



HICAPS Provider Agreement Terms and Conditions

**This agreement is made up of this
booklet and the HICAPS Provider
Agreement Details**

1 Interpretation

1.1 Definitions

The following terms shall have the following meanings unless the contrary intention appears:

Business Day means any day other than a Saturday, Sunday or a national or State public holiday.

Card means a card supplied by a Fund which complies with the Australian Standard 3524 of 2008 entitled "Identification Cards - Financial Transaction Cards" or which complies with such other specifications as agreed between a Fund and HICAPS, such as digital version.

Cardholder means a member of a Fund or a person designated by a Fund as a patient who holds a Card and may be entitled to benefits from the Fund in respect of Goods or a Health Service.

Confidential Information means the terms of this agreement and any data or information about a party's business, operations or customers supplied to, or acquired by, another party under this agreement or during the negotiations preceding this agreement by any director, employee, agent, adviser or officer of the second party and includes, without limitation, as confidential information of a Fund any data or information developed, collated or obtained by or for You pursuant to, for the purposes of or in connection with this agreement including, without limitation, information about Quotations and Transactions processed for a Fund through the Network but does not include Transaction Data.

Equipment Agreement means an agreement for the provision of a Terminal for the purposes of a Health Service Provider in a form satisfactory to HICAPS.

Fund means the persons whose names and addresses are set out in the HICAPS Provider Agreement Details.

Fund Agreement means an agreement between a Fund and HICAPS relating to the provision of the HICAPS System to the Fund for the purposes of that Fund.

Fund Contact Point means a telephone operator acting as a central point of contact for general problem assistance for HICAPS and a Health Service Provider in relation to the Network so far as it relates to the Fund's participation in that service.

Fund Host System means the computer hardware and software, including, without limitation, front end processors and all releases, updates and amendments to the computer hardware and software provided by a Fund for the purposes of processing Quotations and Transactions in accordance with this agreement.

Goods means goods provided to a Cardholder by You in your capacity as a Health Service Provider.

Health Service means a service provided to a Cardholder by You in your capacity as a Health Service Provider.

Health Service Provider means a person practising as a dentist, physiotherapist, chiropractor or optometrist or any other person practising a health or health related service or dispensing

products and services in respect of whom a Fund may pay a benefit for a particular service rendered by that person or an entity that has entered into such an agreement for that purpose.

HICAPS means HICAPS Pty Limited (ACN 080 688 866).

HICAPS Provider Agreement Details means the details described as such which form part of this agreement.

HICAPS System means the computer hardware and software, including, without limitation, the Switch and Terminals and all releases, updates and amendments to the computer hardware and software provided by HICAPS for the purposes of facilitating Quotations and initiating and processing Transactions in accordance with this agreement.

HICAPS Welcome Letter means the letter of introduction, on HICAPS letterhead, identifying the Provider Number (Provider Number) registered with HICAPS and the Registered Provider Location.

Insolvency Event means the happening of any of these events in relation to a party:

- (a) an application is made to a court for an order or an order is made that the party be wound up; or
- (b) an application is made to a court for an order appointing a liquidator or provisional liquidator in respect of the party, or one of them is appointed, whether or not under an order; or
- (c) except to amalgamate while solvent the party enters into, or resolves to enter into, a scheme of arrangement, deed of company arrangement or composition with, or assignment for the benefit of, all or any class of its creditors, or it proposes a reorganisation, moratorium or other administration involving any of them; or
- (d) the party resolves to wind itself up, or otherwise dissolve itself, or gives notice of intention to do so, except to reconstruct or amalgamate while solvent or to transfer its business as an ongoing concern to another person; or
- (e) the party is or states that it is insolvent; or
- (f) as a result of the operation of section 459F(1) of the Corporations Law, the party is taken to have failed to comply with a statutory demand; or
- (g) the party is or makes a statement from which it may be reasonably deduced that the party is the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Law; or
- (h) the party takes any step to obtain protection or is granted protection from its creditors, under any applicable legislation or an administrator is appointed to a body corporate; or
- (i) anything analogous or having a substantially similar effect to any of the events specified above happens under the law of any applicable jurisdiction.

Merchant Service Transaction means a credit, debit, gift or charge card transaction performed in accordance with a merchant agreement for all or any part of the cost of goods or services.

Network means the HICAPS System, the Fund Host System, the communication line between a Fund and the Switch and the communication line between the Switch and a Terminal, and

Online Claiming Channel, through which Quotations and Transactions are initiated and processed.

