

You may also alter any details on the direct debit application form overleaf by giving us 14 days notice in writing before the next direct debit day.

Dispute Resolution

If you believe there has been an error in debiting your account, you should notify IBA as soon as possible by phone on 1300 301 692 or in writing to IBA eHealth Solutions Pty Ltd, PO Box A100, Sydney South NSW 1235.

If IBA concludes as a result of IBA’s investigations that your account has been incorrectly debited, IBA will arrange for your financial institution to adjust your account accordingly.

If IBA concludes as a result of our investigations that your account has not been incorrectly debited, IBA will provide you with reasons and any evidence for this finding.

Any queries you may have about an error made in debiting your account should be directed to IBA in the first instance so that IBA can attempt to resolve the matter. If IBA cannot resolve the matter you can still refer it to your financial institution.

Other information

The details of your direct debit arrangements are contained in the direct debit authority form overleaf.

IBA requires that your instructions to stop or in any way alter the direct debit details are given to us in writing.

IBA may cancel direct debit arrangements at any time by giving you notice in writing.

In addition to changes IBA makes, the direct debit arrangement is subject to change by your financial institution.

PART E

ACKNOWLEDGEMENT AND AGREEMENT

<i>Applicant's signature</i>	<p>If IBA eHealth Solutions Pty Ltd accept this application, it will provide IBA Healthpoint (all features except Fund Claims) on the terms and conditions outlined in the IBA HealthPoint Terms and Conditions leaflet, a copy of which is in Part F of this document.</p> <p>If you have selected the Fund Claims feature, IBA eHealth Solutions Pty Ltd will provide Fund Claims services on the terms and conditions outlined in the IBA HealthClaims terms and conditions leaflet, a copy of which is in Part G of this document.</p> <p>This application must be signed by the practice administrator AND a business owner or partner with authority to sign and provide bank details for all providers listed. That signature will bind all providers listed in the application and the person signing warrants that all the providers on whose behalf he or she has signed have agreed to these terms and conditions.</p>
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The applicant has read and agrees to be bound by the terms and conditions and the direct debit request service agreement

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

ibahealth

Part F

IBA HealthPoint Terms & Conditions



1. THE HEALTHPOINT SERVICE

- 1.1 IBA will make the HealthPoint Service available to You during the Term in accordance with these terms and conditions, the HealthPoint Application Form (or subsequent upgrade form) and the Pricing Schedule. The HealthPoint Service will include the HealthPoint functions You have selected on Your HealthPoint application Form or subsequent upgrade form.
- 1.2 IBA will provide the HealthPoint Service to You via a HealthPoint terminal and modem loaded with HealthPoint application software and a printer and by giving You a Minor Customer ID and instructions on how to use the HealthPoint Service.
- 1.3 IBA will:
 - (a) install the HealthPoint Service; and
 - (b) provide You with training, support and maintenance for the HealthPoint Service; by (at IBA's option) giving You telephone advice or attending Your premises. If IBA only offers You telephone advice, You may if You wish elect to pay IBA to attend Your premises to provide the above services.
- 1.4 You must provide a conveniently located Public Switched Telephone Network ('PSTN') telephone connection (which may be a line shared with a telephone or fax) and access to a power supply to connect the HealthPoint Service. Dial up access via a 1800 number to the HealthPoint Service will be available to You from wherever, within Australia, PSTN access is available.
- 1.5 You and IBA must keep confidential any Minor Customer ID provided by IBA.
- 1.6 You agree that IBA may store Traffic delivered to IBA from IBA Property for any period that IBA considers appropriate.
- 1.7 All terms in capital letters are defined in clause 11 (Definitions).

2. IBA PROPERTY

- 2.1 All property provided by IBA to You for use in connection with the HealthPoint Service is "IBA Property". IBA Property includes, but is not limited to, the items specified in Schedule 1.
- 2.2 IBA or IBA's suppliers will retain title, including all intellectual property rights, to IBA Property at all times. To protect that title You must:
 - ensure that any mark which identifies IBA Property as IBA Property or IBA suppliers' property is not removed;
 - not part with possession of, or license, IBA Property or let any of it become subject to any claims, liens or encumbrances;
 - keep IBA Property safe and secure at the premises at which it is installed (identified in Your HealthPoint Application Form);
 - notify IBA in advance if Your business is moving to other premises; and
 - notify any person who attempts to seize or take possession of IBA Property that the IBA Property belongs to IBA or its suppliers and immediately notify IBA.

