

PART A: THE AGREEMENT BETWEEN US AND YOU

1. Who are we?

- 1.1. At Holixir Womens Collective Pty Ltd (ABN 86 644 741 533) (“**Holixir**”, “**us**”, “**our**” and “**we**”) we:
- (1) offer:
 - (a) Reformer Pilates, Mat Pilates, Barre, Yoga, Hot Yoga, Hot Mat Pilates, Sculpt Classes;
 - (b) various Allied Health Services including an onsite Dietician, Exercise Physiologist, Naturopath, Acupuncturist, Massage Therapist, Women’s Health Physiotherapist and alternative modalities including 3D and 4D ultrasound; and
 - (c) an onsite child-minding facility, mothers & babies classes and children’s school holiday programs;
 - (2) specialise in pre and post-natal fitness, offering pre and post-natal safe classes, private and semi-private Reformer Pilates classes;
 - (3) conduct onsite workshops and courses from time to time, including Calm Birth, Tiny Hearts First Aid; and
 - (4) other related services;
- (collectively the “**Services**”).

1.2. Our Services are provided at our facility at 1/28-34 Roseberry Street, Balgowlah NSW 2093 (**Facility**), using online facilities or at outdoor locations.

2. Who can use our Services?

- 2.1. Before you use our Services, Holixir will ask you to complete a pre-exercise questionnaire. All information you provide to us must be complete, accurate and truthful. You must update this information whenever it changes.
- 2.2. You must be 18 years of age or above to agree to these Terms and to access and use our Services. You may access and use our Services if you are under 18, provided your parent or guardian agrees to these Terms on your behalf.
- 2.3. These Terms apply to all users of our Facility and Services, including:
- (1) Holixir Movement Members;
 - (2) any person accessing any of our Allied Health Services; and
 - (3) all other users of the Services and Facilities, including users who have purchased a single class or a class pack and users of the Creche services.
- 2.4. We reserve our right to refuse entry to the Facility for any reason in our absolute discretion.

3. Holixir Movement Memberships

- 3.1. If you have elected to take out a Holixir membership (**Movement Membership**), the following terms will apply.
- 3.2. These Terms, together with the following documents:
- (1) your Membership Application Form;
 - (2) your pre-exercise screening form; and

- (3) the Holixir fees schedule, set out on the Fees and Charges page of our Website, which sets out the fees we charge for our Services (see www.holixir.com) (**Fee Schedule**);

make up all of the terms of your (**Member, you, your**) membership with Holixir (**Membership Agreement**).

- 3.3. It is important that you have read all of the terms and conditions of the Membership Agreement before agreeing to these Terms. If you have any questions, please ask us.
- 3.4. Copies of policies and documents applicable to your Membership Agreement from time to time are available on our website www.holixir.com (**Website**), and are also available on request.
- 3.5. We may make reasonable changes to these Terms (including any of the policies or documents set out in condition 3.1) from time to time by publishing revised terms on the Website. We will also give you notice of any amendments to the Terms in advance of any changes by publication in our monthly Holixir newsletter (sent by email, if you are subscribed to receive it).
- 3.6. Please check our Website regularly to check for any changes to these Terms. By using our Services or accessing the Website, you are deemed to be aware of and bound by any amendments to the Terms. If any amendment to these Terms significantly reduces the benefits of your membership you may terminate your Membership under condition 9.6.

PART B: OUR SERVICES

4. Member Services

- 4.1. By becoming a Member you will be entitled to:
- (1) attend and use our Facility;
 - (2) attend private or semi-private exercise classes;
 - (3) use our child minding facilities in accordance with condition 6 below;
 - (4) attend workshops and events onsite; and
 - (5) access our Allied Health Services in accordance with condition 5 below.

5. Allied Health Services

- 5.1. We may from time to time make additional allied health services available at the Facility (**Allied Health Services**).
- 5.2. By accessing the Allied Health Services, you are deemed to agree to the following conditions:
 - (1) the provider of the Allied Health Service (**Allied Health Service Provider**) is responsible for the Services that they provide to you;
 - (2) you may be required to agree to the terms and conditions of the provision of the Allied Health Service Provider in order to receive the Allied Health Services;
 - (3) the Allied Health Service Provider may collect your personal information in order to provide the Allied Health Service, in which case the collection, storage and use of that personal information will be governed by the privacy policy of the Allied Health Service Provider;

