

Melior PBS Service Agreement Terms & Conditions

1. Roles of Parties

1.1. General Principles

Melior PBS will provide a range of services to the Client as described in the Melior PBS Service Agreement (hereafter known as the Agreement) and these Terms and Conditions which, together, form one legal document. Both Melior PBS and the Client agree to:

- a) Treat each other and their resources and property with respect at all times
- b) Abide by all known Melior PBS policies and procedures
- c) Adhere to all relevant legislative requirements and standards, including but not limited to the NDIS Disability Service Standards and NDIS Rules
- d) Review the provision of services outlined in the Agreement at agreed intervals
- e) Reasonably mitigate any Health and Safety risks at sites for which they are responsible and where services are being delivered, including the Client's home
- f) Not place each other at any unreasonable risk by their actions, including the consumption of cigarettes, alcohol or drugs
- g) Not consume or distribute any illegal substances
- h) Not undertake any discriminatory, aggressive or hateful actions

2. Description of Services

Melior PBS offers a range of services that can be used singly or in a range of combinations to respond to your needs and preferences to achieve your goals, as stated in your National Disability Insurance Scheme (NDIS) Plan.

Melior PBS has provided you with details of services, costs, and other relevant information within the Agreement to which these Terms and Conditions form a legal part.

In agreeing to provide the services stipulated under the agreement, Melior PBS will undertake the following:

- a) Work with you to identify and deliver positive behaviour support that meets your goals.
- b) Provide the agreed services according to your plan. Refer to the Schedule of Supports within the Agreement.
- c) Ensure that provision of supports and services specified in this agreement are consistent with *Disability Services Act 1993 (WA) (as amended)*; *the National Disability Insurance Scheme Act 2013 (Cth) (as amended)*; *Work Health and Safety Act 2020 (WA)*; National Disability Insurance Scheme, Quality & Safeguards Commission; National Standards for Disability Services (2013) and Australian Consumer Law.
- d) Ensure that prices of the services charged do not exceed the relevant or applicable NDIS and Department of Communities, Disability Services pricing policies, schedules and guidelines.

Services will be provided along the following lines:

- a) The priority for positive behaviour support is to support the client to have the best quality

of life and reduce behaviours of concern through evidence-based practices.

- b) Hours to be used to meet Client goals and priorities within the funding allocations reflected in the Schedule of Supports detailed within the Agreement. Services may include:
- direct assessment and intervention,
 - development of procedures and therapy programs,
 - resource development,
 - correspondence, including emails and phone calls,
 - documentation and case notes, reports and documentation for AT (equipment) prescription etc.,
 - attendance as required at specialist appointments,
 - training of support staff,
 - travel.
- c) The Decision-Maker may give instructions related to any aspect of the Agreement.

3. Client Responsibilities and Rights

3.1. Your rights

Whilst accessing services outlined in the Agreement, as a Client of Melior PBS you have the following rights:

- a) to nominate, in writing, an advocate, or next of kin who will act in your best interests and accept the responsibilities imposed under the Agreement. Alternatively, a Guardian may be appointed by the State Administrative Tribunal to act in your best interests.
- b) to be treated with dignity and respect and to have your choices and aspirations supported as far as is reasonably possible.
- c) to request services in accordance with your individual plan, including the type and range of activities you wish to participate in, provided the request is also in accordance with all applicable legislation.
- d) to direct the development of your individual plan acknowledging that the cost of supports arising from that plan must be able to be met within the funding available for such support.
- e) to review annually your individual plan. Additionally, your plan can be reviewed upon request by you or by Melior PBS with your consent.
- f) to privacy and confidentiality in keeping with the *Privacy Act 1988* (Cth) (as amended) and:
- *Freedom of Information Act 1992* (WA) (as amended);
 - *Disability Services Act 1993* (WA) (as amended);
 - *National Disability Insurance Scheme Act 2013* (Cth) (as amended);
 - Australian Privacy Principles (2014); and
 - Standard 1 of the National Standards for Disability Services (2013).

