

## GUIDE TO COMPLETING THE TEMPLATE SCHOOL COUNCIL NDIS FUNDED THERAPY LICENCE AGREEMENT

Before completing the Licence, please ensure you have read and understood the [Responding to request for NDIS funded therapy in schools: Guidelines for Principals](#) on the Policy Advisory Library. This Guide to completing the Licence Agreement is to be read in conjunction with the Guidelines.

Principals must also ensure they have the consent of the School Council to enter into the Licence Agreement. If you require further information about this, please contact Legal Division at [legal.services@education.vic.gov.au](mailto:legal.services@education.vic.gov.au).

### DESCRIPTION OF LICENCE

This template licence agreement should be used by School Councils who wish to license an area of the school premises (which is not required for ordinary school purposes) to a third party including a private therapist:

- on a medium to long term basis (a maximum three year term is recommended); and
- for educational, recreational, sporting or cultural activities for students, the local community or young persons.

### WHEN NOT TO USE

This template licence should **not** be used:

- for short term (ie one day) arrangements (where a hire agreement is more appropriate); or
- where a more specific template agreement is available for use from the Legal Division's eduGate site – for example, there are licences to cover the operation of outside school hours care, preschools and polling places.

### KEY POINTS

The template licence comprises three parts:

- **Agreed Terms:** this section of the licence should not be altered unless legal advice has been obtained.
- **Execution Page:** this section will need to be amended to include details of the Licensee (the NDIS funded therapist). Instructions for completion of this section are set out in this document.
- **Schedule 1 - Licence Details (including Special Conditions):** this section must be completed by the Principal / School Council to reflect the conditions upon which the School Council has agreed to license an area of the school to a third party. Instructions for completion of this section are set out in this document.

### DUTY OF CARE

The Principal should ensure that it is fully aware of its continuing legal obligations regarding duty of care towards students, staff and visitors to the licensed area, which may extend prior to, during and following the use authorised by the licence. For further information, refer to the [Responding to requests for NDIS funded therapy in schools: Guidelines for Principals](#) or other relevant policies on the Department's [Policy Advisory Library](#) (PAL), in particular, [Duty of Care](#).

**If you require advice on specific circumstances, please contact the Legal Division or the NDIS & Strategic Projects Unit ([ndis@education.vic.gov.au](mailto:ndis@education.vic.gov.au)).**

**GUIDE TO COMPLETION – Licence Agreement**

Clause number	Clause title	Effect of clause
1	Grant of licence	This clause gives the therapist the right to use a particular part of the school (the 'Licensed Area') to provide services to students.
2	Representatives	This clause provides for a nominated School Council representative to be responsible for communicating with the therapist. Importantly, it also provides that the therapist must comply with any directions given by the School Council representative.
3	Licence Fee	This clause provides that the therapist must pay a fee for the right to access the school and use the Licensed Area.
4	Use of the Licensed Area	This clause provides that the therapist may only use the Licensed Area at the times and on the date agreed by the School Council (and set out in Item 8 and Item 9 of Schedule 1 to the Licence).
5	Compliance with laws	This clause requires the therapist to comply with all laws, and to maintain the appropriate registration, in relation to the performance of therapy at the school.
6	Licensee's Obligations	This clause sets out the therapist's obligations in respect of the Licensed Area, including that it may only use the Licensed Area for the Permitted Use described in Item 10 of Schedule 1 and must comply with all school, Department and School Council policies when doing so.
7	Repairs	This clause provides that the therapist is responsible for repairing any damage caused to the Licensed Area.
8	Requirement for Working with Children and Police Checks	This clause provides that the therapist, any person they engage to provide the therapy services (including the therapist's employees, contractors and advisers), or any person to whom the licence is assigned or sublicensed (in accordance with clause 14) must have a satisfactory Working with Children Check and a police check.
9	Child Safe Standards	This clause provides that the therapist must comply with child safety laws and school council child safety policies. The therapist must provide information to the school council in respect to any compliance action taken by any regulatory authority in connection with child safety against the therapist and comply with any direction of the school council in relation to child safety. The clause also gives the school council the right to terminate the licence for certain breaches of child safety laws or school council child safety policies.
10	Reporting	This clause provides that the therapist must immediately report an accident or damage to the Licensed Area to the Principal, and must provide any information or documents relating to the licence to the Principal upon request.
11	Insurance, Release and Indemnity	This clause provides that: <ul style="list-style-type: none"> <li>• the therapist must hold current public liability and professional indemnity insurances during the term of the licence;</li> <li>• the Department, the School Council and their associates cannot be held liable for any accident or loss occurring in or in relation to the therapist's use of the Licensed Area; and</li> <li>• the therapist agrees to take on the obligation to pay for any loss or damage that might be incurred by the Department, the School Council or their associates in connection with the licence.</li> </ul>

