

These are the Terms and Conditions on which Yannik Johannes Wouts ABN 13 934 671 752 trading as PhysioNation will carry out work for you. In making a booking with PhysioNation, you are accepting these Terms and Conditions.

## 1. DEFINITIONS

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- 1.1 **Appointment** means a scheduled time in which PhysioNation will provide the Services to the Client, with the duration to be:
- (a) 45 minutes for an initial Appointment; and
  - (b) 30 minutes for any Appointment thereafter.
- 1.2 **Australian Consumer Law** means Schedule 2 of the Competition and Consumer Act 2010 (Cth).
- 1.3 **Client** means the individual or entity requesting the provision of Services from PhysioNation.
- 1.4 **Confidential Information** of a party means any information regarding that party's business or affairs or that party's customers, employees, or other people doing business with that party which is:
- (a) by its nature confidential;
  - (b) designated as confidential by that party at the time of disclosure; or
  - (c) which the other party knows or ought to know is confidential.
- Confidential information does not include information, documents or materials that are common property, are required to be disclosed by law or are available in the public domain in Australia otherwise than by a breach of these Terms and Conditions.
- 1.5 **Fees** means the amount provided to the Client by PhysioNation at the time of booking or otherwise agreed in writing prior to the Appointment.
- 1.6 **Services** means the provision of physiotherapy and training and exercise regimes in person or through Telehealth.
- 1.7 **Tax Invoice** includes any document or records treated by the Commissioner of Taxation as a tax invoice or as a document entitling a recipient to an input tax credit.

## 2. PROVISION OF SERVICES

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- 2.1 PhysioNation shall provide the Services to the Client on dates and times to be mutually agreed between the parties.

## 3. FEES

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- 3.1 Fees become immediately payable at the end of each in-person Appointment.
- 3.2 If an Appointment is conducted by Telehealth, a Tax Invoice will be sent to you at the conclusion of the Telehealth Appointment.
- 3.3 The Client must pay interest on any outstanding Fees at a rate of 10% per annum, calculated daily.
- 3.4 If Fees remain unpaid, PhysioNation reserves its rights to:
- (a) Suspend the provision of Services until any overdue Fees are paid; and
  - (b) Engage a debt collection service, at the sole cost of the Client.
- 3.5 Fees may be varied from time to time by PhysioNation publishing the new Fees on their website or in their office. All Services provided after this notice is given will be subject to the new Fees.

## 4. CAPALABA BULLDOGS AFFILIATION

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- 4.1 PhysioNation provides a free 20-minute triage session each Monday from 6:00pm to 8:00pm for Capalaba Bulldogs Football Club players only.
- 4.2 Capalaba Bulldogs Football Club First Team and Under 23 players will receive a 25% discount on the Fees.
- 4.3 Capalaba Bulldogs Football Club player members will receive a 15% discount on the Fees.
- 4.4 In order to claim the discount referred to in clauses 4.2 and 4.3, players and members must provide PhysioNation with proof of their eligibility at the time of booking an Appointment.
- 4.5 PhysioNation reserves the right to change the discount amount or eligibility criteria at any time.

## 5. RESCHEDULING, CANCELLATION AND NO-SHOW POLICY

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- 5.1 An Appointment may be rescheduled by the client at no additional cost by providing at least 3 hours' notice prior to the start time of the appointment.
- 5.2 If less than 3 hours' notice is given, or if the Client provides no notice, the Client must pay a \$30.00 late cancellation charge.

- 5.3 In the case of rescheduling, new Appointment times are subject to availability.
- 5.4 If PhysioNation is unable to attend an Appointment due to illness or otherwise, PhysioNation will contact you to reschedule your Appointment and you will not be charged any Fees.
- 5.5 If the Appointment begins later than the scheduled start time due to the lateness of the Client, no extra time will be given and the Appointment will still end at the scheduled end time.

## **6. CLIENT OBLIGATIONS**

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- 6.1 The Client agrees that physiotherapy is physical in nature and there may be adverse risks of treatment including stiffness and soreness, soft tissue injury, skin irritation and other minor complications.
- 6.2 The Client must immediately inform PhysioNation if the Client is suffering from, experiences, or becomes aware of the presence of, any disease, illness, injury, disorder or physical or medical condition that may limit or prevent the Client from participating in the Services.
- 6.3 The Client must follow all reasonable directions and instructions of PhysioNation relating to the Client's health and safety, including precautions taken for COVID-19.
- 6.4 PhysioNation uses third-party software in the course of providing the Services ("Physitrack"). The Client agrees to abide by the terms and conditions of Physitrack, which can be found at <https://www.physitrack.com.au/legal>.
- 6.5 The Client is not permitted to enter the practicing location of PhysioNation without a representative of PhysioNation or the president of the Capalaba Bulldogs Football Club present.

## **7. MINORS**

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- 7.1 PhysioNation may agree to provide Services to minors under the age of 18 years subject to the following conditions:
- (a) If the minor is under the age of 16 years, a parent or guardian must attend all Appointments with the minor, including being present in Telehealth Appointments.
- (b) If the minor is between 16 and 18 years of age, no parent or guardian is required to attend Appointments provided that a parent or guardian has given their prior written consent to the minor attending Appointments alone.

- (c) The minor's accompanying parent or guardian agrees to be bound by these Terms and Conditions as if they were the one receiving the Services.

- 7.2 PhysioNation reserves the right to refuse any person on the basis of their age if, in its sole discretion, PhysioNation deems it inappropriate to provide the Services to that person.

