

Terms of Service



Purpose

The purpose of this website is to create a useful service for students and their parents to access tutoring services, connect with private tutors, and utilise educational resources.

1. About the Platform and Website

1.1. Welcome to Teachworks (the '**Platform**'). The Platform facilitates interactions between:

- (a) academic tutors (the '**Tutor**'); and
- (b) students and their parents (the '**Student**');

(collectively '**you**', '**your**')

making it easier for Tutors and Students to locate, communicate, arrange payment and deliver the Tutors' academic tutoring services in a fast and secure manner. This functionality of the Platform is referred to in this document as the '**Services**'. To be clear, the Services do not include the services of the Tutors listed on the Platform.

1.2. The Platform is operated by JP Tutoring Solutions (ABN 97 867 971 998) ('**we**', '**us**', '**our**'). Please read these terms and conditions (the '**Terms**') carefully. By using, browsing and/or reading the Platform, this signifies that you have read, understood, and agree to be bound by the Terms. If you do not agree with the Terms, you must cease usage of the Platform, or any of its Services, immediately.

1.3. We reserve the right to review and change any of the Terms by updating this page at our sole discretion. When we update the Terms, we will use reasonable endeavours to provide you with notice of updates of the Terms, such as by (but not limited to) sending you an email or triggering a notification on your mobile phone. Any changes to the Terms take immediate effect from the date of their publication. Before you continue, we recommend you keep a copy of the Terms for your records.

2. Acceptance of the Terms

You accept the Terms by using or browsing the Platform. You may also accept the Terms by clicking to accept or agree to the Terms where this option is made available to you by the Platform in the user interface.

3. The Services

- 3.1. In order to access the Services, both the Student and the Tutor are required to register for an account through the Platform (the '**Account**').
- 3.2. As part of the registration process, or as part of your continued use of the Services, you will be required to provide personal information about yourself (such as identification or contact details), including your:
 - (a) full name;
 - (b) email address;
 - (c) telephone number;
 - (d) bank account (Tutors only);
 - (e) credit card (Students only);
 - (f) biographical details (Tutors only);
 - (g) qualifications (Tutors only);
 - (h) any other information that the Platform may request.
- 3.3. You warrant that any information you give to us while completing the registration process will always be accurate, correct and up to date.
- 3.4. Once you have completed the registration process, you will be a registered member of the Platform ('**Member**') and agree to be bound by the Terms.
- 3.5. You may become a Member as a Tutor or as a Student. You make this choice at the time of registering an Account. In this document, a Member who is registered as a Tutor will be referred to as a Tutor Member, whereas a Member who is registered as Student will be referred to as a Student Member.

- 3.6. If you are a Student under 18 years of age, the Student must be a parent or guardian of the actual student who will receive the academic tutoring services.
- 3.7. If you are a Tutor who is prohibited from acting as a tutor or working with children, you must not register as a Member or use the Platform in any way.

4. Your obligations as a Member

- 4.1. As a Member, you agree to comply with the following:

- (a) you will not share your profile with any other person;
- (b) you will use the Services only for purposes that are permitted by:
 - (i) the Terms; and
 - (ii) any applicable law, regulation or generally accepted practices or guidelines in the relevant jurisdictions;
- (c) you have sole responsibility for protecting the confidentiality of your password and/or email address. Use of your password by any other person may result in the immediate cancellation of the Services;
- (d) any use of your registration information by any other person, or third parties, is strictly prohibited. You agree to immediately notify us of any unauthorised use of your password or email address or any breach of security of which you have become aware;
- (e) you must not expressly or impliedly impersonate another Member or use the profile or password of another Member at any time;
- (f) any content that you broadcast, publish, upload, transmit, post or distribute on the Platform ('**Your Content**') will always be accurate, correct and up to date and you will maintain reasonable records of Your Content.
- (g) you agree not to harass, impersonate, stalk, threaten another Member of the Platform (where interaction with other Members is made available to you);
- (h) access and use of the Platform is limited, non-transferable and allows for the sole use of the Platform by you for the purposes of providing the Services;

- (i) you will not use the Services or the Platform in connection with any commercial endeavours unless you are a Tutor Member, in which case the commercial endeavours you are permitted to engage in are limited to academic tutoring services;
- (j) you will not use the Services or Platform for any illegal and/or unauthorised use which includes collecting email addresses of Members by electronic or other means for the purpose of sending unsolicited email or unauthorised framing of or linking to the Platform;
- (k) you agree that commercial advertisements, affiliate links and other forms of solicitation may be removed from Member profiles without notice and may result in termination of the Services. Legal action may be taken by us for any illegal or unauthorised use of the Platform, and we may report illegal use of the Platform to law enforcement authorities; and
- (l) you acknowledge and agree that any automated use of the Platform or its Services is prohibited.

