

## TERMS OF SALE

### GENERAL TERMS

#### INTRODUCTION

These terms and conditions, including these General Terms and the Specific Terms in the Annexure (together the 'Terms') apply to every client (**client, you or your**) who uses our information, or purchases or uses Products and/or Services from Phillip Chua – Naturopath  
ABN: 44 123 314 471

To the extent of any inconsistency in these Terms, the Specific Terms prevail over the General Terms.

#### DEFINITIONS

Capitalised words in these Terms have the meaning given below.

**Business** means: [our naturopathic clinic located at [Active Spine Centre, Shop 5, 440-452, Wyndham Street, Shepparton, Vic, 3630 (**Clinic**) which includes our dispensary, apocethary and associated online store available at our website <https://www.phillipchua.com> (**Site**).

**Products** means:

**Example list of Products:** health and beauty related products sold in our Clinic or online store available on our Site including without limitation herbs, tonics, supplements, nutraceuticals, homeopathic preparations, food and beverage products, baby and pregnancy related goods, gift cards, books, e-books, educational materials other associated products that we make available for our clients to use and/or purchase from us from time to time.

**Services** means:

**Example list of Services:** means in-clinic or online consultations with our naturopaths, nutritionists or other healthcare practitioners (**Consultations**) and provision of detailed and personalised treatment plans (**Treatment Plans**) recommendations, advice, suggestions or proposed actions, both in general and specific to your personal information and other associated services that we may provide to our clients from time to time.

Please read these Terms carefully. By using our Products and Services, you agree to be bound by these Terms, as well as our Privacy Policy and our Website Terms of Use (collectively our **Documents**), which are available on our Site and upon request. These Documents govern the legal relationship between you and us in connection with your use of our Products and Services.

In purchasing and/or using our Products and Services, you warrant that you have had sufficient opportunity to access these Terms and contact us, and that you have read, accepted and will



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comply with our Terms and that you are 18 years or older. If you are under 18 years of old, you must get your parent or legal guardian to read these terms and agree to them for you. If you (or your parent/guardian) do not agree to these Terms, you must stop using our Site and/or our Products and Services.

#### **FEES AND PAYMENTS**

**Fees:** We will inform you of our fees upon request, at time of booking or point of purchase. By continuing to engage us to provide the Services, or by purchasing our Products you agree to pay the required fees, including without limitation any applicable postage and delivery fees (for Products) notified to you, or any cancellation or failure to attend fees (for Services) as set out in these Terms. We will provide you with an invoice for fees charged by us for our Products and Services.

**Prices:** Unless indicated otherwise, all of our prices for our Products and Services are in Australian dollars. All prices are subject to change with notice. Except as otherwise provided in these Terms, prices for items in an order are fixed once your order has been confirmed.

**GST:** If and when applicable, Australian Goods and Services Tax (**GST**) (or an equivalent or replacement goods and services tax) is payable on our Products and Services and if payable, will be set out on our invoices. By accepting these Terms you agree to pay us an amount equivalent to the GST imposed on these charges.

**Payments:** Unless otherwise indicated on the invoice or agreed by us in writing, all fees must be paid at the time you place an order (for Products) or at the time you book or receive a Service. **See the attached Annexures for specific details regarding payment for different Products and Services.** We accept payments via cash, credit card, bank transfer and EFTPOS. We accept all credit cards other than American Express and Diners Club.

**REFUND POLICY:** If you request a refund for any Product or Service, we request you write or email us a request for refund outlining the amount to be refunded and the reason why you are requesting a refund. We will consider your request and will notify you of the outcome of your request within 14 business days. Please note that we may refuse to give a refund for any of our Products or Services if you simply change your mind. **Please see the attached Annexures for specific details regarding our refund policy for different Products and Services.**

#### **DISCLAIMER AND LIMITATION OF LIABILITY**

**Products and Services:** It is your responsibility to ensure that any Product or Service meets your specific and individual requirements. Before purchasing Products from us or engaging us to provide the Services to you, we recommend that you consider whether it is appropriate for your circumstances, carry out your own research and seek professional advice, including from

your primary care physician, counsellor or other healthcare providers where necessary or desirable.

