



Terms and Conditions for Employee Benefits Licences

BABYLON HEALTHCARE SERVICES LIMITED (“Babylon”) – TERMS AND CONDITIONS FOR CORPORATE CLIENTS (the “Terms”)

These Terms are entered into between the Client and Babylon when Babylon's order form has been signed by the Client and has been submitted to Babylon.

These Terms are entered into between:

- A. BABYLON HEALTHCARE SERVICES LIMITED**, a company incorporated in England and Wales with registered number 09229684; and
- B. THE CLIENT** whose details are set out on the Order Form (see “Contracting Office” details) (the “Client”).

1. Definitions

“**Agreement**” means these Terms, the Schedules, and any terms set out on the Order Form.

“**Annual User Fee**” means the annual fee payable by the Client as set out in the Order Form or as amended pursuant to clause 4.3.

“**Babylon App**” means the Babylon app available for download from the Apple App Store or the Android Google Play Store (or other app providers where the Babylon Health app can be downloaded which Babylon may approve from time to time).

“**Contract Year**” means a period of 12 months (or such shorter period if this Agreement is terminated earlier) commencing on the Start Date and/or each anniversary of the Start Date.

“**Data Protection Legislation**” means all applicable data protection legislation in force from time to time in the UK, including the Data Protection Act 2018 and the General Data Protection Regulation (EU) 2016/679.

“**Designated Users**” means those users agreed between the parties and being members of the Client's staff.

“**End Date**” means the date as set out on the Order Form on which this Agreement may end subject to any applicable renewal periods.

“**Maximum Number of Users**” means the maximum number of Validated Users under this Agreement as set out in the Order Form.

“**Order Form**” means the order form which has been agreed between the parties and signed on behalf of the Client.

“**Price per User**” means the price that the Client shall pay per Validated User per year as set out in the Order Form.

“**Services**” the services provided through the Babylon App and, in particular, Babylon's clinical services.

“**Start Date**” means the date on which this Agreement starts as set out on the Order Form.

“**Term**” means the period in which this Agreement is in force as set out in clause 9.1.

“**Validated Users**” means those Designated Users who successfully complete the validation process and are accepted by Babylon as users of the Babylon App, for so long as they remain validated as users by Babylon.

The terms “**Controller**”, “**Data Subject**”, “**Personal Data**”, “**Processing**” and “**Processor**” have the meanings given to them in the Data Protection Legislation.

2. Basis of contract

- 2.1. This Agreement shall prevail over any inconsistent term(s) or condition(s) contained in, or referred to in, the Client's purchase order, confirmation of order, or specification, or implied by law, trade custom, practice or course of dealing.
- 2.2. The Agreement sets out the terms upon which Babylon will make available the Babylon App and upon which the Client agrees with Babylon to pay for usage by Validated Users of the Babylon App.
- 2.3. Any variation of the Agreement shall be in writing and signed by or on behalf of the parties.
- 2.4. In the event of any inconsistency or conflict between these Terms and any terms on the Order Form then these Terms shall prevail unless the Order Form expressly states that such terms shall override these Terms.

3. Supply of Services to Validated Users

- 3.1. Babylon shall provide the Services to the Validated Users. The number of Validated Users shall not exceed the Maximum Number of Users.
- 3.2. Use of the Babylon App by Validated Users and the supply of any Services through the Babylon App to Validated Users is subject always to the terms and conditions of use of the Babylon App to which all users will be asked to sign up. For the avoidance of doubt, Babylon reserves the right to remove Validated Users due to such users' excessive use of the Babylon App. This Agreement does not restrict the applicability of those terms and conditions as between a user of the Babylon App and Babylon.
- 3.3. Babylon shall have the right to make any changes to the Babylon App which are necessary to comply with any applicable law or safety requirements, or which it believes from time to time (in its sole discretion) are reasonable or desirable.
- 3.4. The Client shall provide to Babylon a list of all Designated Users (which includes the Designated Users' names and dates of birth) as soon as possible following the Start Date and shall promptly provide Babylon with updates from time to time during the Term.
- 3.5. The Client shall co-operate with Babylon in all matters where reasonably requested in connection with the validation of Designated Users and ensuring that only

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Registered in England and Wales. Number: 09229684

appropriate persons are Validated Users, including keeping any validation lists up to date, notifying Babylon promptly upon any Validated User ceasing to be entitled to use the Babylon App and responding promptly to any requests by Babylon in connection with validating users. For the avoidance of doubt, if any additional Designated Users become Validated Users after the initial validation process during the Term, such Validated Users shall only be Validated Users for the remainder of the Term.

