

# Terms & Conditions

## WEBSITE TERMS AND CONDITIONS

In terms of section 11 of the Electronic Communications and Transactions (ECT) Act 25 of 2002, these terms and conditions are binding and enforceable against all persons that access HOSPITAL SPOILS (PTY) LTD'S ("HS") WEBSITE or any part thereof. If the USER does not agree with these TERMS AND CONDITIONS, the USER must leave the WEBSITE immediately, as further use will automatically bind the USER to these TERMS AND CONDITIONS.

### 1. DEFINITIONS AND INTERPRETATION

1.1. Unless otherwise expressly stated, or the context otherwise requires, the words and expressions listed below will, when used in this AGREEMENT, bear the meanings ascribed to them and cognate words and expressions will bear corresponding meanings:

1.1.1. BROWSER TYPE – the software program running on a computer that allows the USER to access documents on the internet which may be text or graphic. Such programs read HTML coded pages that reside on a server and interpret the coding to be viewed as a web page. Examples of browsers are Netscape Navigator and Internet Explorer;

1.1.2. CACHING – a process where data from the WEBSITE is temporarily stored in order to reduce bandwidth usage, server load and perceived lag and "CACHED" will have a corresponding meaning;

1.1.3. CLIENT – the party receiving the TREATMENT or PRODUCTS, which client may be the USER;

1.1.4. CONTENT – includes the information, images, binary data, services and any other content contained on the WEBSITE;

1.1.5. CONSENT & INDEMNITY FORM – a form to be signed by the CLIENT before a TREATMENT may be provided by an HS therapist which is available on this WEBSITE at <https://www.hospitalspoils.co.za/consent-and-indemnity-form/>;

1.1.6. COOKIES – a data file that certain websites write to a computer's hard drive when the USER uses the WEBSITE. Cookie files contain information such as a USER identification code that the WEBSITE uses to track the pages the USER has visited;

1.1.7. CPA – Consumer Protection Act, 68 of 2008, as amended from time to time;

- 1.1.8. ECT ACT – the Electronic Communications and Transactions Act, 25 of 2002, as amended from time to time;
- 1.1.9. HS – Hospital Spoils (Proprietary) Limited (registration number 2018/545190/07), a private profit company duly incorporated and registered as such under the laws of the RSA, having its principal place of business at 9 Sturdee Avenue, Rosebank, Gauteng, 2196;
- 1.1.10. PAIA – Promotion of Access to Information Act, 2 of 2002, as amended from time to time;
- 1.1.11. PAYFAST – Payfast (Pty) Ltd, registration number, 2007/011558/07, the online service provider for processing of online payment transactions hyperlinked to this WEBSITE;
- 1.1.12. POPI – Protection of Personal Information Act, 4 of 2013, as amended from time to time;
- 1.1.13. PRODUCTS – any beauty and/or leisure products supplied to the CLIENT by HS and/or used by HS in the TREATMENT;
- 1.1.14. REFERRER – the referrer is the page that causes the BROWSER to request a page or image from the HS servers or its nominated service provider’s servers;
- 1.1.15. RSA – Republic of South Africa;
- 1.1.16. TERMS AND CONDITIONS – these terms and conditions which form an agreement between the USER and HS, as contained on the WEBSITE;
- 1.1.17. TREATMENTS – any treatments listed on the WEBSITE and supplied to the USER and/or the CLIENT;
- 1.1.18. USER – means any person who enters and/or uses the WEBSITE and/or uses the WEBSITE to make a booking for a TREATMENT, who may be the CLIENT or a third-party who purchases and/or books a TREATMENT on behalf of a CLIENT;
- 1.1.19. WEBSITE – HS website owned and operated by HS and located at <https://www.Hospitalspoils.co.za>, including any page or element thereof and all the domains that are currently directed to the live website that is owned and operated by HS and its agents.

1.2. Notwithstanding that any hyper-links on this AGREEMENT, may be non-operational, this will not play a role in the determination of the validity and interpretation of these TERMS AND CONDITIONS.