3.2 . Your responsibilities

Whilst accessing services outlined in the Agreement as a Client of Melior PBS, or where

someone is acting on your behalf, you or your representative will comply with the following responsibilities:

- a) Inform Melior PBS about how you wish the services to be provided.
- b) Participate in the process of developing person-centred goals and strategies with your practitioners.
- c) Provide information to Melior PBS about your needs before commencing services.
- d) Talk to Melior PBS about any concerns you have about the service.
- e) Inform Melior PBS if you need to put your plan on hold for longer than 6 weeks – for example if you are planning to travel overseas.
- f) Provide Melior PBS with information regarding any shared care or family court agreements, where relevant.
- g) Treat staff and other service users or clients with courtesy, respect and consideration at all times.
- h) Keep Melior PBS informed of any changes in relation to circumstances such as a change of address or support requirements.

4. Responsibilities of Melior PBS

In agreeing to provide services under the Agreement, Melior PBS will undertake the following:

- a) Discuss this agreement with you, your representative, family and other important people in your life.
- b) Keep you informed about your services regularly and answer your questions as soon as possible.
- c) Tell you about what to do if you have any concerns about, or do not agree with, something we do.
- d) Listen to you, your representative and your family's feedback and resolve any matters of concern quickly.
- e) Not share your personal information with others without your written consent, unless required by law or where your safety or the safety of others is at serious risk.
- f) Keep accurate and confidential records of the services we provide to you.
- g) Provided you have provided us with the appropriate information in a timely manner, tell your Local Area Coordinator or Support Coordinator if you are away for longer than 6 weeks so that they can place a hold on your funding and plan until you return.
- h) Tell the Local Area Coordinator, Support Coordinator or NDIS Planner if Melior PBS has been unable to provide the services we agreed.
- i) Be involved in ongoing liaison with the relevant funding body regarding the development and implementation of the support arrangements that are in place, if required.
- j) Advise you or your representative of any relevant sector-wide developments specific to Melior PBS that may affect the way support is provided to you.
- k) Provide information and support where you need to engage with mainstream health services.

- l) Provide you with access to relevant policies and procedures as and when requested.
- m) Effectively manage risks in relation to emergencies and disasters.

4.1. Managing emergencies and disasters

Our Business Continuity and Emergency and Disaster Management Plan, includes planning to ensure that the risks to participants' safety in an emergency or disaster are considered and our employees are ready to respond appropriately. The Plan includes actions to ensure the continuity of supports related to the services provided to you by Melior PBS.

Melior PBS does not provide accommodation and/or direct care services to NDIS participants. For this reason, participants, legal guardians, and/or service providers will be responsible for managing their own preparedness for emergency and disasters and continuity of supports related to services received other than from our organisation. Unless otherwise requested, Melior PBS will only plan and prepare for continuity of supports as contracted in the service agreement.

If in the occasion that an emergency or disaster occurs during a scheduled service at the participants' residing location, the participant, guardian, and/or service provider will need to communicate in advance to Melior PBS the role of our employees in assisting the participant and evacuation protocols.

5. Financial Arrangements

Melior PBS will claim payment for the provided services directly from the relevant funder wherever possible and will not invoice the Client directly in such cases. In this event, both Melior PBS and the Client shall be bound by all terms of the Agreement as though the service had been invoiced directly to the Client.

Where a Client has chosen to Self-Manage all or parts of their NDIS Plan or have elected to pay fee for service for their supports and services provided under the Agreement, after providing those supports and services, Melior PBS will produce an invoice for the Client to pay. The Client or their nominee will be required to make payment within 21 days from the date of invoice.

Where a Client's NDIS funding is Plan-Managed, the client or their nominee agree to provide Melior PBS with the details of their chosen plan-manager. After providing the supports and services, Melior PBS will produce an invoice and send it directly to the nominated plan-manager for payment. The Plan-Manager will be required to make payment within 21 days from the date of invoice.

The Client must inform Melior PBS whenever any funding streams change, including but not limited to, changes to NDIS plans or transitions into NDIS funding.

6. Indexation

The NDIA publishes a price guide for supports and services that service providers are allowed to charge for NDIS supports. The NDIS Price guide is updated regularly, taking into account adjustments for indexation and other costs.

