

BPM+ Health

MEMBERSHIP AGREEMENT AND TERMS

1.0 INTRODUCTION

- 1.1. **BPM+ Health.** Business Process Management Plus Health (“BPM+ Health”) is a program of Object Management Group, Inc., a 501(c)(6) tax-exempt organization (“OMG”), and operates pursuant to its own bylaws (the “BPM+ Health Bylaws”).
- 1.2. **Contract.** By submitting below, you (“Member”) agree that this membership agreement (“Agreement”) represents a binding contract between Member and OMG and (i) commits Member’s organization to comply with such rules and policies as OMG’s BPM+ Health program may from time to time adopt (subject to Sections 2.3 and 3.7 below), and (ii) commits OMG to comply with the BPM+ Health Bylaws, as they may be amended from time to time in accordance with those bylaws.
- 1.3. **Compliance.** Member will enjoy the rights and benefits, and be subject to the duties, established from time to time for BPM+ Health members only (see Sections 2.2 and 2.3 below). Membership in the BPM+ Health is renewable on the anniversary of initial application (unless Member has made a longer-term commitment). Members are expected to comply with all applicable laws and regulations, including U.S. laws regarding antitrust.
- 1.4. **OMG Control.** As a program of OMG, BPM+ Health shall operate in a manner consistent with OMG's purposes and tax-exempt status, subject to the terms of the BPM+ Health Bylaws. The activities of the BPM+ Health, and Member’s participation in BPM+ Health, do not constitute the activities of a separate association or establish a partnership among BPM+ Health members or participants.

2.0 MEMBERSHIP RIGHTS AND OBLIGATIONS

- 2.1 **Generally.** Member agrees to pay the annual fees established for its BPM+ Health Membership Level, as these may be amended from time to time by OMG or the BPM+ Health Steering Committee (the “Steering Committee”). Dues are yearly and payment is required upon signing (to activate membership) and upon the effective date of renewal. OMG will bill Member for dues in advance by written invoice, and payment will be due within thirty (30) days of mailing.
- 2.2 **Relation to OMG.** For clarification, membership in BPM+ Health does not establish Member as a member of OMG and, except as may be expressly provided in OMG’s own policies and procedures, does not give Member any rights or privileges of an OMG member or grant Member any ownership rights in or (except as set forth herein) any other rights with regard to the BPM+ Health program.

2.3 Compliance with Policies. Member agrees to abide by, and shall have all applicable rights and obligations as set forth in, the BPM+ Health Bylaws, the OMG Privacy Policy, and any and all additional policies and procedures adopted for BPM+ Health, as these may be amended from time to time, all of which are hereby incorporated by reference (collectively, the “BPM+ Health P&Ps”).

2.4 Suspension and Termination. OMG or the Steering Committee may suspend or terminate the membership of Member as follows:

2.4.1 Failure to Renew Membership. If Member fails to pay owed dues within sixty (60) days after a written notification of delinquency is delivered to Member, OMG or the Steering Committee may elect either to suspend Member or terminate its membership.

2.4.2 Resignation. If Member provides written notice of resignation to BPM+ Health, its membership is terminated fifteen (15) days from the date that written notice is received by BPM+ Health.

2.4.3 Violation of Policies or Duties of Membership. If OMG or the Steering Committee unanimously (except for the Steering Committee voting member appointed by Member) finds that Member—after Member has had notice and opportunity to be heard on the issue—has violated any material provision of the Bylaws, this Agreement, or other BPM+ Health policies or procedures.

2.4.4 Member’s Dissolution. If Member dissolves, its membership will be deemed terminated as of the dissolution date unless transferred to a successor (pursuant to section 2.5 of the BPM+ Health Bylaws).

2.5 No Refund. If Member is terminated it shall not receive any refund of dues already paid for the current dues period regardless of the basis for termination.

3.0 GENERAL

3.1 Authority to Form Agreement. The person entering into this Agreement on behalf of Member hereby represents, warrants and covenants to BPM+ Health that (a) it has the authority to enter into this Agreement and to perform its obligations hereunder; (b) entering and performing this Agreement does not and will not violate any agreement to which Member is a party or by which it is otherwise bound; and (c) when executed and delivered or otherwise accepted by the Member, this Agreement will constitute a legal, valid and binding obligation of Member, enforceable in accordance with its terms.

3.2 No Other Licenses. By entering this Agreement, Member neither grants nor receives, by implication, estoppel, or otherwise, any rights under any copyright, patents or other intellectual property rights of OMG, BPM+ Health or another member or participant, except as expressly provided in the BPM+ Health P&Ps (e.g., the BPM+ Health’s right to use the Member’s name to indicate the Members’ participation in BPM+ Health).

3.3 No Warranty. EACH PARTY ACKNOWLEDGES THAT, EXCEPT AS OTHERWISE AGREED IN WRITING, ALL SERVICES AND INFORMATION PROVIDED TO OR

BY OMG (OR THE BPM+ HEALTH PROGRAM) IS PROVIDED “AS IS” WITH NO WARRANTIES OR CONDITIONS WHATSOEVER, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND OMG AND MEMBER EACH EXPRESSLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY, NONINFRINGEMENT, OR FITNESS FOR ANY PARTICULAR PURPOSE WITH RESPECT TO SUCH SERVICES AND INFORMATION.

