

# Terms of Business



## Group Policy (Terms of Business) for Corporate Schemes

### 1. DEFINITIONS

1.1 In these Terms of Business:

**Agreement** has the meaning given in clause 2.1;

**Annual Renewal Date** means the anniversary of the commencement of the Agreement;

**Bupa Documents** means the information and documents in relation to the Scheme (including any graphics, images, icons and text and any amendments and updates to such documents) that We provide to You for the purposes of informing Your employees and other individuals who are, or are entitled to apply to become, Members of the Scheme about the Scheme and its benefits, including the Membership Guide;

**Bupa Group** means The British United Provident Association Limited (registered in England and Wales under number 00432511) and its subsidiaries and holding companies and any subsidiaries of any such holding companies at the Scheme Start Date or as the same vary from time to time and "subsidiary" and "holding company" will have the meanings given to them by s1159 Companies Act 2006;

**Bupa Logo** means the Bupa logo as provided to You, including without limitation the word "Bupa" and the heartbeat symbol, which are registered trademarks of the British United Provident Association Limited;

**Bupa/We/Us/Our** means Bupa Insurance Limited;

**Closing Main Members** means the Main Members in the Group at the end of the Insured Period;

**Confidential Information** means any information and/or material relating to the business, affairs, finances, systems, processes and/or methods of operation of either party which is disclosed by one party to the other in connection with the operation of the Agreement (whether oral or in writing and whether or not such information is expressly stated to be confidential or marked as such);

**Data Controller** shall have the meaning given to that term in Data Protection Law;

**Data Protection Law** means the DPA;

**DPA** means the Data Protection Act 2018 (as amended from time to time) and any subordinate legislation made from time to time under it;

**Dependant** has the meaning given in the Membership Guide or as otherwise agreed between Bupa and You;

**Employees** means such persons as are in the employment (or other persons engaged in a relationship similar to that of employee) of the Sponsor (or, subject to Bupa's express written agreement, any company which is associated to the Sponsor);

**Funding Schedule** means the document headed Funding Schedule issued by Bupa to the Sponsor for the Insured Period;

**Group** means collectively all Main Members and Dependents covered under the Scheme;

**Group Certificate** means the document(s) headed Group Certificate issued by Bupa to the Sponsor for the Insured Period;

**Insured Period** means the period beginning on the Scheme Start Date and expiring at midnight on the earliest of:

- (a) the Scheme End Date; or
- (b) the date of termination of the Agreement;

**Intellectual Property Rights** any and all intellectual property rights including patents, trademarks, rights in designs, get-up, trade, business or domain names, copyrights including rights in computer software and databases (including database rights) (in each case whether registered or not and, where these rights can be registered, any applications to register or rights to apply for registration of any of them), and where applicable any goodwill therein; and rights in inventions, know-how, trade secrets and other confidential information;

**Lapsed Member** has the meaning given in clause 5.11;

**Main Members** means a person who is covered by the Scheme by virtue of being eligible in their own right in accordance with clause 6.1.1 rather than as a Dependant;

**Members** means Main Members and Dependents;

**Membership Guide** the membership guide issued by Bupa for the Insured Period (subject to any variations thereto as are described in the Group Certificate);

**Opening Main Members** means the Main Members in the Group at the beginning of the Insured Period;

**Partner** means the Main Member's spouse, civil partner, or the person they live with in a relationship similar to that of a marriage, whether the same sex or not;

**Personal Data** shall have the meaning given to that term in Data Protection Law;

**Privacy Notice** means the Bupa privacy notice set out in the Membership Guide;

**Processing** shall have the meaning given to that term in Data Protection Law; and "**Process**" and "**Processed**" shall have a corresponding meaning;

**Rate** means the amount payable per Main Member or Dependant under the Scheme as specified in the Funding Schedule;

**Renewal Information** the information provided by Bupa to You in advance of the Annual Renewal Date;

**Scheme** means the private medical insurance scheme described in:

- (a) the Group Certificate; and
- (b) the Membership Guide;

**Scheme Documents** means the Membership Guide(s), and any membership certificates as are applicable to the Scheme;

**Scheme End Date** means the "Group contract end date" as shown on the Group Certificate;

**Scheme Start Date** means the "Group contract start date" as shown on the Group Certificate;

**Sensitive Personal Data** shall have the meaning given to that term in the DPA;

**Shared Member Data** shall have the meaning given to that term in clause 10.9;

**Special Categories of Data** shall have the meaning given to Special Categories of Data in the DPA;

**Sponsor/You/Your** means the company who is the contracting party and described as the "group sponsor" in the Group Certificate;

**Subscriptions** means the subscriptions (plus applicable taxes, including Insurance Premium Tax) payable by You under the Agreement, as agreed between You and Us and set out in the Funding Schedule;

**Your Logo** means Your corporate name, any relevant trading name used by You and Your logo as provided to Us from time

to time by You, including without limitation any registered trademarks.

