

INCLUSIVE SPORT SA INCORPORATED
(ABN 40 766 479 736)

SERVICE TERMS & CONDITIONS

These Terms and Conditions govern the provision of the Services by us to the Participant. You must read these Terms and Conditions carefully before engaging us to provide any of the Services. You undertake and agree to be bound by, and will comply with and observe at all times during the Term, these Terms and Conditions.

1 DEFINITIONS

In these terms:

1.1 Confidential Information means:

- (a) know-how, trade secrets, ideas, concepts, technical and operational information confidential to or used by either party;
- (b) information concerning the affairs or property of either party or any business, property or transaction in which either party may be or may have been concerned or interested;
- (c) information about the existence and terms or effect of these Terms and Conditions; and
- (d) information which, by its nature or by the circumstances of its disclosure, is or could reasonably be expected to be regarded as confidential to:
 - (i) either party; or
 - (ii) any third party with whose consent or approval either Party uses that information.

1.2 Minor means an individual under the age of 18 years that wishes to be provided the Services;

1.3 NDIS means the National Disability Insurance Scheme pursuant to the *National Disability Insurance Scheme Act 2013* (Cth);

1.4 Participant means the person we are providing the Services under these Terms and Conditions, which, to the extent is not you, is a person you are responsible for, which includes a Minor;

1.5 Personal Information means information or an opinion about an identified individual, or an individual who is reasonably identifiable:

- (a) whether the information or opinion is true or not; and
- (b) whether the information or opinion is recorded in a material form or not.

1.6 Services means the services provided by us to the Participant from time to time including, but not limited to in the following programs:

- (a) Rapidswim Learn to Swim;
- (b) Rapidswim Aquatic Therapy;
- (c) Behaviour Support SA; and
- (d) Active Inclusion.

- 1.7 **Service Fee** means the fee paid by you to us in consideration for the provision of the Services by us to the Participant, at the time and in the manner as agreed by you and us;
- 1.8 **Supplementary Policies** means the additional policies that may relate to your engagement with us for the provision of the Services by us to the Participant, set out at <https://inclusivesportsa.com.au/about/policies/> including, but not limited to:
- (a) Behaviour Management;
 - (b) Code Of Conduct;
 - (c) Complain, Comment and Compliment;
 - (d) Duty of Care;
 - (e) Ethical Decision Making;
 - (f) Extreme Weather;
 - (g) Healthy Eating;
 - (h) Incident Report Form;
 - (i) Infectious Disease Control and Management;
 - (j) Member Protection;
 - (k) Privacy;
 - (l) Smoke Free Environment;
 - (m) Work Health Safety;
 - (n) Website Terms and Conditions;
 - (o) Website Privacy Policy; and
 - (p) Short-Notice Cancellation Policy.
- 1.9 **us, we, and our** means **INCLUSIVE SPORT SA INCORPORATED** (ABN 40 766 479 736) its directors, employees, contractors, agents, affiliates, licensors, suppliers and related parties;
- 1.10 **Website** means the website owned and operated by us at www.inclusivesportsa.com.au; and
- 1.11 **you** or **your** means the person engaging us to provide the Services to the Participant in consideration for the Service Fee, and in accordance with these Terms and Conditions.

2 TERM

These Terms and Conditions commence on the date that you agree (through the Website) to engage us to provide the Services to the Participant, and continue until the earlier of those Services being successfully provided by us to the Participant, or the termination of these Terms and Conditions under clause 16 (**Term**).

3 OBLIGATIONS

3.1 You undertake and agree:

- (a) to strictly abide by, and ensure the Participant also strictly abides by, these Terms and Conditions;
- (b) to pay the Service Fee to us at the time and in the manner as specified by us from time to time, in accordance with clause 5 of these Terms and Conditions;
- (c) that you have read, and agree to be bound by, the Supplementary Policies to the extent they relate to the Services;
- (d) to abide by the cancellation procedure set out in clause 9.1 of these Terms and Conditions;
- (e) immediately inform us if your NDIS status is suspended or replaced (if applicable to you); and
- (f) if we provide the Services to the Participant at their home, to provide a safe and clean environment for us to provide the Services to the Participant.

3.2 We undertake and agree to, in consideration for your payment of the Service Fee and ongoing compliance with these Terms and Conditions, provide the Services to the Participant at the time and in the manner as agreed by us and you from time to time, and strictly in accordance with these Terms and Conditions.