- 3.6. If indicated in the Order Form, subject to Babylon's obligations under applicable law (including Data Protection Legislation) and the terms in effect between Validated Users and Babylon (including consents from Validated Users), Babylon shall provide to the Client information about the use of the Services by Validated Users as set out in the Order Form.
- 3.7. Babylon may, from time to time, offer access to services that are classified as "**Beta Services**". Access to and use of Beta Services may be subject to additional agreements. Babylon makes no representations that Beta Services will ever be made generally available and reserves the right to discontinue or modify Beta Services at any time without notice. Beta Services are provided AS IS, may contain bugs, errors or other defects.

4. **Charges and payment**

- 4.1. The Client shall pay the Annual User Fee to Babylon: (i) in advance of the Start Date; and (ii) on each annual anniversary of the Start Date during the Term.
- 4.2. Babylon shall submit invoices to the Client for the Annual User Fee and the Client shall pay each invoice within 30 days of the date of each invoice in full and in cleared funds to a bank account nominated in writing by Babylon which may be updated by Babylon on notice to the Client from time to time.
- 4.3. Babylon may adjust the Annual User Fee by notifying the Client of the adjusted Annual User Fee no later than 30 days' before each anniversary of the Start Date. The adjusted Annual User Fee shall take effect from such anniversary of the Start Date.
- 4.4. All amounts payable by the Client under this Agreement are exclusive of value added tax chargeable from time to time (VAT), which shall be paid by the Client.
- 4.5. The Client agrees that in the event Babylon is unable to collect the Annual User Fee owed to Babylon for the relevant Contract Year, Babylon may take any steps it deems necessary to collect such Annual User Fee from the Client and that the Client will be responsible for all costs and expenses incurred by Babylon in connection with such collection activity, including collection fees, court costs and legal fees. The Client further agrees that, if the Client fails to make any payment due under this Agreement by the due date for payment, then, without limitation to other remedies, the Client shall pay interest on the overdue amount at the rate of 4% per cent per annum above the base rate of Lloyds Bank plc from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after any court judgment. The Client shall pay the interest together with the overdue amount.
- 4.6. The Client shall pay all amounts due under this Agreement in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law).

5. **Intellectual property rights**

- 5.1 Babylon shall own and retain all intellectual property rights in or relating to or arising out of or in connection with the Services, including the Babylon App, or in connection with any suggestions, enhancement requests, recommendations or other feedback that Babylon might receive from the Client. Nothing in this Agreement shall cause the transfer of ownership of, or (subject to clause 5.2) grant a licence to any intellectual property of Babylon to the Client.
- 5.2 Client shall be entitled and authorised to use any tradenames, trademarks, logos and marketing materials that Babylon specifically provides to the Client for the purposes of promoting the Babylon App and related products and services. Such use shall: (1) not bring the Babylon App or Babylon into disrepute; and (2) terminate immediately on termination of this Agreement. If Babylon reasonably objects to any such use then the Client shall stop using the relevant materials in the manner specified by Babylon.
- 5.3 Babylon shall be entitled and authorised to use Client's tradenames, trademarks and logos that Client specifically provides to Babylon for marketing purposes. Such use shall: (1) not bring the Client into disrepute; and (2) terminate immediately on termination of this Agreement. Notwithstanding the foregoing, Babylon shall have the right to refer to the Client in any publicity materials relating to the Babylon App. If the Client reasonably objects to any such use then Babylon shall stop using the relevant materials in the manner specified by the Client.
- 5.4 The Client agrees that the Client will not use the Babylon App to: (i) modify, disassemble, decompile, prepare derivative works of, reverse engineer or otherwise attempt to gain access to the source code of the Babylon App; (ii) knowingly or negligently use the Babylon App in a way that abuses, interferes with, or disrupts Babylon's networks, the Babylon App or the Services; (iii) engage in activity that is illegal, fraudulent, false or misleading; (iv) build or benchmark a competitive product or service, or copy any features, functions or graphics of the Babylon App or the Services; (v) use the Babylon App or Services to be harassing, libellous, threatening, obscene, indecent, would violate the intellectual property rights of any party or is otherwise unlawful, that would give rise to civil liability, or that constitutes or encourages conduct that could constitute a criminal offence under any applicable law or regulation; (vi) adversely affect performance of the Babylon App or the Services in any way or which does or is intended to harm or extract information or data from other hardware, software or networks of Babylon or other users of the Services; (vii) engage in any activity or use Babylon App or the Services in any manner that could damage, disable, overburden, impair or otherwise interfere with or disrupt the Babylon App or the Services, or any servers or networks connected to the Babylon App or the Services or Babylon's security systems; (viii) use the Babylon App in a manner that violates applicable law, including but not limited to anti-spam, export control, privacy, and anti-terrorism laws and the Client agrees that the Client is solely responsible for compliance with all such laws and regulations.
- 5.5 The Client may not reproduce, re-sell or otherwise distribute the Babylon App or the Services or any reports

