

## Summary of changes to HICAPS Terms and Conditions:

- HICAPS Provider Agreement;
- HICAPS Equipment Agreement; and
- HICAPS Digital User Agreement

**Effective 9 December 2024**

To obtain a copy of the updated Terms and Conditions, on and from the effective date, you can access: <https://www.hicaps.com.au/support/hicaps-agreements>

## Effective from 9 December 2024, the following changes apply to the HICAPS Provider Agreement:

### Introductory section before the heading "Scheme Terms & Conditions"

#### Summary of some key terms of your Provider Agreement

This is a brief summary of some key terms of your Provider Agreement Terms and Conditions. Please note this high level summary is not intended to be relied upon as an exhaustive or accurate list of all the terms. We recommend you carefully read through the Terms and Conditions and any other documents we provide before accessing HICAPS' healthcare claiming services.

<b>Part A – Government Schemes</b>			
<b>Contract between HICAPS and Providers</b>			
	<b>Topic</b>	<b>What?</b>	<b>Clause</b>
1.	Acting reasonably	We are required to act fairly and reasonably when exercising a discretion we may have under the terms and conditions.	Part A – clause 17(d)
2.	No guarantee	We make no warranties about the HICAPS System as far as legally permissible, including relating to interruptions, errors or delays. We will take reasonable steps to correct errors on the HICAPS System wherever possible.	Part A – clause 8
3.	Limitation of liability	Our liability under the terms and conditions is limited, including for invoice amounts where HICAPS does not receive the relevant invoice amount in cleared funds.	Part A – clause 1(c), clause 4(d), clause 8(c), clause 9, clause 12A(b)
4.	Suspension of services	We may suspend access to the HICAPS System or payments to you where reasonably necessary to manage any risks, prevent potential fraudulent activity or scams, prevent anticipated breaches of the law or prevent anticipated material loss.	Part A – clause 4
5.	Publishing business contact details	HICAPS may publish contact details and other personal and/or business information of your business to promote the HICAPS service, unless you opt out. You may opt out at the time of application or otherwise contact HICAPS to opt out at any time. You also agree on behalf of the Providers for whom you are entering this agreement on behalf of for their business details to be published for promotional purposes.	Part A – clause 6(f)
6.	Changes to fees	We will give you 30 days' notice of any proposed changes to fees to access the HICAPS System. If you continue to use the HICAPS system after the 30 day period passes, the new fee will apply from then onwards.	Part A – clause 5(b)
7.	Aggregate data	We may aggregate transaction data and use and disclose that information in de-identified form as part of research, advice and other information such	Part A – clause 6(f)

		as data analysis, including through third party service providers.	
8.	Privacy disclosures	You declare that where personal and/or business information is provided in the Application Form or otherwise as part of ongoing use of the HICAPS system, each individual has been made aware of various privacy matters, including the fact that their information may be disclosed to other organisations involved in the provision, management, administration and processing of Transactions, practice management and/or analytics service providers with whom you have a relationship, or as required or otherwise permitted by law, or with their consent.	Part A – clause 6(g)(ii)
9.	Termination	We may terminate the Agreement at any time giving 30 days prior written notice.  Upon termination, this may also mean Part B of the Terms and Conditions (covering Private Health Fund claims) are also terminated.	Part A – clause 11(a)(ii) and 11(d)
10.	Amendments	We may change the terms and conditions with 30 days' notice to you if the change is unfavourable, unless a shorter period is allowed under law or industry codes or we need to act quickly to manage a material and immediate risk.  Your continued use of the HICAPS System after any amendments is taken to be your acceptance of the changes. Otherwise, you may terminate the Agreement by notifying us in writing.	Part A – clause 12

<b>Part B – Private Health Insurance Funds</b>			
<b>Contract between PHI Funds (with HICAPS as agent) and Providers</b>			
	<b>Topic</b>	<b>Key term</b>	<b>Clause</b>
1.	Acting reasonably	We and the Fund are required to act fairly and reasonably when exercising a discretion we may have under the terms and conditions.	Part B, clause 12.6
2.	Fund discretion	A Fund will at its own discretion decide whether it will make the Terminal or Online Application available to its members and Health Service Providers.	Part B, clause 3.1
3.	Availability of HICAPS System	A Fund is not responsible for ensuring the availability of HICAPS System.	Part B, clause 3.3
4.	Discretion to refuse Cards	You must stop accepting a Card in respect of a Fund if a Fund tells you to do so, when acting in its legitimate business interests.	Part B, clause 3.4
5.	Current bank details	If you fail to advise HICAPS of any changes to bank account details by the second anniversary of the Fund receiving a valid claim, the Fund will not be liable to pay for that claim.	Part B, clause 5.12

