

Chakana Day Spa and Wellbeing

International Wholesale Terms and Conditions

Welcome to Chakana Wellbeing Pty Ltd (ACN 627 916 134) trading as Chakana Day Spa and Wellbeing ('we', 'our', 'us').

We encourage value-aligned retailers to apply to become international wholesale customers. To get started as an authorised international reseller with us, please complete our international wholesale application and make sure you read this agreement carefully as these terms will govern our work together.

We're more than happy to answer any questions you have, and we encourage you to get independent legal advice if you feel you need to.



1 Our agreement

What is this agreement?

This agreement will govern our work together as wholesaler and retailer and enables you to re-sell our products in your country on these terms.

Who is this agreement between?

This agreement is between us and the international retailer set out in our application form ('you').

How long will this agreement last?

This agreement will start on the day that you accept these terms will continue unless or until it is terminated in accordance with this agreement.

Where we say so in this agreement, certain terms will continue to apply once this agreement has been terminated (for example, terms about confidentiality, dispute resolution, restraints and intellectual property).

How can changes be made to this agreement?

This agreement can only be changed if it is set out in writing and signed by both of us.

How you can sign this agreement

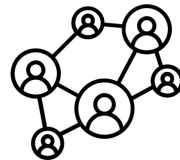
You can sign this agreement by ticking the checkbox labelled 'I accept' when placing an order on our portal.

By submitting an application to us and ticking the checkbox described above, you're agreeing to be bound by these terms.

How and when we will sign this agreement

Once we receive your signed agreement, we'll review your application and advise you of the outcome in writing. If your international wholesale application is approved by us, we'll counter sign this agreement and return a copy to you. An agreement won't be formed with us unless and until we sign these terms.

You'll then receive a log-in code via email so that you can access your online account and begin to place orders in our online portal.



2 Our relationship

Your responsibilities

You agree to:

- (a) complete any applicable documentation in a timely manner and no later than 7 business days after they've been issued;
- (b) notify us as soon as possible if your contact or business details change;
- (c) provide us with comprehensive, reliable, up to date information (we'll do the same for you);
- (d) communicate openly and honestly with us (we'll do the same for you);
- (e) unless agreed with us in writing and signed, or as required by law, keep our confidential information confidential as per our Confidential Information clause (we'll do the same for you).

How we treat each other

It's important that we show each other mutual respect and treat each other in a way that isn't aggressive, dishonest, hostile, inappropriate, harassing, discriminatory, or which other poses a risk to our health and safety or property.

We make this commitment to you, and we expect that you, your staff, and associates will act the same.

Both of us are entitled to terminate this agreement if the other party or their associates continue to breach this clause after being asked to stop in writing.

How we talk about each other

You acknowledge that we've established a valuable reputation and goodwill in the wellbeing and skincare industry. Subject to your rights and the law, you must not criticise us or our team publicly or privately or encourage or allow any other person to do so. We'll do the same for you.

Conflicts of interest

If at any time, you become aware of any conflict of interest between your duties under this agreement and any other work you've been offered or are undertaking, you must inform us immediately in writing and take all steps reasonably necessary to resolve that conflict.

Confidentiality

We both understand that it may be necessary during this agreement to reveal confidential information to each other. We both agree that we won't disclose, divulge, reveal, report or use, for any purpose, any confidential information which we have obtained, except as authorised by the other party or as required by law.

We both undertake to use reasonable commercial measures to maintain the confidential nature of the confidential information, including the signing of reasonable non-disclosure agreements by personnel of either party on request.

For the purposes of this clause, your confidential information means: any information relating to your business, services, processes, systems or affairs which is of a confidential nature, or which is not otherwise in the public domain.

For the purposes of this clauses, our confidential information means: any information relating to our business, products, services, processes, systems or affairs which is of a confidential nature, or which is not otherwise in the public domain, including the terms of this agreement, our product formulas, marketing materials, training materials and guides.

This clause survives termination of this agreement.



3 Authorised resale

We agree to supply and authorise you to re-sell our skincare products on the terms and conditions set out in this agreement. You agree to purchase and re-sell our products on the terms and conditions set out in this agreement.

Unless we've given you permission in writing, you must not authorise any other person to sell our products.

Maximum storage period

You must store our products in the following way:

[insert].

You must resell the products within a reasonable time of ordering them from us. Under no circumstances are you permitted to store our products for more than 12 months from the date that you purchase them from us. We may require you to provide evidence of your stock levels in accordance with our Reporting clause.

