

Terms and Conditions of Service for Physiotherapy

In these Terms, when we say **you** or **your**, we mean both you and any entity you are authorised to represent (such as your employer). When we say **we**, **us**, or **our**, we mean Lee Physiotherapy Pty Ltd (ACN 669 506 361). We and you are each a **Party** to these Terms, and together, the **Parties**.

These Terms form our contract with you, and sets out our obligations as a service provider and your obligations as a customer. You cannot use our Services unless you agree to these Terms.

Some capitalised words in these Terms have defined meanings, and each time that word is used in these Terms it has the same meaning. You can find a list of the defined words and their meaning at the end of these Terms.

For questions about these Terms, or to get in touch with us, please email: admin@leephysio.com.au.

These Terms were last updated on 6th September 2023.

OUR DISCLOSURES

Please read these Terms carefully before you accept. We draw your attention to the fact that:

- we will handle your personal information in accordance with our privacy policy, available on our Site;
- subject to your Consumer Law Rights:
 - (where our Services are not ordinarily acquired for personal, domestic or household use or consumption) in respect of any failure by us to comply with relevant Consumer Law Rights, our Liability is limited (at our discretion) to supplying the Services again or paying the cost of having the Services supplied again;
 - our aggregate liability for any Liability arising from or in connection with these Terms will be limited to the Price paid by you to us in respect of the supply of the relevant Services to which the Liability relates;
 - we will not be liable for Consequential Loss or delays or failures in performance due to Force Majeure Events; and
 - any payments made by you to us for Services already performed are not refundable to you.

These Terms do not intend to limit your rights and remedies at Law, including any of your Consumer Law Rights.

1. Engagement and Term

1.1 These Terms apply from the Commencement Date until the date that is the earlier of:

- (a) the date the Services are completed (as reasonably determined by us); or
- (b) the date on which these Terms are terminated,

(Term)

2. Services

- 2.1 In consideration of your payment of the Price, we will provide the Services in accordance with these Terms and any applicable Laws and regulatory requirements, whether ourselves or through our Personnel.
- 2.2 We (or our Personnel) agree to advise you about the scope of our Services in accordance with all applicable Laws and regulatory requirements, including the potential benefits, potential risks and the costs of intervention.
- 2.3 You agree to fill in the Intake Form and any other documentation we reasonably require for us to be able to provide the Services. You acknowledge and agree that a specific Intake Form may also be applicable for specific types of classes or services. Any personal information we collect in the Intake Form or in connection with these Terms will be handled in accordance with our privacy policy available on our Site.
- 2.4 You acknowledge and agree that the provision of some, or all, of the Services may be subject to availability or the scope of the services and treatment you require. We reserve the right to refrain from providing you the Services if we are unable to provide the Services, in accordance with our professional obligations or any applicable Laws.
- 2.5 You acknowledge and agree that the provision of our Services is restricted to Business Hours. If you reach out to us outside of Business Hours, we are not able to provide treatment or advice. We encourage you to call 000 if you are experiencing an emergency and require immediate help when we are not available.
- 2.6 We will use reasonable endeavours to make our Services accessible to you, including by providing interpreter services where requested by you.
- 2.7 We also prioritise cultural safety and want to ensure you feel safe when you receive the Services. Please note in your Intake Form if you have any specific cultural safety needs and we will use reasonable endeavours to accommodate your needs. Please note that some aspects of our Services may not be available to you as a result of your cultural safety needs. We will not be liable for any loss

or damage (including any indirect or consequential losses) arising directly or indirectly from your failure to notify us about your cultural safety needs.

2.8 You acknowledge and agree that we may use equipment in the supply of our Services. This equipment may collect your health data, and you acknowledge and agree that this data may be added to your Account so that we can provide our Services to you. Any data collected from equipment will be handled in accordance with our privacy policy available on our Site.

2.9 Nothing in these Terms attempts to restrict your rights under any applicable Laws and you may, at any time:

- (a) obtain a second opinion on your treatment;
- (b) refuse an intervention or form of Service;
- (c) provide feedback to us or make a complaint in accordance with clause 12.3; and/or
- (d) request a specific member of our Personnel to provide the Services.

We agree to consider these requests in good faith.

3. Additional Services

3.1 You may request additional services to those outside the scope of the Services, including additional consultations (**Additional Services**), by contacting us via phone, in writing, or by any other means that we notify to you from time to time.

3.2 We may, at our discretion, provide you with written notice in the form of a quote, setting out (among other things) the Additional Services requested and any further fee required for us to undertake the Additional Services (**Quote**).

