

**EA2Z Pty Ltd ACN 662 198 236, trading as
Central Counselling Services and Coaching with Mick ('Company, We, Us, or Our')**

Terms and Conditions

1 SCOPE AND FEES

1.1 Engagement

- (a) The company has provided as attached to these terms and conditions (**T&Cs**) a quotation or proposal (**Proposal**) specifying, amongst other things, the scope of the Services to be provided to the Client (each **party**) and an estimate of the fees involved in providing those Services.
- (b) These T&Cs form part of the Proposal as if incorporated into the Proposal (together with the **Agreement**).
- (c) These T&Cs may be updated periodically on Company's website. The client agrees to comply with the T&Cs in the current form and any later version of the T&Cs that may be available on our website from time to time that constitutes the Agreement.
- (d) The company does not represent that it will provide any Services unless they are included in the agreement.

1.2 Acceptance

- (a) The offer in the Proposal remains open for acceptance for 28 days, after which the offer expires.
- (b) The client accepts the Agreement (**Acceptance**) by:
 - (i) signing the Agreement
 - (ii) scheduling a counselling therapy session
 - (iii) attending a counselling therapy session
 - (iv) agreeing to a collaborative treatment plan offered by Company upon an assessment and feedback session
 - (v) paying the Fee for the Services to Company; or
 - (vi) willing participation through oral, written, or electronic communication with Company.

1.3 Fees

- (a) The client must pay the Fee for the rendered Services as set out in the Proposal to the Company under the Agreement.
- (b) The client must pre-pay the Fee (**Pre-Payment**) for the Services where delivery of Services is:
 - (i) not conducted at Company's Location or
 - (ii) conducted by way of the Telehealth method at least two days before the appointment.
- (c) Any Fee estimate provided by the Company for the Services is only an estimate of the likely costs of providing the Services and does not bind Company for any period after it advises a change of that estimate. The Company can revise the estimate at its discretion based on the required Services, and the Client will be notified of any revision of the Fee estimate within a reasonable time.
- (d) The company may vary its hourly rates during the provision of its Services subject to providing written notice of no less than 28 days before application of the variation in hourly rates and Fees to the Client.
- (e) The company may charge, and the Client will pay for all disbursements adequately incurred in performing the Services. Any reasonable additional costs or expenses incurred by the Company for the provision of Services will be passed onto the Client.
- (f) The company may charge a Cancellation Fee to the Client for non-attendance of an Appointment should the Client fail to comply with the Company's cancellation policy as set out in the Proposal.

2 PROVISION OF SERVICES

2.1 Company's rights and obligations

- (a) The company will commence the Services on Commencement Date, subject to any variation agreed by the parties, and provide the Services during the Term.
- (b) Prior to payment of any amount of the Fee (as applicable), the Company may, at its discretion:
 - (i) decline to provide the requested Services; or
 - (ii) postpone, cancel or re-schedule the Services; by providing notice to the Client as early as possible.
- (c) In the event of Pre-Payment, the Company may, at its discretion:
 - (i) decline to provide the requested Services; or
 - (ii) postpone, cancel or re-schedule the Services; by providing notice to the Client as early as possible.
- (d) The client acknowledges that Company will not be liable for any loss or damage arising because of clauses 2.1(b) and 2.1 (c).
- (e) The company will ensure that the Services comply with all applicable laws, regulations, and standards in accordance with the scope of practice, code of ethics, and code of conduct that may be applicable as set by the Australian Counselling Association (**ACA**).

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- (f) The company does not warrant that it will be able to provide the Services at specific times unless expressly specified in the Proposal or otherwise by the Company in writing.
- (g) The company will use its discretion regarding the most suitable manner of providing the Services to the Client.
- (h) The company will comply with all reasonable directions given by the Client as to the provision of the Services. If in the reasonable opinion of the Company, a direction by the Client results in reasonable additional costs or expenses to the Company for the delivery of its Services, the Company must inform the Client of this additional cost, and the Client must pay these amounts to the Company.
- (i) The company may collect all personal and private information:
 - (i) directly from the Client during consultations, sessions, hardcopy forms, or correspondences via email or telephone
 - (ii) indirectly with any employee of the Company; or
 - (iii) subject to clause 2.2(a)(i), through third parties such as other health practitioners via referrals, correspondences, and medical reports.
- (j) Nothing in the agreement will affect the Company's right to use its own judgment and its own skills to achieve compliance with ACA, any laws, regulations, standards, directions, resolutions, or other obligations.

