

TERMS OF SALE

Last updated July 2023

These terms and conditions (“**Ts&Cs**”) are a contract between you and the person identified as “We, us, our” in the Schedule (“**we**”, “**us**”, “**our**”). If you are under the age of 18, a parent or guardian must read and agree to these Ts&Cs for you and a reference to “you” means you and your parent/guardian, as applicable.

These Ts&Cs apply when you buy products and/or services from us. Please read them carefully together with any other rules or guidelines that are posted onto our Website or otherwise notified to you from time to time. These Ts&Cs and the rules/guidelines are together referred to as the “**Terms**”.

1. YOUR RESPONSIBILITIES

1.1 What you must do: We require you to:

- (a) be on time for your appointment;
- (b) be courteous and respectful to our staff, and clinic guests always;
- (c) complete any intake and follow up documentation we require and provide accurate and complete information about yourself (or your child if you are a parent or legal guardian completing information on behalf of your child) 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 and any change in dosage during the period you receive products and services from us, if you have recently received a vaccine or booster, if you are vegan or vegetarian (as some products are derived from animal origins), if you are pregnant, breastfeeding or trying to conceive and anything else that may be relevant for us to know when providing Products and Services to you;
- (d) comply with any health and safety rules and guidelines required by us from time to time;
- (e) deal with us in good faith;
- (f) comply with all applicable laws and these Terms.

1.2 Where you are based overseas. Where you are based outside of Australia, it is your responsibility to ensure that the Products and Services ordered by you can be ordered, imported, and used in the territory where you are based. We will not be responsible for any orders being confiscated or otherwise not being permitted to be provided to you because of the local laws in your area.

1.3 Refusal to service. If you don't comply with these Terms, we may at our sole discretion, cease providing Products and Services to you.

2. FEES AND PAYMENT TERMS

2.1 Orders subject to availability. All orders placed are subject to our acceptance and product availability. A contract for sale is only formed once we accept your order.

2.2 Fees. The fees for our Products and Services are as set out on the Website or otherwise provided by us in writing from time to time. All fees are quoted in Australian dollars. Where GST is payable, it will be added to the applicable fee. We reserve the right to change our fees at any time upon notice to you. If you are based outside of Australia, you are responsible for all customs and import taxes and duties imposed on your orders.

2.3 Payment. Our payment terms vary, depending on the Products or Services that your buy. You agree to pay for the Products and Services in accordance with the relevant payment terms notified to you from time to time.

3. WARRANTIES

- 3.1 Notification of issues with Products. If there are any issues with your order (e.g., shortages, damage or wrong products have been delivered) you must notify us within 7 (seven) days of delivery. You can notify us at the address or by the method set out in the Schedule. Please include (i) proof of purchase; (ii) full details of the issue, and any other relevant documentation reasonably requested by us. If Products need to be returned, you will pay the cost of transport and insurance of the products to and from us.
- 3.2 No limitation on your statutory rights. Subject to clause 3.4 (*Consumer Guarantees*), we make no express warranties or representations other than as set out in this clause 3 and we exclude all liability to you. Nothing in the Terms excludes, restricts, or modifies any terms, conditions or warranties that are imposed or implied by law. Limitations and exclusions are made only to the extent that we may legally do so.
- 3.3 Delivery and risk. Delivery of the Products to a carrier is deemed to be delivery of the Products to you. Risk in the Products transfer to you once we deliver the Products to the carrier.
- 3.4 Consumer guarantees. Our Products and Services come with guarantees that cannot be excluded under the ACL. For major failures, you are entitled: (a) to cancel your service contract with us; and (b) to a refund for the unused portion, or to compensation for its reduced value. You are also entitled to choose a refund or replacement for major failures with the Products. If a failure with the Products or a Service does not amount to a major failure, you are entitled to have the failure rectified in a reasonable time. If this is not done, you are entitled to a refund for the Products and to cancel the contract for the Service and obtain a refund of any unused portion. You are also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the Products or Service. The benefits of this warranty are in addition to any rights and remedies available at law. Our liability to you is limited to the options set out in this clause 3.
- 3.5 Refunds. We will only refund an order placed if we can't fill it, if we think it's reasonable to do so, or otherwise as agreed in writing. Please choose carefully, as refunds are not available if you simply change your mind.
- 3.6 Warranty. Subject to clauses 3.2 (*No limitation on your statutory rights*), 3.3 (*Consumer guarantees*) and 3.8 (*Limitation of liability*) we warrant that the Services will be free from defects in materials and workmanship under normal use and in the case of Products, up to the expiry or best before date indicated on such goods (if any) ("**Warranty Period**").
- 3.7 No liability for allergies and reactions. Some of the Products may contain ingredients that are derived directly from nuts or otherwise contain potential allergens or ingredients that you may react to (e.g., gluten, dairy etc). 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. You agree that we will not be held liable for allergic or adverse reactions and that we do not exchange or refund because of allergic or adverse reactions to Products.
- 3.8 Limitation of liability. If our Products and Services fail to comply with the warranties set out in this clause 3 and where this is with respect to any goods and a warranty claim is made within the Warranty Period, our liability is limited to (at our sole discretion): (a) in the case of goods, replacing the goods or supplying equivalent goods; (b) in the case of services, supplying the services again or paying the cost of supplying the services again.
- 3.9 When we will not accept returns. Subject to clause 3.2 (*No limitation on your statutory rights*), this warranty will not apply and we will not accept goods for return: (i) where the goods have not been stored or used in an appropriate manner; (ii) where the goods have been altered in any way; (iii) where the goods are not in their original condition and packaging; (iv) where you have failed to follow any instructions or guidelines provided by us or on the packaging; (v) if the goods have continued to be used after any defect becomes apparent or would have become apparent to a reasonably prudent user; or (vi) due to any accident or Force Majeure.
- 3.10 Product descriptions are not warranties. Product descriptions are for the sole purpose of identifying products. They do not constitute a warranty.
- 3.11 No guarantee of outcomes. Health and wellness results vary depending on your personal health situation, your environment, and other factors. Therefore, we do not make any representations or warranties as to results or outcomes (including, for example, cure of a particular disease or resolution of any symptom or condition etc.) because of using our Products and Services and/or following our or our third-party service providers advice or recommendations.

