



COVID 19 ANTIBODY TESTING TERMS AND CONDITIONS

- (A) Bupa Occupational Health Limited (Registered in England No. 631336) whose registered office is at 1 Angel Court, London, UK EC2R 7HJ ("**Bupa**") is working with third party partners to provide the Services.
- (B) Client wishes to appoint Bupa to provide the Services (as defined below) to the Client and Eligible Participants and Bupa is willing to accept such appointment upon the terms and conditions of this Agreement.

THE PARTIES AGREE as follows:

1 DEFINITIONS

In this Agreement unless the context otherwise requires:

"**Agreement**" means this Agreement and all Schedules and any Appendices;

"**Business Day**" means a day (other than a Saturday or Sunday) on which the banks are ordinarily open for business in the City of London;

"**Charges**" means the fees, expenses and charges set out in Schedule 2;

"**Client**" means the company, firm or entity that Bupa is providing the Services to;

"**Commencement Date**" means the date from which Bupa provides Services to the Client;

"**Confidential Information**" means secret or confidential commercial, financial, marketing, technical or other information, know-how, trade secrets and other information in any form or medium whether disclosed orally or in writing before or after the date of this Agreement, together with any reproductions of such information in any form or medium or any part(s) of this information including this Agreement (and "confidential" means that the information, either in its entirety or in the precise configuration or assembly of its components, is not publicly available);

"**Eligible Participant**" means personnel of Client that are located in the UK aged 18 years or over in respect of whom the Services are to be provided, as more particularly specified in Schedule 1;

"**Force Majeure**" means any event outside the reasonable control of either party affecting its ability to perform any of its obligations (other than payment) under this Agreement including Act of God, pandemic, Government action, supply chain failures or issues, fire, flood, lightning, war, revolution, act of terrorism, riot or civil commotion, strikes, lock-outs or other industrial action, whether of the affected party's own employees or others, failure of supplies of power, fuel, transport, equipment, raw materials or other goods or services;

"**Group**" means in relation to any company, that company and every other company which is for the time being a subsidiary or holding company of that company or a subsidiary of any such holding company (and the terms "subsidiary" and "holding company" shall have the meanings given to them by Section 1159 and Schedule 6 of the Companies Act 2006); and

"**Services**" means the supply of the testing services as more particularly described in Schedule 1.

2 DURATION

This Agreement shall come into force and be deemed to apply on the Commencement Date and (subject to the provisions for earlier termination in Clause 12) shall continue until all Services to be provided pursuant to this Agreement are complete.



3 PROVISION OF SERVICES

- 3.1 With effect from the Commencement Date, Client engages Bupa, and Bupa hereby agrees to provide the Services in accordance with all applicable law to Eligible Participants for the term of this Agreement.
- 3.2 Bupa shall use all reasonable endeavours to meet any agreed performance dates, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
- 3.3 Bupa is not providing any advice or diagnoses as part of the Services.
- 3.4 The Services should not be relied upon as part of a return to work strategy or otherwise and a positive result does not guarantee proof of immunity to getting a Covid-19 related infection or any other infection
- 3.5 Bupa in its sole discretion may vary the Services offered under this Agreement by providing the Client with 7 days prior written notice or a shorter period if that is required to comply with applicable law, guidance or Government policy or advice.

4 CLIENT'S RESPONSIBILITIES

- 4.1 Client shall:
 - 4.1.1 Co-operate with Bupa in all matters relating to the Services;
 - 4.1.2 Procure its Eligible Participants comply with any instructions or information provided as part of the Services;
 - 4.1.2 Supply Bupa with such information and assistance as Bupa may reasonably require to enable Bupa to fulfil its obligations under this Agreement; and
 - 4.1.4 Comply with any other requirements as specified in Schedule 1.
- 4.2 Where the Services are to be provided on Client premises, Client shall:
 - 4.2.1 ensure that Client premises are suitable in the reasonable opinion of Bupa; and
 - 4.2.2 provide for Bupa, its agents, subcontractors and employees, in a timely manner and at no charge, access to Client premises, facilities and persons as Bupa may reasonably request.
- 4.3 If Bupa's performance of any of its obligations under the Agreement is prevented or delayed by any act or omission by the Client or failure by the Client to perform any relevant obligation ("Client Default") without limiting or affecting any other right or remedy available to it, Bupa shall have the right to suspend performance of the Services until the Client remedies the Client Default, and to rely on the Client Default to relieve it from the performance of any of its obligations in each case to the extent the Client Default prevents or delays Bupa's performance of any of its obligations.

