

**GROUP HEALTH PLANS OF BORGWARNER INC.**  
**NOTICE OF PRIVACY PRACTICES**

***This Notice Describes How Medical Information About You May Be Used And Disclosed And How You Can Get Access To This Information. Please Review It Carefully.***

**Introduction**

**BorgWarner Inc. and certain of its related entities** (the “Employer”) sponsor and maintain group health plans, including a Medical Plan, a Dental Plan, a Vision Plan, an Employee Assistance Program, and a Health Care Spending Account Program (collectively referred to as the “Plan”). The Privacy Rules under the Health Insurance Portability and Accountability Act (“HIPAA”) generally restrict the ability to use and disclose certain health or medical information about you that is created or received by the Plan with respect to these healthcare benefit programs or by the Employer in connection with such healthcare benefit programs.

The Plan is required to provide this Notice of Privacy Practice (the “Notice”) to you pursuant to HIPAA. This Notice describes how medical information about you may be used or disclosed by the Plan or by others that assist in the administration of Plan claims. This Notice also describes your legal rights regarding your medical information held by the Plan. References to the Plan throughout this Notice taking certain actions also shall mean the Employer, as sponsor of the Plan.

**Contact Person**

If you have any questions about this Notice, please contact the Chief Human Resources Officer, BorgWarner, Inc., 3850 Hamlin Road, Auburn Hills, MI 48326; the telephone number is (248) 754-9200.

**Protected Health Information**

The HIPAA Privacy Rules protect only certain medical information known as “protected health information (“PHI”). Generally, PHI is individually identifiable health information, including demographic information, collected from you or received by a healthcare provider, a healthcare clearinghouse, a health plan or your employer on behalf of a group health plan, that relates to:

- your past, present or future physical or mental health or condition;
- the provision of healthcare to you; or
- the past, present or future payment for the provision of healthcare to you.

**Effective Date**

This Notice was originally effective on April 14, 2003, and has been amended and restated, most recently effective August 30, 2017.

**Our Pledge and Responsibilities Regarding PHI**

We understand that PHI about you and your health is personal and the Plan is committed to protecting PHI. The Plan is required by law to satisfy the following responsibilities with respect to any PHI created or received by the Plan:

- Maintain the privacy of your PHI;
- Provide you with certain rights with respect to your PHI;
- Give you this Notice of the Plan’s legal duties and privacy practices with respect to your PHI; and
- Follow the terms of the Notice that is currently in effect.

## How the Plan May Use and Disclose Medical Information About You

Under law, the Plan may use or disclose your PHI under certain circumstances without your permission. The following categories describe different ways that the Plan may use and disclose PHI. Not every use or disclosure in a category is listed, however, all of the ways the Plan is permitted to use and disclose PHI will fall within one of these categories.

**For Treatment.** The Plan may use or disclose your PHI to facilitate medical treatment or services by providers. The Plan may disclose PHI about you to providers, including doctors, nurses, technicians, medical students or other hospital personnel, who are involved in taking care of you. For example, the Plan might disclose information about your prior prescriptions to a pharmacist to determine if prior prescriptions contra indicate a pending prescription.

**For Payment.** The Plan may use and disclose PHI about you to determine eligibility for Plan benefits, to facilitate payment for treatment and services you receive from healthcare providers, to determine benefit responsibility under the Plan, or to coordinate Plan coverage. For example, the Plan may tell your health care provider about your medical history to determine whether a particular treatment is experimental, investigational or medically necessary or to determine whether the Plan will cover the treatment. The Plan also may share PHI with a utilization review or precertification service provider. Likewise, the Plan may share PHI with another entity to assist with the adjudication or subrogation of health claims or to another health plan to coordinate benefit payments.

The Plan may release PHI about you that is directly relevant to the involvement of a family member, close personal friend or other person in your medical care or payment for your medical care, unless you tell us not to release such information to such person.

**For Healthcare Operations.** The Plan may use and disclose PHI about you for other Plan operations. These uses and disclosures are necessary to run the Plan. For example, the Plan may use PHI in connection with: conducting quality assessment and improvement activities; underwriting, premium rating, and other activities relating to Plan coverage; submitting claims for stop-loss (or excess loss) coverage; conducting or arranging for medical review, legal services, audit services, and fraud and abuse detection programs; business planning and development such as cost management; and business management and general Plan administrative activities.