- 3.12 Consequential Loss. We are not liable for any Consequential Loss suffered by any person.
- 3.13 Your liability. You agree that if you breach these Terms, or any liabilities are incurred by us arising out of your use of the Products and Services, you will be responsible for the costs and expenses that we and our Associates incur because of the breach, including reasonable legal fees (if applicable). Furthermore, we are not liable for any information, on our Website or elsewhere, being inaccurate, incomplete, or not up to date; any breach by you of these Terms; any misuse of the Products or Services or any breach of other laws by you.

4. INTELLECUAL PROPERTY RIGHTS

- 4.1 Intellectual Property. Unless otherwise indicated, as between you and us, we own all right, title, and interest (including Intellectual Property Rights) in any information provided to you in the delivery of our Products and Services. 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 in our Products or Services.

5. CONFIDENTIALITY

- 5.1 Confidentiality. 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 of the Products or 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 to 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 our Products and Services, recommendations or test results with your primary care physician or other relevant healthcare providers, which we recommend that you do.

6. DISPUTE RESOLUTION

- 6.1 Disputes. You agree to co-operate with us (at your own expense) in the handling of disputes, complaints, investigations, or litigation that arise because of your use of our Products and Services including disputes, complaints, investigations, or litigation that arises out of or relates to incorrect information you have given us.

7. GENERAL

- 7.1 Disclaimer. Nothing in this disclaimer will limit or exclude any liability that may not be limited or excluded by applicable law. Any information or guidance provided by us is given within the scope of our expertise (or if provided by a third party engaged by us, with the scope of their expertise) and is not intended to be a substitute for the appointment, diagnosis, and/or medical treatment of your doctor. You are strongly advised not to delay seeking a medical diagnosis, medical advice, disregard medical advice or discontinue medical treatment because of the information or guidance we provide you with. We encourage you to discuss any report findings, recommendations, or guidance we give you with your doctor and any other healthcare professionals you choose to see for your health. Ultimately you are responsible for any decisions you make regarding your health. We therefore expressly disclaim all responsibility and will have no liability for any damages, loss, injury, or liability whatsoever suffered by you or any third party because of your reliance on any information or guidance we provide you with. If you have any specific questions or concerns about any medical matter, you should consult your doctor as soon as possible. If you think you may be suffering from any medical condition, or concerned about a medical issue, you should seek immediate medical attention from your doctor.
- 7.2 Privacy. We collect, hold, and store your personal information in accordance with our privacy policy. A copy of our privacy policy can be found on our Website or obtained directly from us.
- 7.3 Force majeure. Neither Party will be liable to the other for any failure to perform its obligations under these Terms where such failure or delay is caused by events beyond its reasonable control, including epidemics, pandemic, quarantine, biological contamination, entry and exit restrictions, industrial disputes, strikes, lockouts, lockdowns, acts of god, acts or threats of terrorism or war ("**Force Majeure**") provided such failure or delay could not have been prevented by reasonable precautions or could not have reasonably been circumvented by the non-performing Party by means of alternate sources, workarounds or by using its best endeavours. However, the foregoing does not apply if the Force