5. Using the Platform as the Tutor

5.1. At all times all Tutor Members:

- (a) are recommended to obtain and maintain insurance policies including:
 - (i) public liability insurance of at least \$5 million per claim event;
 - (ii) professional indemnity insurance of at least \$1 million per claim event; and
 - (iii) any other insurance which a prudent academic tutor would be expected to obtain;
- (b) must comply with any licensing or registration requirements to work as a academic tutor, including but not limited to a current Working With Children Check;
- (c) must provide to us, on request, copies of your formal qualifications as a academic tutor, insurance certificates of currency, Working With

Children Check number, and evidence of other information you supply during the membership registration process and under this clause; and

(d) must inform us if you are convicted of an indictable criminal offence, or are subject of a creditor's or debtor's petition, or are declared bankrupt under the *Bankruptcy Act 1966 (Cth)*.

5.2. You acknowledge that your approval as a Tutor Member is at our sole discretion, exercised reasonably. Without limiting our discretionary right, we would be taken to have reasonably refused approval if:

(a) you were previously a Member who had breached any provision of the Terms (as they existed at the time of the breach); or

(b) you fail to comply with clause 5.1(c).

5.3. You must not make any comment or engage in any conduct related to us, the Platform, or the Service, that may bring us, the Platform, or the Service into disrepute.

5.4. The Platform has a number of pricing tiers for Tutor Members. You acknowledge and agree that as a Tutor Member:

(a) the tiers are set out on iptutoring.com.au (which may be updated or relocated to another page at our sole discretion from time to time);

(b) during the registration process you may nominate a pricing tier;

(c) however, we reserve the right to determine your pricing tier upon registration and at any time whilst these Terms are in effect, acting reasonably considering various factoring including feedback by Student Members, your experience, and your qualifications; and

(d) we will provide you with notice of the pricing tier you are assigned to, and the new pricing tier shall apply immediately upon us issuing you with such a notice.

5.5. If your services are engaged by a Student Member:

a) you acknowledge and agree that Student Members will pay us for your services after delivery of your services;

b) you authorise us to collect any fees for your services ('**Billings**') on your behalf;

c) you authorise us to deduct our **Service Fees** (being the difference between the service price and the tutor fee);

- d) you acknowledge and agree that the balance of the Billings referred to in clause 5.4(c) are your revenue including any applicable GST.

5.6. You agree that we may terminate these Terms and your status as a Member by written notice to you with immediate effect, if:

- (a) you are in breach of any of provision in these Terms;
- (b) you are convicted of an indictable offence;
- (c) we receive notice from any other Member that you have bullied, harassed, or acted threateningly or violently against another Member;
- (d) you bully, harass, or act threateningly or violently against any of our directors, employees, or agents; or
- (e) you are the subject of a creditor's or debtor's petition or are declared bankrupt under the *Bankruptcy Act 1966 (Cth)*.

5.7. In the event that these Terms and your status as a Member are terminated pursuant to clause 5.4 or 17, you agree that we are not liable for any damage or loss that you may incur as a result of the termination.

5.8. You acknowledge and agree that nothing in these Terms create a relation of employer and employee, or principal and agent, or partner, or joint venturer between the Tutor Member and us. The Tutor Member must not hold themselves out as our agent or employee or as being a partner or joint venturer with us.

5.9. The Tutor is wholly responsible for accounting and remitting any taxes and superannuation related to the fees that the Tutor receives via the Platform. If we are assessed to be liable for any taxes and superannuation in relation to any fees paid to you, then you acknowledge and agree that we are entitled to deduct such liabilities from any fees before paying the balance of the fees to you.

6. Using the Platform as the Student

6.1. Each time you use this Platform to engage a Tutor, you must ensure that the Tutor you engage is suitable for the type of learning you wish to undertake.

