

TERMS OF USE – Autism SA Website



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Authorising Entity: Chief Executive Officer

1. Background

Autism Association of South Australia (ACN 164 545 215) of 1/262 Marion Road, Netley, SA 5037 Australia (**Organisation**) operates the website located at www.autismsa.org.au (**Website**), including all content, functionality, features, interactive forums and noticeboards, and other applications available from time to time through the Website (**Services**).

2. Acceptance

- (a) By visiting and/or using the Website and the Services, you agree to be bound by these terms and conditions (**Terms of Use**), whether you are a **Visitor** (a person browsing the Website or using the Services without being registered) or a **Registered Member** (a person registered with the Organisation as a user of certain Services offered through the Website, in accordance with clause 7). The term **User** refers to a Visitor or a Registered Member.
- (b) By accessing and using the Website and the Services, you are representing to the Organisation that you have read, understood and agree with these Terms of Use in full, and undertake to comply with them.
- (c) If you do not agree to any aspect of these Terms of Use, you should immediately leave the Website and discontinue your use of Website and the Services.

3. Revision of Terms of Use

- (a) The Organisation can in its sole discretion, modify or revise these Terms of Use from time to time, and you agree to be bound by such modifications or revisions.
- (b) Although the Organisation will use reasonable efforts to attempt to notify you when these Terms of Use are amended, you agree that the Organisation is under no obligation to do so.
- (c) You should periodically review the Terms of Use, to ensure that you are updated as to any amendments, and acknowledge that your continued access of the Website and/or use of the Services after the Terms of Use have been amended signifies your unqualified acceptance of the amended Terms of Use.

4. Additional Terms and Conditions

In order to participate in certain Services, Users may be notified that they are required to download software or content and/or agree to additional terms and conditions. You acknowledge and agree that any additional terms and conditions which are applicable to the Services in which you choose to participate are incorporated into, and form part of, these Terms of Use.

5. Eligibility

By using the Website or the Services, you warrant and represent to the Organisation that:

- (a) you are 18 years of age or older, or if you are under the age of 18, you have obtained the prior consent of your parent or guardian to access and/or use the Website and the Services;
- (b) any Registered Membership information you submit is truthful and accurate, and that you will ensure that the accuracy of such information is maintained; and
- (c) your use of the Website or the Services does not violate any applicable laws or regulations.

6. Term

- (a) These Terms of Use, as modified from time to time, will remain in full force and effect for so long as you are a User.
- (b) If you are a Registered Member, you can terminate your membership in your sole discretion at any time, by emailing admin@autismsa.org.au stating your request to terminate your Website membership.
- (c) If you are a Registered Member, the Organisation may terminate your membership at any time, in its sole discretion, for any reason (including no reason), and without prior notice or explanation, and without any form of liability whatsoever.
- (d) You acknowledge that these Terms of Use will continue in full force and effect after you cease to be a Registered Member.
- (e) In no circumstances will any Membership Fees or Renewal Fees you have paid be refunded to you. This includes if your Registered Account is terminated by the Organisation, or if you choose to deregister or not to renew your Registered Account.

7. Registered Accounts, Registered Members and Fees

- (a) In order to access certain Services offered through the Website, you are required to create an account (**Registered Account**) and register as a user of the Services (**Registered Member**).
- (b) When creating a Registered Account, you must provide complete and accurate information, and may be required to re-confirm your understanding and acceptance of these Terms of Use.
- (c) To become a Registered Member you must pay the applicable membership fees for your chosen kind of membership, as specified on the Website to the Organisation at the time of registration (**Membership Fees**), using your choice of the payment methods specified on the Website.
- (d) Your Registered Account is valid for only so long as your Membership Fees are paid and up-to-date for the duration of your membership. The Organisation may require that you pay fees to renew your Registered Account and maintain your status as a Registered Member (**Renewal Fees**). If any Renewal Fees are not paid by you by the due date specified by the Organisation, your Registered Account will lapse and

you will no longer be a Registered Member. In this event, you will need to re-register through the Site to regain access to the paid Services.

- (e) You acknowledge and agree that the Organisation reserves the right to change the amount of Membership Fees and Renewal Fees from time to time in its sole discretion, without prior notice to Users. Current Membership Fees and Renewal Fees will be as indicated on the Website from time to time.
- (f) Under no circumstances will the Organisation refund or repay to you any Membership Fees or Renewal Fees paid by you, including if your Registered Account or access to any Services is terminated, whether by you voluntarily in accordance with clause 6(b) or by the Organisation pursuant to its entitlements under these Terms of Use, including but not limited to clause 6(c).
- (g) Registered Accounts and Registered Memberships are personal to subscribing Users, and are non-transferable.