2.2 Client's obligations

- (a) The Client must:
 - (i) execute and return to the Company the consent form provided as attached to these T&Cs as set out in the Proposal
 - (ii) review the scope of practice, code of ethics, and code of conduct as set out on the website of ACA at www.theaca.net.au
 - (iii) co-operate with the Company as reasonably required
 - (iv) accept or reject the Proposal within 28 days of the date of the Proposal
 - (v) provide, or procure the provision of, sufficient information, including, but not limited to, the Client's mental health and medical history, as requested by the Company promptly to enable the Company to deliver the Services, including personal and private information
 - (vi) ensure that the Client maintains the appointments to enable the Company's delivery of its Services
 - (vii) attend an appointment with Company
 - (viii) actively participate in the delivery of Services by the Company
 - (ix) complete all agreed homework or assignments prescribed by Company
 - (x) not carry out or undertake any audio recordings of any Appointment session unless Company provides verbal consent; and
 - (xi) ensure cooperation with and assist Company (collectively '**Client Services**').
- (b) Should the Client not comply with clause 2.2. In that case, any additional costs and expenses reasonably incurred by the Company will be paid by the Client, and the Company will not be responsible for any delay in the provision of the Services resulting from a breach of clause 2.2.
- (c) If the Client cancels the agreement after Acceptance, the Client must pay the Company the cost (if any) of any Company personnel or contractors reasonably procured in anticipation of commencing and providing the Services.

3 PAYMENT

3.1 Prepayment

- (a) The client must complete Pre-Payment as specified in the Agreement.
- (b) The company is not required to provide its Services until Pre-Payment is completed by the Client.

3.2 Invoices

The company will issue its invoice for payment of the Fee to the Client regarding its rendered Services at the end of each Appointment session.

3.3 Payment obligation

- (a) The client must pay each Company's Invoice in full at the end of each Appointment session unless Company agrees to pay at a later date with the Client. If the Invoice does not list a payment date, the Client must make full payment to the Company at the time of consultation.
- (b) The client must pay each Invoice in full without set-off, deduction or counterclaim, and the Client acknowledges that this clause may be produced in the bar of any proceeding for set-off, deduction or counterclaim.

3.4 Failure to pay

If the Client does not pay the Company per this clause 3, the Company is entitled to do any or all the following:

- (a) require Client to pay, in advance, for any Services (or any part of the Services) which have not yet been performed
- (b) reserve the rights to negotiate with the Client a payment plan acceptable to all parties in line with future Services

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- (c) if the Client is refusing or fails to pay or is not cooperative, not perform any further Services
- (d) charge penalty interest on the outstanding amount at the rate fixed under the *Federal Court Rules 2011 under the Federal Court of Australia Act 1976 (Cth)*; and
- (e) terminate this agreement under clause 10.

3.5 Further costs

- (a) If an outstanding account is referred to a law firm and debt collection agency for recovery, the Client will be liable for:
 - (i) any recovery costs incurred; and
 - (ii) any commission payable by the Company.
- (b) If an outstanding account is referred to a legal practitioner, the Client must pay all costs reasonably claimed by the legal practitioner on a solicitor/client basis.

4 CONFLICT OF INTEREST

- (a) If the Company determines in its absolute discretion (acting reasonably) that there is a conflict of interest in respect of the Services or Client, the Company must notify the Client.
- (b) Should the Company notify the Client of a conflict of interest under clause 4(a), the parties must use their reasonable endeavours to vary the Services (if applicable) to eliminate the conflict of interest.
- (c) If the parties are unable to eliminate the conflict of interest per clause 4(b), Company may:
 - (i) terminate this agreement; and
 - (ii) refer the Client to a third-party mental health professional for the Services.

