

Totally Psyched Limited – Terms and Conditions



Please read these Terms and Conditions carefully, as they set out our and your legal rights and obligations in relation to our services.

1. Definitions and interpretation

1.1. In these Terms and Conditions:

"Arrangement" means our agreement with you for the supply of Services to the patient incorporating these Terms and Conditions, and any amendments to them.

"Appointment" means a meeting either in person or online using such audio-visual medium as agreed to enable the supply of Services that forms part of an Arrangement.

"Client" "you" and "your" means the person or persons to whom the Services are provided or at whose request the Services are provided and who is financially responsible for payment of any fees or costs related to the provision of the Services under any Arrangement with us.

"Consent" means your consent in writing to the arrangement and/or the consent in writing by the person having authority to approve the arrangement.

"Effective Date" means the date an Arrangement is entered into for us to provide Services to you or at your request.

"Force Majeure Event" means an event, or a series of related events, that is outside the reasonable control of any of the parties to an Arrangement including but not limited to (power failures, industrial disputes, changes to the law, natural disasters, pandemics, riots, wars or an Act of God).

"Fee" means the fee and/or costs payable to us for the provision of Services pursuant to an Arrangement.

"Patient" means the person or persons to whom and about whom the Services are provided either as the client or at the request of the client if the patient is a minor or adolescent or legally dependent adult.

"Patient Form" means the document issued by us detailing the scope of Services and any other matters relating to an Arrangement.

"Services" means all services undertaken and provided by us including but not limited to mental health assessment and therapy services.

"Term" means the term of an Arrangement.

"We" "us" and "our" means Totally Psyched Limited and its successors and assigns or any person acting on behalf of and with the authority of Totally Psyched Limited;

"Working Day" means any business day, other than a Saturday or Sunday or any public holiday or statutory holiday observed in the region where the Services are provided.

1.2. In these Terms and Conditions, a reference to a statute or statutory provision includes a reference to:

1.2.1. that statute or statutory provision as modified, consolidated and/or re-enacted from time to time; and

1.2.2. any subordinate legislation made under that statute or statutory provision.

1.3. The Clause headings do not affect the interpretation of these Terms and Conditions.

1.4. In these Terms and Conditions, "persons" includes singular and plural and also companies, partnerships, limited liability partnerships, unincorporated associations and trusts.

2. Acceptance

2.1. Acceptance of these Terms and Conditions is binding on all parties until termination in accordance with these Terms and Conditions or otherwise varied in writing by agreement of all parties.

2.2. These Terms and Conditions are to be read in conjunction with such other documentation as forms part of the arrangement, provided however, that if there are any inconsistencies between these Terms and Conditions and any other documents forming part of the arrangement these Terms and Conditions shall prevail.

3. Terms

3.1. Each Arrangement will come into force on the Effective Date and will continue until terminated in accordance with these Terms and Conditions.



4. Services

- 4.1. We will supply the Services to you in accordance with each arrangement in an appropriate and professional manner and in accordance with all appropriate standards and in full compliance with all legal and statutory obligations relevant to the supply of these services.
- 4.2. If at any time during the arrangement, we are unable to supply the Services we will use all reasonable endeavors to engage alternative services to satisfy our obligation under the arrangement provided however that failure to obtain suitable alternative services shall not be considered a breach of the arrangement giving the right to terminate under the provisions of these Terms and Conditions.
- 4.3. We may suspend the provision of Services as a result of any breach of our arrangement with you including failure to make payment of any fee by the due date for such payment in respect of an Arrangement.

5. Payment

- 5.1. The time for payment of the fee, including payment of any excess payable if payment is to be made under an insurance policy claim shall be the day upon which the services are provided to you.
Should provision of the services require more than one appointment, payment shall be due the day on which the appointment takes place.
- 5.2. Payment to be made in clear funds by EFTPOS, direct debit or via electronic online banking to the bank account notified to you in writing as per our invoice or otherwise or by any other method agreed by us.
- 5.3. GST and any other tax, fee or duty applicable shall be included in such payment at the due date for payment.
- 5.4. Any fee payable in accordance with the terms hereof is subject to an increase as a result of any reasonable increase in the cost of provision of the services, including costs beyond our reasonable control (such as GST, tax or increase in excess), Any such increase to be notified to you in writing to apply with effect from the date of supply of services to which the increase applies.
- 5.5. Any expenses, disbursements and/or legal costs incurred by us in the enforcement of any rights contained in this contract including payment of fees shall be paid by you including any reasonable Solicitors costs or debt collection recovery costs.

