

## William Pike Challenge - Terms of Use

### 1. Application of Terms

- 1.1. By using the Platform, you confirm that you accept and agree to comply with these Terms, whether or not you create an Account. Please also read our privacy policy by clicking this link [\[Link\]](#), because it will apply to all information you provide to us and forms part of these Terms. By accepting these Terms, you also accept our privacy policy.
- 1.2. If you do not agree to be bound by these Terms including our privacy policy by clicking this link [\[Link\]](#), you must not use any part of our Platform.
- 1.3. If you accept these Terms on behalf of a company or other legal entity, you warrant that you have the authority to bind that entity to these Terms.
- 1.4. We also recognise the need to provide additional protections for children who may use the Platform. If you are under the age of 18, or you are reading this privacy policy on behalf of a child you have parental responsibility for, please refer to clause **10 “Children’s privacy”**.

### 2. Changes

- 2.1. We can change these Terms at any time by providing you at least 30 days’ prior notice of the change, whether via our Site, by sending you an email. Your continued use after that notice means that you agree to the changed Terms.

### 3. Definitions

- 3.1. The following words and phrases have specific meanings wherever you see them used in these Terms:

**Account** means a Participant’s account and Teacher account on the Platform.

**Content** means computer code, text, graphics, images, music, software, audio, video, information or other digital materials.

**Challenge Hub** means the web application at [www.challengehub.co.nz](http://www.challengehub.co.nz) which provides a management tool for Teachers and an interactive platform for Participants to record their journey through the Programme.

**Parent** means a parent or other person who has parental responsibility for a user of the Platform who is under 18 years of age.

**Participant** means a student or person who is recorded on the Participant List for a School.

**Participant List** means a list of students who have been authorised by a School to participate in the Programme.

**Platform** means the systems (including the Site and other systems) we provide to facilitate the Services.

**Programme** means the William Pike Challenge programme.

**Services** means the provision of the Platform to facilitate the Programme and any other services provided from time to time.

**School** means a school or group which has received a licence from TPEL to provide the Programme to its students.

**Site** means the TPEL website at [www.williampikechallenge.co.nz](http://www.williampikechallenge.co.nz) and Challenge Hub website at [www.challengehub.co.nz](http://www.challengehub.co.nz)

**Teacher** means a person appointed by a School to be responsible for the delivery of the Programme.

**Terms** means these terms of use.

**TPEL** means the Pike Experience Limited registered under company number 2160545 with its registered office c/o Good for Business, Level 3 33-45 Hurstmere Road, Takapuna, Auckland, 0622 , New Zealand, and our, us and we used in these Terms refer to TPEL.

**you** means the person who accepts these Terms in accordance with **clause 1.1**.

#### 4. **Our Services**

- 4.1. We provide the Challenge Hub to as a management tool for Teachers and an interactive tool to help Participants record their journey through the Programme. We do not deliver the Programme to Participants. The School is responsible for delivering the Programme to Participants.
- 4.2. We have not conducted any checks on Teacher or other persons or organisation involved in administering the Programme at a School (including, but not limited to reference checks or police checks). We have no control over, and we are not responsible for, the health and safety of Participants, Teachers or any other person or organisation involved in administering the Programme at a School, or the School's compliance with health and safety legislation.

#### 5. **Creating an Account**

- 5.1. To access the Challenge Hub as either a Participant or a Teacher you must first create an Account.
- 5.2. To create an Account, you must be over 18 years of age and must not have an existing Account. If you have authorised a minor to use the Platform, you are responsible for their online conduct, and the consequences of any misuse.
- 5.3. You agree to provide accurate, current and complete information during the Account registration process and to update such information to keep it accurate, current and complete at all times. If you provide any false or misleading information, we may suspend or terminate your Account in accordance with clause 6.
- 5.4. We may, but are not obliged to, require you to provide reasonable evidence to verify the information you supply to us when creating an Account.
- 5.5. You must not create, authorise or maintain an Account without the permission of the Participant's Parent.
- 5.6. During the registration process, you must choose a password as part of our security procedures. You must ensure that your password is strong and not disclose it to any third party.

- 5.7. You must not allow others to access or use your Account, unless expressly authorised in writing by us. No matter whether anyone using your Account is authorised to use it or has obtained unauthorised access, you will remain responsible for their actions and omissions.
- 5.8. You must tell us immediately if you think that someone has used or has unauthorised access to your Account or password, or there has been some other security breach.