2.3 You must:

- only use IBA Property to use the HealthPoint Service and, if agreed with the bank supplying the EFTPOS facility, as an EFTPOS facility;
 - only use IBA Property in accordance with user manuals IBA provides to You;
 - only use Consumables which are approved by IBA from time to time and which are in accordance with the equipment manufacturer's specifications;
 - adhere to the preventative maintenance and cleaning instructions provided from time to time by IBA;
 - only permit persons who are trained in the proper use and maintenance of the IBA Property and HealthPoint Service to use IBA Property.
- 2.4 If IBA considers it necessary to upgrade, modify or replace IBA Property, You must provide all necessary assistance to IBA.
 - 2.5 You are responsible for the supply of and payment for all Consumables required for the HealthPoint Service.
 - 2.6 You bear the risk of loss of or damage to the IBA Property. You will:
 - (a) insure that risk to the value of \$2,200 (or such other amount as IBA notifies You from time to time);

- (b) immediately notify IBA of any loss of or damage to the IBA Property or any other event which may lead to a claim under any such insurance policy; and
- (c) You must pay IBA all moneys paid to you by an insurer under any such insurance policy in relation to the IBA Property.

2.7 The individuals signing the HealthPoint Application Form are personally responsible for Your obligations under this agreement.

3. FAULT REPORTING

- 3.1 Where You have reported to IBA difficulties with the HealthPoint Service, IBA will perform or arrange to be performed appropriate tests to determine the location and cause of any fault. You must provide all necessary assistance to IBA in that regard.
- 3.2 IBA is not responsible for any fault where:
 - (a) the fault is within another carrier's network; or
 - (b) the fault is within Your property.
- 3.3 The repair of any faults in IBA Property which are caused by Your acts or omissions will be at Your expense including but not limited to any faults resulting from moving IBA Property from one premises to another.

4. ACCESS AND INSPECTION

- 4.1 You must provide IBA and any authorised agent of IBA with reasonable access to Your premises for any purpose necessary for IBA to provide the HealthPoint Service.
- 4.2 On receiving reasonable notice from IBA (except in an emergency when no notice is required), You must produce IBA Property to IBA for the purpose of inspection and testing.

5. TERM

Unless terminated earlier in accordance with these terms and conditions the agreement will run for the Initial Term and will automatically renew for consecutive terms of twelve months.

6. CHARGES

- 6.1 In consideration of IBA providing the HealthPoint Service, You will pay:
 - (a) the Charges; and
 - (b) any taxes (including goods and services tax), duties, stamp duties or government charges relating to this Agreement, in accordance with the Pricing Schedule.
- 6.2 You will pay all invoiced charges and taxes in full. You have no right of set-off or counterclaim in respect of the charges and taxes.
- 6.3 You may pay the Charges and any taxes by the methods set out in the Pricing Schedule.

7. TERMINATION

- 7.1 You may terminate this agreement by giving IBA written notice thirty (30) days before the expiry of the Initial Term or any subsequent renewal term of 12 months.
- 7.2 IBA may immediately terminate this Agreement at any time if:
 - (a) You breach any of these terms and conditions, and if capable of remedy, that breach is not remedied within thirty (30) days after receiving notice to do so;
 - (b) any of IBA's contracts with organisations which send data to or receive data from the HealthPoint Service (including but not limited to IBA's contracts with Medicare Australia, DVA and pathology companies) are terminated or varied; or
 - (c) You cease to carry on business, cease to use the HealthPoint Service over a three month period, sell Your business or become insolvent, unless You have assigned Your rights and obligations under this agreement in accordance with clause 10.3 before the occurrence of any of the events referred to in this sub-clause.
- 7.3 IBA may terminate this agreement by giving You written notice, thirty (30) days before the expiry of the Initial Term or any subsequent renewal term of 12 months.
- 7.4 On termination of this agreement, You must permit IBA to retrieve all IBA Property from Your premises or return all IBA Property to IBA, at IBA's request. Retrieval will be

free of charge, except in the circumstances described in clause 7.1 and 7.2(a).