However, the Plan may not use or disclose any PHI that is genetic information for underwriting purposes.

**To Business Associates.** The Plan may contract with individuals or entities known as Business Associates to perform various functions or to provide certain types of services on the Plan's behalf. In order to perform these functions or provide these services, Business Associates will receive, create, maintain, use and/or disclose your PHI, but only if they agree in writing with the Plan to implement appropriate safeguards regarding your PHI. For example, the Plan may disclose your PHI to a Business Associate to administer claims or provide support services, such as utilization, management, pharmacy benefit management or subrogation, but only after the Business Associate enters into a Business Associate Agreement with the Plan.

**As Required by Law.** The Plan will disclose PHI about you when required to do so by federal, state or local law. For example, the Plan may disclose PHI when required by a court order in a litigation proceeding, such as a malpractice action.

**To Avert a Serious Threat to Health or Safety.** The Plan may use and disclose PHI about you when necessary to prevent a serious threat to your health and safety or that of the public or another person. Any disclosure, however, would only be to someone able to help prevent the threat. For example, the Plan may disclose PHI about you in a proceeding regarding the licensure of a physician.

**To Plan Sponsor (i.e. Employer).** For the purpose of administering the Plan, PHI may be disclosed to certain employees of the Employer. However, those employees will use or disclose that PHI only as necessary to perform plan administration functions or as otherwise required by HIPAA, unless you have authorized further uses or disclosures. Your PHI cannot be used for employment related purposes without your specific, written authorization. Information may also be disclosed to another health plan maintained by the Employer for purposes of facilitating claim payments under that health plan.

## Special Situations

In addition to the above, the following categories describe other possible ways that the Plan may use and disclose your PHI. Not every use or disclosure in a category will be listed. However, these are other ways the Plan is permitted to use and disclose information.

**Organ and Tissue Donation.** If you are an organ donor, the Plan may release PHI to organizations that handle organ procurement or organ, eye or tissue transplantation or to an organ donation bank, as necessary to facilitate organ or tissue donation and transplantation.

**Military and Veterans.** If you are a member of the armed forces, the Plan may release PHI about you as required by military command authorities.

**Workers' Compensation.** The Plan may release PHI about you for worker's compensation or similar programs. These programs provide benefits for work-related injuries or illness.

**Public Health Risks.** The Plan may disclose PHI about you for public health activities, including:

- To prevent or control disease, injury or disability;
- To report births and deaths;
- To report child abuse or neglect;
- To report reactions to medications or problems with products;
- To notify people of recalls of products they may be using;
- To notify a person who may have been exposed to a disease or may be at risk for contracting or spreading a disease or condition;
- To notify the appropriate government authority if we believe a patient has been the victim of abuse, neglect or domestic violence. The Plan will only make this disclosure if you agree or when required or authorized by law.

**Health Oversight Activities.** The Plan may disclose PHI to a health oversight agency for activities authorized by law, including audits, investigations, inspections, and licensure.

**Lawsuits and Disputes.** If you are involved in a lawsuit or a dispute, the Plan may disclose PHI about you in response to a court or administrative order, in response to a subpoena, discovery request, or other lawful process by someone else involved in the dispute, but only if efforts have been made to tell you about the request, or to seek an order protecting the information requested.

**Law Enforcement.** The Plan may release PHI if requested by a law enforcement official:

- In response to a court order, subpoena, warrant, summons or similar process;
- To identify or locate a suspect, fugitive, material witness, or missing person;
- About the victim of a crime if, under certain limited circumstances, we are unable to obtain the person's agreement;
- About criminal conduct.

**Coroners, Medical Examiners, and Funeral Directors:** The Plan may release PHI, for example to identify a deceased person or cause of death, or as necessary to a funeral director.

**National Security and Intelligence Activities.** The Plan may release PHI about you to authorized federal officials for national security activities authorized by law.

**Inmates.** If you are in a correctional institution under custody of law enforcement, the Plan may release PHI as necessary for the institution to provide you healthcare, to protect your health, safety or that of others and for safety and security of the correctional institution.