**Disclaimer:** During the course of providing Products and Services to you, we may give you personalised advice, within the scope of our practice, based on your health goals, pathology & functional testing results and health history. We recommend that you share details of any Treatment Plan we provide, including prescribed supplements and lifestyle recommendations, with your primary care physician or other relevant healthcare providers and discuss the recommendations made by us before undertaking any such recommendations. You are at all times solely responsible for any actions you take, or do not take, as consequence of the recommendations we make to you, and you will hold us and our officers, employees, contractors and representatives, harmless against all losses, costs and expenses in this regard, subject to what is set out below.

**General:** Subject to the provisions of the *Competition and Consumer Act 2010* (Cth) (**Australian Consumer Law**) and to the fullest extent permitted by law, we exclude express or implied representations, conditions, warranties, guarantees, terms and similar, relating to these Terms, and any Products or Services supplied by us.

**Australian Consumer Law:** Certain provisions of the Australian Consumer Law and other statutes, rules and regulations may imply certain non-excludable terms, warranties or conditions for consumers including consumer guarantees (**Non-Excludable Conditions**). To the extent such conditions cannot be excluded, they are included in these Terms. Our liability to you for a breach of any Non-excludable Condition (other than a Non-excludable Condition that by law cannot be limited) is limited, at our option to any one of resupplying, replacing or repairing, or paying the cost of resupplying, replacing or repairing goods in respect of which the breach occurred, or supplying again or paying the cost of supplying again, services in respect of which the breach occurred.

**Limitation of liability:** Except for liability in relation to breach of Non-excludable Condition, and to the extent permitted by law, we exclude all liability whatsoever for any loss or damage of any kind including any indirect, incidental, special, consequential or exemplary damages including but not limited to damages for loss of business profits, use, goodwill, data or other intangible losses, cost of procurement of substitute goods or services, or any other special, indirect, or consequential damages (even if we have been advised of the possibility of such damages) however caused (including negligence) arising out of or in any way connected with the Products and Services.

**No Guarantee of Outcomes:** We do not make any guarantees or representations as to results or outcomes (including, for example, cure of a particular disease or resolution of any symptom or condition etc.) as a result of using our Products and Services and/or following our advice or recommendations.



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## **INDEMNITY**

You are liable for and agree to indemnify, defend and hold us harmless for and against any and all claims, liabilities, suits, actions and expenses, including costs of litigation and reasonable legal costs, resulting directly or indirectly from: (i) any information that is not accurate, up to date or complete or is misleading or a misrepresentation; (ii) any breach of these Terms or the Documents; (iii) any misuse of the Products or Services; (iv) or breach of other laws from or by you.

## **DISPUTES**

You agree to co-operate with us (at your own expense) in the handling of disputes, complaints, investigations or litigation that arise as a result of your use of our Products and Services including but not limited to disputes, complaints, investigations or litigation that arises out of or relates to incorrect information you have given us. The obligations under this clause will survive termination of these Terms.

## **INTELLECTUAL PROPERTY RIGHTS**

Unless otherwise indicated, we own or licences all rights, title and interest (including intellectual property rights) in our Site, information posted on our Site by us and our Services and Treatment Plans. Your use of our Products and Services, and your submission of personal information to us, including your health information, does not grant or transfer to you any rights, title or interest in relation to our Site or the Products and Services whatsoever.

## **CONFIDENTIAL INFORMATION**

Your use of the Products and Services is for personal purposes only. You agree not to distribute, publish, duplicate, copy, create, sell or share portions or all of the Products and Services, use the Products or Services for any commercial purposes or for your own financial gain. You also understand that certain Products and Services (for example e-books or other educational materials written by us) may contain information deemed as confidential by us and you agree not disclose this information without our permission and written consent (which may be withheld in our absolute discretion). We note, this limitation does not include sharing details of your Treatment Plan, recommendations or test results with your primary care physician or other relevant healthcare providers, which we recommend that you do.

## **GENERAL**

**Modifications:** We reserve the right to amend in any way we see fit our Products and Services and the Terms under which the Products and Services are offered, including but not limited to the fees of our Products and Services and our refund policy, without prior notice to you. These amended terms will be made available to you on our Site or upon request. You agree that by continuing to use our Products and Services after the date of any amendment to the Terms you are agreeing to the relevant amendments.



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**Delays:** You acknowledge and agree that we are excused from supplying our Products and Services, and other obligations and will not be responsible for any delays where, and so long, as we are prevented from performing our obligations under these Terms by events or causes beyond our reasonable control. We will endeavour to notify you of any delay and its expected duration.

