

PROVIDER TERMS AND CONDITIONS

These Provider Terms and Conditions (**Agreement**) govern the relationship between Back Up Therapy ABN 65 842 559 589 (“**The Back Up**”, “**we**”, “**us**”) and the business or individual identified as the Provider (“**you**”).

By submitting the Provider Consent Form or continuing to provide Products to The Back Up, the Provider acknowledges that they have read, understood, and agree to be bound by these Terms and Conditions.

Acceptance and Online Consent

By submitting the Provider Consent Form in Schedule 1, or by continuing to supply Products to The Back Up, you confirm that you:

- (i) are authorised to bind the Provider;
- (ii) have read and agree to this Agreement; and
- (iii) consent to The Back Up processing the details you submit in Schedule 1 for onboarding, safety and operational purposes.

1 SCOPE OF SUPPLY

1.1 SUPPLY OF PRODUCTS

- (a) The Provider agrees to supply assistive technology, equipment or related products (**Products**) to The Back Up for use in Trial Kits and educational sessions.
- (b) Products may be purchased, loaned, or provided free of charge (samples), as indicated in the Provider Consent Form or otherwise agreed in writing.
- (c) The Back Up may use Products for demonstrations, training and client trials but is under no obligation to use, display or promote any Product or brand.
- (d) The Back Up may withdraw, rotate or discontinue any Product from its Trial Kits at any time, in its discretion.

1.2 PURCHASE, LOAN OR SAMPLE – TITLE AND RISK

(a) Purchased Products:

- (i) Title passes to The Back Up on payment in full; risk passes on delivery to the address nominated by The Back Up.
- (ii) The Provider must issue a valid tax invoice (including GST where applicable). Unless otherwise agreed in writing, delivery costs are the Provider’s responsibility.

(b) Loaned Products:

- (i) Title remains with the Provider; risk passes to The Back Up only while the Product is in The Back Up’s direct custody and not on loan to Members.
- (ii) The Back Up will take reasonable care and apply its member terms to pursue member-caused loss or damage but is not liable for misuse by Members or third parties outside its reasonable control.
- (iii) On withdrawal or termination, loaned Products will be returned within a reasonable time after current member bookings are fulfilled (unless the Provider withdraws for a safety issue, in which case The Back Up will cease use immediately and return as soon as practicable).

(c) Free Samples: Title passes upon delivery unless the Provider designates the item as Loaned in Schedule 1.

2 RELATIONSHIP

The relationship between The Back Up and the Provider is that of principal and independent contractor. Nothing in this Agreement constitutes or deems the Provider to be an employee, agent, or partner of The Back Up.

3 CONFIDENTIALITY

Each party must keep the other party's Confidential Information confidential, use it only to perform this Agreement, disclose only to personnel who need to know, and ensure those personnel keep it confidential. Either party may disclose if required by law. "Confidential Information" excludes information in the public domain (other than due to a breach).

4 MEDIA AND MARKETING

- (a) The Provider grants The Back Up a non-exclusive, royalty-free, worldwide licence to:
 - (i) reference and display the Provider's name, logos and brand assets;
 - (ii) capture, use, edit and publish images/video of the Products in use (including photos taken during sessions or trials); and
 - (iii) feature the Products in educational or promotional materials (including social, guides, newsletters, presentations and websites).
- (b) The Back Up will use such materials professionally and in connection with its education and allied-health purposes.
- (c) The Provider warrants it has the rights (or the manufacturer's written consent) to grant the licence above. The Provider will promptly provide evidence of such consent on request.
- (d) The Provider may withdraw future use of its brand assets on reasonable written notice. Previously printed/published materials and historical posts may be retained and continued.

5 INTELLECTUAL PROPERTY

- (a) The Provider retains ownership of all Intellectual Property Rights in its Products and brand assets.
- (b) The Provider warrants that supply and use of the Products, and The Back Up's exercise of the licence in clause 4, do not infringe third-party rights.
- (c) All materials, media and educational content created by The Back Up are The Back Up's property.