3.3 If you agree to the Quote for the Additional Services, we will provide the Additional Services to you in consideration for payment of the additional fee, which will form part of the Price.

3.4 Each Quote will be subject to, and will be governed by, this Agreement and any other conditions agreed to by the Parties in writing. To the extent of any ambiguity or discrepancy between a Statement of Work and this Agreement, the terms of this Agreement will prevail.

4. Memberships and Programs

4.1 As part of your enjoyment of our Services, you can take part in our membership program or enjoy our referral program benefits.

4.2 **Membership:** To become a member, you can choose to pay for 5 sessions upfront as a package. If you purchase this package, you will receive 5 physiotherapy consultation sessions and 5 group classes. We will give you a membership card. The membership card is valid for 6 months, so you can use it for any sessions within that time frame. You must book prior each session and class. When you attend each class, we will mark your membership card to show your attendance. To the maximum extent permitted by law, after 6 months, your membership package and membership card will no longer be valid.

4.3 **Free Initial Consultation Program:** You can also enjoy benefits from our free initial consultation program. You can only participate in the program when you have the free initial consultation card. If you choose to enjoy our Services with the free initial consultation card, will present the card to us and you will receive one free initial consultation. The card needs to present with the expiry date and the authorised person's name from us. You acknowledge and agree that each card is only valid and redeemable for one initial consultation session. If you are the participant, to accept your free consultation, you must agree to these Terms and fill in our Client Intake Form.

5. Appointments and Cancellations

5.1 You may request an appointment to receive the Services by contacting us to request an appointment in person, via email, over the phone or via the booking system on our Site. Once you have received an email or text message from us in response to your appointment request, your request will become a **Confirmed Appointment**.

5.2 You may cancel or reschedule a Confirmed Appointment up to 6 Business Hours before it is due to commence by email or calling us. If you cancel or reschedule before this time, you will not be charged for your appointment. If you have not cancelled or rescheduled in accordance with this clause, you will be charged 60% of the value of the appointment. We will send you an email outlining this charge and it will be due and immediately payable.

5.3 If you are more than 15 minutes late for your appointment, the Confirmed Appointment will be deemed as cancelled and you will be charged for 60% of the value of the appointment. We will send you an email outlining this charge and it will be due and immediately payable. You agree and acknowledge that this payment is reasonable, given that we would not have been able to be allocated to alternate work in such a short period of time.

6. Mobile Services

6.1 This clause applies where we agree to conduct an appointment with you for the provision of our Services in person and not at our clinic (including in your home, a public place, or any other place where we agree to provide you with the Services) (**Mobile Services**).

6.2 Where the Mobile Services are to be provided at your premises, including at your home (**Premises**), you agree to:

- (a) provide us with clear and safe access to your Premises;
- (b) accurately answer the Intake Form and any questions relating to your Premises;
- (c) keep the Premises in a clean and tidy condition and free from tripping and falling hazards;
- (d) immediately inform us of any risks that may impact the delivery of Services;

- (e) unless otherwise agreed in advance, keep all pets secured at all times;
 - (f) provide a smoke-free work environment; and
 - (g) Immediately inform us if you, or a member of our household, has tested positive for COVID-19 or are in precautionary self-isolation.
- 6.3 To the maximum extent permitted by law, we will not be liable for, and you waive and release us from and against, any Liability in relation to you, arising from or in connection with any Mobile Services (including personal injury to you) which is not caused by our negligent actions or omissions.

7. Telehealth Services

- 7.1 This clause applies where we agree to conduct an appointment with you for the provision of our Services over the phone (**Telehealth Services**).
- 7.2 We reserve the right to cancel your appointments for the Telehealth Services in progress if:
- (a) your conduct towards us or our Personnel becomes abusive or inappropriate;
 - (b) we encounter technical issues;
 - (c) we or our Personnel deems the Telehealth Services appointment unfit for the circumstance; or
 - (d) your medical condition requires immediate in-person attention.
- 7.3 Subject to your Consumer Law Rights, should the consultation be cancelled in accordance with clause 7.2:
- (a) due to your inappropriate behaviour, you will forfeit the Confirmed Appointment and you will not be entitled to any refund of the Price for the Confirmed Appointment;
 - (b) due to technical difficulties, our determination of an unsuitable Telehealth Services appointment, or the necessity for immediate in-person medical care, we will issue a full refund of the Price for the Confirmed Appointment.

