



TRADING TERMS AND CONDITIONS

HORIZON THERAPY SERVICES PTY LTD (ACN 611 936 540)

1. DEFINITIONS

- 1.1. The **Clinic** is Horizon Therapy Services Pty Ltd (ACN 611 936 540).
- 1.2. The **Guardian** is the person responsible for the Patient whom engages the Clinic to provide the Services to and for the Patient. Further reference to "Patient" in these terms and conditions includes the Guardian unless the context requires otherwise.
- 1.3. Any reference to "**the Patient**" includes any person engaging the Clinic on behalf of and with the authority of the person or entity that the Order is provided for, including the Patient's guardian.
- 1.4. The **Services** are the occupational therapy, speech pathology, counselling, mental health and associated services including advice and recommendations given to the Patient and to be performed by the Clinic at the request of the Patient.
- 1.5. Reference to "**loss and damage**" herein includes indirect, reliance, special or consequential loss and/or damage including i) any loss of income profit or business; ii) any loss of good will or reputation; iii) any loss of value of intellectual property.
- 1.6. **Major failure** is as defined under the *Competition and Consumer Act 2010 (Cth)*.
- 1.7. **GST** refers to Goods and Services tax under the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.

2. GENERAL

- 2.1. These terms and conditions together with the Clinic's new Patient form, price list, enrolment form and consent to treatment form (if any) constitute the agreement between the Clinic and the Patient ("**the agreement**").
- 2.2. The terms and conditions are binding on the Patient, and where applicable the Patient's Guardian, trustees, assignees, executors and administrators.
- 2.3. In these terms and conditions, the singular shall include the plural, the neuter gender shall include the masculine and feminine and words importing persons shall apply to corporations and vice versa.
- 2.4. Where more than one Patient enters into this agreement each shall be liable jointly and severally.
- 2.5. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired and the offending provision shall be deemed as severed from these terms and conditions.
- 2.6. The Clinic may license or sub-contract all or any part of its rights and obligations without the Patient's consent but the Clinic acknowledges that it remains at all times liable to the Patient.
- 2.7. The failure by a party to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect that party's right to subsequently enforce that provision.

- 2.8. The Patient acknowledges that the Clinic may detail these terms and conditions on its website. In this event, the terms and conditions on the Clinic's website shall apply to any future dealings as between the parties and the Patient is deemed to have notice of any such terms and conditions.

3. PRICE, PAYMENT AND ENROLMENT

- 3.1. The Clinic may require the Patient and/or Guardian to submit an enrolment form for each individual Patient before the Patient can be accepted by the Clinic.
- 3.2. A request for the Services may be placed by the Patient with the Clinic either verbally or in writing however the Clinic may require the Patient to provide a Patient order document prior to providing any Services.
- 3.3. As a condition of acceptance, the Clinic may require the payment of a deposit in respect of the Price and in this event, the Clinic may not be deemed to have accepted the Patient's request for the Services unless or until such deposit has been paid.
- 3.4. The price is the Clinic's prevailing rate for the Services supplied.
- 3.5. GST will be charged on the Services provided by the Clinic that attract GST at the applicable rate.
- 3.6. The Clinic may require upfront payment of the price or a deposit in respect of the price from the Patient prior to providing any Services.
- 3.7. The Patient must pay the Clinic's price in full regardless of any rebate or payment they are entitled to with respect to the National Disability Insurance Scheme.
- 3.8. **Non-account Patients** must pay the price in full or the balance thereof on completion of the Services unless otherwise agreed between the Clinic and the Patient in writing.
- 3.9. **Account Patients** must pay the price in full or the balance thereof within seven (7) days from the date of issue of the Clinic's invoice for the Services unless otherwise agreed between the Clinic and the Patient in writing.

4. PROVISION OF THE SERVICES

- 4.1. The Clinic reserves its right to:
 - 4.1.1. Decline requests for any Services requested by the Patient.
 - 4.1.2. Cancel or postpone appointments at their discretion.
- 4.2. Unless specified by the Clinic to the contrary, the Clinic does not warrant that it will be capable of providing the Services at specific times requested by the Patient during the term of the agreement.
- 4.3. Subject to otherwise complying with its obligations under the agreement, the Clinic shall exercise its independent discretion as to its most appropriate and effective manner of providing the Services and of satisfying the Patient's expectations of those Services.
- 4.4. The Patient authorises the Clinic to carry out any emergency procedures the Clinic believes is reasonably required and the Patient agrees to pay the Clinic's prevailing rates for any such emergency procedures performed.

5. DEFAULT

- 5.1. For the purposes of this clause, the “**default date**” is the day after the due date for payment of the Clinic’s invoice and the “**outstanding balance**” is the amount of the Clinic’s invoice, less any payments made by the Patient prior to the default date.
- 5.2. The Patient may be liable for a dishonoured cheque fee of \$40.00 in respect of each cheque issued by the Patient and rejected by the Clinic’s bank.
- 5.3. If the Clinic does not receive the outstanding balance by the default date the Patient will be liable for:
 - 5.3.1. Interest on the outstanding balance from the default date at the rate of twelve per centum (12%) per annum calculated on a daily basis;
 - 5.3.2. An account keeping fee of \$15.00 to be charged at the end of each calendar month after the default date until the outstanding balance has been paid;
 - 5.3.3. Any debt collection or recovery costs incurred by the Clinic, and if the Clinic’s debt collection agency (“**the agency**”) charges commission on a contingency basis then the Patient shall pay as a liquidated debt the commission payable by the Clinic to the agency, at the agency’s prevailing rate as if the agency achieved one hundred per cent recovery and the following formula shall apply:

$$\frac{\text{Total Debt including Commission and GST}}{100 - \text{Commission \% charged by the agency (including GST)}} = \text{Original Debt} \times 100$$

(n.b. in the event where the agency is Prushka Fast Debt Recovery the applicable commission rate for the amount unpaid is as detailed on www.prushka.com.au).