6 PRODUCT SAFETY & RECALLS

- (a) The Provider warrants that Products are safe, functional and comply with Australian standards applicable to their intended use.
- (b) The Provider will immediately notify The Back Up of any safety issues, recalls or discontinuations, and will provide reasonable cooperation in relation to any recall or safety notice.
- (c) The Back Up may cease using any Product at any time if it considers it unsafe or unsuitable.

7 WITHDRAWAL & DISCONTINUATION

- (a) The Provider may withdraw a Product by email notice. Unless the withdrawal relates to a safety issue, The Back Up may continue using withdrawn Products to fulfil existing member bookings accepted before notice.
- (b) Loaned Products will be returned after (a) above; purchased Products remain with The Back Up.
- (c) The Back Up may remove any Product from its kits or content at any time for quality, suitability or operational reasons.

8 LIABILITY AND INDEMNITIES

- (a) Member misuse: The Back Up is not liable for loss, damage or injury arising from misuse of Products by Members or third parties beyond The Back Up's reasonable control.

- (b) Provider indemnity: The Provider indemnifies The Back Up from losses arising from:
 - (i) defective or non-compliant Products supplied by the Provider;
 - (ii) breach of the warranties in clauses 4(c) or 6(a)-(c); and
 - (iii) recalls initiated by the Provider or a manufacturer.
- (c) The Back Up cap: To the extent permitted by law, The Back Up excludes liability for indirect or consequential loss, and any aggregate liability to the Provider is capped at the greater of AUD 1,000 or the amounts paid by The Back Up for the specific Product(s) giving rise to the claim in the preceding 12 months.
- (d) Nothing in this Agreement limits any non-excludable rights or remedies at law.

9 TERMINATION

- (a) This Agreement starts on Acceptance and continues indefinitely until terminated in accordance with this clause.
- (b) Either party may terminate by email notice at any time.
- (c) On termination:
 - (i) The Back Up will cease including withdrawn/terminated Products in future kits or content (subject to clause 7(a) for existing bookings);
 - (ii) Loaned Products will be returned within a reasonable time; purchased Products remain with The Back Up; and
 - (iii) clauses dealing with confidentiality, IP, media, safety/recalls, liability and notices survive.

10 NOTICES

- (a) A notice or other communication to a party under this agreement must be:
 - (i) in writing and in English; and
 - (ii) delivered via email to the other party, to the email address specified in this agreement, or if no email address is specified in this agreement, then the email address most regularly used by the parties to correspond regarding the subject matter of this agreement as at the date of this agreement (**Email Address**). The parties may update their Email Address by notice to the other party.
- (b) Unless the party sending the notice knows or reasonably ought to suspect that an email was not delivered to the other party's Email Address, notice will be taken to be given:
 - (i) 24 hours after the email was sent, unless that falls on a Saturday, Sunday or a public holiday in the state or territory whose laws govern this agreement, in which case the notice will be taken to be given on the next occurring business day in that state or territory; or
 - (ii) when replied to by the other party,whichever is earlier.

11 GENERAL

11.1 GOVERNING LAW AND JURISDICTION

This agreement is governed by the law applying in Queensland, Australia. Each party irrevocably submits to the exclusive jurisdiction of the courts of Queensland, Australia and courts of appeal from them in respect of any proceedings arising out of or in connection with this agreement. Each party irrevocably waives any objection to the venue of any legal process on the basis that the process has been brought in an inconvenient forum.

11.2 AMENDMENTS

This agreement may only be amended in accordance with a written agreement between the parties.

11.3 WAIVER

No party to this agreement may rely on the words or conduct of any other party as a waiver of any right unless the waiver is in writing and signed by the party granting the waiver.

11.4 SEVERANCE

Any term of this agreement which is wholly or partially void or unenforceable is severed to the extent that it is void or unenforceable. The validity and enforceability of the remainder of this agreement is not limited or otherwise affected.

11.5 JOINT AND SEVERAL LIABILITY

An obligation or a liability assumed by, or a right conferred on, two or more persons binds or benefits them jointly and severally.

11.6 ASSIGNMENT

A party cannot assign, novate or otherwise transfer any of its rights or obligations under this agreement without the prior written consent of the other party.

11.7 COUNTERPARTS

This agreement may be executed in any number of counterparts. Each counterpart constitutes an original of this agreement and all together constitute one agreement.

