

# Sports Voucher Provider Terms & Conditions

## Definitions

In this Agreement:

1. **"ANTS(GST) Act"** means the *A New Tax System (Goods and Services Tax) Act 1999*;
2. **"ASC"** means the Australian Sports Commission;
3. **"Eligible Child"** means a child which meets the eligibility criteria set out in clause 20;
4. **"Eligible Provider"** means an entity which meets the criteria set out in clause 19;
5. **"GST"** has the meaning provided under the ANTS(GST) Act;
6. **"GST Rate"** has the meaning provided under the ANTS(GST) Act;
7. **"membership"** means
  - (a) being a member of an Eligible Club and participating in sporting activities as part of that membership; or
  - (b) where an Eligible Child otherwise participates in sporting activities provided by an Eligible Club for a fee even if they do not register as a member;
8. **"Minister"** means the Minister for Recreation and Sport, represented under this Program by the Office for Recreation and Sport;
9. **"Primary School Aged"** means where a child is eligible to attend and be enrolled in primary school (between the years reception to year 7) in South Australia);
10. **"Subsidy"** means a payment (of a value and paid in a manner determined by the Minister) per Eligible Child as a partial Subsidy to the Eligible Child of the cost of that child's membership with you;
11. **"Personnel"** means your officers, employees, members, volunteers, associates, agents, contractors or sub-contractors (however referred to) or any other person connected to, involved with or representing you and your activities as a sporting club or organisation or an entity providing sporting memberships to Eligible Children;
12. **"Program"** means the Government of South Australia's Sports Vouchers program which is being administered and run by the Minister; and
13. **"Taxable Supply"** has the meaning provided under the ANTS(GST) Act;
14. **"you"** refers to the legal entity (which could include an incorporated sporting club, sole trader or partnership) which is agreeing to these terms and conditions.

## Formation of Agreement

15. The fact that you meet the eligibility criteria and agree to the terms and conditions set out in this document does not create an Agreement between you and the Minister or oblige the Minister to execute this Agreement or accept your participation in the Program.
16. An Agreement will only be formed on these terms and conditions upon notification by the Minister (or the Office for Recreation and Sport), which may be provided in the Minister's sole discretion based on criteria set out in this document and any other information deemed relevant by the Minister, that your registration with the Program has been accepted. Where this occurs, a legally binding agreement will exist between you and the Minister.

## Term

17. Subject to clause 18, the **Term** of this Agreement, commences upon your acceptance of these terms and conditions and expires on 1 March 2018, unless earlier terminated.
18. The Minister may extend the Term for a further year by issuing notice in writing to you by no later than 1 March 2018.

## Eligibility Criteria

19. You warrant that you meet, and will at all times during the Term meet the following eligibility criteria:
  - a. you provide sporting memberships to Eligible Children which includes either training sessions, sporting matches or other sporting activities for participation by Eligible Children which last, and require the participation of the child, for a duration of not less than 10 weeks;
  - b. you are either
    - i. an association incorporated under the *Associations Incorporation Act 1985*;
    - ii. another form of legal entity carrying out a for-profit business and registered which holds an Australian Business Number under the *A New Tax System (Australian Business Number) Act 1999*;
  - c. you and your Personnel at all times during the Term comply with all statutory requirements relating to the protection of children including but not limited to the provisions (as amended from time to time) of:
    - i. the *Children's Protection Act 1993* and in particular provide a "child safe environment" by complying with Part 2, Division 3 of that Act;
    - ii. the *Children's Protection Regulations 2010*; and
    - iii. any other documents with which compliance is required thereunder;
  - d. if you are a for-profit entity, you are formally affiliated with the relevant state sporting body (being a body either recognised by the ASC or affiliated to a national sporting organisation which is recognised by the ASC) for the relevant sport; and
  - e. either:
    - i. the sport for which you provide memberships is a sport recognised by the ASC (a current list can be found at [www.ausport.gov.au](http://www.ausport.gov.au)); or
    - ii. you provide sporting memberships for Eligible Children and hold a formal affiliation with a national sporting organisation recognised by the ASC (a current list can be found at [www.ausport.gov.au](http://www.ausport.gov.au)).
20. Each child for whom you are claiming a Subsidy meets the following criteria:
  - a. the child is Primary School Aged child at the time when the membership commenced;
  - b. the child resides in South Australia; and
  - c. a Subsidy under the Program has not already been paid or applied for (whether by you or any other Eligible Provider) in respect of the child in the calendar year in which you are applying for the subsidy and the membership applies (only

- one Subsidy is payable per Eligible Child per calendar year under the Program); and
- d. the child has a membership with you which requires the child to participate in either training sessions, sporting matches or other sporting activities for a duration of not less than 10 weeks.