1.3. The use of the word “including” followed by specific examples will not be construed so as to limit the meaning of the general wording preceding it.

1.4. Any reference to any statute, regulation or legislation is a reference to such statute, regulation or legislation as at date of access to the WEBSITE by a USER and as amended or substituted from time to time.

## 2. GENERAL

HS is a unique beauty and leisure services provider that provides in-hospital pampering to CLIENTS.

## 3. TREATMENT ETIQUETTE AND POLICIES

3.1 Due to the fact that HS is a beauty and leisure services provider, please take note that any changes to bookings must be made at least 24 (twenty-four) hours before the appointment time.

3.2 TREATMENTS are only provided in-hospital and HS will not provide any of the TREATMENTS out-of-hospital if a CLIENT is discharged from hospital prior to their scheduled TREATMENT.

3.3 HS regrets that CLIENTS in intensive care, high care or in isolation wards cannot receive TREATMENTS due to strict infection control rules and regulations. HS does not accept responsibility if the USER has booked a TREATMENT whilst a CLIENT is in any such ward. The USER may change the TREATMENT appointment using the <https://www.hospitalspoils.co.za/contact/> at least 24 (twenty-four) hours before the scheduled time for the TREATMENT.

3.4 HS therapists have received training vetted by a registered medical doctor. Whilst all TREATMENTS are designed for CLIENTS situated in a general ward and are non-invasive pampering TREATMENTS, it is up to the CLIENT to check with their medical practitioner if they are medically fit to receive the TREATMENT booked. HS may refuse to treat a CLIENT if their medical practitioner advises HS that the CLIENT is not fit to receive the TREATMENT.

### 3.5 Bookings, Scheduling, Cancellations and Refunds

3.5.1 Booking in advance using the WEBSITE for TREATMENTS is recommended to avoid disappointment.

3.5.2 It is the CLIENT'S responsibility to ensure that they are available for their TREATMENT at least 10 (ten) minutes prior to their TREATMENT commencing. The CLIENT must check with the ward staff that the time of the scheduled TREATMENT is appropriate.

3.5.3 If the CLIENT is moved to another general ward in the hospital, it will be the USER'S responsibility to notify HS on the WEBSITE that they the CLIENT is in a different general ward and to provide the details thereof to HS at <https://www.hospitalspoils.co.za/contact/> to enable HS to provide the TREATMENT at the new location. HS will not be held responsible if a TREATMENT was booked and the CLIENT is not available for a TREATMENT because HS was not notified of the change in wards. HS will

require no less than 24 (twenty-four) hours if a CLIENT has moved to another general ward in the hospital, failing which the TREATMENT will be treated as a “no-show”.

3.5.4 Please note that because HS supplies beauty and leisure services, any rescheduling of TREATMENTS must be done at least 24 (twenty four) hours before the appointment by logging into the WEBSITE and by using <https://www.hospitalspoils.co.za/contact/> to reschedule the appointment.

3.5.5 The USER acknowledges that the CLIENT is receiving the TREATMENTS in-hospital and that the CLIENT must be in a general ward to enjoy the TREATMENT. If a CLIENT:

3.5.5.1 is in a general hospital ward and undergoes a life-threatening medical emergency (for example, is admitted to Intensive Care, High Care or isolation), at any time before their scheduled TREATMENT; and

3.5.5.2 in good faith, is unable to notify HS that they cannot make their TREATMENT,

the USER will be entitled to reschedule the appointment to a suitable time when the CLIENT is back in the general ward.

3.5.6 If a CLIENT dies whilst in hospital before their scheduled TREATMENT, the USER that paid for the booking will be entitled to a refund, less any transaction fees incurred by HS.

### 3.6 Pricing and Payment Terms

3.6.1 HS only accepts bookings once payment has been made in full and the USER'S bank account has been debited.

3.6.2 All prices are subject to change without prior notice and are inclusive of VAT.

3.6.3 PAYFAST is HS's on-line payment processor for on-line payments and the terms and conditions of PAYFAST are applicable to the on-line payments made with PAYFAST – see [www.payfast.co.za](http://www.payfast.co.za). The terms and conditions of PAYFAST will also apply to all on-line payments.

