

Registration Terms and Conditions for Providers of Services

Objectives

1. It is a requirement of registration with the Insurance Commission of Western Australia that Providers of Services to clients comply with these Terms and Conditions.

Definitions

2. In this document -

Accommodation Support Services means the provision of transition housing and/or supported housing including carer to a Client.

the **Act** means the *Motor Vehicle (Catastrophic Injuries) Act 2016*.

Agency means the National Disability Insurance Agency (NDIA).

Application for Registration means the form which must be completed by an entity that wishes to be registered with the Insurance Commission as a Provider.

CISS means the Catastrophic Injuries Support Scheme.

Client means a person who is a participant in the CISS.

Insurance Commission means the body continued by the *Insurance Commission of Western Australia Act 1986* section 4 under the corporate name "Insurance Commission of Western Australia".

Personnel means the Provider's employees, officers, contractors, agents or consultants who provide the Services.

Provider means a person registered in accordance with section 23(1) of the Act to provide Services to Clients.

Provider Plan means a plan prepared on behalf of the Client listing required services to be delivered to the Client by the Provider.

Records means records or information of any kind, including originals and copies of all accounts, financial statements, books, files, reports, records, correspondence, documents and other materials created for, or relating to, or used in connection with, the supply of Services to a Client, however such records and information are held, stored or recorded.

Registration Terms and Conditions mean these terms and conditions attached to the Application for Registration as amended from time to time.

Regulations means the *Motor Vehicle (Catastrophic Injuries) Regulations 2016*.

Services mean services to, or for, a Client that are necessary and reasonable services required as a direct result of the Client's injury rendering the Client eligible to be a participant in the CISS and fall within one of the following categories:

- (a) attendant care;
- (b) case management services;
- (c) counselling services;
- (d) dietetic services;
- (e) disability employment services;
- (f) domestic assistance services (for example, cleaning, gardening or home maintenance);
- (g) education services;
- (h) exercise services (for example, exercise physiology or personal training);
- (i) home modification services;
- (j) orthotic or prosthetic services;
- (k) recreational services;
- (l) social work services;
- (m) speech pathology services;
- (n) therapy assistance services; or
- (o) vocational training or vocational rehabilitation services.

Serious Incident means, in addition to the incidents requiring mandatory reporting pursuant to section 25(4) of the *Disability Services Act 1993 (WA)*, incidents resulting in:

- (a) damage to property of a Client or damage to property of another person caused by a Client where the cost of the damage exceeds \$10,000; and
- (b) serious injury to another person caused by or to a Client or service provider.

Registration Terms and Conditions

3. The Provider must at all times comply with the Registration Terms and Conditions. The Provider acknowledges that any failure by it to comply with any of the Registration Terms and Conditions may result in the Provider's registration being revoked.

Insurance

4. The Provider must have in place the following insurance arrangements -
 - (a) professional indemnity insurance covering the legal liability of the Provider and its Personnel arising out of any act, negligence, error or omission made or done by or on behalf of the Provider or any Personnel in connection with Services for a sum of \$20 million for any one claim and in the annual aggregate, with a provision of unlimited reinstatements of the full sum insurance in any one period of insurance, including fraud and dishonesty, defamation, infringement of intellectual property rights, loss of or damage to documents and breach of Australian Consumer Law;
 - (b) workers' compensation insurance in accordance with the provisions of the *Workers' Compensation and Injury Management Act 1981* (WA) including cover for common law liability for an amount of not less than \$50 million for any one occurrence in respect of personnel of the Provider, including any claims and liability that may arise with an indemnity under section 175(2) of the *Workers' Compensation and Injury Management Act 1981* (WA); and
 - (c) public liability insurance covering the legal liability of the Provider or its Personnel in connection with Services for an amount of not less than \$20 million for any one occurrence and unlimited in the number of occurrences happening in the period of insurance.
5. Any policy of insurance taken out by the Provider in connection with the Services must be taken out with a reputable and solvent insurer reasonably acceptable to the Insurance Commission which carries on business in Australia and is authorised by the Australian Prudential Regulation Authority.
6. The Provider must:
 - (a) punctually pay all premiums and amounts necessary for effecting and keeping current the insurance required under term 4;
 - (b) not vary or cancel any insurance required under term 4 or allow it to lapse while it remains registered with the Insurance Commission as a Provider and for a period of 7 years after the Provider ceases providing Services to a Client or otherwise do or allow to be done anything which may vitiate, invalidate, prejudice or render ineffective the insurance or entitle the insurer to refuse a claim; and
 - (c) without limiting term 6(a) or (b), promptly reinstate any insurance required under term 4 if it lapses or if cover is exhausted.