Online Claiming Channel means the service, including but not exclusively, published API's, applications, services, and infrastructure, to be used for the purposes of processing and transmitting Quotations and Transactions originated through a Provider's website, through the Network.

Provider Number means the identifier registered with HICAPS for the Registered Provider Location or for use of the Online Claiming Channel, which is specified in the HICAPS Welcome Letter.

Provider means any other person, merchant or entity on whose behalf You have entered into this agreement.

Quotation means a Quotation Request and Quotation Response.

Quotation Request means an electronic request to a Fund given through the Network by a Health Service Provider for an estimate of the Cardholder's available health insurance benefits through membership the Fund to satisfy (in whole or in part) the cost of the Goods or Health Services identified in the request for that Cardholder.

Quotation Response means an electronic response given through the Network by, or on behalf of, the Fund to a Quotation Request.

Registered Provider Location means the location address specified in the HICAPS Welcome Letter.

Relevant Laws means any legislation, code of practice, guidelines or standards issued by relevant regulators or industry bodies in so far as they relate to this agreement, a Fund, You, the Goods or Health Services or the HICAPS System.

Reversal Request means an electronic message to a Fund given through the Network by a Health Service Provider for cancellation of a prior Transaction Request (other than the last Transaction Request made through the Terminal from which the message is sent).

Switch means the computer hardware and software, including front end processors, required for routing data between Terminals, or Online Claiming Channel and the Fund Host System capable of the following functions including, without limitation:

- (a) receiving a Quotation Request, Transaction Request, Reversal Request or Void Request from a Health Service Provider and forwarding it to a Fund; and
- (b) receiving a Quotation Response or Transaction Response from a Fund and forwarding it to a Health Service Provider.

Tax Invoice means a tax invoice within the terms of subsection 29-70 of the *A New Tax System (Goods and Services Tax) Act 1999* as amended from time to time, printed or electronically distributed, and includes (without limitation) the following information:

- (a) Provider Number,
- (b) provider name,
- (c) appropriate item numbers and associated item descriptions,

- (d) itemised charges, itemised benefit amounts (where a benefit was paid by a Fund),
- (e) any discounts,
- (f) application date of service per item,
- (g) item and transaction level response codes and descriptors,
- (h) patient name and patient ID, and
- (i) system data required for Transaction verification, including system date and time and retrieval reference number.

Terminal means any electronic device, and software, and all related equipment to be used for the purposes of processing and transmitting Quotations and Transactions through the Network.

Terminal Operation Guide means a guide to the operation of a Terminal provided by HICAPS to you.

Transaction means a Transaction Request and Transaction Response, Reversal Request and Transaction Response or Void Request and Transaction Response.

Transaction Data means in relation to a Transaction:

- (a) any identification of a Cardholder for whom a health insurance claim is or has been made in the Transaction; and
- (b) information about the nature of the treatment, services or goods provided by You to a Cardholder for whom a health insurance claim is or has been made on a Fund in the Transaction.

Transaction Request means an electronic request to a Fund given through the Network by a Health Service Provider for authorisation of a health insurance claim on a Fund.

Transaction Response means an electronic response given through the Network by, or on behalf of, a Fund to a Transaction Request, Reversal Request or Void Request.

Void Request means an electronic message to a Fund given through the Network by a Health Service Provider for cancellation of the last Transaction Request made through the Terminal from which the message is sent.

You or **Yourself** means the person or persons named in the HICAPS Provider Agreement Details (and shall include Providers, if relevant), and if there are more than one, means each of them separately and every two or more of them jointly.

Interpretation

1.2 In this agreement unless the contrary intention appears:

- (a) a reference to this agreement or another instrument (including, without limitation, the Terminal Operation Guide) includes any variation or replacement of them;
- (b) a reference to a member includes a contributor or any other person, regardless of how designated by a Fund, who pays premiums to the Fund for health insurance.

Operation

- 1.3 This agreement is intended to operate as a separate agreement between You and a Fund. Accordingly, the rights, obligations and liabilities of a Fund pursuant to this agreement are several and are not joint or joint and several with any other Fund.

2 Conditions Precedent

- 2.1 This agreement will not come into force until HICAPS has made the HICAPS System available to You and a Fund.