Majeure event is caused by a breach of the Terms by the non-performing Party. If an event of Force Majeure occurs, we may suspend or terminate an order or booking by written notice to you.

- 7.4 Exclusion of the Vienna Sales Convention. The United Nations Convention on Contracts for the International Sale of Goods concluded in Vienna, Austria on 11 April 1980 does not apply to the Terms or to any individual contract of sale concluded within the framework of the Terms.
- 7.5 Entire agreement. The Terms contain the entire understanding between the Parties concerning its subject matter and supersedes all prior communications.
- 7.6 Governing law. These Terms are governed by and will be construed in accordance with the laws of state or territory listed in the Schedule. The Parties agree to submit to the non-exclusive jurisdiction of the courts of that state/territory irrevocably and unconditionally, and courts hearing appeals from those courts.

8. DEFINITIONS

8.1 Definitions In these Terms:

ACL means the Australian Consumer Law Schedule of the *Competition and Consumer Act 2010* (Cth).

Associate in relation to a Party, means the employees, officers, directors, contractors, and agents of that Party.

Business Day means a day other than a Saturday, Sunday or a public holiday in the capital city identified in the Schedule.

Consequential Loss means, without limitation, indirect, consequential, or remote loss or damage; special, punitive, or exemplary damages, loss of profit, revenue, business opportunity, goodwill or reputation and any other special loss or damage.

Consumer has the definition given to it in the ACL.

Corporations Act means the *Corporations Act 2001* (Cth).

Fee means the amount payable by you to us for our Products and Services.

Force Majeure has the meaning given in clause 7.1 (*Force Majeure*).

GST means the Goods and Services Tax as defined under the *A New Tax system (Goods and Services Tax) Act 1999* (Cth).

Intellectual Property Rights means all intellectual and industrial property or protected rights, including copyright, moral rights, patents, trademarks, trade names, confidential information, know-how, trade secrets, registered or unregistered designs, database rights and domain names, whether any of them is registered and including applications for registration of any such thing now or in the future in force and effect worldwide.

Minimum Notice means a minimum notice required to cancel an appointment booking, as set out in the Schedule.

Privacy Policy means our privacy policy set out on our Website from time to time.

Products means products made available for purchase by us (whether in our clinic or online) which may include:

- (a) retail supplements, homeopathic preparations, and tonics;
- (b) skincare, beauty products and cosmetics;
- (c) baby and pregnancy related goods;
- (d) Chelsey Jean branded products;
- (e) household products and cleaning products;
- (f) food and beverage products;
- (g) educational products which may include e-books, books, and online courses and programs;
- (h) retail and gift products such as candles, water bottles, crystals etc;
- (i) essential oils; and
- (j) gift cards,

and other products made available by us from time to time.

Services means provision of various thermographic body scans, provision of a personalised report of findings which contains written advice and recommendations of the thermographic scan provider following a thermographic body scan, oral and/or written advice and recommendations given by us, and other related services we may, offer from time to time.

Warranty Period has the meaning given in clause 3.4 (*Warranty*).

Website means our website, from time to time.

- 8.2 Interpretation. In these Terms, unless the context requires otherwise: (a) a word that is derived from a defined word has a corresponding meaning; (b) neither this agreement nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for drafting it; (c) a reference to these Terms or any other agreement includes any variation, novation, supplementation or replacement of it; (d) headings are for convenience only; (e) the phrase include or similar phrases does not limit what else might be included; (f) a reference to any legislation or provision of legislation includes all amendments, consolidations or replacements and all regulations or instruments issued under it from time to time; (g) a reference to “**law**” means all laws in force from time to time; (h) a reference to dollars or \$ is to an amount in Australian currency; (i) the singular includes the plural and vice versa; (k) “**in writing**” includes any modes of reproducing words in legible and non-transitory form including by email and other electronic means.