6.	Publishing business contact details	We or the Fund may publish contact details and other personal and/or business information of your business to promote the HICAPS service, unless you opt out. You may opt out at the time of application or otherwise contact HICAPS to opt out at any time. You also agree on behalf of the Providers for whom you are entering this agreement on behalf of for their business details to be published for promotional purposes.	Part B, clause 7.4
7.	Privacy disclosures	You declare that where personal and/or business information is provided in the Application Form or otherwise as part of ongoing use of the HICAPS system, each individual has been made aware of various privacy matters, including the fact that their information may be disclosed to her organisations involved in the provision, management, administration and processing of Transactions, practice management and analytics service providers with whom you have a relationship, or as required or otherwise permitted by law, or with their consent.	Part B, clause 7.5
8.	Termination	A Fund may terminate the Agreement at any time giving 60 days prior written notice. That termination does not affect the continued operation of this Agreement so far as other Funds are concerned.	Part B, clause 9.3-9.4
9.	Amendments	We may change the terms and conditions with 30 days' notice to you if the change is unfavourable, unless a shorter period is allowed under law or industry codes or we need to act quickly to manage a material and immediate risk. Otherwise, you may terminate the Agreement by notifying us in writing.	Part B, clause 12.9

## Part A: HICAPS Provider Agreement

### Clause 2(f)(iv) is added:

it is responsible for receiving notices in relation to this Agreement on behalf of each 'Practitioner Provider' and upon receipt, will promptly forward such notices to them;

### Clause 4 is amended to delete the word 'a' in the last paragraph.

### The following words are added at the end of clause 5(a):

and comply with its obligations in this Part A

After the words "Without limitation to this clause 6, each party agrees", clauses 6(a)-(g) are renumbered to clauses 6(g)- (m).

### Clause 6(m)(ii) is amended by adding the following words before "or as required or otherwise permitted by law":

practice management and/or analytics service providers with whom you have a relationship,

**Clause 12 is amended by replacing the second sentence with the following:**

If the change is not unfavourable to you then HICAPS may provide notice to you by posting a revised version of the agreement on its website with a description of the changes.

**Clause 12A is added:**

**12A: If you are a Provider that is a registered plan manager under the NDIS, you agree that:**

- (a) You (yourself or through your third-party service provider acting on your behalf) will comply with your responsibilities as set out below:
  - i. **(maintain a Plan Manager Interface)** relying on relevant HICAPS APIs, ensure you (yourself or through your service provider) have a front-end user experience provided by you for you and, or your Individuals **(Plan Manager Interface)**;
  - ii. **(client relationship management)** undertaking client relationship functions including Individual sourcing, advice and enablement, Provider engagement on behalf of the Individual and authorisation of invoices;
  - iii. **(client information sourcing)** establishing key client information including plan-managed budget breakup and verifying the identity of the Participant and plan nominee (as applicable) including reviewing identification and authority;
  - iv. **(Plan establishment)** establishing the plan manager relationships for you with Individuals, guidance on basics of a plan, establishing budget components and getting started;
  - v. **(Provider engagement)** assisting Individuals to find, engage and book appropriate Providers, services and consumable items to achieve their goals, establishing service agreements and obtaining referrals and quotes;
  - vi. **(Invoices and Data)** collecting invoices and entering relevant data for payment if an invoice is sent by email (including by way of a PDF attachment) or hard copy in the post, receiving data from Providers and enter the relevant invoice data into HICAPS for payment;
  - vii. **(authorising invoices submitted by Providers)** authorising invoices submitted by Providers and seek authorisation from the relevant Individual (where required); and
  - viii. **(NDIS plan changes, reviews and Provider quotes)** assisting Individuals with NDIS budget changes (for example, within core supports), annual or ad hoc plan reviews and managing Provider quotes to the Agency and informing HICAPS of any plan changes and quote approval.
- (b) You acknowledge that HICAPS may be unable to comply with its obligations under the Agreement which are dependent on your responsibilities having been performed or on the Agency. If HICAPS demonstrates to you that it is unable to comply with an obligation under the Agreement which is dependent upon one or more of Your Responsibilities being performed or on the Agency, HICAPS will be excused and will not be liable for its failure or delay to perform Your responsibilities or failure to comply or delay in complying with an obligation, except to the extent of HICAPS's fraud, negligence or misconduct (or the fraud, negligence or misconduct of HICAPS's officers, employees, contractors and agents).
- (c) The parties agree that nothing in this Agreement represents an assumption of the other party's risk with respect of its compliance obligations under the legislation and regulations relevant to the NDIS.