5 CHARGES AND PAYMENT

- 5.1 In consideration of the provision of the Services by Bupa to Client, Client shall pay the Charges together with any VAT or other tax at the prevailing rate to Bupa in accordance with the provisions of Schedule 2. Bupa may vary the Charges from time to time on prior written notice to the Client, in the event that the Client does not agree with the variation, it may terminate the Agreement by giving Bupa written notice in advance of the change taking effect.
- 5.2 Bupa will invoice Client in accordance with Schedule 2
- 5.3 Subject to the notification of a bona fide dispute in accordance with Clause 6, Client shall pay all invoices submitted by Bupa within thirty (30) days of the date of the invoice.
- 5.4 Payment shall be made in accordance with the details as set out in Schedule 2. Where payment is to be by electronic transfer, any applicable charges on such payments shall be at Client's expense.
- 5.5 Without prejudice to any other right or remedy of Bupa, if Client fails to make any payment under this Agreement on the due date for payment then Bupa may charge



Client, and Client shall pay Bupa on demand, interest on the unpaid amount at the rate of three percent (3%) per annum above the then current base rate of HSBC Bank from the due date for payment until payment is received in full by Bupa.

- 5.6 Client shall not be entitled to apply any amount due to Bupa under this Agreement in or towards payment of any sum owing by Bupa to Client in relation to any matter whatsoever.
- 5.7 Bupa may at any time, without notice to Client, set off any liability of Client to Bupa against any liability of Bupa to Client, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this agreement. Any exercise by Bupa of its rights under this clause shall not limit or affect any other rights or remedies available to it under this agreement or otherwise.

6 DISPUTED INVOICES

- 6.1 If Client has a bona fide dispute in respect of any invoice issued by Bupa for the Services, it shall notify Bupa of the nature of such dispute in writing within 21 days of receipt of the invoice giving all relevant details. Any invoice not so disputed within the 21 day period shall be deemed to be accepted by Client and payment shall be made in accordance with this Agreement.
- 6.2 If Client properly notifies Bupa in accordance with Clause 6.1, Client shall be entitled to withhold payment of the amount in dispute but shall nevertheless pay the undisputed part in accordance with this Agreement.
- 6.3 The parties shall co-operate in good faith to resolve the dispute over any invoice as amicably and promptly as possible and on settlement of any dispute Client shall make the appropriate payment in accordance with this Agreement and with respect to any such settled amount within seven (7) days of such settlement.

7 REMEDY AND BREACH

- 7.1 If Client can prove to Bupa's reasonable satisfaction that, due to Bupa's failure to comply with applicable law, Bupa has failed to perform the Services in accordance with this Agreement, then Bupa shall at its option remedy such breach:
- 7.1.1 by re-executing the relevant part of the Services without further charge up to the amount of the Charges received by Bupa for the provision of such Services (exclusive of any VAT); or
- 7.1.2 by repaying or crediting to Client that part of the Charges paid by Client to Bupa relating to the provision of the relevant part of the Services (exclusive of any VAT).