1.2 Unless expressed to the contrary in these Terms of Business, or the context otherwise requires, all other defined words and phrases used in these Terms of Business shall have the meaning given in the Membership Guide.

1.3 The headings in these Terms of Business are for ease of reference only and shall not affect its interpretation or construction. In addition, a reference in these Terms of Business to a singular shall include the plural and vice versa.

## 2. THE SCHEME

2.1 These Terms of Business together with the Funding Schedule, Membership Guide(s) and Group Certificate(s) form the agreement (the "**Agreement**") between the Sponsor and Bupa in relation to the Scheme.

2.2 We agree to operate and fund the Scheme in accordance with the Agreement in consideration for Your payment of the Subscriptions.

2.3 In order to be eligible to enter into the Agreement You must:

2.3.1 be involved in the performance of some business or commercial purpose which is resourced via the Members; and

2.3.2 include a minimum of 50 Main Members in the Scheme;

2.4 You agree to notify Us immediately in the event that either of the eligibility requirements in clause 2.3 ceases to be true after the Scheme Start Date and during the Insured Period.

## 3. COMMENCEMENT & TERMINATION

3.1 The Agreement will begin on the Scheme Start Date and will continue in force for the Insured Period.

3.2 Either party may terminate the Agreement immediately if:

3.2.1 the other party convenes a meeting of its creditors or proposes or makes any arrangement or composition with, or any assignment for the benefit of, its creditors generally;

3.2.2 the other party becomes insolvent and/or has a petition presented for its liquidation or administration or the appointment of a provisional liquidator or an order has been made or a resolution passed for its liquidation, administration or dissolution (otherwise than for the purposes of a bona fide solvent amalgamation or reconstruction);

3.2.3 the other party has an administrative or other receiver, manager, trustee, liquidator, administrator or similar officer appointed over all or any substantial part of its assets or notice of intention to appoint an administrator is filed;

3.2.4 the other party becomes bankrupt;

3.2.5 the other party commits fraud in the performance of any of its obligations under the Agreement; or

3.2.6 such termination is required by any legal or regulatory requirement.

3.3 We may terminate the Agreement immediately on notice to You if:

3.3.1 You fail, within 7 days of receiving a final written demand for payment, to pay all or any part of any amounts due to Us under this Agreement; or

3.3.2 We receive a notification from You under clause 2.4 or We otherwise receive confirmation that You no longer satisfy the eligibility requirements in clause 2.3.

3.4 In the event of any termination of this Agreement, We shall return to You a sum equal to any Subscriptions pre-paid for that portion of the Insured Period during which cover was not (or will not be) provided by reason of Our termination, less the total amount paid out (or that is due to be paid out in accordance with the Agreement) by Us in response to claims made under the Scheme prior to termination.

3.5 You agree that if the Agreement is terminated, then You will reimburse promptly and in full any Main Member who is due a refund as a result of termination of the Agreement.

3.6 Subject to clause 3.7, upon any termination or expiry of the Agreement, all rights, obligations and liabilities of the parties thereunder shall immediately cease.

3.7 The termination or expiry of this Agreement shall be without prejudice to the rights, obligations and liabilities of the parties which have accrued prior to such expiry or termination.

## 4. SUBSCRIPTIONS

4.1 In consideration for Our operation and funding of the Scheme, You shall pay the Subscriptions.

4.2 Subject always to clauses 4.1 and 4.3 You are permitted to recover part of the Subscriptions from Main Members provided that You have first paid that amount to Us, and provided always that in no circumstances shall You recover from Main Members:

4.2.1 Subscriptions in excess of the amount specified in respect of the relevant Main Member category or profile in the Funding Schedule; and/or

4.2.2 any other fee, charge or other payment in relation to Your activities under the Agreement.

4.3 You must not in any circumstances hold Yourself out as offering insurance for or on behalf of Bupa or otherwise as carrying on (or being permitted to carry on) insurance mediation activities (as that term is defined in the Financial Conduct Authority's Handbook).

4.4 The Funding Schedule sets out the agreed payment intervals for the Subscriptions due over that Insured Period. We will invoice You in accordance with such agreed payment intervals and You agree to pay each invoice in full and in cleared funds within 30 days of the date of each invoice.