8. LIABILITY

- 8.1 The parties acknowledge that provision of the HealthPoint Service may not be uninterrupted or error free, although IBA will use all reasonable efforts to supply the HealthPoint Service in accordance with this agreement.
- 8.2 IBA is not liable to You, or any person claiming by or through You or otherwise, for any loss, damages, costs, expenses or injury arising from the HealthPoint Service, including but not limited to the operation of IBA Property, any act or omission of IBA's support and maintenance service, or the content of any Traffic, failure to deliver Traffic, any suspension of part or all of the HealthPoint Service, any failure of IBA Property, any replacement or upgrade of any IBA Property, failure to provide the HealthPoint Service at any time, any failure, error or omission in the entry of information for transmission (including without limitation, details of the sender or recipient), or any failure, error or omission in the transmission, conversion, reception or storage of any Traffic or its contents.
- 8.3 IBA does not exclude or limit the application of any provision of any statute (including the Trade Practices Act 1974 and the Telecommunications Act 1997) where to do so would contravene that statute, or cause any part of this clause 8 to be void.
- 8.4 Except to the extent clause 8.3 applies, IBA excludes all:
- statutory liability;
 - tortious liability including but not limited to liability in negligence;
 - conditions and warranties implied by custom, general law or statute;
 - liability for economic, consequential or indirect losses, expenses, damages and costs incurred by You, arising out of or relating to the HealthPoint Service, any failure to supply or delay in supplying them, or this agreement.
- 8.5 IBA's liability to You (if any) for any breach of any express or implied provision of these terms and conditions (other than an implied warranty of title) is limited, at IBA's option, to replacing or repairing those goods or providing those services again.
- 8.6 You agree that You will not use the HealthPoint Service in any manner which constitutes a violation or infringement of any statutory duty or obligation in contract, tort or otherwise, to any third party.

9. FORCE MAJEURE

- 9.1 Notwithstanding any other provision of these terms and conditions, neither party will be liable for any failure to fulfil any of these terms and conditions if such fulfilment is delayed, prevented, restricted or interfered with for any reason outside that party's reasonable control, including but not limited to, fire, storm, flood, earthquake, accident, war, labour dispute, materials or labour shortage other than its own staff or staff under its control, law or regulation or act or omission of any third person.
- 9.2 The party unable to perform its obligations must:
- notify the other party promptly of any delay referred to in clause 9.1;
 - use its best efforts to resume performance in accordance with those terms and conditions as soon as possible.
- 9.3 If any event referred to in clause 9.1 continues for more than six (6) months then the agreement may be terminated forthwith by either party giving notice to the other party.

10. GENERAL

- 10.1 IBA may perform any of its obligations under these terms and conditions by arranging for them to be performed by a Related Body Corporate of IBA or a third party.
- 10.2
- IBA may disclose:
 - that You use the HealthPoint Service and any other information relating to the Medclaims Traffic;
 - to third parties (such as pathology companies or the DVA) who will send data to or receive data from You as part of the HealthPoint Service, that You use the HealthPoint Service; and
 - to the Commonwealth Bank for marketing purposes information you disclose to IBA about your credit card or EFTPOS facilities.
 - You acknowledge that in providing the HealthPoint Service, IBA may have access to, and use, certain personal information of Yours (such as details of Your telephone numbers), and You consent to such use provided that it is in accordance with this agreement.
- 10.3 You must not assign or attempt to assign any right or obligation under this agreement without IBA's written consent, which consent shall not be unreasonably withheld.
- 10.4 Part or all of any clause of these terms and conditions that is illegal or unenforceable will be severed and will not affect the continued operation of the remaining provisions of these terms and conditions.
- 10.5 The failure of either party at any time to insist on performance of any provision of these terms and conditions is not a waiver of its rights at any later time to insist on performance of that or any other provision of these terms and conditions.
- 10.6 These terms and conditions are governed by the laws of New South Wales.
- 10.7 IBA may vary these terms and conditions and the Pricing Schedule at any time by giving You 30 days prior notice in writing. Upon receipt of this notice You may terminate the agreement on 30 days notice in writing to IBA. If You do not terminate the agreement the varied terms and conditions and Pricing Schedule will apply.

11. DEFINITIONS

In these terms and conditions unless the context otherwise requires:

"Charges" are the charges identified in the Pricing Schedule, including the additional charges for installation of more than one HealthPoint Service at a premise and for support, maintenance and replacement services.

"Commencement Date" means the date IBA notifies You that the HealthPoint Service

is available and ready for Your use.

"Consumables" includes but is not limited to bond paper and laser printer cartridges.