### Membership Fees

21. The purpose of the Subsidy is to allow you to offer Eligible Children a discount on a sporting membership with you. The membership must:
  - a. be for a sporting membership and cannot be used to reimburse of pay for equipment or for a one-off activity; and
  - b. must be in relation to a sporting program of a minimum duration of, and require the participation of the child for 10 weeks.
22. The Subsidy will only be payable where the child has paid their membership fees in full (subject to allowing a discount on account of the Subsidy) at the time that you apply for the Subsidy.
23. You must use the Subsidy to provide the Eligible Child with a discount on membership fees and you must not retain or absorb the Subsidy. For each membership for which a Subsidy is paid by the Minister you must provide the child with a discount off their membership.
24. You must not in any way increase your membership fees or structure your membership fees so that the benefit of the Subsidy is not passed on to the relevant Eligible Child.
25. Where at any time during the Term you increase your membership fees payable by Eligible Children by a percentage greater than the percentage change of the All Groups, Adelaide Consumer Price Index in the year immediately prior to the change in membership fees, you must if requested by the Minister demonstrate the reason for the increase in your membership fees (for example, as a result of any additional cost incurred by you).
26. If, following the provision of information under clause 25, the Minister is not satisfied in its sole discretion that the increase in membership fees is justified, the Minister may require that you repay all Subsidies paid to you in the relevant period and is not require to pay any further Subsidies under this Agreement. Where the Minister exercises its rights under this clause you must not recover any monies repaid to the Minister from Eligible Children.

### Collection of information and privacy

27. For each Eligible Child for whom you are claiming a Subsidy under this Agreement you must:
  - a. collect and provide to the Minister (in such format as required by the Minister) the following information:
    - i. the name, date of birth and address of the child;
    - ii. the ethnicity of the child;
    - iii. confirmation of whether the child has played sport previously;

- iv. the child's Medicare number (or Australian Visa number if the child does not have a Medicare number); and
- b. obtain the express written consent of the child's parent or guardian to collect the information set out in clause 27(a) and provide it to the Minister for use by the Minister for the purpose of administering this Agreement and the Program;
- c. provide confirmation to the Minister (in such form as determined by the Minister) that you have obtained the consent required under clause 25(b); and
- d. unless otherwise agreed between you and the child's parent and guardian, not use the information set out in clause 27(a) for any purpose other than for the purpose of this Agreement.

28. All personal information provided to the Minister under this Agreement will be used and disclosed by the Minister in accordance with the Government of South Australia's Information Privacy Principles Instruction (a copy of which can be found at [www.dpc.sa.gov.au](http://www.dpc.sa.gov.au)).

### Child Safe Environment

29. You warrant and agree that you and your Personnel are solely responsible for maintaining a child safe environment at all times and complying with, and keeping fully informed of any updates to, all legal requirements relating to this and other child protection requirements, whether imposed under this Agreement, by legislation or otherwise at law.

### Payment of the Funding

30. Where you are eligible for the payment of a Subsidy under the terms and conditions of this Agreement, this Subsidy must be applied for and will be paid pursuant to such processes and using such forms as determined by the Minister from time to time.
31. To the extent that any payment of Subsidies under this Agreement amounts to a payment for a Taxable Supply:
  - a. the Subsidy is exclusive of GST;
  - b. you warrant that you are registered for GST (and will immediately notify the Minister if you cease to be registered) and that your ABN is provided to the Minister upon your acceptance of these terms and conditions;
  - c. the Office for Recreation and Sport is registered for GST and their ABN is 81 213 956 472;
  - d. you agree that you will not issue tax invoices for the Taxable Supply;
  - e. you permit the Minister to create and issue recipient created tax invoices for the Taxable Supply; and
  - f. in addition to the Subsidy the Minister will pay you an additional amount to account for the GST payable on the Taxable Supply which will be determined by multiplying the Subsidy by the GST Rate.

### Repayment of Funding

32. If at any time it becomes apparent that a Subsidy has been paid and:

- a. the child was not an Eligible Child;
- b. you are not an Eligible Provider;
- c. you have in any way failed to comply with the terms and conditions of this Agreement in relation to the Subsidy,

then, without in any way derogating from any other right of the Minister under this Agreement or at law, the Minister may issue a notice in writing requesting that you repay the payment in full by a period set out in the notice.