or data generated by the Babylon App or the Services for any purposes unless the Client has been specifically permitted to do so under a separate agreement with Babylon. The Client may not offer or enable any third parties to use the Babylon App or the Services ordered pursuant to this Order Form (aside from the Designated Users) or otherwise generate income from the Babylon App or the Services, or use the Babylon App or the Services for the development, production or marketing of a service or product substantially similar to the Babylon App or the Services.

6. Confidentiality

- 6.1 Each party undertakes that it shall not disclose to any person any confidential information concerning the business, affairs, clients, customers, trade secrets, technical know-how, clients or suppliers of the other party, except as permitted by clause 6.2.
- 6.2 Each party may disclose the other party's confidential information:
 - 6.1.1. to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under this Agreement. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 6; and
 - 6.1.2. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority, provided that, unless prohibited by law or regulation, it notifies the other party in advance prior to making any such disclosure.
- 6.3 Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under this Agreement.

7. Obligations

- 7.1. Each party warrants, represents and undertakes to each other that they each:
 - 7.1.1. have the necessary power and authority to enter into this Agreement; and
 - 7.1.2. shall perform their obligations under this Agreement with reasonable skill and care.
- 7.2. The Client shall use all reasonable endeavours to promote the Babylon App to its employees and staff using materials and templates provided by Babylon and to encourage them to apply to become Validated Users.
- 7.3. The Client shall promptly inform Babylon of any complaints, adverse events or feedback the Client receives from Validated Users or becomes aware of regarding the Services or Babylon App.

8. Limitation of liability:

- 8.1. Nothing in these Terms shall limit or exclude:
 - 8.1.1. either party's liability for:
 - 8.1.1.1. death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
 - 8.1.1.2. fraud or fraudulent misrepresentation; or
 - 8.1.1.3. breach of the terms implied by section 2 of the Supply of Goods and Services

Act 1982 or any other liability which cannot be limited or excluded by applicable law; or

- 8.1.2. the Client's liability to pay each Annual User Fee.

8.2. Subject to clause 8.1:

- 8.2.1. neither party shall under any circumstances whatsoever be liable to the other, whether in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise, for any loss of profit, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under or in connection with this Agreement; and
 - 8.2.2. in any case, Babylon's maximum cumulative liability to the Client in respect of all other losses arising under or in connection with this contract, whether in contract, tort (including negligence), breach of statutory duty, misrepresentation, or otherwise, shall in no circumstances exceed, and the Client's exclusive remedy for any claims arising out of or related to this Agreement shall be limited to, the amount equal to the Annual User Fee paid or payable by the Client to Babylon in the twelve (12) months preceding the event or circumstances giving rise to such claims.
- 8.3. Except as expressly provided in this Agreement, there are no conditions, warranties or other terms binding on the parties with respect to actions contemplated by this Agreement. Any condition, warranty or other term in this regard that might otherwise be implied or incorporated into this Agreement, whether by statute, common law or otherwise, is, to the extent that is lawful to do so, excluded by this Agreement. Without limiting the foregoing, the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from this Agreement.

9. Indemnity

The Client agrees to indemnify, defend and hold harmless Babylon, its affiliates, officers, directors, employees, consultants, agents and suppliers from any and all third party claims, liability, damages and/or costs (including, but not limited to, legal fees) arising from the Client's violation of this Agreement or the Client's infringement or violation of any intellectual property or other right of any person or entity or applicable law.

10. Termination

- 10.1. Unless terminated by either party in accordance with clause 10.2 or by Babylon in accordance with clause 10.3, this Agreement shall come into force on the Start Date and shall remain in force until the End Date after which this Agreement shall automatically renew for successive periods of one year unless terminated by either party giving no less than 30 days' written notice to the other party upon which this Agreement shall terminate on the next annual anniversary of the Start Date which occurs after such minimum notice period (the "Term").

