



REPUBLIC OF NAMIBIA
MINISTRY OF FINANCE

Tel: (061) 20992769
Fax: (061) 234608

Private Bag 13295
WINDHOEK

Enquiries: Mrs. E. R Kharuchas

January 23, 2020

NOTICE TO HEALTH SERVICE PROVIDERS

SUBJECT: REVIEW OF PSEMAS CONTRACT OF 1 DECEMBER 2017 FOR THE PROVISION OF HEALTHCARE AND RELATED SERVICES TO THE PUBLIC SERVICE EMPLOYEES MEDICAL AID SCHEME

The Ministry of Finance wishes to communicate the following information regarding the subject matter;

1. Reference is made to the Ministry's 'Notice to the Healthcare Services Providers' dated 2nd October 2018 (notice attached hereto), in which the Ministry indicated, its intention to review the **PSEMAS Contract for the Provision of Healthcare and Related Services to PSEMAS**. This review was prompt by shortcoming identified during the pilot implementation phase of the said Contract.
2. It is against this background that the Ministry would like to share the amended PSEMAS Contract (Contract attached hereto). Your attention is drawn to the following Clause;


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3. The Ministry would further like to inform the Healthcare Service Providers that the current Contract will be extended by two (2) months, from 1 April 2020 to 31 May 2020, in order to allow the Ministry to finalize the amendment process

For any further queries, kindly contact Ms. Kharuchas, Deputy Director, Medical Aid Division – Elizabeth.kharuchas@mof.gov.na

Thanking you for your cooperation.

Yours sincerely


ERICA B SHAFUDAH
EXECUTIVE DIRECTOR

All official correspondence should be addressed to the Permanent Secretary



MINISTRY OF FINANCE

PSEMAS CONTRACT

(STANDARD TERMS AND CONDITIONS)

1 DECEMBER 2017

AS AMMENDED ON 15 JANUARY 2020

FOR

THE PROVISION OF HEALTHCARE AND RELATED SERVICES

TO THE PUBLIC SERVICE EMPLOYEES MEDICAL AID SCHEME

(PSEMAS)

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1. DEFINITIONS 1.1 The following terms shall have the meaning assigned to them hereunder and cognate expressions shall have corresponding meanings, namely: "Administrator" means any entities appointed by the Ministry of Finance from time to time responsible for the processing of all the claims, the provision of utilisation reports and any other relevant information required for the accurate and reliable processing of claims, auditing of claims and clinical investigations undertaken on behalf of the Ministry in respect of PSEMAS; "Annexure A1 and Annexure A2", means the application form, signature of which serves as a binding contract to these Terms and Conditions, completed by the Healthcare Service Provider, as applicable, to apply to become a PSEMAS Healthcare Service Provider, "Annexure B" means the PSEMAS tariffs; "Annexure C" means the PSEMAS Rules and Regulations; "Application" means the completion of Annexure A1 or Annexure A2, as applicable, and the subsequent enforceability of the Terms and Conditions; and the handing in of these completed forms and supporting documents indicated on Annexure A1 and A2, as applicable, at the Ministry of Finance; "claim documentation" means a document on which all details are indicated as required and in the form and manner required by the Ministry and/or the Administrator and as communicated to the Healthcare Service Providers from time to time; "Council" means any council established in terms of: (a) the Social Work and Psychology Act, 2004 (Act No. 6 of 2004); 3

(b) the Allied Health Professions Act, 2004 (Act No. 7 of 2004); (c) the Nursing Act, 2004 (Act No. 8 of 2004); (d) the Pharmacy Act, 2004 (Act No. 9 of 2004); or (e) the Medical and Dental Act, 2004 (Act No. 10 of 2004); "days" means calendar days; "Date of Submission" means the date the claim was received by the Administrator proven by the date stamp of submission at the Administrator or one of its branches or the date of registered post or courier, "Healthcare Service Provider" means any person registered or enrolled, as the case may be, in terms of (a) the Social Work and Psychology Act, 2004 (Act No. 6 of 2004); the Allied Health Professions Act, 2004 (Act No. 7 of 2004); (c) the Nursing Act, 2004 (Act No. 8 of 2004); (d) the Pharmacy Act, 2004 (Act No. 9 of 2004); or (e) the Medical and Dental Act, 2004 (Act No. 10 of 2004); and includes practitioners, private health facilities and hospitals, any other person that provides an approved Healthcare Service to a PSEMAS member so licenced and authorised by the Ministry of Health and Social Services, in terms of the Hospitals and Health Facilities Act, 1994 (Act No. 36 of 1994)