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- (4) you will be required to make payment for the Allied Health Services in the manner nominated by us (eg either by making payment to Holixir or directly to the Allied Health Service Provider directly);
 - (5) to the extent permitted by law:
 - (a) we make no warranties in relation to the Allied Health Services; and
 - (b) we will not be held liable for any Allied Health Services provided by an Allied Health Service Provider; and
 - (6) the Allied Health Service Provider may specify booking and cancellation terms and conditions which will apply in the case of a cancellation or failure to attend an Allied Health Service booking or appointment.
- (10) We may, if considered necessary, seek medical treatment or provide any first aid required by your child while attending the Creche.
 - (11) We may, in our discretion, cease to provide your child with access to, or request that you remove your child from the Creche if we consider this reasonably necessary to protect our property, other children, in the case of illness or misbehaviour or if in our absolute discretion your child's conduct poses a serious risk to the wellbeing of your child, other children, any member or user of the Facility or Services, our staff or our contractors.
 - (12) We will not be responsible for any lost property while your child is in attendance at the Creche.
 - (13) you understand that will be contacted if your child requires anything while attending Creche (nappy, dummy, food, access to the bathroom etc).
 - (14) to the extent permitted by law, you are wholly responsible for your child while your child attends the Creche and Holixir and its officers, employees, contractors and agents will not be responsible for your child while attending the Creche.

6. Crèche Services

6.1. Holixir provides a child minding service for babies and children aged between 12 weeks and 6 years of age (**Crèche**). By accessing our Crèche, you are deemed to agree to the following conditions:

- (1) Prior to your child's first visit to our Creche, you will be required to complete a Child Registration Form, to provide us with information about your child. This Child Registration Form also includes a waiver of liability. Please ensure you have read and understood this form before leaving your child at our Creche.
- (2) At all times while your child is attending the Creche, you remain responsible for your child's safety and welfare. You must not leave our Facilities while your child is in our care.
- (3) Children booked into the Creche will be permitted to stay for a maximum duration of 90 minutes for any one booking.
- (4) No food or drink is permitted to be consumed by a child and/or baby or will be administered by a member of Holixir's child minding staff.
- (5) You must be in attendance at our Facility or accessing our Services for your child to attend the Creche.
- (6) You must check your child's readiness for the Creche before leaving your child in the Creche (ie any feeding or nappy changing requirements).
- (7) If notified by any of our staff members at any time that your child is unwell or requires a parent (to be determined in our staff members' absolute discretion), you must collect and attend to your child immediately (even if your class or Allied Health Services have not yet finished).
- (8) Children will not be admitted to the Creche if they are deemed (in our absolute discretion) sick or contagious.
- (9) Admission of any child to the Creche is at Holixir's absolute discretion. If your child is not admitted and you are not able to access the Facilities or Services, we will not be liable for any costs or charges associated

- 6.2. To access the Creche, your child must meet any vaccination and illness policies we publish from time to time.
- 6.3. We are not a registered child care service and so it is important that you remain in our Facility while your child attends the crèche.
- 6.4. We offer Crèche memberships, or alternatively you may purchase a pass for a single or multiple pack of Creche visits.

PART C: MEMBERSHIPS

7. Membership options

- 7.1. Holixir offers a range of MOVEMENT Memberships. Our plans are available on our Website from time to time.
Movement Membership – Contract term
- 7.2. Holixir's Movement Membership is a fixed term membership of 12 months. The contract will commence from the date specified in your Membership Agreement (**Membership Start Date**) and will end 12 months later (Membership End Date) The period from your Membership Start Date to your Membership End Date will be the period that you are contracted to Holixir (**Committed Membership Term**).
- 7.3. By entering into a Holixir Movement Membership, you understand that you are committing to pay the Membership Fees set out in your Membership Application Form for the entire Committed Membership Term.
- 7.4. The fees payable in connection with Holixir's Movement Membership have been agreed with you in your Membership Agreement. . These fees will be direct debited each month (in advance) from your nominated bank account or credit card on a date determined by us from time to time.

