

# Terms and Conditions

## 1. The agreement

This agreement sets out the terms and conditions that apply to a Member's use of the Provider Choice services provided by Provider Choice Pty Ltd (ACN 627 164 194).

By signing up as a Member or using Provider Choice services, you agree to the terms and conditions set out in this agreement, which is made up of the following documents:

- This document, including the Privacy Disclosure Statement in section 3 below; and
- The website terms of use.

No provision of this agreement limits any other provision of the agreement. However, to the extent of any inconsistency in the documents that form this agreement, the documents have priority according to the order in which they appear above.

In this document:

1. **"Provider Choice"** means Provider Choice the business with ACN 627 164 194;
2. **"Provider"** means a business that has signed up to be a Provider to sell goods and services in the Provider Choice eMarketplace;
3. **"NDIS"** means the National Disability Insurance Scheme under the National Disability Insurance Scheme Act 2013 (Cth);
4. **"we" "us" "our"** and **"Provider Choice"** means Provider Choice Pty Ltd (ACN 627 164 194); and **"you" "your"** and **"Member"** means a person that has signed up to be a Member of Provider Choice or a person using the Provider Choice Platform and eMarketplace.
5. **"Provider Choice Platform"** means our site and all its features including but not limited to the Participant and Provider Dashboard, the Provider Choice eMarketplace, and online community forums.

## 2. About us

We are an NDIS service offering a way for Members to more easily manage their NDIS plans. We make it easy for people to manage their plans, find the products and services they need, budget, upload and manage documentation, get ready for their planning meeting or plan review meeting. We are also an NDIS registered Plan Manager.

## 3. Privacy Disclosure Statement



We may collect your personal information for the purposes of allowing you to access Provider Choice services. We usually collect personal information directly from you. Sometimes we collect or confirm this information from a third party. The personal information that we collect includes details such as:

- your name, contact details, date of birth and age;
- information you give us when you request a good or service such as your requirements with respect to specific goods or services; your opinion or preferences with respect to any of our goods or services, payment details, or your preferred payment method;
- your gender, details about your physical or mental health, including disabilities;
- information about your support requirements including your NDIS plan and budget, if relevant;
- details of guardians and nominees, including names, addresses and contact details;
- any information we are required to collect by law.

When you visit our website, apps or other web-based content and services (“Websites”), either we or our service provider will record information (such as your computer’s IP address and top level domain name, the type of browser you are using, the date, time and pages accessed) in relation to your visit.

### **1. Use and disclosure of your personal information**

We use your personal information in order to:

- confirm your identity when you contact us;
- allow you to access the Provider Choice services;
- manage your use of the Provider Choice Platform and the transactions conducted between you and Providers on the Provider Choice eMarketplace;
- be aware of any good or service requirements you may have;
- process orders, deliver products and services, process payments, communicate with you about orders and generally maintain your membership with us;
- provide you with electronic confirmation of your orders or changes to orders (where applicable) and advise you of any changes to goods and services;
- provide refunds or discounts;
- administer and manage the provision of goods and services to you, including billing and debt collection;
- comply with any legal or regulatory obligations imposed on us; and
- perform our necessary business functions (such as internal audit investigations, performance reporting, research and product development).

### **2. Disclosure of your information to third parties**

Where permitted by the Privacy Act, personal information we collect about you may be disclosed to third parties for any purpose reasonably necessary or directly in connection with the conduct of our business. These include:



- any service provider we engage to carry out our business functions and activities;
- our professional advisors and other contractors (for example IT consultants, research agencies and mailing houses);
- businesses that have signed up to be a Provider to sell goods and services in the Provider Choice and to government agencies who provide funding for those goods and services;
- your authorised agents such as your guardians or nominees or your executor, administrator or legal representative;
- any employee, and/or authorised representative of the Provider Choice team;
- organisations that are involved in a transfer or proposed sale of our business or assets; and
- any entity to which we are required or authorised by or under law to disclose such information (for instance, Federal or State law enforcement agencies and investigative agencies, courts and various other Federal or State government bodies).

We take steps to ensure that third party recipients are obliged to protect the privacy and security of your personal information and use it only for the purpose for which it is disclosed.

### **3. Sensitive Information**

We may use or disclose sensitive information about you where it is necessary to provide you with a good or service.

Sensitive information is any information about a person's racial or ethnic origin, political opinions, religious or philosophical beliefs or affiliations, membership of a professional, trade or political association or union, sexual preferences or practices, criminal record, health information or genetic information about an individual that is not otherwise health information.