8 LIABILITY

- 8.1 This Clause 8 sets out the entire liability of Bupa (including any liability for the acts or omissions of its sub-contractors) in respect of:
- 8.1.1 any breach of this Agreement; and
- 8.1.2 any representation, statement or tortious act or omission including but not limited to negligence arising under or in connection with the Agreement.
- 8.2 Nothing in this Agreement shall in any way exclude or limit Bupa's liability for death or personal injury caused by Bupa's negligence or for fraudulent misrepresentation or for any other liability that cannot be excluded or limited at law.
- 8.3 Bupa shall not be liable for any loss of revenue, loss of actual or anticipated profits (including without limitation loss of profits on contracts), loss of the use of money, loss of anticipated savings, loss of business, loss of opportunity, loss of goodwill, loss of reputation, loss of, damage to or corruption of data, any indirect, special or consequential loss or damage howsoever caused, nor any losses arising as a result of any third party bringing a claim in respect of any of the preceding types of loss,



- whether or not such losses or damage were foreseen, direct, foreseeable, known or otherwise.
- 8.4 The total aggregate liability of Bupa, arising out of, or in connection with this Agreement, whether for negligence or breach of contract or any cause whatsoever shall in no event exceed the Charges paid or payable by Client for the relevant Services that have caused the liability.
- 8.5 Bupa shall not be held in breach of this Agreement, and shall not be liable to Client for any loss or damage suffered or incurred by Client or any third person arising from any of the following:
- 8.5.1 any failure by the Client or the Eligible Participant to follow the instructions provided as part of the Services;
 - 8.5.2 any failure to provide the Services in accordance with this Agreement unless Client notifies Bupa in writing of such a claim (with detailed particulars of the circumstance giving rise thereto) within one (1) month of such failure coming to the notice of Client;
 - 8.5.3 any failure to provide the Services in accordance with this Agreement as a result of any act or omission of Client, its employees or contractors (other than Bupa) including but not limited to any failure by Client, its employees or contractors to fulfil any of Client's obligations under this Agreement; or
 - 8.5.4 any failure to provide the Services in accordance with this Agreement as a result of Bupa's compliance with any instruction or direction given by Client if Bupa informs Client before it complies with the instruction or direction that, in its opinion, that instruction or direction will inhibit performance of the Services.
- 8.6 The express terms and conditions of this Agreement shall apply in place of all warranties, conditions, terms, representations, statements, undertakings and obligations whether express or implied by statute, common law, custom, usage or otherwise, all of which are excluded to the fullest extent permitted by law.
- 8.7 Client acknowledges that Bupa has calculated the Charges in this Agreement on the basis that Bupa will exclude or limit its liability as set out in this Agreement.
- 8.8 For the avoidance of doubt the provisions of Clauses 8.1, 8.3, 8.4, 8.5.1, 8.5.2, 8.5.3, 8.5.4 and 8.6 shall each be construed as a separate limitation of liability.

9 INTELLECTUAL PROPERTY

Subject as otherwise agreed in writing between the parties all copyright, design and other intellectual property rights in any work which is provided or developed in the course of the provision of the Services shall be vested in Bupa. Bupa grants a non-exclusive licence to Client to such extent as is necessary to enable Client to reasonably use and enjoy the benefit of the Services for the term of this Agreement.

10 INSURANCE

Bupa shall maintain in force at its own cost such insurance policies as it deems as appropriate and adequate having regard to its obligations and liabilities under this Agreement. Bupa shall on the reasonable written request of Client provide evidence of its insurance.

11 CONFIDENTIALITY AND DATA PROTECTION

- 11.1 Each party shall keep and procure to be kept secret and confidential all Confidential Information belonging to the other party disclosed or obtained as a result of the relationship of the parties under this Agreement and shall not use nor disclose the same save for the purposes of the proper performance of this Agreement or with the prior written consent of the other party. Where disclosure is made to any employee, consultant or agent, it shall be done subject to obligations equivalent to those set out in this Agreement and each party agrees to use all reasonable endeavours to procure



that any such employee, consultant or agent complies with such obligations. Each party shall continue to be responsible to the other party in respect of any disclosure or use of such Confidential Information by employee, consultant or agent to whom disclosure is made.

