of any other right, powers, privilege or remedy.

25.4 Further Assurance

Each of the Parties must, at the cost of the requesting Party, execute or procure the execution of such documents and do or procure the doing of such acts and things as the requesting Party may reasonably require to receive the full benefit of all the terms and conditions of this Agreement.

25.5 Invalidity

If any provision of this Agreement is held to be illegal, void, invalid or unenforceable under the applicable laws of any jurisdiction, the legality, validity and enforceability of the remainder of this Agreement in that jurisdiction is not affected, and the legality, validity and enforceability of the whole of this Agreement in any other jurisdiction is not affected.

25.6 Rights and Obligations

A reference to a right or obligation of any two or more Parties confers that right, or imposes that obligation, as the case may be, severally, and not jointly and severally.

25.7 Costs

- 25.7.1 The Parties will share the legal costs of and incidental to the preparation of this Agreement. Medication Knowledge will invoice each PES Provider for, and each PES Provider must pay to Medication Knowledge, an amount equal to ¼ of the overall legal costs incurred by Medication Knowledge in relation to the preparation of this Agreement.
- 25.7.2 Each Party must otherwise pay its own costs of and incidental to the negotiation, execution and carrying into effect of this Agreement, (including, with respect to its Conditions Precedent).

25.8 Counterparts

This Agreement may be executed in any number of counterparts, which together constitute one Agreement. Any Party may enter into this Agreement by signing any such counterpart.

25.9 Electronic Execution

This Agreement can be executed by using electronic signatures. Each Party consents to the use of electronic signatures (in whole or in part). The Parties respectively acknowledge and agree that each electronic signature is to be treated as an original signature for all purposes and shall have the same force and effect as an original signature. If the signatory is a corporation, it, and each director or secretary (as applicable) that executes on behalf of the corporation, represents and warrants to the counterparty that the signing satisfies section 127(1) of the Corporations Act.

25.10 Notices

- 25.10.1 Any notice (which term in this clause 25.9 includes any other communication) required to be given under, or in connection with the matters contemplated by, this Agreement must, except where otherwise specifically provided, be in writing in the English language.
- 25.10.2 All notices must be addressed as per the information set out in the Agreement Details (as updated from time to time in accordance with clause 25.10.2(c)) and must be:
- (a) personally delivered, in which case it is deemed to have been given upon delivery at the relevant address if it is delivered not later than 17.00 hours on a Business Day, or, if it is delivered later than 17.00 hours on a Business Day or at any time on a day which is not a Business Day, at 09.00 hours on the next Business Day;
 - (b) sent by pre-paid post (or equivalent), in which case it is deemed to have been given two (2) Business Days after the date of posting (or seven (7) Business Days after the date of posting if international post); or
 - (c) excluding notices relating to any breach (or alleged breach) or termination (or purported termination) of this Agreement, sent via email. Provided that in reply to a notice sent by email the sender does not receive an 'out of office' or 'message undeliverable' (or similar) reply, notices sent by email are deemed to have been given upon sending if sent not later than 17.00 hours on a Business Day, or, if it sent later than 17.00 hours on a Business Day or at any time on a day which is not a Business Day, at 09.00 hours on the next Business Day.
- 25.10.3 A Party may notify the other Parties of any change to its address details, provided that such notification is only effective on the date specified in such notice or five (5) Business Days after the notice is given, whichever is later.

25.11 Relationship of the Parties

- 25.11.1 Each of the PES Providers and Medication Knowledge are independent contractors. Nothing in this Agreement constitutes, or will be deemed to constitute, a relationship of employer and employee between the Parties, a partnership between the Parties or that a Party is the agent of any other Party for any purpose.
- 25.11.2 Subject to any express provision in this Agreement to the contrary, no Party has any right or authority to and must not do any act, enter into any contract, make any representation, give any warranty, incur any liability, assume any obligation, whether express or implied, of any kind on behalf of another Party or bind another Party in any way.

25.12 Governing Law and Jurisdiction

- 25.12.1 This Agreement is governed by, and must be construed in accordance with, the laws of Victoria.
- 25.12.2 In relation to any legal action or proceedings to enforce this Agreement or arising out of or in connection with this Agreement (**Proceedings**) each of the Parties irrevocably submits to the non-exclusive jurisdiction of the courts of Victoria and waives any objection to Proceedings in such courts on the grounds of venue or on the grounds that the Proceedings have been brought in an inconvenient forum.

26. Definitions and Interpretation

Definitions

In this Agreement the following abbreviations, words and phrases have the following meanings, unless the context requires otherwise:

ACCC Authorisation means the ACCC granting authorisation to the PES Providers under Division 1 of Part VII of the Competition and Consumer Act in relation to the revenue sharing arrangement contemplated by the Replacement CIA.

ACCC Determination means the determination made by the ACCC on 10 December 2020 to grant authorisation AA10000472 to eRx to continue to give effect to the revenue sharing arrangement with MediSecure until 30 June 2025.

Affiliate means, in respect of a company or other business entity, any company or other business entity Controlled by, Controlling, or under the common Control of that company or other business entity from time to time.

