

## TERMS OF USE

These Terms of Use set out the terms and conditions of a contract between you and The Children's Hospital Westmead Complex Pain Telehealth clinic governing your access to, and use of, the Site (defined below). By visiting, registering for, or using, this Site, you agree to be bound by and abide by these Terms of Use.

These Terms of Use, include, and are supplemented by, other terms and conditions contained within the Site that are more specific to the use of particular parts of this Site. In the event of any inconsistency the terms and conditions specific to a part of the Site prevail.

The Children's Hospital Westmead Complex Pain Telehealth clinic reserves the right from time to time to change these Terms of Use without prior notice or your consent. You are responsible for informing yourself of any changes to these Terms of Use and any notices posted on the Site and should read them carefully before you use the Site.

### Use of the Site

#### 1.1. You must:

1.1.1. Comply with these Terms of Use at all times while using the Site;

1.1.2. Not use, or knowingly permit another person to use, the Site if you (or they) are not eligible to do so;

1.1.3. Where applicable:

1.1.3.1. ensure that your contact and other details submitted to the Health Service or stored on the Site are current and accurate; and monitor any electronic system or address designated by you for the purpose of receiving communications ( The Children's Hospital Westmead Complex Pain Telehealth clinic will not be liable for any delay or failure by you to do so);

1.1.4. Ensure that all information you submit to the Administrator, upload to the Site or provide to another user of the Site, is true and correct and does not infringe the rights (including intellectual property rights) of any other person. Each time you submit or

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provide information to the Administrator or another user of the Site, you represent and warrant to the recipient of that information that you have complied with this clause and are not infringing the rights (including intellectual property rights) of any other person;

1.1.5. not use the Site for any unlawful purpose;

1.1.6. not introduce any Harmful Code into the Site or use it in a manner that could damage, disable or impair The Children's Hospital Westmead Complex Pain Telehealth's services or system;

1.1.7. not use any robot, scraper or other means to access the Site for any purpose;

1.1.8. comply with any of The Children's Hospital Westmead Complex Pain Telehealth's policies or procedures regarding use of the Site as notified to you from time to time by The Children's Hospital Westmead Complex Pain Telehealth clinic;

1.1.9. maintain and safeguard the privacy and security of all personal or confidential information that you obtain access to in relation to the Site;

1.1.10. not access information or perform services relating to any other person (unless expressly permitted by the Health Service or by that other person to do so); and

1.1.11. not send or post any unsolicited messages or any offensive, inflammatory, defamatory, threatening, abusive, hateful, racist, obscene, fraudulent, deceptive or otherwise unlawful information.

1.2. You are responsible for, and bear all the costs of, installing and maintaining your own systems and equipment necessary to access and use the Site.

1.3. You are liable for and must compensate The Children's Hospital Westmead Complex Pain Telehealth clinic, and its Related Parties on demand for all losses, costs, expenses (including legal costs on a full indemnity basis), claim or damage suffered or incurred (or agreed to pay by way of settlement or compromise) in connection with or arising out of:

1.3.1. a breach of these Terms of Use (including a representation or warranty);

1.3.2. fraudulent or dishonest conduct of you or any person you have permitted to use this Site on your behalf;

1.3.3. a failure to obtain, maintain, and comply with required consents and applicable laws;

1.3.4. breach of the Terms of Use which leads to personal injury, death or loss of or damage to real or tangible personal property;

1.3.5. breach of the Terms of Use which leads to claims, actions or proceedings by a third party and any investigations by a government body; and

1.3.6. failure to comply with any obligations of confidence or privacy under these Terms of Use, arising out of any of your acts or omissions or any of your related parties whether accidental or not.

1.4. You agree to report any misuse of this Site that you become aware of to The Children's Hospital Westmead Complex Pain Telehealth Clinic.

## **2. Electronic communications**

2.1. As a condition of your use of this Site, you may receive electronic communications which relate to your use, and the administration, of the Site.

2.2. You may request that your access to secure areas of this Site be disabled (or re-enabled). Please contact The Children's Hospital Westmead Complex Pain telehealth clinic to request any changes to access

## **3. Security**

### **4.1. Security of this Site generally**

4.2. While The Children's Hospital Westmead Complex Pain Telehealth clinic uses its best endeavours to implement security controls and prevent unauthorised access to, or use of, the Site, you acknowledge that the internet is an insecure public network where there is a risk that your use of, and interactions with, this Site may be viewed, intercepted or modified by third parties and that this Site and any information on this Site may contain harmful code.