- 11.2 The obligations of confidentiality in this Clause 11 shall not extend to any matter which either party can show:
- 11.2.1 is in, or has become part of, the public domain other than as a result of a breach of the obligations of confidentiality under this Agreement; or
 - 11.2.2 was independently disclosed to it by a third party entitled to disclose the same.
- 11.3 It shall not be a breach of this Agreement for a party to disclose any Confidential Information of the other party that is required to be disclosed under any applicable statute, or by order of a court or governmental body or authority of competent jurisdiction.
- 11.4 The parties shall comply with Schedule 3 (Data Protection Schedule).

12 TERMINATION

- 12.1 Either party may immediately terminate this Agreement without payment of compensation or other damages caused to the other party solely by such termination by giving notice in writing to the other party if any one or more of the following events happens:
- 12.1.1 subject to Clause 7, the other party commits a material breach of any of its obligations under this Agreement which is incapable of remedy; or
 - 12.1.2 subject to Clause 7, the other party fails to remedy, where it is capable of remedy, or persists in any breach of any of its obligations under this Agreement (save as to payment) after having been required in writing to remedy or desist from such breach within a period of 30 days; or
 - 12.1.3 any sum payable under this Agreement by the other party is not paid within seven (7) days of its due date for payment in accordance with this Agreement; or
 - 12.1.4 the other party has any distress or execution levied on its assets which is not paid out within seven (7) days of its being levied; or
 - 12.1.5 the other party is deemed to be unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986; or
 - 12.1.6 the other party calls a meeting for the purpose of passing a resolution to wind it up, or such a resolution is passed; or
 - 12.1.7 the other party presents, or has presented, a petition for a winding up order; or
 - 12.1.8 an application to appoint an administrator is made in respect of the other party or a notice of intention to appoint an administrator is filed in respect of the other party; or
 - 12.1.9 any other steps are taken by the other party or any other person to appoint an administrator over the other party; or
 - 12.1.10 the other party has an administrator, administrative receiver, or receiver appointed over all or any part of its business, undertaking, property or assets; or
 - 12.1.11 the other party takes any steps in connection with proposing a company voluntary arrangement or a company voluntary arrangement is passed in relation to it; or
 - 12.1.12 the other party stops or suspends making payments (whether of principal or interest) with respect to all or any class of its debts or announces an intention to do so or the other party suspends or ceases or threatens to suspend or cease to carry on its business; or



12.1.13 a secured lender to the other party takes any steps to obtain possession of the property on which it has security or otherwise to enforce its security; or
12.1.14 the other party suffers or undergoes any procedure analogous to any of those specified in clause 12.1.3–12.1.13 inclusive above or any other procedure available in the country in which the other party is constituted, established or domiciled against or to an insolvent debtor or available to the creditors of such a debtor.

12.2 Bupa may terminate this Agreement or suspend the Services on not less than 7 days prior written notice to the Client or a shorter period if that is required to comply with applicable law, guidance or Government policy or advice.

12.3 The termination of this Agreement shall be without prejudice to the rights and remedies of either party which may have accrued up to the date of termination.

12.4 Any termination of this Agreement (for whatever reason) shall not affect the coming into force or the continuance in force of any provision of this Agreement which is expressly or by implication intended to come into or continue in force on or after such termination.

13 EFFECT OF TERMINATION

13.1 Upon expiry or termination of this Agreement for any reason:

13.1.1 Client shall immediately pay to Bupa all of Bupa's outstanding invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, Bupa may submit an invoice, which shall be payable immediately on receipt; and

13.1.2 each party shall return all Confidential Information that is in a tangible form and equipment belonging to the other party, to the other party.

14 FORCE MAJEURE

14.1 If either party is affected by Force Majeure it shall immediately notify the other party in writing of the matters constituting the Force Majeure and shall keep that party fully informed of their continuance and of any relevant change of circumstances whilst such Force Majeure continues.

14.2 Save as provided in Clause 14.3, Force Majeure shall not entitle either party to terminate this Agreement and neither party shall be in breach of this Agreement, or otherwise liable to the other, by reason of any delay in performance, or non-performance of any of its obligations due to Force Majeure.