"Customer" means the customer as defined in the HealthPoint Application Form

"DVA" means the Commonwealth Department of Veterans' Affairs.

"HealthPoint Application Form" means the application to receive the HealthPoint Service made on the application form attached to or accompanying these terms and conditions.

"HealthPoint Service" means the transfer of information between the Customer and third parties except the Commonwealth Bank, including but not limited to the HIC, using IBA Property.

"IBA" or **"IBA eHealth"** means IBA eHealth Solutions Pty Limited (ACN 092 953 832).

"IBA Property" has the meaning given to it in clause 2.1.

"Initial Term" means twelve months from the Commencement Date.

"IBA Software" means software and related materials owned by IBA, or licensed to IBA, and used to provide the HealthPoint Service including the HealthPoint application software.

"Medicare" means Medicare Australia.

"Minor Customer ID" means the code allocated to the HealthPoint terminal to identify Your Traffic.

"Pricing Schedule" means IBA's listing of the prices applicable to the HealthPoint Service and methods of payment in force from time to time.

"Related Body Corporate" has the meaning given to that term in the Corporations Act.

"Term" means the Initial Term and any extension in accordance with these terms and conditions.

"Traffic" means any communication by You to and from third parties, including but not limited to Medicare, using the HealthPoint Service.

"Medclaims Traffic" means any communication by You to and from Medicare, using the HealthPoint Service.

"You" and **"Your"** means the Customer.

Schedule 1 - IBA Property

- Keycorp K7li-887 Keypad or K7lv keypad
- Keycorp K74-008 Comms box
- Keycorp K71 Junction Box (No. 712-350-009)
- Keycorp K71 Power Supply
- Keycorp K71 Single Drop Cable
- K71 Printer Adapter Plug
- Lexmark Optra E+ Laser Printer (4026070), Lexmark Optra E312L (40442L1), Lexmark E230 (4505200), Lexmark E232 (4505200) or Epson TM-T88ii printer (M129B)
- Lexmark Serial Adaptor (1368705) – for Lexmark printers only
- Generic Epson Power supply (MOQ 780), Genuine Epson Power supply (M122A) -for Epson printers only
- User Guides
- Training Card with Magnetic strip

IBA eHealth Solutions Pty Limited

ABN 12 092 953 832

04/2008

PART G

IBA FundClaims Terms & Conditions



1 INTRODUCTION

1.1 The Fundclaims Service has two parts – electronic communications provided by IBA (Communications Service) and health claims processing provided by the Health Funds (Processing Service). If You make an Application for Fundclaims Service and the Application is accepted:

- (a) IBA will provide You with the Communications Service in accordance with these terms and conditions, the Application and the Pricing Schedule; and
- (b) the Health funds will provide You with the Processing Service.

1.2 You will:

- (a) comply with the detailed procedure for the operation of the Fundclaims Service set out in the User Guide; and
- (b) co-operate as reasonably required by IBA and the Health Funds for the successful implementation and operation of the Fundclaims Service.

1.3 IBA enters this Agreement on its own behalf for the Communications Service and as the agent of the Health Funds for the Processing Service.

1.4 The Application must be signed by a Provider or by a person with authority to sign on behalf of a Provider. That signature will bind all Providers listed in the Application and the person signing warrants that the Providers on whose behalf he or she has signed have agreed to these terms and conditions.

1.5 All terms in capital letters are defined in clause 12 (definitions).

2. INSTALLATION AND EQUIPMENT

2.1 You will provide (and pay for):

- (a) a site (acceptable to IBA) for the installation of the IBA Property;
- (b) a communications line;
- (c) mains power; and
- (d) Consumables.

2.2 IBA will install the property by (at IBA's option) giving You telephone advice or attending Your premises. If IBA only offers You telephone advice, You may if You wish elect to pay IBA to attend Your Premises to install the IBA Property.

2.3 If You sell Your business or move Premises after IBA has installed the IBA Property:

- (a) You must notify IBA; and
- (b) if applicable, You will pay IBA's costs of moving the property to Your new Premises.