4.5 The Subscriptions due over the Insured Period shall be calculated and invoiced based on the size of the Group multiplied by the Rate as follows:

4.5.1 We shall provide an initial statement of the annual Subscriptions due from You immediately prior to the Scheme Start Date based on the Opening Main Members (the "**Guideline Subscriptions**"), and Our first invoice will be issued promptly after the Scheme Start Date for such proportion of the Guideline Subscriptions as reflects the agreed payment intervals;



4.5.2 during the Insured Period, We will perform a review of the Guideline Subscriptions against the Group which has been notified to Us by You and will provide a revised statement of the annual Subscriptions due (the "**Revised Subscriptions**") together with an adjustment invoice (showing the additional or reduced Subscriptions calculated as being due as against the Guideline Subscriptions) for past payment interval(s) up to Our calculating the Revised Subscriptions, and shall submit future invoices based on the Revised Subscriptions;

4.5.3 after the Insured Period We will perform a further calculation of the Subscriptions based on the Group as notified to Us as at the 1st day of the last whole calendar month of the Insured Period (the "**Closing Subscriptions**") and will provide a revised statement of the annual Subscriptions due for the Insured Period based on the following calculation (the resulting amount being the "**Final Subscriptions**"):

*(Revised Subscriptions + Closing Subscriptions) ÷ 2*

together with an adjustment invoice (showing the additional or reduced Subscriptions calculated as being due as against the Revised Subscriptions) for past payment interval(s) up to Our calculating the Final Subscriptions.

4.6 In addition to the Subscription calculations that are run under clause 4.5 above, We may also run an ad-hoc Subscription calculation at any time in the event that the Group should increase or decrease by 10% in number or in such other circumstances as You and We may agree from time to time to achieve a more accurate calculation. In the event that We perform any ad-hoc calculations under this clause, the resulting Subscriptions that are provided by the latest calculation performed shall constitute the Revised Subscriptions for the purpose of calculating the Final Subscriptions under clause 4.5.3.

4.7 Subscriptions are collected by Bupa Insurance Services Limited who act as Our agent for the purpose of receiving and holding premiums, making claims and refunds. The Subscriptions are protected by an agreement between Us and Bupa Insurance Services Limited. Where You hold:

4.7.1 Subscriptions due to be paid to Us, or

4.7.2 return Subscriptions due to be paid to a Main Member,

You hold such monies as Our agent. You have no authority under this Agreement to permit any third party or sub-agent to receive, hold or pay money on Our behalf.

4.8 In the event that You overpay Subscriptions due to Us as a result of the calculations in clause 4.5, We shall promptly repay the overpayment to You.

4.9 You agree that if there is an overpayment to Us resulting in repayment in accordance with clause 4.8, You will reimburse promptly and in full any Main Member who is due a refund as a result of the overpayment.

4.10 You agree that if any Main Member wishes to cancel their cover (and/or that of any of their Dependants) in accordance with the Membership Guide You will be responsible for the payment of any refund that is due to the Main Member in accordance with the Membership Guide. Provided You have paid the relevant Subscriptions to Us in respect of which such refund is repaid by You, We will refund to You the amount of the Subscription that You refund to the Main Member following the provision by You of written confirmation to Us that You have paid the refund to the Main Member.

4.11 In the event that We are required to make any refund or repayment to a Main Member as a result of the cancellation of their cover (and/or that of any of their Dependants) in accordance with the Membership Guide and in respect of which We have not received the relevant Subscriptions from You, You agree that You will indemnify Us in full in respect of such payment(s) and any and all associated costs and other expenses that We incur in connection with the payment immediately upon demand.

## 5. ADMINISTRATION

5.1 We will be responsible for the creation of the Scheme Documents as well as the Group Certificate(s) and Renewal Information. We will send Main Members and their Dependants copies of their Scheme Documents and (where applicable) Renewal Information unless You request that We do not. Where You request that We do not, We shall provide copies of the Scheme Documents and (where applicable) Renewal Information for each Main Member and their Dependants to You in a sealed confidential envelope, and You must ensure Main Members and their Dependants receive these.

5.2 Where You recover (or intend to recover) part of the Subscription(s) from any Main Member(s) in accordance with clause 4.2, as soon as reasonably practicable in advance of any such Main Member(s) (or, if applicable, their Dependant(s)):

5.2.1 joining the Scheme; and/or

5.2.2 renewing their cover under the Scheme on each Annual Renewal Date

You shall provide to the Main Member:

5.2.3 access to appropriate information that We provide to You summarising the Scheme's key benefits, exclusions and terms, and any other documentation as We may require; and

5.2.4 in the case of clause 5.2.1 only, the amount of Subscription to be paid by the Main Member; or

5.2.5 in the case of clause 5.2.2 only, the Renewal Information.

5.3 Where You recover (or intend to recover) part of the Subscription(s) from any Main Member(s) in accordance with clause 4.2, if We:

5.3.1 agree with You any changes to the terms and conditions of the Scheme or in respect of any Member; or

5.3.2 change the procedure for a Member to make a claim under the Scheme,

You will provide to the relevant Main Members as soon as reasonably practicable before the change takes effect the change notification documentation provided by Bupa to You.