You acknowledge and agree that we are not responsible for matching a Student with an appropriate Tutor, and you release and hold us harmless for any damage or loss that you might suffer as a result of inappropriate matching between a Student and Tutor.

- 6.2. We make no guarantee, warranty, representation or promise of any academic outcomes associated with your use of the Platform. The opinion and advice of any Member, including Tutor Members, are entirely their own and should not be construed as our opinion or advice. We do not endorse any opinion or advice of any Member, including Tutor Members.

7. Payment, Cancellation, and Refund Policies

- 7.1. All Members acknowledge and agree with our **Payment Policy** and **Cancellation Policy**, which are set out in **Annexures A** and **B** to these Terms.
- 7.2. In relation to refunds:
- (a) Since we are only a facilitator in introducing the Student to the Tutor providing a system to make safe payment, all Students must acknowledge that we are not liable to the Student for any failure by the Tutor to provide their services to an acceptable quality or in a manner that is fit for purpose, and the Student is not entitled to receive any refund from us for the Tutor's services.
 - (b) If a Student is unsatisfied with the services provided by a Tutor or believes that they may be entitled to a refund, then the Student must contact the Tutor directly to request a refund.

8. Academics Honesty

- 8.1 You shall not use the Website to inquire about, engage in or aid or assist anyone with any form of academic dishonesty. For example, completing assignments or projects, writing papers or essays, taking (or help take) quizzes or examinations on someone's behalf, or completing work in violation

of academic policies or other conduct policies of a school, university, academic institution or workplace.

9. Copyright and Intellectual Property

- 9.1. The Platform, the Services and all of the related products of ours are subject to copyright. The material on the Platform is protected by copyright under the laws of Australia and through international treaties. Unless otherwise indicated, all rights (including copyright) in the Services and compilation of the Platform (including but not limited to text, graphics, logos, button icons, video images, audio clips, Platform, code, scripts, design elements and interactive features) or the Services are owned or controlled for these purposes, and are reserved by us or our contributors.
- 9.2. All trademarks, service marks and trade names are owned, registered and/or licensed by us, who grants to you a worldwide, non-exclusive, royalty-free, revocable license whilst you are a Member to:
- (a) use the Platform pursuant to the Terms;
 - (b) copy and store the Platform and the material contained in the Platform in your device's cache memory; and
 - (c) print pages from the Platform for your own personal and non-commercial use, if you are a Student Member, or your business record-keeping purposes if you are a Tutor Member.
- 9.3. We do not grant you any other rights whatsoever in relation to the Platform or the Services. All other rights are expressly reserved by us.
- 9.4. We retain all rights, title and interest in and to the Platform and all related Services. Nothing you do on or in relation to the Platform will transfer any:
- (a) business name, trading name, domain name, trade mark, industrial design, patent, registered design or copyright, or
 - (b) a right to use or exploit a business name, trading name, domain name, trade mark or industrial design, or
 - (c) a thing, system or process that is the subject of a patent, registered design or copyright (or an adaptation or modification of such a thing, system or process), to you.

- 9.5. You may not, without our prior written permission and the permission of any other relevant rights owners: broadcast, republish, up-load to a third party, transmit, post, distribute, show or play in public, adapt or change in any way the Services or third party Services for any purpose, unless otherwise provided by these Terms. This prohibition does not extend to any material on the Platform that are already in the public domain for reasons other than the breach of these Terms.
- 9.6. Where you broadcast, publish, upload, transmit, post or distribute Your Content on the Platform, then you grant to us a non-exclusive, transferrable, perpetual, royalty-free, irrevocable, worldwide licence to broadcast, republish, up-load to a third party, transmit, post, distribute, show or play in public, adapt or change Your Content.

10. Privacy

We take your privacy seriously and any information provided through your use of the Platform and/or Services are subject to our Privacy Policy, which is available on the Platform.