"Healthcare Service" means any Healthcare Service Provider's treatment of any PSEMAS member provided by an approved Healthcare Provider, which treatment has as its object- (a) the physical or mental examination of that person; (b) the diagnosis, treatment or prevention of any physical or mental defect, illness or deficiency; (c) the giving of advice in relation to any such defect, illness or deficiency; (d) the giving of advice in relation to, or treatment of, any condition arising out of pregnancy, including the termination thereof; (e) the prescribing or supplying of any medicine, appliance or apparatus in relation to any such defect, illness or deficiency or a pregnancy, including the termination thereof; (f) and midwifery; and includes an ambulance service, and the supply of accommodation where such accommodation is necessitated by any physical or mental defect, illness or deficiency or by a pregnancy; "hospital" means any public hospital, privately owned institution, facility, building or place, registered as such in terms of the Hospitals and Health Facilities Act, 1994 (Act 36 of 1994); 5

"Tery" means the prescribed co-payment required from a member as determined by the Minister from time to time in the PSEMAS Rules and Regulations; "locum" means a Healthcare Service Provider, excluding government employees and Healthcare Service Providers without NAMAF Practice Numbers, employed by the Responsible Person to temporarily assist the Responsible Person in fulfilling their obligations herein; "medicine" means any substance, intended for human use, defined as medicine in terms of the Medicines and Related Substances Control Act, 2003 (Act No. 13 of 2003); "member" means any person who is the principal member or approved dependent, who is a member of PSEMAS, duly registered in terms of the applicable provisions of the Public Service Staff Rules and the PSEMAS Rules and Regulations and to whom membership has been issued; "Ministry" means Ministry of Finance; "NAMAF" means the Namibian Association of Medical Aid Funds established in terms of section 10 of the Medical Aid Funds Act, 1995 (Act No. 23 of 1995); "NAMAF practice number" means the practice number provided by NAMAF, allocated per individual or private health care facility and its individuals, which will be the only valid practice number to be used for PSEMAS; "private health facility" means any privately owned institution, facility, building or place, other than a hospital, licensed as such in terms of the Hospitals and Health Facilities Act, 1994 (Act 36 of 1994), where patients receive a 6

Healthcare Service and includes the facilities specified in Schedule 1 of the Hospitals and Health Facilities Act, 1994 (Act 36 of 1994); "proof of membership" means a card or computer issued proof issued by the Ministry upon which a member's particulars and those of the member's dependents (if any), which may include biometric information, are recorded as well as the status of membership of PSEMAS and that of the member's dependents (of any) or any other electronic form of proof of membership as may be implemented by the Ministry; "PSEMAS" means the Public Service Employees' Medical Aid Scheme established in terms of the applicable regulations to the Public Service Act, 1995 (Act 13 of 1995); "Responsible Person" means the person nominated by the Healthcare Service Provider, excluding Healthcare Service Providers practicing individually, to complete the Application for and on behalf of the Healthcare Service Provider and so doing legally binding those Healthcare Service Provider to the obligations herein; "tariff" means the tariff calculated by the Ministry, subject to annual review; 2Any reference to legislation refers to that legislation as at the date of signature hereof, as amended or re-enacted from time to time, and includes reference to any regulations, notices or rules that may have been promulgated thereunder. 2. RESPONSIBLE PERSON 21 The Application must be completed by the following persons: 2.1.1 Healthcare Service Provider practicing individually, 2.12 locums; and 2.13 Responsible Person. 7