2.4 Ownership of the IBA Property remains with IBA or its suppliers at all times. You will protect that ownership by:

- (a) ensuring that any mark which identifies the IBA Property is not removed;
- (b) keeping the IBA Property safe and secure and not parting with possession if it;
- (c) not granting, or allowing the grant of:
 - (i) an interest in the IBA Property; or
 - (ii) a security over the property;
- (d) notifying IBA in advance if You intend to move or leave Premises;
- (e) allowing IBA or IBA's supplier or representative to inspect the IBA Property at any time on reasonable notice; and
- (f) notifying any person who attempts to seize or take possession of the IBA Property that the IBA Property belongs to IBA or IBA's suppliers and immediately notifying IBA of the attempted seizure.

2.5 You bear the risk of loss or damage to IBA Property. You will:

- (a) insure that risk to the value of \$2,200 (or such other amount as IBA notifies You from time to time); and
- (b) immediately notify IBA of any loss or damage to the IBA Property or any other event which may lead to a Claim under any such insurance policy; and
- (c) You must pay IBA all moneys paid to You by an insurer under any such insurance policy in relation to IBA Property; and
- (d) pay IBA the full cost of repair or replacement, of damaged or lost IBA Property which You have failed to insure.

2.6 You will use, maintain and clean the IBA Property using the Consumables, in accordance with the User Guide and any reasonable instructions IBA may give from time to time. You will allow only IBA or its representatives to service or maintain the IBA Property (including allowing IBA access to Your Premises to do so).

2.7 The individuals signing the Application are personally liable for Your obligations under this Agreement.

3. THE HEALTH FUNDS' CLAIM OBLIGATIONS

3.1 The Health Funds will process Claims in accordance with:

- (a) their internal procedures and the terms of their policies with their Members; and
- (b) the details You give in Your Application.

3.2 A Health Fund is under no obligation to accept electronic Claims from You, including but not limited to Claims where:

- (a) the Claim does not satisfy the criteria of the Members cover; or
- (b) a Member disputes the validity of a Claim.

3.3 The Health Fund will pay a Claim to a Provider no later than 10 days after the Provider has made the Claim (unless the Claim is under dispute).

3.4 The Health Fund may suspend or terminate You from the Processing Service at any time if the Health Fund in its absolute discretion determines that is appropriate to do so.

4. YOUR CLAIM OBLIGATIONS

4.1 You will:

- (a) not knowingly submit a Claim which is untrue or unauthorized by the Member;
- (b) submit Claims in accordance with the User Guide and all laws;
- (c) retain for 2 years original receipts of Transactions signed by the Member; and
- (d) if required by a Health Fund, within 14 days make available original signed receipts and other supporting documentation verifying the Services to the Health Fund for verification.

4.2 You will not:

- (a) make any representations or promises which purport to bind a Health Fund (for example, You will not promise a Member that a certain Claim will be accepted or a certain amount will be paid);
- (b) Charge a Member a fee for making a Claim;
- (c) accept a card if a Health Fund advises You not to do so.
- (d) use the Fundclaims Service for claims on a Health Fund if at any time that Health Fund advises You not to do so.

4.3 You warrant in respect of each Transaction:

- (a) the particulars of the Transaction are true and correct (including the item number of the service delivered);
- (b) the Claim represents services which have been actually provided by You for the Member identified on the card;
- (c) the Member does not, at the time You make the Claim, dispute liability to pay You for the services; and
- (e) the Claim had been processed in the Member's presence and the Member has signed the acknowledgement on the Transaction Receipt.

4.4 A Claim is not valid if it is illegal, incomplete, false in any respect, unauthorized or if it relates to services not provided by You.

4.5 You will protect the secrecy of Your user identification and password, which enable use of the IBA Property. IBA and Health Funds are entitled to accept a Claim as having been made by You if the Claim is submitted electronically using the IBA Property.

5. SOFTWARE LICENSE

IBA, as authorised licensor, grants You a non-exclusive, non-transferable sub-licence to use the Software on the IBA Property for the purpose of using the Fundclaims Service and for the period that You take the Fundclaims Service. You will not copy, reverse engineer or disassemble the Software or use the Software in any way other than as contemplated by this clause.

6. MAINTENANCE AND SUPPORT SERVICES

6.1 IBA will provide You with the Maintenance and Support Services.

6.2 The Maintenance and Support Services do not include repairs or maintenance required because IBA Property has been damaged or not operated in accordance with the User Guide either at Your Premises or whilst being transported by You, to or from Your Premises. In such circumstances, You will pay IBA's costs of any repair.