5.4 Where You recover part of the Subscription(s) from any Main Member(s) in accordance with clause 4.2, and You intend to change the amount of the Subscription(s) that you recover from any Main Member(s), You will provide notice to the Main Member(s) at least 28 calendar days in advance of making the change, and the Main Member(s) shall be permitted to terminate their cover under the Scheme (or, if applicable, that of their Dependant(s)) in accordance with the Membership Guide.

5.5 You will promptly provide Us with written confirmation of:

5.5.1 the Opening Main Members and their Dependants at the beginning; and

5.5.2 the Closing Main Members and their Dependants at the end of each Insured Period. Failure to provide this information shall entitle Us, after giving at least 14 days advance notice to You, to make a reasonable estimate of such numbers.

5.6 You will be responsible for providing Us with information concerning Main Members and their Dependants that is accurate, complete and meets Our data requirements, as notified to You from time to time. We will work with You to help You understand and meet our minimum data requirements, but We will not be responsible for the accuracy or completeness of the information You provide to Us.

5.7 You shall be responsible for ensuring We receive such information as is necessary for Us to be able to identify Main Members and Dependants for the purpose of administering claims.

5.8 You agree to provide Us with: (a) the names, dates of birth and addresses of all Opening Main Members prior to the Scheme Start Date; and (b) names, dates of birth and addresses of each new Main Member joining the Scheme after the Scheme Start Date. Unless We agree otherwise, Main Members (and therefore their Dependants) will not be covered under the Scheme until this information is received by Us.

5.9 If You are transferring underwriting to Us from another insurer then You agree to: (a) procure that the previous insurer and/or the Main Members provide Us directly with the underwriting details for all Main Members and Dependants from their previous insurer; and, if We request, (b) complete Our group medical declaration form or single transfer medical declaration form (as applicable), in each case as soon as possible following any transfer of cover from the previous insurer. Until We receive this information, We will only be able to send Main Members and their Dependants copies of temporary membership certificates, and they may experience delays in receiving funding for treatment whilst We confirm that they are not seeking treatment for conditions that were not covered under their previous policy.

5.10 Where any Main Members are fully medically underwritten, then it is important that Main Members promptly complete Our medical history application form, both on their own behalf and on behalf of their Dependant(s) (if applicable). Until We receive completed medical history application forms We will only be able to send Main Members and their Dependants copies of temporary membership certificates, and they may experience delays in receiving funding for treatment whilst We confirm that their treatment is eligible and not for a pre-existing condition.

5.11 You shall, within 1 month of such circumstances arising, provide written notice to Us of any Main Member ceasing to be covered by the Scheme by reason of their ceasing to meet the relevant eligibility criteria for Main Members of the Scheme (as specified in clause 6.1.1 below and Your Group Certificate) ("**Lapsed Members**"). In the event that such notice is not provided to Us, You shall be liable for, and shall reimburse Us in full, for all claims payments made by Us under the Scheme in respect of the Lapsed Member after the period of 1 month from the Main Member becoming a Lapsed Member.

5.12 From time to time, You may wish to make Lapsed Members aware of Bupa products available to them when they cease to be a Main Member. You must not issue materials promoting Bupa products, or facilitate introductions between Lapsed Members and Bupa, unless You seek and obtain Our consent to do so and comply with the requirements set out in Schedule 1 to these Terms of Business.

5.13 In the event that this Agreement terminates or lapses for any reason, You shall notify Main Members in writing as soon as possible and in any event no later than 14 days following the date of termination or lapse that their private medical insurance is no longer provided by Us. In the event that You fail to do this, We reserve the right to provide such communication directly to Main Members without further notice to You.

5.14 You agree that You will only use materials that We provide to You to describe and otherwise promote the Scheme for Your Employees. You agree that You will not in any circumstances use or otherwise distribute any materials that refer to Bupa and/or the Scheme in any way which have not been approved by Us in writing in advance of use.

## **6. GROUP MEMBERSHIP**

6.1 The Group includes only the following Members:

6.1.1 Main Members, meaning individuals who meet at least one of the following eligibility requirements:

(a) any individuals who are partners of a Sponsor (if the Sponsor is a partnership);

(b) Employees who are resident in the United Kingdom; and

(c) if specifically included by agreement with Us (and subject to their being resident in the United Kingdom):

(i) retired former Employees who, at the time of their retirement were Main Members of the Group; and/or

(ii) widows, widowers, or civil partners of deceased Main Members; and

6.1.2 if specifically included in the Group Certificate, Dependants of Main Members.

## **7. PAYMENT OF CLAIMS**

7.1 Subject to clause 7.2, We will be liable for all claims made by the Group which are payable under the Agreement.

7.2 Subject to clause 7.3, if the Sponsor fails to make any payments due to Us, Our liability to pay claims will be suspended immediately until We have received payment in full of all outstanding payments and any further sums which may be due as a result of clauses 7.4 and 7.5.