3. OBLIGATIONS OF THE HEALTHCARE SERVICE PROVIDER 3.1. The Healthcare Service Provider agrees to provide the Healthcare Service described herein as an independent contractor. 3.2 It is expressly agreed by the parties hereto that no work, act, commission or omission by the Healthcare Service Provider pursuant hereto shall be construed to make or render the Healthcare Service Provider the agent, employee or servant of the Ministry. 3.3. The Healthcare Service Provider agrees to perform such Healthcare Services, at all times, in strict accordance with currently approved and accepted professional methods, protocols and practices applicable to the specific scope of practices of the Healthcare Service Provider; and 3.4. The Healthcare Service Provider shall be responsible for the payment of all taxes incurred as a result of these Terms and Condition, and further agrees to indemnify and hold the Ministry harmless

from the same. 3.5. The Healthcare Service Provider shall maintain in force throughout the term of this Application such policies of professional insurance liability as is required for the specific Healthcare Service. 3.6. The Healthcare Service Provider and any Healthcare Service Providers employed or providing services on behalf of the Healthcare Service Provider shall maintain all applicable licenses, registration, enrollment and approval requirements and shall meet all requirements which may be set from time to time by either NAMAFA, the Ministry of Health and Social Services, the Social Security Commission, the Receiver of Revenue and the relevant Council(s) responsible for such licensing, registration or enrolment. 8

3.7. The Healthcare Service Provider represents and warrants that, the Healthcare Service Provider and any Healthcare Service Provider employed of providing services on behalf of the Healthcare Service Provider has: 3.7.1 the necessary licenses, registrations, entitlements or other approvals required to provide Healthcare Services and that such licenses, registrations, entitlements or other approvals have never been suspended, revoked, restricted, or deemed to be probationary; 3.7.2 never been found guilty by the Ministry of Health and Social Services or applicable Council(s) or similar institutions in a foreign jurisdiction; 3.7.3 not been subject to a final judgement in a professional liability action and no action, based on an allegation of professional liability or malpractice, has ever been settled by payment to the complainant, 3.7.4 never had clinical privileges revoked by any hospital; and 3.7.5 the Healthcare Service Providers employed by the Healthcare Service Provider are duly qualified and licensed, registered or enrolled with the applicable professional Council, and are in good-standing with such Council. 3.8. The Healthcare Service Provider shall not be entitled to claim in more than one city, town, region or area on the same NAMAFA practice number, during the same period, unless there is proof that his or her practice has been relocated or a locum has been hired and supporting documentation has been submitted to the Ministry of Finance and the Administrator. 3.9. The Ministry reserve the right to only award PSEMAS Contract to Healthcare Service Providers registered or enrolled under the below Acts, except for Hospitals and Health facilities; 9

(a) the Social Work and Psychology Act, 2004 (Act No. 6 of 2004); (b) the Allied Health Professions Act, 2004 (Act No. 7 of 2004); (c) the Nursing Act, 2004 (Act No. 8 of 2004); (d) the Pharmacy Act, 2004 (Act No. 9 of 2004); or (e) the Medical and Dental Act, 2004 (Act No. 10 of 2004) 3.10. Where a Healthcare Service Provider has multiple practices registered under his /her name through 11 Sole Proprietor, Partnership, Close Corporation, the contract authorization will be limited to one (1) practices per Healthcare Service Provider. 3.11. Where trading under Close Cooperation's, Partnerships, Companies, or trust, all partners should be Healthcare Professionals of the relevant discipline and should submit such proof of registration with the Health Professionals Council of Namibia, except for hospital and Health Facilities. 3.12. The following conditions must be met by a hospital and private health facility: 3.9.1 proof of registration or license issued in terms of the Hospitals and Health Facilities Act, 1994 (Act No. 36 of 1994); 3.9.2 details of the responsible healthcare service providers employed by the private hospital or private health facility and proof of their compliance with the requirements in terms of these Terms and Conditions; 3.9.3 where a private hospital or private health facility operates more than one hospital or facility, details of the healthcare service providers available at each hospital or facility should be provided. 10