Resale area

Unless otherwise agreed in writing, you're only authorised to re-sell our products at your physical store at the location specified in your application and to customers online via your online store. If you make products available for sale online, you may resell to customers who reside within your country only. This is referred to as the 'agreed area'.

You agree not to sell any of our products outside of the agreed area.

You understand and agree that you won't facilitate the sale of our products via a marketplace, such as eBay, Etsy, Amazon, or Facebook Marketplace or at any physical or online discount stores such as Catch.com.au, without our prior approval in writing.

Exclusivity

You understand and agree that your right to resell our products is non-exclusive and unless we agree otherwise in writing, we may authorise or facilitate the resale of product by or on behalf of others in the agreed area. If you would like to be the exclusive re-seller in a particular area, please let us know emailing us at info@chakana.com.au.

Changes to your business

You acknowledge that you will not materially change the way in which you carry on your business without our prior written consent. We may reject an order or terminate this agreement if we form the view (acting reasonably) that proposed changes would be detrimental to our business or reputation or that of the products.



4 Orders

How to order

You may purchase our products on a wholesale basis by placing an order in our online portal. While we're careful to ensure our online portal is accurate and up to date, we're only human and from time to time, mistakes may occur (for example, a pricing error).

It's important to understand that when you submit an order through our wholesale portal, you're making us an offer to purchase our products on these terms and conditions, and no agreement is formed with us until we process and accept your order by sending you a confirmation.

Where we agree to accept an order, this is subject to:

- (a) the order having been submitted in the correct form;
- (b) the order meeting any applicable minimum order requirements;
- (c) you having complied with all of your obligations under this agreement; and
- (d) us having received the payment or satisfactory evidence of payment for the goods.

If there's been an error leading to your order (such as a pricing error), we may choose not to complete the order, but we'll contact you to discuss your options (for example, placing an order at the correct price, delaying your order, or exchanging your item for another).

If we're unable to fill your order, we'll process a full refund as soon as possible.

We may reject an order if:

- (a) we don't have sufficient stock of the product or are otherwise not able to fulfil the order; or
- (b) notice has been given by either party to terminate this agreement; or
- (c) we are entitled to reject an order under any other term of this agreement.

If the above criteria aren't met, we won't be obliged to fulfil the order.

Lead times

We require at least 4 weeks' lead time (calculated from payment of the order invoice) for processing and dispatch of an order for shipment, except in peak times (Black Friday, Christmas, Cyber Monday, or other times where sales volumes are reasonably expected to increase significantly), when we require at least [insert] lead time.

Minimum order quantity

Your first order must meet the following minimum order quantity and minimum order value requirements set out in this clause as follows:

Minimum order quantity	Skin care products: 45 units Ascend: 54 units
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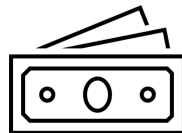
	Body: 18 units
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We may change these values by agreement with you in writing. Any changes will only apply to orders placed after the change is agreed in writing.

Cancellations and changes to orders

Once an order is submitted to us it cannot be cancelled or changed, otherwise to increase the order volume.

If you wish to increase the volume of your order, you will need to log into your account and add an additional order. Changes are subject to additional fees and our capacity to fulfil the order.



5 Money matters

Pricing

You understand and agree that your payment in full in cleared funds (including any freight fees) is a condition of this agreement.

If a request for payment is returned or denied by your financial institution or is unpaid by you for any other reason, then you'll be liable for any associated costs incurred by us, including banking fees and charges.

You agree to pay us the purchase price listed on our wholesale portal. Our prices are listed in Australian dollars (AUD) and include GST, unless we say otherwise. If there are any costs associated with currency conversion, you will bear this cost.

We can change our prices at any time on notice by updating the prices on our website. Price increases won't be applied to orders that have already been confirmed by us.

Freight, duties, and taxes

You are responsible for the costs associated with freight, duties, any applicable international fees (such as customs fees and duties), and taxes. Freight costs will be calculated during checkout and are payable immediately. If we don't receive confirmation of payment, your products will not be shipped.

If for any reason we are liable for international duties and taxes, you indemnify us for the same.

How you can pay us

We accept payment via Stripe and such other methods set out on our website, which may change from time to time.

Where we accept payment through a third-party processor, this is for your convenience, and you agree to pay any third-party merchant fees or charges notified to you at the time of checkout.