7.3 Where Our liability is suspended under clause 7.2 and You have recovered the Subscription (or part thereof) in respect of a Main Member or their Dependant(s) from the Main Member in accordance with clause 4.2, We will continue to pay eligible claims in respect of such Main Member or Dependant(s) (as applicable) subject to clause 7.4 below.

7.4 In the event that We make any payment in respect of an eligible claim(s) in accordance with clause 7.3, You agree that You will indemnify Us in full in respect of such payment(s) and any and all associated costs and other expenses that We incur in connection with the payment immediately upon demand.

7.5 Notwithstanding clause 7.3, We may, in Our sole discretion, pay claims for eligible treatment even if such treatment was incurred before or after the date on which Our liability was suspended in accordance with clause 7.2. Any payments We make during any period of suspension shall become a debt due immediately payable by You.

## **8. INTELLECTUAL PROPERTY RIGHTS**

8.1 Subject to the provisions of this clause 8, We grant You a non-exclusive, non-sub-licensable, non-transferable, royalty-free licence during the term of this Agreement to:

8.1.1 display the Bupa Documents on Your intranet or internet site solely for the purposes of providing details of the Scheme to Your Employees and other individuals who are, or are entitled to apply to become, Main Members under clause 6.1; and

8.1.2 display the Bupa Logo on Your intranet or internet site to identify for Your Employees and other individuals who are, or are entitled to apply to become, Members, that We provide the Scheme for You, provided that such display of the Bupa Logo is pre-approved by the Brand Manager, Marketing Department, Bupa UK.

8.2 We will provide You with an electronic version of the Bupa Documents and (where applicable) the Bupa Logo. Where We amend or update the Bupa Documents or Bupa Logo, You will promptly comply with any reasonable instruction from Us to replace the existing Bupa Documents and/or Bupa Logo You use with the updated or amended version. You will comply with any brand guidelines which We provide to You from time to time in respect of Your use of the Bupa Logo.

8.3 Our website contains Our own Intellectual Property Rights and the Intellectual Property Rights of third parties. You agree not to infringe such Intellectual Property Rights whether by copying, transmitting, framing, caching or using or manipulating such property or otherwise. We do not accept liability for Your misuse of any Intellectual Property Rights belonging to any third party.

8.4 You agree to notify Us immediately if You become aware of any actual, suspected, or threatened infringement of or by, or any form of attack, charge or claim with respect to, any of the Bupa Documents or the Bupa Logo. For the avoidance of doubt, this shall include any online infringement.

8.5 In respect of the matters set out in clause 8.4 above: (a) We shall decide what action (if any) to take in Our absolute discretion; (b) We shall have exclusive control over, and conduct of, all claims and proceedings; (c) We shall bear the cost of any proceedings brought by Us and shall be entitled to retain all sums recovered in any action for Our own account; (d) You shall not make any admissions or statements (other than to or as agreed with Us) in relation to any matters; and (e) You shall provide Us with such assistance and documents as We may reasonably require in relation to any such matters.

8.6 Bupa may terminate the licence granted under clause 8.1 without cause by 30 days' notice in writing. On termination, You must immediately remove the Bupa Documents and/or the Bupa Logo from Your intranet or internet site (and anywhere else where You may have used the Bupa Logo or any part thereof otherwise than in accordance with the licence) and confirm to Us in writing that this has been done.

8.7 You grant to Us a non-exclusive, non-sub-licensable, non-transferable royalty-free licence during the term of this Agreement to display Your Logo, on the Membership Guide or such other Bupa Documents as You and We shall agree to brand with Your Logo from time to time. You may terminate any licence granted under this clause 8.7 at Your discretion subject to Our receiving 30 days' written notice. In the event of any such termination of the licence, We shall not be required to recall any Bupa Documents in issue which carry Your Logo, but will, following termination of the 30 day notice period, cease to use Your Logo on the Bupa Documents going forwards.

## **9. CONFIDENTIALITY**

9.1 Each party shall ensure that all Confidential Information of the other party is kept confidential and will not make or cause or permit to be made any use or disclosure of any such Confidential Information except to the extent permitted under the Agreement or to the extent necessary to perform such party's obligations under the Agreement.

9.2 Each party shall be permitted to disclose Confidential Information of the other party to the extent that it is required to do so by law or by any public, governmental, supervisory or regulatory authority or by any legally binding order of any court or tribunal, provided that in any such case:

9.2.1 the disclosure or use is limited strictly to those parts of the other party's Confidential Information which are required to be disclosed pursuant to this clause 9.2; and

9.2.2 each party shall use reasonable endeavours to ensure the recipient of such Confidential Information is made aware that such information is confidential.

