

LEIGH DUMPLETON HERBALISM

TERMS OF TRADE

1. DEFINITIONS

- 1.1. "Leigh Dumpleton", "We" and "Us" means Leigh Dumpleton trading as Leigh Dumpleton Herbalism, its successors and assigns or any person acting on behalf of and with the authority of Leigh Dumpleton Herbalism.
- 1.2. "Customer" and "You" means the person/s buying the Goods or Services as specified in any invoice or order.
- 1.3. "Goods" means all Goods including but not limited to herbal medicine or supplements supplied by Leigh Dumpleton Herbalism to the Customer at the Customer's request.
- 1.4. "Services" means all Services including but not limited to advice in relation to herbal medicine, supplements and lifestyle, supplied by Leigh Dumpleton Herbalism to the Customer at the Customer's request (where the context so permits the terms 'Goods' or 'Services' shall be interchangeable for the other).
- 1.5. "Price" means the Price payable for the Goods and Services in accordance with clause 3 below.

2. ACCEPTANCE

- 2.1. The Customer is taken to have accepted and is immediately bound, jointly and severally, by these Terms of Trade when the Customer places an order or books an appointment with us directly or on the website.

3. PRICE AND PAYMENT

- 3.1. The Price will be as indicated by Leigh Dumpleton either directly or online on the day the Customer has placed an order or booked an appointment.
- 3.2. Leigh Dumpleton may at their sole discretion offer a three point sliding scale for the Customer to choose the cost of the Services.
- 3.3. Leigh Dumpleton reserves the right to remove the sliding scale at any time at their sole discretion and appoint a specific charge or a per hour rate for Goods and Services.
- 3.4. Orders placed before any change in price will be honoured at the price at the time of booking. Any changes to pricing will be updated on leighdumpletonherbalism.nz.
- 3.5. Payment methods accepted include bank transfer, cash, or card (for online payments only). Card payments attract a surcharge to cover merchant fees, these surcharges are explicitly identified at the point of purchase online.
- 3.6. Unless Leigh Dumpleton has agreed to extend credit to you, you must pay in full upon placing your order or your appointment being booked.

- 3.7. You agree to pay for the Goods and/or Services in full without deduction or setoff and to pay goods and services tax and any other government duties, levies or taxes.
- 3.8. If payment is not made in full by the due date, we are entitled to charge you interest on the unpaid overdue balance at the rate of 25% per annum compounding monthly on the unpaid balance owing on the first day of each month until payment in full is received by us, and we may charge you costs (including collection costs and legal costs on a solicitor-client basis) and suspend delivery of further Goods or performance of further Services until the account is paid.
- 3.9. The Customer may contact info@leighdumpletonherbalism.nz to enquire about a payment plan. Any payment plan will be at the sole discretion of Leigh Dumpleton.

4. CANCELLATION AND REFUNDS

- 4.1. Any appointments booked by the Customer may be cancelled more than 24 hours before the appointment time and a refund will be provided.
- 4.2. The Customer will not be entitled to a refund if the appointment is cancelled less than 24 hours before the appointment time.
- 4.3. In the event the Customer has not paid prior to their appointment they will be charged the full price of the appointment upon arrival or if the Customer cancels their appointment within 24 hours of the appointment time.
- 4.4. The Customer may request a refund to Leigh Dumpleton if the cancellation was required due to exceptional circumstances. To request a refund the Customer must Contact info@leighdumpletonherbalism.nz within 7 days from the cancellation of the appointment.
- 4.5. Leigh Dumpleton will have the sole discretion to approve any refunds.

5. THIRD PARTY

- 5.1. Leigh Dumpleton may refer the Customer to a third party supplier ("Third Party Supplier") to purchase Goods, including but not limited to medicine or supplements as part of the Services provided.
- 5.2. If a Third Party Supplier is to supply Goods to the Customer, the Customer must engage directly with the Third Party Supplier directly to pay and arrange delivery of the Goods.
- 5.3. The Customer acknowledges that Third-Party Supplier's may have their own terms of trade, and agrees that they will be bound by the Third Party Suppliers terms of trade in relation to the supply of the Third Party Suppliers Goods.

