

## TERMS AND CONDITIONS

The website [owner.health](#) and its related services, products, websites, tools and applications ("Website") is owned and operated by Koaben Pty Ltd ACN 603 302 450 T/AS Owner Health ("Owner Health").

This Agreement sets out the terms on which we agree to give you access to use the Website, which is a platform connecting patients with health professionals. Other terms and conditions contained in the Privacy Policy and elsewhere on our Website also form part of our agreement with you.

Before using the Website, you must read these terms and conditions ("Terms and Conditions") and all other policies. By using the Website you agree to be automatically bound by these Terms and Conditions and our privacy policy. If you don't agree to be bound by these Terms and Conditions, you must not use the Website. These Terms and Conditions may be updated by us from time to time, and the updated Terms and Conditions will apply from the date they are published on the Website. Each time you use our Website you should revisit these Terms and Conditions. These Terms and Conditions are effective as at 1 January 2018.

### 1. DEFINITIONS & INTERPRETATION

#### 1.1 Definitions

In these Terms and Conditions unless inconsistent with the context or subject matter:

- (a) "Account" means a User's online account to use our Services;
- (b) "Applicable Laws" means any applicable laws (including orders, by-laws and regulations) in the jurisdiction in which you, and any User you are interacting with are located or which in any way govern or affect the use of the Services;
- (c) "Clients" means a person who uses the Website to search for Practitioners;
- (d) "Content" includes any material, text, pictures, sound, graphics, video and other data whether in written form or otherwise;
- (e) "Fee" means the fee that Owner Health charges Practitioners from time to time;
- (f) "Healthcare Services" means healthcare services provided by a Practitioner to a Client as described on the Website (for example, physiotherapy);
- (g) "Intellectual Property" means all intellectual property rights, including without limitation inventions, patents, copyright, trademarks, know-how, processes, concepts, including our Content, the Website and any other platform developed by Owner Health and the source code for those systems and any application or right to apply for registration of any of the these rights throughout the world whether registered or unregistered and whether developed before or after the date of these Terms and Conditions;
- (h) "Loss" means any loss, liability, cost (including legal costs on a solicitor and own client basis), charge, expense, tax or damage of any nature whatsoever, including lost profits, loss of goodwill, loss of business, loss of production and any other special, incidental, exemplary, compensatory or consequential damages, losses or expenses (howsoever arising or caused, including, without limitation, negligence);
- (i) "our", "us" and "we" means Owner Health;
- (j) "Practitioner" means a person who lists their Profile and contact details to be made available to be searched by Clients on the Website;
- (k) "Profile" means the listing of a Practitioner on the Website;
- (l) "Services" means any services we provide to you, including the Website;
- (m) "User" means any person who uses the Website, and includes a Practitioner and Client;
- (n) "you" and "your" means a User, Client or Practitioner (as the case may be).

#### 1.2 Interpretation

In these Terms and Conditions, unless inconsistent with the context or subject matter:

- (a) a reference to a person includes any other legal entity and vice versa;
- (b) words importing the singular number include the plural number and vice versa;
- (c) a reference to a party includes the party's heirs, executors, successors and permitted assigns;
- (d) headings are for reference purposes only;
- (e) where any word or phrase is given a defined meaning any other part of speech or other grammatical form concerning the word or phrase has a corresponding meaning;
- (f) references to writing include any mode of representing or reproducing words in tangible and permanently visible form, and includes e-mail;

- (g) unless otherwise stated, a reference to a monetary amount is a reference to an Australian dollar currency amount; and
- (h) an obligation of two or more parties binds them jointly and each of them severally.

## 2. **YOUR ACCOUNT**

- 2.1 Our Services are available only to, and may only be used by, persons who can form legally binding contracts under Applicable Laws. Without limiting the foregoing, our Services are not available to persons under 18 years of age. If you do not qualify, please do not use our Services.
- 2.2 To access and use the Website, you may need to register with us and set up an Account with your email address and a password. You are solely responsible for maintaining the confidentiality of your login details and you are liable for all activities that happen under your Account, even if you do not authorise such activities.
- 2.3 If we enable you to connect to the Website with a third- party service (e.g. Facebook or Google+), you hereby grant us permission to access, store, and use your Information from that service as permitted by that service and as may be described in our Privacy Policy. Please contact us immediately if you believe your Account has been compromised or misused in any way.