11. General Disclaimer

- 11.1. Nothing in the Terms limits or excludes any guarantees, warranties, representations or conditions implied or imposed by law, including the Australian Consumer Law (or any liability under them) which by law may not be limited or excluded.
- 11.2. Subject to this clause, and to the extent permitted by law:
- (a) all terms, guarantees, warranties, representations or conditions which are not expressly stated in the Terms are excluded; and
 - (b) we will not be liable for any special, indirect or consequential loss or damage (unless such loss or damage is reasonably foreseeable resulting from our failure to meet an applicable Consumer Guarantee), loss of profit or opportunity, or damage to goodwill arising out of or in connection with the Services or these Terms (including as a result of not being able to use the Services or the late supply of the Services), whether at common law, under contract, tort (including negligence), in equity, pursuant to statute or otherwise.

11.3. Use of the Platform and the Services is at your own risk. Everything on the Platform and the Services is provided to you "as is" and "as available" without warranty or condition of any kind. None of our affiliates, directors, officers, employees, agents, contributors, and licensors make any express or implied representation or warranty about the Services or any products or services (including the products or services of the Tutors, and third-party service providers whose services are used by the Platform) referred to on the Platform. This includes (but is not restricted to) loss or damage you might suffer because of any of the following:

(a) failure of performance, error, omission, interruption, deletion, defect, failure to correct defects, delay in operation or transmission, computer virus or other harmful component, loss of data, communication line failure, unlawful third party conduct, or theft, destruction, alteration or unauthorised access to records;

(b) the accuracy, suitability or currency of any information on the Platform, the Services, or any of its Services related products (including third party material and advertisements on the Platform);

(c) costs incurred as a result of you using the Platform or the Services; and

(d) the Services or operation in respect to links which are provided for your convenience.

11.4. You acknowledge that the Platform is only intended to facilitate the interactions between the Student and the Tutor and does not offer any services other than the Services, and we have no liability to you as a result of any conduct of the Members or the misuse of Your Content by any party (including other Members).

12. Competitors

12.1. If you are in the business of providing similar Services for the purpose of providing them to users for a commercial gain, whether business users or domestic users, then you are our competitor. Our competitors are not permitted to use or access any information or content on our Platform. If you breach this provision, we will hold you fully responsible for any loss that we may sustain and hold you accountable for all profits that you might make from such a breach.

- 12.2. Tutor Members must not engage with a Student outside of the Platform for tutoring services whilst these Terms are in effect and for a period of:
- (a) 24 months after the termination of these Terms; or
 - (b) if a court or tribunal determines that 24 months is unreasonable, 12 months; or
 - (c) if a court or tribunal determines that 12 months is unreasonable, 6 months.

- 12.3. Tutor Members acknowledge and agree that:
- (a) a breach of clause 12.2 may result in irreparable harm to our business;
 - (b) that clause 12.2 imposes obligations upon the Tutor Member that is reasonable for the protection of our legitimate business interests; and
 - (c) a breach of clause 12.2 will entitle us to seek injunctive relief, account of profits, and direct and indirect damages (among any other remedies available at law).

13. Limitation of Liability

- 13.1. Our total liability arising out of or in connection with the Services or these Terms, however arising, including under contract, tort (including negligence), in equity, under statute or otherwise, will not exceed the resupply of the Services to you.
- 13.2. You expressly understand and agree that we, our affiliates, employees, agents, contributors, and licensors shall not be liable to you for any direct, indirect, incidental, special consequential or exemplary damages which may be incurred by you, however caused, and under any ground of liability. This shall include, but is not limited to, any loss of profit (whether incurred directly or indirectly), any loss of goodwill or business reputation and any other intangible loss.
- 13.3. You acknowledge and agree that we hold no liability for any direct, indirect, incidental, special consequential or exemplary damages which may be incurred by you as a result of providing Your Content to the Platform.

14. Termination of Contract

- 14.1. Either party may terminate these Terms for any reason whatsoever (or for no reason), by providing 14 days' written notice of intention to terminate.
- 14.2. We may at any time, terminate the Terms with you by written notice with immediate effect, if:
- (a) you have breached any provision of the Terms or intend to breach any provision;
 - (b) we required to do so by law;
 - (c) we transitioning to no longer providing the Services to Members in the country, or state or territory of Australia, in which you are resident or from which you use the Service; or
 - (d) our provision of the Services to you is, in our sole opinion, no longer commercially viable.
- 14.3. Subject to local applicable laws, we reserve the right to discontinue or cancel your membership at any time and may suspend or deny, at our sole discretion, your access to all or any portion of the Platform or the Services without notice if:
- (a) you breach any provision of the Terms or any applicable law;
 - (b) if your conduct impacts our name or reputation or violates the rights of those of another party; or
 - (c) we are required to do so by law.
- 14.4. When the Terms come to an end, all of the legal rights, obligations and liabilities that you and us have benefited from, been subject to (or which have accrued over time whilst the Terms have been in force), or which are expressed to continue indefinitely, shall be unaffected by this cessation, and the provisions of this clause shall continue to apply to such rights, obligations and liabilities indefinitely.