3.3 You and we acknowledge and understand that:

- (a) the Participant's participation in the activities associated with the Services, and the Participant's entitlement to be provided the Services, is subject in all respects to our determination regarding your eligibility to be provided those Services (acting reasonably) (**Qualification Criteria**); and
- (b) we may reject your request to provide the Services to the Participant, and we may terminate these Terms and Conditions, where the Participant fails to meet the Qualification Criteria, at any time before the provision of the Services to the Participant, with the clauses 9.2 and 16.1(c) of these Terms and Conditions applying.

4 CONFIDENTIALITY

We and you each agree to not disclose at any time, to any person, any Confidential Information obtained before or during the period of the Term, except for the purposes of obtaining legal and financial advice, or as otherwise required by law.

5 BILLING & PROGRAM FEES

5.1 You acknowledge and agree that:

- (a) after we provide a Service to the Participant, we will send out via email and/or by post, an invoice for the Service Fee (**Invoice**);
- (b) you must pay the Service Fee to us within 14 days of the date of the Invoice (**Due Date**);
- (c) if you do not pay the Service Fee to us before the Due Date, we may apply overdue fees at our discretion (**Overdue Fees**);

- (d) you will be required to pay the Overdue Fees, at the time and in the manner as specified by us; and
- (e) failure to pay to us the Service Fee and/or Overdue Fee on or before the date they are due may result in the engagement of a debt recovery organisation, and may result in additional fees being incurred by you.

6 HEALTH & WELLBEING

- 6.1 You acknowledge and understand it is your responsibility to ensure the Participant is physically and mentally able to participate in the activities associated with the Services.
- 6.2 You undertake and agree to notify us in the event the Participant's physical or medical fitness has changed to the extent that the Participant will be unable to participate in the activities associated with the Services.

7 NDIS ACCOUNTS & SERVICE AGREEMENTS

- 7.1 You acknowledge and understand that:
 - (a) we adhere to the NDIS outlines pricing arrangements and guidelines;
 - (b) you may request a Schedule of Rates regarding the NDIS from our Finance Department from time to time;
 - (c) we only provide you with NDIS support where your request for our Services is accepted in the NDIS portal;
 - (d) we may cease providing you with NDIS support where:
 - (i) there is insufficient funding;
 - (ii) your NDIS plan is suspended;
 - (iii) you are no longer a participant in the NDIS; or
 - (iv) your NDIS plan allowances are exhausted.
 - (e) if your NDIS funding is managed by a plan nominee or a plan management provider, you must:
 - (i) provide relevant contact details to us before NDIS support services can commence; and
 - (ii) advise us immediately of any changes to your funding arrangements.
 - (f) it is your responsibility to ensure you have sufficient funds available for the support services detailed in clause 7.1(e) and that your plan manager pays all invoices in a timely manner.
- 7.2 You undertake and agree to bear the costs of any additional fees not covered by the NDIS plan including, but not limited to, costs associated with entry to events, transportation, and other activities.
- 7.3 We undertake and agree to provide you with NDIS support for the Services, as agreed between the parties from time to time.

8 PHOTOGRAPHY & USE OF IMAGE

- 8.1 You acknowledge and understand that:
- (a) you and/or the Participant may be photographed and/or videotaped in relation to any Services provided by us to the Participant (**Content**);
 - (b) all rights, title and interest in the Content is our property from the date of creation, and the Content may be used by us for promotional or other purposes without your further consent being necessary; and
 - (c) if you wish to opt out of your agreement to this clause, you can do so by sending a request by email to admin@inclusivesportsa.com.au.
- 8.2 We undertake and agree to abide by your request under clause 8.1(c) of these Terms and Conditions.

9 CANCELLATION AND REFUNDS

- 9.1 You acknowledge and understand that:
- (a) our cancellation policy applies to the provision of the Services by us to the Participant, which may be viewed at <https://inclusivesportsa.com.au/about/policies/> (**Cancellation Policy**);
 - (b) you must notify us regarding your intent to cancel any Services before the date those Services were scheduled to be provided by us to the Participant (**Cancellation Notice**); and
 - (c) if you provide the Cancellation Notice to us without adequate notice you may still be required to pay a portion of the Service Fee, as determined in accordance with the Cancellation Policy or otherwise at our reasonable discretion.
- 9.2 To the extent you have paid the Service Fee to us (or any portion thereof) and we reject your request to be provided the Services under clause 3.3 of these Terms and Conditions, we will refund to you that Service Fee (or portion thereof) within 14 days.