8. Your Obligations and Warranties

- 8.1 You agree to:
- (a) comply with these Terms, all applicable Laws, and our reasonable requests; and
 - (b) provide us with all documentation, information, instructions, cooperation and access reasonably necessary to enable us to provide the Services.
- 8.2 You represent and warrant that:
- (a) you are 16 years or older, or if you are under 16 years, you have the consent of a legal guardian to use the Services and that you are at least 16 years old;
 - (b) you will treat us and our Personnel with courtesy and respect;
 - (c) if you are accepting these Terms on behalf of a dependent, you have informed your dependent of the rules of participating in any Services;
 - (d) you will disclose to us all medical and health information (including any health conditions and if you are or could be pregnant) and will keep us updated of any changes to your medical and health information during the performance of our Services;
 - (e) you are solely responsible for making and implementing your own decisions, choices, actions arising out of or resulting from the Services and your interactions with us;
 - (f) there are no legal restrictions preventing you from agreeing to these Terms;
 - (g) you will cooperate with us, and provide us with information and instructions that are reasonably necessary to enable us to provide the Services, as requested by us from time to time, and will comply with these requests in a timely manner;
 - (h) any information you provide to us is true, correct and complete;
 - (i) you will follow our reasonable instructions;
 - (j) you will inform us if you have reasonable concerns relating to our provision of the Services under these Terms, with the aim that the Parties will use all reasonable efforts to resolve your concerns;
 - (k) you will not (or not attempt to) disclose, or provide access to, the Services to third parties without our prior written consent; and
 - (l) you are responsible for obtaining any relevant referrals from other parties (such as medical practitioners) necessary for your chosen Services to be provided to you, at your cost.
- 8.3 You agree that if your ability to receive the Services is affected by any illness (including Covid-19), or any chronic condition other than what is disclosed to your treating practitioner or in your treatment plan, you will notify us as soon as practicable.
- 8.4 We will not be liable for any loss or damage (including any indirect or consequential losses) arising directly or indirectly from your breach of the warranties set out in clause 8.2.
- 8.5 You agree to pay our additional costs reasonably incurred as a result of you failing to comply with this clause.

Use of our website

- 8.6 You must not do or attempt to do anything that is unlawful, which is prohibited by applicable law, which we would consider inappropriate or which might bring us or the Site into disrepute. This includes:
- (a) anything that would constitute a breach of an individual's privacy or any other legal rights;
 - (b) using the Site to defame, harass, threaten, menace or offend any person;
 - (c) using the Site for unlawful purposes;
 - (d) interfering with any user of the Site;
 - (e) tampering with or modifying the Site, knowingly transmitting viruses or other disabling features, or damaging or interfering with the Site, including using trojan horses, viruses or piracy or programming routines that may damage or interfere with the Site;
 - (f) using the Site to send unsolicited electronic messages;
 - (g) using data mining, robots, screen scraping or similar data gathering and extraction tools on the Site; or
 - (h) facilitating or assisting a third party to do any of the above acts.

9. Price and Payment

- 9.1 In consideration for us providing the Services, you agree to pay all amounts due under these Terms in accordance with the Payment Terms. Our Prices will be set out on our Site and in your Account, and may be amended from time to time at our discretion.
- 9.2 You must pay the Price when you attend your Confirmed Appointment, using your preferred payment method (**Payment Terms**).
- 9.3 If any payment has not been made in accordance with the Payment Terms, we may (at our absolute discretion, and without prejudice to any of our rights or remedies under these Terms or at Law) charge interest at a rate equal to the Reserve Bank of Australia's cash rate, from time to time, plus 2% per annum, calculated daily and compounding monthly, on any such amounts unpaid after the relevant due date in accordance with the Payment Terms.
- 9.4 When applicable, GST payable will be clearly shown on our invoices. You agree to pay us an amount equivalent to the GST imposed on these charges. "GST" has the meaning given in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).
- 9.5 We will endeavour to contact you by phone, text or email to inform you of any overdue payments, for example if the payment from your card has failed to process. In the event that we cannot contact you, we will provide you with written notice of overdue payments.
- 9.6 If any payment has not been made within 14 days of the due date set out in the Payment Terms, we may (at our absolute discretion) immediately cease providing the Services.
- 9.7 We reserve the right to engage debt collection services for the collection of unpaid and undisputed debt, and the right to commence legal proceedings for any outstanding amounts owed to us.

10. Privacy

- 10.1 We agree to comply with the legal requirements of the Australian Privacy Principles as set out in the Privacy Act 1988 (Cth) and any other applicable legislation or privacy guidelines, and to only use information provided by you as set out in our Privacy Policy.

