

HIRSLANDEN INTERNATIONAL

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GENERAL TERMS HIRSLANDEN INTERNATIONAL SECOND OPINION PORTAL

GENERAL TERMS AND CONDITIONS FOR USE OF THE HIRSLANDEN PORTAL

1. SUBJECT OF THE CONTRACT AND AREA OF APPLICATION

- 1.1. These general terms and conditions govern the relationship between Hirslanden AG, Boulevard Lilienthal 2, 8152 Glattpark (hereinafter referred to as “**Hirslanden**”) and persons who would like to use the online services provided by Hirslanden which are listed in the following. The general terms and conditions in their current version are available on the web site <https://secondopinion.hirslanden.com/terms> under “General terms and conditions”.
- 1.2. **Hirslanden International** is an organisational unit of Hirslanden, which operates a second opinion service via the online platform <https://secondopinion.hirslanden.com> via which private individuals can request second medical opinions and have a second medical opinion provided by specialist doctors selected by Hirslanden (hereinafter referred to as the “**portal**”).
- 1.3. The portal is geared exclusively towards patients not residing in Switzerland who wish to have a second medical opinion provided and will pay the costs themselves (hereinafter referred to as “**international patients**”). Patients residing in Switzerland with insurance in Switzerland are hereby explicitly excluded, and the costs will not be assumed by mandatory health insurance.
- 1.4. Hirslanden will convey the international patient’s request for the provision of a second opinion to an affiliated doctor or have the second opinion provided by a doctor employed by Hirslanden. These are trained specialist doctors who have a Swiss specialist doctor qualification or recognised foreign specialist doctor qualification (affiliated doctors and employed doctors hereinafter referred to jointly as “**specialists**” or individually as “**specialist**”).
- 1.5. Hirslanden cooperates with hospital-affiliated doctors who are trained specialists working as self-employed doctors and are cooperating with Hirslanden on a case by case basis (hereinafter referred to as “**affiliated doctors**”).
- 1.6. The second opinion is based solely on a review of the documents and information provided to Hirslanden by the international patient. In the interests of the best possible diagnosis, it is recom-

mended that a personal examination be carried out by a specialist. In this case, a separate treatment contract will be concluded.

- 1.7. Certain services in connection with the portal will be provided by the company Medexo GmbH, Hauptstrasse 117, D-10827 Berlin, Germany (hereinafter referred to as “**Medexo**”) on behalf of Hirslanden. Medexo will assume the preparation of second opinion requests for the specialists on behalf of Hirslanden (in particular checks to ensure that the documentation is complete, selection and preparation of documents, extraction of relevant data, preparation of second opinion template) and preparation of the specialist’s recommendation as a completed second opinion for the international patient in German or English (in particular form corrections, layperson translations, translations from German into English where necessary).

2. PORTAL FUNCTIONS

- 2.1. Registering on the portal and generating a personal user account are free of charge. International patients may register on the portal (hereinafter referred to as “**user**”). Only natural persons of at least 18 years may register as users. By registering, users are ensuring that they are of at least 18 years old.
- 2.2. Each user selects a username and a password when registering. Users will undertake to keep their password confidential and protect it from unauthorised, third-party access. After registering, users are assigned a personal user account.
- 2.3. Users guarantee that the information and additional documentation they provide to Hirslanden during the registration process are true and complete. In the event of any subsequent changes, they shall promptly correct the information and additional documentation or inform Hirslanden accordingly. Registration under a nickname or pseudonym is not permitted.
- 2.4. If a user acts on behalf of a third party (in the name of the international patient), the user guarantees that he has all the necessary powers of attorney of the respective international patient for the provision of a second opinion (**power of attorney**).
- 2.5. In order for a binding offer for the provision of a second opinion to be possible, users must fill in a detailed questionnaire in connection with their medical complaints and enclose any related documents.
- 2.6. Users will have the opportunity to examine whether the documentation is complete during the order process. By sending their requests, users are guaranteeing that the documents they have submitted are real, all information and additional documentation they have provided are true and complete and that they have the rights necessary for submitting the documents, statements and personal data. If users are making a request for a third party, they will thereby ensure that they have the corresponding power of attorney. If a third party asserts any claims against Hirslanden because the submission was in violation of third-party rights (such as intellectual property or personal rights), users will undertake to indemnify Hirslanden in full.

3. PROVISION OF THE SECOND OPINION

- 3.1. Based on the request and documents provided by the user, Hirslanden will select a specialist who will provide a second opinion on the instructions of the user. By sending the request, the user is concluding a second opinion contract with the specialist, who is represented by Hirslanden (**Annex 1 - Second opinion contract**).
- 3.2. Users explicitly agree to the conditions of the second opinion contract, in particular to Hirslanden alone selecting the specialist who will be providing the second opinion. Users explicitly waives any

objections to the selection of the specialist. Hirslanden guarantees that only proven specialists will be commissioned to provide the service.

