

## TERMS OF USE

### 1 INTRODUCTION

- 1.1 This website (referred to in these user terms as the Website) is owned and operated by HTET & TIN COMPANY PTY LTD ACN 666 805 956 AS TRUSTEE FOR ELERMORE VALE MEDICAL CENTRE TRUST (“**Elernore Vale Medical Centre**”), who is referred to in these Terms of Use as “we”, “us”, “our” and similar grammatical forms. “You”, “your” and other similar grammatical forms refers to any person who may use the Website or the Application from time to time.
- 1.2 The material on the Website is copyright © 2024 HTET & TIN COMPANY PTY LTD ACN 666 805 956 AS TRUSTEE FOR ELERMORE VALE MEDICAL CENTRE TRUST.
- 1.3 Elernore Vale Medical Centre is engaged by independent practitioners to provide facilities and administrative and other services to them so that they can operate their independent practices from our premises.
- 1.4 Users may use the Website in accordance with these Terms of Use.
- 1.5 For the purposes of these Terms of Use, the following meanings apply:
  - (a) ‘**Users**’ means any person or entity who uses the Website.
  - (b) ‘**Content**’ means the content which is available on the Website.
- 1.6 The Website is available for Users to:
  - (a) Access and use, conditional on your acceptance without alteration of the terms and conditions set out below. By continuing to access and/or use the Website, you are agreeing to these Terms of Use; and
  - (b) Upload material or information conditional on your acceptance without alteration of the terms and conditions set out below. By continuing to provide upload material or information to the Website you are agreeing to these Terms of Use.
- 1.7 When you accept these Terms of Use on behalf of an employer, end user, or institution, you represent and warrant that you are authorised to do so by such entity by which you are employed or retained and for whose benefit you are using the Website. References herein to “you” and “your” shall mean “you and/or your employer, end user and your institution.”
- 1.8 In the interpretation of these Terms of Use, the following provisions apply unless the context otherwise requires:
  - (a) the singular includes the plural and vice versa;
  - (b) a reference to any legislation includes any statutory modification or re-enactment of, and any subordinate legislation issued under, that legislation or legislative provision;
  - (c) a reference to an individual or person includes a corporation, partnership, joint venture, association, authority, trust, state or government and vice versa;
  - (d) a reference to any gender includes all genders;
  - (e) a reference to a recital, clause, schedule, annexure or exhibit is to a recital, clause, schedule, annexure or exhibit of or to these Terms of Use;
  - (f) a reference to any party to these Terms of Use or any other document or arrangement includes that party’s executors, administrators, substitutes, successors, and permitted assigns;
  - (g) a reference to ‘**dollars**’ or ‘**\$**’ means the lawful currency of Australia;

- (h) where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning; and headings are for ease of reference only and do not affect interpretation;
- (i) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of these Terms of Use, or any part of it; and
- (j) unless expressly stated to be otherwise, the meaning of general words is not limited by specific examples introduced by “including”, “for example” or similar inclusive expressions.

## **2 USE OF THE WEBSITE**

2.1 You may not use the Website (or the material contained on it) for any illegal purpose. This includes:

- (a) the reproduction of the material in any material form;
- (b) the distribution of the material in any material form;
- (c) re-transmission of the material by any medium of communication;
- (d) uploading or reposting the material to any other site on the internet; and
- (e) “framing” the material on the Website with other material on any other website.

2.2 The above are unlawful in any jurisdiction and are specifically prohibited by these Terms of Use.

2.3 Despite the above restrictions on use of the material on the Website, and subject to your continued compliance with these Terms of Use, we grant you a limited, non-exclusive, non-transferable, non-subliceable, revocable right to access and use the Website solely in accordance with the terms set out in these Terms of Use.

2.4 You may download material from the Website for your use provided you do not remove any copyright and trade mark notices contained on the material.

2.5 You may not modify or copy:

- (a) the layout of the Website; or
- (b) any computer software and code contained in the Website.

2.6 You may only use the Website in accordance with these Terms of Use, any directions given by us (acting reasonably), and with all local and foreign laws and regulations applicable to you, and for lawful purposes.

