



# Provider Terms and Conditions

## Aberdeen City Council - Provider Terms

### 1. Definitions

In these Terms (as defined below) the following words shall have the following meanings:

- **'Account'** means the account that is registered for you to administer the listing of your Provider Information on the Portal;
- **'Account Information'** means key information about you and your Account that will be visible only to you and us;
- **'Condition'** means a condition in the Terms and any reference to a 'Condition' shall be construed accordingly;
- **'Materials'** means any information, advice, commentary, suggestion or other materials published by us on the Portal or provided by us in connection with the Online Provider Services, including the Provider Information;
- **'Online Provider Services'** means the services we offer to you in relation to listing details of your Provider Services on the Portal, as detailed in Condition 3;
- **'Portal'** means the Aberdeen City Council Mylife online portal operated by us at [aberdeencity.mylifeportal.co.uk](http://aberdeencity.mylifeportal.co.uk) ;
- **'Portal User Terms'** means the separate terms and conditions that govern use of the Portal, including but not limited to use of the Materials, and such terms and conditions will apply to all Users;
- **'Provider Information'** means the information listed or to be listed about you and your services on the Portal, including but not limited to:
  - i. details of the available Provider Services offered by you; and
  - ii. your published contact details;
- **'Provider Services'** means the social care related services publicised on your behalf on the Portal;
- **'Services IP'** means all intellectual property rights in:
  - i. the Online Provider Services;
  - ii. the Portal; and
  - iii. the Materials;
- **'Terms'** means these terms and conditions;
- **'User'** means any individual using the Portal;
- **'you'** means the company, organisation or person responsible for:
  - i. providing the Provider Information;
  - ii. providing the Account Information; and
  - iii. making available and delivering the Provider Services; and



- **'we'** or **'us'** means Aberdeen City Council, a local authority incorporated under the Local Government etc. (Scotland) Act 1994 having its principal office at Marischal College, Broad Street, Aberdeen, AB10 1AB.

## 2. Application of Terms

- 2.1 These Terms relate solely to the provision of the Online Provider Services to you and these Terms apply to you in addition to the Portal User Terms, which govern use of the Portal generally. You acknowledge and agree that we are operating and administering the Portal solely on an information only basis ('shop window') in relation to the non-exclusive display of Provider Information.
- 2.2 You must read and accept these Terms prior to accessing the Online Provider Services and by accepting the Terms and using the Online Provider Services, you agree to be bound by these Terms. Your acceptance of these Terms shall form a binding contract between you and us.
- 2.3 Please be aware that if you refuse to accept these Terms, you will not be able to access the Online Provider Services.
- 2.4 We may amend these Terms from time to time. Every time you wish to use the Online Provider Services, please check these Terms to ensure that you understand the terms which will apply at that time.

## 3. The Online Provider Services

- 3.1 The Online Provider Services available to you are:
- 3.1.1 displaying the Provider Information;
  - 3.1.2 giving you the ability to register for and create an Account;
  - 3.1.3 giving you the ability to log in to, store, upload, amend and save your Account Information which may be accessed only by you and us;
  - 3.1.4 giving you the ability to log in to, store, upload, amend, save and publish (subject to our final review) Provider Information which may be accessed by Users; and
  - 3.1.5 giving Users the ability to locate and view the Provider Information.
- 3.2 We reserve the right in our absolute discretion to suspend, terminate or remove your Account and/or your Provider Information from the Portal.
- 3.3 For the avoidance of doubt, no guarantee or recommendation in relation to the Provider Services is being given to Users by us as a result of us providing the Online Provider Services to you.



