

OTFC Corporate Services Pty Ltd General Terms & Conditions

Parties

1. In these General Terms and Conditions:
 - 1.1 **OTFC** means OTFC Corporate Services Pty Ltd (A.C.N. 650 730 153) of Level 1, 7 Unley Road Parkside SA 5063, together with its related entities and all directors, company officers, shareholders, employees, contractors, sub-contractors or agents.
 - 1.2 **Participant** means every person (either directly or through a parent, guardian or support worker) who uses any premises or facilities operated or provided by OTFC, or uses any Services provided by OTFC.

Services

2. OTFC provides the following services:
 - 2.1 Therapeutic activities;
 - 2.2 Trampoline and suspension activities;
 - 2.3 Physical therapy, exercise and activities;
 - 2.4 Occupational therapy assessments and reviews;
 - 2.5 Occupational therapy consultations.In these Terms, these are known as the "**Services**".

Status of this Document

3. This document headed "General Terms and Conditions", together with:
 - 3.1 the OTFC Client Safety Statement;
 - 3.2 the Schedule of Fees;
 - 3.3 the Client Policy Handbook;
 - 3.4 the CCTV & Media Consent Policyconstitute the entire contract between the Participant and OTFC for the provision of the Services (hereinafter known as "**the Contract**").
4. The Participant acknowledges that all documents comprising the Contract have been provided to the Participant.
5. If a Participant is a minor or is under a disability which prevents them from entering into contracts, the Participant must be represented by a parent, guardian or support worker for the purposes of entering into the Contract.
6. The Contract supersedes any other agreements between OTFC and the Participant, unless otherwise agreed in writing.
7. The only terms implied in the Contract are those implied by mandatory operation of law.

Amendments to Contract

8. OTFC will notify the Participant in writing of any amendments to any of the documents referred to in clause 3.
9. Amendments take effect no earlier than 30 days after the date the Participant has been notified of the change in writing, unless otherwise agreed.

Engagement

10. The Participant engages OTFC to provide the Services, as agreed from time to time, in accordance with the Contract.
11. OTFC must provide the Services to the Participant in accordance with the Contract.

Readiness and Ability to Participate

12. The Participant warrants to OTFC that:
 - 12.1 he/she is physically able to participate in the Services;
 - 12.2 there is no medical reason, diagnosis or warning received from any medical or health professional, which prevents the Participant from having any involvement in, or participating in, any activity that forms part of the Services;
 - 12.3 the Participant has not been advised by any medical or health professional to not participate in any activity that forms part of the Services;
 - 12.4 there are no health-related reasons or problems that preclude the Participant from participating in any activity that forms part of the Services; and
 - 12.5 the Participant understands and acknowledges that OTFC has relied on these representations in agreeing to provide the Services to the Participant, and may rely on such representations as a defence or bar to any claims made by the Participant.

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Fees

13. The Fees for the Services are as shown in Schedule of Fees.
14. Unless otherwise stated, the Fees includes all taxes (including GST).
15. OTFC reserves the right to require deposits or part-payment of Fees in advance.
16. OTFC reserves the right to vary the Fees prior to performance of any of the Services, if OTFC considers (acting reasonably) that additional work is required or where the costs of providing the Services have increased due to circumstances beyond OTFC's reasonable control.

Invoicing and Payment

17. OTFC may, in its absolute discretion, issue an invoice to the Participant at any of the following times:
 - 17.1 for a deposit or part-payment towards Services to be rendered in the future; and/or
 - 17.2 on the date of supply of the Services.
18. Unless otherwise agreed, invoices are due and payable on the date of the invoice.
19. If your third-party funding is no longer available, you be responsible for the outstanding amount.
20. If three of more invoices are outstanding, OTFC GROUP reserves the right to suspend services until these are paid.

Cancellation

21. If the Participant cancels any booking for Services before they have been performed, the Participant may be liable for a cancellation fee as set out in the Schedule of Fees.
22. OTFC reserves the right to cancel any Services if the Participant is in breach of its obligations to the Supplier under these terms.

Use of Subcontractors

23. OTFC may use subcontractors to provide some or all of the Services.
24. OTFC is responsible for the work of any of its subcontractors.

Medical & Other Consents

25. The Participant authorises OTFC to:
 - 25.1 take whatever steps it considers necessary for the Participant, which can include arranging ambulance, medical and hospital treatment in the event the Participant incurs any injury or illness during the provision of the Services, regardless of the cause and wherever it may have arisen, and OTFC is not responsible for the payment of any such emergency, medical or hospital services;
 - 25.2 record by video, audio or by other recording means the Participant and the Participant's involvement in any activity, as per the CCTV & Media Consent policy.

Warranties

26. OTFC warrants:
 - 26.1 the Services are fit for their intended purpose;
 - 26.2 the Services will be provided in a timely and efficient manner;
 - 26.3 the Services will be provided with due care and skill.
27. Except as otherwise stated herein, to the extent permitted or required by law, OTFC gives no warranties or representations or guarantees regarding the Services.

Statutory Protections

28. OTFC's Services come with guarantees that cannot be excluded under the Australian Consumer Law.
29. Nothing in the Contract overrides the statutory guarantees.

Limited Liability

30. OTFC is not liable for any loss, damage, claim, expense or costs that may arise directly or indirectly from the negligence of the Participant or the Participant's failure to follow the reasonable directions of OTFC.
31. To the maximum extent permitted by law:
 - 31.1 OTFC's maximum liability to the Participant for any loss or damage sustained by the Participant arising from or in connection with or attributable to the OTFC's negligence or breach of these terms, or for any other liability of OTFC in connection with these terms, is limited to the refund of Fees paid by the Participant; and

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- 31.2 OTFC is not liable to the Participant for any financial, economic or consequential loss whatsoever arising from or in connection with or attributable to a breach of these terms by OTFC or the negligence of OTFC or its officers, agents, or employees.

Termination

32. Either party may terminate these terms immediately by notice in writing to the other party, if:
- 32.1 The other party breaches a term of the Contract and such breach is not remedied within 7 days of a notice from the non-breaching party to the breaching party requiring the breach to be remedied; or
 - 32.2 the other party becomes insolvent within the meaning of the *Corporations Act, 2001* (Cth) or bankrupt within the meaning of the *Bankruptcy Act 1966* (Cth).

Default of Payment

33. If the Participant for any reason does not pay any money due to OTFC under the Contract, then OTFC may decide:
- 33.1 that the Participant must pay to OTFC interest on that money at 5%, on the day payment was due and calculated daily from the due date to the date of actual payment;
 - 33.2 that any deposit and accrued interest is forfeited to OTFC;
 - 33.3 to terminate these the supply of any further Services.
34. The payment of interest under the preceding clause is in addition and without prejudice to any other rights or remedies OTFC may have at law by reason of any default, including the recovery of OTFC's reasonable legal costs in enforcing its rights under these terms.

Force Majeure

35. OTFC is not liable for failure to perform these terms to the extent and for so long as its performance is prevented or delayed because of circumstances outside OTFC's direct control – including without limitation, floods, fire, pandemic, epidemic, storms, or acts of God, or any human causes such as strike, lockout or other industrial action – and without fault or negligence by OTFC, but only if OTFC:
- 35.1 immediately gives notice to the Participant; and
 - 35.2 does everything reasonable and within its power to remedy the cause quickly.

Governing Law

36. These Terms of Trade are governed by the laws of South Australia. The courts of South Australia or the Federal Court of Australia (Adelaide Registry) have exclusive jurisdiction in connection with these terms. The parties submit to the jurisdiction of those courts and any courts having appellate jurisdiction.