3 HICAPS System

- 3.1 A Fund agrees to settle health insurance claims initiated by You through the Network in accordance with this agreement.
- 3.2 A Fund is not responsible for ensuring the availability of the HICAPS System to You.
- 3.3 You must do the following:
 - (a) not disadvantage a Cardholder, such as by charging a fee, solely because a health insurance claim is to be processed through the Network in respect of Goods or a Health Service (however, this clause does not prevent charging for Merchant Service Transactions in accordance with your merchant agreement);
 - (b) provide the Goods or Health Service to a Cardholder to which a Transaction Request relates prior to initiating the Transaction Request;
 - (c) not make any representation in connection with Goods or a Health Service which may bind a Fund;
 - (d) stop accepting a Card in respect of a Fund if:
 - (i) acting in accordance with its legitimate business interests, the Fund tells You to do so; or
 - (ii) this agreement terminates in respect of that Fund;
 - (e) immediately stop using the Network to process health insurance claims in respect of a Fund when the Fund requests You to do so in circumstances where (but not limited to) the Fund reasonably suspects that there has been inappropriate activity and/or You are in breach of this agreement;
 - (f) retain and return a Card to a Fund where the Fund, acting in accordance with its legitimate business interests, requires You to do so;
 - (g) notify HICAPS of the name and provider number of any Health Service Provider who may use a Terminal or Online Claiming Channel in respect of this agreement and use reasonable endeavours to notify HICAPS immediately in writing of any change in those details including the removal or addition of any such Health Service Provider;
 - (h) where a Cardholder requires a Quotation and the Fund has agreed to process Quotation Responses, ensure that a Quotation Request is forwarded to the Cardholder's Fund and a Quotation Response is received by return before the

Goods and/or Health Service the subject of Quotation is provided to that Cardholder;

- (i) not process a Transaction Request health insurance claim unless;
 - (i) specifically authorised by Relevant Laws; and;
 - (ii) You reasonably believe that each claim is valid; and
- (j) only process Transactions for the provision of Goods or Health Services(s) performed at the Registered Provider Location, except where a Fund authorised the provision of Goods or Health Service(s) and processing of Transactions at a location other than the Registered Provider Location.

3.4 A Fund must establish and maintain a Fund Contact Point for the term of this agreement which must be made available during the Fund's normal business hours.

4 Handling Transactions

4.1 You must comply with the Terminal Operation Guide when processing Transactions.

4.2 In relation to a health insurance claim to be made on a Fund You must do the following:

- (a) where the claim is to be processed through a Terminal:
 - (i) process the claim through the Terminal in a Cardholder's presence as soon as reasonably practicable after the related Goods and/or Health Service has been provided to the Cardholder;
 - (ii) only process the claim through the Terminal using a Card;
 - (iii) use reasonable care to detect forged or unauthorised signatures or the unauthorised use or forgery of a Card and, in particular, use reasonable endeavours to verify the identity of a Cardholder independently from the Card;
 - (iv) require the Cardholder to review and sign the receipt, certifying the important declaration, generated by the Terminal where a Transaction Request, Reversal Request or Void Request is made;
 - (v) give the Cardholder a copy of the signed receipt referred to in paragraph (iv) and retain the original signed receipt referred to in paragraph (iv) for at least 24 months or any longer period required by law after the Transaction Request has been processed through the Terminal;
 - (vi) provide a Fund with evidence, including treatment plans, appointment schedules, signed receipts and other supporting documentation as requested, by the Fund acting reasonably, of a Transaction processed for the purposes of that Fund within 10 Business Days of the Fund requesting that evidence or such reasonable period requested by the Fund; and
 - (vii) retain other documentation referred to in 4.2(a) (vi) for at least 24 months or any longer period required by law.

- (b) where the claim is to be processed through an Online Claiming Channel:
 - (i) process the claim at the time the Cardholder has ordered and committed to purchase the Goods;
 - (ii) use reasonable care to detect unauthorised use of the Cardholder's details;
 - (iii) require the Cardholder review the claim details, including item numbers, item descriptions and claim amounts, and record the Cardholder's acceptance of the important declaration generated by your website, prior to a Transaction Request being made;
 - (iv) provide the Cardholder with a Tax Invoice, and retain a copy of that Tax Invoice for at least 24 months or any longer period required by law after the Transaction Request has been processed through the Online Claiming Channel;
 - (v) provide a Fund with evidence, including treatment plans, appointment schedules, and other supporting documentation as requested, by the Fund acting reasonably, of a Transaction processed for the purposes of that Fund within 10 Business Days of the Fund requesting that evidence or such reasonable period requested by the Fund; and
 - (vi) retain other documentation referred to in 4.2(b) (v) for at least 24 months or any longer period required by law.
- (c) only use a Terminal or Online Claiming Channel authorised by HICAPS and the Fund for processing the claim through the Network; and
- (d) where Goods that have been claimed in a Transaction are returned to the Provider and the Provider has agreed to process a refund or provide alternate replacement Goods, and where the claim for those would differ from the original claim, agree a process with the Fund for reversing or adjusting the claim for Goods within 10 Business Days or other period reasonably agreed with the Fund.