The NDIA will automatically adjust relevant client plan budgets on the NDIA Portal to match the new price arrangements.

Melior PBS will automatically apply indexation rates for all applicable services that are listed in the Schedule of Supports as they occur and in accordance with the most up to date NDIS

Price Guide.

Melior PBS reserve the right to apply the maximum rate for applicable services at the time NDIA advise of any rate changes and in accordance with the NDIS Price Guide.

7. Variations, Extensions and Reviews

The Client may vary the contracted services as defined in the Agreement through discussion with the Melior PBS Contact Person. Melior PBS will not deny any reasonable request to vary the contracted services so long as such variations are a normal part of the Melior PBS service offerings and do not adversely affect any aspect of the Individual Plan or the relevant Melior PBS department as a whole.,.

A revised Agreement will be issued to the Client when any such mutually agreed variations are undertaken.

In the event that your plan review with National Disability Insurance Scheme (NDIS) is not completed prior to the plan end date, an automatic extension will be applied to your funding by the National Disability Insurance Agency. Melior PBS will continue to provide services in accordance with the Agreement and these Terms and Conditions until a new NDIS plan is approved, unless otherwise notified by you in writing.

Once a review has been undertaken and a new NDIS plan has been approved a new Services Agreement needs to be developed.

8. Cancellation

- a) Melior PBS may from time to time cancel a service due to unforeseen circumstances. On such occasions the Client will not be charged, and every effort will be made to schedule a new appointment at a time suitable to the Client. However, the Client recognises that this may not always be possible.
- b) Where you provide us with a Short Notice Cancellation (as defined below) Melior PBS will be able to claim 100% of the agreed fee associated with the subject support on the following basis.
 - i. Should you not present for a scheduled support within a reasonable time, or are not present at the agreed place and within a reasonable time of the scheduled support; or
 - ii. Should you have given less than two (2) clear business days' notice for a support that meets both of the following conditions:
 - the support is less than 8 hours continuous duration; AND
 - the agreed total price for the support is less than \$1,000; or
 - iii. Should you have given less than five (5) clear business days' notice for any other support.

9. Confidentiality

No Confidential Information may be disclosed by either Party to any person except:

- a) where the information is required for the purposes of executing the Agreement; or
- b) with the consent of the Party who supplied the information which consent may be given or withheld in its absolute discretion; or

- c) if either Party is required to do so by law; or
- d) if Melior PBS believes the Client or others to be at risk of abuse or neglect; or
- e) if either Party is required to do so in connection with legal proceedings relating to the Agreement.

10. Privacy

Melior PBS agrees with respect to any personal information held or collected in connection with the Agreement:

- a) to comply with the National Privacy Principles in the Privacy Act 1988 (Cth) and any other applicable law regarding privacy.
- b) to use that information only for the purposes of the Agreement and the delivery of the services defined in the Agreement.

11. Quality Assurance and Evaluations

To monitor the quality of our services, you or your nominated representative or guardian and Melior PBS may be requested to participate in a quality assurance process at any time during the term of the Agreement.

Melior PBS or the relevant funding body such as the Department of Communities, Disability Services or the NDIA will provide you with advance notice of any such evaluation and invite your participation.

12. Reviews and Audits

Recognising that Melior PBS has a legal obligation to participate in government-initiated reviews and audits, you, your nominated representative, your family or guardian agree to cooperate to the extent reasonably necessary for such reviews and audits to take place, subject to discussion of the relevance of such reviews and audits to your particular situation or service arrangement. Should the State Administrative Tribunal have appointed a Guardian to act in your best interests, the Guardian in question will have the prerogative to decide whether or not to participate in such reviews and audits.

13. Consent

Whilst accessing services outlined in the Agreement as a client of Melior PBS, or where someone is acting on your behalf, you or your representative agree to Melior PBS providing a copy of your NDIS plan and any related documentation to other service providers you have approved to provide services to you.

14. Feedback and Complaints

Melior PBS supports your right to provide feedback to our staff and management, to raise suggestions, resolve grievances and commend good performance. We encourage you, your representative, family or guardian to speak up when dissatisfied with our service.