## 3. **USING THE OWNER HEALTH WEBSITE**

- 3.1 The Website provides an online introduction service between Practitioners and Clients.
- 3.2 You are solely responsible for your information that you transmit through the Website, as we act as a passive conduit for the distribution and publication of your information.
- 3.3 You must not use our Services to send sensitive private health information. Whilst we use our best endeavours to ensure the security of all information you transmit through the Website, we make no guarantees in this regard and you therefore transmit information at your own risk.
- 3.4 Your use of the Website and our Services, and your Information, must not:
  - (a) be false, inaccurate or misleading;
  - (b) be fraudulent or deceptive;
  - (c) infringe any third party's copyright, patent, trademark, trade secret, intellectual property or other proprietary rights or rights of publicity or privacy;
  - (d) violate any Applicable Laws (including those governing consumer protection, unfair competition, criminal law, antidiscrimination or trade practices law);
  - (e) be defamatory, trade libellous, unlawfully discriminatory, threatening or harassing;
  - (f) be obscene;
  - (g) contain comments of a religious, political or social nature;
  - (h) contain any viruses, trojan horses, worms, time bombs, trap doors, back doors, easter eggs, spiders, robots, screen scrapers, data aggregation tools or other devices or other computer programming routines that may or are intended to damage, modify, delete, interfere with, surreptitious intercept, access without authority or expropriate any system, data or personal information or otherwise affect the integrity, operation or security of this Website;
  - (i) create liability for us or cause us to lose (in whole or in part) the services or custom of our internet service provider, other Users or other suppliers;
  - (j) damage the credibility or integrity of the Website or Owner Health, or dilute, tarnish, or otherwise harm our brand in any way;
  - (k) breach or violate any of our policies;
  - (l) link directly or indirectly to or include anything that:
    - (i) you do not have a right to link to or include, or
    - (ii) could cause us to violate any Applicable Laws;
  - (m) copy, store or otherwise access or use any information contained on the Website for purposes not expressly permitted by these Terms and Conditions;
  - (n) use the Website for any purposes that are not permitted by these Terms and Conditions or in any way that is inconsistent with the purpose of the Website, or in a manner that falsely implies Owner Health endorsement, partnership or otherwise misleads others as to your affiliation with Owner Health;
  - (o) use our Website in connection with the distribution of unsolicited commercial email or advertisements; or
  - (p) "stalk" or harass any other User, or collect or store any personally identifiable information about any other User other than for the sole purpose of communicating through the Website in compliance with these Terms and Conditions.
- 3.5 You authorize Owner Health, directly or through third parties, to make any inquiries we consider necessary to help verify or check your identity or prevent fraud. This may include asking you to provide a form of government identification (e.g. driver's license or passport), your date of birth,

and other information requiring you to take steps to confirm ownership of your email address and payment or payout methods (e.g. credit card, debit card, PayPal, or direct deposit).

#### **4. PRACTITIONERS**

4.1 Practitioners must submit an application to us to join the Website. We may in our sole discretion accept or reject an application, without any obligation to provide reasons. Practitioners must create a Profile. The Profile will be created from information that is provided by the Practitioner to Owner Health in the application form.

4.2 Practitioners must provide us with their current and unrestricted professional registration details and evidence of qualifications corresponding to their field of practice in their application form, as well as any information deemed necessary by us to create the Profile. Practitioners must provide evidence of the renewal of their registration each year during the term that their Profile is featured on the Website. Practitioners must immediately notify us if their professional practitioner registration is suspended, terminated or under investigation.

4.3 Owner Health may, at its discretion, accept or reject the application form.

4.4 Practitioners represent and warrant that:

- (a) the information provided in an application form, posted on the Website or otherwise provided to us or a Client, including but not limited to, their professional registration details and qualifications is valid and correct in all respects, and that they have not engaged in misleading or fraudulent conduct;
- (b) no conditions attached to their registrations/qualifications will be breached through the Practitioner providing the Healthcare Services;
- (c) if the Practitioner has represented that it can provide certain Services through the Website, the Practitioner is experienced and qualified to provide those Services;
- (d) they have all equipment required in order to provide the Services, such as a patient table and other physiotherapy and/or podiatry equipment;
- (e) they have an Australian Business Number and have professional indemnity insurance, public liability insurance and all other insurances and in such amounts as required by any Applicable Law or otherwise as is adequate to cover any all liability which may rise in connection with the provision of the Healthcare Services. Practitioners must provide evidence of their insurances at the time of application for registration and evidence of renewal each year during the term that their Profile is featured on the Website.

4.5 Practitioners acknowledge and agree that:

- (a) they are not permitted to share contact information of any Clients with another User;
- (b) any communications entered into with a Client is at his or her own risk;
- (c) Owner Health does not guarantee the completeness, accuracy, currency or reliability of the information provided by a Client;
- (d) any information provided by the Client to the Practitioner is confidential in nature and subject to patient and healthcare professional privilege, and the Practitioner must take reasonable steps to protect the confidentiality of such information;
- (e) Owner Health does not make any guarantees as to the number of Clients that the Practitioner will get through the Website.