5 LIMITATION OF LIABILITY AND INDEMNITIES

5.1 Statutory warranties

- (a) The provisions of this agreement do not exclude or limit the application of any laws (including the *Competition and Consumer Act 2010 (Cth)*) where to do so would contravene those laws or cause any part of this agreement to be void.
- (b) To the maximum extent permitted by law, the provisions of this agreement exclude all implied conditions and warranties except any implied condition or warranty, the exclusion of which would contravene any laws or cause this condition to be void.

5.2 Limitation of Company liability

- (a) To the extent permitted by law and subject to clause 5.3(a), the liability of the Company in connection with the provision of the Services, whether arising in contract, tort, negligence, breach of statutory duty or otherwise, will, to the extent permitted by law, be limited to:
 - (i) The re-supply of the Services for an Appointment session
 - (ii) the payment of costs for the Appointment session to have the Services provided again, the amount of which must not exceed the Fee; or
 - (iii) the reimbursement of any Fee paid by the Client to the Company for the Services related to that Appointment Session
- (b) Each party releases the other party from any liability for any Claim arising as a result of the delay or failure to provide the Services or to comply with this agreement to the extent that such delay or failure is caused by an event or circumstance that is beyond the reasonable control of that party (including a Force Majeure Event), and which by its nature could not have been foreseen or if it could have been foreseen, was unavoidable, provided that the affected party has used all reasonable endeavours to cure such an event or circumstance promptly.

5.3 Limitation of liability of both parties

- (a) To the fullest extent permitted by law, no party will be liable for any Consequential Loss of the other party in contract, tort, negligence, breach of statutory duty or otherwise.
- (b) No party will be liable to the other party to the extent that the other party, its agents, employees, or subcontractors has caused or contributed to any loss or damage.

5.4 Indemnity

The client will indemnify, keep indemnified and hold the Company harmless from and against all Claims and loss or damage, to the extent caused or contributed to by the Client.

6 INTELLECTUAL PROPERTY

6.1 Ownership of IP Rights

- (a) Each party will retain the rights, title, and interest in its Existing IP Rights.
- (b) The Client agrees that the Company will own all Developed IP Rights and that all rights, title and interest in the Developed IP Rights will vest beneficially in favour of the Company and, to the extent, this does not occur, the Client assigns them (by way of present assignment) to Company.

6.2 Licensing of IP Rights

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- (a) The Client agrees and acknowledges that subject to full payment of Fees and Costs, the Company grants the Client a non-exclusive royalty-free licence to use its Developed IP Rights contained in its Services for the intended purpose for which it was developed for the Client's mental health treatment, therapy, and wellbeing and for no other purpose except as agreed to by the parties.
- (b) The client must obtain the written consent of the Company where the Client intends to use the Developed IP Rights for any other purpose other than the intended purpose.

6.3 IP Rights Warranties

- (a) Each party warrants that it will not, in any way, infringe or allow any other person to violate the other party's Existing IP Rights.
- (b) The Client warrants that it will not, in any way, infringe or allow any other person to violate the Developed IP Rights.
- (c) The Client warrants that it will not, in any way, infringe or allow any other person to violate any third-party's IP Rights.

7 PRIVACY AND CONFIDENTIAL INFORMATION

- (a) The client acknowledges and agrees the company may be required to collect Confidential Information from the Client in accordance with its Privacy Policy attached to this Agreement.
- (b) The Client agrees to provide Company with all necessary records, including Confidential Information, as reasonably required by Company to perform the Services.
- (c) Confidential Information received by Company while providing the Services will not be disclosed to persons other than the Client except as required or allowed for by law or with the Client's written consent.
- (d) Each party must ensure that to the extent it shares any data with the other party, it complies with all relevant privacy and data protection laws and regulations.

