





- licence or otherwise) or Documentation under the licence granted to the Practice by this Agreement other than an employee or subcontractor carrying out medical, nursing, administrative, secretarial, or receptionist services for the exclusive benefit of the Practice (and for the avoidance of doubt nothing will restrict the Practice from encouraging third parties to obtain their own licence from Precedence Health Care for the use of the Software);
- (e) must not reproduce, alter or modify any part of the Documentation or allow any part of it to be combined with other documentation or works; and
  - (f) must not make alterations to, or modifications of, the whole or any part of the Software nor permit the Software or any part of it to be combined with, or become incorporated in, any other programs (except as may be expressly permitted by the *Copyright Act 1968 (Cth)*).
- 1.4. Except with respect to any non-excludable guarantees under the Australian Consumer Law, The Practice agrees to the fullest extent permitted by law, that COORDINARE is not responsible for any non-performance, failure or other aspect of the Software or Documentation. Where any non-excludable guarantees under the Australian Consumer Law cannot be excluded, COORDINARE's liability is limited to, in the case of services, the supplying of the services again or the payment of the cost of having the services supplied again.
- 1.5. The Practice releases COORDINARE from all Losses to the extent that they are caused by:
- (a) any negligent or wrongful act or omission of Precedence Health Group or any of their employees, servants, agents or contractors; and
  - (b) a breach by Precedence Health Group of its obligations (whether under contract, under legislation or at common law) in relation to confidential information, privacy or Practice Data, including<sup>i</sup> any data breach.
- 1.6. The Practice must use reasonable endeavors to ensure that Precedence Health Care is able to remotely access The Practice's computer systems for the purposes of providing installation services, training services and support services, and The Practice must comply with all reasonable directions of Precedence Health Care in respect of these services.
- 1.7. The Practice agrees to action and implement any update or upgrade to the Software that Precedence Health Care provides to The Practice within 14 days of the Practice's receipt of such an update or upgrade.

## **2. Data Collection, Transfer and Reporting**

- 2.1. During the term, The Practice agrees that COORDINARE will collect utilisation data (at the Practice Level) created from the use of the Software. No identifiable information of the Users will be collected without the express consent of those Users or unless clause 2.3 applies.
- 2.2. COORDINARE will use the data collected under clause 2.1 for the following purposes:
- a) informing COORDINARE's population health planning and service development for the South-Eastern NSW primary health network catchment;
  - b) supporting general practice-based quality improvement programs; and
  - c) facilitating the provision of the updates, support, and other services related to the Software.
- 2.3. The Practice acknowledges that COORDINARE's collection and use of data created in connection with the Software may be governed by separate agreements with The Practice and/or Users which permits COORDINARE to collect and use data for additional or different purposes, and nothing in clause 2.1 or 2.2 is intended to limit COORDINARE's use of such data under those arrangements.
- 2.4. COORDINARE will take all reasonable steps for the secure storage of any data once in



its possession, appropriately restricted data access and responsible usage of all data including responsible reporting from all analysis of the data that are in-line with all relevant laws and guidelines and the COORDINARE's *Population Health Data and Information Governance Policy*.

- 2.5. COORDINARE will appoint a Nominated Data Custodian, who will be responsible for the data collection and storage contemplated by this Agreement in accordance with applicable laws, polices and Commonwealth guidelines for data use.

### 3. Privacy

- 3.1. The Practice must ensure that the relevant data files for the Software installed on The Practice's computer systems are stored in a secure manner so as to prevent unauthorized access and use.
- 3.2. To the fullest extent permitted by law and except as expressly assumed under this Agreement, The Practice acknowledges that COORDINARE is not responsible for the security of Practice Data.
- 3.3. The Practice agrees to comply with the *Privacy Act 1988 (Cth)*, the *Health Records and Information Privacy Act 2002 (NSW) (HRIPA)* and all other applicable privacy laws including with respect to the collection, use, possession, disclosure and processing of Practice Data, including but not limited to obtaining of patient consent in accordance with those laws where required.

### 4. General Terms

- 4.1. The Practice agrees that COORDINARE:
  - (a) do not provide medical services or medical opinions of any kind and that any medical or related services provided by the Practice to any medical patient are provided by the Practice alone;
  - (b) are not in any way to be taken to be a party to any agreement for the provision of services to any medical patient and are not responsible for the performance of any such agreement.
- 4.2. The Practice must not transfer, assign, charge or otherwise dispose of its rights or obligations under this Agreement.
- 4.3. This Agreement is subject to and shall be construed in accordance with the laws in force in New South Wales.
- 4.4. COORDINARE may notify The Practice in writing of any proposed modification to this agreement at any time. The Practice may object to the proposed changes. If The Practice does provide any written objection within four (4) weeks after COORDINARE provides the notice, (**Objection Period**), the notified changes are considered to be accepted unequivocally by The Practice. If The Practice gives notice that it does not wish to accept the proposed modifications, then this agreement will terminate on the end date of the Objection Period.
- 4.5. If any part of this Agreement is or becomes invalid, illegal or unenforceable, that part will be taken to be removed from the Agreement and will not affect the validity of the remaining clauses.
- 4.6. Any right of Precedence Health Care under this Agreement is held on trust by COORDINARE and may be enforced by COORDINARE on Precedence Health Care' behalf.
- 4.7. The Practice agrees to keep the terms of this Agreement confidential and not disclose them to any third party (other than its legal advisers who have professional obligations of confidentiality or as required by law) without the prior consent of COORDINARE.



