

Updated March 2023

## Full Member Terms and Conditions

### 1. Introduction

- (a) **Company details.** Proprietary Association of Great Britain (company number 00375216) (**PAGB, we or us**) is a company registered in England and Wales with our registered office at 2nd Floor, New Penderel House, 283-288 High Holborn, London, England, WC1V 7HP.
- (b) **Contacting us.** To contact us telephone 020 7242 8331 and ask for our membership team or e-mail [membership@pagb.co.uk](mailto:membership@pagb.co.uk). Details of how to give us formal notice of any matter under these Terms is set out in paragraph 14(b).
- (c) **Application.** To join PAGB You must submit an Application. Upon acceptance by us of Your Application, these terms and conditions (**Terms**) come into effect and form part of the Membership Agreement with PAGB.
- (d) **Membership Agreement.** The membership agreement is comprised, in descending order of precedence in the event of any conflict or ambiguity, of:
- (i) the Articles of Association;
  - (ii) the Standing Orders;
  - (iii) the Terms;
  - (iv) the Codes of Practice;
  - (v) where applicable, the PAGB Terms of Approval for Advertising;
  - (vi) any other contractual terms and conditions applicable to any of the Benefits and Services as we may notify to You from time to time;

each as set out on the Website (as amended from time to time) and which all form part of the agreement between PAGB and You and govern Your membership and the supply of Benefits and Services by us to You (**Membership Agreement**). The Membership

Agreement applies to the exclusion of any other terms that You seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

- (e) **Period.** Subject to the following, provided that You have paid the Membership Fee for the applicable Membership Year, the Membership Agreement will continue for each such Membership Year. If You become a Full Member part way through a Membership Year, the initial period of the Membership Agreement will begin on the date of admission and end on the date of the end of the then Membership Year. The Membership Agreement will terminate at the end of any Membership Year unless a successful Renewal has already occurred.

### 2. Definitions

**Applicable Laws** means all applicable and legally required laws, statutes, enactments, orders or regulations or other similar instruments of general application and any other rules, instruments or provisions in force from time to time applicable to the Membership Agreement.

**Application:** the application form for Full Members.

**Benefits and Services:** the schedule of membership benefits and services detailing the different benefits and services applicable to each category of member in place as amended from time to time a summary of which can be found on the Website (as amended from time to time).

**Codes of Practice:** the PAGB Codes of Practice for Advertising over-the-counter medicines, PAGB Packaging Code for Medicines and the PAGB Medical Devices Consumer Code which can be found on the Website (as amended from time to time).

Updated March 2023

**Confidential Information** means any information of a confidential nature (whether specifically marked as such or otherwise) obtained under, or relating to the Membership Agreement but not including information:

- already in the public domain;
- in the lawful possession of the receiving party before the date the Membership Agreement comes into effect (other than through liaison between the parties in anticipation of entering into the Membership Agreement);
- obtained from a third party free to divulge it;
- required to be disclosed by a court or other competent authority; or
- properly disclosed on a confidential basis to staff, agents or professional advisers of the respective parties, for the purposes of the Membership Agreement.

**Data Protection Legislation** means all applicable data protection and privacy legislation in force from time to time in the UK including without limitation the UK GDPR, the Data Protection Act 2018 (and regulations made thereunder), the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended, and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications), and all comparable legislation in any jurisdiction that the Full Member operates in;

**Full Members:** a company law member of PAGB (of which You are one).

**Intellectual Property Rights** means patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business

names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use and protect the confidentiality of confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**Membership Agreement:** has the meaning set out in paragraph 1(d) above.

**Membership Fees:** the fees payable for Full Membership in each Membership Year.

**Membership Year:** the period commencing on 1 January in each calendar year and ending on 31 December in each calendar year.

**PAGB Mark:** the schedule of PAGB trade mark(s) provided to You by PAGB from time to time.

**Products:** non-prescription medicines, self-care medical devices, food supplements or registered herbal medicines.

**Renewal:** renewal of Your Full Membership by payment of the annual Membership Fee.

**Tobacco Industry:** the manufacture, wholesale distribution or importation of products entirely or partly made of leaf tobacco to be used for smoking, sucking, chewing or snuffing.

**Website:** [www.pagb.co.uk](http://www.pagb.co.uk).

**You:** the person or business who has been admitted as a Full Member.

**Updated March 2023**

**3. Membership requirements**

- (a) On Application and Renewal, You must meet the following membership requirements:
  - (i) You meet the conditions of applying to Full Members as set out in the Articles of Association.
  - (ii) You are not affiliated with the Tobacco Industry (this includes any organisation in Your group of companies or affiliated to You).
  - (iii) You support the objects of the Association as stated in its Articles of Association.
- (b) PAGB may in its absolute discretion and without giving reasons reject any Application or Renewal.