## 4. PRODUCTS

4.1 HS uses selected PRODUCTS in TREATMENTS which have been specially selected to ensure the CLIENTS' comfort. Whilst due care has been taken in the selection of these PRODUCTS, it is the CLIENT'S responsibility to advise HS in the CONSENT AND INDEMNITY form if they have any allergies.

4.2 The purchase of PRODUCTS supplied by HS is subject to the following:

4.2.1 leisure care products, cosmetics and skin care products are sealed and once opened cannot be returned for safety and hygiene reasons;

4.2.2 if the purchaser of the PRODUCT has not opened a PRODUCT and wishes to return the PRODUCT for a full refund, the PRODUCT must be returned to HS within 7 (seven days) by way of delivery via hand or courier to 9 Sturdee Avenue, Rosebank, Johannesburg complete with its original packaging in the same condition that it received the PRODUCT in. No returns for damaged packaging and opened PRODUCTS will be accepted by HS. The purchaser of the PRODUCT must provide HS with a designated bank account into which the refund must be made.

## 5. DISCLOSURES, CONSENT AND INDEMNITY FORM

5.1 All CLIENTS will be required to sign the CONSENT & INDEMNITY FORM prior to commencing with a TREATMENT. If the CLIENT (or if the CLIENT is a minor, the legal guardian) does not sign the [CONSENT & INDEMNITY FORM](#), the HS therapist will not be permitted to provide the TREATMENT and the CLIENT will forfeit the TREATMENT.

5.2 HS only provides TREATMENTS that are considered safe and non-invasive to CLIENTS. All PRODUCTS used in the TREATMENTS have been selected to avoid allergic reactions, however, HS cannot guarantee that all PRODUCTS do not contain ingredients that the CLIENT may be allergic to.

5.3 All of HS therapists have undergone training for hospitalised patients in general wards. Whilst HS has taken due care in catering for CLIENTS that are hospitalised, it is necessary for the CLIENT to make disclosures of any medical conditions or treatments that the CLIENT is currently receiving.

Accordingly, the USER and the CLIENT, or in the case of a minor, such minor's legal guardian, must note the following important information:

5.3.1 the CLIENT must be older than 18 (eighteen) years to receive a TREATMENT, unless a written consent is obtained from a parent or legal guardian of the CLIENT on the CONSENT & INDEMNITY FORM; and

5.3.2 prior to receiving the TREATMENT, the CLIENT (or if the CLIENT is a minor, then the CLIENT'S legal guardian) must advise the HS therapist on the CONSENT & INDEMNITY FORM if he/she suffers from any of the following conditions:

5.3.2.1 high blood pressure;

5.3.2.2 any heart condition;

5.3.2.3 recent surgery;

5.3.2.4 sinusitis;

5.3.2.5 sunburn;

5.3.2.6 pregnancy;

- 5.3.2.7 epilepsy;
- 5.3.2.8 diabetes;
- 5.3.2.9 eczema or psoriasis;
- 5.3.2.10 muscle or joint injuries;
- 5.3.2.11 any allergies;
- 5.3.2.12 any other medical conditions;

5.3.3 the CLIENT, (or if the CLIENT is a minor, the legal guardian), will be required to consent to and sign a CONSENT & INDEMNITY FORM before they receive the TREATMENT.

## 6. EXCLUSION OF LIABILITY AND LIMITATION OF LIABILITY IN RESPECT OF TREATMENTS

6.1 All HS therapists have undergone hospital and medical training specifically suited to in-hospital TREATMENTS for CLIENTS.

