



## TERMS OF USE

### GOVERNMENT PROVIDER MANAGEMENT SYSTEM

#### Date

Last updated: 25 January 2023

#### 1. Terms of Use

- 1.1. Welcome to the Government Provider Management System (the **Portal**). As a condition of Your use of the Portal, You must agree to these Terms of Use.
- 1.2. In these Terms of Use:
  - a. the terms **You** and **Your** refer to the individual user of the Portal (being either an Organisation Administrator or a General User for Your Provider, or both), and where applicable, also includes a reference to Your Provider.
  - b. **Access Credentials**, for each of Your Profiles, means:
    - i. Your [myGovID login credentials for that Profile](#); or
    - ii. Your [login credentials for the VANguard Federated Authentication Service \(VANguard FAS\)](#), if that service is used by the Provider associated with that Profile.

NB: You will only be able to access the Portal using:

    - Your myGovID login credentials for a Profile if that myGovID is linked to one or more Providers in the [Relationship Authorisation Manager \(RAM\) service](#) and Your email address for that Profile matches Your email address for such Provider(s) in the RAM service;
    - Your login credentials for the VANguard FAS if the email address used as part of those credentials matches the email address that is associated with Your Profile (i.e. the Profile for which You wish to use the VANguard FAS).
  - c. **ACQSC Act** means the *Aged Care Quality and Safety Commission Act 2018* (Cth).
  - d. **Aged Care Act** means the *Aged Care Act 1997* (Cth).
  - e. **Commission** means the Aged Care Quality and Safety Commission ABN 80 246 994 451.
  - f. **Commonwealth** means the Commonwealth of Australia as represented by the Department of Health and Aged Care, or such other agency that has the responsibility for administering, or assisting with administering, the Portal from time to time.
  - g. **Department** means the Department of Health and Aged Care ABN 83 605 426 759.

- h. **General User**, for a Provider, means any individual user of the Portal whose Profile has been assigned 'star ratings reviewer' permissions for that Provider.
- i. **Intellectual Property Rights** include:
  - i. all copyright (including rights in relation to phonograms and broadcasts);
  - ii. all rights in relation to inventions, plant varieties, trademarks (including service marks), designs and circuit layouts; and
  - iii. all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields,but does not include:
  - iv. moral rights under Part IX of the *Copyrights Act 1968* (Cth); or
  - v. rights in relation to confidential information.
- j. **Material** means any thing:
  - i. submitted into the Portal by You or any other user of the Portal; or
  - ii. communicated by the Department or the Commission via the Portal,and includes any such thing in which Intellectual Property Rights arise.
- k. **Multi-Provider Profile** means a Profile that is associated with more than one Provider.
- l. **Organisation Administrator**, for a Provider, means any individual user of the Portal whose Profile has been assigned 'organisation administrator' permissions for that Provider.
- m. **Personal Information** has the same meaning as in the Privacy Act.
- n. **Personnel** means an officer, employee, agent or subcontractor of the Department or the Commission.
- o. **Portal** means the electronic platform administered by the Commonwealth on which Providers may view and manage their information and, if applicable, the aged care services they deliver.
- p. **Privacy Act** means the *Privacy Act 1988* (Cth).
- q. **Profile** means an online registered account to use the Portal.
- r. **Provider** means an 'approved provider' within the meaning of the ACQSC Act.
- s. **Single-Provider Profile** means a Profile that is associated with one Provider.
- t. **Your Provider** means:

- i. if You have one or more Single-Provider Profiles and no Multi-Provider Profiles – then the Provider that is associated with the Single-Provider Profile that You use for a given login session for the Portal;
- ii. if You have one or more Multi-Provider Profiles and no Single-Provider Profiles – then each Provider that You select using the ‘account switcher’ function in the Portal during a given login session for the Portal (but only so long as that Provider is so selected);
- iii. if You have one or more Single-Provider Profiles and one or more Multi-Provider Profiles and:
  - A. You log in to the Portal using a Single-Provider Profile – then for that login session, the Provider determined in accordance with clause 1.2.t.i of these Terms of Use; or
  - B. You log in to the Portal using a Multi-Provider Profile – then for that login session, the Provider determined in accordance with clause 1.2.t.ii of these Terms of Use.