- 5.4. Any charges reasonably made or claimed by the Clinic’s or the agency’s lawyer for legal costs on the indemnity basis.

6. RISK AND LIABILITY

- 6.1. The Patient will ensure when requesting Services that there is sufficient information to enable the Clinic to provide the Services, including, but not limited to advising of any adverse reactions to medications and anaesthetics, allergies and other previous medical, mental or surgical history and the Clinic takes no responsibility for any personal injury or loss and damage if the information provided by the Patient is insufficient, wrong or inaccurate.
- 6.2. The Patient acknowledges that the Clinic shall not be liable for and the Patient releases the Clinic from any loss and damage incurred as a result of delay or failure to observe any of these conditions due to an event of force majeure, being any cause or circumstance beyond the Clinic’s reasonable control.
- 6.3. The Patient acknowledges that the Clinic cannot guarantee the outcome of any of the treatment or procedures and accepts the risk that any treatment or procedure may not achieve the desired or intended outcome for the Patient as a consequence of, or despite providing the Services.
- 6.4. Subject to the Clinic’s warranty for defective Services, the Clinic’s liability for loss and damage associated with, arising from or in connection with the provision of the Services may not exceed the price, including but not limited to any personal injury.
- 6.5. In the event that the Guardian does not collect the Patient in a timely fashion at the end of the appointment, the Clinic reserves its right to charge the Guardian and/or Patient fees at its prevailing rate.

- 6.6. Fees are payable, without deduction for the full scheduled appointment regardless of whether the Patient is late for their appointment.

7. WARRANTY

- 7.1. The Clinic warrants that the Patient's rights and remedies in the agreement arising from a warranty against defects are in addition to other rights and remedies under any applicable law in relation to the goods and services to which the warranty relates.
- 7.2. The Clinic does not purport to restrict, modify or exclude any liability that cannot be excluded under the Australian Consumer Law contained in Schedule 2 of the *Competition and Consumer Act 2010 (Cth)* as may be amended from time to time.

Warranty for Services

- 7.3. Subject to Clause 6.3 herein:
Provided that the Patient reports any defect in the Services provided, preferably within fourteen (14) days from the date that the defect became apparent, the Clinic will rectify any defect in the Services within a reasonable period of time.
- 7.4. To the extent permitted by law the Clinic's liability in respect of defective services that does not constitute a major failure will be limited to:
- 7.4.1. The supply again of the defective Service; or
- 7.4.2. The refund of the price paid by the Patient in respect of the defective Service.
- 7.5. The Clinic shall not be liable to compensate the Clinic for any reasonable delay in remedying any defective Services or in assessing the Patient's claim.
- 7.6. The Patient warrants that it will use its best endeavours to assist the Clinic with identifying the nature of the defective Service claim.

Claims made under Warranty

- 7.7. Claims for warranty should be made in one of the following ways:
- 7.7.1. The Patient must send the claim in writing to the Clinic's post office box at 49 Phillip Avenue, Watson ACT 2602;
- 7.7.2. The Patient must email the claim to the Clinic at accounts@horizontherapyservices.com.au;
- 7.7.3. The Patient must contact the Clinic on 02 6255 0409.

8. CANCELLATIONS

Cancellation by Clinic

- 8.1. The Clinic may cancel the provision of Services to which these terms and conditions apply at any time before payment of the price in full is made by the Patient by giving notice to the Patient. On giving such notice the Clinic shall repay to the Patient any deposit or sum advanced in respect of the price. The Clinic shall not be liable for any loss and damage whatsoever arising from such cancellation.
- 8.2. Without prejudice to the Clinic's other remedies at law, the Clinic shall be entitled to cancel all or any part of the Services of the Patient which remains unfulfilled and all amounts owing to the Clinic shall, whether or not due for payment, become immediately payable in the event that:
- 8.2.1. Any money payable to the Clinic from the Patient becomes overdue for payment; or
- 8.2.2. The Patient becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or

8.2.3. The School shall not be liable to the Student for any loss and damage whatsoever arising from a cancellation of enrolment in accordance with these terms and conditions.

Cancellation by Patient

8.3. The Patient may cancel any Order by providing notice to the Clinic by no later than 3p.m. on the day before the Services were due to be provided. The Patient acknowledges and accepts that the Clinic will be entitled to charge ninety per centum (90%) of its prevailing rate for any Services performed up to the time of cancellation.

9. ENTIRE AGREEMENT

9.1. The agreement as defined herein constitutes the whole agreement between the Clinic and the Patient.

9.2. The agreement is deemed to be made in the State of the Australian Capital Territory and all disputes hereunder shall be determined by the appropriate courts of the Australian Capital Territory.

9.3. All prior discussions and negotiations are merged within this document and the Clinic expressly waives all prior representations made by it or on its behalf that are in conflict with any clauses in this document in any way.

9.4. Nothing in these terms and conditions is intended to have the effect of contravening any applicable provisions of the *Competition and Consumer Act 2010* or the *Fair Trading Acts* in each of the States and Territories of Australia.

I/We understand and agree to be bound by the Terms and Conditions set out herein.

PATIENT NAME

PATIENT SIGNATURE:.....

DATE:/...../20...

GUARDIAN NAME/s

.....

GURARDIAN SIGNATURE:

.....

ON BEHALF OF

.....

(PATIENT NAME)

DATE:/...../20...