4. SERVICES TO BE RENDERED The Healthcare Service Provider agrees and undertakes to render its Healthcare Services to any member of PSEMAS, in accordance with the Rules and Regulations of PSEMAS, applicable scope of practices and the Terms and Conditions hereof. 4.2 Nothing contained herein shall be construed or interpreted by either party as placing a specific obligation on the Ministry or a member to utilise the Healthcare Services of the Healthcare Service Provider. 4.3. "The Ministry shall directly, or through the Administrator, advise the Healthcare Service Provider of the PSEMAS Rules and Regulations applicable and relevant to the Healthcare Service Provider's profession and Healthcare Services from time to time. 4.4. The Healthcare Service Provider agrees to cooperate with the Ministry and the Administrator in respect of all matters relating to the provision and administration of Healthcare Services, including such additional functions/ responsibilities, which the Ministry may ascribe to the Administrator from time to time. 4.5: The Ministry, Administrator or any of its employees, agents or assigns shall not accept any liability for the fraudulent and/or dishonest use of PSEMAS membership by members or third parties. In the event that it is proven that membership of PSEMAS was used in a dishonest manner as a result of actions of employees of the Ministry/ Administrator such employees will be held personally liable. 4.6. The Healthcare Service Provider shall ensure that a valid Identity Document and proof of membership is produced by each member and placed on file. Upon subsequent rendering of Healthcare Services the Healthcare Service Provider, if in direct contact with the member, will request sight of the Identity Document and proof of membership before tendering the Healthcare Services. 11

47. In instances of fraud, dishonesty or false representations by a member, the Ministry shall not be required to pay the Healthcare Service Provider such services so rendered and in such an instance the member will be fully liable for the payment thereof. 4.8. The Healthcare Service Provider shall exhaust all reasonable efforts to prevent any member from abusing, misusing or over-utilising PSEMAS. including but not limited to, verifying personal information of members, reporting abuse of PSEMAS and misuse of benefits by members. 49. The Healthcare Service Provider shall, as required from time to time, be provided by the Administrator with practice analysis and the Ministry and the Administrator shall have the right to consult with the various Boards/Societies/ Councils in the Healthcare Service industry related to norms, trends and peer review(s). 4.10. It is expected from the Healthcare Service Provider to have thorough knowledge of and abide by the PSEMAS Rules and Regulations and tariffs and the Healthcare Service Provider may, contact the Administrator to procure any information relating to the same. 4.11. The Ministry may amend the PSEMAS Rules and Regulations from time to time, which amendments shall only become operational after 30 (thirty) days prior notification has been to the Healthcare Service Provider. 5. PROCEDURE FOR CLAIM PROCESSING 5.1. The Healthcare Service Provider undertakes to submit to the Administrator a claim for Healthcare Service Providers services rendered to a member within 180 (one 12

hundred and eighty) days from the date on which the Healthcare Services were so rendered failure to which the claim shall lapse. 5.2. The claim shall be submitted in the prescribed manner and shall contain such information as required by the Ministry and / or Administrator from time to time. 5.3. Within 30 (thirty) days of Date of Submission of a claim submitted by the Healthcare Service Provider, the Administrator, on behalf of the Ministry, will determine the validity of the claim by assessing whether: 5.3.1. the member is a current and valid member of PSEMAS whose benefits are not exhausted or insufficient, 5.3.2 the claim contains all the

necessary information as required herein; 5.33. the Healthcare Service Provider is authorised, in accordance with the applicable laws and regulations, to render the particular Healthcare Service claimed for, 5.34.4 the claim complies with these specific Terms and Conditions, the PSEMAS Rules and Regulations and tariffs; and 5.35. there exists no prima facie irregularity in respect of the claim itself, or the claim format or process. 5.3.6. The Administrator on behalf of the Ministry has the right to demand proof of levy paid by the members. 5.4. Where a claim is determined to be valid, the Administrator shall, on behalf of the Ministry, effect payment to the Healthcare Service Provider within 30 (thirty) days from the date of such determination. 5.5. Where a claim is determined to be invalid: 13

5.5.1. the Administrator will communicate the reasons for such invalidity to the Healthcare Service Provider within 30 (thirty) days of such determination; 5.52 the Healthcare Service Provider is required to resubmit the claim and an explanation rebutting the alleged invalidity within 30 (thirty) days of receipt of such communication from the Administrator, and 5.53. upon receipt of the resubmitted claim, the Administrator will reassess the claim within 10 business days. 5.6. The Administrator, on behalf of the Ministry, is responsible for the assessment and determination of the validity of all claims submitted by the Healthcare Service Provider, and it is agreed that 5.6.1. all correspondence and communication regarding claims will be directed to the Administrator, and 5.62 the Ministry will not attend to, or be required to attend to any enquiries resulting from the submission of claims to the Administrator, unless such enquiry is appropriately channeled through the Administrator. 5.7. The Healthcare Service Provider agrees only to submit claims based on prescribed PSEMAS tariffs minus the levy which specifically arise from Healthcare Services rendered to members, 5.8. A claim which is not submitted according to the provisions hereof, will not be considered for payment. 5.9. The Ministry has the right to claim back any payment made or is in the process of being made to the Healthcare Service Provider due to incorrect submission, processing or non-compliance to the PSEMAS Rules and Regulations or tariffs. 14