Where you make a payment using a third-party processor, you've told us that you've read and agreed to their terms and conditions. We're not responsible for any issues, loss or damage arising out of your use of those facilities. If you have an issue with a third – party provider, please contact them directly.



6 Delivery

Fulfilment

If for any reason we're unable to fulfil an order, we will return any money paid in relation to that order in full and final satisfaction of any claims you may have in relation to that order. You acknowledge that you do not have any recourse to damages or other compensation other than the refund set out in this clause.

We'll arrange for each order to be delivered to you at the port set out in your application by our international delivery partner, [insert] or other carrier we consider to be an appropriate and reputable delivery service provider.

Inspection

From the moment that our goods are delivered to you at the port, you have 7 days to inspect the goods and notify us of any defects. We believe this to be a reasonable period for you to inspect the goods due to the perishable nature of our skincare products.

If you believe there's an issue, please email us within the time frame and provide evidence of the fault.

Please note that we won't be responsible to provide a remedy in circumstances where the product fault occurred because of your conduct. For example, if we deliver your order at the port and the delivery is not managed in a way that protects the products from degradation in the sun, you will be responsible for the cost of replacing those products.

After 7 days, you will not have any right to request replacement or refund of the products.

7 Returns

How to return a product

You must inspect our shipment as soon as possible and let us know of any issues within 7 days of receipt of our goods at the port. If there's any issue, please let us know as soon as possible and no later than the above timeframe by emailing us at [insert email] and notify us if you intend to commence a return. Please wait for us to authorise your return before shipping any item back to us.

You may return a product that:

- (a) was incorrectly shipped to you (wrong product); or
- (b) contained a defect other than one sustained during transit.

Returned items must be in their original packaging and you must produce evidence of purchase, such as a receipt or tax invoice for that order, a copy of which is to be included in the return package.

Costs of returning a product

You are responsible for the cost of shipping returned items to us. If we approve your return, we will reimburse you for the costs of shipping the products to us. If your return is not approved, we won't be obligated to reimburse you for any costs associated with your return.

Inspection

Once we receive your returned items, we will inspect them to ensure that they meet our return policy as set out in this clause. If for any reason the items have not been returned in the way described in this clause, we won't be obligated to provide you with a refund or replacement of the products.

Refund or replacement

If we approve your return, we will provide you with the option of a refund or replacement of the product. If you choose to have the goods replaced, this will be processed as though a new order was placed, save as to the costs of the goods. This means that you won't pay for the goods but will be responsible for the costs associated with shipping the goods to you.

Damaged goods

You bear the risk in a product that you return to us. This means that if goods are damaged during transit, we won't be obligated to provide you with a refund or replacement. For this reason, we recommend that you purchase insurance to protect you in these circumstances.

Record keeping

We must both keep records of any items that have been returned, including where an item has been submitted for return but rejected.



8 Risk

What is risk?

Risk refers to responsibility for the products. If something happens to the products, such as that they are broken or can't be used, this means that the person carrying the risk is responsible.

If it's our risk, then we'll have to pay out of our own pocket to resupply the products to you or refund you. If it's your risk, you'll lose the money you paid for the products if you can't use them, or you'll have to pay again to reorder them.

Risk in delivering products

Risk transfers to you when we deliver our products at the port set out in your application. We will insure the goods for the period that risk remains with us. This means that we are responsible if anything goes wrong with the products up until the point that they're delivered to the port. It's your responsibility to look after the products once we deliver them to you at the port.



Risk in returning products

If we agree to accept a return of any products, risk in those products will revert to us on delivery to our partner at the port set out in your application. It's important that you understand that this means you'll be responsible for anything that happens to products that you're returning to us (including breakage, sun damage, or issues caused by a third party, such as a courier) until your return order is delivered to our partner at the port.

Once our delivery partner receives the goods at the port set out in your application, the goods will be covered by our insurance until they are received at our Australian facility.



In this diagram, green means the risk is with us and red means the risk is with you.

9 International processing

Export from Australia

We'll be responsible for arranging any paperwork, licenses and clearance required to facilitate the export of the products from Australia to your country for the purposes of compliance with Australian law or the requirements of an Australia regulatory authority, such as the Australian Border Force.

We won't be responsible for ensuring compliance with the export or receipt of export requirements in your country.

If, as part of the Australian export process, we need to complete documentation that relates to the laws or processes of import and export in your country you agree to assist us in doing so.