11.8 COSTS

Except as otherwise provided in this agreement, each party must pay its own costs and expenses in connection with negotiating, preparing, executing and performing this agreement.

11.9 ENTIRE AGREEMENT

This agreement embodies the entire agreement between the parties and supersedes any prior negotiation, conduct, arrangement, understanding or agreement, express or implied, in relation to the subject matter of this agreement.

11.10 INTERPRETATION

- (a) **(singular and plural)** words in the singular includes the plural (and vice versa);
- (b) **(gender)** words indicating a gender includes the corresponding words of any other gender;
- (c) **(defined terms)** if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (d) **(person)** a reference to “person” or “you” includes an individual, the estate of an individual, a corporation, an authority, an association, consortium or joint venture (whether incorporated or unincorporated), a partnership, a trust and any other entity;
- (e) **(party)** a reference to a party includes that party’s executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;
- (f) **(this agreement)** a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure is a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure to or of this agreement, and a reference to this agreement includes all schedules, exhibits, attachments and annexures to it;
- (g) **(document)** a reference to a document (including this agreement) is to that document as varied, novated, ratified or replaced from time to time;
- (h) **(headings)** headings and words in bold type are for convenience only and do not affect interpretation;
- (i) **(includes)** the word “includes” and similar words in any form is not a word of limitation;
- (j) **(adverse interpretation)** no provision of this agreement will be interpreted adversely to a party because that party was responsible for the preparation of this agreement or that provision; and

(k) **(currency)** a reference to \$, or “dollar”, is to Australian currency, unless otherwise agreed in writing.

12 DEFINITIONS

Capitalised terms in this Agreement have the following meanings, or as otherwise defined in the body:

- (a) **Acceptance** means the Provider's agreement to be bound by this Agreement by submitting the Provider Consent Form in Schedule 1 or by continuing to supply Products to The Back Up.
- (b) **Confidential Information** means information of or provided by The Back Up to the Provider that is by its nature confidential, is designated by The Back Up as confidential, or that the Provider knows or ought to know is confidential, but does not include information which is or becomes public knowledge without a breach of confidentiality.
- (c) **Intellectual Property Rights** means all present and future rights in copyright, trade marks, designs, patents, circuit layouts, trade, business, company and domain names, confidential and other proprietary rights, and any rights to register or enforce such rights, anywhere in the world.
- (d) **Member** means a person participating in The Back Up's programs who borrows or trials Products through The Back Up.
- (e) **Personnel** means a party's employees, contractors, agents or officers.
- (f) **Trial Kits** means the loan or trial equipment kits curated and managed by The Back Up for educational sessions and member trials.

Schedule 1 PROVIDER CONSENT FORM**Provider details**

- Legal name: _____ **ABN:** _____
- Trading name (if any): _____
- Primary contact name & title: _____
- Email: _____ Phone: _____
- Principal place of business: _____

Products submitted (attach list if needed)

Product name	Model/variant	Serial/Batch (if applicable)	Supply basis (Purchase / Loan / Free Sample)	Replacement value (loan)	Safety standards met	Images/logos supplied (Y/N)
--------------	---------------	------------------------------	---	--------------------------	----------------------	-----------------------------

Delivery & return

- Delivery address (The Back Up will confirm if different): _____
- For Loaned items, return address & contact:

- Provider to pay: outbound freight return freight both as agreed in writing

Brand / media permissions

I authorise The Back Up to use our name, logos and brand assets and to capture/use images/video of Products in use for educational and promotional purposes.

I confirm I have manufacturer consent (where required) to grant the licence above and will provide evidence on request.

Safety & compliance

I warrant Products are safe, functional and comply with applicable Australian standards.

Recall contact person: Name _____ Email/Phone _____

Withdrawal settings

If we withdraw without a safety issue, we agree The Back Up may fulfil existing bookings accepted before notice.

Tax & invoices (for purchased items only)

We will issue valid tax invoices (GST included where applicable) and understand title passes on payment and risk on delivery.

Authorisation

By submitting this form, I confirm I am authorised to bind the Provider and agree to the Provider Terms and Conditions.

Name _____ Position _____

Date ____ / ____ / ____ I agree (tick box)