
Terms for Buyers

These Terms for Buyers (“Terms”) apply to all customers, or all potential customers of Higher Swing Pty Ltd [ABN 51 655 954 233] (“we, us, our”). These Terms together with any other terms and conditions and policies we publish or link to on our website and services form an Agreement with us (“Agreement”). “You” could be any customer of ours.

Our Website has various experiences for children such as workshops, classes and programs (“Services”) available for purchase from Sellers. When you purchase a Service via our website, you are placing an order with that Seller. We act as their agent by taking the order and collecting payment, and communications, but you are making an offer to the Seller and the contract is between you and the Seller. We cannot warrant the quality, legality or description of the Services. If you have a dispute with a Seller, you must resolve it with that Seller and you release us from all Claims arising out of or in any way connected with such disputes other than refund claims in accordance with our Refund Policy below.

BEFORE PURCHASE

Things you must do before purchasing Services via our Website

You must:

- be 18 years old or have parental consent;
- provide complete and accurate information to us, including account information, and promptly inform us of any updates to your information;
- pay for Services via the published payment methods available;
- have any special offer coupons ready as they must be used at the time of purchase to apply; they cannot be applied retrospectively;
- be careful with your purchase because after placing a purchase we cannot cancel it as it will have been processed and paid directly to the Seller.

Acknowledgements you make when purchasing on our Website

You acknowledge and agree that there may be:

- occasional errors or omissions in Services descriptions, prices, availability and promotions;
- some Services that have limited quantities, that are not always available. Some sales are limited to certain regions or groups of people.

Except as required by law, we cannot guarantee the accuracy of the information, or the availability of the Services.

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AFTER PURCHASE

Things you must do after purchasing on our Website

You must:

- contact us by email at support@higherswing.com.au if you have any issues with your purchase and require a refund but are unable to contact the Seller;
- tag us anytime you decide to post pictures related to our Services on social media; and
- in the case of a dispute keep all communications confidential.

Things we'd love you to do after purchasing on our Website

We'd love you to provide us with any photos, videos, testimonials, and/or case studies so we can use them for marketing and information purposes, publications, exhibitions and professional awards across all print or digital mediums, including our social media channels.

However, please note that by providing us with photos, videos, testimonials and/or case studies you assign copyright ownership to us. This includes all copyright and any other rights under the Copyright Act 1968 and the right of reproduction either wholly or in part. If you provide Content but subsequently want to revoke permission to use it, it is your responsibility to notify us immediately at support@higherswing.com.au

OTHER MATTERS YOU SHOULD BE AWARE OF

We may change information on our Website

Except as required by law, we may at any time, and without prior notice to you:

- change and update information including, availability and promotions;
- change prices or descriptions of Services;
- change the range of Services, or discontinue Services; and/or
- cancel orders if the information is inaccurate.

We comply with the Australian Consumer Law

The Services offered on our Website come with guarantees that cannot be excluded under Australian Consumer Law. For major failures with a service, you are entitled to:

- cancel your service contract and to a refund of the unused portion, or
- to compensation for its reduced value.

You are also entitled to be compensated for any other reasonably foreseeable loss or damage. If the failure does not amount to a major failure you are entitled to have problems with the Service rectified in a reasonable time and, if this is not done, to cancel your contract and obtain a refund for the unused portion of the contract.

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In some cases, the Seller may offer additional warranties, guarantees and/or refunds above that required by law. You must refer to the relevant Seller terms and conditions in relation to any additional warranties or guarantees.

REFUND POLICY

If you have paid for a Service and need to cancel or a refund

If you have paid for a Service and need to cancel, you must seek a refund from the Seller directly. All our Sellers have warranted that they comply with the Australian Consumer Law.

If we need to cancel your purchase through our website, we will provide a refund.

Except as required by law, all purchases are non-transferable and non-refundable.