You indemnify us and hold us harmless against any loss or damage (including delay) that may result from incorrectly completing documentation or completing documentation in a way that is unlawful or non-compliant for the purposes of exporting our goods into your country arising from your assistance as set out in this clause.

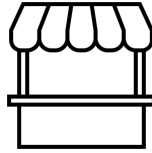
Receiving an export

When we export products internationally, this export will be subject to the laws and regulations of your country. You understand and agree that you're responsible to ensure that the export into and storage of these products in your country complies with the international and domestic law in that country.

We won't be responsible for costs or penalties associated with exporting and storing products in your country in a way that is not permitted by law, or which otherwise contravenes a law or regulation. You agree to indemnify us and hold us harmless for the same.

Customs and processing procedure

You're responsible for the cost of any applicable duties, taxes, and any costs associated with customs brokering and obtaining clearance from the applicable border force in your country and with custom authorities or any other international authority during transit.



10 Reselling our products

In reselling our products, you must offer for sale and sell products:

- (a) in accordance with this agreement and any instructions we provide to you;
- (b) according to the specifications supplied by us; and
- (c) in the same condition as they were received from us.

In reselling our products, you must not:

- (a) make any representation or give any warranty in respect of the products other than those contained in our conditions of sale as current at the time of the order date; or
- (b) alter, remove, or in any way tamper with any of the packaging, marks (including trade mark) or numbers on the products.

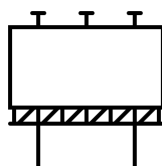
You are prohibited from passing off our products as your own or being associated with any other entity.

Authorised reseller notice

You may attach a notice to the product bearing your name and address, indicating that you are an authorised reseller of product but if you do so, we reserve the right to direct you to adopt a particular form and style for that label.

Resale price

We strongly recommend that you sell the products for the recommended retail price set out on our website. This doesn't apply to products that are old stock and are clearly marked as on sale on our website.

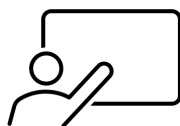


2 Marketing, training and support

We may provide you with marketing materials from time to time. You agree:

- (a) to offer the products for sale according to the specification supplied by us and not change or modify the specification in any way without our prior written consent;
- (b) to use our marketing materials when advertising our products;
- (c) to (at least virtually) attend any training session we require of you in relation to our marketing materials and products;
- (d) not to use our marketing materials for any purpose other than to sell our products;
- (e) not, without our prior written permission, to use any other marketing collateral to advertise or market the products for sale in the course of your business; and
- (f) not make false or misleading representations about the products.

You agree that compliance with this agreement (including attendance at any training session) will be at your own cost.



3 Reporting

At any time, we can request a report from you setting out the number of units sold to date, and you agree to provide us with this report within 5 business days of receiving the request in writing.

We may also, on reasonable notice, require you to provide us with a stocktake report and/or a forecasting report.

We may audit your business and records at any time on request in writing. You agree to provide us any documents and assistance to enable us to conduct an audit.

Although we don't foresee this occurring, if you experience any issues with the product, you must report this to us. Reporting an issue doesn't give rise to an obligation for us to remedy, replace or refund the products.



4 Insurance

You are not entitled to the benefit of any accident, third party liability, public liability or indemnity policies of insurance or workers compensation policies that Chakana Day Spa and Wellbeing may hold.

You agree to make your own arrangements to ensure adequate insurance coverage is in place and maintained throughout our agreement, including public and product liability insurance and any other insurance applicable to you in your country.



5 Compliance

Where you make the products available for resale in your country, it's your responsibility to ensure that the products and materials accompanying those products, including packaging and advertising, meet any applicable laws and regulations for the countries in which customers reside (such as with respect to advertising, product labelling, product safety and consumer protection). You will be solely responsible for any costs associated with international compliance.

You must comply with all applicable laws, rules, regulations, and requirements relating to:

- (a) our products;
- (b) the sale of our products;
- (c) product safety and compliance;
- (d) importing of products (if applicable);
- (e) product labelling; and
- (f) sales, and marketing.

We won't be responsible for any failure to meet international law and regulations with respect to your sale or advertising of the products. You indemnify us and hold us harmless for the same.

In addition to any other rights we have at law, and to the maximum extent permitted by law, you agree to indemnify us on a full indemnity basis for any breach of this clause including for any costs we incur in seeking legal advice on the breach and in taking legal proceedings against you.