**4. Use of PAGB mark**

- (a) Provided that You have paid the Membership Fees and You are in compliance with all of the terms of the Membership Agreement, You shall be granted a revocable, non-exclusive, non-sub-licensable and non-transferrable licence to use the PAGB Mark in the UK after the date of acceptance of Your Application and only to the extent required to advertise that You are a Full Member.
- (b) On termination or expiry of Your membership or Your licence of the PAGB Mark, You must immediately stop Your use of all PAGB Mark and remove the same from Your documentation, publicity materials and all other signage.
- (c) You shall not use the words or phrases “Proprietary Association of Great Britain”, “PAGB”, “PAGB Full Member”, “PAGB Member” or any words or phrases similar to the foregoing as part of Your organisation’s name, domain name or email address without our prior written permission and You shall not apply for, or obtain, registration of the foregoing words, phrases or PAGB Mark for any goods or services in any country.
- (d) Any goodwill derived from Your use of the PAGB Mark shall accrue to PAGB.

- (e) You shall not do, or omit to do, or permit to be done, any act that will or may weaken, damage or be detrimental to the PAGB Mark or the reputation or goodwill associated with the PAGB Mark or PAGB, or that may invalidate or jeopardise any registration of the PAGB Mark.
- (f) For the avoidance of doubt, PAGB retains its rights to protect the PAGB Mark at all times, including after any expiry or termination of the Membership Agreement and nothing in this Membership Agreement will prejudice these, or any related, rights.
- (g) You may only state, represent or describe Your organisation as a Full Member of PAGB and shall not imply that You hold any other type of membership You.
- (h) You shall immediately notify us in writing if any of the following matters come to Your attention:
  - (i) any actual, suspected or threatened infringement of the PAGB Mark;
  - (ii) any actual or threatened claim that the PAGB Mark are invalid;
  - (iii) any actual or threatened opposition to the PAGB Mark;
  - (iv) any claim made or threatened that use of the PAGB Mark infringes the rights of any third party;
  - (v) any person applies for, or is granted, a registered trade mark by reason of which that person may be, or has been, granted rights which conflict with any of the rights granted to You under this Membership Agreement; or
  - (vi) any other form of attack, charge or claim to which the PAGB Mark may be subject.
- (i) In respect of any of the matters listed in paragraph 4(h):
  - (i) PAGB shall, in its absolute discretion, decide what action if any to take;
  - (ii) PAGB shall have exclusive control over, and conduct of, all claims and proceedings;

Updated March 2023

- (iii) You shall not make any admissions other than to us and shall provide us with all assistance that we may reasonably require in the conduct of any claims or proceedings; and
  - (iv) PAGB shall bear the cost of any proceedings and shall be entitled to retain all sums recovered in any action for our own account.
  - (j) The provisions of section 30 of the Trade Marks Act 1994 (or equivalent legislation in any jurisdiction) are expressly excluded.
5. **Benefits and services**
- (a) We are not obliged to supply any Benefits and Services to You until such time that You have paid any and all outstanding Membership Fees and/or any other fees.
  - (b) You are only entitled to receive such Benefits and Services as are applicable to Your membership category.
  - (c) We may change, update and/or remove any Benefits and Services at any time in our sole discretion.
  - (d) Any descriptions of the Benefits and Services on our Website are published for the sole purpose of giving an approximate idea of the Benefits and Services described in them. They will not form part of these Terms or have any contractual force.
  - (e) We will provide the Benefits and Services using reasonable care and skill.
  - (f) Any dates for the performance of any Benefits and Services are estimates only and any failure to perform any Benefits and Services by any date for performance will not give You the right to terminate the Membership Agreement and/or claim any compensation whatsoever.
  - (g) You shall indemnify us on demand against all liabilities, costs, expenses, damages and losses and all other reasonable professional costs and expenses suffered or incurred by us arising out of or in connection with any of Your use of the Benefits and Services,

unless the liabilities, costs, expenses, damages and losses results from our gross negligence or our wilful misconduct.