Examples:

- You have one Profile which is associated with Provider A and Provider B. You log in to the Portal and select Provider A. Upon being selected, Provider A becomes Your Provider for that login session under clause 1.2.t.ii of these Terms of Use. You then (during the same login session) deselect Provider A and select Provider B. The effect of this is that Provider A ceases to be Your Provider for that login session (upon being deselected) and that Provider B becomes Your Provider for that session (upon being selected).
- You have two Profiles, one that is associated with Provider A and another that is associated with Provider B. You log in to the Portal using the Profile that is associated with Provider A. Provider A is therefore Your Provider for that login session under clause 1.2.t.i of these Terms of Use. You then log out of the Portal and later log in using the Profile that is associated with Provider B. Provider B is therefore Your Provider for that later login session.

## **2. Acceptance**

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- 2.1. These Terms of Use govern the relationship between You, including Your Provider, and the Commonwealth in relation to Your use of the Portal. By continuing to access the Portal, You accept the Terms of Use as they apply from time to time and You accept the Terms of Use on behalf of Your Provider.
- 2.2. If You do not agree to these Terms of Use, You will not be able to access the Portal and You must immediately cease using the Portal.
- 2.3. Failure to comply with these Terms of Use during Your use of the Portal may, at any time, result in Your Profile (or, if applicable, any one or more of Your Profiles) being suspended or terminated in accordance with clause 10 of these Terms of Use.

- 2.4. The Commonwealth may, at its discretion and at any time, update these Terms of Use.

### **3. Access to the portal**

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- 3.1. You must:
- a. only access the Portal using the Access Credentials for Your Profile (or, if applicable, any one of Your Profiles);
  - b. comply with any terms and conditions applicable to Your use of the Access Credentials for each of Your Profiles (for example, any terms and conditions applicable to myGovID or VANguard FAS); and
  - c. not access the Portal on behalf of any other individual or Provider, other than in accordance with clause 3.2 of these Terms of Use.
- 3.2. If You are purporting to access and use the Portal as a representative of a Provider, then You must:
- a. submit to the Commonwealth on its request evidence of Your authority to represent the relevant Provider (**Relevant Authority**);
  - b. only use the Portal within the scope of the Relevant Authority; and
  - c. cease using the Portal in relation to the relevant Provider if the Relevant Authority is revoked.

### **4. Warranties and acknowledgements**

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#### Confirmation of identity

- 4.1. You represent and warrant that:
- a. upon the establishment of each of Your Profiles, You promptly reviewed the individual identification details submitted to establish that Profile; and
  - b. You have taken any necessary steps to ensure that those individual identification details are true and correct and do not misrepresent Your identity.

#### Additional warranties and acknowledgements by Organisation Administrators

- 4.2. Clauses 4.3 to 4.6 of these Terms of Use apply to You if You are an Organisation Administrator for one or more Providers. Nothing in these clauses limits Your other representations, warranties, acknowledgements or obligations under these Terms of Use.
- 4.3. You acknowledge that You:
- a. have provided Your Personal Information (including Your name and email address) to the Commonwealth and that this information has been used to create each of Your Profiles;
  - b. have the ability to:

- i. add a new Profile associated with Your Provider for any other individual;
    - ii. assign 'organisation administrator' or 'star ratings reviewer' (or both) permissions to any Profile associated with Your Provider (such that the individual associated with that Profile becomes an Organisation Administrator or General User for Your Provider, as applicable); and
    - iii. remove any 'organisation administrator' or 'star ratings reviewer' (or both) permissions previously assigned to any Profile associated with Your Provider (such that the individual associated with that Profile ceases to be an Organisation Administrator or General User for Your Provider, as applicable); and
  - c. do not have the ability to do the things described in clause 4.7.a, unless You are also a General User for Your Provider.
- 4.4. By adding any new Profile for another individual, You represent and warrant that You:
  - a. have obtained the individual's consent to share their Personal Information (including their name, email address and date of birth) with the Commonwealth through the Portal; and
  - b. are acting in accordance with Your other obligations under these Terms of Use (including, without limitation, Your obligation under clause 3.2.b of these Terms of Use).
- 4.5. The Commonwealth is not responsible for managing permissions assigned to any Profile associated with any Provider for which You are an Organisation Administrator. It is Your responsibility to remove any permissions granted to any individual who no longer has authority to have such permissions.
- 4.6. The Commonwealth is not liable for any loss or damage suffered by You or any Provider for which You are an Organisation Administrator as a result of Your granting another individual access to the Portal or assigning any permissions to such individual's Profile. This clause 4.6 continues to apply after You cease to be an Organisation Administrator for any given Provider.