- 3.3. The commissioned specialist will provide the second opinion based only on the questionnaire submitted by the user and the documents additionally provided. The second opinion is usually compiled within 10 days of the request being sent by the user.
- 3.4. After the specialist has compiled the second opinion, he or she will upload it to the portal and Hirslanden will notify the user of this fact via e-mail. The second opinion will be available to the user via the latter's personal user account from this moment onwards.

4. PRICES AND PAYMENT CONDITIONS

- 4.1. Hirslanden will charge a flat-rate fee totalling CHF 900.00 (including any value-added tax) for use of the second opinion service. This fee comprises a basic fee for supporting services, use of the system and the services of the specialist.
- 4.2. The user fee according to 4.1 will become immediately payable after the request for the provision of a second opinion is sent. Payment may be via credit card or transfer.
- 4.3. Payment will only be deemed made when Hirslanden is able to dispose of the sum freely and unconditionally. Offsetting is hereby ruled out.

5. CANCELLATION POLICY

- 5.1. Users have the right to revoke this contract within fourteen (14) days without providing any grounds. The revocation period will be fourteen (14) days from the day on which the request for the provision of the second opinion is sent (conclusion of contract). In order to exercise the revocation right, users must provide notification of their decision to revoke this contract by means of a clear statement (e.g. in a letter sent by post, or a fax or e-mail) [address: Hirslanden AG, Hirslanden International, Boulevard Lilienthal 2, CH-8152 Glattpark].
- 5.2. If users revoke this contract, Hirslanden shall repay all payments Hirslanden has received from the user promptly and no later than within fourteen (14) days starting from the day on which the notification of the revocation of this contract is received by Hirslanden. The same payment medium shall be used for this repayment as the one the user used for the original transaction.
- 5.3. If a user demands that the second opinion be provided during the revocation period, the user must pay an appropriate sum which corresponds to the share of the costs incurred up until the point in time at which the user notifies Hirslanden that the user's right of revocation will be exercised. If the second opinion has already been prepared at the time of revocation, the entire fee shall be owed.

6. LIABILITY

- 6.1. Damages arising in connection with the provision of the second opinion by an affiliated doctor are excluded from Hirslanden's liability as Hirslanden is not a contractual partner in this case. In this respect, users must abide by the respective specialist providing their second opinion. Any liability provisions relating to this may be found in the enclosed second opinion contract.
- 6.2. Hirslanden will only be liable for direct damages arising from a deliberate or grossly negligent act on the part of Hirslanden. Any liability on the part of Hirslanden for direct damages in the case of slight negligence, on whatever legal grounds, and for auxiliary persons is hereby explicitly ruled out subject to mandatory statutory provisions. Any liability on the part of Hirslanden for indirect

damages or ancillary damages, on whatever legal grounds, is hereby completely and explicitly ruled out.

- 6.3. Hirslanden may not be made responsible for incorrect statements in the documents sent by the user or for transmission delays for technical reasons or malfunctions unless Hirslanden has caused such incorrect statements or transmission delays or malfunctions deliberately or as a result of gross negligence.
- 6.4. Hirslanden will not assume any liability for the uninterrupted availability of the system or for system-related malfunctions, interruptions and/or disruptions to the technical systems and the portal, insofar as these symptoms are outside of Hirslanden's sphere of influence. In particular, Hirslanden will not be liable for disruptions to the quality of access to the services as a result of force majeure or events for which Hirslanden is not responsible.

7. DATA PROTECTION

- 7.1. Hirslanden is aware that users of its services would like to be informed about how their personal data is handled. Hirslanden attaches the greatest importance to protecting this personal data. Hirslanden only gathers, processes (particularly saves) and uses personal data under strict compliance with Swiss data protection legislation. By using the portal, users declare their consent to the processing of their personal data described in the data protection declaration subject to section 7.2.
- 7.2. Hirslanden only collects, processes (particularly saves) and uses users' personal data for the purposes of providing the commissioned second opinion via a specialist and providing and developing further the portal service as such. Users' consent to the collecting, processing (particularly saving and submission of data to the specialists and processing via Medexo) and to use is provided via a separate data protection declaration which is enclosed with the general terms and conditions (**Annex 2 - Data protection declaration**).
- 7.3. Hirslanden will not forward users' personal data to any other third parties or make them aware of it without authorisation.
- 7.4. Users have the right to access, correct and delete the stored data at any time and at no additional costs, provided that this is not barred by any statutory retention obligations.