### **4. Disclosure of personal information to overseas organisations**

In some cases we may need to share some of your information with organisations outside Australia. For example, when we use service providers located overseas to perform a function on our behalf.

When we share your information with organisations overseas we ensure appropriate data handling and security measures are in place.

### **5. Access to and correction of your personal information**

In most cases you can access your personal information held by us. If you believe that personal information we hold about you is inaccurate, out of date or incomplete, you should contact us on 07 5660 6267.

We will promptly update your personal information that is inaccurate, out of date or incomplete. In some cases we may request you provide us with supporting documentation to amend the personal information we hold about you.



If we do not agree that your information is inaccurate, out of date or incomplete, we will give you a written notice including the reasons why we do not agree with you and how you can make a complaint.

#### **6. Direct marketing**

We may use your personal information to inform you about other products and services that we think you may be interested in. This may include products and services offered or distributed by us, members of the Bendigo Group or any company with which we are associated. If you do not wish to receive any marketing material please let us now by contacting us on 07 5660 6267 or emailing us at [team@providerchoice.com.au](mailto:team@providerchoice.com.au).

#### **7. Privacy Policy**

You should also read our Privacy Policy. Our Privacy Policy contains information about how you can access and, if necessary, seek correction of your personal information, how you can complain about a breach of the privacy laws by us and how we will deal with such a complaint, if we will disclose personal information to overseas entities, and where practicable, which countries those recipients are located in.

Our Privacy Policy is available on our website.

## **4. Eligibility criteria and authority**

To be a Member of Provider Choice you must be a natural person and be at least 18 years old. You agree to provide evidence of your eligibility if we ask for it.

By signing up to be a Member or using Provider Choice you confirm that you meet the abovementioned eligibility criteria and have the capacity and authority to enter into this agreement. You agree to tell us if this changes.

If you are signing up as a Member or using Provider Choice on behalf of another person (such as an NDIS participant), you confirm that you have legal authority to enter into this agreement and use the Provider Choice Platform on their behalf. You agree to provide evidence of your authority if Provider Choice asks for it.

Please note that a person under the age of 18 can use an adult's membership of the Provider Choice with the permission of the adult Member. However, the Member is responsible for everything done with that Provider Choice membership.

## **5. Accessing the Provider Choice Platform and eMarketplace**

If you sign up as a Member, we will allocate you a Member account and you may access the Provider Choice Platform for the purposes of buying goods and services from Providers and related purposes.

You must not let anyone else use your account and must keep your password and other account information secure and confidential. You must tell us promptly if you become aware that



another person has used your account to access the Provider Choice Platform or that your password may have become known to any other person.

If you allow another person to use your account or tell another person your account login details or password, despite the above, you will be responsible for their actions on the Provider Choice Platform and you acknowledge that they will be able to access the information associated with your account which may include your personal information and activity history within the Provider Choice Platform and eMarketplace.

We may refuse to allow you to access, or restrict or suspend your access, to the Provider Choice Platform for any reason including if you cease to meet the eligibility criteria described in this agreement or you breach the terms and conditions of this agreement in any way. If we do so we will promptly tell you that we have done so and the reasons why.

## 6. Your information

You confirm that all information you give us is correct and not misleading. If any information changes you agree to tell us promptly.

You are responsible for all information about you on the Provider Choice Platform or that you otherwise give to a Provider. This includes any of your NDIS information in your account on the Provider Choice Platform. You represent that all information you give us or give a Provider in relation to the Provider Choice platform is accurate and complete and that the information complies with law and any NDIS guidance that applies to you.

You are responsible for the management of your NDIS plan. This includes making claims and giving any evidence asked for by the National Disability Insurance Agency to the Agency.

## 7. Intellectual Property

The Provider Choice content may include copyrighted, trademarked or other proprietary materials of ours or third parties (including Providers). You agree not to remove any copyright, proprietary or identification markings included in Provider Choice website content or to create any derivative works based on the content.

You do not acquire any rights in or ownership of any intellectual property used by or included in the Provider Choice Platform except to any extent expressly provided by this agreement and you must not use any intellectual property of ours or a third party in any material you develop without our or the third party's written consent.

All third party trademarks (including logos and icons) referenced by us and Providers on the Provider Choice Platform remain the property of their respective owners. Unless specifically identified as such, use of third party trade marks by us or a Provider does not indicate any relationship, sponsorship, or endorsement between the owners of the trademarks and us or the Provider (as the case may be). Any references we or a Provider make to third party trademarks is to solely identify the corresponding third party goods and/or services.