6. **Your obligations**

- (a) You shall comply with all obligations in this paragraph 6(a) and it is Your responsibility to ensure that:
  - (i) You comply with the Membership Agreement and PAGB's policies, procedures and requirements as available on our Website from time to time;
  - (ii) You co-operate with us in all matters relating to the Benefits and Services;
  - (iii) You provide us, our employees, agents, consultants and subcontractors, with any materials, documents and information as we may reasonably require to provide the Benefits and Services. You shall use Your best endeavours to procure any materials, documents and information that are not in Your possession or custody or under Your control. You shall inform us of any information or developments which may come to Your notice and which might have a bearing on the Benefits and Services;
  - (iv) You obtain and maintain all necessary licences, permissions and consents which may be required for the provision of the Benefits and Services before the date on which the relevant Benefits and Services are to start;
  - (v) You comply with all Applicable Laws, including health and safety laws;
  - (vi) You shall not do, or omit to do, or permit to be done, any act that will or may weaken, damage or be detrimental to the reputation of PAGB or any other member of PAGB.
- (b) If our ability to perform the Benefits and Services is prevented or delayed by any failure by You to fulfil any obligation listed in paragraph 6(a) (**Your Default**):



Updated March 2023

- (i) We will be entitled to suspend Your membership and the performance of the Benefits and Services until You remedy Your Default, and to rely on Your Default to relieve us from the performance of the Benefits and Services, in each case to the extent Your Default prevents or delays performance of the Benefits and Services. In certain circumstances Your Default may entitle us to terminate the Membership Agreement;
  - (ii) We will not be responsible for any costs or losses You sustain or incur arising directly or indirectly from our failure or delay in performing the Benefits and Services; and
  - (iii) it will be Your responsibility to reimburse us on written demand for any costs or losses we sustain or incur arising directly or indirectly from Your Default.
- (c) You must not forward or send the PAGB newsletter content or information that we provide to You to any third party without our prior written permission.
- 7. Fees**
- (a) Membership Fees vary depending on the size and income of each Full Member and is set by PAGB annually. The relevant Membership Fee shall be communicated to Full Members upon acceptance of their Application and at each Renewal.
  - (b) Fees for the Benefits and Services are set out in the Schedule of PAGB Benefits and Services.
  - (c) Membership Fees and fees for the Benefits and Services may be paid by various methods as explained on the Website, which may be and amended from time to time.
  - (d) Payment of Membership Fees will not be taken by PAGB until we have accepted the relevant Application.
  - (e) If You become a Full Member part way through a Membership Year, You will pay the Membership Fee pro-rata from the date of admission to the date of the end of the then Membership Year. Thereafter you will pay the Membership Fee annually within 60 days from receipt of an invoice from PAGB.
  - (f) We take all reasonable care to ensure that the prices stated in the Schedule of PAGB Benefits and Services are correct at the time when the relevant information was entered into the system. However, please see paragraph 7(h) for what happens if we discover an error in the price in the fees on our Website.
  - (g) All of the fees set out in the Schedule of PAGB Benefits and Services are exclusive of VAT. Where VAT is payable, You must pay us such additional amounts in respect of VAT, at the applicable rate, at the same time as You pay the applicable fees.
  - (h) It is always possible that, despite our reasonable efforts, some of the fees on our Website may be incorrect. Where the correct price is less than the price on our Website, we will charge the lower amount and if the correct price is higher than the price on our Website, we will contact You as soon as possible to inform You of this error and we will give You the option of continuing to purchase the Benefits and Services at the correct price or cancelling Your order. We will not process Your order until we have Your instructions. If we are unable to make contact, we will treat the order as cancelled and notify You in writing. However, if we mistakenly accept and process Your order where a pricing error is obvious and unmistakable and could reasonably have been recognised by You as a mispricing, we may cancel supply of the Benefits and Services and refund You any sums You have paid.
  - (i) We will not refund all or any part of the Membership Fee if You cancel Your membership or if the Membership Agreement is terminated by You or us for any reason whatsoever.
  - (j) You may cancel any Benefits and Services that are chargeable, if You notify

Updated March 2023

us in writing at least 10 days prior to the commencement of the delivery of the Benefits and Services and we will refund any fees that You have paid. If You do not notify us at least 10 days prior to the commencement of the delivery of the Benefits and Services or if there are less than 10 days between the date of Your order and the commencement of the delivery of the Benefits and Services, we will not refund any fees You have paid or we will charge You the respective fees.