7. The Provider must give to the Insurance Commission sufficient evidence of the insurance required under term 4 (including, if requested, a copy of any policy) and provide a certificate of currency of insurance as requested by the Insurance Commission at any time.
8. If the Provider does not comply with terms 4, 5, 6 and 7 then, without limiting any other remedy available to the Insurance Commission, the Insurance Commission may withhold payment of any money due to the Provider until the Provider has complied.
9. If the Provider or any Personnel become aware of any event, incident or circumstance occurring in connection with the Services which gives rise to a claim, or which might give rise to a claim, by the Insurance Commission or any other person against the Provider or any of its Personnel, the Provider or its Personnel must as soon as is reasonably practical notify the Insurance Commission and the insurer in writing of that event, incident or circumstance.
10. The Provider must maintain the professional indemnity insurance required under term 4 while it remains registered with the Insurance Commission as a Provider and for a period of 7 years after it ceases providing Services to a Client.
11. The obligations of the Provider under term 10 are continuing obligations and survive any suspension or revocation of the Provider's registration by the Insurance Commission.
12. The Provider must maintain current and documented proof of compliance with the Registration Terms and Conditions and make this available to the Insurance Commission upon request.
13. The Provider must:
 - (a) retain their registration with the Agency provided in answer to Question 6 of the Application for Registration; and
 - (b) notify the Insurance Commission of any changes to their registration or other arrangements with the Agency as soon as possible after such changes.

Provider Conduct

14. The Provider acknowledges that should:
 - (a) the Provider fail to comply with any part of the Registration Terms and Conditions; or
 - (b) the Insurance Commission reasonably suspect that an offence has been committed by the Provider or its Personnel against the Act, the *Motor Vehicle (Third Party Insurance) Act 1943*, the *Criminal Code*, the *Misuse of Drugs Act 1981*, the *Road Traffic Act 1974* or the Provider or its Personnel is convicted or found guilty by a court of such an offence; or
 - (c) the Insurance Commission be concerned about the adequacy, appropriateness or frequency of any Services provided by the Provider to a Client in accordance with the Act;

the Insurance Commission may, in its complete discretion:

- (d) suspend or deny payment for Services supplied by the Provider to a Client, or seek recovery of payments made to the Provider for Services on behalf of the Client as a debt or set off;
- (e) revoke the Provider's registration;
- (f) notify the Agency, a professional body responsible for regulating the Provider, Medicare Australia, a National Board under the *Health Practitioner Regulation National Law (WA) Act 2010*, the Authority, Committee, Director or Panel as defined by section 81 of the *Health Insurance Act 1973*, a court, or a tribunal of such failure, offence or concern ; and/or
- (g) cause the outcome of any determination of the Insurance Commission or order of the court to be published, together with the name and business address of the Provider of the Services to which the determination or order applies.

15. Before revoking the Provider's registration, the Insurance Commission will give the Provider a reasonable opportunity to make written submissions on the proposed revocation.

Service Delivery

16. The Provider is to provide Services in accordance with the Act, Regulations and Insurance Commission approved services, the Provider's own Code of Conduct, Code of Ethics or Service Charter and any legislative or other requirements of the Commonwealth, State or Territory authority that is relevant to the type of Service provided.
17. The Provider may only provide Services to Clients as approved by the Insurance Commission in the Provider Plan.
18. The Provider shall be accountable for the care supplied to a Client, including taking responsibility to ensure that they are:
- (a) safe;
 - (b) unharmed;
 - (c) protected from abuse; and
 - (d) where relevant provided with access to medical care to maintain their physical and mental health.

Competence

19. The Provider agrees to maintain a high level of competence in the staff providing Services to Clients and will ensure they regularly update their knowledge and skills.

Occupational Health and Safety

20. The Provider is to ensure that all Personnel comply with all relevant occupational health and safety laws, including the *Occupational Safety and Health Act 1984* and Regulations for Western Australian workplaces.

Personnel

21. The Provider must ensure that all Personnel:

- (a) are properly qualified and suitable for the tasks that they are to do;
- (b) hold all necessary permits, licences and authorities required by law; and
- (c) act, in all circumstances and at all times, in a fit and proper manner.

Police clearance

22. Before each of its Personnel provides any Services to a Client, the Provider must obtain for such Personnel an Australia-wide police clearance or a police clearance from the person's previous country of residence if such person's residence in Australia is less than five years. Copies of police clearance certificates must be provided to the Insurance Commission upon request.

23. The Insurance Commission may request the Provider not to use any Personnel to provide Services to a Client if any police clearance evidences that that Personnel has committed a criminal offence.

Working with Children Check

24. If the Services to be provided by the Provider involve "child-related work" as that term is defined in section 6 of the *Working with Children (Criminal Record Checking) Act 2004 (WA)*, then:

- (a) the Provider must obtain an assessment notice under section 12 of the *Working with Children (Criminal Record Checking) Act 2004 (WA)* for all Personnel who will undertake "child-related work" before they commence providing Services to a Client. Copies of assessment notices must be provided to the Insurance Commission upon request; and
- (b) the Provider must otherwise at all times comply, and ensure that all Personnel comply, with the provisions of the *Working with Children (Criminal Record Checking) Act 2004 (WA)*.

