

## **Website Terms and Conditions**

This website (**Website**) is operated by BEING – Mental Health Consumers Limited ACN 658 643 497 (**we, our or us**). It is available at <https://being.org.au/> and may be available through other addresses or channels.

### **Consent**

By accessing and/or using our Website, you agree to these terms and conditions and our Privacy Policy (available on our Website) (**Terms**). Please read these Terms carefully and immediately stop using our Website if you do not agree to them.

### **Variations**

We may, at any time and at our discretion, vary these Terms by publishing the varied terms on our Website. We recommend you check our Website regularly to ensure you are aware of our current terms. Materials and information on this Website (**Content**) are subject to change without notice. We do not undertake to keep our Website up-to-date and we are not liable if any Content is inaccurate or out-of-date.

### **Licence to use our Website**

We grant you a non-exclusive, royalty-free, revocable, worldwide, non-transferable licence to use our Website in accordance with these Terms. All other uses are prohibited without our prior written consent.

### **Prohibited conduct**

By accessing our Website, you must not do or attempt to do anything that is unlawful, prohibited by any laws applicable to our Website, anything which we would consider inappropriate, or which might bring us or our Website into disrepute, including (without limitation):

- anything that would constitute a breach of an individual's privacy (including uploading private or personal information without an individual's consent) or any other legal rights
- defaming, harass, threaten, menace or offend any person
- interfering with any user using our Website
- tampering with or modifying our Website, including but not limited to knowingly transmitting viruses or other disabling features, or damaging or interfering with our Website by using trojan horses, viruses or piracy or programming routines that may damage or interfere with our Website
- using our Website to send unsolicited email messages or
- facilitating or assisting a third party to do any of the above acts.

## **Information**

The Content is not comprehensive and is for general information purposes only. It is not advice. While we use reasonable attempts to ensure the accuracy and completeness of the Content, we make no representation or warranty in relation to it, to the maximum extent permitted by law.

While the information and material contained on the Website is believed to be accurate and current, it is provided by us in good faith on an "as is" basis, and we and our directors, officers, employees, contractors and agents accept no responsibility for and make no representations or warranties to you or to any other person as to the reliability, accuracy or completeness of the information contained on the Website.

Any information contained on the Website is general only and does not constitute advice. You acknowledge that it is not reasonable for you in the circumstances to have, and you are not relying on the information on the Website and will be relying on your own enquiries and advice in deciding whether our products and services are right for you. We accept no responsibility and will not be liable for any harm, loss and/or damage that you or any third party may suffer, directly or indirectly, as a result of any information contained on our Website being inaccurate, incomplete, unsuitable or incorrect.

We provide no warranty as to, and to the extent permitted by law expressly disclaim any liability for harm, loss and/or damage that you or any third party may suffer, directly or indirectly, as a result of a product or service listed on the Website being unsafe, unsuitable for you or them or unfit for your or their purposes and/or use, because of your or their particular circumstances or condition, and/or the product or service not providing an expected result, even if you disclosed that purpose to us before purchasing the product or service, as you acknowledge that you are not relying on our skill or judgement.

## **Intellectual Property Rights**

We own or licence all rights, title and interest (including intellectual property rights) in our Website and all of the Content. Your use of our Website and your use of and access to any Content does not grant or transfer to you any rights, title or interest in relation to our Website or the Content. You must not:

- copy or use, in whole or in part, any Content
- reproduce, retransmit, distribute, disseminate, sell, publish, broadcast or circulate any content to any third party or
- breach any intellectual property rights connected with our Website or the Content, including (without limitation) altering or modifying any of the Content, causing any of the content to be framed or embedded in another website or platform, or creating derivative works from the Content.

## **User Content**

You may be permitted to post, upload, publish, submit or transmit relevant information and content (**User Content**) on or through our Website. By making available any User Content on or through our Website, you grant to us a worldwide, irrevocable, perpetual, non-exclusive, transferable, royalty-free licence to use the User Content, with the right to use, view, copy, adapt, modify, distribute, license, sell, transfer, communicate, publicly display, publicly perform, transmit, stream, broadcast, access, or otherwise exploit such User Content on, through, or by means of our Website.

You agree that you are solely responsible for all User Content that you make available on or through our Website. You represent and warrant that:

- you are either the sole and exclusive owner of all User Content or you have all rights, licences, consents and releases that are necessary to grant to us the rights in such User Content (as contemplated by these terms)
- you will not post or transmit any User Content which is libellous or defamatory, or which discloses private or personal matters concerning any person. You may not post or transmit any message, data, image or program that is indecent, obscene, pornographic, harassing, threatening, abusive, hateful, racially or ethnically offensive; that encourages conduct that would be considered a criminal offense, give rise to civil liability or violate any law or that is otherwise inappropriate
- you will not copy or use personal identifying or business contact information about other users without their permission. Unsolicited e-mails, mailings, telephone calls, or other communications to individuals or companies whose contact details you obtain through the Website is prohibited
- we may use any feedback, suggestions, or ideas you post in any way, including in future modifications of the Website, other products or services, advertising or marketing materials and
- neither the User Content nor the posting, uploading, publication, submission or transmission of the User Content or our use of the User Content on, through or by means of our Website will infringe, misappropriate or violate a third party's intellectual property rights, or rights of publicity or privacy, or result in the violation of any applicable law or regulation.