8. DECLARATION ON RELEASE FROM PROFESSIONAL SECRECY

- 8.1. In its operation of the portal, Hirslanden is instructed to process user health information which may be subject to the obligations of professional secrecy (Art. 321 StGB [Swiss Criminal Code]). Users explicitly release the specialist and any Hirslanden employees, provided that they are subject to the obligations of professional secrecy, from the obligations of professional secrecy with regard to all information and documents which they provide to the portal (e.g. within the scope of a request for a second opinion) and any documents compiled by the specialist, namely the final second opinion. This release also applies in particular to employees of Medexo who examine, translate or perform similar work on the documents provided by users, questionnaires on the portal and final second opinion.

9. AMENDMENTS TO THESE GENERAL TERMS AND CONDITIONS

- 9.1. Hirslanden reserves the right to amend these general terms and conditions at any time and without giving any reasons. The amended conditions will be e-mailed to users no later than two weeks before they come into force. If users do not object to the validity of the new general terms and condi-

tions within two weeks of receipt, the amended general terms and conditions will be deemed accepted.

10. APPLICABLE LAW, PLACE OF JURISDICTION, WRITTEN FORM

- 10.1. These general terms and conditions are subject to Swiss substantive law, to the exclusion of UN sales law.
- 10.2. The place of jurisdiction is Zürich.
- 10.3. All declarations in connection with the provision of the second opinion or related services must be made in writing or by e-mail to secondopinion@hirslanden.ch or using the Hirslanden contact form.

Zürich, 20/11/2017

ANNEX 1 - SECOND OPINION CONTRACT

The following contract is concluded between a user (hereinafter referred to as “**client**”) and the specialist (hereinafter referred to as “**doctor**”).

1. SUBJECT OF THE CONTRACT

- 1.1. The doctor will provide a second opinion to the client on the matter of questions regarding the user's medical complaints. The second opinion will contain the evaluation of the initial medical assessment.
- 1.2. The evaluation of the questionnaire on the portal filled in by the client shall be the basis for the provision of the second opinion. The doctor further takes into account any other medical documents (e.g. scans of x-rays) which the user has provided to the request for a second opinion.

2. REMUNERATION

Remuneration shall be a flat-rate sum and in line with section 4 of the general terms and conditions.

3. LIABILITY

The second opinion provided by the doctor is based on a review of the files in the initial assessment alone. The client has been informed, subject to the general terms and conditions of the portal <https://secondopinion.hirslanden.com/terms>, that both Hirslanden and the doctor recommend a personal visit to discuss the second opinion and any treatment proposals. It is therefore in the interests of the client to comply with this recommendation. If the client ignores this recommendation, he or she is aware that this is not conducive to achieving the best possible diagnosis or treatment. Any damages incurred by the client as a consequence of disregarding the recommendation made shall be borne by the client himself/herself.

4. CONFIDENTIALITY

The doctor undertakes to treat as confidential all information that comes to his attention when providing the second opinion including after the second opinion has been completed. The doctors providing the second opinion shall, however, be entitled to upload the second opinion on the portal so that the client may download it from there. The client hereby releases the corresponding doctor from the obligation of professional secrecy with respect to Hirslanden. The doctor may also consult other doctors, at his or her discretion, in order to evaluate the initial medical assessment and provide the second opinion.

5. DATA PROTECTION

- 5.1. The doctor shall use the documents and personal data of the client which has been provided solely for the purposes of providing the second opinion.
- 5.2. The client shall have the right to access, correct and delete the stored data at any time and at no additional costs, provided that this is not barred by any statutory retention obligations.

6. TERMINATION

The second opinion contract may be terminated by either party at any time, without providing any grounds. If it is not terminated, the contractual relationship shall end when the second opinion has been completed and submitted to the client.

7. FINAL PROVISIONS

- 7.1. If any provision or provisions of this Agreement shall be held to be invalid, illegal, unenforceable or in conflict with the law of any jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.
- 7.2. The place of jurisdiction for all disputes arising from this contract is Zürich. This Agreement shall exclusively be governed by and interpreted in accordance with the substantive laws of Switzerland, with the exception of the UN Convention on Contracts for the International Sale of Goods (CISG).

ANNEX 2 - DATA PROTECTION DECLARATION

1. PURPOSE AND AREA OF APPLICATION

This data protection declaration is an annex to the general terms and conditions of the Hirslanden International Second Opinion Portal (hereinafter referred to as the “**portal**”) and describes the way in which personal data is processed by Hirslanden. It is designed to create transparency, thereby enabling the portal user to gain a clear idea of which personal data is processed by which persons and for which purpose.