2.7 You must not, nor cause or permit any other person to:

- (a) use the Website in a manner or for a purpose which is improper, immoral or fraudulent, which infringes any person’s rights (including intellectual property rights or privacy rights), violates these Terms of Use, or which restricts or interferes with the provision of the Website by us to any other user;
- (b) alter, modify, adapt or copy the whole or any part of the Website;
- (c) reproduce, duplicate, sell, exploit, decompile, dissemble, reverse engineer, enhance, alter or otherwise interfere with the whole or any part of the Website;
- (d) remove or obscure any copyright, trade mark or other proprietary notice on the Website;
- (e) enter into any transaction relating to access or use of the Website with a party other than us, without our prior written consent;
- (f) use any part of the Website to aid any person or entity that conducts business which is the same or substantially similar to our business (being the business of providing billing and administrative services to independent practitioners);

- (g) attempt to disable or circumvent any security or other technological measure designed to protect the Website or users;
- (h) attempt to gain unauthorised access to the Website, computer systems or networks connected to the Website, through hacking, password mining or any other means; or
- (i) use the Website for any purpose or activity of an illegal, fraudulent, obscene, offensive, personally offensive or defamatory nature or use any mechanism, device, software or script to affect the proper functioning of the Website.

2.8 At all times you must:

- (a) be honest and faithful in all your dealings;
- (b) not engage in any unsound, unethical or improper business;
- (c) provide full and correct information to us, and provide truthful explanations to us, in all matters relating to these Terms of Use;
- (d) ensure at all times that your conduct does not bring any discredit on us or cause any nuisance or disruption to us or our employers;
- (e) immediately notify us if you become aware of any malfunction of the service or any breach of these Terms of Use.

### **3 LINKS TO OTHER WEBSITES**

3.1 The Website contains links to sites on the internet owned and operated by third parties which are not under our control.

3.2 In relation to the other sites on the internet, which are linked on the Website, we:

- (a) provide the links to other sites as a convenience to you and the existence of a link to other sites does not imply any endorsement by us of the contents of the linked site; and
- (b) are not responsible for the material contained on those linked sites and do not accept any liability howsoever arising from your use of those linked sites.

### **4 DISCLAIMERS AND LIMITATIONS OF LIABILITY**

4.1 Any information we make available to you is provided by third parties and does not originate from us. We do not independently verify the information provided by third parties, including information provided by any other user, and pass on information to you with no representation or warranty regarding the accuracy, truthfulness, usefulness, reliability or integrity of any information that has not expressly originated from us.

4.2 With respect to the information contained on the Website or linked sites on the internet, we:

- (a) are making the Website available without assuming a duty of care to users; and
- (b) are not in the business of providing professional advice,

and therefore, to the fullest extent permitted by law, we disclaim any and all warranties, guarantees or representations (either express or implied) contained on the Website or linked sites on the internet about:

- (c) the accuracy, reliability, completeness, usefulness, timeliness or otherwise of any information contained or referred to on the Website or of any linked sites; and
- (d) the merchantability or fitness for any particular purpose for any service or product of any information contained or referred to on the Website or on any linked sites.

4.3 We will not be liable under any circumstances for any loss of profits or any damages of any kind recognised by law (even if it has been advised of the possibility of such loss of profits or damages) which are the consequence of you:

- (a) acting, or failing to act, on any information contained on or referred to on the Website or any of the linked websites; and
- (b) using or acquiring, or your inability to use or acquire, any service or product contained or referred to on the Website or any linked sites.

4.4 We do not warrant, guarantee or make any representation that:

- (a) the Website, or the server that makes the Website available on the internet are free of software viruses;
- (b) the functions contained in any software contained on the Website will operate uninterrupted or are error-free; and
- (c) errors and defects in the Website will be corrected,

and you must take your own precautions to ensure that the process which you use for accessing the Website does not expose you to the risk of viruses, malicious computer code or other forms of interference which may damage your own computer system.