**Severance:** If any provision of these Terms is held by a competent authority to be invalid or unenforceable or otherwise becomes illegal, in whole or in part, the validity of the other provisions of these Terms and the remainder of the provisions in question shall not be affected.

**No waiver:** Neither the failure by us nor your failure to enforce any part of these Terms constitutes a waiver of such Terms. Such failure will in no way affect the right to later enforce a part of these Terms.

**Notices to you:** We may notify you by email, via a general notice on our website <https://www.phillipchua.com/> or by another reliable method to an address or using contact information previously provided by you.

**Termination:** These Terms are effective until terminated by us, which we may do at any time and without notice to you. In the event of termination, all restrictions imposed on you by these Terms and limitations of liability set out in these Terms will survive.

**Restricting Access:** We reserve the right to restrict or terminate your access to our Services or our Site at any time without notice and we can refuse to sell our Products to you if we choose to do so.

**Privacy:** We take our obligations of privacy very seriously and comply with the legal requirements of the Australian Privacy Principles as set out in the *Privacy Act 1988*(Cth). Our Privacy Policy available here [<https://www.phillipchua.com/>] sets out the manner in which we treat your personal information, including your health information.

**Email:** You acknowledge that we are able to send electronic mail to you and receive electronic mail from you. You release us from any claim you may have as a result of any unauthorised copying, recording, reading or interference with that document or information after transmission, for any delay or non-delivery of any document or information and for any damage caused to your system or any files by a transfer.

**Jurisdiction:** Your use of our Products and Services and these Terms are governed by the laws of Victoria. Any dispute arising out of your use of our Services shall be subject to the exclusive jurisdiction of the courts of that jurisdiction.

Our Products and Services may be accessed by clients throughout Australia and overseas. We make no representation that our Products and Services comply with the laws (including intellectual property laws) of any country outside Australia. If you purchase or otherwise use our information or Products and Services from outside Australia, you do so at your own risk and are responsible for complying with the laws of that jurisdiction.

**For any questions about these Terms, please contact us at:**

Phillip Chua – Naturopath ABN: 44 123 314 471

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## **Annexure 1**

### **Terms specific to *Consultations***

1. **Bookings:** You can book a consultation with one of our practitioners by calling or emailing our Clinic, booking via our Site and social media platforms, or booking in person while attending our Clinic. Consultations are available in person at our Clinic, by phone or via a Zoom and by any other means agreed by us and you.
2. **Online consultations:** Online consultations can be booked via our Site and will be conducted using Zoom. You will be sent a unique meeting link at the time of booking which you will need to use to access the meeting room at your scheduled appointment time.
3. **Reminders:** Once you have booked an appointment with us, you will receive SMS and email reminders at least 48 hours before your appointment. We provide these reminders as a courtesy. You are responsible for remembering scheduled appointments.
4. **Intake forms and documents:** After booking your initial consultation, you will be sent an email which includes a comprehensive health questionnaire and other intake forms for your completion. We require this information in order to understand your background, health history and otherwise provide our Products and Services to you. We require you to complete these intake documents prior to attending your first appointment. If you have any questions or concerns regarding the documentation, please contact us.
5. **Consultation fees:** We will inform you of our consultation fees upon request and before you make a booking. By continuing with your booking, you agree to pay the fees, including any cancellation or failure to attend fees as set out below. Please note that for ALL initial consultations (regardless of the day of the appointment) and ALL Saturday appointments (initial or otherwise) made online, you will be asked to make full payment at the time of booking. This is so we can secure your appointment as Saturday is a popular day for consultations and initial appointments are longer than other appointments. For all other consultations, you will be asked to pay the fees at the time the service is provided to you.
6. **Cancellation or failure to attend:** We understand things come up and sometimes you need to cancel or reschedule your appointment. We do however require a minimum of 24 hours' notice, which enables us to allocate the time to another client. Cancellations made with less than 24 hrs notice, or failure to attend a scheduled appointment, will result in a charge of 100% of the consultation fee and for non prepaid appointments, you

will be invoiced. For prepaid consultations, provided you give at least 24 hours notice of cancellation, we will provide a full refund of the fees paid. We appreciate your consideration of our time and will express the same consideration for yours.