Agreement means this agreement, including the Background paragraphs, clauses 1 to 26 and the Schedules.

Agreement Details means Schedule 1.

Audited PES and **Auditing PES** have the meaning given to those respective terms in clause 3.7 of Schedule 3.

Authorisations means all of the approvals, declarations, permits, licences, registrations and approvals required under and in accordance with all relevant laws or otherwise required by a Regulator for PES Provider to provide its Prescription Exchange Service and to access and use the System Services.

Business Day means any day which is not a Saturday or a Sunday or a public holiday in Victoria.

CIA means the Commercial Interchange Agreement between eRx and MDS dated 17 December 2012.

Commencement Date means the effective commencement date of this Agreement, as set out in the Agreement Details.

Commonwealth RFT means the "Request for Tender: Electronic Prescription Services, Health/E21-576909" released by the Commonwealth on 31 March 2022.

Competition and Consumer Act means the *Competition and Consumer Act 2010* (Cth).

Completion has the meaning given in the System Build Agreement.

Confidential Information means, in relation to a Party, all information relating to that Party and its Affiliates, including all information concerning the business, products, services, Systems, procedures and records (in whatever form, including in electronic format) of that Party and its Affiliates, and their relationships with their customers and suppliers, any document marked "Confidential", or any information which a party has been informed is confidential or which a party might reasonably expect the other party to regard as confidential. Confidential Information of Medication Knowledge includes all information relating to the System Services and all Intellectual Property Rights existing in the same, the terms and conditions of this Agreement and the Fees payable by the PES Providers. Confidential Information of a PES Provider includes all PES Provider Information and PES Provider Content.

Consumer has the same meaning as given by the Consumer Law.

Consumer Law means the Australian Consumer Law as set out in Schedule 2 of the Competition and Consumer Act.

Content includes information, data, text, audio, video and images.

Control means the direct or indirect power to direct or cause the direction of the management and policies of a company or other business entity, whether through ownership of fifty per cent (50%) or more of the voting interest, by contract, or otherwise (and **Controlled** and **Controlling** are to be construed accordingly).

Defaulting Party has the meaning given in clause 16.1.

Emergency Interruption means a disruption or suspension of the System Services immediately necessary to maintain the integrity, security, safety or quality of the Medication Knowledge Systems or any part of the System Services for any PES Provider or other user of the System Services.

Expenses means any 'out-of-pocket' expenses (for example, travel, accommodation and subsistence) incurred by Medication Knowledge under or in connection with this Agreement.

Fees means the fees and charges payable by the PES Providers under or in connection with this Agreement, including those fees and charges set out or referred to in or calculated in accordance with Schedule 3.

Force Majeure Event has the meaning assigned to that term in clause 21.1.

GST has the meaning assigned to that term in the *A New Tax System (Goods and Services) Act 1999* (Cth).

Good Industry Practice means, in relation to any undertaking and any circumstances, the exercise of the skill, diligence, prudence, foresight and judgment and the implementation of such capabilities, functions and processes which would be expected from a highly skilled and experienced person engaged in the same type of undertaking under the same or similar circumstances, applying the best standards currently generally applied in the Party's industry.

Insolvency Event means, in relation to a Party, any of the following events:

- (a) the Party becomes insolvent;
- (b) a receiver, receiver and manager, administrator, controller, provisional liquidator or liquidator is appointed to the Party or the Party enters into a scheme of arrangement with its creditors or is wound up;
- (c) the Party assigns any of its property for the benefit of creditors or any class of them;
- (d) an encumbrancee takes any step towards taking possession or takes possession of any assets of the Party or exercises any power of sale; or
- (e) the Party has a judgment or order given against it in an amount exceeding \$100,000.00 (or the equivalent in another currency) and that judgment or order is not satisfied or quashed or stayed within twenty (20) Business Days after being given.

Intellectual Property Rights means patents, trademarks, service marks, rights (registered or unregistered) in any designs, applications for any of the foregoing, trade or business names, copyright (including rights in computer software) and topography rights; inventions, know-how, secret formulae and processes, lists of customers and suppliers and other proprietary knowledge and information; internet domain names; rights protecting goodwill and reputation; database rights; and all rights and forms of protection of a similar nature to any of the foregoing or having equivalent effect anywhere in the world and all rights under licences and consents in respect of any of the rights and forms of protection mentioned in this definition.

Interchange Fee has the meaning given to that term in the Replacement CIA.

Loss includes claims, actions, proceedings, losses, damages, liabilities and costs (including legal fees on a solicitor-client basis).

Material Change means in relation to Prescription Exchange Services and/or the electronic transfer of prescriptions, any of the following that result from the awarding of the Commonwealth RFT:

- (a) a new law or regulatory requirement, or a change in law or regulatory requirement (including its interpretation), takes effect;
- (b) a new rule or decision is made by any government agency, or there is a change in any rule or decision of any Regulator;
- (c) a new administrative practice or policy is introduced by any government agency, or there is a change in any administrative practice or policy of any government agency,

which, in the reasonable opinion of any party, is reasonably likely to require material changes to the System Services in order for the interoperability to continue to operate.