- 10.2. Without affecting any other right or remedy available to it, either party may terminate this Agreement with immediate effect by giving written notice to the other party if:
- 10.2.1. the other party commits a material breach of this Agreement and (if such a breach is remediable) fails to remedy that breach within 30 (thirty) days of that party being notified in writing to do so;
 - 10.2.2. the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction; or
 - 10.2.3. the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.
- 10.3. Without affecting any other right or remedy available to it, Babylon may terminate this Agreement with immediate effect by giving written notice to the Client if:
- 10.3.1. changes in applicable law or regulation render Babylon unable to provide the Services as envisaged by this Agreement; or
 - 10.3.2. the Client fails to pay any amount due under this Agreement within 60 days of the due date for payment.

11. Consequences of termination

- 11.1. On termination of this Agreement for any reason:
- 11.1.1. the Client shall immediately pay to Babylon all of Babylon's outstanding unpaid invoices and interest and, in respect of any Services supplied but for which no invoice has been submitted, Babylon shall submit an invoice, which shall be payable by the Client within 30 days of receipt. For the avoidance of doubt the Client shall be obliged to pay to Babylon the full relevant Annual User Fee regardless of whether the Agreement has terminated on an anniversary of the Start Date or whether the relevant Designated User has been a Designated User for a full year;
 - 11.1.2. the Client shall return to Babylon all marketing materials and any other materials which Babylon has provided to the Client during the course of this Agreement;
 - 11.1.3. Babylon shall immediately cease to allow the Validated Users to use the Babylon App;
 - 11.1.4. the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall be unaffected, including the right to claim damages in respect of any breach of this Agreement which existed at or before the date of termination or expiry; and
 - 11.1.5. clauses 5.1, 6, 8, 11 and 15 to 22 shall survive termination and continue in full force and effect.

12. Data protection

- 12.1. To the extent that it is necessary for either party to process such Personal Data, such party may process such Personal Data in relation to its performance of this Agreement and as permitted or in accordance with applicable law, including the Data Protection Legislation.

This clause 12 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.

- 12.2. Where a party processes Personal Data made available by the other party in relation to its performance of this Agreement ("**Supplied Personal Data**") on behalf of the other party, such party shall act as a Processor for the other party (which shall be the Controller) and the following shall apply:
- 12.2.1. the subject matter, duration, nature and purpose, type of Personal Data and categories of Data Subjects is set out in Schedule 1 to this Agreement;
 - 12.2.2. the Processor will only process the Supplied Personal Data on the Controller's written instructions unless the Processor is required to process it for other purposes by law (in which case the Processor will give the Controller prior notice of that requirement unless the relevant law prohibits the giving of notice);
 - 12.2.3. the Processor will comply with the express obligations of a Processor under Articles 28(3)(b) to 28(3)(h) of the GDPR (or equivalent provisions under other Data Protection Legislation). However, the Controller may not instruct the Processor to delete copies of data that the Processor holds as controller (as defined in the Data Protection Legislation);
 - 12.2.4. the Controller generally authorises the Processor to engage further Processors to process Supplied Personal Data on terms required by the Data Protection Legislation;
 - 12.2.5. the Controller will tell the Processor if the Controller requires any assistance pursuant to Articles 28(3)(a) to 28(3)(h) of the GDPR inclusive. The Controller and the Processor shall agree the scope, method, timing and reasonable fees chargeable by the Processor for such assistance; and
 - 12.2.6. in fulfilment of the Processor's obligation to demonstrate compliance with this paragraph, the Processor will make available to the Controller information on the Processor's processing of the Supplied Personal Data (including, at the Processor's discretion, certificates, third party audit reports or other relevant information).
- 12.3. If Babylon processes Personal Data as Controller, the Client shall continue to act as Controller in respect of any Personal Data the Client chooses to record or otherwise process in relation to its performance of this Agreement.
- 12.4. Either party may transfer Supplied Personal Data outside of the EEA where it is permitted to do so for that transfer under Data Protection Legislation.
- 12.5. The Client confirms that any Supplied Personal Data provided to Babylon by the Client or on its behalf has been collected and disclosed in accordance with Data Protection Legislation. The Client will take reasonable steps to ensure that the Client and its employees, agents and contractors do not input, upload or disclose to Babylon any irrelevant or unnecessary information about individuals.
- 12.6. Each party shall maintain, and will require each party's Processors (respectively) to maintain, appropriate physical, technical and organisational measures to protect Personal Data against accidental, unauthorised or unlawful destruction, loss, alteration, disclosure or access ("**Data Breach**"). The Client will, without undue delay, notify Babylon of any actual or suspected non-trivial Data Breach relating to Personal Data that may

also impact Babylon or the security of Babylon systems, products or services. If Babylon acts as Processor, Babylon will notify the Client, without undue delay, of any non-trivial breach of security that results in a Data Breach that may adversely affect the Supplied Personal Data.