- (k) If You fail to make a payment by the due date, then, without limiting our rights and remedies, You will have to pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this paragraph 7(j) will accrue each day at 4% per year above Barclays' Bank plc's base rate from time to time, but at 4% per year for any period when that base rate is below 0%.
- (l) You must pay all amounts due in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

#### 8. Intellectual property rights

- (a) We shall retain ownership of the copyright and all other Intellectual Property Rights in the product of the Benefits and Services (other than intellectual property rights in any materials provided by You), whether oral or tangible, and ownership of our working papers. For the purposes of delivering services to You or any other third party, we shall be entitled to use, develop or share with each other knowledge, experience and skills of general application gained through performing the Benefits and Services.
- (b) You agree to grant us, or procure the grant, of a fully paid-up, non-exclusive, royalty-free, non-transferable licence to use, copy and modify any materials provided by You to us for the Membership

Year only for the purposes of providing the Benefits and Services.

#### 9. How we may use Your personal information

- (a) We will use any personal information You provide to us to:
  - (i) provide the Benefits and Services;
  - (ii) process Your payment for the Benefits and Services; and
  - (iii) inform You about similar services that we provide, but You may stop receiving these at any time by contacting us.
- (b) Further details of how we will process personal information are set out in <https://pagb.co.uk/privacy-policy/>.
- (c) Both PAGB and You shall process any personal information in compliance with all Data Protection Legislation. Furthermore, You confirm that any personal data provided to us by You has been obtained, processed and provided to us in accordance with all Data Protection Legislation and You have ensured that there is a legitimate ground for the processing of any and all personal data by us on Your behalf.
- (d) Both PAGB and You shall co-operate with each other in the resolution of any complaint under, or relating to any applicable Data Protection Legislation.

#### 10. Liability

- (a) Nothing in the Membership Agreement limits or excludes our liability for:
  - (i) death or personal injury caused by our negligence, or the negligence of our employees, agents or subcontractors;
  - (ii) fraud or fraudulent misrepresentation; or
  - (iii) any other liability which cannot be limited or excluded by Applicable Laws.
- (b) Subject to paragraph 10(a), we shall not be liable to You, whether in contract, tort (including negligence), for breach of

Updated March 2023

statutory duty, or otherwise, arising under or in connection with the Membership Agreement, the Benefits and Services and/or Your membership for:

- (i) loss of profits;
  - (ii) loss of sales or business;
  - (iii) loss of agreements or contracts;
  - (iv) loss of anticipated savings;
  - (v) loss of use or corruption of software, data or information;
  - (vi) loss of or damage to goodwill; and
  - (vii) any indirect or consequential loss.
- (c) Subject to paragraphs 10(a) and 10(b), we shall not be liable to You for any loss or damage suffered by You arising from fraud, misrepresentation, withholding of information or material relevant to the Membership Agreement or Benefits and Services or required by us, or other default relating to such information, whether on Your part or that of the other information sources, unless such fraud, misrepresentation, withholding or such other default is evident to us without further enquiry.
- (d) Subject to paragraphs 10(a), 10(b) and 10(c), our total liability to You in each Membership Year arising under or in connection with Your Membership Agreement, including the Benefits and Services and any other services or advice or we provide to You, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, will be limited to the Membership Fee paid by You in that Membership Year.
- (e) Except as expressly stated in the Membership Agreement, we do not give any representations, warranties or undertakings in relation to the Benefits and Services and do not guarantee any particular outcome or result. Any representation, condition or warranty which might be implied or incorporated into these Membership Agreement by statute, by common law or otherwise are,

to the fullest extent permitted by law, excluded from the Membership Agreement.

- (f) We do not provide legal advice and do not represent or guarantee that any suggested course of conduct, strategy or action will deliver any particular outcome or result or will conform to any Applicable Laws or regulation.
- (g) Any advice, opinion, statement of expectation, forecast or recommendation supplied by us shall not amount to any form of guarantee that we have determined or predicted future events or circumstances.
- (h) This paragraph 10 will survive expiry or termination of the Membership Agreement.

#### 11. Confidentiality

- (a) PAGB and You agree that neither party will at any time disclose to any person any Confidential Information concerning one another's business, affairs, customers, clients or suppliers, except as permitted by paragraph 11(b).
- (b) Both PAGB and You each may disclose the other's Confidential Information:
  - (i) to such of PAGB or Your (as applicable) employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out our respective obligations under the Membership Agreement. Both of PAGB and You will each ensure that such employees, officers, representatives, subcontractors or advisers comply with this paragraph 11; and
  - (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- (c) Each of PAGB and You may only use the other's Confidential Information for the purpose of fulfilling each of PAGB or Your (as applicable) respective obligations under the Membership Agreement.