6 Your warranties and obligations

Warranties

You warrant that:

- (a) you have completed the application form to the best of your knowledge and belief and all statements contained within are true and correct;
- (b) you have legal capacity, power, and authority to enter into this agreement;
- (c) there are no legal restrictions preventing you from selling the products;
- (d) in selling the products, you will act with due care and skill;
- (e) you will provide each purchaser of a product you sell with any disclaimer notice provided by us;
- (f) you will comply with any directions given to you by us from time to time;
- (g) you will act lawfully and will comply with any applicable licenses, laws, regulations, industry codes of conduct, health and safety requirements and standard in relation to selling the products pursuant to the law in your country; and
- (h) you will comply with any requirements or directions issues by us in relation to a product recall or safety matter.

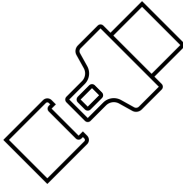
Obligations

You agree that you will:

- (a) make the products available for sale in a clean, organised, and respectful way that mirrors our brand's authenticity and integrity;
- (b) make the products available for sale in a way that does not negatively impact our reputation or brand or reputation of our products;
- (c) comply with any reasonable direction given by us in relation to the advertising, marketing, or resale of the products;
- (d) respond promptly and courteously to all enquiries in relation to any products whether or not distributed by you;
- (e) when dealing with any person purchasing or enquiring about our products, will be courteous and polite; and

- (f) ensure that all product is delivered to your clients in good, saleable, and undamaged condition.

In addition to any other rights we have at law, and to the maximum extent permitted by law, you agree to indemnify us on a full indemnity basis for any breach of this clause including for any costs we incur in seeking legal advice on the breach and in taking legal proceedings against you.



7 Restraints

How are you restrained?

You understand and agree that during and after this agreement, you will not, without prior written permission or as otherwise provided for in this agreement, in any capacity:

- (a) compete with us, enter into business arrangements, advise, work for, consult with, provide services to, or in any way assist our competitors (including by selling the products online);
- (b) interfere with, disrupt, or attempt to disrupt the relationship, contractual or otherwise, between us and any of our suppliers (who were suppliers at the date of termination of this agreement or within the 12 months prior);
- (c) induce or solicit any of our employees, contractors, or agents or any of its subsidiaries or related companies to leave our employment or agency (who were employees, contractors, or agents at the date of termination of the agreement or within the 12 months prior); or
- (d) develop or assist any person to develop any product or products similar to any products the subject of this agreement (including by reverse-engineering our formulas).

The clause applies for the duration of this agreement plus:

- (a) 12 months, or (if that duration is held by a court to be unreasonable);
- (b) 6 months, or (if that duration is held by a court to be unreasonable);
- (c) 3 months,

in:

- (a) [insert country] and Australia, or (if that geographical area is held by a court to be unreasonable);

- (b) In Australia, or (if that geographical area is held by a court to be unreasonable);
- (c) the state of New South Wales, or (if that geographical area is held by a court to be unreasonable);
- (d) the agreed area.

Your acknowledgements

You acknowledge that:

- (a) This clause continues even if this agreement ends;
- (b) These restraints are reasonable and necessary to protect our legitimate business interests;
- (c) Damages are not necessarily an adequate remedy if you breach this restraint clause;
- (d) We may apply for injunctive relief if:
 - i. You breach or threaten to breach this restraint clause; or
 - ii. We believe that you are likely to breach this restraint clause;
- (e) We may require you to provide evidence that you're not in breach of this clause; and
- (f) you warrant that you've had an opportunity to seek legal advice about this clause.

Court's reading of these restraints

We separately enter into these covenants and each one constitutes a separate covenant imposed upon you under this agreement. If any part of this clause is found to be invalid, void, or unenforceable by a Court, that unenforceability doesn't impact the other separate covenants.

We agree that if one of these covenants can be made enforceable by making changes suggested by a Court, then the unenforceable provision must be made enforceable by making those changes.

This clause will survive even if this agreement ends.



8 Intellectual property

Our intellectual property

You acknowledge and agree that all intellectual property owned by us or to which we are entitled before and after this agreement with you is formed will remain our sole property and that nothing in this agreement transfers any ownership in the intellectual property to you.

Limited licence

In authorising you to resell our products we grant you a limited, non-exclusive, royalty-free, revocable license to use our business name, trade mark and intellectual property and any applicable marketing materials provided to you for sole purpose of promotion for sale and selling our product in accordance with these terms and any instructions we give you.

You are specifically prohibited from reverse engineering our products or attempting, assisting or authorising anyone to do the same.

