

# WEBSITE TERMS & CONDITIONS

## WEBSITE TERMS AND CONDITIONS

Thank you for visiting our website. These website terms and conditions (the "**Agreement**") govern your use of our website located at [www.playtherapyschool.au](http://www.playtherapyschool.au) (the "**Site**") and constitute a legally binding agreement between you, the user of the Site (hereinafter referred to as "**you**" or by any other pronoun) and us, Therapy Kids SA Pty Limited, ABN 15 647 281 838, the owner of the Site, trading as Play Therapy South Australia (the "**Business**"), of 2 Main North Road Gawler, SA (the "**Business Address**") (hereinafter referred to as "**we**", "**us**", "**our**" or by any other pronoun). By using our Site, you are deemed to acknowledge, agree and accept that you have read and understood this Agreement and our Privacy Policy (which may be accessed at [www.playtherapysa.com.au/privacypolicy](http://www.playtherapysa.com.au/privacypolicy)), and that you agree to be legally and unconditionally bound by this Agreement and the Privacy Policy. You represent and warrant to us that you have the authority and the legal capacity to enter into this Agreement. If you do not agree to the terms and conditions of this Agreement and our Privacy Policy, please do not use our Site. You may contact us if you have any questions on:

**Email:** [hello@playtherapysa.com.au](mailto:hello@playtherapysa.com.au)

**Telephone:** 0439996548

### 1. INTERPRETATION

In the interpretation of this Agreement:

- (a) "**Confidential Information**" means all data, information, documents and records (including any drafts, duplicates and extracts thereof), in whatever form, whether verbal, written, graphic, visual, electronic or physical (together, the "**information**") concerning us, our Business, or any person or entity related to us, which may include, without limitation:
  - (i) as a non-exhaustive list, any know-how, work product, recipes, ingredient lists, technical, commercial, suppliers or customers information, codes, methodologies, techniques, software, processes, artwork, advertising, marketing and other manuals, formulae, formulations, designs, sketches, photographs, research, plans, drawings, forms, specifications, samples, studies, findings, ideas, IP, trade secrets, models, prototypes, products, or concepts;
  - (ii) any information imparted in discussions or obtained through inspections or by any other method from us;
  - (iii) any information marked as 'confidential', or which the parties are instructed is confidential or is to be kept confidential;
  - (iv) any information disclosed to the parties which would, to a reasonable person, indicate it is information which, if disclosed to third persons, may cause a party to sustain loss or damage;
  - (v) any information provided in relation to the Agreement;
  - (vi) but does not include information that is in the public domain; and
- (b) "**IP**" means all intellectual property rights, title and interests, anywhere in the world, including which subsist (or may hereafter subsist) in:
  - (i) intellectual property that existed prior to, or created independently of, this Agreement;
  - (ii) any Confidential Information, designs or circuit layouts;
  - (iii) copyright, inventions and discoveries (including patents);
  - (iv) domain names, business names and social media accounts; and
  - (v) any activity in the commercial, scientific, literary, or other field; whether or not now existing, and either registered or registrable.

### 2. LICENCE TO USE

- (a) We grant you a non-exclusive and non-transferable licence to use the Site in accordance with the terms and conditions set out in this Agreement. You may access, view and use the Site in the normal and usual course, for your own, personal, and non-commercial, purposes.
- (b) We reserve the unconditional right to cease the operation of our Site, at any time, and for any reason whatsoever, without notice to you, which will have the effect of immediately, automatically, and completely, revoking your licence to use this Site. The Site may not operate on a continuous basis and may be unavailable from time to time.

### 3. RESTRICTIONS ON USE

- (a) You must not, without obtaining our prior written approval, modify, copy, adapt, deconstruct, reengineer, reproduce, distribute, sell, transfer (electronically or otherwise), display, perform, communicate, publish, advertise, promote, market, licence or commercially exploit, any information, Confidential Information, goods and/or services, and without limitation, any IP, either published on, or comprised in, the Site.

- (b) You must not add or affect the Site with any data or content, unless you have obtained our prior written approval. We reserve the right to deny such a request for any reason, including if it may:
  - (i) cause us or you to breach any law or legal obligation;
  - (ii) be offensive, indecent, improper, criminal or illegal;
  - (iii) defame or disparage us, our employees, agents or the Site; and
  - (iv) infect our Site (or any other system) with a virus or malicious data.