25. Any Personnel who do not have a current assessment notice under section 12 of the *Working with Children (Criminal Record Checking) Act 2004 (WA)* is not to provide any Services to a Client.

Capacity

26. The Provider must only agree to provide Services to a Client if it has the capacity to do so. In making its decision, the Provider must take into account the Client's particular support needs.

Cooperation

27. The Provider must co-operate with any third party service provider to ensure the integrated and efficient provision of Services to a Client.

Withdrawal or termination of Services

28. If the Provider intends to cease providing Services to a Client, the Provider must give at least 14 calendar days' notice of such intention to the Insurance Commission.

Ceasing to operate or deregistration

29. The Provider must notify the Insurance Commission in writing as soon as practicable if an Agency suspends, deregisters or takes any other adverse action against the Provider.

No Guarantee of Referrals

30. The Provider acknowledges that registration with the Insurance Commission as a Provider under the Act in no way guarantees that any Client will use the Provider's Services or that the Insurance Commission will refer any Client to the Provider.

Quality Assurance

31. The Provider acknowledges it may be required to participate in a quality assurance framework as determined by the Insurance Commission, including auditing of such Provider's provision of Services.

Standard of Accommodation Support Services

32. If the Provider provides accommodation or Accommodation Support Services, the Provider must adhere to any NDIA rules including:

- (a) carry out an environmental risk assessment of such accommodation;
- (b) must prepare an Annual Essential Safety Measures Report, or State-based equivalent reporting, in alignment with building code requirements and this must be provided to the Insurance Commission upon request.
- (c) comply with all building requirements applicable to residences occupied by people with a disability;
- (d) ensure that Accommodation Support Services comply with the *Disability Services Act 1993*, the *Private Hospitals and Health Services Act 1927* licensing requirements where applicable, and relevant occupational health and safety laws including, for Western Australian workplaces, the *Occupational Safety and Health Act 1984* and the *Occupational Safety and Health Regulations 1996*;
- (e) provide a fully equipped and easily accessible first aid kit in a prominent location of the residence and ensure that the Client and all Personnel know its location;
- (f) ensure that all equipment used or proposed to be used by Personnel for a Client is mechanically sound, is installed and operated in accordance with the manufacturer's instructions and standards, and is serviced as required to ensure continued user safety;
- (g) ensure that its Personnel can adequately instruct Clients and Personnel in the safe and proper use of equipment;
- (h) ensure that all areas used to provide Services to Clients have an adequate and safe working space and that user numbers do not hinder the safe and effective use of equipment; and

- (i) ensure that all wet areas used by Clients or Personnel are cleaned frequently and regularly in order to maintain a high standard of hygiene and safety.

Serious Incident Reporting

- 33. The Provider must report Serious Incidents in writing to the Insurance Commission within one business day of the Provider or any of its Personnel becoming aware of their occurrence.

Complaints Process

- 34. The Provider is to have clear and accessible complaints handling and dispute resolution processes. The Provider acknowledges that the Insurance Commission may refer complaints to the Health and Disability Services Complaints Office or other government agencies for further investigation.

National Disability Service Standards

- 35. The Provider will comply with the rules and standards set by the NDIS Quality and Safeguards Commission, under the *National Disability Insurance Scheme Act 2013*.

Confidentiality and Privacy

- 36. The Provider and its Personnel must respect the confidentiality of Clients at all times.
- 37. The Provider acknowledges that it will not use information obtained under or pursuant to the Act except as authorised.
- 38. The Provider must comply with the obligations imposed under the *Privacy Act 1988* (Cth) and such reasonable policies or directions relating to privacy as are notified by the Insurance Commission to the Provider from time to time.
- 39. If the Provider is exempt from compliance with the *Privacy Act 1988* (Cth), the Provider must comply with the National Privacy Principles set out in the *Privacy Act 1988* (Cth) as if it were required to comply with that legislation.

Remuneration and Billing

- 40. The Provider's invoices must be accurate and reflect the Services approved by the Insurance Commission and actually supplied to the Client and must be capable of being substantiated to the Insurance Commission on demand.
- 41. Invoices must be submitted by the Provider in a manner consistent with billing processes as advised by the Insurance Commission from time to time.
- 42. The Provider must include the Client's or Client's agent's validation of Services received from the Provider when submitting invoices to the Insurance Commission.
- 43. The Provider acknowledges that the Insurance Commission will only be responsible for payment on behalf of Clients for reasonable costs of Services provided to Clients in accordance with the Act.
- 44. The Provider must not submit invoices for Services not approved in the Provider Plan or not requested by the Insurance Commission.