8 REPRESENTATIONS AND WARRANTIES

8.1 By each party

Each party represents and warrants to the other party that:

- (a) the execution of the Proposal has been properly authorised by all necessary action
- (b) it has full power and authority to execute this agreement and to perform or cause to be performed its obligations under this agreement
- (c) this agreement constitutes a legal, valid, and binding obligation on it
- (d) this agreement does not conflict with or result in the breach of, or default under, the provision of the constitution or other constituent documents of the party or any material term or provision of any agreement or any writ, order or injunction, judgment, law, rule, or regulation to which it is a party or is subject or by which it is bound
- (e) it is solvent, no controller, administrator, or statutory manager has been appointed in respect of it or in respect of any of its assets, and it has not entered any voluntary arrangement with one or more creditors; and
- (f) if it is a trustee of a trust:
 - (i) it is the sole trustee of the trust, and no action has been taken to remove or replace it
 - (ii) it has the power under the trust deed to execute and perform its obligations under this agreement
 - (iii) all necessary action has been taken to authorise the execution and performance of this agreement under the constituent documents of the trust
 - (iv) this agreement is executed, and all transactions relating to this agreement are or will be entered into as part of the due and proper administration of the trust and are or will be for the benefit of the beneficiaries
 - (v) no controller, liquidator or statutory manager has been appointed in respect of the trust or any part of the assets or undertaking of trust; and
 - (vi) to its knowledge, there are no actions, claims, proceedings, or investigations pending or threatened against it which could have a material effect upon the subject matter of this agreement

9 GST

- (a) Unless the contrary intention appears, any amount specified in the Proposal is exclusive of GST.
- (b) For the purposes of this clause, the terms words defined in the GST Law have the same meaning in this agreement.
- (c) If GST has any application to any supply made under or in connection with this agreement, the party making the supply (for the purposes of this clause only, **Supplier**) may, in addition to any amount or consideration expressed as payable elsewhere in this agreement, recover from the recipient of the supply (for the purposes of this clause only, **Recipient**) an additional amount on account of GST, such amount to be calculated by multiplying the amount or consideration payable by the Recipient for the relevant supply by the prevailing GST rate.
- (d) Any additional amount on account of GST recoverable from the Recipient under this clause shall be calculated without any deduction or set-off of any amount and is payable by the Recipient at the same time and in the same manner as paying the amount or consideration for the relevant supply under this agreement.

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- (e) The Supplier must issue to the Recipient a tax invoice and must do anything else which may be reasonably required to enable or assist the Recipient to claim or verify any input tax credit, set off, rebate, or refund in relation to any GST payable under this agreement or in respect of any supply under this agreement.
- (f) Where an adjustment event in relation to a supply under this agreement has occurred, the Supplier must issue an adjustment note to the Recipient no later than 30 days after that adjustment event.

10 TERMINATION

10.1 Termination for breach

Either party may terminate the agreement by giving 7 days' notice in writing to the other if the other party has:

- (a) failed to comply with the terms and conditions of the agreement; and
- (b) failed to rectify that breach, to the satisfaction of the notifying party, following the expiration of 7 day's notice of the breach.

10.2 Immediate termination

The company may terminate this agreement immediately on notice to the Client if:

- (a) Client:
 - (i) is no longer able to perform its obligations under this agreement, including by failing to pay any amount when due to the Company
 - (ii) where it is a body corporate, any officer or employee:
 - A. is charged with or found guilty of any criminal offence
 - B. by their conduct, act or omission brings the Company or any of its officers, employees, or agents into disrepute or
 - C. commits fraud or is alleged to have committed any impropriety in their financial dealings
 - (iii) breaches a material term (or persistently breaches any term) of this agreement or
 - (iv) disagrees to an alternate delivery of Services where Company may refer Client to a third-party mental health professional or
 - (v) refuses any additional costs for an alternate delivery of Services or
- (b) The company is unable to perform its obligations under this agreement:
 - (i) where delivery of the Services to Client is not in the best interest of Client or
 - (ii) because of TPD or death of Company Affiliate.