8. Password

- (a) When creating a Registered Account, you will be asked to choose a password. You are solely responsible for the activity that occurs on your Registered Account, and must keep your Registered Account password confidential and secure.
- (b) You agree not to use the Registered Account, username or password of another Registered Member at any time, and must not disclose your Registered Account password to any third party.
- (c) You must notify the Organisation immediately if you suspect any unauthorised use of your Registered Account or access to your password.
- (d) You are solely responsible for any and all use of your Registered Account, and accordingly, you are liable to the Organisation for any losses sustained by it as a result of any unauthorised use of your Registered Account, and you may be similarly liable to other third parties.
- (e) For the avoidance of doubt, you acknowledge and agree that the Organisation assumes no responsibility or liability to any party for losses caused by unauthorised use of your Registered Account.

9. Use

- (a) Users may only use the Website and the Services for personal, non-commercial purposes. Use of the Website or the Services for commercial purposes, without the prior written authorisation of the Organisation, is specifically prohibited.
- (b) The information available through the Website and the Services is of a generalised nature only, and must not be relied upon as such. Users should seek personalised advice from a suitably qualified professional.
- (c) The Organisation reserves the right to remove any material or content uploaded by Users to the Website or through any of the Services which it deems to be commercial, in its sole discretion, including but not limited to commercial advertisements or affiliate links. Such commercial content may be removed from the Website by the Organisation without notice and may result in the termination of Registered Account, if applicable.

- (d) Users must not alter or modify any part of the Website or any of the Services, except as expressly authorised by these Terms of Use or otherwise by prior written approval of the Organisation.
- (e) Unauthorised use of the Website or the Services, including but not limited to collecting details of Registered Accounts and Users, such as email addresses, by electronic or any other means whatsoever for the purpose of sending unsolicited email, and any other form of unauthorised solicitation, is prohibited.
- (f) The Organisation expressly reserves the right to take any action deemed necessary, including appropriate legal action, in respect of any Prohibited User Activities or other illegal or unauthorised use of the Website or the Services by Users.

10. Termination of Access

- (a) The Organisation reserves the right, in its sole discretion, to reject, refuse to post, or remove any posting made by, or content uploaded, by Users, or to deny, restrict, suspect, or terminate the access of Users to all or any part of the Website or the Services at any time, for any reason (including no reason), and without prior notice or explanation, and without any form of liability whatsoever.
- (b) In addition, the Organisation expressly reserves the right to remove User profile and/or refuse, restrict, suspend or terminate User access to part or all of the Website or the Services if the Organisation, in its sole discretion, determines that a User has breached any applicable laws or regulations or these Terms of Use, or poses a threat to the Organisation, its clients, affiliates or related entities, other Users, or other persons generally.

11. No Liability for Other Users

- (a) Please carefully choose the information and content that you provide to Users and post on or through the Website or the Services. Despite the prohibition of the use, inclusion or uploading of Prohibited Content detailed in clause 15 below, content, information, materials, products or services provided by other Users may wholly or partially be unauthorised, impermissible or otherwise contrary to these Terms of Use, and the Organisation assumes no responsibility or liability for such material.
- (b) If you become aware of any misuse of the Website or the Services by any person, you must inform the Organisation immediately.

12. Third Party Content

- (a) The Website, Services and/or User Content may contain links to third party content or websites that are not owned or controlled by the Organisation.
- (b) The Organisation assumes no responsibility for the content or use of any third party website, and inclusion of any third party website or details of such on the Website or the Services (whether through User Content or otherwise) does not imply approval or endorsement by the Organisation of the third party website.
- (c) If details of a third party website are made available to you through the Website or the Services either by the Organisation or other Users, you expressly relieve the Organisation from any and all liability arising from your use of such third party website. Visits to, and use of, third party websites are at your own risk. Accordingly, the Organisation recommends that you read the terms and conditions and privacy policy of any third party website you visit.