Medication Knowledge Content means any Content that Medication Knowledge or any of its Affiliates or licensors provides or makes available to a PES Provider in connection with or through the System Services. Medication Knowledge Content does not include the System Services.

Non-Defaulting Party as the meaning given in clause 16.1.

Personal Information has the meaning given to that term in the Privacy Legislation.

Personnel means, in relation to a Party, that Party's:

- (a) officers and employees;
- (b) Affiliates' officers and employees; and
- (c) in the case of Medication Knowledge only, sub-contractors' officers and employees.

PES Provider means eRx Script Exchange Pty Ltd, IP MDS Pty Ltd, Symbion Pty Ltd (each a PES Provider and together the PES Providers).

PES Provider Content means, in respect of each PES Provider, any Content that the PES Provider provides or makes available to Medication Knowledge in connection with the PES Provider's access to or use of the System Services.

PES Provider Information has the meaning given to that term in clause 3.7.

Prescription Exchange Services has the meaning given in paragraph A of the section headed 'Background' in this Agreement.

Privacy Legislation means the *Privacy Act 1988* (Cth) and any applicable analogous legislation in any jurisdiction from time to time.

Regulator means, in relation to a Party, any statutorily recognised supervisory or government agency, body or authority having regulatory or supervisory authority over a Party's assets, resources or business, including any organisation reporting to such bodies, to the extent that such entity has jurisdiction over that Party.

Remaining Parties has the meaning given in clause 17.1.1.

Replacement CIA has the meaning given in clause 1.1.1.

Security Incident means any actual or suspected accidental or unauthorised access to or loss involving the System Services, Medication Knowledge's Systems, the Systems of a PES Provider or the Medication Knowledge Content.

Services means the Support Services and System Services.

Support Services means the support services described in Schedule 4.

System Build Agreement means the agreement of that name between Medication Knowledge and Symbion dated on or around the date of this Agreement.

System Services means the services described in Schedule 2.

System Specifications means the requirements for the PES Provider Systems set out or referred to in Schedule 2, including the requirements for the Prescription Exchange Systems set out in Schedule 2.

System includes computer programs and databases (including the tangible media on which they are recorded and their supporting documentation), computer and information systems, information technology and telecommunications systems and communications networks, devices, equipment (including server racks) and data centres.

Term has the meaning given in clause 2.1.

Third Party Contractor means any third party contractor (including any of Medication Knowledge's Affiliates) who is engaged by Medication Knowledge to assist in delivering the System Services.

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

Interpretation

- 26.1 In this Agreement, unless the context requires otherwise:
- 26.1.1 any reference to a 'person' includes any individual, company, corporation, firm partnership, joint venture, association, organisation or trust (in each case, whether or not having separate legal personality) and references to any of the same includes a reference to the others;
 - 26.1.2 references to any legislation, statute or statutory provisions includes a reference to those provisions as amended or re enacted or as their application is modified by other provisions from time to time and any reference to a statutory provision includes any subordinate legislation made from time to time under that provision;
 - 26.1.3 references to clause(s) and Schedule(s) are references to clause(s) and Schedule(s) of and to this Agreement;
 - 26.1.4 references to sections(s) and Appendix(ices) are references to sections(s) of and Appendix(ices) to an Order;
 - 26.1.5 references to any Party include its successors (whether by operation of applicable law or otherwise) and permitted assigns;
 - 26.1.6 any phrase introduced by the words 'including', 'include', 'in particular', 'for example' or any similar expression must be construed as illustrative only and must not be construed as limiting the generality of any preceding words;

- 26.1.7 references to the singular include the plural and to the masculine include the feminine, and in each case vice versa; and
- 26.1.8 a reference to '\$' or 'dollars' is a reference to Australian dollars.
- 26.2 The headings and sub-headings in this Agreement are inserted for convenience only and do not affect the meaning of this Agreement.
- 26.3 Each of the Schedules to this Agreement has effect as if set out in this Agreement.
- 26.4 In the event of any conflict or inconsistency between clauses 1 to 26 and any Schedule, clauses 1 to 26 prevail to the extent of such conflict or inconsistency.
- 26.5 If a payment or other act is required by this Agreement to be made or done on a day which is not a Business Day, the payment or act must be made or done on the next following Business Day.

Execution page

Executed by the parties:

Executed by Medication Knowledge Pty Ltd ACN 622 493 967 in accordance with s 127(1) of the Corporations Act 2001 by authority of its Directors:



Signature of Director

Signature of Director/Company Secretary

GRAHAM WALTER CUNNINGHAM

Anthony Johnston

Print full name

Print full name

Date: 13th July 2022

Executed by Symbion Pty Ltd trading as Minfos ACN 000 875 034 in accordance with s 127(1) of the Corporations Act 2001 by authority of its Directors:



Signature of Director

Signature of Director/Company Secretary

John Cullity

Janelle Cain

Print full name

Print full name

Date: 04 July 2022 | 09:32 AEST

Executed by eRx Script Exchange Pty Ltd ACN 132 844 658 in accordance with s 127(1) of the Corporations Act 2001 by authority of its Directors:



Signature of Director

Signature of Director/Company Secretary

Paul Naismith

Anthony Johnston

Print full name

Print full name

Date: 06-Jul-22 | 8:40:09 PM AEST

Executed by Operations MDS Pty Ltd ACN 169 902)
934 in accordance with s 127(1) of the Corporations)
Act 2001:



Signature of Director

Paul Montgomery

Print full name

Date: 07-Jul-22 | 6:26:40 AM AEST



Signature of Director/Company Secretary

Paul Frosdick

Print full name

Schedule 1 Agreement Details

Commencement Date	The date on which Completion occurs under the System Build Agreement. Completion is scheduled to occur on 1 April 2022.
Required Insurance Policies	
Symbion Address for Notices (clause 25.10.2)	Name: General Counsel Email: legal@ebosgroup.com Address: Level 7, 737 Bourke Street, Docklands 3008
Medication Knowledge Address for Notices (clause 25.10.2)	Name: Company Secretary Email: companysecretary@fred.com.au Address: Level 3, 20 Mollison Street Abbotsford, VIC 3067
eRx Address for Notices (clause 25.10.2)	Name: Company Secretary Email: companysecretary@fred.com.au Address: Level 3, 20 Mollison Street Abbotsford, VIC 3067
MDS Address for Notices (clause 25.10.2)	Name: Company Secretary Email: companysecretary@medisecure.com.au Address: 2/133 Market Street, South Melbourne Victoria 3205
Medication Knowledge nominated bank account details	BSB: 033157 Account number: 584674 Account name: Medication Knowledge

Schedule 2 System Services

Please see the following pages.

Schedule 3 Fee Schedule

1. Transaction Fees

- 1.1 Each PES Provider must pay Medication Knowledge [REDACTED] (Transaction Fee).

2. Payment Terms

Thirty (30) days from the date of the invoice.

3. Reports and Invoices

- 3.1 Medication Knowledge will prepare a transaction report within 10 Business Days of the end of each calendar month listing all the e-script transactions that were successfully:

3.1.1 provided by the PES Provider acting as an 'Originating PES', as the term 'Originating PES' is defined under the Replacement CIA; and

3.1.2 dispensed by the PES Provider acting as a 'Dispensing PES', as the term 'Dispensing PES' is defined under the Replacement CIA,

in the preceding calendar month (a **Transaction Report**). For the avoidance of doubt, the Transaction Report should not contain details of the other third party.

- 3.2 Medication Knowledge will determine the monthly Fees payable by each PES Provider based on the Transaction Report prepared by Medication Knowledge in accordance with clause 3.1 of this Schedule 3.

- 3.3 If a PES Provider, acting reasonably and in good faith, disputes any information in a Transaction Report it must notify Medication Knowledge within 20 Business Days' of its receipt of the Transaction Report and Medication Knowledge will provide such further information and evidence reasonably required by the PES Provider to confirm the accuracy of the Transaction Report.

- 3.4 Medication Knowledge will issue an invoice to each PES Provider in respect of the Fees payable by the PES Provider for the System Services set out in the relevant Transaction Report prepared by Medication Knowledge in accordance with clause 3.1 of this Schedule 3 within 10 Business Days of the date on which the Transaction Report was issued to the PES Provider, or within such other timeframe which is agreed between the Parties. Each PES Provider must pay such invoice within thirty (30) days of the invoice date.

- 3.5 A PES Provider acting as an Originating PES will invoice each other PES Provider acting as a Dispensing PES for the Interchange Fees payable to the Originating PES set out in the Transaction Report within 10 Business Days of the date upon which the Transaction Report was issued to the PES Providers and each other PES Provider acting as an Originating PES will settle that invoice within thirty (30) days of the invoice date.

- 3.6 The settlement of the invoice for all those transactions that have not been notified as being in dispute will take place within the terms of clauses 3.4 and 3.5 above. In relation to those transactions which are notified by a party as being in dispute, the provisions of clause 3.7 may be applied if prior to the expiration of the 20 Business Day period referred to in 3.3 (or such longer period agreed by the disputing parties, each acting reasonably), the first party gives the other party a written notice that it has engaged the provisions of clause and appointed an independent person or persons named in the notice to undertake the audit process.

- 3.7 A party (**Auditing PES**) may conduct an audit:
- 3.7.1 using only an independent third party acceptable to the other party and entirely at its own expense;
 - 3.7.2 of the other party's (**Audited PES**) practices and procedures as they relate to the disputed transactions notified in accordance with clause 3.3 in this Schedule 3; and
 - 3.7.3 any matters determined by the Auditing PES, acting reasonably, to be relevant to the creation of the e-script transaction errors that may have been caused or contributed to by the Audited PES;
- 3.8 An Audited PES must participate in audits under clause 3.7, for the purpose of ensuring that this Agreement is being properly performed. Audits shall be confined to any e-script transaction in a Transaction Report disputed in accordance with clause 3.3.
- 3.9 The Audited PES must participate promptly and cooperatively in any audits conducted by the nominee of the Auditing PES.
- 3.10 Except in cases where notice is not practicable or appropriate (for example caused by an investigation by the Commonwealth) and without limiting any other remedy of the Auditing PES the Auditing PES must give the Audited PES reasonable notice of an audit which will include the specific transactions that are in dispute and are to be examined in the audit and where reasonably practicable an indication of which documents and/or class of documents the auditor may require.
- 3.11 The Auditing PES and the Audited PES must bear their own respective costs of any audits.
- 3.12 No party may seek to utilise the Dispute Resolution process contained in clause 20 in relation to any dispute concerning a Transaction Report.