### 4. RELIANCE ON CONTENT

- (a) We give no representation or warranty (express or implied) as to the accuracy, truthfulness, quality, relevancy, reliability, compliance, safety, currency, legality, or completeness, of the data or content published on, or comprised in, our Site, or on any website linked to our Site, nor do we represent or warrant that the data or content on our Site, or any website linked to our Site, is defect or virus free. We do not endorse the data or content on any linked website. Your use of our Site or any third-party website is done entirely at your own risk.
- (b) All warranties, conditions or other terms (whether express or implied under any law) obliging us, in any way, whether now or in the future, that are not incorporated in writing into this Agreement, are excluded from this Agreement to the greatest extent permitted by the law.
- (c) The content on our Site is provided as general information only which may be varied or removed from the Site at any time and without notice to you. The content is not legal, financial, or other professional advice.

### 5. CONFIDENTIAL INFORMATION & IP

- (a) As to the Confidential Information, you (and your employees, contractors, agents, any related person or entity, or any person or entity undertaking any act, or omission, on your behalf) must:
  - (i) protect and keep secure any Confidential Information that comes to your knowledge, or is given, or accessible, to you;
  - (ii) keep our Confidential Information in strict confidence at all times, whether prior to, during or following, your use of our Site; and
  - (iii) not disclose the Confidential Information to any third party without our prior written approval.
- (b) As to the IP, you (including any of your employees, contractors, agents, any related person or entity, or any person or entity undertaking any act, or omission, on your behalf):
  - (i) acknowledge, agree, and unconditionally accept, that:
    - (A) all rights, title and interests comprised in the IP published on, or comprised in, the Site or relating to us, is our exclusive property, including any IP added to our Site by you or created by you, whether solely or jointly, howsoever, in the course of interacting with our Site (the "**User IP**"), which automatically vests in us and becomes our property absolutely;
    - (B) you waive all rights, title and interests comprised in the User IP (including, but without limitation, any right to charge royalties or any other fees, costs or charges against us);
    - (C) we are entitled (including any person or entity authorised by us) to use the User IP in any way whatsoever that we, in our sole, absolute, and unfettered, discretion, think fit;

- (D) nothing in this Agreement constitutes a transfer or assignment of any IP to you or any other person or entity;
- (ii) irrevocably and unconditionally appoint us to be your attorney, to do all things and sign all documents (and you agree to do all things and sign all documents as directed by us) to vest the User IP in us;
- (iii) consent to all uses, acts, or omissions, by us or our assignees, licensees, or successors, or any of our authorised persons, in relation to any User IP, which may otherwise constitute a breach of your moral rights or the moral rights of a third party; and
- (iv) represent and warrant to us that you have all necessary rights, title, interests, licences and/or consents to grant us the rights, title and interests to the User IP as set out in this Agreement.

## 6. LIMITATION OF LIABILITY

- (a) You acknowledge and accept that we (including our directors, officers, shareholders, employees, agents, contractors, any related person or entity) are not liable to you (or any of your employees, contractors, agents, any related person or entity, or any person or entity undertaking any act, or omission, on your behalf), (without limitation):
  - (i) any direct, indirect, special, consequential or exemplary damages, or any losses, harm or injuries, of any nature or kind whatsoever;
  - (ii) any loss of data, the interruption of business, the loss of profits, loss of revenue, loss of production, loss of business opportunity, loss of use of any equipment, system or facility, or loss of reputation;
  - (iii) any legal or other costs, charges, expenses, or liabilities, whatsoever, which you incur, suffer or pay, directly or indirectly, whether now or in the future, either yourself, or to any third person or entity, as a result of any action, demand, claim, proceeding or litigation arising from, relating to, or connected with, without limitation, any breaches of this Agreement, any breaches of the law, regulations, rules or standards imposed by any Commonwealth, state or local government or authority, any personal injuries or deaths, any damage to tangible or intangible property, as a result of any lawful or unlawful acts, omissions, breaches, use of the User IP, fault or negligence by us (or our directors, officers, shareholders, employees, agents, contractors, any related person or entity) or arising directly or indirectly out of your access to, or use of, the Site or any website linked to our Site, or your use of or reliance on any content published on, or comprised in, our Site.
- (b) If you are deemed a **"Consumer"** under the Australia Consumer Law (**"ACL"**), nothing in this Agreement restricts, limits or modifies your rights or remedies against us for a breach of a guarantee under the ACL.
- (c) In the event that we are found to be liable to you (under any legal theory), you agree and accept that our aggregate liability to you is strictly limited to the total amount of any fees, costs or charges you may have paid to access, view, use or interact with our Site (and in the event that you did not pay any such fees, costs or charges and you merely used our Site, free-of-charge, then we shall have no liability to you whatsoever).