If you have a complaint, Melior PBS's Service User Feedback and Complaints Policy will be followed.

Possible external contacts may include the following:

- The NDIA

- The NDIS Quality and Safeguards Commission
- Department of Communities, Disability Services, Consumer Liaison Officer
- Citizen Advocacy Perth West
- People With Disabilities WA (Inc.)
- Health and Disability Services Complaints Office (HaDSCO)
- Ombudsman Western Australia.

If you do not have any success getting your problem fixed, You or Your Representative may choose to make a complaint to the National Disability Insurance Scheme, Quality and Safeguards Commission:

Telephone Within Australia: 1800 035 544

Postal address:

NDIS Commission
PO Box 210
Penrith NSW 2750

Website: <https://www.ndiscommission.gov.au>

15. Guardian Consultation

Should this Agreement have been executed by a Guardian appointed by the State Administrative Tribunal then such Guardian must be consulted before Melior Positive Behaviour Support is considering activating any of the clauses and sub-clauses number 16 through to 22.5.

16. Dispute Resolution

16.1. Negotiation

Any Party (“Initiating Party”) claiming that a Dispute has arisen must give the other Party (“Recipient Party”) a notice setting out brief details of the Dispute (“Dispute Notice”). Within five business days of receiving a Dispute Notice, the Recipient Party must give the Initiating Party a response. If the Parties are unable to agree to a resolution to the Dispute within a reasonable period, the Initiating Party will be entitled to proceed to mediation.

16.2. Mediation

If the Dispute is not resolved in accordance with clause 15.1 above, the Parties must refer the Dispute to an independent mediator accredited under the National Mediation Accreditation System and appointed through the Citizens Advice Bureau of Western Australia. Each Party shall be responsible for their own costs for any mediation process.

16.3. Location of Mediation

Any mediation is to be conducted in Perth, Western Australia.

17. Liability

Melior Positive Behaviour Support

32 Burton Street Cannington Western Australia 6107
T 08 6253 4700 E hello@melior.org.au
melior.org.au

Melior Positive Behaviour Support is an
organisation of PeopleKind Group
ABN 11 652 673 553

To the maximum extent permitted by law, under no circumstances will Melior PBS be held liable for any direct, indirect, punitive, incidental, special, consequential or any other damages whatsoever including, but not limited to, damages arising out of or in any way connected with the provision of or failure to provide services, or for any information or advice obtained from Melior PBS staff, whether based in tort, contract, negligence, strict liability or otherwise, even if Melior PBS or any of its agents and/or suppliers have been made aware of the possibility of damages.

18. Property

Each Party is responsible for insuring their own property against loss or damage and neither Party will hold the other Party liable for any such loss or damage except where such loss or damage is caused by a malicious and deliberate act.

19. Termination

- a) If you or Melior PBS wishes to end the Agreement, both parties agree to give two (2) weeks' notice in writing to the other party.
- b) You or Melior PBS may wish to end or change the Agreement with the aim of addressing risks of harm to you, Melior PBS employees or other clients. Under these circumstances, we will support you and/or work with your Support Coordinator to identify an alternative suitable service arrangement that may be available within Melior PBS or externally through an alternative provider.
- c) If either party seriously breaches the Agreement, the requirement of notice may be waived in such exceptional circumstances.

20. Safeguarding

Where Melior PBS has reason to believe that the Client may be a victim of Abuse or Neglect it will undertake all necessary actions, in line with policy, practice and law, to ensure the matter is investigated and resolved in the most expedient and appropriate manner. Melior PBS reserves the right to use all available information and resources in support of any investigations or legal actions in order to prevent any Abuse or Neglect of the Client.

21. Travel and Transportation

Sometimes, travel is necessary by the practitioner to provide your service at your preferred venue.

Melior PBS will invoice for payment of necessary travel by the practitioner to provide your service at your preferred venue, in accordance with arrangements as outlined in the Schedule of Supports and as per the NDIS price guide.

Travel is charged at current NDIS approved prices for positive behaviour support and subject to change following NDIS reviews.

In line with the NDIS price guidelines, Melior PBS will charge for travel as follows.