4.3. To the extent permitted by law, The Children's Hospital Westmead Complex Pain Telehealth clinic does not guarantee that there will not be, or accept any liability for, any Harmful Code on the Site or a breach of security by a third party or any interference with or damage to your computer system, software or data occurring in connection with or relating to this Site.

### **4.4. Basic online security – your obligations**

4.5. While you are ultimately responsible for your own online security, The Children's Hospital Westmead Complex Pain Telehealth clinic recommends that you:

4.5.1. ensure that you are using the most recent version of your operating system and software (including web browser) with the latest patches and updates applied;

4.5.2. when using secure areas of the Site, check that you are using a secure site by making sure the site address starts with "https" and looking for the padlock icon in your browser window;

4.5.3. ensure that you have anti-virus software installed and working on your computer, that its definitions are up to date and that it is configured to scan inbound and outbound emails and files;

4.5.4. ensure your browser is configured to minimise the likelihood of your computer or privacy being affected by Harmful Code;

4.5.5. if you are using a public or shared computer, ensure that you log out properly and close the browser window when you have finished;

4.5.6. be suspicious of strange emails, attachments or hyperlinks; and

4.5.7. if you suspect your computer has been affected by harmful code you should contact your IT service provider or anti-virus vendor.

## **5. Intellectual Property**

### **5.1. Ownership of data and other Intellectual Property**

5.1.1. The Site and any content made available on it (including without limitation the software on which it is based, any documentation regarding its use, text, graphics, video, audio, information, data and the design and layout of the Site) are owned by The Children's Hospital Westmead Complex Pain Telehealth clinic or its third party licensors, and are protected by Australian and international copyright and other intellectual property laws.

### **5.2. Intellectual Property Licences**

5.2.1. You may access and download the material on the Site where available. To the extent permitted by law, you may not, subject to a use for the purposes of private study, research, criticism or review as permitted under the Copyright Act 1968 (Cth):

5.2.1.1. otherwise download, modify, copy, reproduce, republish, store, frame, upload, post, transmit, sell, lease, rent, sub-licence or disclose or distribute any part of this Site (or any content on it) in any way, except as otherwise expressly stated on the Site or with The Children's Hospital Westmead Complex Pain Telehealth's clinic prior written consent;

5.2.1.2. tamper with any copyright notice, or tamper with or commercially use any trade mark, logo or names (including business names and domain names) appearing on the Site or in materials accessed via the Site (You must include The Children's Hospital Westmead Complex Pain telehealth clinic copyright notice in any copies of the information obtained from the Site); or

5.2.1.3. re-engineer, create derive works from, reverse engineer, disassemble, or decompile any part of the Site,

5.2.1.4. and to the extent any right for you to do so is preserved by law, then only in strict accordance with the provisions or terms under that law.

5.2.2. The Children's Hospital Westmead Complex Pain Telehealth clinic reserves the right to access, maintain, delete or destroy all communications or information uploaded or stored within the Site at any time.

### **5.3. Use of The Children's Hospital Westmead Complex Pain Telehealth clinic or Local Health Districts trademarks and related IP**

5.3.1. You agree not to use the name, trade name, service marks, trademarks, trade dress or logo of Orange Base Hospital Chronic Pain Telehealth clinic (or its related parties, suppliers or licensors) (**Branding**) in publicity releases, advertising, promotional materials, direct mail, seminars, on your web site, or in other communications without the express prior written consent of Orange Heath Service Chronic Pain Telehealth clinic. All uses of Branding will be to the benefit of the owner of such logos, trademarks, trade names and/or other branding devices.

## 6. Confidentiality

### 6.1. You agree:

6.1.1. to maintain any information that is confidential or proprietary in nature or is designated as such (including without limitation the software, source code, technology, tools, processes, functional specifications and technical materials on which the Site is based) which you access via the Site in strict confidence at all times; and

6.1.2. not to disclose, use, transmit, inform or make available to any person any of that information except as necessary to perform your obligations or exercise your rights under these Terms of Use.

### 6.2. Clause 7 does not apply to any confidential information which you can demonstrate:

6.2.1. is or becomes known to the public through no breach of these Terms of Use;

6.2.2. was previously known by you, or subsequently provided to you, without any obligation to hold it in confidence;

6.2.3. is independently developed by you without the use of confidential information; or

6.2.4. is approved for release by written authorisation of The Children's Hospital Westmead Telehealth clinic , but only to the extent of such authorisation.