13. Licences and Intellectual Property

- (a) You retain ownership of all rights (including intellectual property rights) in any text, files, images, photos, videos, sounds, musical works, literary works, artistic works, applications or any other material (**User Content**) which you display, post, upload onto, publish or otherwise submit, through the Website and/or the Services.
- (b) By submitting any User Content on or through the Website and/or the Services, you grant to the Organisation and all Users a non-exclusive, perpetual, irrevocable, worldwide, royalty-free licence to use, reproduce, modify, perform, display and distribute or otherwise use, exploit or dispose of the User Content you have submitted (**Licence**).
- (c) You irrevocably consent to the adaptation, reproduction, editing, re-titling, alteration, adding to and/or deleting from, rearrangement, transposing, translation and exploiting of the User Content for any purpose and in any media (now known or developed in the future) including but not limited to the reproduction, publication, communication to the public and adaptation of the User Content and any works derived from it.
- (d) For the avoidance of doubt, you acknowledge and agree that the Licence will continue in perpetuity notwithstanding the fact that you can at any time, in your sole discretion, decide to remove any User Content you have submitted on or through the Website or the Services.
- (e) The Licence granted to the Organisation is transferable and can be assigned or sub-licensed by the Organisation to any third parties without your consent. The Licence granted by you to other Users is personal to each User, and cannot be assigned, sub-licensed or otherwise dealt with by them.
- (f) You represent and warrant that:
 - (i) you own all the rights in and to the User Content and that you have all necessary right and title to grant the Licence;
 - (ii) the submission of the User Content on or through the Website and/or the Services does not infringe the rights, including without limitation, the intellectual property rights, of any person or other third party; and
 - (iii) the User Content contains nothing which is defamatory, obscene, false, misleading or deceptive and does not breach any statute or other law or regulation, including but not limited to applicable privacy or intellectual property legislation.
- (g) You undertake to pay all royalties, fees or any other amounts owing to any person or other third party in respect of any User Content submitted by you on or through the Website and/or Services.
- (h) For the avoidance of doubt, you acknowledge and agree that you are not entitled to upload, embed, post, email, transmit, submit or otherwise make available any material through the Website or the Services that infringes any intellectual property rights (including, without limitation, copyright and registered or unregistered trade mark rights) or is defamatory of any party. The Organisation expressly reserves the right to immediately remove such material from the Website or the Services and terminate any Registered Account of any infringing User, if applicable.
- (i) The Organisation retains ownership of all rights, including without limitation intellectual property rights, in the Website, Services and any text, files, images, photos, videos, sounds, musical works, literary works, artistic works, software,

source code, applications or any other material displayed on, or otherwise incorporated into, the Website and/or the Services by the Organisation (**Organisation Content**).

- (j) The Organisation grants you a revocable, non-transferable license to reproduce, display and use the Organisation Content, solely for your personal use and solely for the purposes of viewing the Website and utilising the functionality of the Services.
- (k) The Organisation respects the intellectual property rights of others. If you believe that your material has been copied or submitted to the Website or the Services in a manner that infringes your intellectual property rights, subject to the licence granted by you to other Users, as detailed above, please notify the Organisation in writing, ensuring that your notice states the relevant details, including:
 - (i) identification of the original, and allegedly infringing material;
 - (ii) your contact information;
 - (iii) a statement that you are reporting the alleged infringement in good faith; and
 - (iv) a statement that you are the owner of the relevant intellectual property rights, or authorised by such owner to act on his/her behalf.

14. Submitted Content

- (a) The Organisation reserves the right to reject, refuse to post/upload, or delete any User Content in its sole discretion, for any reason, including User Content which the Organisation determines is contrary to these Terms of Use or which the Organisation considers is offensive, illegal, infringes the rights of another party or harms or threatens the safety of another party.
- (b) You understand and acknowledge that the Organisation is under no obligation to monitor use of the Website or the Services for Prohibited User Content, inappropriate User Content, Prohibited User Activities or other inappropriate conduct by Users, and assumes no responsibility for (including no responsibility for modifying or removing) any User Content submitted by, or conduct undertaken, by Users.
- (c) You are solely responsible for:
 - (i) all User Content which you submit on or through the Website or Services;
 - (ii) any material or information that you transmit to other Users, and for your interactions with other Users generally; and
 - (iii) ensuring that all User Content that you submit on or through the Website or Services, and any material or information that you transmit to other Users, complies with all applicable data protection and privacy laws.