## 4. Your Warranties

4.1 By using the Online Provider Services, you warrant that:

- 4.1.1 you provide the Provider Services;
- 4.1.2 you have registered for an Account to access the Online Provider Services;
- 4.1.3 you have all the necessary permissions, consents and legal authority to use the Online Provider Services;
- 4.1.4 you have the legal authority and all the necessary permissions, consents, accreditations and approvals; and you meet all statutory and other registration requirements to provide and supply the Provider Services;
- 4.1.5 you will use the Online Provider Services in accordance with:
  - i. these Terms;
  - ii. any code of practice issued by us;
  - iii. all applicable laws; and
  - iv. any other policy or guidance issued by us from time to time;
- 4.1.6 you will provide and supply the Provider Services in accordance with all applicable laws and in accordance with any permissions, consents, accreditations, approvals and registration requirements referred to at Condition 4.1.4;
- 4.1.7 the Provider Information does not and your use of the Online Provider Services will not infringe the Services IP or any applicable laws, regulations or third party rights and such Provider Information will not include material which is obscene, indecent, pornographic, seditious, offensive, defamatory, threatening, liable to incite racial hatred, menacing, blasphemous or in breach of any third party intellectual property rights; and
- 4.1.8 you will use best efforts to keep us updated at all times in relation to all of your details, including without limitation, any change to the Provider Services, Provider Information and/or Account Information.

4.2 You must keep your username and password for access to your Account confidential. You will be deemed to be responsible for all activity in relation to your Account carried out under your username and password.

## 5. Availability of the Online Provider Services

5.1 Whilst we shall endeavour to ensure that the Online Provider Services are normally available 24 hours a day, we shall not be liable if, for any reason, the Online Provider Services are unavailable at any time or for any period. As such, we do not guarantee that the Online Provider Services will be uninterrupted, complete, error free, reliable or on time.



5.2 We reserve all rights to make changes to the Online Provider Services. Any new features or changes to the current Online Provider Services shall be subject to these Terms. We may delete, add or change any or all of the features and Online Provider Services provided at any time and, if unavoidable, without warning.

## 6. Disclaimer of Warranties and Limitation of Liability

6.1 You agree that your use of and access to the Online Provider Services is at your sole risk.

6.2 To the fullest extent permitted by law, we do not warrant the accuracy of the Materials.

6.3 For the avoidance of doubt, the Materials do not represent any preference for or recommendation for your Provider Services or the services of any other provider and we do not guarantee that the listing of Provider Information relating to you or any other service provider will be ranked in any particular order of priority.

6.4 The Materials are provided 'as is', without any conditions, warranties or other terms of any kind. Accordingly, to the maximum extent permitted by law, we provide you with the Online Provider Services on the basis that we exclude all representations, warranties, conditions and other terms (including, without limitation, the conditions implied by law of satisfactory quality, fitness for purpose and the use of reasonable care and skill) which, but for this legal notice, might have effect in relation to the Online Provider Services.

6.5 Subject to Condition 6.6, we and our employees, representatives and agents exclude all liability and responsibility for any amount or kind of loss or damage that may result to you, and/or a third party in connection with the Online Provider Services, including without limitation loss or damage arising from:

6.5.1 the use, inability to use or the results of use of the Online Provider Services, any websites linked to the Portal or the material on such websites; or

6.5.2 access to and use of the Online Provider Services, including but not limited to loss or damage due to viruses that may infect your computer equipment, software, data or other property on account of your access to or use of the Portal and/or the Online Provider Services; or

6.5.3 your downloading of any Materials or any other material provided via the Portal and/or the Online Provider Services.

6.6 Nothing in these Terms shall exclude or limit our liability for:

6.6.1 death or personal injury caused by negligence; or



6.6.2 any matter for which it would be illegal for us to exclude, or attempt to exclude, liability.

6.7 We are not responsible for indirect losses such as those described in Condition 6.8, which occur subsequent to the main loss or damage.

6.8 Indirect losses referred to in Condition 6.7 shall include, loss of income or revenue, loss of business, loss of profits or contracts, loss of anticipated savings, loss of data, waste of management or office time however arising and whether caused by delict (including negligence), breach of contract or otherwise, even if foreseeable.

6.9 If your use of the Materials or the Online Provider Services results in the need for the servicing, repair or correction of your equipment, software or data, you shall assume all costs thereof.