11. Confidential Information

- 11.1 Subject to clause 11.2, each Party must (and must ensure that its Personnel do) keep confidential, and not use or permit any unauthorised use of, confidential information provided by the other Party.
- 11.2 Clause 11.1 does not apply where the disclosure is required by Law or the disclosure is to a professional adviser in order to obtain advice in relation to matters arising in connection with these Terms and provided that the disclosing Party ensures the adviser complies with the terms of clause 11.1.
- 11.3 This clause 11 will survive the termination of these Terms.

12. Australian Consumer Law

- 12.1 Certain legislation, including the Australian Consumer Law, and similar consumer protection laws and regulations, may confer you with rights, warranties, guarantees and remedies relating to the supply of the Services by us to you which cannot be excluded, restricted or modified (**Consumer Law Rights**). To the extent that you maintain Consumer Law Rights at Law, nothing in these Terms excludes those Consumer Law Rights.
- 12.2 Subject to your Consumer Law Rights, we provide all material, work and services (including the Services) to you without conditions or warranties of any kind, implied or otherwise, whether in statute, at Law or on any other basis, except where expressly set out in these Terms.
- 12.3 **Complaints:** If you have a complaint about our Services or our Personnel, you must use the feedback form set out on our Site or available in person at our clinic to tell us the nature of your complaint and/or dispute, what outcome you are looking for and what

action you think will settle the dispute. We will attempt to resolve any complaint, firstly by contacting you within 7 days of receiving your feedback form. If the complaint cannot be resolved, the Parties agree to use the process set out in clause 15.4.

12.4 This clause 12 will survive the termination or expiry of these Terms.

13. Liability

13.1 To the maximum extent permitted by law, we will not be liable for, and you waive and release us from and against, any Liability caused or contributed to by, arising from or connected with:

- (a) you not providing us with correct and complete current health and medical information; and
- (b) your failure to follow any reasonable instructions provided by us.

13.2 Despite anything to the contrary but subject to your Consumer Law Rights, to the maximum extent permitted by Law:

- (c) neither Party will be liable for Consequential Loss;
- (d) a Party's liability for any Liability under these Terms will be reduced proportionately to the extent the relevant Liability was caused or contributed to by the acts or omissions of the other Party (or any of its Personnel), including any failure by that other Party to mitigate its loss; and
- (e) (where our Services are not ordinarily acquired for personal, domestic or household use or consumption) in respect of any failure by us to comply with relevant Consumer Law Rights, our Liability is limited (at our discretion) to supplying the Services again or paying the cost of having the Services supplied again; and
- (f) our aggregate liability for any Liability arising from or in connection with these Terms will be limited to the Price paid by you to us in respect of the supply of the relevant Services to which the Liability relates.

13.3 This clause 13 will survive the termination or expiry of these Terms.

14. Termination

14.1 You may terminate your relationship with us at any time.

14.2 You agree that we may terminate your treatment plan or our relationship with you by providing 7 days written notice to you as a result of:

- (a) our (or our Personnel's) obligations at Law, including any professional conduct of code or regulatory requirement, including, but not limited to, where we are unable to treat you or your specific condition; and
- (b) our Personnel feeling unsafe or us receiving any threat from you.

14.3 These Terms will terminate immediately upon written notice by a Party (**Non-Defaulting Party**) if:

- (c) the other Party (**Defaulting Party**) breaches a material term of these Terms and that breach has not been remedied within 10 Business Days of the Defaulting Party being notified of the breach by the Non-Defaulting Party; or
- (d) the Defaulting Party goes bankrupt, insolvent or is otherwise unable to pay its debts as they fall due.

14.4 Upon expiry or termination of these Terms:

- (a) we will immediately cease providing the Services and any Confirmed Appointments will be cancelled and refunded, subject to subclause (b) below;
- (b) without limiting and subject to your Consumer Law Rights, any payments made by you to us for Services already performed are not refundable to you;
- (c) you are to pay for all Services provided prior to termination, including Services which have been provided and have not yet been invoiced to you, and all other amounts due and payable under these Terms;
- (d) by us pursuant to clause 14.3 you also agree to pay us our additional costs, reasonably incurred, and which arise directly from such termination (including recovery fees); and
- (e) we may retain your documents and information (including copies) to the extent required by Law or pursuant to any information technology back-up procedure, provided that we handle your information in accordance with clause 11.

14.5 Termination of these Terms will not affect any rights or liabilities that a Party has accrued under it.

14.6 This clause 14 will survive the termination or expiry of these Terms.

15. General

15.1 **Amendment:** Subject to clause 9.1, these Terms may only be amended by written instrument executed by the Parties.

15.2 **Assignment:** Subject to clauses 15.3 and 15.9, a Party must not assign, novate or deal with the whole or any part of its rights or obligations under these Terms without the prior written consent of the other Party (such consent is not to be unreasonably withheld).

