

DEED POLL

By:

Customer name	
ABN/ACN	
Address	

In favour of:

Best Practice Software Pty Ltd ABN 92 104 808 988 of 86 Woongarra Street, Bundaberg QLD 4670 (**BPS**).

Introduction

- A. The Customer has been granted licence to use the Software and/or one or both of the SMS Service and/or Communication Functionality.
- B. As part of use of the SMS Service and/or Communication Functionality, the Customer is required to seek consent from its patients for certain practice-related communications using the SMS Service and/or Communication Functionality.
- C. The Customer has represented that it has already sought consent from patients for the practice-related communication.
- D. The Customer has requested BPS provide a) a utility to update the records in the Software with details of the consent from patients already obtained by the Customer (**Script**); and/or b) a utility to update, in bulk, the records for certain practice-related communication using the SMS Service and/or Communication Functionality (**Bulk Update Utility**).
- E. BPS agrees to provide to the Customer a) a Script which will insert consent values from Customer's previous practice management software into the Software (if applicable); and/or b) a Script and Bulk Update Utility to update consents already obtained, subject to the Customer entering into this deed poll.

Operative clauses

1. Acknowledgements, release and indemnity

- 1.1 The Customer acknowledges and agrees that it is solely responsible for ensuring that its use of the Software, the SMS Service and/or Communication Functionality complies with all Privacy Laws and that the use of the Script/Bulk Update Utility will not cause it to contravene Privacy Laws. The Customer acknowledges that automatic consent process can be enabled with implicit patient consent except for health awareness and marketing related communication that require patient's express consent to opt-in, the Customer agrees to seek patient's specific consent if not already sought.
- 1.2 The Customer releases and forever discharges BPS, each Related Entity of BPS and each of their respective directors, officers, employees and agents (collectively, the Released Parties) from any and all claims, actions, suits, proceedings or demands which the Customer has, or but for this deed may have, against BPS or any other Released Parties arising from or in connection with (a) the Customer's use of the Script/Bulk Update Utility; (b) the Customer's failure to comply with, or contravention of, any Privacy Laws, (together, the Released Matters) whether now or in the future, whether known or unknown and whether arising at common law, in equity, under statute or otherwise.
- 1.3 The Customer intends and agrees that the releases and covenants contained in this clause 1 be construed, interpreted and applied as broadly as possible for all and any purpose.

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- 1.4 The Customer acknowledges and agrees that this deed may be pleaded as an absolute bar to any claim, action, suit, proceeding or demand made by, or on behalf of, the Customer, against any of the Released Parties arising from or in connection with any of the Released Matters.
- 1.5 The Customer indemnifies, and must at all times hold harmless, defend and keep indemnified, the Released Parties from and against all Loss incurred or suffered by any or all of them as a result of any third-party claim, action, suit, proceeding or demand relating to any of the Released Matters.
- 1.6 The Customer acknowledges that BPS holds the benefit of this deed on trust for each other Released Party. The Customer acknowledges that BPS may enforce the terms of this deed on behalf of each other Released Party or each Released Party may enforce this deed directly against the Customer.

2. Definitions

In this deed:

Communication Functionality means the additional functionality of the Software which facilitates specific medical practice-related communication between the Customer and its patients related to and through a mobile application distributed by BPS.

Loss means loss or damage of any kind (including liability to a third party) however it arises and whether it is present or future, fixed or unascertained, actual or contingent.

Privacy Laws means the *Privacy Act 1988* (Cth) (including any regulations) and the Australian Privacy Principles, the *Spam Act 2003* (Cth) (including any regulations) and any applicable state and territory health records legislation (including any regulations), which may include:

- (a) *Health Records and Information Privacy Act 2002* (NSW);
- (b) *Health Records Act 2001* (Vic);
- (c) *Health Records (Privacy and Access) Act 1997* (ACT);
- (d) *Health and Community Services Complaints Act* (NT)

Related Entity has the meaning given to that term in the *Corporations Act 2001* (Cth).

SMS Service means the service offered by BPS through which the Customer can communicate with its patients using, standard, short message service (SMS) through a third-party service provider.

Software means the BPS software product to which the Customer is already licensed pursuant to a separate licence agreement between BPS and the Customer.

3. Governing Law

This deed is governed by the laws of the State of Queensland. The Customer submits to the non-exclusive jurisdiction of the courts of the State of Queensland.

EXECUTION

Authorised signatory	
Name	
Designation	
Date	