6.2 Whilst HS takes reasonable care in providing the TREATMENTS to the CLIENT that are safe and promote the well-being of the CLIENT, HS will not be liable for any claims, liabilities, losses, damages (direct or consequential), legal expenses ("LOSSES"), arising from the death or personal injury of a CLIENT, now or in the future, which results from:

6.2.1 any services or healthcare treatments provided by the relevant hospital staff or by any medical practitioners that have attended to a CLIENT in or out of hospital;

6.2.2 damage, loss or destruction to any property, including money or valuables, belonging to a CLIENT, or in possession of a CLIENT, or given to the hospital for safekeeping.

6.3 HS, its directors, therapists, employees and contractors' total liability for all LOSSES which may arise as a result of HS providing TREATMENTS to the CLIENT and/or using the PRODUCTS, will be limited to a total of R5000 (five thousand Rand), including direct damages and consequential damages.

## 7. ALLOWED USE AND LICENSE

7.1 USERS are advised that the WEBSITE content may be copyright protected and is subject to the RSA and international copyright laws. USERS may not infringe copyright and the license granted to the USER is subject to such copyright.

7.2 HS hereby licenses the USER to view, download and print the content of the WEBSITE, provided that such content is used for private, personal, educational and/or non-commercial purposes only. Content from the WEBSITE may not be used or exploited by USERS for any commercial and non-private purposes without the prior written consent of HS.

7.3 USERS may not access, browse and use the WEBSITE for illegal purposes.

7.4 The USER warrants in favour of HS that it will not:

7.4.1 use the WEBSITE to receive or transmit material which is in violation of any law or regulation, which is obscene, threatening, racist, menacing, offensive, defamatory, in breach of confidence, in breach of any intellectual property rights, or otherwise objectionable or unlawful;

7.4.2 will not, other than for personal and non-commercial use, "mirror" or cache information provided via the WEBSITE on the USER'S own server, or copy, adapt, modify or re-use the text or graphics from the WEBSITE without prior written consent by HS.

## 8. CACHING

The caching of the WEBSITE will only be allowed if:

8.1 the purpose of the caching is to make the onward transmission of CONTENT from the WEBSITE more efficient;

8.2 the CACHED CONTENT is not modified in any manner whatsoever;

8.3 the CACHED CONTENT is removed or updated when so required by HS.

## 9. RESERVATION OF RIGHTS

If any USER uses any CONTENT from the WEBSITE in breach of the provisions detailed herein, HS reserves the right to claim damages from the USER and/or to institute criminal proceedings against the USER.

## 10. DISCLAIMER AND LIMITATION OF LIABILITY FOR USE OF THE WEBSITE

10.1 HS, its owners, employees, suppliers, internet service providers, partners, affiliates and/or agents will not be liable, in any manner whatsoever, for any damages, (whether in contract or in delict), loss and/or liability that arises directly or indirectly from:

10.1.1 the use of the WEBSITE and/or its CONTENT by the USER and/or any third-party who may now or in the future obtain CONTENT;

10.1.2 a breach of the TERMS AND CONDITIONS by the USER;

10.1.3 the USER'S access to the WEBSITE;

10.1.4 the USER'S access to other websites which may be linked to the WEBSITE;

10.1.5 the USER'S inability to access websites which are or may be linked to the WEBSITE;

- 10.1.6 the use of CONTENT;
- 10.1.7 downloads and use of CONTENT from the WEBSITE;
- 10.1.8 technical problems relating to HS'S network;
- 10.1.9 an act of God, government control, restrictions or prohibitions or other government act or omission, whether local or national;
- 10.1.10 an act of default of any supplier, agent or sub-contractor;
- 10.1.11 industrial disputes; or
- 10.1.12 any other cause beyond HS'S control.

10.2 The WEBSITE is supplied on an "as is" basis and has not been compiled to meet the USER'S individual requirements. It is the responsibility of the USER to satisfy himself/herself, prior to entering this WEBSITE and thereby binding himself/herself to the TERMS AND CONDITIONS, that the content available from and through the WEBSITE meets the USER'S individual requirements and that same is compatible with the USER'S hardware and software requirements.

10.3 Information, ideas and/or opinions expressed on the WEBSITE should not be regarded as professional advice or the official opinion of HS and USERS are encouraged to take professional advice before taking any course of action related to the information, ideas or opinions expressed on the WEBSITE.

