



# Public Program Indemnity Terms and Conditions

Building Q, 41 Cramer Street, Preston VIC 3072  
Tel: (03) 9471 2928  
info@westsidecircus.org.au www.westsidecircus.org.au  
ABN 93 737 832 035

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**On the enrolment form a participant/participant's parent or guardian is asked to either agree or disagree with the following statements:**

### **Photo/Media Consent**

Westside Circus uses different forms of technology to take photographs, videos and images of our work. These are used for documentation and promotion of the valuable work we do. Do you give permission for you or the participant to be included in these photographs, images and videos?

**Please Note:** Parents or Guardians of other participants may take photos of classes/performances. The taking and distributing of these photos are out of Westside Circus's control.

### **Medical Treatment Consent**

Do you give permission for Westside Circus staff, or persons authorised by Westside Circus, to administer first aid, take your child (participant) to a hospital, call for an ambulance, or otherwise seek appropriate treatment, in the event of any illness or injury during your child's (or the participant's) participation in our classes/programs?

**A participant/participant's parent or guardian must agree to the following terms and conditions in order for their child to participate in Westside Circus activities:**

### **WARNING UNDER THE AUSTRALIAN CONSUMER LAW AND FAIR TRADING ACT 2012**

Under the Australian Consumer Law (Victoria), several statutory guarantees apply to the supply of certain goods and services. These guarantees mean that the supplier named on this form (**Westside Circus**) is required to ensure that the recreational services it supplies to you:

- are rendered with due care and skill; and
- are reasonably fit for any purpose which you, either expressly or by implication, make known to the supplier; and
- might reasonably be expected to achieve any result you have made known to the supplier.

Under section 22 of the *Australian Consumer Law and Fair Trading Act 2012* (Vic) (**FTA**), the supplier is entitled to ask you to agree that these statutory guarantees do not apply to you. If you sign this form, you will be agreeing that your rights to sue the supplier under the FTA if you (or your child) are killed or injured because the services provided were not in accordance with these guarantees, are excluded, restricted or modified in the way set out in this form.

NOTE: The change to your rights, as set out in this form, does not apply if your death or injury is due to gross negligence on the supplier's part. Gross negligence, in relation to an act or omission, means doing the act or omitting to do an act with reckless disregard, with or without consciousness, for the consequences of the act or omission. See regulation 5 of the Australian Consumer Law and Fair Trading Regulations 2012 and section 22(3)(b) of the FTA.

### **Acknowledgement, Indemnity and Waiver**

Westside Circus will exercise reasonable care in the course of the Activity. Nothing in these indemnity terms and conditions operates to exclude, restrict or modify the application of any implied condition or warranty, provision, the exercise of any right or remedy, or the imposition of any liability, implied or conferred under the Australian Consumer Law or any other statute, the exclusion, restriction or modification of which would:

- contravene that statute; or
- cause any term of these Indemnity Terms and Conditions to be void, (**Non-excludable Obligations**).

To the extent permitted by law, all conditions, warranties, guarantees, rights, remedies, liabilities and other terms implied or conferred by statute, custom or the general law that impose any liability or obligation on Westside Circus are excluded under these indemnity terms and conditions.

Participants' parents or guardians represent and agree, for themselves and on behalf of their child, heirs, assigns and any other person claiming, under, or through me, as follows:

- I acknowledge that participating in the Activity involves certain risks and that injuries, death, property damage or other harm could occur to myself/my child or others. Except to the extent of the Non-Excludable Obligations, I assume and agree to bear all risks of any injuries, damages or harm which arise during or resulting from my/my child's participation in the Activity. These risks include, but are not limited to, the possibility of accident or illness while travelling to and from the Activity as well as any injury arising out of participation in the Activity itself. I understand that these may result from my/my child's actions or inactions, as well as the actions or inactions of others, the condition of the facilities and equipment.
- Except to the extent of the Non-excludable Obligations, I waive all claims against Westside Circus and its employees, volunteers, contractors, affiliates and related entities used in connection with the Activity (**the Released Parties**) for any injuries, damages, losses, liabilities, expenses, demands or claims, whether known or unknown, which arise during or result from my/my child's participation in the Activity, whether arising from the negligence of any or all of the Released Parties or otherwise. I release and forever discharge the Released Parties from such claims to the fullest extent permitted by law.
- Except to the extent of the Non-excludable Obligations, I agree to indemnify and hold the Released Parties harmless from all losses, liabilities, damages, costs or expenses (including but not limited to reasonable legal fees and other litigation costs and expenses) incurred by any of the Released Parties as a result of any claims or suits that I (or anyone claiming by, under or through me) may bring against any of the Released Parties to recover any losses, liabilities, costs, damages, or expenses which arise during or result from my/my child's participation in the Activity, whether arising from the negligence of any or all of the Released Parties or otherwise.
- I agree to carry and accept all risks associated with any transportation of my/my child to participate in the Activity. To the fullest extent permitted by law, I release and agree to indemnify, defend and hold harmless the Released Parties from and against any actions, claims, demands, expenses, losses, costs, damages or liabilities however arising from any transportation to or from the Activity or to any other venue or location being utilised for the purpose of the Activity.
- I understand that Westside Circus is unable to offer replacement classes or refunds when my Child is unable to attend the Activity or any part of the Activity, except in the event that the Activity or part of the Activity is cancelled by Westside Circus itself.