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- 5.4. The Third-Party Supplier will require payment for all Goods ordered direct from the Third-Party Supplier prior to Goods being provided.
- 5.5. The Customer acknowledges and agrees that Leigh Dumpleton will not be liable in any way for any claim, damage, or liability arising from Goods, supplied by a Third-Party Supplier and the Customer shall pursue the Third Party Supplier directly in relation to any claim.

6. AVAILABILITY OF GOODS

- 6.1. The Customer acknowledges that the availability of Goods stocked by Leigh Dumpleton or by a Third Party Supplier are subject to availability and stock levels can change unexpectedly due to various factors out of Leigh Dumpleton's control.
- 6.2. Leigh Dumpleton will not be liable for any lack of stock or delayed delivery times of Goods.

7. RISK AND DELIVERY OF GOODS FROM LEIGH DUMPLETON

- 7.1. Goods will be delivered to you after payment has been made to Leigh Dumpleton.
- 7.2. The cost of delivery is in addition to the Price and will be payable at checkout.
- 7.3. Any time or date given in relation to Delivery by Leigh Dumpleton or a Third Party Supplier to the Customer is an estimate only. The Customer must still accept Delivery of the Goods even if late.
- 7.4. Delivery ("Delivery") of the Goods is taken to occur at the time that Leigh Dumpleton (or Leigh Dumpleton's nominated carrier) delivers the Goods to the Customer's nominated physical address.
- 7.5. All claims in relation to damage to the Goods during Delivery must be made in accordance with clause 8.
- 7.6. Risk of damage to or loss of the Goods passes to the Customer on Delivery.

8. DEFECTS

- 8.1. The Customer shall inspect the Goods on delivery and shall within 48 hours of delivery (time being of the essence) notify Leigh Dumpleton of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Customer shall return the items and afford Leigh Dumpleton an opportunity to inspect the Goods within a reasonable time following delivery if the Customer believes the Goods are defective in any way. If the Customer shall fail to comply with these provisions the Goods shall be presumed to be free from any defect or damage.

- 8.2. For defective Goods, which Leigh Dumpleton has agreed in writing that the Customer is entitled to reject, Leigh Dumpleton's liability is limited to either (at Leigh Dumpleton's discretion) replacing the Goods at no extra charge or reimburse the customer for the Goods.

9. RETURN OF GOODS

- 9.1. Returns will only be accepted provided that:

- a) the Customer has complied with the provisions of clause 8; and
- b) Leigh Dumpleton has agreed in writing to accept the return of the Goods; and
- c) the Goods are returned at the Customer's cost within seven (7) days of the delivery date; and
- d) the Goods are returned in the condition in which they were delivered and with all packaging material and paperwork in as new condition as is reasonably possible in the circumstances.

- 9.2. Leigh Dumpleton will not be liable for Goods which have not been stored or used in a proper manner.

10. TITLE

- 10.1. Title and ownership in Goods will not pass to the Customer until payment is received in full for the Goods and/or Services.
- 10.2. Until title passes in accordance with clause 10.1 above the Customer shall hold any Goods in trust for Leigh Dumpleton, and store them in a manner to enable them to be identified and cross referenced to particular invoices.
- 10.3. Where Leigh Dumpleton reasonably believes the Customer is or will be in breach of any part of these terms of trade, Leigh Dumpleton or its agent may without notice enter any premises under your control to remove any Goods which are the property of Leigh Dumpleton, and without prejudice to any other of Leigh Dumpleton's rights. The Customer indemnifies Leigh Dumpleton against all costs and claims in respect of its exercise of rights under this clause 10.

11. COMMUNICATIONS

- 11.1. The Customer may sign up for the newsletter provided by Leigh Dumpleton. When signing up to the newsletter the Customer is agreeing to the Privacy Policy.
- 11.2. The Customer can unsubscribe from the newsletter at any point by emailing info@leighdumpletonherbalism.nz.