4.5 We are not liable to you for:

- (a) errors or omissions in the Website, or linked sites on the internet;
- (b) delays to, interruptions of or cessation of the services provided in the Website or linked sites;
- (c) any interference or damage to your own computer system which arises in connection with your use of the Website, or linked sites; and
- (d) defamatory, offensive or illegal conduct of any user of the Website,

whether caused through our negligence or the negligence of our employees, independent contractors or agents, or through any other cause.

4.6 You agree to accept the full cost of any necessary repair, correction and maintenance of any of your computer software or hardware, which may be necessary as a consequence of you accessing the Website.

4.7 Where the Content provided by others contains opinions or judgments of third parties, we do not purport to endorse those opinions or judgments, nor the accuracy or reliability of them.

4.8 Whilst we will undertake reasonable efforts to protect the information which we transmit and receive in accordance with our Privacy Policy, we do not warrant the security of any information which you transmit to us, and you are responsible for ensuring you have retained appropriate backups of any information which you may provide to us.

4.9 Our sole liability for breach of any terms, conditions and warranties in jurisdictions where such terms, conditions and warranties are implied and required by law, where the breach relates to the supply of services that are not of a kind ordinarily acquired for personal, domestic or household use or consumption, and where it is fair and reasonable to do so, is limited at our option to one or more of the following:

- (a) the supplying of the Website again; or
- (b) the payment of the cost of having the Website supplied again.

- 4.10 To the fullest extent permitted by law and except as otherwise expressly stated in these Terms of Use, our liability to you for any reason (including any breach of, or omission under, these Terms of Use) is limited in aggregate to the amount of the fees (if any) paid by you in relation to our engagement.
- 4.11 To the fullest extent permitted by law we are not liable for any direct, indirect, incidental, special and/or consequential damage, loss, claim, expense or loss of profits, economic loss, business interruption, loss of goodwill, loss of profits, loss of savings on overheads or any loss of data which result from any use or access, or any inability to use or access, or misuse by you or any other party, of the Website or otherwise in connection with any content, even if we have been advised of the possibility of such damages or loss.
- 4.12 Nothing in these Terms of Use is intended to exclude or limit any condition, warranty, right, or liability in a manner that is not permissible under applicable law. In some circumstances, some jurisdictions may not permit the exclusion of certain warranties or conditions, the exclusion of incidental or consequential damages, or the limitation or exclusion of liability for loss or damage caused by negligence, breach of contract, or breach of implied terms. Accordingly, only the above limitations which are lawful in the applicable jurisdiction in which you may use the Website. With respect to any limitations which are not lawful as stated, our liability will be limited to the maximum extent permitted by applicable law.
- 4.13 Subject to this clause, our liability for loss or damage to you will be reduced proportionately to the extent that:
- (a) such loss or damage has been caused by your failure to comply with your obligations and responsibilities under these Terms of Use; or
  - (b) your actions or omissions have contributed to such loss or damage,
- regardless of whether a claim is made by the other party.

## **5 TERMINATION OF ACCESS**

- 5.1 Your agreement with us commences on the date you commence using the Website and remains in force until terminated in accordance with this Terms of Use or as otherwise stipulated by us in writing.
- 5.2 We reserve the right from time to time to immediately alter, interrupt, suspend, or terminate your right to access the whole or any part of the Website at any time in our sole discretion and without giving any explanation, justification or notice for the termination of access.
- 5.3 Without limiting our rights above, we may also immediately terminate your right to access the whole or any part of the Website without any notice to you if you are in breach of these Terms of Use at any time.
- 5.4 On termination, you must immediately pay any and all outstanding invoices or any charges or fees incurred as a result of your access and use of the Website before the date of termination.
- 5.5 You agree that we will not be liable for any costs, losses or damages of any kind that may arise from any such interruption, suspension, termination or alteration pursuant to this clause.
- 5.6 Termination does not affect any accrued rights or liabilities of either you or us, nor does it affect any provision which is expressly or by implication intended to operate after termination.

## **6 ALTERATION OF TERMS OF USE**

- 6.1 We reserve the right to change these Terms of Use:
- (a) with or without further notice to you; and
  - (b) without giving you any explanation or justification for such change.