15. Prohibited Content and User Activities

- (a) The Organisation reserves the right to investigate, and take any appropriate action (including removal of User Content, termination of any Registered Account, or legal action, if necessary) against any User whom the Organisation determines, in its sole discretion, has submitted User Content which is illegal or prohibited (**Prohibited User Content**) or accesses or uses the Website or Services for purposes which are illegal or prohibited (**Prohibited User Activities**).
- (b) Prohibited User Content includes, but is not limited to, User Content that the Organisation in its sole discretion determines:

- (i) is offensive or promotes racism, bigotry, physical harm, harassment or discrimination of any kind against any person or group of people;
 - (ii) is exploitative of people in a sexual or violent manner;
 - (iii) contains nudity, excessive violence, or otherwise offensive subject matter;
 - (iv) is pornographic in nature;
 - (v) is liable to pose or create a privacy or security risk to any person;
 - (vi) contains material which is obscene, threatening, false, misleading or defamatory or promotes illegal activities or conduct;
 - (vii) constitutes or promotes an infringement of the intellectual property rights of another party or any other rights of another party, or is likely to;
 - (viii) contains audiovisual material of another person which has been submitted without that person's consent, including content that contains image(s) or video of persons under the age of 18, where parental/guardian consent has not been provided to the use of that content;
 - (ix) contains the work of another person which has been submitted without that person's consent; or
 - (x) is commercial in nature, where such User Content has not been subject to prior written approval by the Organisation.
- (c) Prohibited User Activities include, but are not limited to, activities conducted by Users in connection with their use of, or otherwise in respect of, the Website or the Services that the Organisation in its sole discretion determines:
- (i) are criminal or otherwise illegal in nature, including but not limited to fraud, harassment, spamming and infringement of intellectual property rights;
 - (ii) are commercial in nature, where such activities have not been subject to prior written approval by the Organisation, including but not limited to advertising and soliciting activities;
 - (iii) are purporting to provide professional advice to other Users or third parties generally;
 - (iv) constitute bullying or harassment of other Users;
 - (v) involve the use of viruses, bots, worms or any other material intended to interrupt, destroy or limit the functionality of any computer software or hardware, or otherwise permit the unauthorised use of, or access to, a computer or computer network;
 - (vi) are automated uses of the Website or the Services;
 - (vii) involve impersonation of another User or other person or entity;
 - (viii) result in the sale or transfer of any Registered Account; or
 - (ix) are using the Website or the Services in a manner that is contrary to these Terms of Use or inconsistent with any applicable laws and regulations.
- (d) The Organisation expressly reserves the right to take any action deemed necessary in respect of any Prohibited User Content or Prohibited User Activities or other illegal or unauthorised use of the Website or Services by any person, including removing Prohibited Content without notice, referring matters to appropriate authorities for further investigation (such as police), and commencing appropriate legal action.

16. User Disputes

You are solely responsible for your interactions with other Users. Whilst the Organisation reserves the right to become involved in any way in disputes between you and other Users, you acknowledge that the Organisation is under no obligation to do so.

17. Privacy

- (a) The Organisation's Website Privacy Policy located at www.autismsa.org.au is incorporated into, and forms part of these Terms of Use. The Organisation will comply with this Policy in respect of all Personal Information (as defined in the *Privacy Act 1988* (Cth)) which may be made available to it as a result of a User's use of the Website or Services.
- (b) You acknowledge and agree that the Organisation is not responsible for the privacy practices or policies of websites or other services operated by third parties that are linked to, integrated with, or available from (whether as a result of User Content or otherwise), the Website or the Services.
- (c) You acknowledge that the Organisation may collect non-Personal Information about you, including but not limited to your IP address and browser type, which will be used for any purpose which the Organisation may in its sole discretion from time to time determine, including but not limited to security purposes, and to monitor usage of, and to manage and improve, the Website and the Services.
- (d) You acknowledge and agree that the Organisation can in its sole discretion use cookies in connection with the Website and the Services, for purposes including but not limited to storing User preferences, authenticating sessions and to customise material (including third party advertising material) that is made available to Users. You acknowledge that if you set your computer to block all cookies, you may restrict your access to certain features of the Website or the Services.
- (e) You further acknowledge and agree that any third party advertisements and other third party materials that may be displayed on, or made available via or in connection with the Website and/or the Services may contain cookies placed by the third parties responsible for the materials, and that the Organisation does not control, and is not responsible for, such third party cookies. Users should check the privacy policy of the relevant third party to determine how it uses cookies.