## Required Disclosures

The following are disclosures of your PHI the Plan is required to make:

**Government Audits.** The Plan is required to disclose your PHI to the Secretary of the U.S. Department of Health and Human Services when the Secretary is investigating or determining the Plan's compliance with the HIPAA Privacy rule.

**Disclosures to You.** When you request, the Plan is required to disclose to you the portion of your PHI that contains medical records, billing records, and any other records used to make decisions regarding your healthcare benefits. The Plan also is required, when requested, to provide you with an accounting of most disclosures of your PHI where the disclosure was for reasons other than for payment, treatment or healthcare operations, and where the PHI was not disclosed pursuant to your individual authorization.

## Other Disclosures

**Personal Representatives.** The Plan will disclose your PHI to individuals authorized by you, or to an individual designated as your personal representative, attorney in fact, etc., as long as you provide the Plan with a written notice/authorization and any supporting documents (e.g. durable power of healthcare attorney). However, under HIPAA, the Plan does not have to disclose PHI to a personal representative if we have a reasonable belief that:

- you have been, or may be, subjected to domestic violence, abuse or neglect by such person;
- treating such person as your personal representative could endanger you; or
- in the exercise of professional judgment, it is not in your best interest to treat the person as your personal representative.

**Spouses and Other Family Members.** With only limited exceptions, the Plan will send all mail to the employee, including mail relating to the employee's spouse and other family members who are covered under the Plan. This includes mail with information on use of Plan benefits by employee's spouse and other family members and on denial of any Plan benefits to employee's spouse and other family members. If a person covered under the Plan has requested Restrictions or Confidential Communications (see below "Your Rights"), and the Plan has agreed to the request, the Plan will send mail as provided by the request for Restrictions or Confidential Communications.

**Authorizations.** Other uses or disclosures of your PHI not described above will only be made with your written authorization. Additionally, most uses and disclosures of psychotherapy notes (where appropriate), uses and disclosures of PHI for marketing purposes and disclosures that constitute a sale of PHI require your authorization. You may revoke written authorization at any time, but only in writing. Once we receive your written revocation, it will only be effective for future uses and disclosures. It will not be effective for any information that may have been used or disclosed in reliance upon a written authorization prior to receiving your written revocation.

## Your Rights

You have the following rights regarding PHI that the Plan maintains about you:

**Right to Inspect and Copy.** You have the right to inspect and copy PHI that may be used to make decisions about your Plan benefits. To inspect and copy PHI that may be used to make decisions about you, you must submit your request in writing to the Contact Person listed above. If you request a copy of the information, you may be charged a reasonable fee for the cost of copying, mailing or other supplies associated with your request.

You generally have the right, upon written request, to obtain from the Plan an electronic copy of PHI that is maintained electronically in one or more Designated Record Sets, and, if you choose, to direct the Plan to transmit such copy to an entity or person designated by you, provided that any such choice is clear, conspicuous and specific. The Plan will provide the requested PHI in the format requested by you, if it is readily producible in such form; or, if not, in a readable hard copy form or such other form as agreed to by the Plan and you. You also may direct the Plan, in a written statement signed by you, to transmit a paper or electronic copy of your PHI to an entity or person designated by you, provided that any such choice is

clear, conspicuous and specific (e.g. clearly identifies the designated person and where to send a copy of your PHI).

The Plan may deny your request to inspect and copy PHI under very limited circumstances. If you are denied access to PHI, you may request that the denial be reviewed by submitting a written request to the Contact Person listed above.

**Right to Amend.** If you believe that PHI the Plan has about you is incorrect or incomplete, you may ask us to amend the information. You have the right to request an amendment for as long as the information is kept by or for the Plan.

To request an amendment, your request must be made in writing, you must provide the reason that supports your request, and submit the request to the Contact Person listed above. The Plan may deny your request if it is not in writing or does not include a reason to support the request. The Plan may also deny your request if you ask us to amend information that:

- Is not part of the PHI kept by or for the Plan;
- Was not created by the Plan, unless the person or entity that created the information is no longer available to make the amendment;
- Is not part of the information which you would be permitted to inspect and copy; or
- Is already accurate and complete.

If the Plan denies your request, you have the right to file a statement of disagreement with the Plan and any future disclosure of the disputed information will include your statement. File this statement with the Contact Person listed above.