10.4 HS does not make any warranties or representations, whether express, tacit or implied that:

10.4.1 the CONTENT and services available from the WEBSITE will in all cases be true, correct or free from any errors. HS will take all reasonable steps to ensure the quality and accuracy of content available from the WEBSITE but does not guarantee the accuracy, reliability or availability of the CONTENT;

10.4.2 the WEBSITE will be available at all times. USERS acknowledge that the WEBSITE may be unavailable due to updates or other causes beyond the reasonable control of HS, including, but not limited to virus infection, unauthorised access (hacking), and/or power failure due to acts of God;

10.4.3 the WEBSITE and/or CONTENT will meet the USER'S requirements, be uninterrupted, complete, timely, secure or error free.

## 11. HYPERLINKS

11.1 The WEBSITE may contain hyperlinks to third-party sites and in particular this WEBSITE is contains a hyperlink to PAYFAST.



11.2 Use of the PAYFAST payment facility is subject to the terms and conditions of PAYFAST.

11.3 HS is not responsible for the content of, or the services offered by those third-party sites. The hyperlink(s) are provided solely for the USER'S convenience and should not be construed as an express or implied endorsement by HS of the site(s) or the products or services provided therein. The USER'S accesses those sites and uses their products and services solely at the USER'S own risk.

11.4 HS accepts no liability whatsoever, for any damage (whether in contract or in delict ), loss and/or liability, which may arise now or in the future from the use of the CONTENT, if such CONTENT was accessed through a hyperlink not directed at the homepage of the WEBSITE. USERS that wish to link to CONTENT beyond the home page of the WEBSITE do so entirely at their own risk and hereby indemnify and hold harmless HS, its employees and suppliers from any damages (whether in contract or in delict), loss and/or liability, that may result from the use of CONTENT, if such CONTENT was accessed through a hyperlink not directed to the homepage of the WEBSITE. This indemnity is based on the rationale that deep-linking bypasses these TERMS AND CONDITIONS.

11.5 The USER may quote small and reasonable amounts of CONTENT available from the WEBSITE, if such quote is placed in inverted commas and acknowledged.

11.6 Apart from bona-fide search engines operators and use of the search facility provided on the WEBSITE by USERS, no person may use or attempt to use any technology or applications (including web-crawlers and web-spiders) to search, collect or copy CONTENT from the WEBSITE for any purposes, without the prior written consent of HS. E-mail addresses, names, telephone numbers and fax numbers published on the WEBSITE may not be incorporated into any database used for electronic marketing or similar purposes. No permission is given or should be implied that information on the WEBSITE may be used to communicate unsolicited messages.

11.7 All licenses and permissions granted in terms of AGREEMENT are non-exclusive and non-transferable basis and may be revoked, terminated or cancelled at any time by HS without prior written notice or reason.

11.8 Hyperlinks to the WEBSITE from any other source will be directed to the homepage of the WEBSITE. Links beyond the HS home page may not be used without HS's prior written consent.

11.9 HS may provide hyper-links to third-party websites, which are not controlled by HS ("TARGET SITES") eg. PAYFAST and such links do not imply any endorsement, agreement on or support for the content of such TARGET SITES.

11.10 HS does not editorially control the content of TARGET SITES and will not be held liable, in any manner whatsoever or howsoever arising for the inability of a USER to access content available on or through such TARGET SITES.

11.11 E-mail addresses, names, telephone numbers and fax numbers published on the WEBSITE may not be incorporated in any database used for electronic marketing or similar purposes. No permission is given or should be implied that information on the WEBSITE may be used to communicate unsolicited communications to HS and all rights detailed in section 45 of the ECT ACT are reserved.