18. Disclaimers

- (a) The Organisation is not responsible for, and to the fullest extent permitted by law makes no warranties (whether express or implied) regarding any User Content (including but not limited to its accuracy or reliability) submitted on or through the Website or the Services.
- (b) User Content may not reflect the policies or opinions of the Organisation. The Organisation is not responsible for the conduct, whether online or offline, of any User.
- (c) The Organisation is not responsible for any problems, failures or technical malfunctions of any telephone lines or networks, computer online systems, servers or providers, computer equipment, software, or any other object or material, related to use or participation in the Website or the Services, including but not damage result from the download of any User Content, Organisation Content or other material as part of your use of the Website or the Services.
- (d) The Organisation expressly disclaims, to the fullest extent permitted by applicable laws and regulations, any statutory or other warranty, including but not limited to warranties or guarantees of acceptability of quality, merchantability or fitness for purpose.

- (e) The Organisation cannot guarantee, and does not promise, any specific results from use of the Services or the Website. The information on the Website or supplied through the Services is of a generalised nature rather than being personalised, professional advice.
- (f) In no circumstances will the Organisation be responsible for any loss or damage, including personal injury or death, resulting from use of the Website, Services, from any User Content submitted on or through the Website or the Services, or from the conduct of any User, whether online or offline.

19. Limitation of Liability

- (a) Notwithstanding clause 18, the Organisation acknowledges that State, Territory and Commonwealth legislation in Australia (including the Australian Consumer Law contained in Schedule 2 of the *Competition and Consumer Act 2010* (Cth)) implies certain non-excludable guarantees, warranties and conditions into particular agreements for the supply of goods and services, which cannot be excluded, restricted or modified (**Non-Excludable Guarantees**). The Organisation does not exclude, restrict or modify the Non-Excludable Guarantees, and nothing in the Terms and Conditions is intended or is to be construed as doing so. Accordingly, nothing in these Terms of Use affects any remedies available to you at law which cannot be lawfully excluded by the Organisation, including in respect of any of the Non-Excludable Guarantees which may be applicable
- (b) Subject to clause 19(a), to the fullest extent permitted by applicable laws and regulations, the Organisation will not be liable for any direct, consequential or indirect loss suffered by you or any other party arising from your use of the Website and the Services, including but not limited to the download of any User Content, Organisation Content or other material.
- (c) Notwithstanding anything to the contrary in these Terms of Use, but without affecting clause 19(a), the Organisation's liability to you in respect of any cause of action whatsoever will at all times be limited to the amount paid, if any, by you to the Organisation for use of the Website or the Services during the period of your use of the Website or Services.
- (d) To the maximum extent permitted by law, the Organisations's liability to you for a breach of any of the Non-Excludable Guarantees is limited to any one of the following, at the option of the Organisation:
 - (i) in the case of goods - replacement of the goods or the supply of equivalent goods; repair of the goods; payment of the cost of replacing the goods or acquiring equivalent goods; or payment of the costs of having the goods repaired; and
 - (ii) in the case of services - the supply of the services again or payment of the cost of having the services supplied again.

20. Indemnity

You agree to indemnify and hold the Organisation, its subsidiaries and affiliates and their respective officers, agents, partners and employees (**Indemnified Parties**), from and against any loss (including legal costs and expenses on a solicitor/own client basis) or liability incurred or suffered by any of the Indemnified Parties in relation to any claim, suit, demand, action or proceeding by any person against any of the Indemnified Parties arising from your use of the Website or the Services, any User Content submitted by you or any breach by you of these Terms of Use, including but not limited to the representations and warranties made by you, as set out in these Terms of Use.

21. Governing Law

These Terms of Use will be governed by the laws of the state of South Australia. You and the Organisation expressly submit to the exclusive jurisdiction of the courts of South Australia in respect of all matters arising from or connected to these Terms of Use.

22. Other

- (a) You agree that these Terms of Use constitute the entire agreement between you and the Organisation regarding your access and use of the Website and the Services, and are accepted by you upon your use of the Website or the Services and are further affirmed if you become a Registered Member.
- (b) You acknowledge the right of the Organisation to take action against you to prevent a breach of these Terms of Use and further acknowledge that damages may not be an appropriate remedy in those circumstances. You also acknowledge that the failure of the Organisation to exercise or enforce any right or provision of these Terms of Use shall not operate as a waiver of such right or provision.
- (c) You expressly agree and acknowledge that you are not authorised or permitted to bind the Organisation in any way whatsoever in relation to any contract or agreement with any third party.
- (d) Every provision of these Terms of Use is independent of the other. Any provision which is prohibited or unenforceable in any jurisdiction will be ineffective to the extent only of such prohibition or unenforceability, and the other provisions will continue in full force and effect.
- (e) You agree that you will do all things necessary to give full effect to these Terms of Use and any transactions contemplated by them.