12	Termination Events	<p>This clause provides that the licence can be terminated:</p> <ul style="list-style-type: none"> <li>• at the discretion of the School Council, if the Licensed Area is damaged or unfit for use;</li> <li>• immediately by the School Council issuing a Notice to the therapist in specific circumstances (see clauses 12.2(a) to 12.2(g));</li> <li>• upon 30 days Notice by the School Council for any reason;</li> <li>• by written agreement of the parties; or</li> <li>• if the school closes down or amalgamates with another school.</li> </ul>
13	Licensee's obligations on the Expiry or Termination of the Licence	<p>This clause requires that the Licensed Area be returned clean and free from rubbish at the end of the licence.</p>
14	Assignment and Sublicensing	<p>This clause provides that the Licensed Area cannot be transferred, novated or assigned by the therapist to another party, without the prior written consent of the School Council.</p>
15	Holding over	<p>This clause provides that if the therapist continues to provide services at the school after the licence expires, it does so on a 'month to month' basis in accordance with the terms of this licence.</p>
16	Disputes	<p>This clause provides a procedure to resolve disputes between the therapist and the school about the licence agreement. The therapist may continue providing therapy in accordance with the licence, pending the resolution of a dispute.</p>
17	Confidentiality	<p>This clause provides that the therapist must keep confidential:</p> <ul style="list-style-type: none"> <li>• the terms of the licence agreement;</li> <li>• Student's personal information;</li> <li>• personal and business information relating to the School Council or the school or its employees; and</li> <li>• information treated by the School Council or the school as confidential,</li> <li>• except if sharing the information is reasonably necessary to comply with laws, to seek professional advice, or to share with the therapist's associates (provided they have also undertaken to keep the information confidential).</li> </ul> <p>This clause also provides that the School Council must treat the therapist's information as confidential except the school council may disclose the therapist's information if required by law including under the <i>Freedom of Information Act 1982 (Vic)</i>.</p>
18	Privacy	<p>This clause provides that the therapist is bound by the Information Privacy Principles, any applicable Code of Practice, the Health Privacy Principles and applicable guidelines and policies of the Australian Health Practitioner Regulation Agency.</p>
19	Notices	<p>This clause provides the requirements for issuing a Notice in accordance with the licence agreement, including the requirements for delivery by hand, post and email.</p>
20	Special Conditions	<p>This clause provides that the Special Conditions described below are binding and prevail over the other terms of the licence where there is any inconsistency (please see the separate table of Special Conditions below).</p>

21	Conflict of Interest	This clause provides a warranty by the therapist that they and their employees do not have, and won't take any action, during the term of the licence agreement that would give rise to, a conflict of interest in respect of their duties under the licence.
22	General	<p>This clause sets out terms that assist with the general operation of the licence, including that:</p> <ul style="list-style-type: none"> <li>• the licence agreement may only be varied by agreement in writing; and</li> <li>• the School Council may 'set off' monies owed to them by the therapist against any amount they owe to the therapist under the licence.</li> </ul> <p>If you have any queries about this section, please contact Legal Division.</p>
23	Definitions and Interpretation	This clause sets out the definitions of terms used in the licence agreement.
	Execution clause	<p>This clause sets out two possible signing clauses for therapists. Schools should select one option, and delete the others, in accordance with the guidance below:</p> <p>Option 1: Use this option where the therapist operates / is entering the licence as a company or an incorporated association.</p> <p>Option 2: Use the option when the therapist is an individual / sole trader.</p> <p>Once the licence is completed, if signing hard copies, the licensee should sign two copies of the licence and then return both copies to the School Council for signing. The President of the School Council should sign the licences. The School Council and the licensee may sign the Licence using an electronic signature.</p> <p>One copy of the licence which has been signed by both parties should be provided to the licensee, and the School Council should retain the other to be kept in a safe place.</p>
Schedule 1	Licence Details	<p>This Schedule is where the details of the licence (the therapist's name, the Licensed Area, the licence commencement and expiry dates, etc) should be documented. The majority of the information required is self- explanatory, however please see some further guidance below. Please contact Legal Division if you require any further assistance.</p> <p><b>Item 1</b> – Complete details of the School Council including the full name of the School Council (i.e. not a reference to the school), ABN and address.</p> <p><b>Item 2</b> – Complete details of the Licensee, including full name, ABN and registered address or place of business. Please note that the only time that an ABN will not be completed is if the licensee is an individual who does not carry on a business. All other times an ABN is required.</p> <p><b>Item 3</b> - Insert a description of the area of the school to be licensed to the third party. Please be as specific as possible. If the area has a name or room number it should be inserted.</p> <p><b>Item 4</b> – Insert a description of the school land (e.g. Spotswood Primary School – 600 Melbourne Road, Spotswood, Victoria 3015.</p> <p><b>Item 5</b> – Insert the date that the licence will start.</p>