10 VENUES

- 10.1 You acknowledge and understand that:
- (a) the Services may be provided by us to the Participant at various venues and facilities which are not owned or operated by us (**Venues**);
 - (b) the Venues have their own separate terms and conditions which you (and the Participant) must abide by at all times during the provision of the Services by us to the Participant (**Venue Terms and Conditions**); and
 - (c) from time to time, you may be required to agree to the Venue Terms and Conditions on behalf of the Participant.
- 10.2 You undertake and agree to adhere to and be bound by the Venue Terms and Conditions, and will ensure the Participant adheres to those Venue Terms and Conditions.

11 ON SITE SUPPORT SERVICE DELIVERY

- 11.1 Where we provide the Services to the Participant at their home, we undertake and agree to:
- (a) take reasonable care to maintain the Participant's health and safety;
 - (b) not adversely affect the health and safety of others;
 - (c) use reasonable endeavours to comply with work health and safety instructions, and comply with our policies or procedures regarding work health and safety; and
 - (d) implement effective risk management approaches where we deem appropriate.
- 11.2 Where we provide the Services to the Participant at their home, you undertake and agree to ensure that you and (if applicable) any carers will:
- (a) maintain and look after our in-home safety;
 - (b) co-operate with us to maintain safe work procedures and a safe work environment;
 - (c) ensure all equipment based on assessed needs, are safe, well maintained and in good order; and
 - (d) inform of us of any known hazards before we provide the Services to the Participant (e.g. the presence of pets).

12 DAMAGE

- 12.1 You acknowledge and understand that, where the Participant is responsible for, and/or causes, any deliberate or reckless damage of any kind to our property or the Venue:
- (a) you are fully responsible for the cost of the repair of, or the replacement of, that property (**Damage Fees**); and
 - (b) we have the right to:
 - (i) terminate these Terms and Conditions immediately; and
 - (ii) retain the entire Service Fee without providing the Services to the Participant.

13 EMERGENCY CONTACT INFORMATION

- 13.1 You acknowledge and understand that:
- (a) you are required to provide to us emergency contact details for an individual (**Emergency Contact**) that we should contact in the event of an emergency in relation to the Participant during our provision of Services; and
 - (b) where we are unable to contact the Emergency Contact, we will arrange for any medical treatment as we deem necessary at our discretion (acting reasonably) (**Treatments**).
- 13.2 You undertake and agree to:
- (a) provide us details for an Emergency Contact that is easily contactable and whom is authorised to make decisions on the Participant's behalf; and
 - (b) notify the Emergency Contact that you have nominated them, and obtain their consent, for that role (if they are not you).

- 13.3 We undertake and agree to arrange for any medical treatment as we deem necessary at our discretion (where we are unable to contact the Emergency Contact).
- 13.4 You hereby:
- (a) acknowledge and understand that any costs associated with the Treatments are your responsibility, and you will reimburse to us any and all costs that were incurred by us in relation to the Treatments; and
 - (b) release and indemnify us, and hold us harmless, for any costs, liabilities or loss of any kind, associated with the Treatments.

14 UPDATES TO PERSONAL INFORMATION

- 14.1 You acknowledge and understand that it is your responsibility to provide to us your Personal Information and Emergency Contact details, as well as any other relevant medical details or action plans.
- 14.2 You undertake and agree to:
- (a) provide to us your most recent and up to date Personal Information and Emergency Contact details;
 - (b) update the Personal Information and Emergency Contact details as soon as possible after they change (from time to time); and
 - (c) disclose and share any Personal Information to us during the Term in accordance with our reasonable directions (and any third parties have a need to know that information or as required by law) in relation to any incident or personal illness associated with the Services.

15 MINORS & RESPONSIBLE ADULT

- 15.1 To the extent a Minor wishes to participate in the activities associated with the Services, and be provided the Services by us:
- (a) you consent to the Minor being provided the Services;
 - (b) you undertake and agree to:
 - (i) accompany the Minor in all the activities associated with the Services; and
 - (ii) remain in attendance at the location where the Services are being provided to the Minor for the entire duration that those Services are provided; and
 - (c) you warrant and undertake you are the Minor's parent, legal guardian or other party who has parental rights, duties and responsibilities in relation to the Minor, and have the legal authority to consent to their participation in the activities associated with the Services.
- 15.2 You undertake and agree to ensure the Minor complies with these Terms and Conditions at all times.