5.10. The member or his/her dependent(s) must be furnished with proof of the total amount to be claimed from PSEMAS by the Healthcare Service Provider for the Healthcare Service rendered. 5.11. It is mandatory that the Healthcare Service Provider charges the member the applicable levy for Healthcare Service prescribed by the Ministry from time to time 5.12. All claims to be considered for payment shall indicate and contain the following details: 5.121. Name and initials of the member as per proof of membership; 5.122. Postal address of member; 5.123. Membership number as per proof of membership; 5.124. Date of birth (vyy / mm / dd) and initials of dependent(s) as per proof of membership, where applicable; 5.125. Date that the service was rendered; 5.126. Detailed description by tariff code, tariff description, tariff amount, name of medicine, National Pharmaceutical Product Index (NAPPI) codes, strength, quantity and price of medicine; 5.127. Signature of the Healthcare Service Provider that rendered services to member in his/her own capacity; 5.128. Signature of the member or dependent/guardian, except for the exempted list of Healthcare Service Providers as indicated in Annexure C; and 5.129. Proof of member's levy payment. 15

5.13. In the event of emergency or treating an indigent patient the Healthcare Service Provider must provide written reasons for not attaching proof of member's levy payment to the claim. 5.14. Healthcare Service Providers, through the Responsible Person, who are unable to meet the

claim processing requirements, due to the nature of their Healthcare Service, must inform the Ministry and the Administrator thereof in writing to obtain a written exemption therefrom. 5.15. The Ministry has the right to amend or augment the information required for the submission of claims from time to time. Service provider to be informed thirty (30) days prior to implementation of amended rules. 5.16. Hard copies of all claims are required for submission, irrespective of the mode of submission, eg, electronic format. 5.17, "The Ministry shall further be entitled to require any other additional information as communicated to the Healthcare Service Provider from time to time, 5.18. The Ministry is further entitled to such additional information regarding the claim and the particular Healthcare Service as it may from time to time deem necessary and appropriate 5.19. Claims of Healthcare Service Provider who are not in good standing with Receiver of Revenue, will not be honoured, until such a time that good standing is reconfirmed. 5.20. Claims from multiple practices on the same NAMA practice number, is prohibited and will be treated as fraudulent, in addition such claims will not be honoured. 6. PSEMAS TARIFF 6.1. The tariff at which Healthcare Services will be rendered to members of PSEMAS, unless otherwise agreed, will not exceed the tariff minus the levy payable by the member as determined, and as may be amended from time to time on 60 (sixty) days' prior written notification by the Ministry. 6.2. Nothing contained herein shall be construed as prohibiting the Healthcare Service Provider from rendering Healthcare Services at a tariff less than that determined by the Ministry, provided that the member pays the required levy on such a tariff 16

6.3. No split billing will be allowed in that a single treatment shall attract a specific tariff instead of splitting in several treatments with separate tariffs. Further members must not be charged more than the agreed tariff payable to the Healthcare Service Provider. 7. PROHIBITION OF CESSION The Healthcare Service Provider shall not cede any of his/her rights, title or interest hereunder to any other person whomsoever as this renders the application null and void as applications are submitted in terms of NAMA practice numbers attached to the Healthcare Service Provider. 8. CHANGE IN LEGAL STATUS 8.1. In the event that the Healthcare Service Provider intends changing its legal status, the Healthcare Service Provider shall, at least 60 (sixty) days prior to such change taking effect, notify the Ministry and the Administrator in writing of such intended change. 8.2 A change of the Healthcare Service Provider's legal status shall require the Healthcare Service Provider to reapply as a Healthcare Service Provider as per Annexure A1 and A2, is applicable. 8.3. If the Healthcare Service Provider intends to change its name as originally indicated on Annexure A1 or A2, as applicable, the Healthcare Service Provider must notify the Ministry of such a change thirty (30) days' before making the change- 8.4. For the purposes of this clause, a change of legal status of the Healthcare Service Provider shall include: 8.4.1. in the case of a company or a close corporation, the selling, transfer, donation or otherwise disposal of shares or member interest; 17