45. If the Insurance Commission requests, the Provider must promptly provide information and documentation sufficient to confirm that the amount specified in an invoice is calculated in accordance with the Insurance Commission's direction.
46. The Provider acknowledges that it is an offence to obtain or attempt to obtain fraudulently any payment or to provide false or misleading information under the Act. Such offences can lead to a fine of up to \$10,000.

Documentation

47. The Provider must keep accurate, complete and current written records in respect of its registration as a Provider, including as related to the Client:
 - (a) the requirements of these Registration Terms and Conditions; and
 - (b) the Clients to whom Services are provided.
48. The Provider must make all of its policies and procedures, training programs and any other documentation it is required to have or develop for the purposes of registration with the Insurance Commission or Agency available upon request by the Insurance Commission.
49. The Insurance Commission may inspect or make copies of the documentation referred to in term 50 at the Provider's premises. The Insurance Commission may also remove the documentation from the Provider's premises for the purposes of inspection and copying except where it would cause unreasonable disruption to the operation of the Provider's business.

Records

50. Subject to the Insurance Commission:
 - (a) giving reasonable prior notice to the Provider; and
 - (b) complying with all reasonable direction and procedures of the Provider relating to occupational health, safety, security and confidentiality in connection with the Provider's premises,the Provider must allow the Insurance Commission to:
 - (c) have reasonable access to any premises used or occupied by the Provider in connection with the Services;
 - (d) have reasonable access to all Records in the custody or control of the Provider for up to, and for seven years, after the Provider ceases providing Services to a Client; and
 - (e) examine, audit, copy and use any Records in the custody or control of the Provider; and
 - (f) photograph, film or otherwise record anything done by the Provider in supplying the Services to a Client, if reasonably required by the Insurance Commission.

Information Requests

51. The Provider must submit to the Insurance Commission any written information requested by the Insurance Commission relevant to the provision of Services to a Client no more than 14 calendar days after it is requested.

Timesheets

52. The Provider must keep accurate and up to date time sheets recording the Services provided to Clients. The Provider must supply these to the Insurance Commission no more than 14 calendar days after they are requested by the Insurance Commission. Timesheets must contain details about:

- the type of service provided and its purpose;
- details of the Personnel providing the service;
- commencement and conclusion times of the Services provided; and
- destination address, mileage and travel purpose where travel has been undertaken.

Indemnity

53. The Provider indemnifies the Insurance Commission, the State of Western Australia and all their respective officers, employees and agents against all costs, losses, expenses, claims, damages and other liabilities (including, without limitation, legal costs and expenses) as a result of any action, suit, claim, demand or proceeding taken or made by any third party arising from or in connection with:

- (a) any breach of these Registration Terms and Conditions by the Provider or any Personnel;
- (b) any wilful, tortuous or unlawful act or omission of the Provider or any Personnel; or
- (c) any breach of a State or Commonwealth law relevant to the provision of Services to a Client by the Provider or any Personnel.

54. The Provider's liability under the indemnity in term 53 will be reduced proportionally to the extent that any costs, losses, expenses, claims, damages or other liabilities result from the negligence of the Insurance Commission, the State of Western Australia, a person, agency or entity the Insurance Commission represents, or their respective officers, employees or agents.

55. The Insurance Commission agrees to use its best endeavours to cooperate with the Provider, at the Provider's cost, in respect of the document of any defence, or the agreement of any settlement, of any third party action, suit, claim, demand or proceeding the subject of the indemnity under term 53.

Audits/Reviews and Investigations

56. The Provider acknowledges that the Insurance Commission may at any time carry out evaluations including investigations, reviews, audits and assessments of the Services provider by the Provider.

57. The Provider is to provide all reasonable assistance to the Insurance Commission in respect of any such evaluation.

58. If, as a result of such an evaluation, the Insurance Commission determines that the Services are not being provided in accordance with the Act, the Regulations or these Registration Terms and Conditions, then:

- (a) the Insurance Commission may direct the Provider to take such action(s) as the Insurance Commission considers necessary or relevant to ensure that the Services are provided in accordance with the Act, the Regulations and these Registration Terms and Conditions; and
- (b) the Provider must, at its own cost, comply with all such directions made by the Insurance Commission.

59. If the Provider fails to comply with a direction under term 58, the Insurance Commission may revoke the Provider's registration.

CONSENT AND DECLARATION BY APPLICANT

I,, on behalf of the Provider:

- (a) agree to be bound by the Registration Terms and Conditions contained in this Application for Registration; and
- (b) agree to provide Services to Clients in accordance with relevant Insurance Commission policies and guidelines.

Signature:

Full name of signatory:

Position held by signatory:

Name of Provider:

Date: