

# NDIS Service Agreement

between

FiveGoodFriends Pty Ltd  
ABN 87 605 031 249

and

\_\_\_\_\_ **Member**



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## PART ONE – KEY TERMS

<b>Date of this Agreement</b>	
<b>Service Provider (We, us)</b>	Name: FiveGoodFriends Pty Ltd ABN: 87 605 031 249 Address: Level 8, 154 Melbourne Street, South Brisbane Qld 4101 Phone: 1300 787 581
<b>Member (You, your)</b>	Name: Address:  Phone: Email:
<b>Authorised Representative</b>	Name: Address:  Phone: Email:
<b>Authorised Representative's legal authority</b>	
<b>Help Plan</b>	Your Help Plan will be provided in the App which all Members and Authorised Representatives are able to access via smart device, or via the internet. A copy of your Help Plan can be emailed or posted to you if requested.
<b>Charges and your Budget</b>	Itemised Charges are available in the App which all Members and Billing Recipients are able to access via a smart device, or via the internet. A copy of your Budget will be emailed or posted to you.
<b>Plan Manager (if applicable)</b>	Name: Address: Phone: Email:
<b>Participant NDIS Number</b>	

## **PART TWO – GENERAL TERMS**

### **1 Finding your way around this Agreement**

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- 1.1 The start of this Agreement has a table called Key Terms. The Key Terms is where you will find information that is specific to you.
- 1.2 There is more information at the end of this Agreement in pages called the Schedules. Where the Agreement refers to a Schedule, a reference (such as 1, 2, 3 etc.) will be included and you can find out more by reading the Schedule marked with that number.
- 1.3 If you see a word with a capital letter you can find out more about that word in the definitions in Schedule 1.
- 1.4 Schedule 1 also includes rules about how words in this Agreement will be interpreted.

### **2 Overview of this Agreement**

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- 2.1 This Agreement sets out:
- (a) how you will receive the Services set out in your Help Plan; and
  - (b) how you will pay for (or contribute to) the costs of your Services.
- 2.2 We will:
- (a) take all reasonable steps to comply with our obligations set out in this Agreement;
  - (b) deliver, or cause to be delivered, the Services you need under the terms of this Agreement and your Help Plan, for as long as you need or want, subject to your and our rights to terminate this Agreement;
  - (c) deliver, or cause to be delivered, the Services in a way that takes into account your needs and preferences.
- 2.3 You will:
- (a) pay the Fees and Charges applicable to your Services; and
  - (b) comply, to the extent within your control, with your responsibilities under this Agreement and at law.
- 2.4 If you have any concerns about the content of this Agreement, if English is your second language, or if you have a vision or hearing impairment or require any special assistance, you may wish to take time to seek advice from friends, family, an advocate, a financial advisor, or a legal practitioner.
- 2.5 We ask that you sign this Agreement on or before the Start Date. If you are unable to sign this Agreement it may be signed by your Authorised Representative.
- 2.6 If you do not sign this Agreement but you accept the Services, we will assume that you have read and understood and that you accept the terms of this Agreement and the Agreement will be binding as though you have signed it.

### **3 NDIS Services**

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- 3.1 We are an NDIS registered provider.
- 3.2 You may use the funding available in your NDIS Plan to purchase Services from Five Good Friends where it is appropriate and aligned with your NDIS Plan.

- 3.3 The cost of your Services will not exceed the amount set out under the NDIS Pricing Arrangements and Price Limits for the type(s) of Services you receive.
- 3.4 In addition to your NDIS Plan with the Government, you will also have a plan with us which will set out the Services you receive from us. This is called your Help Plan. Your Help Plan may also be referred to as your NDIS support plan. Your Help Plan will be provided in the App which all Members and Authorised Representatives are able to access via a smart device, or via the internet. A copy of your Help Plan can be emailed or posted to you if requested. Your Help Plan will be emailed or posted to you if there is a change made to your Help Plan.

## **4 Services generally**

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- 4.1 We will provide information to you, in a format that is clear and easy to understand, about:
- (a) the Services available to you;
  - (b) the Fees and Charges payable by you for your Services.
- 4.2 We encourage you to make informed choices about the type of Services you receive and the delivery of your Services, including who will deliver Services to you and when.
- 4.3 While you are encouraged to exercise choice in the type of Services you access, in some circumstances it may be necessary for us to decline a request from you, including where your request:
- (a) may cause harm or pose a threat to the health, safety or wellbeing of you, a Worker or another person;
  - (b) is for something that is outside the scope of the NDIS program or your funding;
  - (c) would result in us not being able to comply with our responsibilities under any law;
  - (d) would result in you exceeding the funds available in your Budget; or
  - (e) would be contrary to your needs set out in your Help Plan.
- 4.4 You will receive the Services set out in your Help Plan from the Date of this Agreement for as long as you want, unless this Agreement ends or your Services are varied or suspended.
- 4.5 In addition to your Help Plan, we will provide you a Budget which outlines the Fees and Charges you will pay. Your Budget will be provided via email or posted to you if requested.
- 4.6 We will review your Help Plan with you at least once a year and make changes if required.
- 4.7 Based on identified risk factors (such as you living at home alone with no other regular face-to-face supports), we may review your Help Plan on a more regular basis. This may include someone other than your Helper checking in with you. It may also include visits to your home and speaking with any other providers that provide Services to you in connection with your Help Plan.

- 4.8 In the event of an emergency or disaster, we will attempt to make contact with you or your Authorised Representative to discuss what essential Services you need and how those Services will be delivered to ensure your safety and wellbeing. Essential Services will be determined in accordance with our Emergency and Disaster Management Workflow.

## **5 Nominating an Authorised Representative**

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- 5.1 You may nominate an Authorised Representative to make decisions on your behalf, such as an NDIS Nominee, legal guardian or attorney appointed under an enduring power of attorney. The details of any Authorised Representative nominated by you are in the Key Terms.
- 5.2 If you have granted or subsequently grant someone power to make decisions on your behalf, such as an NDIS Nominee, legal guardian or an attorney appointed under an enduring power of attorney, you must tell us who this person is and give us a copy of the legal document granting them those powers.
- 5.3 Your Authorised Representative will only be able to make decisions on your behalf to the extent they are authorised under the instrument or order granting them those powers.
- 5.4 Unless and until we are notified in writing by you or your Authorised Representative that there has been a change to your Authorised Representative or the extent of their authority, we are entitled to rely on the information previously given to us.

## **6 Your rights and our obligations**

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- 6.1 We will:
- (a) Comply with our responsibilities under the NDIS Code of Conduct;
  - (b) treat you with respect and dignity;
  - (c) provide you with the Services set out in your Help Plan;
  - (d) protect your privacy and confidentially in accordance with our [Privacy Policy](#) and this Agreement;
  - (e) communicate with you using your preferred method of communication;
  - (f) rely on the information that you provide as being true, accurate, complete and current;
  - (g) only authorise Workers to provide Services you have requested, authorised and consented to;
  - (h) respond to your specific requests and requirements in the provision of Services as it relates to clinical governance and quality of care outcomes;
  - (i) respect your decisions in accepting and determining Services;
  - (j) assess your needs and consult with you to develop a detailed Help Plan best meeting those needs;
  - (k) facilitate access to the App to access information, Services, visits and communication across the Five Good Friends community;
  - (l) provide appropriate procedures, governance, training, and a consolidated invoicing service facilitating the direct exchange between you and your Helper(s);

- (m) provide necessary clinical and non-clinical oversight relevant to your supports;
- (n) seek regular feedback and reviews in relation to your experience with us and your Helper(s).

## **7 Your responsibilities**

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### **7.1 We ask that you:**

- (a) respect our Workers' human, legal and industrial rights, including the right to work in a safe environment;
- (b) treat us and our Workers without exploitation, abuse, discrimination, or harassment;
- (c) not be rude, abusive or aggressive to us or any Worker, and not permit or tolerate anyone else to be rude, abusive or aggressive to us or any Worker, or do anything to make them feel unsafe;
- (d) ensure anyone who is present when your Services are provided, or otherwise involved in your Services or supports, provides the same respect and treats us and our Workers in the same way as we ask you to, as set out in this agreement;
- (e) pay your Fees and Charges in full, and on time;
- (f) do not accept Services if you do not have the funds available to pay for the Services;
- (g) talk to us if you have any questions, concerns or problems;
- (h) care for your own health and wellbeing, as far as you are capable;
- (i) give us enough information, including about your health and personal history and any current conditions, to assist us to develop, deliver and review your Help Plan;
- (j) provide us with a copy of your NDIS Plan;
- (k) inform us if there are changes to your health and personal circumstances or any other matters relevant to your Services or Help Plan;
- (l) allow safe and reasonable access for Workers at the times specified in your Help Plan or otherwise by agreement;
- (m) tell us straight away if you want to suspend your Services for any length of time;
- (n) tell us straight away if you are no longer approved for NDIS funding or if there are any changes to your NDIS funding;
- (o) inform us at least 7 days prior to changing your plan management arrangements including if you are transitioning to a new Plan Manager;
- (p) inform us at least 14 days prior to stopping services with Five Good Friends.

**7.2** This Agreement is for you. You can't transfer this Agreement or give your Services to someone else.

**7.3** You acknowledge that your needs may change and that it may be necessary for us to consult with you about changes to your Services when your needs do change. You agree to cooperate reasonably with us in this consultation.

## **8 Restrictions in relation to dealing with Helpers**

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- 8.1 You must not (without our prior written consent) do any of the following for the No Dealing Period:
- (a) solicit, canvass, entice away or accept any approach from any Helper who has provided Services to you or had any dealings with you in the last 6 months;
  - (b) employ or solicit any Services (except through us) of any Helper who has provided Services to you or had any dealing with you in the last 6 months; or
  - (c) encourage or otherwise assist any person or entity to do any acts referred to in this subclause.
- 8.2 You acknowledge and agree that these restrictions are reasonably necessary to help us protect our legitimate business interests and that the No Dealing Period is reasonable.

## **9 Complaints, advocacy, incidents, and accessibility**

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You are entitled to make, without fear of reprisal, a complaint about the provision of the Services you are receiving. If you have any concerns about the supports and Services you are receiving, you need to tell us so that we can investigate any problems. Your feedback will be respected and actioned appropriately according to our [Feedback Management Policy](#). You can make a complaint or give feedback to us directly:

- By phone: 1300 787 581
- Online: <https://www.fivegoodfriends.com.au/resources/feedback/feedback>
- In writing by addressing your letter to:  
  
Five Good Friends  
Level 8, 154 Melbourne Street  
South Brisbane Qld 4101

### **9.1 External complaints**

In addition to the internal complaints mechanism set out in clause 9, you may also contact the NDIS Quality and Safeguards Commission to make a complaint about your Services. You can contact the NDIS Quality and Safeguards Commission:

- by phone: 1800 035 544 or TTY 133 677 (then ask for 1800 035 544)
- online: <https://www.ndiscommission.gov.au/about/complaints>

### **9.2 Advocacy**

If you need someone to support you or speak up for you, you can get help from an advocacy service which you can find here: <https://askizzy.org.au/disability-advocacy-finder>

### **9.3 Incidents**

Five Good Friends has a documented incident management system. Any incidents that happen in connection with your Services are taken seriously and all applicable laws and rules are applied in the management of incidents. Our Incident Management Policy is available on our [website](#) or you can contact us if you would like a copy of our policy.

## 9.4 Accessibility

- (a) If you need an interpreter, you can phone the Translating and Interpretation Service on 131 450 and ask them to put you through to the phone numbers listed above.
- (b) If you are hearing or speech impaired, you can contact the National Relay Service on 133 677 then ask for the phone numbers listed above.

## 10 NDIS Support Coordination

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If you choose Five Good Friends to provide Support Coordination:

- (a) depending on the support you wish to receive, our Support Coordinators can:
  - (i) help you to understand your NDIS Plan;
  - (ii) help you to plan and coordinate services;
  - (iii) connect you with supports and services;
  - (iv) help you to establish and maintain supports and services;
  - (v) help you to build your confidence and skills so you can choose and control your supports and services, if you want to;
  - (vi) help you to prepare for unexpected events.
- (b) our Support Coordinators will:
  - (i) act in your best interests;
  - (ii) disclose any real or perceived conflicts of interest;
  - (iii) take calls during business hours Monday to Friday when available;
  - (iv) respond to emails and messages within two business days;
  - (v) report to the NDIA on how they have helped you use your plan and pursue your goals;
  - (vi) charge the relevant Support Coordination cost under the NDIS Pricing Arrangements and Price Limits;
  - (vii) record work done in a minimum of 15-minute increments and provide records of billing;
  - (viii) not be rewarded for internal referrals to the other types of services or support offered by us.
- (c) you acknowledge that our Support Coordination service is not an emergency service and will not be available outside of business hours Monday to Friday.

## 11 Fees and Charges

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11.1 All fees and charges associated with providing you with Services are collectively known as the Fees and Charges.

11.2 You may be asked to pay the following Fees and Charges from the Start Date:

- (a) Fees and Charges for assessing your needs, planning and coordinating Services;

- (b) Fees and Charges for your direct services delivered by your Workers;
  - (c) An Establishment Fee, for setting up your agreed Services of 20 hours per month or more for personal care and community participation. The Establishment Fee may be charged even if some or all of your agreed Services did not go ahead if we did work to set them up;
  - (d) Fees and Charges for travel and transport, if we have to travel to and from where you are (known as a Provider Travel Fee), or if we travel or provide you with transport while providing you with Services (known as a Member Transport Fee);
- 11.3 Fees and Charges are set by Helpers at their own discretion but we provide recommended rates for common Services, and your Fees and Charges will not exceed any maximum amounts applicable to NDIS services. You can negotiate your Fees and Charges directly with the Helper who provides the Services. If the Fees and Charges you agree with the Helper are different to the recommended rate, you can ask your Helper to explain why the Fees and Charges are different. You can decline any Helper at any time for any reason, including their Fees and Charges for Services. When you accept the Service from our Helper, you acknowledge that you are also accepting the Fees and Charges agreed with the Helper and that your Budget will become part of this Agreement.
- 11.4 Fees and Charges for Services provided by Helpers will be invoiced weekly by the Worker in arrears and paid for by you in accordance with the Fees and Charges relevant to the Services provided.
- 11.5 Extra expenses, such as entrance fees, tickets, or meals incurred during Services are not included in your Fees and Charges and will be your personal responsibility.
- 11.6 Invoices must be paid in full within 7 days from the date the invoice is issued.
- 11.7 If you self-manage the funding for your Services, payment is to be made:
- (a) by direct debit; or
  - (b) electronic funds transfer
- 11.8 If appropriate we may also process claims for payment through the myplace Portal.
- 11.9 If your Services cannot be paid for with funds from your NDIS plan (for example, if you request services that exceed the budget available under your NDIS Plan or for services not eligible within your NDIS Plan), you will be required to pay us directly for those Services.

## **12 Changes to Fees and Charges**

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- 12.1 Your Fees and Charges may change and we let you know if they change by giving 14 days' notice.

## **13 Budget and invoices**

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- 13.1 We will work with you to develop a Budget which will:
- (a) be prepared in partnership with you having regard to your goals and assessed needs, preferences, the resources available and the Services you have selected;
  - (b) set out:

- (i) an itemised budget for the Services to be provided as set out in your Help Plan;
  - (ii) the expected amount of Fees and Charges payable by you in respect of a calendar month;
  - (iii) be given to you as soon as practicable after we have the necessary information to complete it;
- (c) be reviewed and, if necessary, revised if:
- (i) your Help Plan and required services changes;
  - (ii) the Fees and Charges change; or
  - (iii) if you request us to do so, within 14 days of receiving your request.
- 13.2 Your Budget will be provided via email or posted to you if requested.
- 13.3 If you request any Services that differ from the services set out in your Budget after your Budget has been issued, we may not be able to revise your Budget prior to delivering those Services to you, however you will still be charged for any Services you request.
- 13.4 We must inform you of and help you to understand your Budget.
- 13.5 We will provide you and your Authorised Representative with your Five Good Friends online account and App, your weekly schedule in advance, individual weekly Helper invoices and a summary of Services in that week.
- 13.6 If you have any queries about an invoice or statement you have received you must notify us within 7 days by calling or emailing us.

## **14 Work health and safety**

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- 14.1 You understand that your residence and the land upon which it is situated will be a workplace for Workers and is subject to relevant workplace health and safety laws. This includes making sure any equipment that our Helpers may need to use to provide your Services is safe to use.
- 14.2 You agree to be responsible:
- (a) for ensuring that we are made aware in advance of any risks associated with Workers being at the place where your Services are delivered; and
  - (b) for taking steps to ensure that any risks are rectified and addressed at your own cost.
- 14.3 You agree to allow us and/or your Worker(s), upon giving reasonable notice, to conduct an inspection of the place where your Services are delivered to assess the risks of providing Services. If you know of any risks or hazards in the place where your Services are delivered you need to let us know so that we can look into it.
- 14.4 We may at any time suspend the provision of Services to you while a risk referred to under this clause remains unrectified, and will recommence the Services once the risk has been addressed to our reasonable satisfaction.
- 14.5 While we acknowledge and respect your autonomy, you acknowledge that there may be occasions where we or a Worker consider it necessary to enter the place where your Services are delivered, or take other action for your well-being and safety such as contacting the police, an ambulance or your Authorised Representative. You consent to

us or your Workers taking such action in circumstances where we reasonably believe that an emergency exists. Details of steps to be taken in an emergency will be set out in your Help Plan.

## **15 Medication support**

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- 15.1 As part of your Help Plan you may ask us to provide medication support to you.
- 15.2 If medication support is being provided, you understand that:
- (a) Helpers can only provide assistance in line with your Help Plan and which is consistent with their level of training, skill and competence. Additionally, Helpers can only provide assistance in accordance with any medical practitioner order and the medication packaging directions;
  - (b) Helpers may provide supervision, verbal prompting or physical assistance to you with prescription oral medication as packed in the original packaging labelled for the individual consumer, sachets or a dose administration aid (such as a Webster Pack) packaged by a pharmacist;
  - (c) Helpers may provide supervision, verbal prompting or physical assistance to you for other prescription medication such as creams, patches, eye/ear drops, and inhalers;
  - (d) Helpers may provide supervision, verbal prompting or physical assistance to you for over the counter medication as directed and packed in original labelled packaging;
  - (e) Helpers cannot assist with:
    - (i) decision making relating to medication management (for example, withholding a medication);
    - (ii) schedule 8 medications which are not supplied in a dose administration aid or patch;
    - (iii) any food or medication via PEG feeds or flushing tubing;
    - (iv) injections;
    - (v) any rectal or vaginal routes of medication delivery;
    - (vi) setting up or managing a syringe driver.
  - (f) Helpers may require further training to provide the assistance requested; and
  - (g) Helpers may report any concerns or incidents related to medication to us, or any other person or service provider involved in your care.
- 15.3 You agree that you will be responsible for the sufficient supply and safe storage of your medications (particularly any schedule 8 medications).
- 15.4 You agree that you will keep a list of your current medications and ensure that it is readily updated by your medical practitioner.
- 15.5 You agree to inform Five Good Friends should there be any changes to your medications.
- 15.6 You agree that Five Good Friends can contact and request information about your health conditions and medications from your treating general practitioner and pharmacist.

## **16 Independent contractors and insurance**

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- 16.1 We recommend you acquire and maintain with a reputable insurer home and contents insurance and legal liability insurance at your place of residence.
- 16.2 If you request transportation Services from a Helper as part of your Services using your vehicle, you must ensure your vehicle is registered, covered by relevant third party personal insurance in the relevant jurisdiction, and is fully comprehensively insured and roadworthy for driving in Australia. You must provide Five Good Friends with documentation confirming these arrangements are in place if requested.
- 16.3 You acknowledge that the majority of the NDIS services delivered by Five Good Friends are delivered by independent contractors. If you are matched with a Helper who is a contractor:
- (a) it is important that you have appropriate insurance in place, including:
    - (i) home and contents, legal liability and vehicle insurance as specified above;
    - (ii) household workcover insurance, wherever it is available in the State/Territory where you live; and
  - (b) should a claim arise you agree to assist with facilitating a claim against any insurance you hold and participating in any investigation or other process that may be required to facilitate the claim.

## **17 Termination and assignment**

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### **17.1 If you want to end this Agreement**

- (a) You may terminate this Agreement for any reason by providing us with 14 days' written notice of your intention to terminate this Agreement. This Agreement will terminate 14 days' from the date of your notice, unless you specify a later date for termination.
- (b) If you decide to terminate this Agreement, you still need to pay:
  - (i) the Fees and Charges for any Services provided during the 14-day (or longer as agreed) notice period; and
  - (ii) any other Fees and Charges that are outstanding when the Agreement terminates.

### **17.2 If we want to end this Agreement**

- (a) We may terminate this Agreement for any reason by writing to you at least 14 days before we want to terminate this Agreement. We may also terminate this Agreement if:
  - (i) our Workers are in danger;
  - (ii) you intentionally cause serious damage to our property, or you injure someone; or
  - (iii) you commit a Material Breach of this Agreement.
- (b) If we terminate this Agreement, you will still need to pay:

- (i) the Fees and Charges for any Services provided during the 14-day (or longer as agreed) notice period; and
- (ii) any other Fees and Charges that are outstanding when this Agreement terminates.

### **17.3 If we need to transfer this Agreement**

In some cases we may transfer this Agreement to someone else, for example if we sell our business or change our business structure. If we are transferring this Agreement to someone else we will give you notice in writing.

### **17.4 Termination upon your death**

This Agreement will terminate on the death of the Member, however any outstanding Fees and Charges will remain payable from your NDIS Plan or estate.

### **17.5 Continuing obligations**

The obligations of the party arising before the end of this Agreement continue until they are fulfilled or otherwise terminated.

## **18 Suspension of supports and changes to Services**

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- 18.1 If you fail to pay any Fees and Charges owing under your Agreement, we may suspend Services until any outstanding amount is paid in full. We will notify you of this prior to suspending Services.
- 18.2 You may suspend the Services on a temporary basis, for example if you go to hospital or for social reasons.
- 18.3 If you wish to suspend the Services you must give us no less than 24 hours' notice of the commencement date of the suspension of Services (except where there is an emergency).
- 18.4 If you notify us that you want to suspend Services, we will consult with you about what this means for your Budget and your Fees and Charges.
- 18.5 You must give us no less than seven days' notice of when you wish the suspended Services to recommence.

## **19 Changing and cancelling a scheduled Service**

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- 19.1 We ask that you provide reasonable notice for a change or cancellation of any scheduled Service.
- 19.2 If you request to change or cancel a scheduled Service with less than 24 hours' notice then you will be charged in full for the Service.
- 19.3 We will try to tell you at least one day before we need to change or cancel any scheduled Service. This may not always be possible, for example, if there is an emergency or something happens that we are not able to control.
- 19.4 If the Helper cancels the scheduled Service with less than 24 hours' notice then we will take reasonable measures to reschedule the Service if agreeable with you or to source an alternative Helper. There will be no additional cost to you for these actions. The Helper who cancelled will not receive any payment for this cancelled Service.

## **20 Indemnity**

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- 20.1 You agree to the extent permitted by law to release and indemnify us and your Workers from and against any Loss, including in relation to any personal injury or property damage suffered by any person, arising from any:
- (a) performance of the Services under this Agreement;
  - (b) any claim made by or on behalf of a third party in relation to or arising out of performance of the Services under this Agreement;
  - (c) breach of your obligations under this Agreement for a reason within your control; or
  - (d) unlawful or negligent act or omission by you, your Authorised Representative or any of your visitors.
- 20.2 The indemnity provided under clause 20.1 will be reduced proportionately to the extent that the Loss or damage was contributed to by any unlawful or negligent act or omission by us or your Helpers.
- 20.3 Where guarantees cannot be excluded under the Australian Consumer Law, then, to the extent permitted by the Australian Consumer Law, our liability is limited to, at our sole discretion:
- (a) In respect of Services:
    - (i) the supplying of the Services again; or
    - (ii) the payment of the cost of having the Services supplied again.
- 20.4 Our website has information about the Services, Helpers and other matters on it, and a number of disclaimers and waivers of liability are contained on the website or delivered through the App. You agree not to make any claim against us in respect of anything disclaimed in a disclaimer or any liability a disclaimer says you waive. You confirm that you have relied entirely on your own enquiries relating to the Services we have not made any representation or warranty or promise of any nature except as expressly contained in this Agreement.
- 20.5 This clause will survive expiration or termination of this Agreement.

## **21 Privacy, Confidentiality and Personal Information Consent**

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- 21.1 You and we will comply with our privacy, confidentiality and Personal Information obligations, as set out in Schedule 2.
- 21.2 We ask that you or your Authorised Representative sign Schedule 2 when you sign this Agreement.

## **22 Goods and services tax**

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- 22.1 The supply of your Services may be GST-free, but only if all of the requirements under the GST Act, and the GST Determination where relevant, are met. For NDIS services these requirements are, generally, where:
- (a) you have an NDIS Plan in effect;
  - (b) the Services you receive are reasonable and necessary supports that are specified in the statement of supports in your NDIS Plan;

- (c) there is a written agreement (such as this Agreement) between you and us;
  - (d) the Services are covered by one of the relevant tables in the GST Determination.
- 22.2 There may be some circumstances where the supply of your Services will not be GST-free. For example, where your NDIS Plan specifies an amount such as time or quantity of reasonable and necessary supports, any Services you receive in excess of these specifications will generally not be GST-free (unless some other reason applies to make the supply GST-free).
- 22.3 If any supply made by us under this Agreement or any variation to it is a taxable supply for the purposes of the GST Act, then in addition to any amount of Fees and Charges expressed as payable to us elsewhere in this Agreement, we will be entitled to recover from you an additional amount on account of GST, an amount of our GST liability in respect of each supply which will be recoverable at the same time as the amount of Fees and Charges is payable for any supply.

## **23 General**

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### **23.1 Electronic execution**

Without limiting any other method of signing or delivery permitted by law and subject to all applicable laws, the parties agree that:

- (a) each party may sign and deliver this document electronically;
- (b) the electronic signature, whether digital or encrypted, of a party on this document has the same force and effect as their manual or 'wet ink' signature; and
- (c) electronic transmission of a signed counterpart (whether signed electronically or otherwise) has the same effect as physical delivery of the hardcopy bearing an original manual or 'wet ink' signature of the signatory.

### **23.2 Counterparts**

This agreement may consist of a number of counterparts and, if so, the counterparts taken together constitute one agreement.

### **23.3 Notices**

Any notice or other written communication required under this Agreement may be given to you or your Authorised Representative.

### **23.4 Costs**

You and we will each pay our own costs of and incidental to this Agreement.

### **23.5 Variation**

- (a) This Agreement may be varied by mutual consent following adequate consultation between you and us but must not be varied in a way that is inconsistent with any applicable law, including, where relevant, the NDIS Act.
- (b) Any variation may be communicated in writing or via electronic communication.
- (c) The Agreement may be varied if it is necessary to implement changes to the GST Act.
- (d) Any variations to this Agreement will not be inconsistent with the GST Act, or, where relevant, the NDIS Act.

### 23.6 **Governing law and jurisdiction**

- (a) This agreement is governed by and is to be construed in accordance with the laws applicable in the Australian state in which the Services are provided.
- (b) Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of the Australian state in which the Services are provided and any courts which have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.

### 23.7 **Severance**

If any provision of this Agreement or its application to any person or circumstance is or becomes unenforceable, illegal or void, the remaining provisions of this Agreement shall not be affected and each remaining provision of this Agreement is enforceable to the greatest extent permitted by law.

### 23.8 **Delegation**

We may pass on to an agent or supervisor our rights, obligations and duties under this agreement and our power to make decisions and exercise discretions.

### 23.9 **Waiver and exercise of rights**

You and we are both entitled to exercise any right in this agreement regardless of any previous failure or delay in exercising the right. A party will not be taken to have excused future breaches of this agreement by its failure to deal with past breaches.

### 23.10 **Entire understanding**

- (a) This Agreement contains the entire understanding between you and us as to the provision of your Services.
- (b) All previous negotiations, understandings, representations, warranties, memoranda or commitments concerning the subject matter of this agreement are merged in and superseded by this agreement and are of no effect. No party is liable to any other party in respect of those matters.
- (c) No oral explanation or information provided by any party to another:
  - (i) affects the meaning or interpretation of this agreement; or
  - (ii) constitutes any collateral agreement, warranty or understanding between any of the parties.

## **PART THREE – SIGNATURES**

### **24 Clarify terms and obtain independent advice**

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- 24.1 You acknowledge that you have had the opportunity to have this Agreement explained to you, ask questions and obtain independent advice (including legal and financial advice) and that you are satisfied with all elements of the manner in which Services will be provided to you by us.
- 24.2 By signing this Agreement, you agree that you have read and understood the nature and effect of this Agreement and you have signed this Agreement freely and voluntarily and without any influence from us or any Worker.

**Executed** as an agreement.

**Signed for and on behalf of FiveGoodFriends Pty Ltd by its authorised agent**

Signature: \_\_\_\_\_

Print full name: \_\_\_\_\_

**Signed by Member**

Signature: \_\_\_\_\_

Print full name: \_\_\_\_\_

**Signed by Authorised Representative for and on behalf of the Member**

Signature: \_\_\_\_\_

Print full name: \_\_\_\_\_

## Schedule 1 Definitions and interpretation

### Definitions

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<b>Agreement</b>	means this Agreement and includes the schedules to this Agreement.
<b>App</b>	means software applications available for use on your mobile device or other computer in relation to the Services you receive through Five Good Friends.
<b>Authorised Representative</b>	<p>means the person who, as at the time of entering this Agreement, the Member has nominated to make decisions on their behalf, who must be:</p> <ul style="list-style-type: none"><li>(a) a person who holds an enduring power of attorney given by the Member; or</li><li>(b) otherwise duly appointed according to law with the authority and capacity to make decisions on behalf of the Member, including to sign this Agreement on their behalf.</li></ul> <p>The Authorised Representative has full access rights to the Member's account as if they are a Member.</p>
<b>Billing Recipient</b>	means you or the person nominated by you to receive your invoices or other financial information.
<b>Budget</b>	means the budget which sets out the Service items with unique reference numbers, the unit of measure, the quantity and the prices charged for Services and your Fees and Charges.
<b>Direct Debit Agreement</b>	means a direct debit form or agreement we require you to complete from time to time to facilitate payment of Fees and Charges.
<b>Equipment</b>	means any equipment in connection with providing your Services.
<b>Establishment Fee</b>	means a once off fee for establishing an NDIS Support Plan which includes personal care and/or community participation Services.
<b>Fees and Charges</b>	means all the fees, charges of any kind that we are entitled to charge you under this Agreement and the NDIS Act.
<b>GST</b>	means a tax, imposed or duty on goods, services or other things introduced by Commonwealth, State or Territory.
<b>GST Act</b>	means <i>A New Tax System (Goods &amp; Services Tax) Act 1999</i> (Cth) as amended.
<b>GST Determination</b>	means <i>A New Tax System (Goods and Services Tax) (GST-free Supply—National Disability Insurance Scheme Supports) Determination 2021</i> as amended, and includes any similar determination made for the purposes of section 38-38(d) of the GST Act.
<b>Help Plan</b>	means the Help Plan, available in the App or provided upon request, which is for support needs you have been assessed as requiring at the time you entered into this Agreement and includes any variations to the Help Plan which may occur from time to time.

<b>Helper</b>	means the person or persons authorised and verified by us to provide Services to you, and who may be an employee, independent contractor, or an employee of an independent contractor.
<b>Key Terms</b>	means the Key Terms set out in the beginning of this Agreement.
<b>Loss</b>	means any loss, damage, cost, interest, expense, fee, penalty, fine, forfeiture, assessment, demand, action, suit, claim, proceeding, cause of action or liability of damages incurred by a person, and includes the cost of any action taken by a person to protect itself against any loss or to preserve any right it has under this Agreement and any associated legal fees and disbursements on a full indemnity basis.
<b>Material Breach</b>	means a persistent and serious breach of a Material Term of this Agreement and any other fundamental breach that goes to the very essence of this Agreement and which the Member has failed to remedy despite having been given reasonable opportunity by Five Good Friends to do so.
<b>Material Term</b>	includes: <ul style="list-style-type: none"><li>(a) clause 11 regarding Fees and Charges;</li><li>(b) clauses 7 and 8 regarding conduct;</li><li>(c) clause 14 regarding health and safety; and</li><li>(d) clause 16 regarding independent contractors and insurance.</li></ul>
<b>Member</b>	means you, the person named as the Member in the Key Terms.
<b>Member Transport Fee</b>	means a fee we may charge you for any travel within a Service.
<b>myplace Portal</b>	applies to NDIS Funded and means the NDIS participant portal.
<b>NDIA</b>	means the National Disability Insurance Agency.
<b>NDIS</b>	means the National Disability Insurance Scheme.
<b>NDIS Act</b>	means the <i>National Disability Insurance Scheme Act 2013</i> (Cth).
<b>NDIS Plan</b>	means your NDIS Plan approved by the NDIA provided at the time you entered into this Agreement and includes any variations to your NDIS Plan which may occur from time to time.
<b>NDIS Rules</b>	means the rules made under the NDIS Act including those mentioned in section 209 of the NDIS Act.
<b>No Dealing Period</b>	means, the period during which you are receiving Services from a Helper and 6 months thereafter.
<b>Personal Information</b>	has the same meaning as it has in the <i>Privacy Act 1988</i> (Cth).
<b>Plan Manager</b>	means the financial intermediary engaged by you to process claims against your NDIS Plan.

<b>Provider</b>	means us, the organisation that will provide Services to you under this Agreement named in the Key Terms.
<b>Provider Travel Fee</b>	means a fee we may charge you for travel to a Service.
<b>Service(s)</b>	means the care, supports or Services provided to by us or a Helper and as detailed in this Agreement.
<b>Service Fee</b>	means fees associated with the provision of Services, provided by Helpers or Five Good Friends employees and payable by the Member in receipt of Services.
<b>We, us, our, Five Good Friends</b>	means the Provider set out in the Key Terms and its successors and assigns.
<b>Worker</b>	means a person authorised and verified by us to provide your Services or who carries out work in any capacity for Five Good Friends and includes: (a) a Helper; (b) an employee of Five Good Friends; (c) a person otherwise engaged (including on a voluntary basis) by Five Good Friends; (d) a person employed or otherwise engaged (including on a voluntary basis) by a contractor or sub-contractor of Five Good Friends and that person provides care or other Services to the Member through Five Good Friends; and (e) a person who is an independent contractor engaged by Five Good Friends.
<b>You, your</b>	means the Member set out in the Key Terms and where applicable, includes the Member's Authorised Representative.