15. Indemnity

- 15.1. You agree to indemnify us, our affiliates, employees, agents, contributors, third party content providers, and licensors from and against:

- (a) all actions, suits, claims, demands, liabilities, costs, expenses, loss and damage (including legal fees on a full indemnity basis) incurred, suffered or arising out of or in connection with Your Content;
- (b) any direct or indirect consequences of you accessing, using or transacting on the Platform or attempts to do so; and
- (c) any breach of the Terms.

16. Dispute Resolution

16.1. Compulsory:

If a dispute arises out of or relates to the Terms, either party may not commence any Tribunal or Court proceedings in relation to the dispute, unless the following clauses have been complied with (except where urgent interlocutory relief is sought).

16.2. Notice:

A party to the Terms claiming a dispute ('Dispute') has arisen under the Terms, must give written notice to the other party detailing the nature of the dispute, the desired outcome and the action required to settle the Dispute.

16.3. Resolution:

On receipt of that notice ('Notice') by that other party, the parties to the Terms ('Parties') must:

- (a) Within 14 days of the Notice endeavour in good faith to resolve the Dispute expeditiously by negotiation or such other means upon which they may mutually agree;
- (b) If for any reason whatsoever, 14 days after the date of the Notice, the Dispute has not been resolved, the Parties must either agree upon selection of a mediator or request that an appropriate mediator be appointed by the Victorian Small Platform Commissioner or his or her nominee;
- (c) The Parties are equally liable for the fees and reasonable expenses of a mediator and the cost of the venue of the mediation and without limiting the foregoing undertake to pay any amounts requested by

the mediator as a pre-condition to the mediation commencing. The Parties must each pay their own costs associated with the mediation;

(d) The mediation will be held in Adelaide, South Australia.

16.4. Confidential

All communications concerning negotiations made by the Parties arising out of and in connection with this dispute resolution clause are confidential and to the extent possible, must be treated as "without prejudice" negotiations for the purpose of applicable laws of evidence.

16.5. Termination of Mediation:

If 14 days have elapsed after the start of a mediation of the Dispute and the Dispute has not been resolved, either Party may ask the mediator to terminate the mediation and the mediator must do so.

17. Links

17.1 JP Tutoring has not reviewed all of the sites linked to its website and is not responsible for the contents of any such linked site. The inclusion of any link does not imply endorsement by the Company of the site. Use of any such linked website is at the user's own risk.

18. Venue and Jurisdiction

The Services offered by the Platform are intended to be used by residents of Australia. In the event of any dispute arising out of or in relation to the Platform, you agree that the exclusive venue for resolving any dispute shall be in the courts of South Australia.

19. Governing Law

The Terms are governed by the laws of South Australia. Any dispute, controversy, proceeding or claim of whatever nature arising out of or in any way relating to the Terms and the rights created hereby shall be governed, interpreted and construed by, under and pursuant to the laws of South

Australia, without reference to conflict of law principles, notwithstanding mandatory rules. The validity of this governing law clause is not contested. The Terms shall be binding to the benefit of the parties hereto and their successors and assigns.

20. Independent Legal Advice

Both parties confirm and declare that the provisions of the Terms are fair and reasonable and both parties having taken the opportunity to obtain independent legal advice and declare the Terms are not against public policy on the grounds of inequality or bargaining power or general grounds of restraint of trade.

21. Severance

If any part of these Terms is found to be void or unenforceable by a Court of competent jurisdiction, that part shall be severed and the rest of the Terms shall remain in force.

Annexure A – Payment Policy

1. We will only collect lesson payments after a lesson has been completed.
2. The first lesson with a Tutor will be charged as an invoice, sent to the Student's chosen email address.
3. This invoice must be paid within 3 days after being issued via Credit Card or Direct Debit methods.
4. After any payment, invoice or automatic charge, a receipt will be sent to the Student via email.
5. All payments are due within 3 days. Students must pay within this time. Failure to pay for a lesson may result in Tutors not conducting any future lessons to the Student until the overdue payment has been made.

