

Terms of Trade

GENERAL AND PRELIMINARY MATTERS

Definitions and Interpretation

1. Defined terms and rules of interpretation applying to these terms of trade are set out at the end of these terms of trade.

Precedence of these terms

2. These terms of trade apply to all transactions between the Customer and Us relating to the provision of Services and take precedence over terms of trade contained in any document of, or correspondence with, the Customer or elsewhere.
3. **Variations** The variation or waiver of a provision of these terms or a party's consent to a departure from is ineffective unless explicitly agreed by Us in writing.

Scope of Services

4. In the provision of the Services, we will provide a safe, supportive and age-appropriate environment for children to engage in play therapy. However, it is important for the Customer to note that play therapy is not a substitute for medical, psychiatric or psychological treatment and the Customer acknowledges and agrees to consult with a qualified medical professional if they have concerns about their child's health or wellbeing.

Parent/Guardian Involvement

5. We recognise the important role that parents/guardians play in a child's development, and We will endeavour to work with them to support the Child's progress.
6. Parent/guardian involvement may include:
 - 6.1. check ins as required;
 - 6.2. monthly parent update meetings with the Therapist;
 - 6.3. parental updates involving any significant updates in the child's life via email to the Therapist;
 - 6.4. parental guidance and goal setting.
7. Communication and sharing of information will only occur with the adult deemed by legislation or court order to have parental responsibility.

APPOINTMENTS

8. A Customer may request an Appointment:
 - 8.1. at our Website, by clicking under the "Contact Us" tab and completing a waitlist registration form;
 - 8.2. by phone call to Us; or
 - 8.3. by sending Us an email.

You will find our contact details at our Website under the "Contact" tab.

9. A request for an Appointment must include the following information:
 - 9.1. The desired date and time of the Appointment required;

- 9.2. the Customer's full name and contact details (including a mobile telephone number);
 - 9.3. the Child's full name and age;
 - 9.4. your payment details and your authority for Us to directly debit your account.
10. An Appointment will only be deemed to be confirmed when:
- 10.1. We send the Customer an email or text message confirming the Appointment; and
 - 10.2. We may, in our discretion, refuse to confirm any request for an Appointment, or to cancel a confirmed Appointment, where:
 - 10.2.1. We are unable to provide the Services requested for the Appointment (whether due to Our unavailability, the needs of the Child or for any other fair reason); or
 - 10.2.2. payment for Services previously provided to the Customer is outstanding.

Cancellation Policy

11. If a Customer wishes to cancel or re-schedule a confirmed Appointment (Cancellation), the Customer must notify us immediately and we may charge a cancellation fee in accordance with the following:
- 11.1. For Cancellations made within 48 business hours of the Appointment or after midday on a Friday for Monday appointments, a cancellation fee of 100% of the relevant fee for the Appointment for all clients will apply.
 - 11.2. For cancellation of ongoing bookings, a written 2-week notification is appreciated to allow for the appointment time to be filled. This also ensures that the child has the opportunity to attend two final sessions and experience a therapeutic ending of a professional relationship between the child and the Therapist.
12. Cancellation fees may be charged to the client as an Additional Charge (see also, clause 16.1.1).

INVOICING AND PAYMENT

Payment Terms

13. Payment is to be made in full on the day of the appointment for self-funded and self-managed NDIS clients.
14. Subject to paragraph (13) above, the client may request for a recurring or advance payment arrangements.
15. NDIS Plan Managed clients will have their invoices emailed directly to their plan managers after their appointment. It is the client's responsibility to ensure that their plan manager is paying for their invoice in a timely manner and by the due date as outlined on the invoice.
- 15.1. (Late Payment) If any invoice is due but unpaid:
 - 15.1.1. We may withhold the provision of any further Services until overdue amounts are paid in full;
 - 15.1.2. The Customer is to pay Us on demand interest at the rate of 10% per month on all overdue amounts owed by the Customer to Us, calculated daily;

- 15.1.3. We may in our complete discretion apply any payment received from the Customer to any amount owing by the Customer to Us;
- 15.1.4. All costs and expenses associated with collecting overdue amounts, including legal fees and internal costs and expenses, are to be paid by the Customer as a debt due and payable under these terms of trade.

Additional Charges

- 16. We may require the Customer to pay Additional Charges in respect of costs incurred by Us in connection with these terms of trade or the provision of the Services.
 - 16.1. The imposition of Additional Charges may also occur as a result of (including but not limited to):
 - 16.1.1. Cancellation, whereby a cancellation fee may be charged pursuant to clause 12;
 - 16.1.2. subject to Our cancellation policy, a Customer and/or Child being unable to attend an Appointment (or consecutive Appointments) [for example: because of family holidays] but wish to 'hold' Appointment times for the future, in which case we may charge the Customer a 'holding fee' for each Appointment unattended from 25% of appointment charge.
 - 16.1.3. the preparation of a report on the Child at the request of NDIS, school or other support letters required;
 - 16.1.4. the preparation and completion of Play Therapy assessments of the Child at the Customer's request;
 - 16.1.5. costs incurred for Us to attend meetings with the Child, in a support capacity, at the request of the Child's medical practitioner or therapist (including costs for Our time and out of pocket expenses);
 - 16.1.6. additional costs, expenses or disbursements incurred by Us as a direct consequence of providing the Services; or
 - 16.1.7. additional services required of Us by the Customer; or
 - 16.1.8. any other occurrence which causes Us to incur costs in respect of the provision of the Services to the Customer and/or the Child.

Invoices

- 17. The amount payable by the Customer will be the amount set out in Our invoice. This will be calculated as:
 - 17.1. the amount for the Services as set out in our Fee Schedule; plus
 - 17.2. the Additional Charges (if any); plus
 - 17.3. GST (see clause 19).
- 18. The Customer is not entitled to retain any money owing to Us notwithstanding any default or alleged default by Us of these terms of trade, including the supply of, allegedly, Services to an inadequate standard. Nothing in this paragraph affects the Customer's rights for any alleged failure of a guarantee under the Australian Consumer Law.

GST

- 19. The Customer and We agree to comply with their obligations in relation to Goods and Services Tax (GST) under the *A New Tax System (Goods and Services Tax) Act 1999* and any other applicable legislation governing GST.

IP RIGHTS AND CONFIDENTIALITY

Intellectual Property Rights

20. Unless specifically agreed in writing between Us and the Customer, all Intellectual Property Rights in any works created by Us on behalf of the Customer vest in Us and remains Our property.
21. Subject to payment of all invoices due in respect of the Services, We grant to the Customer a perpetual, non-exclusive licence to use the works created or produced by Us in connection with the provision of Services under these terms of trade for the purpose only for which they were produced.

Confidentiality

22. We will maintain strict confidentiality regarding all Customer information including the personal and medical information of the Customer and the Child unless you or your child are at risk of harm to yourselves or others. In these circumstances we would be required as Mandatory Reporters to make a report to the relevant agency and the Child's case notes and will adhere to all relevant privacy laws. If you require us to liaise with organisations or agencies, we need written consent to comply.
23. Although we aim to maintain strict confidentiality procedures, at times we can receive a subpoena or a freedom of information request or may be legally obligated to share information. Where possible anonymity will be adhered to in the best interests of the client. We will always discuss this with you prior to disclosure.

DEFAULT BY CUSTOMER

Events of Default

24. An event of default will arise if the Customer breaches or is alleged to have breached these terms of trade for any reason (including, but not limited to, defaulting on any payment due under these terms of trade) and fails to remedy that breach within 14 days of being given notice by Us to do so;
25. Our Rights following an Event of Default:
 - 25.1. Where an event of default occurs, except where payment in full has been received by Us, We may:
 - 25.1.1. refuse to provide further Services;
 - 25.1.2. retain (where applicable) all money paid by the Customer on account of Services or otherwise, and
 - 25.1.3. all invoices issued to the Customer by Us will become immediately due and payable.
26. In the event of default in relation to payment, a payment plan may be considered by the owner to support a resolution to the default.

TERMINATION

27. We may terminate these terms of trade at any time, and refuse to provide further Services if We determine, at Our absolute discretion, that the Services are not appropriate for the Child.
28. In addition to the express rights of termination provided in these terms of trade, the Customer or Us may terminate these terms of trade by giving 14 days written notice to the other party. NDIS participants are required to give 14 days' notice.
29. Termination may also occur for miscellaneous reasons. If this occurs, written notice will be provided as per Clause 28.

EXCLUSIONS, LIMITATIONS AND INDEMITIES

General Acknowledgements and Exclusions of Liability

30. Subject to clause 31 below, We will take all reasonable steps to ensure the safety of children and their property while on Our premises, however we will not be liable for any Loss that occurs as a result of the Child's actions or negligence.
31. We give no warranty in relation to the Services provided or supplied. Under no circumstances are We liable or responsible in any way to the Customer or any other person for any loss, damages, costs, expenses or other claims (including consequential damages and loss) as a result, direct or indirect of any defect, deficiency or delay in the Services.