Schedule 4 Support Services

1. Support Services

- 1.1 Medication Knowledge will provide the PES Providers with technical support services (**Support Services**) for the System Services in accordance with this Schedule 4.
- 1.2 Medication Knowledge will provide to the PES Providers with access to Medication Knowledge personnel capable of providing technical assistance in the use of the System Services.
- 1.3 The PES Providers must notify Medication Knowledge via the methods of communication set out in this Schedule 4 promptly (and in any event within 2 hours of discovery) of any material defects in the operation of the System Services.
- 1.4 Medication Knowledge will maintain a record of all material defects in the System Services notified to it by the PES Providers in accordance with clause 1.3 and will make those records available to the PES Providers on written request.
- 1.5 Medication Knowledge may charge the relevant PES Provider(s) for any Support Services required because of any:
- 1.5.1 breach of this Agreement by that PES Provider(s);
 - 1.5.2 neglect or fault of that PES Provider(s) or any third party authorised by that PES Provider(s) to use or access the System Services; or
 - 1.5.3 defect or malfunction in any that PES Provider(s)' hardware, software or Systems.
- 1.6 For the avoidance of doubt, only the PES Provider(s) who are in default will be charged under clause 1.5 of this Schedule 4, not any of the other PES Providers.
- 1.7 Medication Knowledge may charge the PES Providers its then current rate of charges for:
- 1.7.1 goods and services not included in the Support Services but which Medication Knowledge agrees to supply to the PES Providers; and
 - 1.7.2 any other support services for which Medication Knowledge is entitled to charge the PES Providers pursuant to this Agreement.
- 1.8 The Support Services will be available as follows:
- 1.8.1 support for routine (non-emergency) matters – between the hours of 8:30am and 5:00pm on Business Days (**Business Hours**); and
 - 1.8.2 support for emergency matters – between the hours of 6:00am and 12:00am each day.
- 1.9 Medication Knowledge does not guarantee that unplanned outages will not occur.
- 1.10 So far as reasonably possible, planned outages will occur:
- 1.10.1 outside Business Hours;
 - 1.10.2 for the shortest possible time on each occasion;
 - 1.10.3 after reasonable notice has been given to the PES Providers; and
 - 1.10.4 at a time that will minimise any inconvenience to the PES Providers.

- 1.11 The PES Providers must log support issues via the contact details in its PES Agreement. The PES Providers must ensure that they make it clear to the Prescription Exchange that the support issue is in relation to the System Services.

2. Service Levels

2.1 Availability

- 2.1.1 Medication Knowledge will use commercially reasonable efforts to ensure the Monthly Uptime Percentage (defined below) of the System Services is at least 99.25% of each full calendar month.

- 2.1.2 Monthly Uptime Percentage is calculated as Monthly Minutes less Downtime divided by Monthly Minutes multiplied by 100.

Monthly Uptime % = (Monthly Minutes – Downtime) / Monthly Minutes x 100.

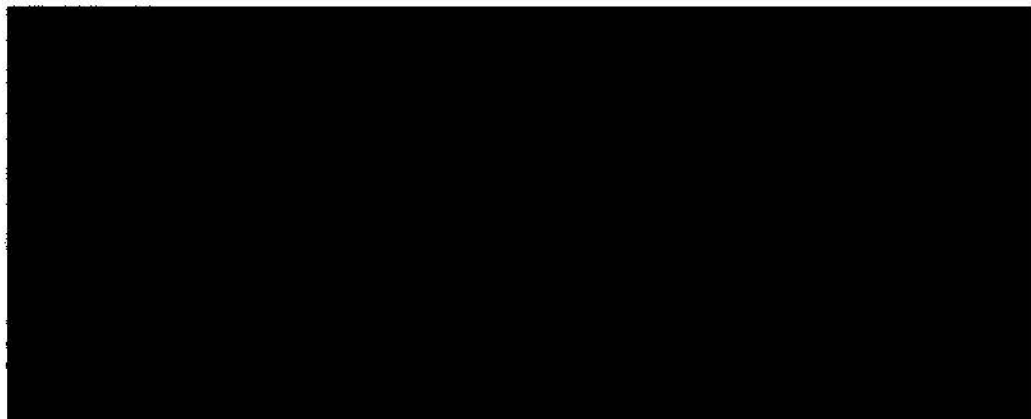
Where:

Monthly Minutes is calculated as (days in calendar month x 1440).

Downtime is the aggregate number of minutes in a calendar month during which the PES Providers are unable to use the System Services or its function is materially degraded.