## 8. Transactions



When you buy goods or services through the Provider Choice Platform, you are buying from, and entering into a contract with, the Provider of those goods and services and not us.

Before buying goods or services through the Provider Choice Platform you must ensure that you satisfy yourself the product is appropriate for you and your needs and seek any information you require from the Provider. You are responsible for making sure the goods or services meet your requirements and for confirming whether NDIS funding is available and the relevant category of supports.

You agree that us allowing a Provider to use the Provider Choice Platform to offer goods and services for sale is not a representation by us about the Provider or the suitability or quality of the goods and services the Provider provides. Provider Choice does not guarantee or endorse any items sold on the Provider Choice Platform or any content posted by Providers (such as photographs or language used in their profile of goods and services listings).

Goods and services displayed or offered through the Provider Choice Platform are displayed or offered by a Provider on their terms of sale which can be accessed in the Provider Choice Platform on the Provider's profile page. You should familiarise yourself with the Provider's terms of sale and customer policies, including in relation to shipping and delivery methods and timeframes and returns and refunds, before you buy from a Provider.

The Provider is responsible for information about the Provider and the goods and services that the Provider offers for sale through the Provider Choice Platform.

We do not charge you for providing the Platform. If this changes, we will let you know in advance. We get a fee from the Provider for any sales they make through the eMarketplace.

## 9. Cancellations, Returns and Refunds

Each Provider has their own policies and procedures in relation to cancellations and returns, which will be set out in the Provider's profile on the Provider Choice Platform.

Whether or not you can cancel an order or return goods or services purchased from a Provider through Provider Choice will depend on the relevant Provider's policies. A Provider's cancellation and returns policies are subject to your legal rights, such as under the Australian Consumer Law, and a Provider cannot deny you a cancellation or a refund if you are legally entitled to it.

If you want to cancel an order or request a refund, you should contact the Provider as soon as possible. You may do so by submitting a General Enquiry from the Provider's profile page in the Provider Choice eMarketplace.

## 10. Member Policies and Procedures

You must comply with such policies and procedures as we implement and advise you in writing apply to you as a Member. We may change the policies and procedures from time to time.

Where we introduce a new policy or procedure, or make changes to an existing policy or procedure that impose new or additional obligations on you, we must give you 30 days prior



notice that the new policy or procedure applies, or of the change. The new policy or procedure, or change, will apply at the end of the 30 day period unless you have ended this agreement before then.

## 11. Reviews, feedback and other uploaded content

In using the Provider Choice Platform, you must not post any content that is inappropriate or offensive. If you do, we may edit or remove all content that we reasonably deem to be inappropriate or that does not meet the guidelines below. We may also suspend or terminate your account.

By posting or uploading a review, feedback or other content to the Provider Choice Platform, you:

- grant us a non-exclusive, irrevocable, perpetual, royalty-free, fully paid-up and worldwide right to use the content that you post on the Provider Choice Platform (including the right to sub-licence, distribute and create derivative works); and
- consent to all acts and omissions in respect of the moral rights that you have in such content. We consider the following list as being examples of inappropriate or offensive use of your account and the Provider Choice Platform and this list is not intended to be exhaustive:
- use in connection with criminal or civil violations of applicable state, territory, federal or international laws, regulations or other government requirements. Such violations include uploading, posting, e-mailing or otherwise transmitting any content that is unlawful, harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libellous, offensive, invasive of another's privacy, hateful, racist or otherwise objectionable or discriminatory;
- impersonate any person or entity, including, but not limited to, a staff member of Provider Choice;
- forge headers or otherwise manipulate identifiers in order to disguise the origin of any content transmitted through or posted on the Provider Choice Platform;
- infringe any patent, trade mark, trade secret, copyright or other proprietary rights of any party;
- transmit or attempt to transmit any unsolicited or unauthorised advertising and promotional materials, such as junk mail, spam, chain letters and pyramid schemes;
- transmit or attempt to transmit any malicious computer code, including software viruses, Trojan horses, that are designed or intended to interrupt, damage, destroy or limit the functionality of any software application or electronic device;
- disrupt the normal flow of dialogue or otherwise act in a manner that negatively affects other users' ability to use the Provider Choice Platform;

- interfere with or disrupt the servers or networks connected to the Provider Choice Platform or disobey any requirements, procedures, policies or regulations of networks connected to the Provider Choice Platform; and
- stalk or otherwise harass, threaten, bully or intimidate any person.