16 TERMINATION

- 16.1 We may terminate these Terms and Conditions, by written notice to you:
- (a) where you or the Participant breach any of these Terms and Conditions and you or the Participant fail to remedy that breach within 48 hours of our notification of such breach; or
 - (b) immediately where you or the Participant breach these Terms and Conditions if that breach is not capable of remedy; or
 - (c) immediately where we determine the Participant does not satisfy the Qualification Criteria.
- 16.2 Either party may terminate these terms and conditions by 30 days written notice to the other party.
- 16.3 You and we acknowledge and agree that, on and from the termination of these Terms and Conditions:
- (a) we will no longer be required to provide the Services to the Participant; and
 - (b) you will be required to immediately pay any outstanding amounts owing to us, including, but not limited to, the Service Fee, Outstanding Fees and Damage Fees, unless these Terms and Conditions are terminated in accordance with clause 16.1(c), in which case the Service Fee (or portion thereof) shall be refunded in accordance with clause 9.2 of these Terms and Conditions.

17 RELEASE AND INDEMNITY

- 17.1 You undertake and agree to defend, indemnify and hold harmless us from and against all claims, actions, demands, liabilities and settlements, arising in connection with the provision of the Services by us to the Participant, and/or your breach of these Terms and Conditions.
- 17.2 You discharge and forever release us from any claim, loss or liability deriving from the provision of the Services to the Participant in accordance with these Terms and Conditions.

18 PRIVACY

You acknowledge and understand that any Personal Information provided by you to us will be dealt with by us strictly in accordance with our Privacy Policy. You can access our Privacy Policy at <http://www.inclusivesportsa.com.au/privacy-policy>.

19 CREDIT CARD AUTHORISATION

- 19.1 By providing to us your credit card details, you acknowledge and accept that you will be charged by us for the Service Fee.
- 19.2 To the extent you believe that you were incorrectly charged, please contact us immediately.

- 19.3 We will only store and hold your credit card details in accordance with our Privacy Policy.
- 19.4 If we cannot charge your credit card, you will receive notification from us and you will need to contact us to resolve the issue. We will not attempt to recharge your credit card until the issue has been resolved.

20 ELECTRONIC COMMUNICATIONS

- 20.1 From time to time we may offer a newsletter, or product or service information updates.
- 20.2 By accepting these Terms and Conditions, you consent to us using your email address to send you newsletters or product or service information updates (as applicable).
- 20.3 We may also use your email address to send updates to you from time to time about changes to our Services.
- 20.4 If requested by you, we will remove you from our mailing list in accordance with our Privacy Policy.

21 ENTIRE AGREEMENT

These Terms and Conditions constitute the entire agreement between you and us with respect to the Services, and supersedes all prior or contemporaneous communications and proposals, whether electronic, oral or written with respect to the Services.

22 VARIATION

These Terms and Conditions can only be amended or varied by us at our own discretion and may not be amended or varied in any other manner.

23 ASSIGNMENT

We may assign or transfer our rights or obligations under these Terms and Conditions at our discretion. You are unable to assign any of your rights under these Terms and Conditions without the prior written permission of us.

24 SEVERANCE

If any part of these Terms and Conditions are prohibited, invalid, unenforceable in any jurisdiction, that provision will, as to that jurisdiction, be ineffective to the extent of the prohibition, invalidity or unenforceability without invalidating the remaining provisions of these Terms and Conditions or effecting the validity or enforceability of that provision in any other jurisdiction.

25 APPLICABLE LAW

- 25.1 By engaging us to provide the Services to the Participant, you agree that the laws of South Australia, will govern these Terms and Conditions, and any dispute of any sort that might arise between you and us.
- 25.2 You agree that any action at law or in equity arising out of or relating to these Terms and Conditions shall be filed and adjudicated only in the federal or state courts located in South Australia, and you hereby irrevocably and unconditionally consent and submit to the exclusive jurisdiction and venue of such courts over any suit, action or proceeding between you and us.



CONTACT US

If you have any questions or suggestions regarding these Terms and Conditions, please contact us at:

INCLUSIVE SPORT SA INCORPORATED

Address: Thebarton Oval, 1a Meyer St, Torrensville SA 5031

Phone: (08) 8122 6730

Email: admin@inclusivesportsa.com.au