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- 7.5. You may terminate your Movement Membership during your Committed Membership Term in accordance with condition 9.6 below.
- 7.6. If you wish to terminate your Movement Membership during the Committed Membership Term in circumstances other than those specified in condition 9.6, you must pay a break fee equivalent to the Membership Fees that would otherwise have been payable for the balance of the term of the Membership Agreement (**Break Fee**).
- 7.7. At the end of the Committed Membership Term, your Membership will automatically continue for further 4 week terms (**Further Commitment Terms**) unless your membership is terminated by Holixir in accordance with these Terms or you provide us with notice that you wish your membership to end on the expiry of the Committed Membership Term (which notice must be received no less than 14 Business Days prior to the expiry of the Committed Membership Term). The first Further Commitment Term will commence on the day following expiry of the Committed Membership Term and each Further Commitment Term will begin on the first day after your previous Further Commitment Term ends. The Membership Fees payable per month in the Committed Membership Term will continue to apply during each Further Commitment Term unless notified pursuant to condition 8.8.
- Movement Membership No-Contract term**
- 7.8. Holixir's Movement Non-Contract Membership is offered on a rolling, month-to-month basis. The contract will commence from the date you sign your Membership Agreement.
- 7.9. The fees payable in connection with Holixir's Movement Non-Contract Membership have been agreed with you in your Membership Agreement and will be the fees set out in the Fees Schedule from time to time. These fees will be direct debited each fortnight from your nominated bank account or credit card on a date determined by us from time to time.
- Creche Membership**
- 7.10. Access to a Crèche Membership is subject to you having an existing Movement Membership or Movement Non-Contract Membership.
- 7.11. The fees payable for a Creche Membership are set out in the Fees Schedule. The terms applicable to the Creche Membership are set out in the Fees Schedule also.
- Single and Multiple Class packs**
- 7.12. Holixir also offers single and multiple class packs for movement classes. The fees and terms applicable to these class packs are available on the Fees Schedule of our Website from time to time.
- Class Fees**
- 7.13. The class fees applicable from time to time are set out in the Fees Schedule.
- 7.14. You are required to give a minimum of 2 hours' notice if you are unable to attend a Holixir class.
- 7.15. Failure to provide the requisite notice of cancellation will result in:
- (1) in the case of a Member, a \$15.00 late cancellation fee being deducted from your nominated bank account; or
 - (2) in the case of a user who has booked the Holixir class using a single or multiple class pack, the class being deducted from the single or multiple class pack despite the user not attending the class.
- 8. Membership Fees and payment**
- 8.1. Members must pay membership fees for our Services in accordance with the terms agreed in your Membership Application Form (**Membership Fees**). Membership Fees payable will depend on the membership option selected.
- 8.2. In addition, the following terms will apply:
- (1) **Contracted Memberships:** You must pay your Membership Fees in advance each month by direct debit from a bank account or credit card.
 - (2) **Non Contracted Memberships:** You must pay your Membership Fees in advance each fortnight by direct debit from a bank account or credit card.
 - (3) **Crèche Memberships:** You must pay your Crech Membership Fee, together with your Membership Fees payable under your Contract or Non Contract Membership, in advance each month by direct debit from a bank account or credit card.
 - (4) **Private and Semi Private Classes:** You must pre-pay for any Private and Semi Private sessions by any accepted payment method in advance of the class. This may include by way of deduction of a class from your single or multiple class pack.
- 8.3. If the payment date for any of the Membership Fees falls on a public holiday we will debit your account on the next business day.
- 8.4. We engage a third party payment gateway (**Payment Processor**) to process your payments where you have selected to pay the Membership Fees by direct debit. You acknowledge that the applicable Payment Processor may charge you a transaction fee when processing your payment, in addition to your Membership Fee. This fee is an amount paid to the Payment Processor to cover the cost of their services, and not paid to Holixir.
- 8.5. If you use a debit or credit card (including VISA debit facilities and excluding AMEX) we will add a surcharge to your fortnightly or monthly debit not greater than the cost of accepting that payment method from our external third party provider, as set out in our Fee Schedule.
- 8.6. You must notify us of changes to your billing details. You must tell us if you are transferring or closing your account and any changes to your credit card (such as its expiry date), at least 48 hours before your next direct debit falls due. Please tell us and your financial institution if you want to change or stop your direct debits.
- 8.7. If your payment fails and you do not pay your Membership Fee in full on the due date, we may suspend your access to our Services until your account is paid in full. We may also charge you a late payment fee of \$15 to cover our costs and transaction charges imposed by our third party provider. You authorise us to debit this amount from your account. If the amount you owe us is not paid within 30 days of the due date for payment, we may cancel your access to our Services.