## 12. ELECTRONIC COMMUNICATIONS

12.1 All electronic communications, including any attachments thereto that are transmitted to the USER by HS, will be on the following terms and conditions:

12.1.1 before any purported agreement, that has been negotiated either wholly or partly by electronic means, will be considered binding on HS, the following terms and conditions will apply:

12.1.1.1 an advanced electronic signature, (as defined in the ECT ACT), of a duly authorized member of the board of directors of HS will be required to be used and attached to any electronic communication containing any offer and/or acceptance by HS, as the case may be;

12.1.1.2 an electronic communication will be considered to have been sent by a director as aforesaid only if:

12.1.1.2.1 the director sent it personally; or

12.1.1.2.2 it was sent by a person who had the required authority to act on behalf of the said director;

12.1.2 any opinion or advice contained in electronic communications relating to these TERMS AND CONDITIONS will be subject to these TERMS AND CONDITIONS unless varied in writing by HS;

12.1.3 HS is not responsible for the proper and/or complete transmission of the information contained in the electronic communication or of the electronic communication itself nor in any delay in its receipt;

12.1.4 whilst HS does employ virus filtering, it provides no guarantees or warranties that the electronic communication is virus-free.

## 13. INTELLECTUAL PROPERTY AND COPYRIGHT

All intellectual property on the WEBSITE, including but not limited to all CONTENT, trademarks, live-audio streams, domain names, patents, design elements, software, source codes, meta tags, databases, text, graphics, icons and hyperlinks are the intellectual property of or licensed to HS and as such, are protected from infringement by domestic and international legislation and treaties. Subject to the licensed use envisaged in clause 7, all other rights to this intellectual property are expressly reserved.

## 14. SOFTWARE AND EQUIPMENT

It is the responsibility of the USER to acquire and maintain, at his/her own expense, the necessary computer hardware, software, communication lines and internet access accounts required to access the internet and the WEBSITE and/or to download CONTENT from the WEBSITE.

## 15. DISCLOSURES REQUIRED BY SECTION 43 OF THE ECT ACT

15.1 Access to the services, CONTENT, software and downloads available from the WEBSITE may be classified as “Electronic Transactions” as defined in terms of the ECT ACT and therefore USERS have the rights detailed in Chapter 7 of the ECT ACT.

15.2 HS makes the following disclosures to USERS:

15.2.1 Website Owner: Hospital Spoils (Proprietary) Limited (Registration Number 2018/545190/07);

15.2.2 Street Address: 9 Sturdee Avenue, Rosebank, Johannesburg, 2196;

15.2.3 Physical Address for receipt of legal service for HS: 9 Sturdee Avenue, Rosebank, Johannesburg, 2196;

15.2.4 Support telephone number: Customer Support Line 083 778 4741;

15.2.5 The address of the WEBSITE is: <https://www.hospitalspoils.co.za/> ;

15.2.6 Main business: beauty and leisure services;

15.2.7 Official email address: [pamper@hospitalspoils.co.za](mailto:pamper@hospitalspoils.co.za);

15.2.8 Cost associated with access to and use of the WEBSITE: free;

15.2.9 Alternative dispute resolutions procedure as contemplated in clause 15.3: subject to urgent/interim relief of all disputes regarding:

15.2.9.1 access to the WEBSITE;

15.2.9.2 the inability to access the WEBSITE;

15.2.9.3 the services and CONTENT available from the WEBSITE.

15.3 Any dispute arising in respect of the interpretation or enforcement of these terms and conditions will be referred to arbitration in terms of the Expedited rules of the Arbitration Foundation of Southern Africa and such arbitration proceedings will be conducted in Johannesburg in English. The arbitration ruling will be final and the unsuccessful party will pay the costs of the arbitration of the successful party on a scale as between attorney and own client a in the amount of R3000 (three thousand Rand) per hour

and value added tax. The expedited rules of the Arbitration Foundation of South Africa may be downloaded from the following website: <http://www.arbitration.co.za>.

15.4 USERS may lodge complaints concerning the WEBSITE with HS at its street address stipulated in clause 15.2.2 or through its support telephone number stipulated in clause 15.2.4.