- 2.1.3 Medication Knowledge will not be liable to the PES Providers for any failure by Medication Knowledge to meet the Monthly Uptime Percentage to the extent the relevant Downtime is caused or contributed to by:
- (a) any act or omission of any of the PES Providers, or any third party acting on behalf of a PES Provider;
 - (b) any failure, defect or problem in any device, software, system or network that is not within the immediate control of Medication Knowledge, including any third party infrastructure or service on which any part of the System Services are dependent;
 - (c) a Force Majeure Event; or
 - (d) any Emergency Interruption affecting the System Services.

- 2.1.4 Subject always to clause 2.1.3 of this Schedule 4, if Medication Knowledge fails to meet the Monthly Uptime Percentage in a month (**Service Level Failure**), as the PES Providers' sole and exclusive remedy, and Medication Knowledge's sole and exclusive liability to the PES Providers, in respect of the Service Level Failure, the PES Providers will be entitled to a Service Credit calculated in accordance with the following table:



The Transaction Fee the PES Provider would have otherwise been required to pay will be calculated by Medication Knowledge based on the average number of the PES Provider's e-script transactions each month using the Transaction Reports from the consecutive 6-month period immediately prior to the month in which the relevant Service Level Failure arose.

2.2 Response Times

- 2.2.1 Medication Knowledge will ensure that all calls will be responded to in accordance with the Priority Levels and Resolution Targets table.
- 2.2.2 The priority of a problem determines the targeted initial response times by Medication Knowledge. Medication Knowledge will determine the priority of each case. All response times are during Business Hours. It may not be possible to resolve a problem during the stated resolution times, for example when additional information is needed or different expertise is required to resolve the problem. In these instances, the support specialist will update the IT vendor periodically in accordance with the following table, and Medication Knowledge will work to resolve the problem during Business Hours.

Fault Priority Levels:

Fault Level	Definition
Level 1:	The System Services are not functioning at all and require immediate action for the PES Providers to continue business. This will define a work to completion situation.
Level 2:	The System Services are seriously impacted and are functioning in a limited manner. A managed resolution and implementation outside of planned releases will be required.
Level 3:	The System Services are functioning in all areas and the support issue is not stopping the PES Providers from continuing business. Implementation can wait for the next release.
Level 4:	No impact on production and implementation can wait for future release.

Response Times:

Fault Priority Level	Response Time	Progress Report
1	1 hour	2 hours
2	4 hours	4 hours
3	12 hours	On completion
4	16 hours	On completion

Attachment C

Please see following pages.



ASIC EXTRACT SNAPSHOT

CURRENT ORGANISATION DETAILS

Date Extracted 22/08/2022
 ACN 622 493 967
 ABN 47 622 493 967
 Current Name MEDICATION KNOWLEDGE PTY LTD
 Registered In Victoria
 Registration Date 26/10/2017
 Review Date 26/10/2022
 Company Type ACN (Australian Company Number)
 Current Directors 5
 Current Secretaries 2

Start Date 26/10/2017
 Name MEDICATION KNOWLEDGE PTY LTD
 Name Start Date 26/10/2017
 Status Registered
 Type Australian Proprietary Company
 Class Limited By Shares
 Sub Class Proprietary Company
 Disclosing Entity No

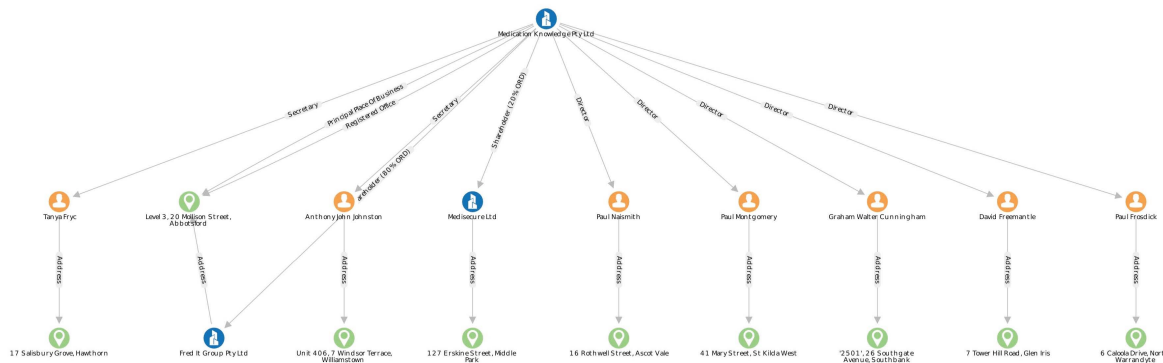
Share Structure (Displaying Top 4 Only)

[Go to Full ASIC Results](#)

Class	Class Type	Shares Issued	Amount Paid
ORD	ORDINARY SHARES	10	\$10.00

REVEAL - Company Visualisation

[Go to full workspace](#)



InfoTrack

1800 738 524

ASIC

Current Organisation Extract



ASIC Data Extracted 22/08/2022 at 12:05

This extract contains information derived from the Australian Securities and Investment Commission's (ASIC) database under section 1274A of the Corporations Act 2001. Please advise ASIC of any error or omission which you may identify.