Additional warranties and acknowledgements by General Users
- 4.7. If You are a General User for Your Provider, then You acknowledge that You:
  - a. have the ability to access the Portal in order to view certain information relating to Your Provider; and
  - b. do not have the ability to do the things described in clause 4.3.b of these Terms of Use, unless You are also an Organisation Administrator for Your Provider.

Acknowledgement regarding the removal of Your permissions

- 4.8. You acknowledge and agree that, at any time, an Organisation Administrator for a Provider may remove any 'organisation administrator' or 'star ratings reviewer' (or both) permissions previously assigned to Your Profile for that Provider (such that You cease to be an Organisation Administrator or General User for that Provider, as applicable).

## **5. Lawful and appropriate use of the Portal**

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- 5.1. You agree that You must:
- a. only use the Portal:
    - i. for Your own lawful purposes; and
    - ii. in accordance with these Terms of Use as amended from time to time and any other conditions notified by the Commonwealth on the Portal relating to the use of the Portal; and
    - iii. in a manner that does not infringe the Intellectual Property Rights of, or restrict or inhibit the use of the Portal by, any person;
  - b. only access and use the Portal from within Australia;
  - c. not share the Access Credentials for Your Profile (or, if applicable, any of Your Profiles) with any other person or allow any other person to use the Portal on Your behalf;
  - d. ensure the Access Credentials for each of Your Profiles are secured from unauthorised access and disclosure;
  - e. not access, or attempt to gain access, to any Materials other than those submitted by You or to which You have been given express permission by the Commonwealth;
  - f. immediately notify the Commonwealth of any unauthorised use of Your Profile (or, if applicable, any one or more of Your Profiles) or any other breach of security that You become aware of, and take all other actions that the Commonwealth reasonably deems necessary to maintain or enhance the security of the Portal;
  - g. maintain the details for each of Your Profiles and ensure that those details are at all times true, accurate, current and correct;
  - h. not use or misuse the Portal in any way which may disrupt or impair the functionality, security or integrity of the Portal or other systems used for the Portal; and
  - i. not transmit, or input via the Portal, any:
    - i. harmful code or malware;
    - ii. unlawful, defamatory, obscene, offensive or scandalous Material, or any Material that constitutes or encourages conduct that would

contravene any law or which may harass or cause distress or inconvenience to any person; or

- iii. Material in violation of any Intellectual Property Rights or any other applicable law, or Material that You do not have the right to use or transmit or input into the Portal.

5.2. You acknowledge and agree that any Material submitted to the Portal that does not comply with the conditions in clause 5.1 of these Terms of Use may be destroyed by the Commonwealth in its absolute discretion.

5.3. You acknowledge that:

- a. Your access to, and use of, the Portal is subject to applicable Commonwealth legislation, including the *Crimes Act 1914* (Cth), the *Criminal Code Act 1995* (Cth), the Privacy Act, the Aged Care Act and the ACQSC Act; and
- b. penalties may apply for misuse of information obtained from the Portal or disclosure of information contrary to law.

## **6. Audit logs**

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6.1. You acknowledge that Your use of the Portal will be logged for the purpose of security and usage monitoring.

## **7. Collection and disclosure of Personal Information**

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7.1. The Commonwealth is bound by the Privacy Act and the Australian Privacy Principles (**APPs**).

7.2. The Department collects, uses and discloses Personal Information in administering the Portal as part of its operation of the aged care system. We refer to:

- a. our [privacy notice](#) and
- b. our [website privacy policy](#).

7.3. The Department has an APP [privacy policy](#) which contains information about:

- a. how You may access the Personal Information the Department holds about You and how You can seek correction of it; and
- b. how You may complain about a breach of:
  - i. the Privacy Act;
  - ii. the APPs; or
  - iii. a registered APP code that binds the Department; and
- c. how the Department will deal with such a complaint.

## **8. Intellectual Property Rights**

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- 8.1. Materials on the Portal may be protected by Intellectual Property Rights. You must not use any Material on the Portal for a purpose for which You do not have express permission from the Intellectual Property Rights owner. If You have any doubt as to Your right to use the Material, please contact its owner. The Commonwealth is not liable if You infringe an owner's Intellectual Property Rights.
- 8.2. You grant to (or will procure for) the Commonwealth (including the Commission) a royalty-free, non-exclusive licence (including a right of sub-licence) to use, reproduce, adapt, distribute and communicate the Material You submit in the Portal for any purpose required by the Commonwealth (including the Commission).
- 8.3. You acknowledge and agree that the licence granted or procured under clause 8.2 of these Terms of Use does not limit or exclude any rights that the Commonwealth (including the Commission) is entitled to exercise at law in relation to the Material.