## 5. Breach and Dispute Resolution

- 5.1. The Practice and COORDINARE agree to work together in good faith to resolve any matter requiring their direction or resolution.
- 5.2. If The Practice or COORDINARE claim that a dispute has arisen under this Agreement, they must give the other party a notice specifying the nature of the dispute. After receipt of the notice, each party must appoint a representative each with the appropriate authority to resolve the dispute. Those representatives must meet to try and resolve the dispute within 7 days.
- 5.3. Should the representatives fail to resolve the dispute, either party may terminate this agreement by giving 30 days written notice and take such other steps, including the commencement of proceedings as they see fit.
- 5.4. Should COORDINARE become aware of any breach of this Agreement capable of remedy, COORDINARE may suspend (or direct the suspension of) The Practice's licence to the Software and Documentation.
- 5.5. The Practice must resolve any breach of this Agreement within 14 days of receiving notice of the breach from COORDINARE.
- 5.6. COORDINARE will reinstate The Practice's licence to the Software and Documentation within 7 days of notification that the Practice is no longer in breach of this Agreement provided that COORDINARE hasn't exercised its rights to terminate this Agreement.

## 6. Termination

- 6.1. COORDINARE may terminate this Agreement immediately if The Practice:
  - (a) breaches any irremediable provision of this Agreement (in the reasonable opinion of COORDINARE);
  - (b) fails to remedy a breach that is capable of remedy within 14 days of receiving notice under clause 5.5;
  - (c) breaches COORDINARE'S or Precedence Health Care's Intellectual Property Rights; or
  - (d) suffers an Insolvency Event.
- 6.2. Either party may at any time terminate this Agreement by giving the other party 30 day's prior written notice.
- 6.3. Upon termination for any reason, the Practice:
  - (a) will be responsible for maintaining COORDINARE's and Precedence Health Care's Intellectual Property Rights; and
  - (b) must comply with all directions of COORDINARE in respect of the Software, Documentation, and COORDINARE's and Precedence Health Care's Intellectual Property Rights

## 7. Definitions

- 7.1. In this Agreement:
  - (a) **Claim** means claim, threat, demand, proceedings, whether actual or threatened.
  - (b) **Documentation** means documents, manuals, instructions and information provided by Precedence Health Care or COORDINARE in connection with the Software.
  - (c) **Insolvency Event** means where The Practice is an incorporated entity and they are insolvent (as defined in the Corporations Act), a controller, receiver, administrator or similar person is appointed to them or an order is made for their winding up.
  - (d) **Intellectual Property Rights** means all rights in copyright, patents, registered and unregistered trademarks, designs, trade secrets, trade, business or company names, confidential or other proprietary rights or any rights to apply for or register such rights (whether in Australia or anywhere else in the world).
  - (e) **Loss** includes all loss, damage, costs, contributions and expenses, including legal costs and expenses incurred in commencing, defending or settling any Claim;



- (f) **National Data Custodian** means the Commonwealth entity or Commonwealth company (as defined under the *Public Governance, Performance and Accountability Act 2013*) who collect data, are responsible for applying the principles and requirements of applicable law to share and release data appropriately, and responsible for assessing requests for access to data under law.
- (g) **Nominated Data Custodian** means an employee of COORDINARE who is the Manager, Planning and Insights or such other person as COORDINARE may nominate from time to time, who is to undertake the functions in clause 2.5.
- (h) **Precedence Health Care** means Precedence Health Care Pty Ltd (ABN 60 115 940 120).
- (i) **Practice Data** means all data, information and records generated in connection with the operation of a medical practice (including health records of patients) by The Practice.
- (j) **Software** means Precedence Health Care’s suite of products (Inca and optional Meditracker)
- (k) **Term** has the meaning in clause 1.1.
- (l) **User** means an officer, employee or contractor of The Practice who is authorised by The Practice to use the Software under the licence granted by this Agreement.

**8. Execution**

Date: .....

The Parties have executed this Agreement as follows:

.....  
(insert legal entity name of The Practice)

.....  
(The Practice’s authorised representative)

this ..... day of ..... 20.....  
In the presence of:

.....  
(insert name of COORDINARE’s representative)

.....  
(signature of The Practice’s authorised representative)

.....  
(signature of COORDINARE’s authorised representative)