We don't grant you any other rights in relation to our intellectual property.

We can cancel this license immediately if you breach it or these terms and conditions in any way.

Indemnity

In addition to any other rights we have at law, and to the maximum extent permitted by law, you agree to indemnify us on a full indemnity basis for any breach of this clause including for any costs we incur in seeking legal advice on the breach and in taking legal proceedings against you.

Trade mark disclaimer

We make no guarantees that the trade marks associated with our products are registered or enforceable, or that they don't infringe other registered or common law trade marks in Australia or elsewhere.

If you become aware of any claim of intellectual property or trade mark infringement you must immediately notify us in writing, setting out the details of the claim.

We will take commercially reasonable steps to resolve any such claim and enable you to continue to resell the products as intended by this agreement but don't guarantee this. If necessary, we may require to immediately stop selling the products so as to avoid further infringement.

We reserve the right to terminate this agreement immediately on notice in writing if we become aware of a claim. If we terminate this agreement, we will have the first right of refusal to buy back any stock in your possession at the cost you paid us for the goods (less any applicable shipping costs). You must dispatch the goods for return to us within 5 business days of us notifying you that we will purchase the goods back from you.

We won't be responsible for or indemnify you against any claim by a third-party for intellectual property or trade mark infringement because of your use of the trade marks associated with our products.

You indemnify us and hold us harmless against any such claims made against you as a result of the sale or advertisement for sale of our products.

Unless we agree in writing, you are expressly prohibited from applying to register any trade mark associated with our products in your country or elsewhere.

Work produced during this agreement

Any intellectual property rights created by or arising out of this agreement will be our sole and exclusive property. You hereby assign to us all right, title and interest in and to all such intellectual property rights. You undertake to do anything necessary (including signing documents) that may be necessary to vest such rights in us.

This clause will survive even if this agreement ends.



9 What happens if we disagree?

Dispute resolution

If we disagree about something that relates to this agreement, we both agree not to go straight to court or a tribunal unless we need urgent relief, like an interlocutory order.

We agree to follow the steps set out in this clause first.

- (a) First, the party with the issue needs to tell the other person about the issue in writing so they understand what the problem is. This written notice needs to include the outcome that the person with the issue wants and the action they think the other person needs to take to settle the issue.
- (b) Once the other person receives the notice of the issue, both parties agree to do their best to try and resolve the issue together within 20 business days.

If a dispute is declared, any communications between us are confidential and should be treated as 'without prejudice' negotiations for the purpose of evidence law. This means that neither of us can use these communications if we go to court.

Mediation

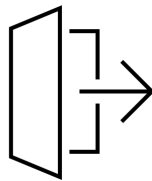
- (a) If we can't resolve the issue on our own, we agree to select an independent mediator to help us work through the problem. We have up to 7 business days to select a mediator together.
- (b) If we can't agree on a mediator, then we both agree to ask the International Chamber of Commerce (ICC) to appoint a mediator for us.

- (c) If we must mediate, we agree to attend virtual international mediation at the ICC, pursuant to the ICC Mediation Rules.

If after attempting mediation in accordance with this clause we are unable to come to an agreement, the parties may refer to the matter for arbitration at the ICC, pursuant to the ICC Arbitration Rules.

An arbitration award determined by the ICC will be binding on the parties.

This clause will continue to apply even if this agreement ends.



10 Ending our agreement

When can we end this agreement?

We can end this agreement:

- (a) Immediately on written notice if:
- i. a representation, warranty or statement made by you in this agreement is untrue or misleading;
 - ii. there is a change of control of your business (such as a change to the structure or owner); and
- (b) On 2 weeks' written notice if:
- i. the products are withdrawn from sale by us for any reason, such as for safety reasons;
 - ii. you conduct business differently than described in your application form and we reasonable believe that such a change would negatively impact or business or reputation; or
 - iii. you make the products available for sale in a way that compromises our reputation or brand or otherwise reflects poorly on us or our products and which is not remedied within 7 business days of being notified of the same.

Either of us can end this agreement:

- (a) For convenience on 4 weeks' notice; or
- (b) immediately if either party dies or becomes bankrupt or insolvent; or

(c) if there has been a breach of contract.

If there has been a breach, the non-breaching party must give written notice to the breaching party and allow them 14 business days to fix it.

If the breach isn't or can't be fixed after within that period, the non-breaching party can end the agreement immediately by giving notice in writing.

What happens when it ends?