- 15.3 **Assignment of Debt:** You agree that we may assign or transfer any debt owed by you to us, arising under or in connection with these Terms, to a debt collector, debt collection agency, or other third party.
- 15.4 **Disputes:** A Party may not commence court proceedings relating to any dispute arising from, or in connection with, these Terms (**Dispute**) without first meeting a representative of the other Party within 10 Business Days of notifying that other Party of the Dispute. If the Parties cannot resolve the Dispute at that meeting, either Party may refer the Dispute to mediation administered by the Australian Disputes Centre.
- 15.5 **Events Outside Our Control:** We will not be liable for any delay or failure to perform our obligations (including our Services), if such delay or failure is caused or contributed to by an event or circumstance beyond our reasonable control, including any Force Majeure Event.
- 15.6 **Governing Law:** These Terms are governed by the laws of New South Wales. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts operating in New South Wales and any courts entitled to hear appeals from those courts and waives any right to object to proceedings being brought in those courts.
- 15.7 **Notices:** Any notice given under these Terms must be in writing addressed to the addresses set out in these Terms, or the relevant address last notified by the recipient to the Parties in accordance with this clause. Any notice may be sent by standard post or email, and will be deemed to have been served on the expiry of 48 hours in the case of post, or at the time of transmission in the case of transmission by email.
- 15.8 **Relationship of Parties:** These Terms are not intended to create a partnership, joint venture, employment or agency relationship between the Parties.
- 15.9 **Subcontracting:** We may subcontract the provision of any part of the Services without your prior written consent. We agree that any subcontracting does not discharge us from any liability under these Terms and that we are liable for the acts and omissions of our subcontractor.

16. Definitions

In these Terms, unless the context otherwise requires, capitalised terms have the meanings set out below:

ACL or Australian Consumer Law means the Australian consumer laws set out in Schedule 2 of the *Competition and Consumer Act 2010 (Cth)*, as amended, from time to time.

Business Day means a day on which banks are open for general banking business in Sydney, New South Wales, excluding Saturdays, Sundays and public holidays.

Commencement Date means the date that you accept these Terms.

Consequential Loss includes any consequential loss, special or indirect loss, real or anticipated loss of profit, loss of benefit, loss of revenue, loss of business, loss of goodwill, loss of opportunity, loss of savings, loss of reputation, loss of use and/or loss or corruption of data, whether under statute, contract, equity, tort (including negligence), indemnity or otherwise. However, your obligation to pay us the Price and any Expenses will not constitute "Consequential Loss".

Consumer Law Rights has the meaning given in clause 12.

Expenses means any third party costs or disbursements, reasonably and directly incurred by us for the purpose of the supply of the Services.

Force Majeure Event means any event or circumstance which is beyond a Party's reasonable control including but not limited to, acts of God including fire, hurricane, typhoon, earthquake, landslide, tsunami, mudslide or other catastrophic natural disaster, civil riot, civil rebellion, revolution, terrorism, insurrection, militarily usurped power, act of sabotage, act of a public enemy, war (whether declared or not) or other like hostilities, ionising radiation, contamination by radioactivity, nuclear, chemical or biological contamination, any widespread illness, quarantine or government sanctioned ordinance or shutdown, pandemic (including COVID-19 and any variations or mutations to this disease or illness) or epidemic.

Intake Form means the client intake forms and other documentation we may provide for you fill in to advise us about the scope of Services you would like to receive and the conditions you are affected by.

Law means all applicable laws, regulations, codes, guidelines, policies, protocols, consents, approvals, permits and licences, and any requirements or directions given by any government or similar authority with the power to bind or impose obligations on the relevant Party in connection with these Terms or the supply of the Services.

Liability means any expense, cost, liability, loss, damage, claim, notice, entitlement, investigation, demand, proceeding or judgment (whether under statute, contract, equity, tort (including negligence), indemnity or otherwise), howsoever arising, whether direct or indirect and/or whether present, unascertained, future or contingent and whether involving a third party or a Party to these Terms or otherwise.

Payment Terms means the timings for payment of the Price and any Expenses, as set out in the Intake Form or as otherwise agreed by the Parties.

Personnel means, in respect of a Party, any of its employees, consultants, suppliers, subcontractors or agents, but in respect of you, does not include us.

Price means the price agreed for the provision of the Services, as adjusted from time to time.

Services means the services set out in your treatment plan, Intake Form or as agreed between you and your treating physiotherapist.

Site means this website.

Terms means these terms and conditions and any documents attached to, or referred to in, each of them.