8.42 in the case of a partnership, any change in the constitution of the partnership or the dissolution of the partnership for whatever reason; and 8.43. in the case of a sole proprietor, any partnership with other Healthcare Service Providers or the incorporation of a company or close corporation. 8.4.4. In the case of new or resigned Healthcare Service Provider employed by the practice. 9. INVESTIGATIONS AND SUSPENSION 9.1 In the event of the Ministry receiving a complaint from a member or any other person in connection with any matter relating to a Healthcare Service Provider, the Ministry or Administrator will investigate and mediate upon

such complaint and will conduct the necessary investigation and mediation in such manner as it may decide in its sole discretion. 9.2 The Healthcare Service Provider agrees to cooperate, as far as can reasonably be expected from him or her, in any investigation and accord such cooperation to the Ministry and the Administrator, including its agents and representatives contemplated herein. 9.3 The Ministry and its duly authorised agents(o) or representative(s) shall be entitled, during normal business hours, to enter the premises of the Healthcare Service Provider and shall have the right to inspect the books, documents, correspondence, records and any other relevant information, or matters arising from or which are incidental thereto, whether directly or indirectly. 9.4 The Healthcare Service Provider undertakes to further furnish, without undue delay, such information relating to or incidental to any matter governed hereby. 18

9.5 The Healthcare Service Provider shall be obliged, upon request by the Ministry, the Administrator or any of its authorised agents or representatives, to furnish, copies of any documents reasonably required by the Ministry in order to investigate any query, dispute or audit relating to or incidental to the matter relating hereto. 9.6 If a Healthcare Service Provider is found guilty of an act of fraud, dishonesty or false representations, or has engaged in a dishonest business practice, following a preliminary investigation, the operations of this PSEMAS Contract will be suspended immediately and all payments due and payable to Healthcare Service Provider as from the date of alleged act(6) of dishonesty will be with held until the matter has been finalized. 9.7 In the event that the results of the initial investigation referred to herein are confirmed consequent to the further investigation referred to above, the PSEMAS Contract will automatically terminate 9.8 The relevant Council will be alerted to the investigation and all relevant information collected by the Ministry and the Administrator will be made available to the Council to take further disciplinary action apart from the process being undertaken by the Ministry. 9.9 The Healthcare Service Provider will automatically be removed as a recognised, approved and accredited Healthcare Service Provider in the event that the results of the initial investigation referred to herein are confirmed consequent to further investigations referred to above. 9.10 During such investigation, the member's membership of PSEMAS will similarly be suspended pending the outcome of any investigations carried out by the Ministry or the Administrator to determine the extent, if at all, of the member's complicity with respect to the events contemplated. 19

9.11 Where a Healthcare Service Provider is found to have contravened the Rules and Regulations or billing guidelines of PSEMAS in anyway the Healthcare Service Provider may be required to pay the equivalent to the Ministry. 9.12 Nothing contained herein prevents the Ministry from instiuting criminal proceedings against a Healthcare Service Provider and/or a member for fraudulent action in terms of PSEMAS. 10. DURATION AND TERMINATION 10.1 These Terms and Conditions become binding on the Healthcare Service Provider from date of signature of Annexure A1 or A2, as applicable, by the Healthcare Service Provider. 10.2 The Healthcare Service Provider must register with the televant council annually and submit a certificate of good standing from the Receiver of Revenue bi-annually. 10.3 'These Terms and Conditions, subject to annual review, shall remain valid and enforceable through annual tenewal of the Application by the Responsible Person. 10.4 Notwithstanding anything to the contrary contained herein, failing written explanation from the Healthcare Service Provider, and subject to an express and contrary written indication from the Ministry, the Application shall automatically terminate if one or any of the following occurs: 10.4.1 the Healthcare Service Provider's required

registrations and good standing certificates lapses; 10.42 the Healthcare Service Provider cedes its right, title or interest to any third party without first having obtained the written consent of the Ministry; 20