- a) **Travel to client:** Maximum of 30 minutes of time at the hourly rate for the relevant support item.
- b) **Travel from client:** Maximum of 30 minutes for time spent travelling from their last client to their usual place of work at the hourly rate for the relevant support item.

- c) If a worker **provides services to more than one client** at a site, travel costs may be split between the clients.

22. General

22.1. Governing Law

The Agreement and Terms are governed by the laws of Western Australia.

22.2. Entire Agreement

The Agreement and these Terms and Conditions constitute the entire agreement of the Parties about its subject matter and supersedes all previous agreements, understandings and negotiations on that subject matter. Changes to the Agreement and Terms and Conditions can be made at any time by providing ten (10) working days' notice to the Client.

22.3. GST

Unless otherwise indicated, all consideration provided for a supply under the Agreement is exclusive of any GST imposed on the supply. Where GST is imposed on a supply under the Agreement, the recipient of the supply on receipt of a tax invoice must pay to the supplier an additional amount equal to the GST imposed on the supply.

22.4. Severability

The unenforceability or invalidity of any clause in the Agreement or Terms and Conditions shall not affect the enforceability or validity of any other clause.

22.5. Survivability

The following shall survive termination of the Agreement and Terms and Conditions (for whatever reason):

- all outstanding invoices and debts between the Parties;
- clause 8 ("Confidentiality & Privacy").

22.6. Definitions

Abuse	the violation of an individual's human or civil rights, through the act or actions of another person or persons. This includes self-harming by the Client on themselves.
Authorised Person	a legal guardian or has been defined as a Client Decision-Maker.
Client	the person(s) named in the Service Agreement to whom Melior PBS is providing the service(s) defined in the Agreement.
Confidential Information	any information concerning a party that is not publicly available or otherwise obtainable by a third party.
Funding Plan Client	a legal agreement between a government agency and the client committing government funds for the purpose of obtaining third party products services for the Client.
Individual Plan	the document that is agreed between Client and Melior PBS and defines the outcomes desired by the Client from the services provided by Melior PBS.
NDIA	the National Disability Insurance Agency.
Neglect	the harm caused as a result of the failure of those responsible for the care of children or vulnerable adults, including but not limited to the provision of support, food, shelter, clothing or hygienic living conditions.
Melior PBS Property	Any fixed, portable or electronic assets owned by Melior PBS, including but not limited to, buildings, vehicles and equipment.
Contact Person	the Melior PBS staff member who is nominated to act as the primary liaison between Melior PBS and the Client on all service-related matters.
Terms	the whole of the content of the Agreement and these Terms & Conditions

23. Amendments to Terms

The Client acknowledges and agrees that Melior PBS acting reasonably and to the extent reasonably necessary to protect Melior PBS's legitimate business interests may vary the Terms from time to time in accordance with the Minimum Notice Periods provided in the table below. Upon any change in the Terms Melior PBS will notify the Client which may be undertaken by way of email or letter.

If the Client does not agree to the changes in the Terms the Client may choose to terminate this Agreement by giving written notice to Melior PBS as soon as reasonable, but in any event no later than twenty (20) working days from the date the changes come into effect. In this event the Client shall not be charged any termination fees however any outstanding contractual obligations shall remain in force, including liability for all outstanding invoices and debts.

Type of Change		Minimum Notice Period
To comply with changes in NDIS policy, practices or associated legislation, regulations and rules		10 working days or shorter as required by law if the change is not adverse to the Client
Changes to pricing of existing services		20 working days or shorter if the change is not adverse to the Client
Introduction of any new charges		20 working days or shorter if the change is not adverse to the Client
Permanent changes to agreed services outlined in the Service Agreement due to a material change in Client circumstances		20 working days or shorter if the change is not adverse to the Client
Permanent changes to agreed services outlined in the Service Agreement as a result of such services no longer being offered by Melior PBS		40 working days or shorter if the change is not adverse to the Client
Changes of an administrative nature or which we make in order to fix an error, inconsistency or omission		20 working days or shorter as required by law if the change is not adverse to the Client
Any other change which we reasonably consider will not		No later than the date the change takes effect

be adverse to you		
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