## **9. Indemnification and liability**

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- 9.1. You remain solely responsible and liable for complying with all applicable laws in connection with Your use of the Portal.
- 9.2. You indemnify the Commonwealth for any loss or damage incurred by the Commonwealth in dealing with any claim against it, including legal costs and expenses on a solicitor/own client basis and the cost of time spent, resources used or disbursements paid by the Commonwealth, arising from either:
  - a. a breach by You of these Terms of Use; or
  - b. an act or omission involving fault on Your part in connection with these Terms of Use.
- 9.3. Your liability to indemnify the Commonwealth under these Terms of Use will be reduced proportionately to the extent that any negligent or other tortious act or omission of the Commonwealth contributed to the relevant loss or damage.

## **10. Termination of access**

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- 10.1. If You:
  - a. breach any of these Terms of Use or other conditions imposed by the Commonwealth regarding Your use of the Portal; or
  - b. engage in misleading, deceptive, fraudulent, immoral or illegal conduct,the Commonwealth may, without limiting its rights, terminate Your access to the Portal or suspend for any period of time Your use of the Portal. The Commonwealth reserves the right to pursue legal action.

## **11. Disclaimer**

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- 11.1. You agree that Your use of the Portal is entirely at Your own risk, and You have made Your own assessment of the risk of use of the Portal and any Materials.



- 11.2. You agree that You are solely responsible for any Material submitted in the Portal using Your Profile (or, if applicable, any one or more of Your Profiles).
- 11.3. You agree that any Material input via the Portal may be accessed by Personnel who are permitted access by the Department or the Commission for the purposes of carrying out the compliance and other functions of the Department or Commission and for operating and administering the Portal.
- 11.4. The Commonwealth gives no warranty in connection with the Portal and its Materials and does not guarantee that the use of the Portal and its Materials will not breach Intellectual Property Rights, will be uninterrupted or error free, that any defects Portal and its Material will be corrected, or that the Portal is free of harmful code.
- 11.5. Where connection to a system or website outside Commonwealth control compromises the objectives or functions of the Portal, the Commonwealth may sever links to that website or system.
- 11.6. The Commonwealth may make changes to the Portal (including by removing any Materials held in the Portal), conduct maintenance on the Portal, or otherwise temporarily or permanently cease to provide the Portal at any time and without notice.
- 11.7. The Portal is hosted in a cloud environment and has been designed to meet relevant requirements under the Australian Government Protective Security Policy Framework and the Information Security Manual. However, You acknowledge that the Commonwealth does not give any representation or warranty that the Portal or any underlying environment or platform is secure or meets a particular security standard.
- 11.8. To the maximum extent permitted by law, the Commonwealth excludes all liability and responsibility to You (or any other person) for any loss (including loss of information, data, profits and savings) or damage resulting, directly or indirectly, in connection with Your (or any other person's) use of or reliance on, the Portal or its Materials.
- 11.9. Where the Portal links to third party information, You are responsible for making your own enquiries and decisions about the accuracy, reliability, currency and completeness of information contained in such information. The Commonwealth accepts no legal liability arising from or connected to Your use or reliance on any third party information.

## **12. General**

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- 12.1. You cannot assign Your obligations or rights under these Terms of Use without the prior written consent of the Commonwealth, which may be withheld in the Commonwealth's complete discretion or given on conditions.
- 12.2. A reference to any legislation or legislative provision includes any statutory modification, substitution or re-enactment of that legislation or legislative provision.

- 12.3. If any of these Terms of Use are held to be invalid, unenforceable or illegal for any reason, the remaining Terms of Use will continue in full force.
- 12.4. You are not by virtue of these Terms of Use an officer, employee, partner or agent of the Commonwealth, nor do You have any power or authority to bind or represent the Commonwealth. You agree to not misrepresent Your relationship with the Commonwealth.
- 12.5. These Terms of Use are governed by the laws of the Australian Capital Territory, Australia, and You agree to submit to the exclusive jurisdiction of the courts of the Australian Capital Territory.
- 12.6. If either party waives any breach of these Terms of Use, this will not constitute a waiver of any other breach. No waiver will be effective unless made in writing.