**In clause 17(c), the reference to 16(b) is replaced with clause 17(b).**

**Clause 17(f) (Notices) is amended to add the following words after “by writing to the Provider”:**

including in the Provider’s monthly statement for terminal rental,

**Clause 17(h) is added:**

We may pay a referral fee to any person that introduces your business to us. We may also receive commissions for referring your business to third parties.

**Clause 18 (Definitions):**

- Under ‘Indirect loss’ delete ‘or’ after ‘(c) loss of reputation’
- Add to the end of the definition of ‘Provider’, ‘and in relation to the NDIS, may be a person considered a ‘NDIS provider’ under the NDIS Act’

## **Part B: HICAPS Provider Agreement**

**Clause 1.4 is amended by adding the following at the end of the clause:**

- You agree you are responsible for receiving notices in relation to this Agreement on behalf of each Health Service Provider and upon receipt, will promptly forward such notices to them.

**Clause 4.2 – ‘(a)’ is added before ‘where the claim is to be processed through a Terminal’**

**Clause 4.2 – ‘(b)’ is added before ‘where the claim is to be processed through an Online Application’**

**Clause 7.5 is amended by adding the following words before the words “or as required or otherwise permitted by law”:**

practice management and/or analytics service providers with whom you have a relationship,

**Clause 12.3A is added:**

12.3A HICAPS may pay a referral fee to any person that introduces your business to us. HICAPS may also receive commissions for referring your business to third parties.

**Clause 12.6 is amended by replacing the words “Scheme” or “Schemes” with “Fund” or “Funds” as applicable.**

**Clause 12.8 is amended by adding the following words after “by writing to You”:**

including in Your monthly statement for terminal rental,

**The heading for clause 12.9 “Variations” is updated to “Amendments”.**

**Clause 12.10 is updated to delete the following:**

or the Commonwealth of Australia (as provider of Medicare benefits)

or the Commonwealth of Australia

## Effective from 9 December 2024, the following changes apply to the HICAPS Equipment Agreement:

**A new introductory section is added:**

### Summary of some key terms

This is a brief summary of some key terms of your Equipment Agreement Terms and Conditions. Please note this high level summary is not intended to be relied upon as an exhaustive or accurate list of all the terms. We recommend you carefully read through the Terms and Conditions and any other documents we provide before accessing HICAPS' services.

HICAPS Equipment Agreement			
	Topic	What?	Clause
1.	Acting reasonably	We are required to act fairly and reasonably when exercising a discretion under the terms of this agreement.	Clause 32
2.	Availability of HICAPS System	We will make the HICAPS system available at a time reasonably determined by us.  We may suspend the availability of the HICAPS system in respect of a particular health fund if required, and will give you notice of this where reasonably practicable to do so.	Clause 2.1
3.	Interest in terminal or agreement	Where we reasonably believe it causes no detriment to you and acting reasonably in accordance with our legitimate business interests, we may transfer the terminal or our interest in this agreement, or give another person an interest in or form of security over either, without your consent.	Clause 3.5
4.	No set-off rights	You must not withhold any payment under this agreement or deduct payments for any reason. This includes terminal damage, or that you claim to have a set-off, counterclaim or other right against us, unless you have a set-off right that cannot be excluded by law.	Clause 16
5.	Loss or damage and insurance	You are responsible for any loss or damage to the terminal resulting from events including fire, theft and flood.  You must insure the terminal at all times against loss or damage caused by events including fire, and public liability for bodily injury or damage to property arising in connection with the terminal, up to amounts reasonably approved by us. The insurances must be in a required form and substance and note our interests.	Clauses 10, 19.1 – 19.4
6.	Repudiating the lease and termination of lease	Either of us may terminate this agreement by giving 30 days' notice. You will repudiate the lease if you do not comply with fundamental provisions of the	Clause 23.1