10.43 the Healthcare Service Provider undergoes a change in legal status without notifying the Ministry; or 10.44 the Healthcare Service Provider is declared insolvent, sequestrated or liquidated (whether provisionally or finally). 10.5 this section must be read in conjunction with section 3. 10.6 These Terms and Conditions can be terminated at the election of either party, provided that the party so wishing to terminate, shall advise the other party thereof, in writing, on at least 60 (sixty) days prior written notice. This includes the Ministry's right to revoke the Application of the Healthcare Service Provider that is continuously claiming above the peer's norm. 10.7 Preference will be given to Namibian Service providers for services that are not scarce. 10.8 These Terms and Conditions, including the annexures thereto, do not have retroactive application. 10.9 In order to preserve the solvency of the fund and or amendments to the PSEMAS Rules, PSEMAS may amend this Contract, or an appendix of the Contract by giving 45 days, prior written notice to the other party. 10.10 If the other party is unwilling to continue with the PSEMAS Contract as amended, it may terminate the Contract by giving notice to the Ministry for not later than 30 days from the date of receipt of the effective date proposed amendments. 10.11 For the avoidance of doubt, no unilateral amendment will retroactively modify any binding dispute-resolution provisions of the Contract for pending disputes unless the parties expressly agree otherwise. 21

10.12 For the avoidance of doubt, without the non-amending party's express written agreement, a unilateral amendment will not retroactively eliminate or modify any right already exercised by the non-amending party including, for example, any right to demand that the amending party perform an obligation under the Contract. 11. DISQUALIFICATION PSEMAS Contract will not be awarded to; 11.1 Healthcare Service Providers who have been denied membership or reappointment of membership on the medical staff of any hospital or health facility, and no clinical privileges of the Healthcare Service Provider have ever been suspended, curtailed, or revoked; 11.2 Healthcare Service Providers who are under investigation by the Ministry, the Administrator and or other appropriate authorities due to irregularities relating to fraud and/or dishonesty and/or false representations, or has engaged in dishonest business practice will not be eligible to be awarded a PSEMAS Contract, and 11.3 Where irregularities have been confirmed on a Healthcare Service Provider by the Ministry, the Administrator and or other appropriate authorities, the Healthcare Service Provider will no longer be eligible for PSEMAS Contract. 11.4 The Ministry reserves the right not to award a PSEMAS Contract to Healthcare Service Provider(s) as responsible person of a practice in possession of a work permit. 12. MEDIATION AND ARBITRATION 12.1 If a dispute arises out of or relates to these Terms and Conditions, or the alleged breach thereof, the Parties agree first to try in good faith to settle the dispute by mediation within thirty (30) days through a process as determined by the Attorney-General before resorting to arbitration. 22

12.2 In the event that mediation has failed, the dispute shall be referred to arbitration, by any of the parties, by way of a notice to the other party, in which notice particulars of the dispute are set out. 12.3 Such arbitration proceedings shall be held in either Windhoek or Oshakati, Namibia, as the Ministry shall determine, and shall be held in a summary manner, which shall mean that it

shall not be necessary to observe or carry out the usual formalities of procedures and the strict rules of evidence. 12.4 'The arbitrator for such proceedings shall- 12.4.1 if the matter in issue is primarily an accounting or financial matter, be an independent auditor with at least 5 (Five) years' experience, agreed upon by the parties and, failing such agreement, nominated by the chairperson for the time being of the Namibian Institute of Chartered Accountants; or 12.4.2 if the matter in issue is primarily a Healthcare Service Providers matter, be a Healthcare Services practitioner with at least 10 (ten) years' experience, agreed upon by the parties and, failing such agreement, nominated by the Ministry of Health and Social Services or the relevant Council; 12.4.3 any other matter, be a practicing legal practitioner with at least 10 (ten) years' experience, agreed upon by the parties and, failing such agreement, nominated by the Chairperson for the time being of the Law Society of Namibia; or 12.4.4 in the event where the parties are unable to agree whether the nature of a dispute is primarily of an accounting or financial nature, healthcare matter, technical nature or any other nature, then the nature of that dispute shall be decided by a practicing legal practitioner with at least 10 (ten) years' experience, agreed upon by the parties and, failing such agreement, 23