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- 11.3. Communication about Services provided by Leigh Dumpleton may be communicated via email, telehealth, video/audio transmission, text message, social media, website form submission, telephone or in-person.
- 11.4. Complaints may be provided to info@leighdumpletonherbalism.nz.
- 11.5. Personal and contact details about the Customer making a complaint will be kept by Leigh Dumpleton as necessary to resolve any complaint.

12. CUSTOMER'S DISCLAIMER

- 12.1. The Customer acknowledges that the Goods bought and Services engaged relying solely upon the Customer's skill and judgment.
- 12.2. Leigh Dumpleton is a trained medical herbalist and will provide advice on herbal medicine, nutrition and lifestyle to Customers during private one to one booked appointments.
- 12.3. Any information provided by Leigh Dumpleton outside of a private one to one appointment at Leigh Dumpleton's premises, including but not limited to information provided, in person or on Leigh Dumpleton's website or other contexts such as a workshops is not and does not constitute any medical, health or any other advice and is not intended to diagnose, prevent, treat or cure any illness. The Customer should always consult a healthcare professional before using any herbal or other medicine to make sure it is safe for their personal situation.
- 12.4. Any prescription, health care plan, or instructions provided to the Customer by Leigh Dumpleton must be used in accordance with the instructions provided to the Customer at the time of prescription. Leigh Dumpleton is not liable for any misuse of Goods or failure to reasonably follow the instructions given by Leigh Dumpleton to the Customer.
- 12.5. Any prescription, health care plan, or instructions provided to the Customer by Leigh Dumpleton is to only be used by the person named on the prescription, health care plan or instructions.
- 12.6. The Customer undertakes not to on-supply any Goods prescribed by Leigh Dumpleton to any other party.

13. LIMITATION OF LIABILITY

- 13.1. As far as allowed by law, any condition, warranties or remedies as provided within the Fair Trading Act 1986, Sale of Goods Act 1908, Consumer Guarantees Act 1993 shall not apply to any supply of Goods and Services to the Customer.

- 13.2. To the full extent permitted by law, the Customer will indemnify Leigh Dumpleton and keep Leigh Dumpleton indemnified from and against any liability and any loss or damage Leigh Dumpleton may sustain, as a result of any breach, act or omission, arising directly or indirectly from or in connection with any breach of any of these Terms by the Customer or its representatives and the failure of the Customer to adhere to any advice, plan or instructions provided by Leigh Dumpleton, and unreasonable expectations of any advice provided by Leigh Dumpleton.
- 13.3. Leigh Dumpleton and its employees, contractors and agents, any Third Party Supplier will not be liable to you for loss or damage of any kind however that loss or damage is caused or arises. This exclusion of liability includes, but is not limited to, costs (including costs of returning Goods to Leigh Dumpleton or to any manufacturer), consequential loss, loss of profits and damage, unreasonable use and negligence (including a failure to do something which should have been done or to prevent something from happening).
- 13.4. Leigh Dumpleton's maximum liability to you shall be limited to the value of the Goods or Services supplied. This limitation applies to liability of all kinds including contract, tort (including negligence), equity or otherwise.

14. CONSUMER RIGHTS

- 14.1. Interactions between Leigh Dumpleton and the Customer in relation to a consultation are covered by the Code of Health and Disability Services Consumers Rights 1996, pursuant to the Health and Disability Commissioner Act 1994.

15. THE MEDICINES ACT 1981

- 15.1. Leigh Dumpleton as a Natural Health Practitioner has specific exemptions from certain requirements within The Medicines Act 1981.
- 15.2. The Medicines Act 1981 regulates medicines, related products and medical devices in New Zealand.
- 15.3. Leigh Dumpleton is compliant with The Medicines Act 1981.
- 15.4. Under s 32 The Medicines Act 1981, Leigh Dumpleton is able to manufacture, pack, label, sell by retail, and supply certain medicines when they have not been approved by the Minister of Health, provided they are supplied to an individual following a consultation with the practitioner.