## 7. Provider Information

7.1 You shall provide us with the Provider Information to be placed on the Portal and such Provider Information shall be published on the Portal by us, provided that we have agreed to and approved the content, type and format of such Provider Information in advance.

7.2 We shall update the Portal with Provider Information provided from time to time by you.

## 8. Intellectual Property Rights

8.1 We are the owner or the licensee of the Services IP. The Services IP is protected by applicable intellectual property laws around the world and we reserve all such rights in and to the Services IP. Save as expressly provided for in these Terms, use of the Services IP by you shall not be deemed to constitute, by implication or otherwise, the grant of any licence, title or right (including intellectual property right) in such Services IP other than the limited right to use such Services IP for the purpose of using the Online Provider Services in accordance with these Terms.

8.2 You hereby grant to us a royalty-free licence to use, upload, edit, develop or update the Provider Information on the Portal.



## 9. Indemnity

9.1 You agree to hold harmless us, our employees, representatives and agents and agree to defend and indemnify, and keep indemnified us, our employees, representatives and agents from and against any proceedings, costs, liabilities, claims, losses, expenses claims, actions, suggestions, or demands whatsoever, including and without limitation, any legal and accounting fees arising from your use of;

9.1.1 the Online Provider Services;

9.1.2 the Portal; and

9.1.3 the Materials,

whether arising due to the breach of warranty, breach of contract, negligence, breach of statutory duty, wilful default or fraud of you.

## 10. Prevention of Collusion, Corruption or Illegal Practices

10.1 We shall be entitled to terminate our contract with you under these Terms if you or any of your representatives (whether with or without your knowledge) have employed any corrupt or illegal practices in performing your obligations under these Terms or any other contract with us. We shall be entitled to recover from you the amount of any loss resulting from any such termination.

## 11. Equal Opportunity and Race Equality

11.1 To the best of your knowledge and belief, you confirm that you have:

11.1.1 complied with all statutory requirements relating to equal opportunity in employment; and

11.1.2 not unlawfully discriminated within the meaning and scope of the Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000 (or any statutory modification or re-enactment) relating to discrimination in employment.

## 12. Confidentiality and Information

12.1 We are a public authority and subject to the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004. Any information (including, without limitation, any confidential information) submitted by you to us may need to be disclosed and/or published by us in compliance with that Act or those Regulations and in those circumstances we shall not be liable to you for any decision to publish or withhold any information relating to you.



### **13. Transfer of Rights and Obligations**

13.1 You may not transfer, assign, charge or otherwise dispose of your rights or obligations arising under the Terms, without our prior written consent.

13.2 We may transfer, assign, charge, sub-contract or otherwise dispose of any of our rights or obligations arising under the Terms, at any time.

### **14. Waiver**

14.1 If we fail, at any time, to insist upon strict performance of any of your obligations under these Terms, or if we fail to exercise any of the rights or remedies to which we are entitled under these Terms, this shall not constitute a waiver of such rights or remedies and shall not relieve you from compliance with such obligations.

14.2 A waiver by us of any default shall not constitute a waiver of any subsequent default.

14.3 No waiver by us of any of these Terms shall be effective unless it is expressly stated to be a waiver and is communicated to you in writing.

### **15. Severability**

15.1 If any of these Terms is determined by any competent authority to be invalid, unlawful or unenforceable to any extent, such term, Condition or provision will, to that extent be severed from the remaining terms, Conditions and provisions which will continue to be valid to the fullest extent permitted by law.

### **16. Entire Agreement**

16.1 These Terms and any document expressly referred to in them, represent the entire agreement between you and us and supersede any prior agreement, understanding or arrangement between you and us, whether oral or in writing.

16.2 Aberdeen City Council reserve the right in our absolute discretion to suspend, terminate or remove your Account and/or your Provider Information from the portal.



## 17. Law and Jurisdiction

17.1 These Terms and the provision of the Online Provider Services are governed by Scots law. Any dispute arising from, or related to, these Terms shall be subject to the exclusive jurisdiction of the courts of Scotland.