On occasion, we may cancel a purchase where a Seller is unable to fulfil it. In these or similar circumstances where we have to cancel a purchase, we will provide you with a full refund. We have the right to refuse, limit or cancel any purchase including, but not limited to, where a purchase appears to be by resellers or distributors.

We can refuse to serve you and sell Services at any time.

We may refuse to provide the marketplace offering to you, or anyone, for any reason, at any time. In particular, if you breach this Agreement, we may immediately terminate your use of our website and ban your purchase of any Services. We can also change, suspend or stop providing the online marketplace at any time, for any reason, and without notifying you. We are not responsible to you for any changes, or if we suspend or stop offering our marketplace.

LIABILITY AND INDEMNITY

To the maximum extent permitted by law, we are not liable for any Loss or Damage arising from your use of our Website and services or any Services purchased, including, but not limited to, any errors or omissions, price changes or discontinued Services, your reliance on any of our advice and information, any visitor posts and content, any links to third party websites, any interruptions, any changes, suspension or termination of our Website and services.

To the extent to which we are entitled to do so, our liability under the Australian Consumer Law will be limited, at our option to: -

- the replacement of the Website or the supply of equivalent offering; or
- the refund of any payment made.

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In any case, our liability to you will not exceed the amount actually paid by you to us for the most recent Service you have paid for.

You agree to indemnify us, and to keep us indemnified from any Claim arising out of or in connection with your breach of this Agreement, and your use of the Services.

FORCE MAJEURE

Where there is a Force Majeure Event, we will not be considered in breach of this Agreement, to the extent that our obligations are unable to be performed by such an event. We will not incur any liability to you for any Loss or Damage of any nature incurred or suffered in connection with any Force Majeure Event.

IF THERE IS A DISPUTE

In the event of any dispute that cannot be resolved, both parties agree to obtain an independent professional arbitrator/dispute resolution specialist to make a determination on the dispute and each party agrees to pay their own costs.

OTHER

This Agreement is to be construed in accordance with the relevant state or territory laws within Australia, and you and we submit to the jurisdiction of that relevant state or territory. This is the entire agreement between you and us, and supersedes any prior agreements, proposals and communications whether oral or written, between you and us. In the event of an inconsistency between these Terms and other terms and conditions on our website, these Terms prevail. No other term is to be included in this Agreement except where it is required to be included by law. The failure by us to exercise any right or enforce any provision in this Agreement does not waive the future operation of that right or provision. In the event that a provision in this Agreement is not enforceable, such provision shall be severed from this Agreement to the extent permitted by law, and the remaining provisions will remain in full force and effect. All obligations and liabilities in these Agreement intended to survive termination of this Agreement will survive.

DEFINITIONS

“Agreement” means these Terms and all other terms and conditions and policies published or linked to on our website.

“Australian Consumer Law” means Schedule 2 of the Competition and Consumer Act 2010 (Cth).

“Buyer” means anyone who becomes a customer or purchaser of a Seller’s Services.

“Claim” means any claim, under statute, tort, contract or negligence, any demand, award or costs.

“Copyright” means the copyright as defined under the Copyright Act 1968 (Cth).

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“Intellectual Property Rights” means all copyright, trademarks, design rights, patents, trade secrets and confidential information whether registered or unregistered.

“Loss or Damage” means any direct, indirect, incidental, punitive, special, or consequential loss or damages of any kind, including but not limited to, any loss of profits, revenue, savings, loss of data, loss of enjoyment, virus to systems, personal injury, death, negligence, trespass, property damage and legal costs.

“Services” means any of the children’s workshops, programs and classes available on our website, and could be any experience.

“Seller” means any person or business listing their Services on our website.

“We, us, or our” means Higher Swing Pty Ltd [ABN 51655954233] and includes any of our directors, officers, employees, agents, Sellers, or contractors.

“Website” means www.higherswing.com.au, and everything available on this website including, but not limited to, our marketplace offering and all listing services.