6.2 Amendments will be effective immediately upon notification on the Website. Your continued use of the Website will represent an agreement by you to be bound by the Terms of Use as amended.

## **7 USE AND DISCLOSURE OF PERSONAL INFORMATION**

7.1 We and any people or legal entities authorised by us (including your independent practitioner) may collect, use and process the personal information:

- (a) which you may provide when accessing the Website, such as your name, address, e-mail address, health information, and other personal or sensitive information about you; and
- (b) regarding the way in which you use the Website including, without limitation, information acquired through the use of cookies delivered to your computer when you access our Website.

7.2 The way we collect, store and use personal information is set out in our Privacy Policy. We will comply with the Australian privacy legislation with respect to our collection, storage, use and disclosure of your personal information. Please refer to our full Privacy Policy for details of how we collect, store, use and disclose your personal information.

7.3 You will at all times indemnify and keep indemnified us and our respective officers, employees, contractors, agents and other representatives (**Those Indemnified**) from and against any loss (including reasonable legal costs and expenses) or liability incurred by any of Those Indemnified arising from any claim, demand, suit, action or proceeding by any person against any of Those Indemnified where such loss or liability arose out of, in connection with or in respect of:

- (a) your use of the Website;
- (b) any breach of these Terms of Use by you; and
- (c) our collection, use, publication or distribution of the material or information supplied by you from time to time.

## **8 INTELLECTUAL PROPERTY RIGHTS**

8.1 We reserve all intellectual property rights, including, but not limited to, copyright in the Content, the Website, and any material or services provided by it. The Content is provided to you in accordance with the licence set out under clause 2.3 above only and may not be:

- (a) re-sold or re-distributed in any material form;
- (b) stored in any storage media; or
- (c) re-transmitted in any media,

without our prior written consent.

8.2 We reserve the right to modify, vary, correct, alter, remove or delete any part or all of the Website or the Content, at any time in our sole discretion and without any notice to you. We and our respective officers, employees and agents have no liability for any costs, losses or damages of any kind, which you may incur, arising whether directly or indirectly as a consequence of removing any material or information from the Website.

8.3 All logos, icons, brand names or service names that identify the owner and operator of the Website are our copyright property or our trade marks or service marks. All other trade marks or service marks on the Website or any linked websites are the property of their respective owners. You must obtain written permission before reusing any copyrighted material that is published on the Website. Any unauthorised use of the materials appearing on the Website may violate copyright, trade mark and other property rights or legal protections and could result in criminal and/or civil penalties.

8.4 Other than for the purposes of, and subject to the conditions prescribed under applicable copyright laws which apply in your location, and except as expressly authorised by these Terms of Use, you may not in any form or by any means without our prior written approval:

- (a) adapt, reproduce, distribute, print, display, perform, publish or create derivative works from any part of the services; or

- (b) commercialise any Content, goods or services obtained from any part of the Website.
- 8.5 You guarantee and warrant that you hold all intellectual property rights in the Content which you upload to the Website and/or have obtained any relevant consents which may be required under applicable privacy legislation for the use and disclosure of such information (and you indemnify us from any damages, costs, losses or liabilities which may arise from our use of the Content). By submitting any information or other material to us (including inputting data or engaging in any other form of communication), you grant to us a perpetual, royalty-free, non-exclusive, irrevocable, unrestricted, worldwide licence to do the following in respect of the information or material:
- (a) for the purpose of complying with our obligations under, and to permit you to comply with all of your obligations under, these Terms of Use;
  - (b) use, copy, sublicense, redistribute, edit, adapt, transmit, publish and/or broadcast, publicly perform or display; and
  - (c) sublicense to any third parties the unrestricted right to exercise any of the rights granted in subclause (b), provided that, where such use is not for the purpose of complying with these Terms of Use, all personal and sensitive information will be removed from the information and materials before such information and/or materials is made available to any other person.
- 8.6 You agree that the licence provided to us under clause 8.4 above includes the right to exploit all proprietary rights in that information or other material including but not limited to rights under copyright, trade mark, service mark or patent laws under any jurisdiction worldwide.
- 8.7 You unconditionally and irrevocably consent to all acts and omissions by us, or people authorised by us, which would otherwise amount to an infringement of your moral rights in that information or other material. This includes consent to change the information or other material even if the change amounts to a “derogatory treatment” of the information or other material as that term is defined in Division 4 of Part 9 of the Copyright Act 1968 (Cth).
- 8.8 At our request and expense, you will execute and deliver to us such instruments and take such other actions as may be required to give full legal effect to this grant of licence and consent.
- 8.9 You are solely responsible for retaining/maintaining/storing and backing up (electronically and/or with hard copies) any information or materials that you wish to preserve. We are not responsible for unauthorised access to, use of or alteration of your information.
- 8.10 To the extent any moral rights are not transferable or assignable, you hereby waive and agree never to assert any and all moral rights, or to support, maintain or permit any action based on any moral rights that you may have in or with respect to any information or materials you upload to or through the Website. You expressly release us and our agents, partners, licensees, successors, and assigns from any and all claims, demands, liabilities, or causes of action, whether now known or unknown, for defamation, copyright infringement, violation of moral rights, and invasion of the rights to privacy, publicity, or personality or any similar matter, or based upon or relating to your posting of information or materials.