- 622 493 967 MEDICATION KNOWLEDGE PTY LTD -

ACN (Australian Company Number):	622 493 967	Document No.
ABN:	47 622 493 967	
Current Name:	MEDICATION KNOWLEDGE PTY LTD	
Registered in:	Victoria	
Registration Date:	26/10/2017	
Review Date:	26/10/2022	
Company Bounded By:		

- Current Organisation Details -

Name:	MEDICATION KNOWLEDGE PTY LTD	3E9268872
Name Start Date:	26/10/2017	
Status:	Registered	
Type:	Australian Proprietary Company	
Class:	Limited By Shares	
Sub Class:	Proprietary Company	

- Company Addresses -

- <u>Registered Office</u>		3EER87915
Address:	LEVEL 3 20 MOLLISON STREET ABBOTSFORD VIC 3067	
Start Date:	19/07/2022	
- <u>Principal Place of Business</u>		3EER87915
Address:	LEVEL 3 20 MOLLISON STREET ABBOTSFORD VIC 3067	
Start Date:	20/06/2022	

- Company Officers -

Note:

A date or address shown as UNKNOWN has not been updated since ASIC took over the records in 1991. For details, order the appropriate historical state or territory documents, available in microfiche or paper format.

* Check documents listed under ASIC Documents Received for recent changes.

Director

Name: PAUL NAISMITH 3E9268872
Address: [REDACTED]
Birth Details: [REDACTED]
Appointment Date: 26/10/2017
Cease Date: //

Name: PAUL MONTGOMERY 6E4428406
Address: [REDACTED]
Birth Details: [REDACTED]
Appointment Date: 07/03/2018
Cease Date: //

Name: GRAHAM WALTER CUNNINGHAM 6E4428406
Address: [REDACTED]
Birth Details: [REDACTED]
Appointment Date: 07/03/2018
Cease Date: //

Name: DAVID FREEMANTLE 6E4428406
Address: [REDACTED]
Birth Details: [REDACTED]
Appointment Date: 07/03/2018
Cease Date: //

Name: PAUL FROSDICK 0EYU55242
Address: [REDACTED]
Birth Details: [REDACTED]
Appointment Date: 20/11/2019
Cease Date: //

Secretary

Name: TANYA FRYC 7EBD33242
Address: [REDACTED]
Birth Details: [REDACTED]
Appointment Date: 25/11/2020
Cease Date: //

Name: ANTHONY JOHN JOHNSTON 2EIE64383
Address: [REDACTED]
Birth Details: [REDACTED]
Appointment Date: 26/10/2017
Cease Date: //

- Share Structure -**Current**

Class:	ORDINARY SHARES	3E9268872
Number of Shares Issued:	10	
Total Amount Paid / Taken to be Paid:	\$10.00	
Total Amount Due and Payable:	\$0.00	

Note:

For each class of shares issued by a company, ASIC records the details of the twenty members of the class (based on shareholdings). The details of any other members holding the same number of shares as the twentieth ranked member will also be recorded by ASIC on the database. Where available, historical records show that a member has ceased to be ranked amongst the twenty members. This may, but does not necessarily mean, that they have ceased to be a member of the company.

- Share/Interest Holding -**Current****- Holding -**

Class:	ORD	Number Held:	2	7EAG85429
Beneficially Owned:	Yes	Fully Paid:	Yes	

- Members -

Name:	MEDISECURE LTD
ACN:	169 902 443
Address:	127 ERSKINE STREET MIDDLE PARK VIC 3206
Joint Holding:	No
Abn:	67 169 902 443

- Holding -

Class:	ORD	Number Held:	8	3EER87915
Beneficially Owned:	Yes	Fully Paid:	Yes	

- Members -

Name:	FRED IT GROUP PTY LTD
ACN:	109 546 901
Address:	LEVEL 3 20 MOLLISON STREET ABBOTSFORD VIC 3067
Joint Holding:	No
Abn:	68 109 546 901

- External Administration Documents -

There are no external administration documents held for this organisation.

- Charges -**There are no charges held for this organisation.****Notes:**

On 30 January 2012, the Personal Property Securities Register (PPS Register) commenced.

At that time ASIC transferred all details of current charges to the PPS Registrar.

ASIC can only provide details of satisfied charges prior to that date.

Details of current charges, or charge satisfied since 30 January 2012 can be found on the PPS Register, www.ppsr.gov.au.

InfoTrack may cap documents for on-file searches to 250.

- Document List -**Notes:**

* Documents already listed under Registered Charges are not repeated here.

* Data from Documents with no Date Processed are not included in this Extract.

* Documents with '0' pages have not yet been imaged and are not available via DOCIMAGE. Imaging takes approximately 2 weeks from date of lodgement.

* The document list for a current/historical extract will be limited unless you requested ALL documents for this extract.

* In certain circumstances documents may be capped at 250.