10.3 Consequences of termination

Upon termination of this agreement:

- (a) any Fee, expenses or reimbursements (whether invoiced or not) payable by Client to Company in respect of any period before termination must be paid by Client within seven days of termination
- (b) each party retains the rights it has against the other party, including in respect of any breach of this agreement that arose before termination or out of the events that caused the termination
- (c) the rights and obligations of each party under this agreement which are expressed to survive termination will remain in force; and
- (d) neither party may represent to any other person, whether directly or indirectly, that it remains associated with the other party

11 GENERAL

11.1 Amendment

This Agreement may only be amended by written consent of the Company.

11.2 Severability

If any provision in the Agreement is void, invalid, illegal, or unenforceable, the existence, validity, legality and enforceability of the residual provisions will not be affected, prejudiced or impaired, and the offending provision will be deemed severed from the agreement.

11.3 Waiver

No failure or delay by a party in exercising any right, power or privilege in the agreement will impair the same or operate as a waiver of the same, nor may any single or partial exercise of any right, power or privilege preclude any further exercise of the same or the exercise of any other right, power, or privilege.

11.4 Joint and several liabilities

If more than one person is the Client, each will be jointly and severally liable, regardless of the person to whom the invoice is addressed to and regardless of which

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person received the benefit of the Services.

11.5 No Reliance

Each of the parties acknowledges that, in agreeing, it does not do so in reliance on any representation, warranty or other provision except as provided in writing. Any conditions, warranties or other terms implied by statute or common law are excluded from this agreement to the fullest extent permitted by law.

11.6 Priority of documents

- (a) If there are any inconsistencies between the agreement and any other document, the agreement will prevail.
- (b) If there are inconsistencies between these T&Cs and the Proposal, the T&Cs will prevail.

11.7 Survival of obligations

The obligations accepted by the parties under clauses 5, 6 and 7 survive termination or expiry of the agreement or the provision of the Services.

11.8 Application of law

The rights and remedies provided in the agreement are cumulative and not exclusive of any rights and remedies provided by law.

11.9 Electronic Transaction

Each party consents to execute this Agreement by electronic communication, as contemplated by the *Electronic Transactions Act 1999* (Cth).

11.10 Governing law

- (a) This agreement will be governed by and construed in accordance with ACT law.
- (b) The parties irrevocably submit to the exclusive jurisdiction of the courts of ACT.

12 DEFINITIONS AND INTERPRETATION

12.1 Definitions

In this agreement, unless the context otherwise requires capitalised words, have the meaning set out below or in the schedule:

- (a) **Affiliate** means in relation to a person, any company or other entity, whether or not, with legal personality, which directly or indirectly controls, is controlled by or is under joint control with that person as described in the Proposal
- (b) **Appointment** means the agreed date on which the Client will attend the session for the delivery of its Services to the Client
- (c) **Claims** means all demands, claims, proceedings, penalties, loss, damages, fines, and liability (whether criminal or civil, in contract, tort or otherwise)
- (d) **Commencement Date** means the agreed date of the first appointment between Client and Company for the delivery of its Services as set out in the Proposal
- (e) **Company's Location** means the business address of Company located at Level 1, 18 National Circuit, Barton, ACT 2600 or at any other nominated address location used by Company as its Office as set out in the Proposal from time to time
- (f) **Confidential Information** means all information (whether written or oral) disclosed by a party to another party which is either:
 - (i) identified as confidential by the discloser at the time of disclosure; or
 - (ii) of a nature which should reasonably be regarded by the recipient as confidential,but does not include information which:
 - (iii) is in the public domain without fault of the discloser
 - (iv) was in the recipient's lawful possession at the time of disclosure
 - (v) is disclosed to obtain the consent of any third party to any requirement of, or to any act pursuant to, this agreement or
 - (vi) is required by law, by an order of a court or tribunal or by the requirements of a stock exchange to be disclosed
- (g) **Consequential Loss** means all indirect, special and/or consequential losses, damages, costs, or expenses of any nature whatsoever incurred or suffered, including any economic loss or other loss of turnover, any loss of reputation or goodwill, any loss of value of the intellectual property, any legal costs, and other expenses of any nature whatsoever in respect of them
- (h) **Developed IP Rights** means any IP Rights developed during the Term while providing the service.
- (i) **Existing IP Rights** means the IP Rights of each party existing as of the Commencement Date, including but not limited to:
 - (i) IP Rights from previous practitioners and employees of the Company; and
 - (ii) other third-party providers, software or otherwise
- (j) **Force Majeure Event** means an event, or series of events, outside the reasonable control of the Company including (but not limited to) death or TPD of Company Affiliate, fire, lightning, explosion, flood, earthquake, storm, hurricane, action of the elements, riots, civil commotion, malicious damage, armed conflicts, acts of terrorism, war (declared or undeclared), blockade, revolution, pandemic, government decision or action, sabotage, radioactive contamination, toxic or dangerous chemical contamination or any other catastrophes;