## 12. How you can make a complaint or enquiry

If you have an enquiry or complaint about the Provider Choice Platform, you can contact us by sending us an email to [team@providerchoice.com.au](mailto:team@providerchoice.com.au).

We will direct it to the appropriate person to deal with it. If your complaint or enquiry relates to a product or service from a Provider, we may direct your complaint or enquiry to the Provider who will be responsible for dealing with it.

## 13. Changes to this agreement

We may make changes to the terms of this agreement at any time without your consent by giving you notice of the changes.

If you do not agree with the changes you must immediately cease using the Provider Choice Platform. If you do so, the changes will not apply to you.

By continuing to use the Provider Choice Platform after we give you notice of changes to the terms of this agreement, you agree to the changes and to comply with the agreement as changed.

This agreement may not be amended or changed except as set out above or as agreed between you and us in writing.

## 14. How we can tell you things under this agreement

We may give you any information, notices or other documents (each a **“Communication”**) by:

- displaying the Communication or making the Communication available to you in the Provider Choice Platform;
- email to the email address recorded for you in the Provider Choice Platform;
- post to the business, residential or postal address recorded for you on Provider Choice Platform;
- where the Communication does not contain your personal information or confidential information, publishing the Communication on our website and telling you that we have done so; or
- in any other manner allowed by law.



## 15. How you can tell us things under this agreement

You may give us any Communication by:

- email to [team@providerchoice.com.au](mailto:team@providerchoice.com.au); or
- post to our address stated at the start of this document.

## 16. Ending this agreement

You may end this agreement at any time by telling us.

We may end this agreement at any time by telling you.

If this agreement ends, each obligation imposed by this agreement that has not been met when this agreement ends or can have effect after this agreement has ended continues to apply after this agreement has ended.

You do not have permission to use the Provider Choice Platform for any purpose after this agreement ends.

## 17. Liability

To the extent permitted by law, you agree that we (Provider Choice) are not responsible or liable to you in relation to any of the following:

- Information posted on the Provider Choice Platform by a Provider about the Provider or the Provider's goods and services;
- Transactions you enter into with a Provider and the Provider's goods and services;
- Your use of or reliance on the Provider Choice Platform; and
- Any delay, error or failure in respect of the Provider Choice Platform.

To the extent our liability cannot be excluded, it is limited to correcting any error or mistake that can be corrected or re-performing our obligations correctly.

Without limiting the other parts of this section, you agree that we will not be liable to you, and you irrevocably release us from any claim against us that you might otherwise have, in relation to any failure or default of a Provider or of goods and services offered for sale by a Provider through the Provider Choice Platform. You agree that any claim you have relating to goods and services purchased by you through the Provider Choice Platform is against the relevant Provider only and not us, including in relation to any failure or misdescription of goods and services or any failure of a Provider to give you a refund or replacement to which you are entitled under



the Provider's relevant policies or at law. Nothing in this section limits any rights you have under the rules that apply to any payment scheme through which you pay for goods or services purchased through the Provider Choice Platform.

## 18. Indemnity

You must reimburse and indemnify us for and in respect of any loss, expense, damage, claim or demand any of them incur as a result of:

- your intentional or reckless misuse of the Provider Choice Platform;
- you failing to comply with the terms and conditions of this agreement;
- any representation you make being incorrect or misleading; or
- any dispute you have with a Provider.

The indemnities expressed in this section are subject to the indemnified parties taking commercially reasonable steps to mitigate any loss, expense, damage, claim or demand.

You will not be liable under the indemnities in this section to the extent that a loss, expense, damage, claim or demand to which the indemnity applies has been caused or incurred by fraud or negligence of us or the indemnified party.

Your obligations under this section continue after the end of this agreement.

## 19. Waiver

You or we only waive a right under this agreement if it is done in writing.

## 20. Assignment

You may not transfer, assign, novate or otherwise deal with any rights, obligations or interests you have under or in relation to this agreement without our prior written consent. We may transfer, assign, novate or otherwise deal with the rights, obligations and interests we have under or in relation to this agreement without your prior consent.

## 21. Invalid provisions

A provision of this agreement must be read down to the extent necessary for it to be valid. If it cannot be read down in that way, the agreement is to be treated as if the invalid clause does not exist. This does not affect the validity or enforceability of the remaining provisions.

## 22. Law and Courts



The laws of Queensland, Australia apply to this agreement and the parties agree that the Courts of Queensland and Courts hearing appeals from them have non-exclusive jurisdiction in relation to this agreement.