## **6. Terminating your Account**

- 6.1. You may close your Account at any time by following the Account closing process on the Platform.
- 6.2. We have the right to suspend or terminate any Account at any time, for any reason or no reason, which need not be disclosed to you. This includes but is not limited to Accounts that we consider in our sole discretion, contain invalid information or to have been used for inappropriate or objectionable activities, in violation of these Terms, in breach of any law in any jurisdiction or which are, or may be, harmful or detrimental to TPEL, the Platform or any user of the Platform or Services or third party. We shall not be liable for any loss of revenue or opportunity or any damage, cost or other liability, suffered or incurred by you in connection with a suspended or terminated Account.
- 6.3. If we exercise our discretion under these Terms to suspend or terminate your Account, any or all of the following can occur with or without any notice or explanation to you, your Account will be deactivated or suspended and you will not be able to access any part of the Platform, your Account or Content you have uploaded to the Platform.
- 6.4. If your Account is terminated, we do not have an obligation to delete or return to you any Content you have posted to the Platform.
- 6.5. If your School terminates its agreement with us we may terminate your Account. If we decide to terminate your Account for this reason we will give you reasonable notice of such termination and a reasonable opportunity to retrieve your Content.

## **7. Your Content**

- 7.1. By uploading Content, to and creating Content on, the Platform, you grant us the licence referred to in clause **11.3** below.
- 7.2. You must maintain copies of all Content you upload to the Platform. We do not make any guarantees that there will be no loss of your Content or the Services will be bug free. You should download or copy all your Content prior to terminating your Account.
- 7.3. We have standards which apply to the Content you upload to the Platform. These are set out in clause **8.1**. If we are notified of a claim that Content you have uploaded to the Platform breaches our standards, we may prevent your Content being accessible through the Platform or being used in connection with Services and/or delete it.
- 7.4. If we terminate your Account because you have breached these Terms we may delete your Content immediately or keep it for evidential purposes.

## **8. Uploading appropriate Content**

- 8.1. Whenever you upload Content to the Platform or use the Platform to create or send Content, you must comply with the Content standards set out in this clause **8.1**. You will not with respect to such Content:

- 8.1.1 upload, create, transmit, distribute, or store obscene, offensive, objectionable or inappropriate content;
  - 8.1.2 damage, interfere with or degrade the functioning of the Platform;
  - 8.1.3 upload, create, transmit, distribute, or store verbal, physical, written or other abuse or unsolicited commercial communications (including threats of abuse or retribution or spam) to any person or cause harm to any person in any way under the Harmful Digital Communications Act 2015; or
  - 8.1.4 upload, create, transmit, distribute, or store material that violates trademark, copyright, trade secret, or other intellectual property rights of others or violates the privacy, publicity, or other personal rights of others.
  - 8.1.5 not post, republish, reproduce or communicate Content or information about any Participant appearing on the Platform unless you have received the consent of the Parent's of the originator of that material.
- 8.2. You warrant that any Content you uploaded or send via the Platform complies with the Content standards in clause **8.1**. You will be liable to us and you indemnify us for any breach of that warranty. We have the right to remove any Content without notice if, in our opinion, your Content does not comply with those standards.

## 9. **Privacy**

- 9.1. Please see our privacy policy by clicking the link [\[Link\]](#) for information and notices concerning our collection and use of your personal information.

## 10. **Children's privacy**

- 10.1. We are committed to safeguarding the personal information of children.
- 10.2. If you are aged 18 or under (a child), we require permission from your Parent in order to register for an Account. You will be asked to give the email address of your Parent.
- 10.3. We will send a confirmation email address to the email address you provide and your account will only become active once your Parent has confirmed to us that they have parental responsibility for you and they consent to you having a TPEL account. Alternatively, a Teacher may activate a Participant's account on the Platform if they have received written consent from the Participant's Parent.
- 10.4. To protect the privacy of children, we recommend that a Parent assists their child when using the Platform, and in particular, where a child is uploading pictures or videos to the Platform.
- 10.5. We will never knowingly request or solicit personal information from a child without their Parent's consent. If a Parent becomes aware that his or her child has provided us with personal information without their consent, they should contact us immediately at [admin@williampike.co.nz](mailto:admin@williampike.co.nz) In the event that we receive actual knowledge that we have collected such personal information without the requisite consent we will delete that information from the Platform as quickly as is practical.

## 11. **Intellectual Property Rights**

- 11.1. We are the owner or the licensee of all intellectual property rights in the Platform (including all information, data, text, graphics, artwork, photographs, logos, icons, sound recordings, videos

and look and feel). Those works are protected by trade mark, copyright and other intellectual property and trade practices laws and treaties around the world. All such rights are reserved.

- 11.2. You must not reproduce, duplicate, copy, sell, assign, resell or exploit any portion of the Platform or anyone else's Content, without our express prior written permission.
- 11.3. You own, or undertake that you are authorised to use, any intellectual property in any Content you upload to or create on the Platform. You grant us a worldwide, royalty free licence to use, store, back-up, copy, transmit, distribute, communicate and otherwise make available your Content, for the purposes of enabling you and those you give access to, to use the Platform and the Services and for any other purpose related to provision of the Services to you and them.