## 7. INDEMNITY

You agree to indemnify us (including our directors, officers, shareholders, employees, agents, contractors and/or any related persons or entities) against, without limitation:

- (a) any direct, indirect, special, consequential or exemplary damages, or any losses, harm or injuries, of any nature or kind whatsoever;
- (b) any loss of data, the interruption of business, the loss of profits, loss of revenue, loss of production, loss of business opportunity, loss of use of any equipment, system or facility, or loss of reputation;
- (c) any legal costs and outlays on a full solicitor and client basis;
- (d) any other costs, charges, expenses, or liabilities, whatsoever, which we incur, suffer or pay, directly or indirectly, whether now or in the future, either ourselves, or to any third person or entity, in respect of any action, demand, claim, proceeding or litigation arising from, relating to, or connected with, without limitation, any breaches of this Agreement, any breaches of the law, regulations, rules or standards imposed by any Commonwealth, state or local government or authority, any personal injuries or deaths, any damage to property, as a result of any lawful or unlawful acts, omissions, breaches, fault or negligence whatsoever, and howsoever arising, committed by you (or any of your employees, contractors, agents, any related person or entity, or any person or entity undertaking any act, or omission, on your behalf), or any use by us of the User IP, or your use of the Site or any website linked to our Site, or your use of any content published on, or comprised in, our Site, or your incorporation, or publication, of any information in our Site (or your transmission of any information via our Site).

## 8. TERMINATION

- (a) We may terminate this Agreement:
  - (i) immediately, on notice, if you breach any term of this Agreement, irrespective of whether the breach is minor, or substantial, as may be determined to be the case in our sole and absolute opinion; or
  - (ii) immediately, for any reason whatsoever, on notice to you.
- (b) We reserve the unconditional right to restrict, suspend or revoke, without notice to you, your right to access this Site.
- (c) We will not be liable to you or any other person or entity, for any loss, harm, damage or costs whatsoever and howsoever arising from us ceasing to operate this Site, terminating this Agreement, or restricting, suspending or revoking your right to use this Site.

## 9. PRIVACY POLICY

You agree that any personal, sensitive and/or credit-related information obtained from you (or about you) may be collected, stored, used and/or disclosed, or otherwise dealt with, in any way permitted under our Privacy Policy (which may be accessed at: [insert URL of webpage containing Privacy Policy](#)) or as otherwise permitted under the law. By accepting this Agreement, you acknowledge and agree that you have read, understood and unconditionally accept the terms of our Privacy Policy.

## 10. GENERAL

- (a) **Notices:** Any communications to a party under this Agreement must be in writing and delivered personally, or by prepaid post to the party's address for service, or sent by email to that party's email address, when the email will be treated as received when it is transmitted.
- (b) **Variation:** We may modify the terms of this Agreement at any time without prior notice to you. We are not bound by any variations proposed by you. You are deemed to have notice of any changes to this Agreement and will be bound by any such changes, irrespective of whether you have received actual notice of those changes or not.
- (a) **Waiver:** A failure or delay by us to exercise a right or power, whether in full or only partially, under this Agreement does not act as a waiver of any such rights or powers
- (b) **Relationship of the Parties:** Nothing in this Agreement gives rise to a joint venture, partnership, employment relationship, franchise, agency, fiduciary or any other such relationship. The relationship between the parties is that of independent contractors.
- (c) **Survivorship:** The expiration or termination of this Agreement does not extinguish or affect the rights of any party to this Agreement:
  - (i) which arose prior to the Agreement coming to an end; or
  - (ii) which arise following the ending of the Agreement from any act or omission committed by a party prior to the expiration or termination of the Agreement; or
  - (iii) which are intended to survive the ending of the Agreement.
- (d) **Assignment:** We may assign any of our rights and obligations under this Agreement to any other party at any time at our sole and absolute discretion. You must not, without our prior written approval, mortgage, charge, encumber, transfer or assign any of your rights, interests, entitlements or obligations under this Agreement.
- (e) **Severance:** If any one or more of the provisions of this Agreement are found to be unenforceable, each such provision will be read down or severed from the Agreement to the extent of the unenforceability.
- (f) **Entire Agreement:** This Agreement constitutes the entire agreement between the parties as to your use of our Site and any prior understanding or representation preceding the date of this Agreement shall not be binding on the parties except to the extent expressly incorporated into this Agreement.
- (g) **Independent Legal Advice:** You acknowledge, agree and warrant that you have obtained independent legal advice (or were given the opportunity to obtain independent legal advice but elected not to do so) prior to entering into this Agreement.
- (h) **Governing Law and Jurisdiction:** The courts and/or tribunals of the State or Territory in Australia in which our Business Address is located will have exclusive jurisdiction in relation to all matters, issues and/or disputes arising from, or connected with, this Agreement (unless the courts and/or tribunals of another State or Territory in Australia is elected by us, at our sole, absolute and unfettered, discretion, for any reason whatsoever). You unconditionally waive your rights to dispute any such forum or venue on the grounds of inconvenience or for any other reason. The laws of the State or Territory chosen by us to govern this Agreement will govern this Agreement.