9.3 The obligations contained in clauses 9.1 and 9.2 shall not apply to any Confidential Information of either party:

9.3.1 to the extent that such Confidential Information was publicly available or generally known to the public or lawfully in the possession of the other party at the time of the disclosure; or

9.3.2 to the extent that such Confidential Information becomes publicly available or generally known to the public at any time after such disclosure, except as a result of any breach by the other party of its obligations hereunder; or

9.3.3 to the extent that the other party acquires or has acquired such Confidential Information free from any obligation of confidentiality from a third party who is not in breach of any obligation as to confidentiality to either party; or

9.3.4 in the case of Bupa, to the extent it is required to disclose Confidential Information in the normal course of business within the insurance industry for the purposes of reinsurance, fraud prevention or to maintain relevant insurance industry databases.

9.4 Each party shall be entitled to disclose Confidential Information to its employees, professional advisers and professional representatives in connection with the operation of the Agreement, provided that it ensures that all such employees, professional advisers and professional representatives to whom Confidential Information is disclosed are aware prior to receiving the Confidential Information in question of the relevant party's obligations pursuant to this clause and comply with the same.

9.5 Either party may disclose Confidential Information within its group of companies as defined by the Companies Act 2006, provided that the relevant party procures that the company to which disclosure is made complies with the provisions of this clause 9.

## 10. DATA PROTECTION

### *Data Controller*

10.1 The parties acknowledge and agree that Bupa is a Data Controller in respect of:

10.1.1 Personal Data which You may provide to Bupa from time to time in respect of Members; and

10.1.2 Personal Data which Bupa receives from time to time in respect of any Member, whether received from:

(i) such Member, directly or indirectly, (including, without limitation, in circumstances when such Member makes a claim under the Scheme); or (ii) any third party, including, without limitation, any healthcare professional or intermediary

(together "Member Data").

For the avoidance of doubt, Bupa is not a "joint controller" as that term is interpreted under Data Protection Law.

### *Dealing with Personal Data*

10.2 Bupa shall comply, and shall procure (insofar as it is lawfully able to do so) that each member of its group of companies shall comply, in each case, with all applicable obligations in respect of the Member Data imposed by, or made under, Data Protection Law, for so long as any member of Bupa's group of companies Processes any such data.

10.3 Bupa shall implement and maintain appropriate technical and organisational measures to ensure a level of security appropriate to the risk (taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing the Member Data as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons), including from unauthorised or unlawful Processing of the Member Data, or accidental loss or destruction of, or damage to, the Member Data.

10.4 You shall provide (or procure the same in relation thereto) each Member with a copy (in hard copy and/or electronic form) of the Privacy Notice at or before the time that such Member applies to be enrolled in the Scheme.

10.5 To the extent that You provide Bupa with any Special Categories of Data, at or before the time at which a Member applies to be enrolled in the Scheme, You shall obtain the explicit consent, as that term is interpreted under the DPA, from that Member (in a form provided by or agreed with Bupa in writing from time to time) in order to enable Bupa to Process Sensitive Personal Data or Special Categories of Data (as applicable) for the purposes of providing services to the Member pursuant to the terms of the Scheme and administering the Scheme. You shall not provide any Sensitive Personal Data or Special Categories of Data (as applicable) to Bupa until such explicit consent is obtained. By submitting the details of a Member to Bupa to be enrolled in the Scheme, You are warranting that You have obtained such explicit consent of that Member.

10.6 You shall provide a copy of the explicit consent referred to in clause 10.5 above to Bupa at the time that you request that the relevant Member be enrolled in the Scheme.

10.7 Bupa shall notify You as soon as reasonably practicable after becoming aware that any Member Data of a material number of Members has been affected by a data security breach which, under Data Protection Law, is required to be notified to the affected Members.

10.8 Bupa will retain any Member Data You provide to Bupa for a period which is no longer than is reasonably required to hold such data, having regard to the purposes for which such data is Processed or to be Processed.

### *Shared Member Data*

10.9 Following the receipt of a request from You for the purposes of providing services to the Member pursuant to the terms of the Scheme, and subject to compliance with Data Protection Law, Bupa may provide You with Personal Data in respect of persons covered, or to be covered, by the Scheme ("**Shared Member Data**").

10.10 If and to the extent that Bupa provides Shared Member Data pursuant to clause 10.9 above, the parties agree and acknowledge that You are receiving such data in a capacity as a separate Data Controller.

10.11 You agree to Process all Shared Member Data in accordance with Data Protection Law.

10.12 Any provision of Shared Member Data to You (or any member of Your group of companies or any person with whom You are otherwise affiliated) by Bupa shall, if such provision would result in the transfer of Shared Member Data to a person located outside the European Economic Area, be subject to and conditional upon:



10.12.1 the country in which the Shared Member Data will be Processed having been deemed adequate by the appropriate authority under Data Protection Law (an "**Adequate Country** "); or

10.12.2 where the country in which the Shared Member Data will be Processed is not an Adequate Country, Shared Member Data is transferred in accordance with one of the mechanisms recognised by Data Protection Law.