## 7. Privacy

7.1. The Children's Hospital Westmead Complex Pain Telehealth clinic will treat any personal information provided by you or collected in relation to in accordance with the [Health Records and Information Privacy Act 2002](#), for more information please access the NSW health privacy manual available at:

<http://www.health.nsw.gov.au/policies/manuals/Documents/privacy-appendix-5.pdf>

## 8. Disclaimers and exclusion of liability

### 8.1. Disclaimer

8.1.1. The Site (including material on the Site) is made available to you on an "as is" and "as available" basis and at your own risk. To the maximum extent permitted by law, The Children's Hospital Westmead Complex Pain Telehealth clinic makes no representation, provides no express warranty or guarantee, and excludes all liability and any implied warranties (whether implied by statute or otherwise) in connection with:

8.1.1.1. the provision and availability of the Site by The Children's Hospital Westmead Complex Pain telehealth clinic or your use of the Site or any other linked website;

8.1.1.2. the functionality, features and performance of the Site (The Children's Hospital Westmead Complex Pain telehealth clinic) may withdraw, suspend or discontinue any functionality or feature at any time);

8.1.1.3. legality or suitability of the Site or any services provided through it;

8.1.1.4. title and non-infringement of third party rights;

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8.1.1.5. the security of the Site or any linked site, or the safety of any file or software associated with them (such as safety from any virus or defects including those which could damage or interfere with your data, hardware or software);

8.1.1.6. merchantability, fitness for a particular purpose and non-infringement of the Site;

8.1.1.7. the Site being provided error-free or without interruption (including without limitation the availability of internet connections or other telecommunications systems);  
or

8.1.1.8. the accessibility, accuracy, quality, currency or reliability of Site or any linked site, or of any The Children's Hospital Westmead Complex Pain telehealth clinic or third party materials, information, products or services promoted or accessed via the Site or any linked site.

8.1.2. Despite any provision in these Terms of Use to the contrary, The Children's Hospital Westmead Complex Pain Telehealth clinic, and partnering Health Services shall not be liable for any consequential, special, incidental, indirect or punitive losses, costs, expenses or damages, whether in contract, tort or otherwise (including negligence) arising out of or in connection with the Site or The Children's Hospital Westmead Complex Pain telehealth clinic performance or non-performance of its obligations under these Terms of Use, even if The Children's Hospital Westmead Complex Pain Telehealth clinic has been advised of the possibility of that damage.

8.1.3. To the extent permitted by law, in the event of any problem with the Site, any goods or services provided in connection with the Site or any dealings between you and The Children's Hospital Westmead Complex Pain Telehealth clinic or any other user of the Site, you agree that:

8.1.3.1. your sole remedy is to cease using the Site or any information, materials, goods or services provided to, or accessed by, you in connection with the Site;

8.1.3.2. you release The Children's Hospital Westmead Complex Pain Telehealth clinic and hold The Children's Hospital Westmead Complex Pain Telehealth clinic harmless from any and all claims, demands, and damages of every kind and nature (including, without limitation, actual, special, incidental and consequential), known and unknown, suspected and unsuspected, disclosed and undisclosed, arising out of or in any way connected with your use of the Site; and

8.1.3.3. you waive the provisions of any law limiting or prohibiting a limitation and release as set out in this clause

8.1.4. If, despite these Terms of Use, a court determines that The Children's Hospital Westmead Complex Pain Telehealth clinic, or a partnering Health Service is responsible for loss or damage arising from your access to or use of this Site, to the extent permitted by law, The Children's Hospital Westmead Complex Pain Telehealth clinic's liability is limited in any event to resupplying the relevant part of the Site or the reasonable cost of

having it resupplied, and The Children's Hospital Westmead Complex Pain Telehealth clinic reserves its options at law as to how it may discharge The Children's Hospital Westmead Complex Pain Telehealth clinic's obligations in relation to liability that cannot be lawfully excluded under these terms.

## **8.2. Reference material**

8.2.1. The materials on this Site have been provided for general information only. The Children's Hospital Westmead Complex Pain Telehealth clinic has used reasonable endeavours to ensure the quality of the information:

8.2.1.1. it is provided "as is" and The Children's Hospital Westmead Complex Pain Telehealth clinic does not warrant that it is accurate, complete, reliable, current, of a particular quality or suitable for your particular circumstances;

8.2.1.2. it is not intended to be a substitute for professional medical advice, diagnosis or treatment provided by an appropriately qualified health care professional (you always consult a medical professional and obtain appropriate medical advice including interpretation of these materials);

8.2.1.3. some of the information has been provided or made available by third parties (or derived from that information) and does not necessarily reflect any policies, procedures, standard or guidelines of the Health Service, any other users of this Site or any Government or association;

8.2.1.4. you use it at your own risk, should not act (or fail to act) on the basis of the materials on this Site and you are solely responsible for all acts or omissions carried out in connection with, or in reliance on, the materials;

8.2.1.5. to the extent permitted by law The Children's Hospital Westmead Complex Pain Telehealth clinic accepts no responsibility and disclaims all liability in relation to use of those materials.