14.3 If the Force Majeure continues for longer than three (3) months either party may at any time whilst such Force Majeure continues by one (1) month's notice in writing to the other terminate this Agreement.

15 ASSIGNMENT AND SUB-CONTRACT

15.1 Client shall not assign, delegate, sub-contract, transfer, charge or otherwise dispose of all or any of its rights and responsibilities under this Agreement.

15.2 Bupa may sub-contract performance of any of the Services (or part thereof) to any person, firm, corporation or organisation.

16 RIGHTS OF THIRD PARTIES

16.1 All members of the Bupa Group may enforce this Agreement. Except for the members of the Bupa Group, no person who is not a party to this Agreement (including any employee, officer, agent, representative or subcontractor of either party) shall have the right (whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise) to enforce any term of this Agreement which expressly or by implication confers a benefit on that person without the express prior agreement in writing of the parties which agreement must refer to this Clause.



- 16.2 Where a person who is not a party to this Agreement (including any employee, officer, agent, representative or sub-contractor of either party) has a right to enforce any term of this Agreement, the parties may, notwithstanding the Contracts (Rights of Third Parties) Act 1999 vary or cancel this Agreement by agreement between them without requiring the consent of such third party.

17 DISPUTE ESCALATION

- 17.1 If any dispute arises in connection with this Agreement, the Client's manager and Bupa account manager shall within 21 Business Days of written request from one party to the other meet in a good faith effort to resolve the dispute.
- 17.2 If the dispute is not resolved at that meeting or after further escalation then the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator will be nominated by CEDR. To initiate the mediation, a party must give notice in writing ("ADR notice") to the other party requesting mediation. A copy of the request should be sent to CEDR Solve. The mediation will start not later than 90 days after the date of the ADR notice.

18 NOTICES

- 18.1 Any notices sent under this Agreement must be in writing and may be served by personal delivery or by sending the notice by first class post or facsimile or electronic data transmission at the address given above or at such other address as the relevant party may give for the purpose of service of notices under this Agreement and every such notice shall be deemed to have been served upon delivery if served by hand or at the expiration of three (3) Business Days after despatch of the same if delivered by first class post or at ten hours am local time of the recipient on the next normal Business Day of the recipient following despatch if sent by facsimile or electronic data transmission.
- 18.2 To prove service of any notice it shall be sufficient to show in the case of a notice delivered by hand that the same was duly addressed and delivered by hand and in the case of a notice served by post that the same was duly addressed prepaid and posted in the manner set out above. In the case of a notice given by facsimile or electronic data transmission, it shall be sufficient to show that it was despatched in a legible and complete form to the correct telephone number or electronic data number or address without any error message.

19 GENERAL

- 19.1 In the event of a complaint in connection with the Services please contact covidservices@bupa.com.
- 19.2 In performing the Services, Bupa shall operate as, and have the status of, an independent contractor. Nothing in this Agreement shall create, or be deemed to create, a partnership or joint venture or relationship of employer and employee or principal and agent between the parties.
- 19.3 This Agreement contains the entire agreement between the parties in relation to its subject matter. Any descriptive matter or advertising issued by Bupa shall only be binding to the extent that it is expressly set out as part of this Agreement. Client irrevocably and unconditionally waives any right it may have to claim damages for breach of any warranty not contained in this Agreement, or any misrepresentation, unless such misrepresentation was made fraudulently. This Agreement applies to the exclusion of any other terms that the Client seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 19.4 Subject to clauses 3.6 and 5.1 above, any variation of this Agreement shall be in writing and duly executed by each of the parties to this Agreement.