Updated March 2023

## 12. Termination

- (a) Without limiting any of our other rights, we may suspend the performance of the Benefits and Services and/or terminate the Membership Agreement with immediate effect by giving written notice to You if:
- (i) You commit a material breach of any term of the Membership Agreement and (if such a breach is remediable) fail to remedy that breach within 10 days of You being notified in writing to do so;
  - (ii) You fail to pay any amount due on the due date for payment;
  - (iii) You take any step or action in connection with You entering administration, provisional liquidation or any composition or arrangement with Your 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 Your 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;
  - (iv) You suspend, threaten to suspend, cease or threaten to cease to carry on all or a substantial part of Your business; or
  - (v) Your financial position deteriorates to such an extent that in our opinion Your capability to adequately fulfil Your obligations under these Terms has been placed in jeopardy.
- (b) Without limiting any of our other rights, either You or we may terminate the Membership Agreement with immediate effect by giving the other 30 days' written notice at any time. Please note that we will not refund all or any part of the Membership Fee in the event of termination of the Membership Agreement under this paragraph 12(b).

- (c) On termination of the Membership Agreement You must return all of our materials and any deliverables which have not been fully paid for. If You fail to do so, then we may enter Your premises and take possession of them. Until they have been returned, You will be solely responsible for their safe keeping and must not use them for any purpose.
- (d) Termination of the Membership Agreement will not affect Your or our rights and remedies that have accrued as at termination.
- (e) Any provision of the Membership Agreement that expressly or by implication is intended to come into or continue in force on or after termination will remain in full force and effect.

## 13. Events outside our control

- (a) We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under the Membership Agreement that is caused by any act or event beyond our reasonable control (**Event Outside Our Control**).
- (b) If an Event Outside Our Control takes place that affects the performance of our obligations under the Membership Agreement:
  - (i) we will contact You as soon as reasonably possible to notify You; and
  - (ii) our obligations under the Membership Agreement will be suspended and the time for performance of our obligations will be extended for the duration of the Event Outside Our Control. We will arrange a new date for performance of the Benefits and Services with You after the Event Outside Our Control is over.
- (c) You may cancel the Membership Agreement if an Event Outside Our Control has continued for more than 30 days. To cancel the Membership Agreement please contact us at [membership@pagb.co.uk](mailto:membership@pagb.co.uk)



Updated March 2023

Please note that we will not refund all or any part of the Membership Fee or other fee payments received for chargeable Benefits and Services in the event of termination of the Membership Agreement under this paragraph 13(c).

**14. Communications between us**

- (a) When we refer to "in writing" in the Membership Agreement, this includes email.
- (b) Any notice or other communication given by PAGB or You (as applicable) to the other under or in connection with the Membership Agreement must be in writing and be delivered personally to our registered office address, sent by pre-paid first class post to our registered office address or other next working day delivery service, or email to [membership@pagb.co.uk](mailto:membership@pagb.co.uk).
- (c) A notice or other communication is deemed to have been received:
  - (i) if delivered personally, on signature of a delivery receipt or at the time the notice is left at the proper address;
  - (ii) if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second working day after posting; or
  - (iii) if sent by email, at 9.00 am the next working day after transmission unless an out of office response is received in which case the communication is deemed to be received on the date the recipient specifies they will be checking emails.
- (d) In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an email, that such email was sent to the specified email address of the addressee.
- (e) The provisions of this paragraph will not apply to the service of any proceedings or other documents in any legal action, which shall be governed by the relevant Applicable Laws.

**15. General**

**(a) Assignment and transfer.**

- (i) We may assign or transfer our rights and obligations under the Membership Agreement to another entity.
- (ii) You may only assign or transfer Your rights or Your obligations under the Membership Agreement to another person if We agree in writing.

**(b) Variation.** PAGB may change any of the terms of the Membership Agreement at any time by giving You 30 days' written notice.

**(c) Entire agreement.** The Membership Agreement is the entire agreement between You and Us. You acknowledge that You have not relied on any statement, promise or representation or assurance or warranty that is not set out in the Membership Agreement.

**(d) Waiver.** If we do not insist that You perform any of Your obligations under the Membership Agreement, or if We do not enforce our rights against You, or if we delay in doing so, that will not mean that We have waived our rights against You or that You do not have to comply with those obligations.

**(e) Severance.** Each paragraph of the Membership Agreement operates separately. If any court or relevant authority decides that any of them is unlawful or unenforceable, the remaining paragraphs will remain in full force and effect.

**(f) Third party rights.** The Membership Agreement is between You and Us. No other person has any rights to enforce any of its terms.

**(g) Governing law and jurisdiction.** The Membership Agreement is governed by the laws of England and Wales and we each irrevocably agree to submit all disputes arising out of or in connection with the Membership Agreement to the exclusive jurisdiction of the English Court

**Updated March 2023**



The Consumer Healthcare Association