On termination of this agreement, you must:

- (a) immediately stop selling the products;
- (b) offer to sell the products you have back to us at the cost price that you paid to us (less any shipping costs) and to ship any product purchased to us within 5 business day of notification of purchase by us (if termination of this agreement arises as result of your breach you will bear shipping costs);
- (c) immediately stop placing orders for products;
- (d) immediately return to us any property relating to us under this agreement, including confidential information, marketing material and products in your possession that belong to us; and
- (e) pay any amount owed in respect of any indemnity provided under this agreement.

If this agreement is terminated, all rights and obligations accrued up to the date of termination are not impacted.

Orders placed and unfulfilled

Where this agreement is terminated, unfulfilled orders will be dealt with in accordance with the below table. For the purposes of this clause, an unfulfilled order is one that has not yet been picked up by from our warehouse by our delivery partner.

Where this agreement has been terminated for convenience by either party:	Any order placed but unfulfilled at that time will be fulfilled if they are due to be fulfilled during the notice period. All other orders will be cancelled and refunded (where payment has already been made).
Where this agreement is terminated for cause by us:	Any order placed but unfulfilled will be cancelled and no refunds will be issued.
Where this agreement is terminated by you for cause:	Any order placed but unfulfilled will be cancelled and a refund for any amount already paid will be issued.

Where this agreement is terminated due to death or insolvency or bankruptcy:	Any order placed but unfulfilled will be cancelled and a refund for any amount already paid will be issued.
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11 Liability

Our liability

You purchase and resell the products at your own risk.

To the maximum extent permitted by law, you release us from any claim, action, damage, loss, cost, charge, expense, penalty, fine or payment that may arise as a result of your purchase or resale of any product.

To the extent that we are unable to limit or exclude our liability as set out above, if we are liable under this agreement for any matter that we are unable to be released from by law, then to the extent permitted by law:

- (a) our maximum aggregate liability in connection with this agreement for any reason whatsoever (including liability under an indemnity, for breach of contract and liability for negligence), whether arising in tort or in contract or any other cause of action is hereby limited to:
 - i. where the loss or damage is related to an order made under this agreement, the value of the order; or
 - ii. where the loss or damage is related to this agreement generally (not a specific order), the total of the amounts paid by you to us in the 12 months preceding the date the liability arose;
- (b) we will only be liable to compensate you for any claim arising out of this agreement, whether arising in tort or contract or any other cause of action if you notify us of the claim within 5 business days after you become aware of the claim or cause of action;
- (c) our liability under this clause will be reduced proportionately to the extent that the loss was caused or contributed to by your negligent act or omission, your wilful misconduct, or your breach of this agreement.

Your liability

To the extent permitted by law, you are liable for and indemnify and agree to indemnify, hold harmless, release, and discharge us in respect of any claim, action, damage, loss,

cost, expense, penalty, fine or payment which we suffer, incur or are liable for, whether directly or indirectly as a result of:

- (a) the sale and offer for sale of products by you, including but not limited to any act or omission by you in connection with the sale of the products;
- (b) any loss, damage or injury suffered by a third party, caused by any negligence, or deliberate act, by you performing under this agreement;
- (c) any claim for loss or damage arising directly or indirectly out of the use or consumption of products where you directed the customer to use the product in a way other than directed by us; or
- (d) any breach by you (or your employees, agents, or subcontractors) of the agreement or its obligation or warranties under this agreement.

Your liability under this clause will be reduced proportionately to the extent that the loss was caused or contributed to by our negligent act or omission, our wilful misconduct, or our breach of this agreement.

Exclusion of consequential losses and implied warranties

In no event shall either party and/or its affiliates be liable to anyone, whether in contract or tort, for any indirect, punitive, special, exemplary, incidental, consequential or other damages of any type or kind (including loss of data, revenue, profits, use or other economic advantage) arising out of, or in any way related to the products, regardless of cause even if a party or its affiliate has been previously advised of the possibility of such damages, provided that nothing in this Agreement limits or excludes any liability that cannot be limited or excluded under applicable law.

To the extent permitted by law, all conditions, guarantees, terms and warranties which would otherwise be implied into this agreement are hereby excluded. Without limitation this exclusion applies to any implied conditions, guarantees, terms or warranties of merchantability or of satisfactory quality applying to the goods or services supplied under this agreement.

These obligations in this clause will continue even if this agreement ends.



12 **Warranty and Indemnity**

What are we asking you to do?