- 19.5 The rights and remedies of either party in respect of this Agreement shall not be diminished, waived or extinguished by the granting of any indulgence, forbearance or extension of time granted by such party to the other nor by any failure of, or delay by the said party in ascertaining or exercising any such rights or remedies. The waiver by either party of any breach of this Agreement shall not prevent the subsequent enforcement of any subsequent breach of that provision and shall not be deemed to be a waiver of any subsequent breach of that or any other provision.
- 19.6 If at any time any part of this Agreement (including any one or more of the clauses of this Agreement or any sub-clause or paragraph or any part of one or more of these clauses) is held to be or becomes void or otherwise unenforceable for any reason under any applicable law, the same shall be deemed omitted from this Agreement and the validity and/or enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired as a result of that omission.
- 19.7 Each of the parties shall, and shall use their reasonable endeavours to procure that any necessary third parties shall execute and deliver to the other party such other instruments and documents and take such other action as is necessary to fulfil the provisions of this Agreement in accordance with its terms.
- 19.8 In the event of any conflict or inconsistency between the clauses and the schedules to this Agreement, the clauses shall take precedence.
- 19.9 A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.
- 19.10 Any words following the terms **including, include, in particular, for example** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 19.11 A reference to **writing** or **written** includes fax and/or email.

20 LAW AND JURISDICTION.

This Agreement shall be governed by and construed in accordance with English law and each party agrees to submit to the exclusive jurisdiction of the English courts as regards any claim or matter arising under this Agreement.



SCHEDULE ONE

THE SERVICES

Antibody testing for Covid-19.

The Service provides: the professional collection of blood samples from the Client's Eligible Participants; explanation of the purpose and interpretation of antibody results; analysis of blood samples for SARS-Cov-2 (virus which causes Covid-19) antibodies; the reporting of results directly to the Eligible Participant; and one follow-up support call with a nurse trained in interpreting antibody results.

Collection of blood samples will be completed by a healthcare professional trained in venepuncture, either on the Client site or within a Bupa Health Clinic as agreed between the parties. Bupa will provide the personal protective equipment required for both the professional collecting the sample, and for the Eligible Participant.



SCHEDULE 2

CHARGES

1.1 Products & Pricing

| Product Description | |
|---------------------|---|
| 1. | On-site collection, inclusive of 22 sample collections per healthcare professional taking samples: £1380 per day, per professional taking blood samples |
| 2. | Price per test in Clinic: £65 |

Charges are quoted exclusive of VAT. The Client will pay all the Charges with any VAT or other tax at the prevailing rate and in accordance with the charging terms set out in this Schedule 2.

2.1 Invoicing

Terms are 30 (thirty) days Nett of invoice date

Monthly billed – Issued monthly in arrears at the end of each calendar month]



Monthly Invoice
Example.pdf

Online retrieval of invoices, statements and correspondence is available

2.6 Payments

BACS should be paid into the account detailed below

2.7 Bank Details

Bank: NatWest Bank
Account number: 15510549
Sort Code: 60-80-08

Natwest
Law Courts, Temple Bar Branch
PO Box 10720
217 Strand
London
WC2R 1AL



2.8 Address:

BUPA Health Clinics Finance
The Anchorage
Salford Quays
Manchester
M50 3XL

2.9 VAT Registration - 239 7316 41



SCHEDULE 3

Data Protection Schedule

- 1.1 In this Schedule, the following terms have the following definitions:
- “Data Protection Law”** (i) the GDPR and (ii) the Privacy and Electronic Communications (EC Directive) Regulations 2003. References to **“Data Controller”**, **“Data Processor”**, **“Data Subjects”**, **“Personal Data”**, **“Process”**, **“Processed”**, **“Processing”**, **“Processor”** and **“Supervisory Authority”** have the meanings set out in, and will be interpreted in accordance with, such laws
- “GDPR”** means the General Data Protection Regulation (EU) 2016/679 of the European Parliament (as amended from time to time), and any laws and/or regulations of the United Kingdom that: (i) implement and/or exercise derogations under it; and/or (ii) replace or supersede it; and
- “Privacy Notice”** means the Bupa fair processing information sent to Client by Bupa, from time to time.
- 1.2 Capitalised terms in this Schedule shall have the meaning given to them in this Schedule or in the Agreement, and shall be interpreted in accordance with, the Data Protection Law. The parties acknowledge and agree that Bupa is a Data Controller in respect of:
- (a) Personal Data which Client may provide to Bupa from time to time in respect of any Eligible Participant; and
 - (b) Personal Data which Bupa receives from time to time in respect of any, Eligible Participant whether received from: (i) such Eligible Participant, directly or indirectly, (including, without limitation, in circumstances when such Eligible Participant makes use of the Services); or (ii) any third party, including, without limitation, any healthcare professional or intermediary (together **“Eligible Participant Data”**).
- 1.3 For the avoidance of doubt, Bupa is not a “joint controller” as that term is interpreted under Data Protection Law.
- Dealing with Personal Data**
- 1.4 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 Eligible Participant 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.
- 1.5 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 Eligible Participant 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 Eligible Participant Data, or accidental loss or destruction of, or damage to, the Eligible Participant Data.
- 1.6 Client shall provide (or procure the same in relation thereto) each Eligible Participant with a copy (in hard copy and / or electronic form) of the Privacy Notice at or before the time Bupa processes the Eligible Participant Data.