Form Type	Date Received	Date Processed	No. Pages	Effective Date	Document No.
484	12/07/2022	12/07/2022	2	12/07/2022	3EER87915
484					Change to Company Details
484B					Change of Registered Address
484C					Change of Principal Place of Business (Address)
484A2					Change Member Name or Address
484	18/06/2021	18/06/2021	2	16/06/2021	2EIE64383
484A1					Change to Company Details Change Officeholder Name Or Address
SGEF	15/06/2021	15/06/2021	40	30/06/2020	7EBI40097
SGEF					Significant Global Entity - Gen Purpose Financial Statement
484	04/03/2021	04/03/2021	2	18/02/2021	2ECP40464
484A1					Change to Company Details Change Officeholder Name Or Address
484	18/12/2020	18/12/2020	2	18/12/2020	7EBD33242
484E					Change to Company Details Appointment or Cessation of A Company Officeholder
SGEF	02/04/2020	02/04/2020	38	30/06/2019	7EAV32515
SGEF					Significant Global Entity - Gen Purpose Financial Statement
484	03/12/2019	03/12/2019	2	22/11/2019	0EYU55242
484E					Change to Company Details Appointment or Cessation of A Company Officeholder

370	18/09/2019	18/09/2019	2	18/09/2019	030715233
370	Notification By Officeholder of Resignation or Retirement Updates 0EU A17 974				
484	18/09/2019	18/09/2019	2	18/09/2019	0EUA17974
484E	Change to Company Details Appointment or Cessation of A Company Officeholder Updated by 030 715 233				
370	18/09/2019	26/09/2019	2	18/09/2019	0EUA17975
370	Notification By Officeholder of Resignation or Retirement				
SGEF	01/07/2019	01/07/2019	38	30/06/2018	7EAM92005
SGEF	Significant Global Entity - Gen Purpose Financial Statement				
484	06/12/2018	06/12/2018	2	06/12/2018	7EAG85429
484N	Change to Company Details Changes to (Members) Share Holdings				
484	15/03/2018	15/03/2018	3	07/03/2018	6E4428406
484E	Change to Company Details Appointment or Cessation of A Company Officeholder				
201	26/10/2017	26/10/2017	3	26/10/2017	3E9268872
201C	Application For Registration as a Proprietary Company				

- Company Contact Addresses -

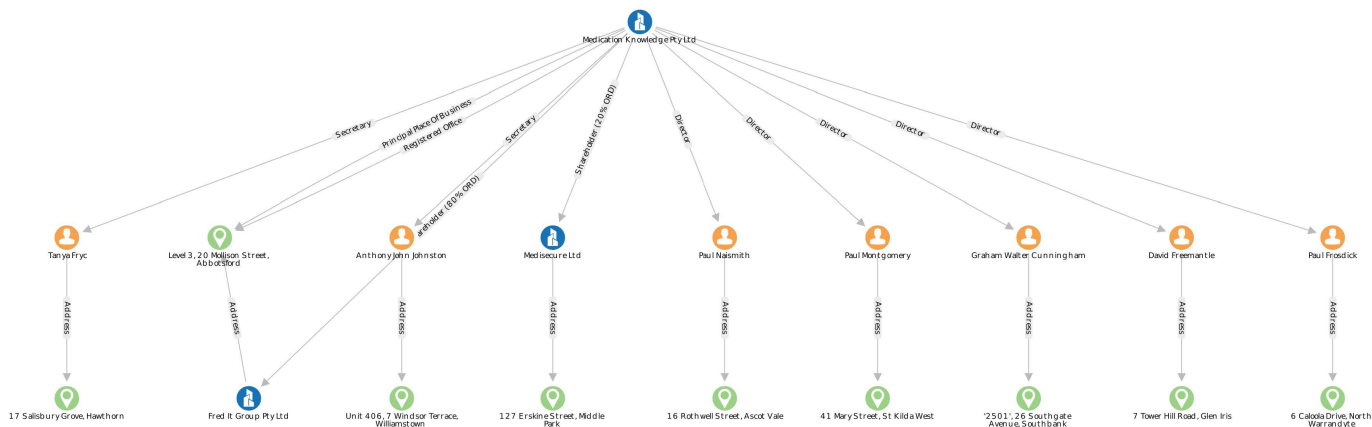
- Contact Address for ASIC use only

Address: SUITE 2 LEVEL 11 555 LONSDALE STREET MELBOURNE VIC 3000

Start Date: 08/07/2021

*** End of Document ***

Workspace: MEDICATION KNOWLEDGE PTY LTD ACN 622 493 967
Matter: 1050894
Created: 22/08/2022 12:05 PM



InfoTrack shall not be liable to the User in negligence or otherwise in respect of anything done, omitted, modified or done by the User in reliance in whole or in part on the Service including any assistance or demonstration provided to the User by InfoTrack and InfoTrack's liability to the User shall in any event be limited to the amount of the fees charged for the particular service to which such liability relates.



Declaration by Applicant

The undersigned declares that, to the best of their knowledge and belief, the information given in response to questions in this form is true, correct and complete, that complete copies of documents required by this form have been supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere.

The undersigned undertakes to advise the Australian Competition and Consumer Commission immediately of any material change in circumstances relating to the application.

The undersigned is aware that giving false or misleading information is a serious offence and is aware of the provisions of section 137.1 and 149.1 of the *Criminal Code* (Cth).



Signature

Tanya Fryc
General Counsel & Company Secretary
Fred IT Group Pty Ltd
(parent company of eRx Script Exchange Pty Ltd)

14-Nov-22 | 4:40:30 PM AEDT

This day of November 2022