- 12.7. Babylon may de-identify and/or aggregate Supplied Personal Data in which case: (i) the data (the "**De-identified Data**") will not be treated as Supplier Personal Data provided that it is not personal data for the purposes of GDPR; and (ii) Babylon may use the De-identified Data for statistical or benchmarking purposes to contribute towards the development of Babylon's products and services during or after the term of this Agreement and will not be required to delete the De-identified Data on termination.

13. Anti-bribery

13.1. Each party shall:

- 13.1.1. comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 ("**Relevant Requirements**");
- 13.1.2. have and shall maintain in place throughout the Term of this Agreement its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements and will enforce them where appropriate; and
- 13.1.3. promptly report to the other party any request or demand for any undue financial or other advantage of any kind received in connection with the performance of this Agreement.

14. Notices

Notices under this Agreement must be sent via: (i) pre-paid first-class post or other next working day delivery service to the registered address of the relevant party which shall be deemed received at 9.00am on the second business day after posting or (ii) email to legal-uk@babylonhealth.com for notices to Babylon or the Client's email address provided in the Order Form for notices to the Client which shall be deemed received at the time of transmission, or if this time falls outside of Business Hours in the place of receipt, when Business Hours resume. "**Business Hours**" means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

15. Assignment

Neither party may assign or transfer any of its rights or obligations under this Agreement in whole or in part without the prior written consent of the other party, except that Babylon may assign this Agreement to an entity within its corporate group.

16. Entire agreement

This Agreement supersedes all previous conditions understandings, commitments, agreements or representations (other than fraudulent misrepresentations) whatsoever whether oral or written relating to the subject matter hereof and constitutes the entire agreement between the parties relating to the subject matter hereof. Each party acknowledges that in entering into this Agreement it does not rely on, and shall have no remedies in respect of, any statement,

representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.

17. No third party rights

17.1. Unless it expressly states otherwise, this Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

17.2. The rights of the parties to rescind or vary this Agreement are not subject to the consent of any other person.

18. Force majeure

Other than in respect of any payment obligation of the Client pursuant to this Agreement, neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control, such items to include but not be limited to acts of God, natural disasters, epidemics, pandemics, acts of war, or any law or action taken by a government which includes, without limitation, imposing a quota or prohibition, or failing to grant a necessary licence or consent.

19. Waiver

No waiver of any term or condition of this Agreement shall be effective unless made in writing and signed by the party against which enforcement of the waiver is sought. The waiver of any breach of any term or condition of this Agreement shall not be construed as a waiver of any subsequent breach of a term or condition of the same or a different nature.

20. Severability

The invalidity, illegality or unenforceability of any of the provisions of this Agreement shall not affect the validity, legality and enforceability of the remaining provisions of this Agreement.

21. No partnership

Nothing in this Agreement shall constitute or be construed as constituting or establishing any partnership or joint venture between the parties for any purpose whatsoever.

22. Governing law and jurisdiction

22.1. This Agreement, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the laws of England and Wales.

22.2. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

Schedule 1

Defined terms used in this Schedule have the meaning given to them in clause 1 of this Agreement.

1. Subject matter of the processing

The subject matter and duration of the Processing of the Supplied Personal Data are set out in the body of this Agreement and this Schedule.

2. Duration

The Term.

3. Nature and purpose

Babylon will process Supplied Personal Data as necessary in order to perform its obligations under this Agreement, as set out in the body of this Agreement.

The Client will process Supplied Personal Data as necessary in order to perform its obligations under and receive the benefit of services provided by Babylon under this Agreement, as set out in the body of this Agreement.

4. Type of Personal Data

The following data types are the subject of the Processing of Supplied Personal Data:

- First and last name
- E-mail address
- Date of birth (with respect to Designated Users and Validated Users)
- If applicable, the types of data described in the Order Form

5. Categories of Data Subjects

The Supplied Personal Data concern the following Data Subjects:

- Designated Users
- Validated Users
- Employees and other staff of a party