## Interpretation

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In this Agreement, unless the contrary intention appears:	10	a reference to any legislation or statutory instrument or regulation is construed in accordance with the <i>Acts Interpretation Act 1901</i> (Cth) or the equivalent State legislation, as applicable, and includes a reference to an enactment, amendment or consolidated statute and any enactment substituted for the enactment and all legislation and statutory instruments issued under, such legislation or provision;
1 headings are for ease of reference only and do not affect the meaning of this Agreement and do not form part of the clause;		
2 the singular includes the plural and vice versa and words importing a gender includes other genders;		
3 words used in this Agreement and defined in the dictionary will have the meaning set out in the dictionary. Other grammatical forms of defined words or expressions have corresponding meanings;	11	words and expressions defined in the <i>Corporations Act 2001</i> (Cth) as at the date of this Agreement have the meanings given to them in the <i>Corporations Act 2001</i> (Cth) at that date;
4 a reference to a clause, paragraph, schedule or annexure is a reference to a clause or paragraph of, schedule or annexure to this Agreement and a reference to this Agreement includes any schedules and annexures attached to this Agreement;	12	words and expressions defined in the NDIS, if not already defined in this Agreement have the meanings given to them in the NDIS Act;
5 a reference to '\$', '\$A', 'dollar' or 'A\$' is a reference to Australian currency;	13	each clause in this Agreement is not, except where expressly provided, limited in meaning or effect by any other clause in this Agreement;
6 a reference to a specific time for the performance of an obligation is a reference to that time in the state, territory or other place where that obligation is to be performed;	14	any agreement, covenant, obligation, representation, undertaking, indemnity, guarantee or warranty entered into by a party for or with another person binds them jointly and severally and an agreement, covenant, obligation, representation, undertaking, indemnity, guarantee or warranty in favour of a party for or with another person is for the benefit of them jointly and severally. A release given to the other person shall not release the party from any other obligation. The granting of time or another indulgence to another person will not release the party of its obligations under this Agreement;
7 a reference to a right includes a benefit, remedy, authority, discretion and power;		
8 a reference to a party includes its executors, administrators, successors and permitted assigns and if more than one, includes those persons jointly and each of them severally, their respective executors administrators and assigns;		
9 words and expressions importing natural persons include partnerships, bodies corporate, associations (whether incorporated or not), firms, joint ventures, trusts, authorities, governments and governmental, semi-governmental and local authorities and agencies;	15	if the day on which:  (a) anything, other than a payment, is to be done is not a business day, that thing shall be done on the preceding business day;  (b) a payment is to be made is not a business day it shall be made

- on the next business day but if the next business day falls in the next calendar month it shall be made on the preceding business day; and
- (c) if an act, other than a payment or the giving of a communication, is required to be done on a particular day and
- 16 the act is done after 5pm on that day, it will be deemed to have been done on the following day;
- time is of the essence in the performance of this Agreement.

## **Schedule 2**

### **Privacy, Confidentiality and Personal Information Consent**

- 1 We are committed to the Australian Privacy Principles contained in the *Privacy Act 1988* (Cth) and our responsibilities relating to protection of Personal Information under the NDIS Act.
- 2 We will, as much as we can legally, keep any information you provide to us confidential.
- 3 Personal Information we hold about you will be:
  - (a) protected by security safeguards that are reasonable in the circumstances to protect against the loss or misuse of the information;
  - (b) managed according to law, this Agreement and our [Privacy Policy](#), which is available on our website (or you can ask for a copy any time).
- 4 Five Good Friends may collect, use and disclose Personal Information about you:
  - (a) to coordinate and provide Services,
  - (b) to assist with facilitating our internal business operations;
  - (c) as required to meet any legal and regulatory requirements;
  - (d) to provide you with information about us and the Services that we offer;
  - (e) to enable ongoing assessment of your support needs; and
  - (f) as otherwise authorised in our Privacy Policy and any privacy collection statement or other similar document you may sign from time to time.
- 5 We may collect your Personal Information from and disclose your Personal Information to:
  - (a) your Helper, including to assist with the provision of Services and the reporting of incidents or concerns between your Helper and Five Good Friends;
  - (b) your Authorised Representative;
  - (c) your nominated emergency contact;
  - (d) any other person you ask us to speak to about your care or Services;
  - (e) our related entities and affiliated organisations and service providers, who assist us in operating our business;
  - (f) a court, a tribunal or an authority or person with power to require the production of documents or the answering of questions, including regulatory bodies and government agencies.
  - (g) other service providers involved in your care or Services;
  - (h) the National Disability Insurance Agency (NDIA) and Government agencies;
  - (i) a previous service provider, if you are to move to our service from another service;
  - (j) your new, or prospective new service provider, if you move or propose to move from our service to another service;

(k) any other person or body as permitted at law.

**6** As we provide you with Services, we may leave records about your Services at your home. You agree that you will keep these records safe and secure and that you will inform us if any event or threatened event jeopardises the safety or security of this record.

**Signed by Member**

Signature: \_\_\_\_\_

Print full name: \_\_\_\_\_

**Signed by Authorised Representative for and on behalf of the Member**

Signature: \_\_\_\_\_

Print full name: \_\_\_\_\_