SCHEDULE – KEY DETAILS

We, us, our	Name / Company Name: ThermoLife Australia ABN / ACN: 79 706 764 616 Address: Higher Health Wellness Centre, 70 London Road, Mile End, 5031, South Australia Contact: Bianca Femia, 0412 265 560 , thermalifeau@protonmail.com
Contact details for orders and warranty claims	ThermoLife Australia, 70 London Road, Mile End, 5031, South Australia
Clause 3.1	
Governing law & jurisdiction	South Australia
Clause 7.6	
Business Day	Adelaide
Clause 8.1	
Minimum Notice	48 Hours
Clause 1(c), Attachment B	

ATTACHMENT A – PRODUCTS

The following terms apply to your purchase of our Products:

- (a) Orders. You can order products via our Website or in person in our clinic.
- (b) Delivery. Products that you order online will be delivered to the address you provide in your order.
- (c) Delivery dates are estimates. We rely on third parties to deliver Products to you. This means that any period or date for delivery of the Products by us is an estimate only. We will use our best endeavours to meet any estimated dates for delivery of the Products but will not be liable for any loss or damage suffered by you or any third party for failure to meet such date.
- (d) Product Recalls: If a Product is recalled, you will have a new product issued to you as soon as possible or you will be refunded for that Product. This situation is rare but can happen and we will contact you immediately to cease the consumption of the specific Product.

ATTACHMENT B – SERVICES

1. APPOINTMENTS

The following terms apply when you book an appointment with us:

- (a) Booking an appointment. You can book an appointment for thermographic scans by calling or emailing us, booking via our social media platforms, or booking in person while attending our clinic. Appointments are available in-person at our clinic, and by any other means agreed by us and you.
- (b) Cancellation by you. We understand things come up and sometimes you need to cancel or reschedule your appointment. Cancellation of appointments made with less than the Minimum Notice, or failure to attend a scheduled appointment, will result in a charge of 50% of the Fee.
- (c) Cancellations by us. If we are unable to attend an appointment, we will notify you in writing. We will refund any monies paid upfront by you for the appointment. We are not liable for any loss or damage whatsoever arising from the cancellation.
- (d) Refunds. We appreciate your consideration of our time and will express the same consideration for yours, so where you cancel an appointment and have given at least the Minimum Notice of we will provide a full refund of any Fees that have been paid upfront for the appointment.
- (e) Preparation for appointments: Please ensure you comply with the following before your appointment:

(i) **12 hours prior to your scan:**

No shaving, sun tanning or exercising, massage, chiropractic or anything that circulates the skin such as physio, acupuncture, or cupping.

(ii) **The day of your scan:**

- Wear loose clothing.
- Do not apply any lotions, creams, deodorants, powders, or makeup. Please note deodorant is common to show up under the arms and block views of the lymph nodes. Most deodorants that contain aluminium do not wash off completely for many days. Please use a natural deodorant (no aluminium) or no deodorant for the days leading up to your appointment.

(iii) **Two hours prior to your scan:**

- No nicotine or caffeine products
- DO NOT EAT OR DRINK ANYTHING

2. IMPORTANT NOTES REGARDING THERMOGRAPHY SCANS:

- Patients who fail to properly equilibrate, use a phone during equilibration, fail to remove their shoes and leave their hair touching their neck or face, may not get a proper reading. If they rub, scratch, or touch their skin after equilibration, that are shows a temperature that is not true for the testing.
- The gallbladder is behind the liver and generally cannot be seen unless it is very inflamed. The liver is not mentioned, at times redness can be seen over the entire area where the liver is located, however this area is so large that digestive issues are ruled out first. The pancreas is additionally not mentioned as it sits too deep in the abdominal cavity for thermography to view.
- We cannot tell if a woman has had a hysterectomy unless there is inflammation within the scar tissue in that area. However, if the bladder is prolapsing it can

appear like there is a concern with the uterus if we do not know about the report of findings hysterectomy. We often see scar tissue related to caesarean sections, but it can also relate to improper equilibration and tight garments around the waist.

3. REPORT OF FINDINGS

The following terms apply when you receive a report of findings following a thermographic scan:

- (a) No liability. Analysis of the thermographic scans are completed off-site (usually overseas) by third party qualified thermographers. We are not responsible for the accuracy of any scan interpretations, or any advice or recommendations provided by these third-party providers. You are strongly encouraged to discuss report findings and recommendations with your doctor or other healthcare provider before acting on them, and where applicable seek medical diagnosis or advice.