8.2.2. While The Children's Hospital Westmead Complex Pain Telehealth clinic may do so, The Children's Hospital Westmead Complex Pain Telehealth clinic has no obligation to review the information on the Site neither to ensure it is current nor, to correct any error, omission or inaccuracy on the Site.

## **8.3. Changes to this Site**

8.3.1. The Children's Hospital Westmead Complex Pain Telehealth clinic may, in its absolute discretion, make changes to any part of this Site or any content on it (subject to express right set out in these terms) without your consent or providing notice to you.

## **8.4. Medicare, Private Health Insurance and other benefits**

8.4.1. The Children's Hospital Westmead Complex Pain Telehealth clinic makes no representations or warranties regarding any benefits, compensation or reimbursements

which you may be entitled to in relation to utilisation of this Site and any goods or services provided in connection with, or referred to in, this Site (including without limitation any private health insurance or Medicare benefits you may be entitled to). You should seek independent advice regarding any benefits or entitlements you may be entitled to from a qualified third party or directly from the provider of those benefits or entitlements.

## 9. General

9.1. In these terms of use, unless specified otherwise:

9.1.1. **Harmful Code** means any computer code or routine that is harmful, destructive, disabling or which assists in or enables theft, alteration, denial of service, unauthorised disclosure or destruction or corruption of data, including viruses, worms, spyware, adware, key loggers, trojans and any new types of programmed threats that may be classified, but excluding passwords, software keys and like features that are security features or intended elements of software used to prevent unauthorised access and use;

9.1.2. **Site** means the website at <http://www.schn.health.nsw.gov.au/parents-and-carers/our-services/pain-medicine/chw> and any related sites owned or maintained by, or on behalf of, the The Children's Hospital Westmead Complex Pain telehealth clinic. Each reference to Site includes a reference to all information and content on these sites.

9.1.3. **Health Service** means any of the Western Local Health District and The Children's Hospital Westmead Complex Pain Clinic members

9.1.4. These terms and conditions are governed by the laws in force in the State of New South Wales, Australia. By visiting and using the Site you unconditionally submit to the jurisdiction of the courts of that State and all courts with jurisdiction to hear appeals from those courts.

9.1.5. The Children's Hospital Westmead Complex Pain Telehealth clinic may seek urgent injunctive relief in order to protect the confidentiality of its information or prevent the misuse of its Intellectual Property.

9.1.6. The failure or delay of The Children's Hospital Westmead Complex Pain telehealth clinic to exercise any right or remedy under these Terms of Use will not operate as further waiver of such right or remedy in the future or any other right or remedy. No waiver of any default, condition or breach of these Terms of Use shall be deemed to imply or constitute a waiver of any other default, condition or breach of these Terms of Use, whether of a similar nature or otherwise.

9.1.7. If any one or more of the provisions of these Terms of Use are invalid or otherwise unenforceable, to the extent possible the provision should be read down to reflect the intent of the parties and the enforceability of remaining provisions shall be unimpaired.



9.1.8. The Children's Hospital Westmead Complex Pain Telehealth clinic shall not be liable for any non-performance in connection with the Site or under these Terms of Use if it is prevented from performing that obligation by a circumstance beyond its reasonable control.

9.1.9. You may not assign any of your rights or obligations without the prior written consent of The Children's Hospital Westmead Complex Pain Telehealth clinic.

9.1.10. All rights and obligations under:

9.1.10.1. any provision regarding privacy, confidentiality, intellectual property, waivers, indemnities, representations and warranties (including without limitation clauses 7, 8, 9 and 10);

9.1.10.2. accrued rights or obligations existing at the time of termination or expiry; and

9.1.10.3. any indemnities and any representations and warranties, survive termination or expiry. Any other provisions necessary or desirable to give effect to those rights and obligations survive expiry or termination of these Terms of use.

9.1.11. These Terms of Use (including any supplementary terms within the Site) set out the entire agreement between the parties and supersedes all previous and contemporaneous agreements, understandings and arrangements with respect to their subject matter.

## 10. Questions

10.1. If you have any questions about this Site, please visit call The Children's Hospital Westmead, Complex Pain Clinic on ph: (02) 9845 0000.