		agreement or your conduct indicates that you no longer intend to be bound.	
7.	Upon termination of lease	Upon notification of termination of the agreement, you must return to us a number of things including the terminal in good working order and good repair, and pay arrears of rent instalments and any other amounts due on a pro rata basis.	Clauses 23.4 – 23.5
8.	Inspecting the terminal	You are responsible for examining the terminal before accepting it and satisfying yourself about it, including about its compliance with its description, its condition, suitability and fitness for your purpose.	Clause 25
9.	Our liability is limited	Our liability for anything in relation to the possession, installation, operation or use of the terminal or HICAPS system is limited as much as it can be to replacing or repairing the terminal or supplying the service (or paying the cost of doing so).	Clause 26
10.	Amendments	We may change the terms and conditions with 30 days' notice to you if the change is unfavourable, unless a shorter period is allowed under law or industry codes or we need to act quickly to manage a material and immediate risk. If you do not agree with these changes, you may terminate the Agreement by notifying us in writing.	Clause 31.2

**Clause 30.2 is amended by:**

- **replacing the first line with:** 'Notices we give you may be:'
- **adding a sentence at the end:** 'We may also give you any notice in connection with this Agreement by writing to you including in your monthly statement for terminal rental, by sending a message to an email address you have provided, or by messages delivered through your terminal.'

**Clause 31 is amended by:**

- **changing the numbering to 31.1**
- **replacing the heading with 'Waiver'**
- **replacing the clause with** 'A right created under this agreement may not be waived except in writing, signed by the party or parties to be bound.'

**Clause 31.2 is added:**

'Amendment

31.2 We may change any terms and conditions of this agreement. We will give you 30 days' prior notice of a change that may be unfavourable to you, unless a shorter period is allowed under legislation or industry codes, or where we need to act quickly to manage a material and immediate risk.

If the change is not unfavourable to you then we may provide notice to you by posting a revised version of the agreement on our website with a description of the changes.



If you don't agree with a change we make or are proposing to make, you may terminate this agreement by notifying us in writing.'

**Part J (Meaning of Words) is amended by replacing the meaning of 'health fund' with:**

'any person registered as a private health insurer in accordance with the Private Health Insurance (Prudential Supervision) Act 2015 (Cth).'

## Effective from 9 December 2024, the following changes apply to the HICAPS Digital User Agreement:

**A new introductory section is added:**

### Summary of some key terms

This is a brief summary of some key terms of your Digital User Agreement Terms and Conditions. Please note this high level summary is not intended to be relied upon as an exhaustive or accurate list of all the terms. We recommend you carefully read through the Terms and Conditions and any other documents we provide before accessing HICAPS' services.

HICAPS Digital User Agreement			
	Topic	What?	Clause
1.	Acting reasonably	We are required to act fairly and reasonably when exercising a discretion under the terms of this agreement.	Clause 12
2.	Termination	We may suspend or terminate the licence granted to you and remove access to the HICAPS System under limited circumstances, including where there has been a material breach of these terms.	Clause 6.1
3.	Sharing information	We may use third party service providers in connection with the provision of the HICAPS System or as required for HICAPS' internal business purposes. We may share information you provide or make available to us with such third parties to the extent required for these Purposes.	Clause 8.2
4.	Suspension of access	Where it is in HICAPS' legitimate business interests to do so, we may suspend your access to the HICAPS System at any time without notice or compensation.	Clause 8.3
5.	Amendments	We may change the terms and conditions from time to time by posting a revised version on the HICAPS App and/or HICAPS Website. Where the change is unfavourable to you, we will notify you in writing. If you do not agree with these changes, you must terminate the Agreement by closing your account and cease using HICAPS' service.	Clause 9

**Clause 9 is amended by replacing the first sentence with:**

'HICAPS may, acting reasonably amend these Terms and Conditions and/or Policies from time to time by posting a revised version of such Terms and Conditions and/or Policies to the relevant HICAPS App and/or HICAPS Website. Where the change is unfavourable to you, HICAPS will notify you in writing (such as by email).'