2. PRINCIPLES OF DATA PROCESSING

Hirslanden shall observe the following principles when processing personal data (when it is acquired, retained, used, disclosed, archived and deleted):

- a) The principles of proportionality and data economy: e.g. users’ personal data will only be submitted to the doctor commissioned to provide a second opinion;
- b) Personal data will only be processed for the purposes specified when it was acquired or provided for by law;
- c) Personal data will only be forwarded in accordance with this data protection declaration;
- d) Persons about whom Hirslanden processes data may exercise their statutory right to information or correction at any time.

3. CATEGORIES AND PROCESSING OF PERSONAL DATA

3.1. The following contains a list of the personal data which Hirslanden processes within the scope of operating the portal, administration and communication with users:

- a) Name, address, date of birth, sex, telephone, e-mail and credit card and account data (depending on payment channel) for the purposes of invoicing
- b) Health data from users, answers to questions in questionnaires uploaded to the portal, scanned x-ray images, etc.;
- c) Product-related data, contracts, invoice data;
- d) Data regarding contact and correspondence with the user which has taken place;
- e) Health-related data under a pseudonym for the purposes of quality assurance and evaluation and the further development of our second opinion service.

3.2. The accuracy of statements made during registration shall be checked by Hirslanden within the framework of quality assurance.

3.3. Hirslanden shall process the personal data specified under 3.1 within the scope of providing the second opinion. Hirslanden has commissioned Medexo GmbH, located in Berlin, Germany (hereinafter referred to as “**Medexo**”) in a support function to provide certain operative services, including operation of the portal (mainly maintaining a relationship with users, checking questionnaires, user documents, translations, etc.) and technical operation (maintaining the portal).

4. PROTECTION OF PERSONAL DATA

- 4.1. Hirslanden shall take all the organisational and technical measures to protect the personal data which are demanded by Swiss data protection legislation. This provides protection against the following risks in particular:
- a) unauthorised or accidental destruction;
 - b) accidental loss;
 - c) technical error;
 - d) forgery, theft or illegal use;
 - e) unauthorised amendments, copying, access or other unauthorised processing.
- 4.2. All health data will be hosted on servers in Switzerland which ensure state-of-the-art data security.
- 4.3. The protective measures shall be continuously adjusted so that they comply with the current state of the art.

5. FORWARDING OF PERSONAL DATA

- 5.1. With the exception of the cases described in the paragraph below, Hirslanden shall not forward any user data to third parties.
- a) Hirslanden shall transmit user data to specialists cooperating with Hirslanden insofar as the specialist is commissioned to provide a second opinion.
 - b) Hirslanden shall grant Medexo, which has been engaged by Hirslanden to operate and maintain the portal, partial access to user accounts. Hirslanden shall only grant access to Medexo to the extent to which this is necessary for Medexo's services.
- 5.2. By using the portal and checking the corresponding consent box when commissioning the second opinion, the client is declaring consent to the forwarding or granting of access to personal data concerning the user in the cases described above.

6. RIGHT TO REVOCATION AND INFORMATION

- 6.1. Hirslanden shall only be permitted to use the data outlined above based on your explicit consent. Consent may be revoked at any time with future effect unless the data must be retained and saved by the specialist and/or Hirslanden based on statutory provisions.
- 6.2. In accordance with Swiss data protection laws, the user may contact Hirslanden and
- a) Learn whether Hirslanden is processing information concerning the user;
 - b) Request that Hirslanden send a copy of the data concerned;
 - c) Instruct Hirslanden to correct incorrect personal data.
- 6.3. Requests for information or correction must be sent in writing to the following address:

Hirslanden AG
Hirslanden International
Boulevard Lilienthal 2
8152 Glattpark
Switzerland

7. INTERNET TRANSFER OF DATA

As stated in this data protection declaration, Hirslanden shall take the appropriate technical and organisational security precautions to protect users' personal data. As users upload data to the portal via the internet, please remember that there are inherent risks to any transfer of data online. Unauthorised third parties may, for example, access information which users send via the internet. This may result in information being disclosed, its contents altered or technical errors. Even if the sender and recipient are in the same country, it cannot be ruled out that data sent via the internet may leave the country and be forwarded to a country in which the data protection requirements are less stringent than in the country in which the user resides. Hirslanden is unable to check each online data transfer for these general risks. Portal users must be aware that Hirslanden is not responsible or liable for the security of user data while it is being transmitted via the internet to Hirslanden.

Acknowledging the right of revocation and after having read the above, I hereby consent to the use of my data for the purposes of providing a second opinion. I hereby explicitly release Hirslanden and the specialists from the obligation of professional secrecy as far as is necessary for the purposes determined above.