10.13 The parties agree that where one party provides to the other party Member Data or Shared Member Data, Personal Data shall be transferred in accordance with Data Protection Law. For the avoidance of doubt, where this results in an international transfer of Personal Data such transfer shall be subject to the conditions set out in Data Protection Law for this purpose.

## 11. LIMITATION ON LIABILITY

11.1 Subject to clauses 11.2 and 11.3 below, the total aggregate liability of Us to You (and/or any member of Your group of companies) for any costs, charges, damages, expenses or losses which Bupa causes You (and/or any member of Your group of companies) to incur (whether as a result of Bupa's breach of any of the provisions of this Agreement or otherwise) shall not exceed the Subscriptions (excluding Insurance Premium Tax) payable by You for any Insured Period.

11.2 Bupa shall not be liable for any loss of profit or indirect or consequential loss (whether actual or prospective) or for any punitive damages.

11.3 Nothing in clause 11.1 shall exclude or limit Our liability:

11.3.1 in respect of death or personal injury caused by negligence;

11.3.2 in respect of fraud, fraudulent misrepresentation, wilful default, wilful misconduct or gross negligence; and 11.3.3 for any matter for which it would be illegal to exclude or to attempt to exclude liability.

## 12. FINANCIAL CRIME

12.1 The parties shall each comply with all applicable UK legislation relating to the detection and prevention of financial crime (including, without limitation, the Bribery Act 2010 and the Proceeds of Crime Act 2002) and shall have in place, throughout the Insured Period, adequate policies and procedures to procure compliance.

## 13. MONITORING AND AUDIT

13.1 You will retain all records that You create or hold in connection with the Agreement or the Scheme for a minimum of six years or such longer period as required by law.

13.2 You agree to allow Us, and any of our agents and/or any appropriate regulatory body (including, but not limited to, the Financial Conduct Authority) on reasonable written notice at any reasonable time (including after the Agreement has ended) to inspect and to take copies of the records referred to in clause 13.1 or such other information as We may reasonably require in order to monitor Your compliance with Your obligations under the Agreement and applicable law and regulatory requirements, save that in the event that We have reasonable grounds to suspect that You are in breach of this Agreement or any applicable law or regulatory requirement We shall be permitted to carry out such inspection immediately at any time.

## 14. NOTICES

14.1 Any notice required to be given to Us under these Terms of Business, shall be in writing and shall be delivered personally, or sent by pre-paid first-class post or recorded delivery or by commercial courier to:

Bupa, Bupa Place, 102 The Quays, Salford, M50 3SP

or as otherwise specified by notice in writing to You from time to time.

14.2 Any notice required to be given to You under these Terms of Business, shall be in writing and shall be delivered personally, or sent by pre-paid first-class post or recorded delivery or by commercial courier to such address as You shall nominate from time to time (and in the absence of any such notice, to your registered office, marked for the attention of the Head of Human Resources).

14.3 Any notice shall be deemed to have been duly received:

14.3.1 if delivered personally, when left at the address and for the contact referred to in this clause; or

14.3.2 if sent by pre-paid first-class post or recorded delivery, at 9.00am on the second business day after posting; or

14.3.3 if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.

14.4 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

## 15. GENERAL

15.1 This Agreement cancels all prior agreements between the parties (if any) relating to the subject matter in this Agreement. This Agreement also cancels all rights (if any) of either party arising against the other by virtue of any prior agreements, even if such prior agreement had a provision stating that such rights or provision shall survive its termination.

15.2 Subject to clause 15.3, this Agreement is only capable of enforcement by the parties to it. No rights of enforcement or any other rights are given to any third parties, save that Main Members shall be entitled to enforce against Us any rights that a Main Member has under this Agreement as a result of the operation of clause 4.2.

15.3 Neither We nor You, shall be entitled to assign, novate or otherwise transfer this Agreement without the written agreement of the other party to such transfer, save that We shall have the right to assign this Agreement to a company within the Bupa Group at any time.

15.4 The invalidity, illegality or unenforceability of any of the provisions of this Agreement shall not affect the enforceability of the remaining provisions of this Agreement. In such circumstances, this Agreement shall be construed as if any such invalid, illegal or unenforceable provision did not constitute a part of this Agreement.

15.5 Our rights under this Agreement are cumulative and are in addition to Our rights under the general law and shall not be capable of being waived or varied otherwise than by an express waiver or variation in writing. Any failure or delay to exercise any right shall not operate as a waiver or variation of that or any other such right.

15.6 We may vary the Agreement from time to time to the extent reasonably necessary for it to comply with applicable law and regulatory requirements. If We do make any changes We will write to tell You at least 28 calendar days before the change takes effect. If changes are required more quickly and We are not able to tell You at least 28 days in advance, We will give You as much notice as possible.