### Termination and Suspension

- 33. You may terminate this Agreement and withdraw from the Program at any time by providing 1 months' notice in writing to the Minister.
- 34. Without derogating from any other right of the Minister, the Minister may, at the Minister's sole discretion and option, suspend your participation in the Program or terminate this Agreement immediately by notice in writing at any time if:
  - a. you commit a breach of this Agreement and fail to remedy such breach within one month of receiving a notice from the Minister requiring you to rectify the breach;
  - b. you commit a breach of this Agreement which, in the opinion of the Minister, cannot be remedied or is of such significance to the Minister or the Program to require immediate termination (including without limitation where you have committed any fraud or act of dishonesty in claiming Subsidies);
  - c. you are not, or cease to be, an Eligible Provider;
  - d. you claim a Subsidy for any child who is not an Eligible Child (except in instances where you can provide to the Minister's satisfaction that this was the result of an honest mistake);
  - e. you or any Personnel are involved in any conduct which, in the reasonable opinion of the Minister is:
    - i. prejudicial to the interests and aims of the Program, the Minister or the Crown in right of the State of South Australia;
    - ii. likely to cause damage or harm to the reputation of the Program, the Minister or the Crown in right of the State of South Australia; or
    - iii. likely to bring the Program, the Minister or the Crown in right of the State of South Australia into disrepute
  - f. you or your Personnel fail to comply with a statutory requirement relating to the protection of children including but not limited to the provisions (as amended from time to time) of:
    - i. the *Children's Protection Act 1993* including but not limited to Part 2, Division 3 of that Act;
    - ii. the *Children's Protection Regulations 2010*; and
    - iii. any other documents with which compliance is required thereunder; or
  - g. your Personnel or any other person who is in any way involved with, engaged by or otherwise related to you or at any time present at an event or activity conducted by you is the subject of any allegation, arrest, charge or conviction for a sexual offence or an offence of indecency or any offence against a child.

- 35. Where your participation in the program is suspended pursuant to clause 34:
  - a. the Minister is not required to pay any subsidy to you during the course of that suspension;
  - b. the Minister may undertake any relevant enquiries or actions relating to the reason for the suspension, or ask you to take any necessary actions, with a view to resolving the reason for the suspension as soon as possible; and
  - c. the suspension does not derogate from any other right of the Minister including any right to terminate this Agreement.
- 36. Termination of this agreement does not affect any rights or obligations of the parties which accrued prior to the termination, except that the Minister is not required to make any payment of a Subsidy following a termination by the Minister under clause 34.

### Recording, Audit and Inspection

- 37. You must prepare financial statements at the end of each financial year during the Term which record the payment of Subsidies and the memberships to which the Subsidies were applied.
- 38. During the Term and for a period of two years after the expiry or termination of the Term you must keep a record of all information relating to the Subsidies applied, including all information required under clause 27 and all information produced or received by you that is relevant to your or your Personnel's compliance or otherwise with all statutory requirements relating to the protection of children including but not limited to the provisions (as amended from time to time) of:
  - i. the *Children's Protection Act 1993* including but not limited to Part 2, Division 3 of that Act;
  - ii. the *Children's Protection Regulations 2010*; and
  - iii. any other documents with which compliance is required thereunder.
- 39. You must ensure that all records and information collected or held by you as part of the Program or under this Agreement (including any personal information collected) must be stored securely and only used by you and relevant Personnel for the purpose of the Program and this Agreement.
- 40. You must allow any officer or person authorised by the Minister to enter your premises to inspect and audit your operations (including equipment, premises, accounting records, documents and information) and interview your Personnel on matters pertaining to the Program and your compliance with this Agreement. You cooperate with the Minister and any officer or person authorised by the Minister in the conduct of an audit and must provide them with such information requested by them and relating to the Program or your obligations under this Agreement.

### Survival

- 41. Clauses 27-29 , 32 and 37-45 survive the expiry or termination of this Agreement.

## Rules and Legislation

42. You must at all times comply with the laws in force in the State of South Australia and with any constitution or rules which govern your operations.

## Insurance and Risk

43. Unless specified as “not required” in Attachment 1, you must take out and maintain for the Term a policy of public liability insurance for not less than the amount \$10 million.
44. You must provide a copy of the certificate of insurance for the insurance policy if required by the Minister.
45. You acknowledge and agree, and must inform (in writing) parents and guardians of all children who apply for a Subsidy through you, that the Minister's sole obligation under this Agreement is the provision of the Subsidy and this Agreement does not operate to place any additional obligations on or create any additional liability or duty on the Minister or the Crown in right of the State of South Australia in relation to the provision of the membership or sporting activities by you.

## Variation of Agreement

46. The Minister may at any time during the Term vary the terms and conditions of this agreement unilaterally by providing notice in writing to you. Where this occurs, the amendments will come into effect within 14 days of date on which notice was issued to you.

## No Assignment

47. You must not assign, transfer or encumber any of your rights or obligations under this Agreement.

## Auditor-General

48. Nothing in this Agreement derogates from the powers of the Auditor-General under *the Public Finance and Audit Act 1987 (SA)*.

## Disclosure

49. The Minister may disclose this Agreement and/or information in relation to this Agreement in either printed or electronic form to the public or to a particular person as a result of a specific request. Nothing in this clause derogates from:
  - a. your obligations under any provision of this deed; or
  - b. the provisions of the *Freedom of Information Act 1991 (SA)*.