		<p><b>Item 6</b> - Insert the date that the licence will end.</p> <p><b>Item 7</b> – Insert the licence fee to be paid to the School Council. The amount of the licence fee and how it is paid should be clearly stated, including whether it includes or excludes GST. For example, \$10 per annum (GST exc.) payable annually in advance by way of electronic transfer to [insert nominated bank account]. If you want to increase the fee payable during the term of the licence, you will need to ensure that this is reflected in this Item. The licence fee should not exceed a nominal amount unless the school incurs a charge as a direct result of the therapy being delivered. If there are no charges incurred by the school, insert \$1.00 p.a. Do not insert N/A or leave blank.</p> <p><b>Item 8</b> – If the Licensee only uses the area on specific dates and/or days, you need to set out those dates and/or days. If the Licensee’s use of the licensed areas is not limited to specific dates or days, insert “Not Applicable”.</p> <p><b>Item 9</b> - If the Licensee only uses the area at specific times, you need to set out the specific hours of the day. If the Licensee’s use of the licensed areas is not limited to specific times, insert “Not Applicable”.</p> <p><b>Item 10</b> – Insert details of the proposed use of the licensed area. For example, the reasonable use of the Licensed Area to provide NDIS funded therapy services as follows (<b>Services</b>): speech pathology services for a Student of the School.</p> <p><b>Item 11</b> – Insert details of the insurance which the School Council requires the Licensee to obtain. A requirement that the Licensee hold public liability insurance of \$10m per event and professional indemnity insurance of \$5m per event has been included. Further information regarding insurance requirements can be found in the Department’s publication “Insurance Arrangements Guidelines for School” available on Edugate.</p> <p><b>Item 12</b> – Insert details of the person who will be the School Council Representative (usually the Principal as Executive Officer, however you should check with School Council to confirm the Representative for the licence before completing this information) and include details of the person who will be the licensee representative.</p> <p><b>Item 13</b> – Insert details of any specific Special Conditions that will apply to the arrangement between the School Council and therapist. All other Special Conditions have been included in Annexure B (see below).</p>
Annexure A	Plan	This is where the school should insert or attach a plan of the area to be used by the therapist, in accordance with the licence agreement (the Licensed Area). It is important that the plan sets clear boundaries for the Licensed Area. The area to be licensed should be identified by being shown as cross-hatched on the plan.
Annexure B	Special Conditions	Special conditions set out specific matters which are agreed upon with the licensee that are not otherwise covered in the general terms and conditions on the licence. The Special Conditions set out specific requirements in respect to the NDIS funded therapist in respect to the provision of the services, access to the school (including the Principal’s right to refuse access in certain circumstances), supervision by the Principal and requirements regarding confidentiality and privacy (including when and what information can be provided to the School Council.)

		These Special Conditions have been specifically drafted to take into consideration the Principal's and School Council's duty of care obligations and compliance with legal obligations in respect to privacy of the students. Please contact Legal Division before making any changes to the Special Conditions.
Annexure B	Attachment 1 – Consent Form	Special Condition 4 requires that the NDIS funded therapist must obtain parental consent, using the Consent Form template, for the NDIS funded therapist to provide the services at the school and to disclose information to the school in certain circumstances.  A copy of the signed Consent Form should be provided at Annexure B - Attachment 1.  In accordance with the Guidelines for Principals: Responding to request for NDIS funded therapy in schools, the Licensee must provide the School Council with a signed Consent Form with the Request Form when requesting the Principal / School Council to consider allowing the therapist on school grounds to provide therapy to a student.
Annexure B	Attachment 2 – Information Sharing Deed	This is the form that must be used as the separate Information Sharing Deed between the Principal and the therapist in relation to each student who will receive the therapy. The purpose of the Information Sharing Deed is to set out exactly how and when NDIS funded therapists must share specific information (referred to in the Consent Form) about Students who are receiving NDIS therapy on school grounds.  Please contact the Legal Division if you require assistance in respect to completing the Information Sharing Deed. The Information Sharing Deed must be entered into at the same time as the Licence. A separate Information Sharing Deed should be entered into in relation to every student who will receive NDIS funded therapy from the therapist.
Signing		Once the licence is completed, the licensee and Principal should complete and sign two copies of the Information Sharing Deed for every student who will receive NDIS funded therapy from the therapist.  One copy of the Information Sharing Deed which has been signed by both parties should be provided to the licensee, and the Principal should retain the other to be kept in a safe place.
Annexure C	Request Form	Attach as Annexure C all Request Forms from the licensee that have been approved by the principal to proceed.