7. FEES

7.1 In consideration of the provision of the Fundclaim Service, You will pay:

- (a) the Fees; and

- (b) any taxes (including goods and services tax), duties, stamp duties or government charges relating to this Agreement, in accordance with the Pricing Schedule.
- 7.2 You will pay all invoiced Fees in full. You have no right of set-off or counterclaim in respect of the Fees and taxes.
- 7.3 You may pay the Fees and any taxes by the methods set out in the Pricing Schedule.

8. TERMINATION

- 8.1 You may terminate this Agreement at any time with 30 days notice in writing to IBA.
- 8.2 IBA may for itself and on behalf of the Health Funds terminate this Agreement:
- (a) immediately on notice if You breach any of these terms and conditions;
- (b) immediately on notice if any IBA contract with the Health Funds relating to the Fundclaims service is terminated or materially varied; or
- (c) immediately on notice if You cease to carry on business, cease to use the Fundclaims Service over a 3 month period, sell Your business or become insolvent, unless You have assigned Your rights and obligations under this Agreement in accordance with clause 11.4 before the occurrence of any events referred to in this sub-clause; and
- (d) at any time on 30 days written notice to You.
- 8.3 On termination of this Agreement, You will return all IBA Property to IBA (or allow IBA to collect it). If the Agreement is terminated under clause 8.1 or 8.2(a) or (c), You will pay for the return of the IBA Property to IBA.

9. CONFIDENTIAL INFORMATION

- 9.1 A party will not:
- (a) use the other's Confidential Information except for the purposes contemplated by this Agreement;
- (b) disclose the other's Confidential Information, except to its employees or contractors who have a need to know the information to enable a product or service to be used in the manner contemplated by this Agreement and who have been informed of their obligations of confidentiality; or
- (c) copy or reproduce in any form whatsoever the other's Confidential Information.
- 9.2 A party will return (or destroy, as directed) another party's Confidential Information on request or on termination of this Agreement.
- 9.3 IBA may disclose:
- (a) to the Health Funds:
- (i) that You use the Fundclaims Service; and
- (ii) information necessary for the operation of the Fundclaims Service (for example, Your name, address and bank details) and
- (c) to the Commonwealth Bank for marketing purposes, information You disclose to IBA relating to Your EFTPOS and credit card facilities.
- 9.4 You acknowledge that in providing the HealthPoint Service, IBA may have access to, and use, certain personal information of Yours (such as details of Your telephone numbers), and You consent to such use provided that it is in accordance with this Agreement.

10. LIABILITY

- 10.1 The parties acknowledge that provision of the Fundclaims Service may not be uninterrupted or error free, although IBA and the Health Funds will use all reasonable efforts to supply the Fundclaims Service in accordance with this Agreement.
- 10.2 Neither IBA nor any of the Health Funds is liable to You or any person claiming by or through You or otherwise for any loss, damages, costs, expenses or injury arising from:
- (a) the operation or failure of the operation of the IBA Property or the Fundclaims Service;
- (b) any replacement or upgrade of the IBA Property; or
- (c) the content of any traffic or any failure, error or omission in the entry of information for transmission or the transmission, conversion, reception or storage of traffic.
- 10.3 IBA and the Health Funds do not exclude or limit the application of any provision of any statute (including the *Trade Practices ACT 1974* and the *Telecommunications ACT 1997*) if to do so would contravene that statute or cause any part of this clause to be void.
- 10.4 Except to the extent clause 10.3 applies, each of IBA and the Health Funds exclude:
- (a) all statutory and tortious liability (including negligence) and all conditions and warranties, implied by custom, general law or statute; and
- (b) all liability for economic, consequential or indirect losses, expenses, damages and costs incurred by You, arising out of or relating to the Fundclaims Service, any failure to supply or delay in supplying them or this Agreement.
- 10.5 The liability of each of IBA and each of the Health Funds to You (if any) for any breach of any express or implied provision of these terms and conditions is limited, at IBA's or the Health Fund's option, to replacing or repairing those goods or providing those services again.
- 10.6 The liability of a Health Fund to You under this Agreement is several. No Health Fund will be under any joint (or joint and several) liability to You as a result of an act or omission of another Health Fund.

11. GENERAL

- 11.1 A party will not be liable for a failure to comply with a provision of this Agreement if that failure is caused by an event outside that party's control ('Force Majeure Event'), including but not limited to fire, natural disaster, accident, war, electrical outage or industrial dispute.