4.3 Where You initiate a health insurance claim on behalf of a Cardholder, You must take all reasonable steps to satisfy Yourself that:

- (a) all particulars are true and correct including, without limitation, all item numbers and codes that are included in a Transaction Request represent an accurate description of the Goods and/or Health Service delivered;
- (b) the Transaction Request will be valid and acceptable;
- (c) the relevant Cardholder is not disputing liability for the Goods and/or Health Service the subject of the Transaction Request; and
- (d) the Goods and/or Health Service(s) in the Transaction were performed or supplied at the Registered Provider Location unless authorised by the Fund.

5 Settlement of Transactions

- 5.1 You and a Fund acknowledge that the Fund is solely responsible for verifying the details of a Transaction Request, Reversal Request or Void Request and for authorising or rejecting the Transaction Request, Reversal Request or Void Request. A Fund is under no obligation to authorise a Transaction Request, Reversal Request or Void Request.
- 5.2 Where a Fund authorises a Void Request, the last Transaction Request made through the Terminal from which the request is being made is immediately cancelled.
- 5.3 A Transaction Request is not valid if:
- (a) the Transaction Request is illegal or any particulars of a health insurance claim are not true;
 - (b) the Transaction Request is not authorised by a Cardholder to which a Transaction Request relates;
 - (c) where the claim is to be processed through a Terminal and, You have not provided the Goods and/or a Health Services to the Cardholder to which the Transaction Request relates before processing the Transaction Request;
 - (d) where the claim was processed through an Online Claiming Channel, the Cardholder has not ordered and committed to purchase the Goods to which a Transaction Request relates before processing the Transaction Request;
 - (e) another person provided the Goods and/or Health Service the subject of the Transaction Request;
 - (f) the Cardholder does not confirm that each claim is certified by the Cardholder in accordance with clause 4.2 of this agreement;
 - (g) in the Fund's reasonable opinion, you have breached either clause 3.3 or 4.2 of this agreement; or
 - (h) this agreement was terminated in respect of that Fund before the date of the Transaction Request;

and this clause applies even if a Fund has authorised the Transaction Request.

- 5.4 A Transaction Request is not acceptable if the Cardholder disputes liability for the Goods and/or Health Service the subject of the Transaction Request at any time for any reason and this clause applies even if a Fund has authorised the Transaction Request.
- 5.5 Subject to clause 5.8, where a Fund authorises a Transaction Request or Reversal Request, it must calculate for each day the following:

$T - R$

where:

T = the total of amounts the Fund has authorised for payment as a result of each Transaction Request made on the relevant day;

R = the total of amounts the subject of each Reversal Request which is authorised by a Fund and which has not previously been the subject of settlement under this clause.

- 5.6 Each Fund must pay to You the amount calculated for the purposes of clause 5.5 within 10 Business Days of the day for which the amount is calculated or other period reasonably agreed with You, if that amount is a positive amount. If the amount is a negative amount then it must be paid by You to the Fund within 10 Business Days of the day for which the amount is calculated in the manner agreed between them or other period reasonably agreed with the Fund.
- 5.7 A payment to You under clause 5.6 must be made by the Fund by direct credit to the bank account nominated by you or as otherwise agreed.
- 5.8 Where a Fund has settled a Transaction Request pursuant to clause 5.6, the Fund may require You to pay back the amount relating to the Transaction Request if the Transaction Request is not valid or acceptable and the Fund may direct HICAPS to debit the account nominated by You for settlement adjustments.
- 5.9 You must not withhold any payment under this agreement or make a deduction from it for any reason including because you claim to have a set-off, counterclaim, or other right against a Fund or any other person.
- 5.10 A Fund must establish a fair policy for dealing with disputes about Transactions.