6. Warranties

- 6.1. You warrant to us that you have the legal right and authority to enter into and comply with all obligations created by each Arrangement.
- 6.2. We warrant to you that:
 - 6.2.1. We have the legal right and authority to enter into and undertake our obligations required by each Arrangement; and
 - 6.2.2. the Services will be provided in a professional manner using all reasonable care and skill.
 - 6.2.3. The Services will be provided in compliance with all legal and statutory obligations.
- 6.3. If you consider the Services have not been provided in accordance with these Terms and Conditions, then you must:
 - (a) Notify us promptly in writing, providing full details of the services that you consider we have failed to provide; and
 - (b) Agree to allow a review of the Services with such Services to be peer-reviewed if required.
- 6.4. No other warranties or representations will be implied or will apply other than those referred to in these Terms and Conditions.

7. Liability

- 7.1. Nothing in these Terms and Conditions will:
 - 7.1.1. limit the liability of either party in any way that is not permitted under any applicable law or in any way exclude any statutory rights of either party.
- 7.2. Our aggregate liability to you will not exceed the total amount paid or payable by you to us under the Arrangement.

8. Client Indemnity

- 8.1. You will indemnify us and will keep us indemnified against any and all losses, costs, expenses, damages and liabilities (including legal expenses and amounts paid in settlement of legal claims or proceedings) arising directly or indirectly out of any breach by you of our arrangement with you.

9. Force Majeure Event

- 9.1. Neither party to an arrangement shall be liable for any loss or costs that result from either party being unable to comply with its obligations under the arrangement as a result of a Force Majeure event.

10. Termination

- 10.1. Either party may terminate an Arrangement immediately by giving written notice to the other party if the other party:
- 10.1.1. commits any material breach of any provision of an arrangement, including these Terms and Conditions, and;
 - 10.1.2. fails to make payment of fees due in accordance with these Terms and Conditions and fails to remedy this breach of payment within seven working days of receipt of written notice requiring them to do so; or
 - 10.1.3. if the party is a company and that company ceases to trade, becomes insolvent or has a receiver, liquidator or statutory manager appointed; or
 - 10.1.4. where the other party is an individual and that party lacks capacity as determined by a medical practitioner or dies.

11. Effects of termination

- 11.1. Upon termination of this Arrangement our obligations to you will cease.
- 11.2. Termination of an Arrangement will not in any way reduce your liability to us in relation to any payment due up to and including the date of termination and including any recovery costs or other payment obligation you may be liable for as a result of the arrangement between us.
- 11.3. Termination will not affect either parties accrued rights and obligations as at the date of termination.

12. Confidentiality

- 12.1. The provisions of this agreement are strictly confidential to both you and us.

Neither party may disclose or permit to be disclosed any details of the arrangement between us, the services provided, the provisions of these terms and conditions or any information obtained by us from you or by you from us relating to the arrangement, these Terms and Conditions or any other information that has become available to either party as a result of the arrangement.

All such information will remain confidential and will not be released to any party without first obtaining the written consent of the other party or as a result of a Court Order authorizing such release of information.

- 12.2. You authorize us to collect, retain and use information from you for the purposes of the arrangement.

It is acknowledged that all information obtained will be used strictly in accordance with the obligations of the parties created by these terms or any arrangement.

13. Dispute Resolution

- 13.1. You and we agree that should a dispute arise between us in relation to any arrangement that all parties agree to enter into good faith discussions to resolve the dispute and failing resolution in this manner agree to the dispute being referred to mediation by a single mediator on such terms and conditions as agreed between the parties.

14. Compliance with Laws

- 14.1. The parties will comply with all such relevant statutes and regulations as may be applicable to the provision of the services including but not limited to the Privacy Act 2020, the Health and Disability Commissioner Act 1994, the Care of Children Act 2004, the Vulnerable Children's Act 2014 and all such statutory obligations.

15. General

- 15.1. Our failure to enforce any provision of these Terms and Conditions shall not be treated as a waiver of that provision, nor shall it affect our right to subsequently enforce that provision.



- 15.2. If any provision of these Terms and Conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 15.3. These Terms and Conditions and any arrangement shall be governed by the laws of New Zealand and are subject to the jurisdiction of the courts of New Zealand.
- 15.4. We shall be under no liability whatever to you for any indirect loss and/or expense (including loss of profit) suffered by you arising out of a breach by us of these Terms and Conditions.
- 15.5. We reserve the right to review these Terms and Conditions at any time. If, following any such review, there is to be any change to these Terms and Conditions, then that change will take effect from the date on which we notify you of such a change.
- 15.6. The Terms and Conditions of an Arrangement may not be varied except by a written document signed by or on behalf of all parties to an arrangement.
- 15.7. Other than as expressly provided within these terms and conditions neither party may without the prior written consent of the other party assign, transfer license or otherwise dispose of or deal with any rights or obligations created under any arrangement between us.