16. CONFIDENTIALITY

- 16.1. Leigh Dumpleton recognises the importance of client confidentiality. Unless authorised by the Customer, or required by law or significant concerns about

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your mental wellbeing, Leigh Dumpleton will not divulge confidential information.

16.2. This clause 16 shall survive the termination of the agreement.

17. INTELLECTUAL PROPERTY

17.1. All intellectual property shall remain the property of Leigh Dumpleton and Leigh Dumpleton does not transfer any right, title or interest in the intellectual property to the Customer.

17.2. You must not use any trademarks which are the property of Leigh Dumpleton, or any similar words or marks, or any combination of words which includes any of those trademarks or any similar words or marks, except to the extent authorised by Leigh Dumpleton in writing.

17.3. This clause 17 shall survive the termination of the agreement.

18. DEFAULT AND CONSEQUENCES OF DEFAULT

18.1. Without prejudice to any other remedies Leigh Dumpleton may have, if at any time the Customer is in breach of any obligation (including those relating to payment) under these Terms of Trade, Leigh Dumpleton may suspend or terminate the supply of Goods or Services to the Customer. Leigh Dumpleton will not be liable to the Customer for any loss or damage the Customer suffers because Leigh Dumpleton has exercised its rights under this clause.

19. CANCELLATION

19.1. Leigh Dumpleton reserves the right to cancel any Services or cancel delivery of Goods at any time by giving written notice to the Customer. On giving such notice Leigh Dumpleton shall repay to the Customer any money paid by the Customer for the Goods not yet supplied or Services not yet provided. Leigh Dumpleton shall not be liable for any loss or damage whatsoever arising from such cancellation.

20. PRIVACY ACT 1993

20.1. The Customer authorises Leigh Dumpleton or Leigh Dumpleton's agent to:

- a) access, collect, retain and use any information about the Customer;
- b) for the purpose of marketing Goods and Services to the Customer;
- c) Be in contact with the customer about their order or enquiry.

20.2. The Customer shall have the right to request Leigh Dumpleton for a copy of the information about the Customer retained by Leigh Dumpleton and the right to request Leigh Dumpleton to correct any incorrect information about the Customer held by Leigh Dumpleton.

21. COSTS

21.1. The Customer must pay Leigh Dumpleton's costs (including legal costs, as between solicitor and client) of and incidental to the enforcement of attempted enforcement of Leigh Dumpleton's rights, remedies and powers under these Terms.

22. DISPUTE RESOLUTION

22.1. If a dispute arises between the parties, the parties agree to meeting in good faith to try and resolve the dispute.

22.2. If the dispute is not resolved within five (5) working days, the parties agree to go to mediation. The mediator is to be wither chosen by both parties and where a mediator cannot be agreed, a mediator will be appointed by the President of the Otago branch of the New Zealand Law Society.

22.3. If the dispute is not resolved within a month of the initiation of the mediation proceedings, then the dispute will be adjudicated in accordance with the process set out in the Act at any time.

22.4. The costs of the mediator and/or arbitrator will be shared between the parties.

23. GENERAL

23.1. The failure by Leigh Dumpleton to enforce any provision of these Terms shall not be treated as a waiver of that provision, nor shall it affect Leigh Dumpleton's right to subsequently enforce that provision. If any provision of these Terms of Trade shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

23.2. These Terms of Trade and any contract to which they apply shall be governed by the laws of New Zealand and are subject to the jurisdiction of the courts of New Zealand.

23.3. The Customer agrees that Leigh Dumpleton may amend these Terms of Trade at any time. If Leigh Dumpleton makes a change to these terms, then that change will take effect from the date on which Leigh Dumpleton notifies the Customer of such change or the changes are uploaded to Leigh Dumpleton's Website. The Customer will be taken to have accepted such changes if the Customer makes a further request for Leigh Dumpleton to provide Goods or Services to the Customer.

23.4. Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.

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- 23.5. The Customer warrants that it has the power to enter into this agreement and has obtained all necessary authorisations to allow it to do so, it is not insolvent and that this agreement creates binding and valid legal obligations on it.