## **9 RELEVANT JURISDICTION**

- 9.1 If any part of these Terms of Use is found to be void, unlawful, or unenforceable then that part will be deemed to be severable from the balance of these Terms of Use and the severed part will not affect the validity and enforceability of any remaining provisions.
- 9.2 These Terms of Use will be governed by and interpreted in accordance with the law of New South Wales, without giving effect to any principles of conflicts of laws.
- 9.3 You agree to the jurisdiction of the courts of New South Wales to determine any dispute arising out of these Terms of Use.

## **DISCLAIMER**

This Disclaimer is to be read in conjunction with our Terms of Use and Privacy Policy. If you continue to browse and use this Website you are agreeing to comply with, and be bound by the following disclaimer, together with our Terms of Use and Privacy Policy.

The information contained in this Website is for general information purposes only. While we endeavour to keep the information up to date and correct, we make no representations or warranties of any kind, express or implied, about the completeness, accuracy, reliability, suitability or availability with respect to the Website or the information, products, services or related graphics contained on the Website for any purpose. Any reliance you place on such information is therefore strictly at your own risk. You need to make your own enquiries to determine if the information or products are appropriate for your intended use.

### **Medical Information**

The material and content on this Website is for general information and educational purposes only. Whilst we have exercised due care in ensuring the accuracy of the content contained on this Website, the information is not specific and does not take into account your personal circumstances.

You understand and acknowledge that you are responsible for your own medical care, treatment and oversight. The content on the Website does not constitute the provision of medical advice and is not intended to be a substitute for professional medical advice, diagnosis or treatment.

Nothing contained in this Website is intended to be used or treated as medical advice and it is not intended to be used to diagnose, treat, cure or prevent any disease or medical condition nor should it be used for therapeutic purposes or as a substitute for your own health professional's advice. The content is intended to provide guidance and assistance for some symptoms that may be experienced from time to time pursuant to a procedure but the information is indicative only and not meant as a comprehensive list for all or any particular patient or individual.

Given that medical information is constantly changing, the information on this website or on the linked websites should not be considered current, complete or exhaustive, nor should you rely on such information to recommend a course of treatment for you or any other individual. Whilst we endeavour to update the content, we make no representations or warranties of any kind, express or implied, about the completeness, accuracy, reliability, suitability or availability with respect to the Website or the information, products, services, or related graphics contained on the Website for any purpose. Any reliance you place on such information and any content is therefore strictly at your own risk. You need to make your own enquiries to determine if the information is appropriate for your intended use and suitable to your particular condition. Before relying on any content, you should obtain your own professional medical advice to ensure it is relevant to your specific circumstances.

In no event do we accept liability for any loss, injury, damage, including but not limited to indirect or consequential loss or damage, death or illness, which may result of any use or reliance on the content provided on or use of this Website.

If you have any queries or concerns about our disclaimer or any of the information on the Website, please contact us at: [reception@evmc.au](mailto:reception@evmc.au)