6. Failure to pay an invoice for 30 days will result in a \$20 late fee that will be charged against the Student in addition to any outstanding payments.
7. Failure to pay within 37 days will result in the Student's account and details being forwarded on to Marshall Freeman Debt Collections (or another debt recovery agency) for recovery.

Annexure B – Cancellation Policy

1. Once a lesson (either through in-person or online means) has been arranged, we, acting as the agent of the Tutor, considers this booking to be final, subject to this Cancellation Policy. That is, the Student agrees to pay for the arranged lesson unless specified otherwise in this document. Note that if a lesson is cancelled for any reason, the Student must notify the Tutor immediately.
2. If the reason for cancellation is not acceptable and the lesson is cancelled by the Student less than 3 hour prior to the arranged time, a cancellation fee of 100% of the planned lesson fee shall be charged.
3. What is an arranged lesson?
 - (a) An arranged lesson is one which the student and tutor have agreed to hold at a particular time and place (either in-person or online). The agreement can be

verbal or written. A lesson will be considered to have been arranged even if the Tutor or Student knew or ought to have known at the time of arrangement that the lesson would have to be cancelled. If an agreement is reached to continue holding lessons regularly for a period of time, it will be considered that lessons have been arranged, even if specific times and places have not been agreed.

- (b) If the Student and Tutor arrange to have a lesson subject to any conditions other than those listed in this document, the lesson will not be considered to have been arranged as long as any of the conditions are not met. However, as soon as all conditions are met, the lesson will be considered to have been arranged.

4. Acceptable reasons for cancellation

The Student must not be charged for the lesson if the lesson is cancelled more than 3 hour before commencement solely due to:

- (a) the Tutor cancelling the lesson for any reason, or failing to be at the agreed place at the agreed time for any reason;
- (b) the Student being sick (as certified by a medical practitioner);
- (c) the Student having an appointment which is:
 - (i) important and urgent, and
 - (ii) unable to be rescheduled;
- (d) the Student and the Tutor agreeing to cancel the lesson without charge;
- (e) the Student's requirement to appear in court for any reason;
- (f) the Student cancelling the lesson with sufficient notice, being more than 1 hour prior to the commencement time of the lesson; or
- (g) any other unforeseeable event which should reasonably take precedence over the Student's attendance at the lesson.

5. Unacceptable reasons for cancellation

The Student will be charged for the lesson if the lesson is cancelled less than 1 hour prior to the commencement of the lesson due to:

- (a) the Student's lateness, including but not limited to lateness due to transport delays;
- (b) a reasonably foreseeable or regular event which would otherwise satisfy any of the acceptable reasons for cancellation above, with the exception of a court appearance;
- (c) any event which is unable to be rescheduled due to a lack of planning by the Student;
- (d) other work or study commitments; or
- (e) any unexplained failure to be at the agreed place at the agreed time.

6. Furthermore, the Student will be charged for the lesson if:

- (a) the Student fails to give sufficient notice of at least 1 hour of the cancellation of the lesson, unless the lesson is cancelled for an acceptable reason as defined in this document; or
- (b) the Student's failure to give immediate notice of the cancellation causes significant inconvenience to the Tutor.

7. Variation of lessons

If the time, place or duration of a lesson is varied by mutual agreement without significant inconvenience to either the Student or Tutor, the lesson shall not be taken to have been cancelled.

8. Replacement lessons

The Student will be charged for any lesson arranged in the stead of a cancelled lesson, unless the cancelled lesson was cancelled by the Tutor and the cancellation caused significant inconvenience to the Student.

9. Repeated Cancellations

After two no-shows or last-minute cancellations less than 6 hour before the arranged lesson time, the Tutor may choose not to tutor the Student any longer. This decision may be made at the Tutor's discretion, or our discretion acting as the agent of the Tutor.

10. Waiver of fees

The Tutor, or us acting as the agent of the Tutor, may choose not to charge the Student for a cancelled lesson, even if the Student would otherwise be charged under this Cancellation Policy. For Tutors to process a missed lesson (without sufficient notice given), they must firstly contact us to notify us of the cancellation.