## **8. HEALTH FUND**

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- 8.1 If the Client has private health insurance, it is responsible for liaising directly with its private health fund to determine its eligibility for private health benefits in respect of the Services.
- 8.2 The Client agrees to abide by the terms and conditions of the relevant private health fund, including those terms and conditions relating to the usage of its health fund card.

## **9. WARRANTY DISCLAIMER**

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- 9.1 Nothing in these Terms and Conditions excludes, restricts or modifies any right or remedy, or any guarantee, warranty or other term or condition implied or imposed by legislation which cannot be lawfully excluded or limited. Such legislation includes the Australian Consumer Law which contains guarantees that protect the purchasers of goods and services in certain circumstances, each a non-excludable provision.
- 9.2 Subject to PhysioNation's obligations under the non-excludable provisions, and to the fullest extent permissible by law, PhysioNation expressly disclaims all warranties and representations of any kind with respect to the Services whether express, implied, statutory, or arising out of the course of performance, course of dealing or usage of trade including any warranties or merchantability, fitness for a particular purpose, satisfactory quality, accuracy, title or non-infringement.

## **10. LIMITATION OF LIABILITY AND WARRANTY**

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- 10.1 The Client acknowledges that in its participation in the Services, it may be exposed to risks of physical harm or personal injury. These risks may arise from physical fitness levels, pre-existing injuries, tiredness or over-exertion, strenuous exercises, technique, equipment used, or any failure to comply with PhysioNation's instructions.
- 10.2 To the fullest extent permissible by law, PhysioNation is not liable (whether in contract or tort) for:

- (a) Faults or defects in any services or goods provided by third parties in connection with the Services; or
- (b) Any indirect, special or consequential loss (including loss of profits, loss of revenue, replacement costs, goodwill or any similar damages) however arising, whether or not PhysioNation knew of the possibility of such loss and whether or not such loss was foreseeable.

10.3 To the fullest extent permitted by law, the liability of PhysioNation for a breach of a non-excludable condition is limited to the supplying of the Services again or payment of the cost of having the Services supplied again.

10.4 PhysioNation makes no warranties or guarantees regarding the likelihood of success of, or the performance of, any part of the Services in relieving pain, tension or injury.

## **11. INDEMNITY**

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11.1 The Client indemnifies and holds harmless PhysioNation in respect of all actions, claims, proceedings, demands, liabilities, losses, damages, expenses and costs (including legal fees on a full indemnity basis), in connection with any of the following:

- (a) Any breach of these Terms and Conditions;
- (b) Any negligent acts or omission of the Client; and
- (c) The Client's use of the Services, including any third-party claims made in connection with or arising out of the Client's use of the Services, other than use in accordance with these Terms and Conditions.

## **12. CONFIDENTIALITY**

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12.1 Each party agrees to keep confidential, and not to use or disclose except as permitted by these Terms and Conditions, any Confidential Information of the other party. The parties agree not to disclose these Terms and Conditions or any details of Fees. This obligation of confidence extends to Confidential Information obtained by a party before these Terms and Conditions were in force. Each party shall refrain from making negative comments about the other party, whether online or in person.

12.2 Each party must take all steps and do all such things as may be necessary, prudent or desirable in order to safeguard the confidentiality of the Confidential Information of the other party.

## **13. PRIVACY POLICY**

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13.1 "Personal Information" (as that term is defined in the Privacy Act 1988 (Cth)) will only be used by PhysioNation in accordance with the provision of its Privacy Statement.

13.2 PhysioNation's Privacy Statement can be obtained from its website, <https://www.physionation.com.au/>.

## **14. DISPUTE RESOLUTION**

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14.1 The parties agree to attempt in good faith to resolve any dispute regarding these Terms and Conditions through negotiation with the assistance of an agreed mediator.

14.2 If the dispute or difference is not resolved to the satisfaction of the parties within 30 days, either party may request the matter to be heard by an arbitrator.

14.3 Arbitration shall be effected:

- (a) By an arbitrator agreed upon in writing by the parties; or
- (b) In the absence of such agreement, by an arbitrator appointed in accordance with the provisions of the law relating to arbitration in force in the State of Queensland; or
- (c) By an arbitrator appointed by the National President for the time being of the Institute of Arbitrators Australia.

14.4 PhysioNation may pause the provision of the Services to conduct whatever investigations deemed appropriate and, within 30 days of the given written notice, seek to resolve the dispute.

## **15. GENERAL**

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15.1 Any notice provided under these Terms and Conditions must be in writing, addressed to the other party's contact persons as notified by the other party.

15.2 These Terms and Conditions do not create a relationship of employment, agency or partnership between the parties.

15.3 PhysioNation may sub-contract its obligations under these Terms and Conditions.

15.4 The failure of a party at any time to insist on performance by the other party of an obligation under these Terms and Conditions is not a waiver of any of its rights.

15.5 If part or all of any of the provisions of these Terms and Conditions are illegal or unenforceable, it will be severed from these

Terms and Conditions, and will not affect the continued operation of the remaining provisions.

- 15.6 PhysioNation may vary these Terms and Conditions from time to time. Any varied Terms and Conditions will apply to Services that commence after the date that PhysioNation publishes the varied Terms and Conditions. The Client's engagement of Services after that date signifies acceptance of the varied Terms and Conditions.
- 15.7 These Terms and Conditions are governed by the laws of Queensland and each party irrevocably submits to the non-exclusive jurisdiction of the Courts of Queensland.
- 15.8 These Terms and Conditions constitute the entire agreement of the parties as to the subject matter and supersede and cancel all prior arrangements, understandings and negotiations in connection with it. Any statement made in negotiations for these Terms and Conditions which is not set out in the Terms and Conditions do not form part of the agreement between the parties.