7. **Payments:** See Payments section in General Terms.
8. **Refunds:** Subject to these Terms and any your rights under any applicable Australian Consumer Law, we do not provide a refund for consultations. You are given every opportunity to seek information about our Services and ask questions about the consultation process before making a booking to determine if our Services are right for you and we encourage you to do so prior to booking.
9. **Your obligations:** We require you to:
  - a. attend all scheduled appointments and be on time for your appointments;
  - b. if you need to cancel your appointment, do so in accordance with our cancellation policy, as set out above;
  - c. pay the required fees in accordance with these Terms;
  - d. be courteous and respectful to our practitioners and staff, and clinic guests at all times;
  - e. complete any intake documentation we require and provide accurate and complete information about yourself and update that information as required; in particular ensure you advise us of all current medical conditions, any known allergies, food intolerances, any medications or supplements you are currently taking, if you are vegan or vegetarian (as some Products are derived from animal origins), if you are pregnant, breastfeeding or trying to conceive.
  - f. provide personal information to us as required to enable us to provide the Services to you (which we will collect, use, store and disclose this information according to our Privacy Policy available on our Site);
  - g. deal with us in good faith and in compliance with all applicable laws, these Terms and our Documents.

If you fail to comply with your obligations or these Terms or the Documents, we may at our discretion, cease providing Services to you.



## **Annexure 2**

### **Terms specific to *Products***

1. **Ordering and paying for your Products**
  - a. You may order and/or purchase Products from us in our Clinic, or via our Site. By proceeding with your order, you accept our Terms and Documents.
  - b. We may use third party sites, such as Osborne and others notified to you from time to time to add personalised Product scripts for you. You may order recommended Products from your script by setting up an account, logging in, accessing your scripts and ordering online and paying online. You may repurchase until the script expires.
  - c. Payment for all Products will be processed at the time they are ordered or purchased, unless agreed otherwise.
2. **Delivery:** Title and risk of loss to all Products will pass to you on delivery.
3. **Shipping:** For any orders we post to you, please note we will charge you a postage fee. This standard delivery fee is approximately \$12.50 Australia wide and may take 2-5 business days to be delivered. Prices can vary. If you have any questions regarding shipping, please contact us.
4. **Damage:** If you receive your Product in the post and it is faulty or damaged, please take clear photos of the damaged product and notify us in writing immediately.
5. **Gift cards** Gift cards are valid for 12 months from the date of issue unless specified otherwise. Gift cards cannot be returned, refunded or exchanged for cash. Gift card may be used for any Products or Services, but cannot be used for online purchases.
6. **Cancellation policy:** If you provide us with written notice of cancellation of your order before we have prepared or posted it then we will cancel your order and not charge you for the Products (or provide a refund if you have already paid for it). If we have already prepared personalised products for you (i.e. personalised herbal or homeopathic tinctures), you will be unable to cancel the order, and will be unable to provide a refund for that particular Product and /or will require full payment for that Product.
7. **Refund policy:** Subject to our refund policy contained in our General Terms, and any applicable laws, including Australian Consumer Laws, please note **we do not offer refunds on Products if you simply change your mind.** We also do not offer refunds for any Products that have been opened, used, damaged (by you) or are otherwise unable to be resold by us (including any Products made specifically for you (i.e. personalised herbal or homeopathic formulas) even if unopened or used. If we have processed an order that is incorrect, made without your authorisation, or the Product you received is faulty, damaged or subject to a recall notice, please notify us immediately so that we can work with you to provide a suitable resolution in accordance with these Terms.



8. **Product Recalls:** In the situation that a Product is recalled and deemed unsafe, you will have a new product issued to you as soon as possible. This situation is rare but can happen and we will contact you immediately to cease the consumption of the specific product.
9. **Allergies and reactions:** Please note some of the Products we sell may contain ingredients that are derived directly from nuts or otherwise contain potential allergens or ingredients that you may react to (gluten, dairy etc). Some herbs or other ingredients may be contraindicated with certain conditions including during pregnancy. It is your responsibility to read through the ingredients list prior to purchase of the Product and to contact us if you are unsure whether a Product is right for you. If you buy a Product and have a reaction to it, please discontinue use and contact us. Please noted we will not be held liable for allergic or adverse reactions. We do not exchange or refund on the basis of allergic or adverse reactions to products.
10. **Practitioner-only products and herbal medicines:** In order to access and purchase practitioner-only products, you will require a consultation with one of our practitioners prior to purchase.