## 16. CHANGES AND AMENDMENT OF TERMS AND CONDITIONS

16.1 HS reserves the right, in its sole and absolute discretion, at any time without prior notice or justification, to do any of the following:

16.1.1 amend these TERMS AND CONDITIONS in any respect;

16.1.2 change the CONTENT and/or services available on the WEBSITE;

16.1.3 discontinue any aspect of the WEBSITE, CONTENT and/or services available from the WEBSITE;

16.1.4 change the software and hardware required to access and use the WEBSITE;

16.1.5 amend any prices at which any CONTENT and/or services are offered on the WEBSITE.

16.2 Such changes will be posted on the WEBSITE and will be deemed to have been accepted by the USER if the USER continues using the WEBSITE. The obligation therefore is on the USER to review these TERMS AND CONDITIONS at regular intervals.

## 17. REMOVAL AND CORRECTION OF CONTENT

USERS are encouraged to report untrue, inaccurate, defamatory, illegal, infringing or harmful CONTENT available from the WEBSITE to HS and HS undertakes to correct and/or remove such content or any part thereof if the person reporting such CONTENT or any part thereof provided reasonable grounds to prove the alleged nature of the CONTENT.

## 18. INTERCEPTION OF COMMUNICATIONS

The USER agrees that HS, its employees, agents, partners and/or affiliates may intercept, block, filter, read, delete, disclose and use all communications sent or posted by the USER to the WEBSITE.

## 19. PRIVACY STATEMENT

HS is committed to respecting the privacy of USER'S personal data. HS has created the processes herein for the appropriate handling of such private information and to comply with applicable legislation that governs the authentication, protection and disclosure of personal information. HS will take all reasonable steps to protect the personal information of the USERS.

## 20. PERSONAL INFORMATION

20.1 For the purposes of this clause, "PERSONAL INFORMATION" is as defined in the PAIA (download the PAIA at [http://www.polity.org.za/attachment.php?aa\\_id=3569](http://www.polity.org.za/attachment.php?aa_id=3569)) which is information about an identifiable, natural person, and in so far as it is applicable, an identifiable, juristic person, including, but not limited to information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person, information relating to the education or the medical, criminal or employment history of the person or information relating to financial transactions in which the person has been involved; any identifying number, symbol or other particular assigned to the person; the address, fingerprints or blood type of the person, but excludes information about a natural person who has been dead, or a juristic person that has ceased to exist, for more than 20 (twenty) years.

20.2 HS will take all reasonable steps to protect the PERSONAL INFORMATION of USERS and CLIENTS. HS will not disclose PERSONAL INFORMATION from USERS and/or CLIENTS unless the USER consents to such disclosure. For example, information may be required when registering purchasing and/or scheduling TREATMENTS. If the USER elects not to provide information requested by HS, access to certain options and services may be restricted by HS.

20.3 HS may electronically collect, store and use the following personal information of USERS and CLIENTS:

20.3.1 name and surname;

20.3.2 contact numbers;

20.3.3 non-personal browsing habits and click patterns;

20.3.4 e-mail address;

20.3.5 IP address; and/or

20.3.6 selected USER name and password (required for access to personal information pages).

20.4 The WEBSITE'S servers automatically collect information about the USERS IP address, BROWSER TYPE and the REFERRER.

20.5 Use of Information

20.5.1 HS stores and uses the above information for the following purposes:

20.5.1.1 to enhance the USER'S experience of the WEBSITE;

20.5.1.2 to fulfil any agreement with the USER in relation to updates, e-mail alerts or text message alerts;

20.5.1.3 to send the USER details of any of HS'S products and/or services by email and/or text message should the USER consent thereto;

20.5.1.4 to answer any queries a USER has sent by email to HS;

20.5.1.5 to notify the USER of any important functionality changes to the WEBSITE, new services and/or products and special offers;

20.5.1.6 to provide the USER with access to restricted pages on the WEBSITE;

20.5.1.7 to communicate requested information to the USER;

20.5.1.8 to compile non-personal statistical information about browsing habits, click-patterns and access to the WEBSITE.