3.4 Limitation of Liability. IN NO EVENT WILL EITHER OMG OR MEMBER BE LIABLE TO THE OTHER OR TO ANY OTHER BPM+ HEALTH MEMBER OR THIRD PARTY, UNDER THIS AGREEMENT OR IN CONNECTION WITH SUCH MEMBER’S MEMBERSHIP IN BPM+ HEALTH, FOR THE COST OF PROCURING SUBSTITUTE GOODS OR SERVICES, LOST PROFITS, LOST REVENUE, LOST SALES, LOSS OF USE, LOSS OF DATA OR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, OR SPECIAL DAMAGES, WHETHER OR NOT SUCH PARTY HAD ADVANCE NOTICE OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES. EXCEPT FOR MEMBER’S DUES COMMITMENT, OR IN CASES OF WILLFUL MISCONDUCT OR GROSS NEGLIGENCE, OR WHERE REQUIRED BY APPLICABLE LAW, OR AS OTHERWISE AGREED IN WRITING, THE AGGREGATE LIABILITY OF OMG (INCLUDING ITS BPM+ HEALTH PROGRAM) TO MEMBER AND TO OTHER PARTIES, AND THE AGGREGATE LIABILITY OF MEMBER TO OMG OR TO OTHER PARTIES IN CONNECTION WITH ITS PARTICIPATION IN BPM+ HEALTH, SHALL NOT EXCEED THE PAST 12 MONTHS’ MEMBERSHIP FEES PAID BY THE MEMBER TO BPM+ HEALTH.

3.5 Governing Law. This Agreement shall be construed and controlled by the laws of the Commonwealth of Massachusetts without reference to conflict of laws principles. If any claim or dispute between the parties is not resolved by good faith negotiations, any suits or proceedings pursued by either party shall be brought in the Federal or state courts located in Massachusetts, to whose jurisdiction each party hereby submits.

3.6 Complete Agreement; No Waiver. This Agreement, including all attachments, sets forth the entire understanding of OMG and Member and supersedes all prior agreements and understandings relating hereto, unless otherwise stated in this Agreement. The waiver of any breach or default will not constitute a waiver of any other right hereunder or any subsequent breach or default.

3.7 Amendment. All amendments to this Agreement or to any BPM+ Health P&Ps enacted by BPM+ Health shall be effective upon their stated effective date. Member shall be given at least thirty (30) days prior written notice of the effective date of an amendment to this Agreement, and of any change to BPM+ Health P&Ps, rules, or fees, whether new or amended, that is in accordance with the BPM+ Health P&Ps and that directly and materially affects adversely any of the rights or obligations applicable to Member (each of the foregoing, an “Amendment”). If Member does not agree to an Amendment that

was so approved, then Member shall provide written notice to BPM+ Health of such disagreement prior to the end of the 30-day notice period. If the parties are not able to reach a mutually acceptable accommodation (for example, the parties agree to a phase-in of the Amendment, the BPM+ Health determines to withdraw, suspend or modify the Amendment, or the BPM+ Health grants Member a waiver or variance), this Agreement and Member's membership in BPM+ Health shall terminate automatically upon expiration of the 30-day notice period, unless Member elects to withdraw by written notice on an earlier date. Amendments shall be prospective only, unless otherwise agreed to by Member and BPM+ Health. No termination or withdrawal pursuant to this paragraph will entitle Member to a refund of Membership dues or other fees, all of which are nonrefundable.

3.8 No Rule of Strict Construction. Regardless of which party may have drafted this Agreement, no rule of strict construction shall be applied against either party. If any provision of this Agreement is determined by a court to be unenforceable, the parties shall deem the provision to be modified to the extent necessary to allow it to be enforced to the extent permitted by law, or if it cannot be modified, the provision will be severed and deleted from this Agreement, and the remainder of this Agreement will continue in effect.

3.9 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but collectively shall constitute one and the same instrument.

3.10 Compliance with Laws. Anything contained in this Agreement to the contrary notwithstanding, the obligations of BPM+ Health and Member shall be subject to all applicable laws, present and future, of any government having jurisdiction over them including, without limitation, all U.S. export and re-export laws and regulations. It is the intention of BPM+ Health and Member that this Agreement and all referenced documents shall comply with all applicable laws and regulations.

3.11 Headings. BPM+ Health and Member acknowledge that the headings to the sections hereof are for reference purposes only and shall not be used in the interpretation of this Agreement.

3.12 Assignment. BPM+ Health Membership is non-transferable, non-salable and non-assignable, but Member may transfer its current Membership to a successor of substantially all of its business or assets, whether by merger, sale or otherwise, if the successor agrees to be bound by the BPM+ Health Bylaws and this Agreement.

3.13 Force Majeure. Neither BPM+ Health nor Member shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder on account of strikes, shortages, riots, insurrection, fires, flood, storm, explosions, acts of God, war, governmental action, labor conditions, earthquakes, health emergencies or any other cause which is beyond the reasonable control of such party.

3.14 Logos and Names. You grant BPM+ Health the right to use your organization's name and logo on the OMG and BPM+ Health websites and on related marketing materials, solely to indicate your membership in BPM+ Health. As long as you remain a member in good standing, you may use BPM+ Health's name and logo, in the format and with the notices provided or requested by BPM+ Health, solely to indicate your membership in BPM+ Health.