## **12. Takedown procedure**

- 12.1. Without limiting our other rights in these Terms, we may, without any prior notice to you, remove any of your Content from our Platform or block access to our Platform (totally or partially) where we have received a notice of intellectual property infringement or notice of takedown in respect of your Content. You agree that we will have no liability to you in respect of any loss (including loss of profit), cost or damage suffered or incurred by you as a result of such action.
- 12.2. If there is a dispute between you and a third party as to whether your Content infringes the intellectual property of that third party, you acknowledge that it is your responsibility to resolve such dispute with the third party, and until you have provided us with satisfactory written confirmation of a resolution between you and the third party we will not restore the alleged infringing materials or reinstate access to the Platform. You agree to indemnify us against all claims, proceedings or actions by such third party against us including costs (legal or otherwise) that we may incur in defending such claims, proceedings or actions on a full indemnity basis.

## **13. Viruses**

- 13.1. We do not guarantee that the Platform will be secure or free from bugs or viruses. You are responsible for configuring your information technology, computer programmes and platform in order to access the Platform. You should use your own virus protection software.
- 13.2. We will not be liable for any loss or damage caused by a virus, distributed denial-of-service attack, or other technologically harmful material that may infect your computer equipment, computer programs, data or other proprietary material due to your use of the Platform or to your downloading of any Content from the Platform, or on any website linked to the Platform.
- 13.3. You must not misuse the Platform by knowingly introducing viruses, trojans, worms, logic bombs or other material which is malicious or technologically harmful. You must not attempt to gain unauthorised access to the Platform, the server on which the Platform is stored or any server, computer or database connected to the Platform. You must not attack the Platform via a denial-of-service attack or a distributed denial-of service attack.

## **14. Disclaimers and limitation of liability**

- 14.1. If you choose to use the Platform, you do so at your own risk.
- 14.2. The Platform and any Content we have uploaded to the Platform are provided without warranty of any kind, either express or implied. We make no warranty that the Platform or

Content will meet your requirements or be available on an uninterrupted, secure, or error-free basis.

14.3. To the extent permitted by law, we exclude all conditions, warranties, representations or other terms which may apply to the Platform and any Content on it, whether express or implied.

14.4. We will not be liable to you or other third party for any direct, indirect or consequential loss, cost, lost opportunity or profit, lost goodwill, reputational damage or liability or other adverse event whatsoever, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, even if foreseeable, arising under or in connection with:

14.4.1 use of, or inability to use, the Platform or Services;

14.4.2 any contact you have with other Members whether in person or online; or

14.4.3 use of or reliance on any Content displayed on the Platform.

15. If, notwithstanding the disclaimers contained in these Terms, if a court of competent jurisdiction holds us (or any of our officers, employees or agents) liable in respect of any matter arising under or incidental to these Terms, our total aggregate liability will be limited to the lesser of:

15.1.1 the sum paid by you to use the Platform; or

15.1.2 the sum of \$100.00.

16. Except to the extent permitted by law, nothing in these Terms has the effect of contracting out of the Consumer Guarantees Act 1993 or any other consumer protection law that cannot be excluded.

## 17. **Indemnity**

17.1. You agree to indemnify, and hold TPEL and its affiliates and subsidiaries, and their officers, directors, employees and agents, harmless from and against any claims, liabilities, damages, losses, and expenses, including, without limitation, any tax, legal and/or accounting fees, arising out of or in connection with your access to or use of the Platform, Services or your violation of these Terms.

## 18. **Miscellaneous**

18.1. We may assign or transfer these Terms, at our sole discretion, without restriction. You may not assign or transfer your rights under these Terms without our prior written consent, which may be withheld in absolute discretion.

18.2. Any notices or other communications permitted or required hereunder, including those regarding modifications to these Terms, will be in writing and given by TPEL:

18.2.1 via email (in each case to the address that you provide) or

18.2.2 via the Platform. For notices made by e-mail, the date of receipt will be deemed the date on which such notice is sent.

18.3. These Terms shall be governed by and construed in accordance with New Zealand law. You agree to submit to the exclusive jurisdiction of the courts of New Zealand with respect to any claim or matter arising out of or in connection with these Terms or their termination.

- 18.4. No failure or delay by TPEL to exercise any right or remedy provided under these Terms or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy by TPEL shall prevent or restrict the further exercise of that or any other right or remedy.
- 18.5. If any provision or part-provision of these Terms is or becomes void, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be severable and deemed to be deleted, and shall not affect the validity, legality or enforceability of the remaining provisions.
- 18.6. If you have any questions or concerns in relation to the Platform or these Terms, please contact us at [admin@williampike.co.nz](mailto:admin@williampike.co.nz)
- 18.7. These terms were last updated on 27th January 2024.