4.6 Owner Health is not a party to any arrangements entered into by Users (such as where a Practitioner agrees to provide Healthcare Services to a Client). Owner Health has no control, influence or involvement in such arrangements.

4.7 Practitioners may in their discretion cancel the provision of the Healthcare Services at any point in time where the Practitioner feels that it is beyond their expertise or capacity to provide such Healthcare Services.

4.8 For the avoidance of doubt, Owner Health assumes no responsibility for a Practitioner's compliance with any Applicable Laws.

#### **5. CLIENTS**

5.1 Clients can access the Website to view Practitioners in their location who may be able to provide Healthcare Services to the Client. Clients can view Practitioners' Profiles and contact Practitioners either through the contact form on the Website, phone or any other means of contact we enable.

5.2 Clients acknowledge and agree that:

- (a) Owner Health does not guarantee the completeness, accuracy, currency or reliability of the Practitioner's Profile. You must make your own investigation into the accuracy of the information published by a Practitioner;
- (b) Owner Health is not a healthcare provider, doctor or other medical practitioner, and therefore is not responsible for providing any medical advice or diagnosis;
- (c) Owner Health is not a party to any arrangement between the Practitioner and the Client; and

- (d) any communications entered into with a Practitioner are done so at your own risk.
- 5.3 We reserve the right to share any information provided by a Client to us with the Practitioner selected by the Client, and to store such any conversation between the Client with the Practitioner that occurs through the Website in accordance with our Privacy Policy.
- 5.4 Owner Health takes no responsibility for a Clients compliance with any Applicable Laws.

**6. FEEDBACK SYSTEM**

- 6.1 Each time a Client engages a Practitioner through the Website, the Client may be given an opportunity to review the Practitioner and vice versa.
- 6.2 Reviews must be honest and accurate, and not contain unlawful or objectionable content, including but not limited to, reviews containing defamatory, libellous, abusive, racially or sexually offensive or obscene language.
- 6.3 Owner Health reserves the right not to publish reviews, to amend content of reviews at any time and to remove reviews from the Website without notice at Owner Health's sole discretion.
- 6.4 Owner Health is in no way responsible or liable for the information that is contained in the reviews and does not make any representation or warranty as to the accuracy or reliability of any information or content that is published in the review. We are under no obligation to remove any review published by you, and you agree that we are not liable under any laws (including defamation and misleading and deceptive conduct) simply through the publication of reviews on the Website.

**8. NON-CIRCUMVENTION**

- 8.1 You acknowledge and agree that you will not approach another User directly after becoming aware of such User following use of the Website. You agree that you will contact such User only through the Website. You are strictly prohibited from directly or indirectly attempting to circumvent payment of our Fee in any way.

8.2 In the event you are a Practitioner, you must disclose to us and pay us the Fee in respect of all further appointments (beyond the initial appointment made through the Website) made by Clients with you.

## 9. **ACCESS AND TERMINATION**

9.1 We reserve the right, at any time and without prior notice, to remove or disable access to this Website or any part of it for any reason, including Accounts and/or Profiles that Owner Health, in its sole discretion, considers to be objectionable for any reason, in violation of these terms or otherwise harmful to the Website.

## 10. **INTELLECTUAL PROPERTY RIGHTS AND DATA**

10.1 Owner Health claims no intellectual property rights over the data or other Content you provide to us.

10.2 You acknowledge that Owner Health owns all right, title and interest in and to the Website and the Intellectual Property and no right, title or interest in any of the Intellectual Property is transferred or granted to you, except so far as expressly stated in these Terms and Conditions.

10.3 You consent to Owner Health transferring your data to third party IT providers, including our Website host and back-up service provider, which may be outside of Australia.

10.4 Subject to your compliance with these Terms and Conditions, we grant you a limited, revocable, non-exclusive, non-transferable license to download and install a copy of any application we develop that is connected to the Website, on each mobile device or computer that you own or control and use such application solely for your own personal use.

10.5 You agree that:

- (a) you will not copy, reproduce, alter, modify, create derivative works, or publicly display our Intellectual Property except with our prior written permission or the appropriate third party authorised to grant such permission and when doing so you must adequately acknowledge us and, in the case of websites, include a link from your website to our Website;
- (b) if you add any information to the Website of any nature whatsoever that Information is personally attributable to you and you warrant that you have the right to distribute that information and it does not infringe the rights of any third party;
- (c) you acknowledge that when you provide us with information, we may receive additional related data, such as the time, date and place you provided the Information;
- (d) Owner Health is not liable or responsible for any Loss that you may experience in submitting information to Owner Health or for Owner Health's use of your information.