20.5.2 PERSONAL INFORMATION may be shared with PAYFAST, employees, agents or entrusted third-parties of HS to administer any services provided by HS now or in the future. PERSONAL INFORMATION may be shared with anyone to whom HS transfers its rights and duties under these TERMS AND CONDITIONS, subject to being legally obliged or permitted to do so. HS may collect, maintain, save, compile, share, disclose and sell any information collected from USERS, subject to the following provisions:

20.5.2.1 the WEBSITE uses tracking software to monitor USER traffic patterns and site usage to assist HS with WEBSITE development and design. Such software does not enable HS to capture "Special Personal Data" as defined in POPI which includes information about the racial or ethnic origin of the data subject, his political opinions, religious beliefs, whether the USER belongs to a trade union, the USER'S physical or mental health, the USER'S sexual life, the commission or alleged commission by the USER of an offence and any proceedings for any offence committed or alleged to have been committed by the USER;

20.5.2.2 HS retains all rights to non-personal statistical information collected and compiled by HS, its employees and/or agents.

## 20.6 Cookies

20.6.1 Information detailed above is collected either electronically by using cookies or is provided voluntarily by the USER. USERS may determine cookie use independently through their browser settings.

20.6.2 Should the USER choose to disable the receipt of COOKIES from the WEBSITE, by either changing the browser settings to display a warning before accepting a COOKIE or to refuse COOKIES, the USER may not be able to use certain features of the WEBSITE.

## 21. SECURITY

21.1 HS will take all reasonable steps to secure the content of the WEBSITE and the information provided by and collected from USERS from unauthorised access and/or disclosure. However, HS does not make any warranties or representations that all CONTENT will be completely safe and secure.

21.2 HS is under no legal duty to encrypt any CONTENT or communications to and from the WEBSITE and is also under no duty to provide digital authentication of any page of the WEBSITE.

21.3 USERS may not deliver or attempt to deliver, whether intentionally or negligently, any damaging code, such as computer viruses, to the WEBSITE or the server and to any computer network that supports the WEBSITE. Notwithstanding criminal prosecution, any person who delivers any damaging code to the WEBSITE, whether intentionally or negligently, will, without limitation, hereby indemnify and hold harmless HS, its employees, partners, affiliates and/or agents against any liability, damages and losses that HS, its employees, partners, affiliates and/or agents may now or in the future suffer as a result of such damaging code.

21.4 USERS may not develop, distribute or use any device to breach or overcome the security measures of HS, its employees, agents, partners and/or affiliates and HS reserves the right to claim damages from all or any persons concerned. Any USERS who contravene the provisions of this clause, will notwithstanding any criminal prosecution, be liable for all damages and losses incurred and/or suffered by HS, its employees, agents, partners and/or affiliates as a result of such contraventions.

21.5 The USER agrees and warrants that data messages that are sent to HS from a computer, IP address or mobile device normally used by or owned by the USER, was sent and/or authorised by the USER personally.

## 22. GENERAL

### 22.1 Governing Law

Subject to clause 15, these terms and conditions will be governed by the laws of the RSA and all matters or things arising out of or in respect of these terms and conditions, the website and/or the content will be decided in terms of the laws of the RSA. The USER agrees to submit to the exclusive jurisdiction of the courts of the RSA.

### 22.2 Legal Costs

HS will not be liable for any costs incurred by USERS to obtain professional advice relating to these TERMS AND CONDITIONS.

### 22.3 Severability

These TERMS AND CONDITIONS are severable, in that if any provision is determined to be illegal or unenforceable by any court of competent jurisdiction, then such provision shall be

deemed to have been deleted without affecting the remaining provisions of the TERMS AND CONDITIONS.

#### 22.4 Non-Waiver

A failure by HS to exercise any particular rights or provision of these TERMS AND CONDITIONS will not constitute a waiver of such right or provision, unless acknowledged and agreed to by HS in writing.

#### 22.5 Whole Agreement

These TERMS AND CONDITIONS, as varied by HS from time to time pursuant to clause 16, constitute the sole agreement between the USER and HS.