6 Confidential Information

- 6.1 Subject to the remainder of this clause:
- (a) all Confidential Information relating to a party is passed to and received by the other party in the strictest confidence; and
 - (b) a party holding Confidential Information of the other party must not disclose, divulge or grant access to such Confidential Information other than to its directors, employees, agents, advisers or officers and shall not permit any of the directors, employees, agents, advisers or officers to disclose, divulge or grant access to such information to other persons except to the extent required by law. A party who has received Confidential Information from another party under this agreement must, at the request of the other party, have delivered to that party all documents or other materials containing or referring to that Confidential Information which are in its possession, power or control or in the possession, power or control of any other person who has received that information from the party to whom the request is directed.
- 6.2 Without limitation to the remainder of this clause, each party agrees:
- (a) to use Confidential Information of the other party only for the purposes of fulfilling its obligations under this agreement;
 - (b) not to disclose Confidential Information of the other party without the written authority of that party except for the purpose of fulfilling its obligations under this agreement;

- (c) to immediately notify the other party where it becomes aware that disclosure of Confidential Information may be required by law;
- (d) not to transfer Confidential Information outside Australia, or allow a person outside Australia to have access to it, without the prior approval of the other party;
- (e) to ensure that any person requiring access to Confidential Information (including, without limitation, any employee or approved sub-contractor of the other party) makes an undertaking not to access, use, disclose or retain Confidential Information except in performing their duties to the party and is informed by the party that failure to do so may lead to the party taking action against the relevant person;
- (f) to immediately notify the other party where it becomes aware of a breach of its obligations of confidentiality under this agreement by itself or as a result of the actions of any other person; and
- (g) to take all reasonable measures to ensure Confidential Information is protected against loss, and against unauthorised access, use, modification, disclosure and that only authorised personnel have access to Confidential Information.

6.3 The obligations of a party under this clause do not apply to any data or information which the party demonstrates:

- (a) was in widespread use and generally available at the time of the use or disclosure;
- (b) was already in the party's possession at the date of this agreement; or
- (c) was subsequently developed, collated or obtained by the party wholly independently of this agreement and without any breach of any obligation of confidence owed to the other party.

6.4 Notwithstanding any other clause in this agreement, unless You advise otherwise, You agree that HICAPS and the Fund may, acting reasonably, publish contact details of your business that You have provided (including, but not limited to business name, Registered Provider Location, telephone number, facsimile number, email address and website) to promote the HICAPS service, including publishing details of Health Service Providers that use HICAPS services in any format (including searches and maps). Where You have entered into this agreement on behalf of any other Providers, You confirm and warrant that those Providers have provided You with their prior authorisation to enter this agreement on their behalf, including that You have their authorisation to agree on their behalf that HICAPS or the Fund may acting reasonably publish contact details of those Providers' business (including, but not limited to business name, Registered Provider Location, telephone number, facsimile number, email address and website) to promote the HICAPS service, including publishing details of Providers that use HICAPS services in any format (including searches and maps).

7 Termination

- 7.1 This agreement automatically ends:
- (a) upon termination of the Equipment Agreement; or
 - (b) to the extent that it relates to a Fund, upon termination of a Fund Agreement between HICAPS and that Fund.
- 7.2 You or a Fund may end this agreement to the extent that it relates to that Fund immediately if:
- (a) the other party commits a material breach of its obligations under this agreement which breach is not remedied within 90 days of receipt of a notice in writing requesting the breach be remedied or is not remedied within that period to the satisfaction of the party giving the notice; or
 - (b) an Insolvency Event has occurred in relation to that other party.
- 7.3 A Fund may also end this agreement to the extent that it relates to that Fund on the giving of 90 days' notice to You.
- 7.4 The ending of this agreement or any part of it to the extent that it relates to a Fund does not affect a party's rights and obligations which arose before it ended and, if the party terminating this agreement is a Fund, that termination does not affect the continued operation of this agreement so far as other Funds are concerned.

8 Costs and Expenses

- 8.1 Each party shall bear its own costs and expenses in connection with the preparation, negotiation and execution of this agreement except for stamp duty.
- 8.2 You agree to pay any stamp duty payable or assessed in connection with this agreement.

9 Jurisdiction

- 9.1 This agreement and the transactions contemplated by it are governed by the laws in force in the Australian State or Territory in which your principal place of business is located.
- 9.2 Any legal proceedings involving this agreement can be held in the courts of any State or Territory of Australia. You and we submit to the non-exclusive jurisdiction of those courts.

10 Miscellaneous

Assignment

- 10.1 A party may not assign its rights under this agreement.

Sub-contractors

- 10.2 A Fund may appoint a sub-contractor to perform all or part of its obligations under this agreement and on the basis that the Fund, by sub-contracting, shall not be relieved of any of its obligations under this agreement.

Relevant Laws

10.3 Each party must comply with all Relevant Laws:

- (a) in exercising its rights and fulfilling its obligations under this agreement; and
- (b) governing the collection, storage, use, disclosure and security practices in relation to Transaction Data.

Discretion

10.4 Any discretion conferred on a Fund under this agreement will be exercised reasonably and in accordance with the Fund's legitimate business interests