- 11.2 If a party is unable to comply with its obligations because of a Force Majeure Event it will:

- (a) notify the other parties; and
- (b) use its best efforts to resume performance of its obligations as soon as possible.

- 11.3 IBA may perform any of its obligations under this Agreement by arranging for them to be performed by a Related Body Corporate of IBA or a third party.
- 11.4 You will not assign or attempt to assign any right or obligation under this Agreement without IBA's written consent (not to be unreasonably withheld).
- 11.5 Part or all of any clause of this Agreement that is illegal or unenforceable will be severed and will not affect the continued operation of the remaining provisions of this Agreement.
- 11.6 IBA may vary this Agreement and the Pricing Schedule at any time by giving You 30 days prior notice in writing. Upon receipt of this notice You may terminate this Agreement under clause 8.1. If You do not terminate this Agreement, the varied terms and conditions will apply from the date the notice period expires.

12. DEFINITIONS

In these terms and conditions unless the context otherwise requires:

'Agreement' means the Agreement formed between You, IBA and the Health Funds when IBA and the Health Funds accept Your Application and notify You.

'Application' means an Application to receive the Fundclaims Service made on the Application form attached to or accompanying these terms and conditions.

'Card' means a card to the specifications agreed by IBA and the Health Funds, supplied by a Health Fund to a Member for use in making Claims.

'Claim' means a Claim by You for payment of benefits in respect of Health Services provided by You to a Member, for which the Member has assigned his or her right to benefits to You, and which is submitted in electronic form using the Fundclaims Service.

'Commencement Date' means the date IBA notifies You that the Fundclaims Service is available and ready for Your use.

'Communications Service' means the capture and transmission of the data between You and third parties except the Commonwealth Bank, including but not limited to the Health Funds, using IBA Property.

'Confidential Information' means all information concerning this Agreement, the Fundclaims Service, Your practice, the business of IBA or Health Funds and all patient and Health Services information, disclosed by one party to another prior to, or in connection with this Agreement, excluding information in the public domain and information a party is required by law to disclose (but only for the purposes of that disclosure).

'Consumables' means materials, as specified by IBA, required for the operation of the IBA Property, including but not limited to bond paper and laser printer cartridges.

'Fees' means the fees specified in the Pricing Schedule.

'Fundclaims Service' means the Communications Service and the Processing Service.

'Health Funds' means the private health insurance companies with whom IBA has entered into an Agreement for the Fundclaims Service as advised to You from time to time by IBA.

'Health Services' means services provided by You to a Member for which a Member may be entitled to benefits from a Health Funds.

'IBA' or **'IBA ehealth'** means IBA Ehealth Solutions Pty Ltd.

'IBA Property' means all Property provided to You by IBA in relation to this Agreement and any component part of it, including Software.

'Maintenance and Support Services' means that if You report a fault in the IBA Property (and You have not caused the fault) IBA will provide or procure the provision of telephone support, equipment servicing or equipment replacement (as appropriate), in accordance with the User Guide, to return the IBA Property to working order.

'Member' means a Member of a Health Fund who may be entitled to benefits from a Health Fund and who is listed on a Card.

'Pricing Schedule' means IBA's listing of prices applicable to the Fundclaims service and methods of payment in force from time to time.

'Processing Service' means the receipt and processing of Transactions by the Health Funds delivered by the Communications Service, including verification of Claims and notification of acceptance or rejection via the Communications Service.

'Provider' means a provider of Health services.

'Premises' means Your premises at which the IBA Property has been installed.

'Receipt' means the receipt generated by the Fundclaims Service when a Transaction is processed.

'Related Body Corporate' has the meaning given to that term in the corporations ACT.

'Software' means the software which is part of the IBA Property.

'Traffic' means any Communication to or from the Health Funds using Fundclaims Service;

'Transaction' means the transmission of any of the following Transaction types:

Claim: Claims by one provider for one or more members of the same family and including up to a maximum 16 items;

Void: a void of the last claim submitted on that device; and

Cancellation: a cancellation of a Claim is submitted on the same day.

'User Guide' means the user guide for the Fundclaims Service provided to You by IBA from time to time, which will set out amongst other things instructions for use of the Fundclaims Service, making claims, verification, response and settlement of claims.

'You' and **'Your'** means the customer defined in the Application.

IBA eHealth Solutions Pty Limited

ABN 12 092 953 832

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