nominated by the Chairperson for the time being of the Law Society of Namibia. 12.5 The decision of the arbitrator shall be final and binding on the parties, who shall summarily carry out that decision and either of the parties shall be entitled to have the decision made an order of any court with competent jurisdiction. 12.6 "The "arbitration" clause in these Terms and Conditions shall be severable from the rest of these Terms and Conditions and therefore shall remain effective between the parties after the application has been terminated. 12.7 No clause in these Terms and Conditions which refers to arbitration shall mean or be deemed to mean or interpreted to mean that either of the parties shall be precluded from obtaining interim relief on an urgent basis from a court of competent jurisdiction pending the decision of the arbitrator. 12.8 Any notice, demand or other communication properly addressed by either party to the other party's postal address provided in the Application in terms hereof, for the time being, and sent by prepaid registered post shall be deemed to be received by the latter on the 14th business day following the date of posting thereof. 12.9 Other means and methods (including telefacsimile) may be used for the transmission or delivery of notices, acceptances and other communications, but no presumption of delivery shall arise if any such other means or method is used. 13. BREACH Should any party commit an irremediable breach or a remediable breach of any material provision hereof, and fail to remedy such breach within 30 (thirty) days after having received written notice from the other party requiring it to do so, then the party aggrieved by such breach shall be entitled, without prejudice to any of its other rights in law, to cancel the Application. 24

14. NECESSARY POWERS AND AUTHORISATIONS 14.1 The parties undertake to pass all resolutions, sign all documents and take all reasonable and necessary steps to give effect to and ensure the proper discharge of their respective duties in terms hereof. 14.2 The signatories to the Application warrant that they are duly authorised to bind the parties to the Terms and Conditions contained herein. 15. CONFIDENTIALITY 15.1 The parties agree to disclose confidential information to the other as far as it may be necessary to enable the other party to fulfill its obligations and carry out its functions under these Terms and Conditions. 15.2 Both parties agree that they will not, during the course of its association with the other, or at any time thereafter, disclose confidential information to any third party for any reason or any purpose whatsoever

without prior written consent of the other. 16 NON-WAIVER 16.1 Neither party shall be regarded as having waived, or be precluded in any way from exercising, any right under or arising from these Terms and Conditions by reason of such party having at any time granted any extension of time for, or having shown any indulgence to the other party with reference to, any payment or performance hereunder, or having failed to enforce, or delayed in the enforcement of, any right of action against the other party. 162 'The failure of either party to comply with any non-material provision of these Terms and Conditions shall not excuse the other party from performing the latter's obligations hereunder fully and timeously. 25

17. SEVERABILITY 17.1 If any term or other provision of these Terms and Conditions is invalid, illegal or incapable of being enforced by any risk of law or public policy, all other conditions and provisions hereof shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner adverse to the other party. 172 Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify these Terms and Conditions so as to effect the original interest of the parties as closely as possible in an acceptable manner such that the transactions contemplated hereby are fulfilled to the greatest extent possible. 18. COMPLETE TERMS AND conditions 18.1 'These Terms and Conditions and the Annexures defined herein constitute the entire agreement between the parties relating to the subject matter hereof. 18.2 None of the following actions shall be binding unless recorded in a written document signed by the parties: 18.21 amendment or consensual cancellation of any provision or term hereof or of any contract, or other document issued or executed pursuant to or in terms hereof 18.22 settlement of any disputes arising under hereunder; and 1823 extension of time, waiver or relaxation or suspension of any of the provisions of terms of these Terms and Conditions or any contract, or other document issued pursuant to or in terms of these Terms and Conditions. 26

183 Any extension, waiver of relaxation or suspension which is so given or made shall be strictly construed as relating strictly to the matter in respect whereof it was made or given. 18.4 No extension of time or waiver or relaxation of any of the provisions or terms of these Terms and Conditions of other document issued or executed pursuant hereto, shall preclude such party thereafter from exercising its rights strictly in accordance with these Terms and Conditions 18.5 No party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein, whether it induced the contract and/or whether it was negligent or not. HON. CARL GH. SCHLETTWEIN, MP THE MINISTER OF FINANCE 27