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- (k) **GST Law** means the same as in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth)
- (l) **IP Rights** means all present and future statutory or other intellectual property rights which exist or may in future exist in respect of:
- (i) any inventions, innovations, patents copyright, confidential information, and know-how; and
 - (ii) all rights with respect to intellectual property as defined in Article 2 of the convention establishing the World Intellectual Property Organisation of July 1967,
- including, but not limited to programs, designs, briefs, materials, manuals, records, procedures, systems, marketing techniques, plans or specifications
- (m) **Loss** means loss, damage, liabilities, deficiencies, actions, judgments, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers
- (n) **Client** means the Client identified in the Proposal
- (o) **Services** means the mental health services, treatment, and therapies provided to the Client by an accredited Counsellor retained by the Company, which may include, but are not limited to:
- (i) anxiety
 - (ii) depression
 - (iii) generalised counselling
 - (iv) couples counselling
 - (v) stress management
 - (vi) grief and loss
 - (vii) children aged 8 years and over (with parental consent);
 - (viii) life coaching
 - (ix) LGBTQIA+
 - (x) conflict resolutions; and
 - (xi) trauma counselling
- (p) **Telehealth** means where a session is conducted by Company or Company's Affiliate with Client by way of:
- (i) telephone
 - (ii) live video
 - (iii) store and forward
 - (iv) remote Client monitoring
 - (v) mobile health; and
 - (vi) any other communication technology-based services
- (q) **Term** means the period during which the Services are to be rendered to the Client from the Commencement Date to the earlier of the last session or termination date of mental health treatment by the Company and
- (r) **TPD** means the total and permanent disability (whether physical or mental) for a period (or anticipated period) of at least three months.

12.2 Interpretation

In this agreement, unless the context otherwise requires:

- (a) a reference to any law includes any subordinate legislation as amended, replaced, re-enacted, or consolidated
- (b) the singular includes the plural and vice versa
- (c) where a party is to determine a matter, they are to do so acting reasonably
- (d) a reference to 'person' includes:
 - (i) a corporation, partnership, joint venture, association, authority, trust, state, or government authority; and
 - (ii) their executors, administrators, substitutes, successors and permitted assigns
- (e) a reference to a clause or schedule is to a clause or schedule of this agreement
- (f) headings are included for convenience only and do not affect interpretation
- (g) a reference to any agreement or document is to that agreement or document (and, where applicable, any of its provisions) as amended, novated, supplemented or replaced from time to time

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- (h) a reference to a matter being written includes that matter being in any mode of representing or reproducing words, figures, or symbols capable of written form
- (i) a reference to dollars or \$ is to Australian currency
- (j) if a period of time starts from a given day (or event), it is calculated exclusive of that day (or the day the event occurs)
- (k) "includes", "including", or similar expressions are not words of limitation.

12.3 Neutral interpretation

Nothing in this agreement is to be interpreted against a party solely on the ground that the party put forward this agreement or a relevant part of it.