- 1.7 To the extent that Client provides Bupa with any Personal Data (including Sensitive or Special Categories) at or before the time at which an Eligible Participant seeks to avail of the Services, Client shall ensure that it complies with the Data Protection Law in relation to providing such Personal Data, including (i) complying with its obligations of transparency relating to the provision of Personal Data to Bupa, (ii) ensuring that it has an appropriate lawful basis under Data Protection Law to provide the Personal Data to Bupa; and (iii) there is an appropriate lawful basis for Bupa to process such Personal Data in the provision of the Services to the Eligible Participant pursuant to the terms of this Agreement.
- 1.8 Client acknowledges that Bupa (or any sub-contractors involved in the performance of the Services on Bupa's behalf) may be required to share certain Eligible Participant Data with public bodies or other governmental organisations, such as Public Health England, for COVID-19 purposes (for example: the purposes of research, protecting public health and monitoring and managing the Covid-19 outbreak and incidents of exposure). Client further acknowledges that such Eligible Participant Data may be used as part of the NHS test and trace service.
- 1.9 Bupa shall notify Client (which may include notice by email) as soon as reasonably practicable after becoming aware that any Eligible Participant Data of a material number of Eligible Participants has been affected by a data security breach which, under Data Protection Law, is required to be notified to the affected Eligible Participants.
- 1.10 Bupa shall independently respond to any request made by, or on behalf of an Eligible Participant to exercise any Data Subject rights, under the Data Protection Law in respect of information controlled by Bupa.
- 1.11 Bupa will retain any Eligible Participant Data Client provides 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.

Disclosed Eligible Participant Data

- 1.12 Following the receipt of a request from Client for the purposes of providing the Services to the Eligible Participant pursuant to the terms of this Agreement, and to the extent permitted by Data Protection Law, Bupa may provide Client with Personal Data in respect of persons that are Eligible Participants or that may become Eligible Participants in connection with this Agreement ("**Disclosed Eligible Participant Data**").
- 1.13 If and to the extent that Bupa provides Disclosed Eligible Participant Data pursuant to paragraph 1.12 above, the parties agree and acknowledge that Client receives such data in a capacity as a separate Data Controller.
- 1.14 Client agrees to process all Disclosed Eligible Participant Data in accordance with Data Protection Law.
- 1.15 Any provision of Disclosed Eligible Participant Data to Client (or any member of Client's Group or any person with whom Client are otherwise affiliated) by Bupa shall, if such provision would result in the transfer of Disclosed Eligible Participant Data to a person located outside the European Economic Area, be subject to and conditional upon:
- (a) the country in which the Disclosed Eligible Participant Data will be processed having been deemed, and remains, adequate by the appropriate authority under Data Protection Law (an "**Adequate Country**"); or
 - (b) where the country in which the Disclosed Eligible Participant Data will be processed is not an Adequate Country, Disclosed Eligible Participant Data is transferred in accordance with one of the lawful mechanisms recognised by Data Protection Law.