**Right to an Accounting of Disclosures.** You have the right to request an “accounting” of certain disclosures of your PHI. The accounting generally will not include (1) disclosures made for purposes of treatment, payment or health care operations, (2) disclosures made to you, (3) disclosures made pursuant to your authorization, (4) disclosures made to friends or family in your presence or because of an emergency, (5) disclosures for national security purposes, and (6) disclosures incidental to otherwise permissible disclosures. However, to the extent required under HITECH, certain disclosures to carry out treatment, payment or health care operations which are maintained in electronic health records may need to be included in the accounting of disclosures beginning on the effective date set forth in HITECH (please call the Contact Person if you would like additional information regarding such accounting rights under the applicable guidance).

To request this list of accounting of disclosures, you must submit your request, in writing, to the Contact Person listed above. Your request must state a time period which may not be longer than six (6) years and may not include dates before April 14, 2004. Your request should indicate in what form you want the list (for example, paper or electronic). The first list you request within a 12-month period will be free. For additional lists, the Plan may charge you for the costs of providing the list. The Plan will notify you of the cost involved and you may choose to withdraw or modify your request at that time before any costs are incurred.

**Right to Request Restrictions.** You have the right to request a restriction or limitation on the PHI the Plan uses or discloses about you for treatment, payment or healthcare operations. You also have the right to request a limit on the PHI the Plan discloses about you to someone who is involved in your care or the payment for your care, such as a family member or friend. For example, you could ask that we not use or disclose information about a surgery you had. Generally, the Plan is not required to agree to your request.

Note that you have the right to request that your healthcare provider not disclose certain PHI to this Plan in the event that the PHI pertains solely to healthcare items or services that you pay for out of pocket and in full.

To request restrictions, you must make your request in writing to the Contact Person listed above. In your request, you must tell us (1) what information you want to limit; (2) whether you want to limit our use, disclosure or both; and (3) to whom you want the limits to apply, for example, disclosures to your spouse.

The Plan may terminate a restriction that the Plan previously agreed to with respect to your PHI provided that the Plan informs you that it is terminating its agreement to the restriction and such termination is not effective for PHI that is described in the first two paragraphs of this section and only effective with respect to PHI created or received after you have been informed of such termination.

**Right to Request Confidential Communications.** You have the right to request that the Plan communicate with you about medical matters in a certain way or at a certain location. For example, you can ask that we only contact you at work or by mail.

To request confidential communications, you must make your request in writing to the Contact Person listed above. The Plan will not ask you the reason for your request. The Plan will accommodate all reasonable requests if you clearly provide information that the disclosure of all or part of your PHI could endanger you. Your request must specify how or where you wish to be contacted.

**Right to be Notified of a Breach.** You have the right to be notified in the event that we discover, or a Business Associate discovers, a breach of unsecured PHI.

**Right to a Paper Copy of This Notice.** You have the right to a paper copy of this Notice. You may ask the Plan to give you a copy of this Notice at any time. Even if you have agreed to receive this Notice electronically, you are still entitled to a paper copy of this Notice.

To obtain a paper copy of this Notice, contact the Contact Person listed above.

### **Changes to This Notice**

The Plan reserves the right to change the terms of this Notice and to make new provisions regarding your protected health information that the Plan maintains, as allowed or required by law. The Plan reserves the right to make the revised or changed Notice effective for PHI the Plan already has about you as well as any information the Plan receives in the future. If the Plan makes any material change to this Notice, you will be provided with a copy of a revised Notice of Privacy Practices either by mail or electronically.

### **Complaints**

If you believe your privacy rights have been violated, you may file a complaint with the Plan or with the Office of Civil Rights. Complaints to the Plan must be submitted in writing to the Contact Person listed above.

A complaint to the Office of Civil Rights should be sent to Office for Civil Rights, U.S. Department of Health & Human Services, 233 N. Michigan Ave. - Suite 240, Chicago, IL 60601, (312) 886-2359; (312) 353-5693 (TDD), (312) 886-1807 (fax). You also may visit OCR's website at: <http://www.hhs.gov/ocr/privacy/hipaa/complaints/> for more information.

You will not be penalized, or in any other way retaliated against, for filing a complaint with the Plan or the Office of Civil Rights.