10.6 Owner Health may in its sole and absolute discretion refuse or remove any information from the Website.

## 11. **DISCLAIMER**

11.1 You acknowledge and agree that your use of this Website and the Services is at your own risk. We provide our Services on an "as-is" basis and make no representations about the suitability, reliability, availability, timeliness, and accuracy of anything contained in this Website (including anything relating to Practitioners or Clients). To the maximum extent permitted by applicable law, anything contained in this Website is without warranty of any kind.

11.2 Owner Health does not take any steps to confirm the identity of Clients and whilst we do use our best endeavours to confirm the identity of Practitioners, because User authentication on the internet is difficult, particularly in cases of fraudulent or misleading conduct, Owner Health cannot and does not confirm nor warrant or guarantee as to each User's purported identity, information or location. We encourage you to use the Website as a platform to conduct your own enquiries to vet other Users to your satisfaction.

11.3 Owner Health does not endorse any Practitioner or Client.

11.4 Owner Health is not responsible in the event of cancellation or no-shows by either a Practitioner or Client.

11.5 Any information published by us is general in nature and does not constitute medical or any other type of advice. You warrant that you have not relied on any information provided by us in making any decision.

11.6 You acknowledge and agree that Owner Health is not engaged in any transaction arising or entered into between Users. As a result we have no control over, and do not ensure, guarantee or provide any warranty or indemnity in respect of the legality, accuracy, completeness or otherwise of:

- (a) any Profiles;
- (b) any information provided by Users to each other;
- (c) the ability of Users to undertake their respective obligations;
- (d) the fees charged by Users.

**12. LIMITATION OF LIABILITY**

- 12.1 We disclaim liability to you or any other person or entity for any Loss howsoever arising as a result of your use of this Website in any way, subject to the requirements of any Applicable Laws. You hereby release us and our officers, directors, agents, related entities, related bodies corporate, employees and contractors from all Loss suffered by you or any other person relating to or arising out of the provision of the Healthcare Services, our Services or these Terms and Conditions.
- 12.2 The limitation and exclusion of liability in this clause applies whether the liability claim is based on breach of contract, under a warranty or an indemnity, tort (including negligence), under statute, in equity or otherwise.
- 12.3 You agree to indemnify and hold us and our related entities, related bodies corporate, officers, directors, agents, and employees, harmless from and against any actions, claims, demands, proceedings, Losses of every kind, due to or arising out of your breach of these Terms and Conditions or any policy or the terms and policies they incorporate by reference, or your violation of any law or the rights of a third party, or otherwise arising directly or indirectly from your use of the Services.
- 12.4 This limitation of liability and indemnity applies to the fullest extent permitted by law, and shall survive any termination or expiration of this agreement or your use of our Services.

**13. COMPETITORS**

- 13.1 If you are in the business of providing similar Services then you are a competitor of Owner Health. Competitors are not permitted to use or access the Website. If you breach this provision, we will hold you fully responsible for any Loss that we may sustain and hold you accountable for all profits that you might make from such a breach.

**14. MISCELLANEOUS**

- 14.1 Accessing information from the Website is done so at your own risk and you will be responsible for compliance with the laws within your jurisdiction.
- 14.2 These Terms and Conditions are governed by the laws of Queensland, and the parties submit to the jurisdiction of the Courts of Queensland and relevant federal/Commonwealth courts competent to hear appears from them.
- 14.3 These Terms and Conditions shall be for the benefit of and binding upon the parties and their heirs, executors, successors and permitted assigns.
- 14.4 If a clause of these Terms and Conditions are void or unenforceable it must be severed from these Terms and Conditions and the clauses that are not void or unenforceable shall be unaffected by the severance.
- 14.5 You agree that these Terms and Conditions and all incorporated agreements may be assigned by Owner Health in its sole discretion without notice. You may not assign these Terms and Conditions without obtaining Owner Health's prior written consent.
- 14.6 Our failure to enforce a provision of these Terms and Conditions or act with respect to a breach by you or others does not constitute a waiver of that provision or breach or a waiver of our right to act with respect to that breach or subsequent or similar breaches. The waiver of any such provision or breach will be effective only if in writing and signed by a duly authorized representative of Owner Health.
- 14.7 You agree that these Terms and Conditions may not be construed adversely against us solely because we prepared them.
- 14.8 These Terms and Conditions and our policies comprise the entire understanding and agreement between you and us with respect to the subject matter hereof.
- 14.9 Nothing in these Terms and Conditions or your use of the Website establishes or creates a joint venture, partnership, consortium, franchise, employment or agency relationship between Owner Health and Users.