15.7 Both parties shall notify the other promptly on becoming aware of any changes required to the other's documentation and/or procedures as a result of any relevant applicable laws, regulation or code of practice. If We review or approve any documentation prepared by You, such approval shall not constitute approval of the content of a financial promotion for the purposes of s.21 of the Financial Services and Markets Act 2000.

15.8 We're committed to providing you with a first class service at all times and will make every effort to meet the high standards we've set. If you feel that we've not achieved the standard of service you would expect, or if you are unhappy in any other way, then please get in touch with your account manager. If you don't have their contact details, please call us using the number on your document pack cover letter and we'll be happy to help.

Should you not wish to speak with your account manager, you can contact our complaints team directly:

**By phone:** 0345 606 6739

**By email:** [customerrelations@bupa.com](mailto:customerrelations@bupa.com)

**In writing:** Customer Relations, Bupa, Bupa Place, 102 The Quays, Salford M50 3SP

Information sent over email or in the post is unsecure before it reaches us.

If we're unable to resolve your complaint you may be able to refer it to the Financial Ombudsman Service. You can write to them at:

Exchange Tower, London E14 9SR or contact them via email at [complaint.info@financial-ombudsman.org.uk](mailto:complaint.info@financial-ombudsman.org.uk) or call them on 0800 023 4567 or 0300 123 9123.

The Financial Ombudsman Service will look at complaints from businesses with:

- an annual turnover of less than £6.5 million, and
- an annual balance sheet total of less than £5 million, or less than 50 employees.

They will also look at complaints from charities that have an annual income of less than £6.5 million.

For more information you can visit [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk)

Further information on how Bupa deals with complaints, and how long it is likely to take to resolve them, is available (on request) in our complaints procedure leaflet.

15.9 In the event that You receive any complaint or dispute (or notification of a potential complaint or dispute) from a Member in respect of the Scheme and/or any claim under it and/or Bupa and/or any member of the Bupa Group, You shall promptly (and in any event no later than the next business day following receipt by You) notify Us in writing of such complaint or dispute, and You will make available to Us all relevant communications, notices and other documents.

15.10 In performing the Agreement, both parties will comply with all applicable laws, regulations and codes of practice, including but not limited to those made by the Financial Conduct Authority.

15.11 This Agreement and any dispute or claim arising out of or in connection with its subject matter (including non-contractual disputes or claims) is governed by English law and is subject to the exclusive jurisdiction of the English courts.





## SCHEDULE 1

The terms set out in this Schedule 1 apply to any Sponsor who wishes to issue Lapsed Members with materials promoting Bupa products, or facilitate introductions between Lapsed Members and Bupa ("**Permitted Activities**").

When performing Permitted Activities You shall:

(a) not make any charge, levy any fee or receive any direct or indirect remuneration in connection with the Permitted Activities;

(b) observe and comply with such policies, requests, directions and instructions as Bupa may reasonably communicate to You from time to time.

(c) provide all reasonable assistance to permit Bupa and/or its representatives to meet its legal and regulatory obligations as an insurer; and

(d) co-operate with and promptly assist Bupa in its enquiries to establish Your suitability to carry out the Permitted Activities (which shall be at Bupa's discretion with reference to relevant regulatory requirements).

When performing Permitted Activities You must not:

(a) carry on any regulated activities (as defined under the Financial Services and Markets Act 2000 ("**FSMA**")) in breach of the general prohibition contained in section 19 of FSMA. Such activities include but are not limited to:

(i) negotiating or concluding any contracts of insurance with Members;

(ii) assisting in the administration and performance of any insurance contracts (this includes but is not limited to filling out application forms and handling claims for Members);

(iii) advising or making recommendations in relation to any purchase or renewal of Bupa policy;

(iv) handling or collecting any payments from Members in respect of any Bupa policy;

(v) distributing any materials or promotional literature which have not been reviewed and signed off by Bupa in advance or materials that Bupa has advised You are no longer in use; and

(vi) negotiating in relation to the demands and needs of any individual Member or sub-group of Members in any particular Scheme.

(b) hold client money (as defined by FSMA) at any time;

(c) attempt to deal with any complaints that arise from or relate to a Bupa policy or the Permitted Activities. In the event a Lapsed Member, contacts You to raise a complaint about a Bupa policy or the Permitted Activities You must direct the Lapsed Member to contact Bupa;

(d) start, continue, defend or compromise any legal proceedings or claim for or on behalf of Bupa;

(e) hold Yourself out as offering insurance for Bupa on the basis of special terms or preferential rates, without Bupa's express consent; and/or

(f) distribute or display any financial promotions relating to Bupa other than those that have been provided to You by Bupa.