An indemnity is a promise to take on responsibility to pay or make something right in our place in certain circumstances as set out below.

Breach of intellectual property clause

In addition to any other rights we have at law, and to the maximum extent permitted by law, you agree to indemnify us on a full indemnity basis for any breach of our intellectual property clause, including for any costs we incur in seeking legal advice on the breach and in taking legal action against you.

Bringing goods into your country

We have provided you with an opportunity to conduct your own due diligence on the products before placing an order with us. In placing an order with us you warrant that you have satisfied yourself that fulfilment of the order and resale of products as contemplated by this agreement will not be a breach of any laws of your country.

You indemnify us and hold us harmless in circumstances where, for any reason, there's an issue with the products we ship to you in your country. Issues may include, where our shipment contains:

- (a) items that are illegal in your country;
- (b) a substance prohibited by your country (like a biohazard); or
- (c) anything that may be in breach of a law in your country.

This means you'll be responsible for paying any fines and incurring any civil or criminal penalties associated with the goods we ship to you. You may also be responsible for paying our legal fees if we need legal advice or representation to deal with a matter like this.



13 Jurisdiction

The law of New South Wales (NSW), Australia, governs this agreement, and the parties submit to the exclusive jurisdiction of the Courts of NSW, Australia.

Nothing in this clause impacts either party's ability to commence proceedings against the other party for the purposes of enforcing an arbitration award in a competent court of any country where the party not instigating proceedings holds assets.



14 General

- (a) Time is of the essence in this agreement. No extension or variation of this agreement will operate as a waiver of this provision.
- (b) We won't voluntarily assign or otherwise transfer our obligations under this agreement without your prior consent, however, we may sub-contract one or more aspects of the services, provided always that we will remain the head contractor and will be responsible for the delivery of services in accordance with this agreement.
- (c) You agree that you won't assign or sub-contract your obligations under this agreement without our prior written consent, which we won't unreasonably withhold.
- (d) This agreement is the entire agreement and understanding between the parties on everything connected with the subject matter of this agreement, and supersedes any prior understanding, arrangement, representation or agreements between the parties as to the subject matter contained in this agreement.
- (e) If anything in this agreement is unenforceable, illegal, or void, it is severed, and the rest of the agreement remains in force.
- (f) Any waiver by any party to a breach of this agreement will not be deemed to be a waiver of a subsequent breach of the same or of a different kind.
- (g) Neither party will be liable to the other party for any loss caused by any failure to observe the terms and conditions of this agreement, where such failure is occasioned by causes beyond its reasonable control including, but not limited to, by fire, flood, riot, strike, war, pandemic, restrictions and prohibitions or any other actions by any government or semi government authorities, or major injury or illness of key personnel.
- (h) Notices
 - i. A notice or other communication to a party must be in writing and delivered to that party in one of the following ways:
 - ii. delivered personally;
 - iii. posted to their address, when it will be treated as having been received on the second business day after posting; or
 - iv. sent by email to their email address, when it will be treated as received when it enters the recipient's information system.
- (i) Interpretation
 - i. If we refer to a piece of legislation, this includes changes or updates to it, and instruments and regulations introduced under it.

- ii. Words denoting the singular include the plural and vice versa, words denoting individuals or persons include bodies corporate and vice versa, references to documents or agreements also mean those documents or agreements as changed, novated or replaced, and words denoting one gender include all genders;
- iii. Headings are just for convenience, not for interpretation.
- iv. Grammatical forms of defined words or phrases have corresponding meanings;
- v. Dates and times set out in this agreement are in reference to Sydney, New South Wales, Australia;
- vi. If the day on or by which anything is to be done is a Saturday, a Sunday or a public holiday in the place in which it is to be done, then it must be done on the next Business Day;
- vii. References to a party are intended to bind their executors, administrators and permitted transferees; and
- viii. Obligations under this agreement affecting more than one party bind them jointly and each of them severally.

(j) Definitions

- i. *Australian Consumer Law* means Schedule 2 of the Competition and Consumer Act 2010 (Cth).
- ii. *Business Day* means a day on which banks are open for business in Sydney, other than a Saturday, Sunday or public holiday.

Executed as an agreement

<p>EXECUTED BY CHAKANA WELLBEING PTY LTD (ACN 627 916 134) in _____) accordance with s127 of the <i>Corporations Act</i>: _____)</p>
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<p>..... Sole Director Name: Mardi Jane Ritchie</p>