We do not endorse or approve, and are not responsible for, any User Content. We may, at any time (at our sole discretion), remove any User Content.

## **Third party sites**

Our Website may contain links to websites operated by third parties. Unless expressly stated otherwise, we do not control, endorse or approve, and are not responsible for, the content on those websites. You should make your own investigations with respect to the suitability of those websites.

Any information, advertisements or links to third party sites are purely for information purposes only and are not endorsements by us as to the quality, accuracy or completeness of the data, information or sites.

If you decide to access any of the third party websites advertised or linked, you do so entirely at your own risk and, as far as lawfully possible, we accept no liability or responsibility.

### **Discontinuance**

We may, at any time and without notice to you, discontinue our Website, in whole or in part. We may also exclude any person from using our Website, at any time and at our sole discretion. We are not responsible for any Liability you may suffer arising from or in connection with any such discontinuance or exclusion.

### **Warranties and disclaimers**

To the maximum extent permitted by law, we make no representations or warranties about our Website or the Content, including (without limitation) that:

- they are complete, accurate, reliable, up-to-date and suitable for any particular purpose
- access will be uninterrupted, error-free or free of viruses or
- our Website will be secure.

You read, use and act on our Website and the Content at your own risk.

### **Limitation of liability**

To the maximum extent permitted by law, we are not responsible for any loss, damage or expense, howsoever arising, whether direct or indirect and/or whether present, unascertained, future or contingent (**Liability**) suffered by you or any third party, arising from or in connection with your use of our Website and/or the Content and/or any inaccessibility of, interruption to or outage of our Website and/or any loss or corruption of data and/or the fact that the Content is incorrect, incomplete or out-of-date.

In no event will we be liable to any party for any direct, indirect, incidental or consequential damages or losses whatsoever arising from access to, reliance on, or use of or downloading of information from the Website, (or any associated or linked online service), including, without limitation, damages for loss of profits, business interruption, loss or information or damage to systems due to viruses or other harmful components.

## **Indemnity**

To the maximum extent permitted by law, you must indemnify us, and hold us harmless, against any Liability suffered or incurred by us arising from or in connection with your use of our Website or any breach of these Terms or any applicable laws by you. This indemnity is a continuing obligation, independent from the other obligations under these Terms, and continues after these Terms end. It is not necessary for us to suffer or incur any Liability before enforcing a right of indemnity under these Terms.

## **Termination**

These Terms are effective until terminated by us, which we may do at any time and without notice to you. In the event of termination, all restrictions imposed on you by these Terms and limitations of liability set out in these Terms will survive.

## **Disputes**

In the event of any dispute arising from, or in connection with, these Terms (**Dispute**), the party claiming there is a Dispute must give written notice to the other party setting out the details of the Dispute and proposing a resolution. Within 7 days after receiving the notice, the parties must, by their senior executives or senior managers (who have the authority to reach a resolution on behalf of the party), meet at least once to attempt to resolve the Dispute in good faith. All aspects of every such conference, except the fact of the occurrence of the conference, will be privileged.

If the relevant Parties are unable to resolve the Dispute with 15 Business Days, any Party involved in the Dispute may (by written notice to the other parties) submit the Dispute to mediation administered by the Resolution Institute of Australia, with such mediation to be conducted:

- in good faith
- in New South Wales and
- in accordance with the Resolution Institute of Australia Mediation Guidelines.

The costs of mediation are to be split between the relevant parties, provided that each party will bear its own costs in relation to the mediation.

If the Dispute has not been settled within 20 Business Days after the appointment of a mediator, or such other period as agreed in writing between the parties, the Dispute may be referred by any party involved in the Dispute (by written notice to the other parties) to litigation.

If the parties do not resolve the Dispute within 21 days after receipt of the notice, the Dispute may be referred by either party (by notice in writing to the other party) to litigation.

## **Severance**

If a provision of these Terms is held to be void, invalid, illegal or unenforceable, that provision must be read down as narrowly as necessary to allow it to be valid or enforceable. If it is not possible to read down a provision (in whole or in part), that provision (or that part of that provision) is severed from these Terms without affecting the validity or enforceability of the remainder of that provision or the other provisions in these Terms.

## **Jurisdiction**

Your use of our Website and these Terms are governed by the laws of New South Wales. You irrevocably and unconditionally submit to the exclusive jurisdiction of the courts operating in New South Wales and any courts entitled to hear appeals from those courts and waive any right to object to proceedings being brought in those courts.

Our Website may be accessed throughout Australia and overseas. We make no representation that our Website complies with the laws (including intellectual property laws) of any country outside Australia. If you access our Website from outside Australia, you do so at your own risk and are responsible for complying with the laws of the jurisdiction where you access our Website.

For any questions and notices, please contact us at [info@being.org.au](mailto:info@being.org.au).