Provision of Information, advice and assistance

32. Any advice, recommendation, information, assistance or service given by Us in relation to the Services is given in good faith and is believed to be accurate, appropriate and reliable at the time it is given. It is provided without any warranty or accuracy, appropriateness, or reliability. We do not accept any liability or responsibility for any Loss suffered as a result of the Customer's reliance on such advice, recommendation, information, assistance or service.

Australian Consumer Law Guarantees

33. The Australian Consumer Law may give to the Customer certain guarantees. Where liability for breach of any such guarantee can be limited, Our liability (if any) arising from any breach of those guarantees is limited with respect to the supply of Goods, to the supply of Services again or cost of re-supplying the Services again.

Customer to Indemnify Us

34. The Customer indemnifies and keeps indemnified Us and our servants and agents in respect of any claim or demand made or action commenced by any person (including, but not limited to, the Customer) against Us or, for which We are liable, in connection with any Loss arising from or incidental to the provision of Services, or the subject matter of these terms of trade.

35. This indemnity includes, but is not limited to, any legal costs incurred by Us in relation to meeting any claim or demand or any party/party legal casts for which We are liable in connection with any such claim or demand.

FORCE MAJEURE

36. If circumstances beyond Our control prevent or hinder Our provision of the Services, We are free from any obligation to provide the Services while those circumstances continue. We may elect to cancel any Appointment or keep any Appointment on foot until such circumstances have ceased.

37. Circumstances beyond Our control include, but are not limited to, strikes, lockouts, riots, natural disasters, severe weather conditions, fire, war, Government decrees, proclamations or orders, epidemics, pandemics, endemics and breakouts of disease and failures or malfunctions of computers or other information technology systems.

MISCELLANEOUS

Jurisdiction

38. These terms of trade are governed by the laws of the state of Victoria and the Commonwealth of Australia, and each party irrevocably submits to the non-exclusive jurisdiction of the courts thereof.

No Warranty

39. In entering into these terms of trade, the Customer has not relied on any warranty, representation or statement, whether oral or written, made by Us relating to or in connection with the subject matter of these terms of trade.

Voided Provisions

40. If any provision of these terms of trade at any time is or becomes void, voidable or unenforceable, the remaining provisions will continue to have full force and effect.

No Waiver for Delay

41. A party's failure or delay to exercise a power or right does not operate as a waiver of that power or right.

Notices

42. A notice or other communication required or permitted to be given by one party to another must be in writing to the addresses (including email addresses):

42.1. of the Customer, as provided to Us by the Customer; and

42.2. of Us, as set out on Our Website or as otherwise provided to the Customer by Us in writing.

43. A notice is regarded as being received at the time and on the day it is actually received, but if it is received on a day that is not a Business Day or after 5:00pm on a Business Day it is regarded as received at 9:00am on the following Business Day.

44. Notices sent by email:

- 44.1. must state the first and last name of the sender, and
- 44.2. are taken to be signed by the named sender.
- 44.3. Should the notice be sent by a representative of an Agency or Organisation, the email must state their role in relation to the child or family and their contact details (phone, email, full name, and postal address).
- 44.4. A party may only change its postal or email address or fax number for service by giving notice of that change in writing to the other party.

Definitions

- 45. Appointment means an appointment arranged between Us and the Customer in accordance with clause 8 for the provision of Services.
- 46. Additional Charge are those charges described in clause 16.
- 47. Business Day means a day that is not a Saturday, Sunday or public holiday in Melbourne, Victoria.
- 48. Parent or guardian means the person/s with parental responsibility of the child.
- 49. Child means the child of the Customer, whether as parent or guardian to the child.
- 50. Customer means the person identified in the booking an Appointment.
- 51. Intellectual Property Rights means intellectual property rights and moral rights at any time protected by statute or common law, including child play programs, therapy plans, developmental assessments and reports and Our Child case notes.
- 52. Loss includes, but is not limited to, costs (including party to party legal costs and Our legal costs), expenses, lost profits, award of damages, personal injury and property damage.
- 53. Services means the services to be provided by Us to the Customer in accordance with these terms of trade (see Our Website for details).
- 54. Website means Our website at <https://connectedheartstherapy.com.au>.
- 55. We, Us, Our means Connected Hearts Play Therapy (ABN 85 302 938 106)

Interpretation

- 56. In these terms of trade, unless the context otherwise requires:
 - 56.1. a reference to writing includes email and other communication established through Our Website;
 - 56.2. the singular includes the plural and vice versa;
 - 56.3. headings are for ease of reference only and do not affect the meaning or interpretation of these terms of trade; and
 - 56.4. if the date on which any act, matter or thing is to be done falls on a day which is not a Business Day it must be done on the next Business Day.

Any questions regarding this document, please contact business owner directly.