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- 8.8. We may vary our Membership Fees by providing 30 days' notice to you in writing by email or text message to the most recent email address or phone number you have provided to us. For this reason, please ensure your contact details with us remain up to date. We will not vary the Membership Fees applicable to a Holixir Movement Membership during the Committed Membership Term.
9. **Pausing or cancelling your membership**
- 9.1. If you have a Contracted Membership:
- (1) You may pause your membership. Holixir understands that from time to time you may not be able to attend our Facility or use our Services due to childhood illness, your own illness, injury, or similar reasons.
 - (2) The membership pause must be notified to Holixir in writing at least 5 business days prior to the start of the first monthly billing period you wish to pause your membership.
 - (3) You will not be able to use our Services while your membership is on pause.
 - (4) Your Committed Membership Term or will be extended for the duration of the pause.
 - (5) You may pause your membership for any reason for one or more consecutive whole monthly billing periods (a minimum of one month), up to a maximum of 2.5 months in aggregate in any 12 month period. You cannot pause your membership for only part of any monthly billing period.
 - (6) You may only terminate your Membership Agreement during the Committed Membership Term of your Membership Agreement in accordance with condition 9.6 below. The consequences of termination in those circumstances are set out in condition 7.6 above.
 - (7) If your Membership Agreement continues for any Further Commitment Term, you may terminate your Membership Agreement by giving us written notice. In that case, the termination will take effect at the end of one further monthly billing cycle (for example, if you give notice 2 weeks before the billing date, you will be able to access the Facility and our Services (and will pay Membership Fees) for a period of 2 weeks, in addition to the final month of the Further Commitment Term).
- 9.2. You may notify us in writing that you wish to cancel your Holixir Movement Membership within 14 days from the Membership Start Date (**Cooling Off Period**). If you do so, we will refund all amounts paid to us upfront and in advance. We will make payment of these amounts after you return your membership card, gifts and any other documentation which we have provided to you upon joining. If you have used your membership during the Cooling Off Period, we will refund those amounts set out above, less the cost of a single class pack for each visit you have made during the Cooling Off Period, the cost of any Allied Health Services you have received and a reasonable administration charge.
- 9.3. If you have a Non-Contracted Membership:
- (1) you may cancel your membership for any reason during your Membership Agreement, provided your account is up to date, by giving us written notice; and
 - (2) your Membership Agreement will end at the end of two further fortnightly billing cycles (for example, if you give notice 1 week before the billing date, you will be able to access the Facility for a period of 1 week, plus the final billing fortnight).
- 9.4. We may, in our discretion, agree to pause your membership for longer than the time periods stated above for travel, medical or hardship reasons. We may ask that you provide appropriate documentation (for example, a medical certificate) to support an extension.
- 9.5. We will pause your membership for a period of 10 weeks from the birth date of your baby or such other date that you request in writing provided you have given us notice at least one billing cycle prior to the start of the first fortnightly or monthly billing period (depending on your membership type) that you wish to pause your membership. If you wish to suspend your membership for a longer period, please let us know and we can discuss this with you.
- 9.6. Your Creche membership may be paused or cancelled in the same manner as your Membership is paused or cancelled.
- 9.7. All members may suspend or cancel use of our Services and your Membership Agreement immediately by notice to us in writing if:
- (1) your medical practitioner provides a certificate stating that you are unable to train with us. In this case, we will promptly refund you the portion of any fortnightly or monthly membership fee that you have paid but are unable to use due to illness and will cease charging you any further Membership Fees;
 - (2) we make changes to these Terms which will significantly reduce the benefits of your membership or have a significant impact on you;
 - (3) we transfer our rights or obligations (or both) under condition 19.3 and you do not consider that the new service provider is providing the services in an equivalent manner; or
 - (4) we breach any terms of your Membership Agreement and fail to rectify that breach within 14 days of you giving us notice to do so.
10. **Suspension or termination by Holixir**
- 10.1. We may suspend:
- (1) your access to the Facility and the Services; and
 - (2) in the case of Members, your Membership Agreement,
- if:
- (3) you do not pay the Membership Fees or any other amounts payable to us or the Allied Health Service Providers on the due date for payment; or

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- (4) if we are unable to deduct the Membership Fees from your account (in accordance with condition 7.11) on the due date for payment.
- 10.2. We may suspend access to the Facility and Services at any time if required to do so by a public health order or other order of a regulatory body or agency. We may also, at any time, notify you that we have suspended your access to the Facility and Services if we reasonably consider that there is any reason which should prevent your entry into and use of the Facility and the Services. In the case of any suspension in accordance with this condition 10.2, all payments for Membership Fees will be suspended for the duration of the suspension and the term of your Membership Agreement (if any) will be extended by the duration of the suspension.
- 10.3. We may, in our discretion:
- (1) cease to provide access to the Facility and Services; and
 - (2) in the case of Members, terminate your Membership Agreement,
- if:
- (3) you commit a serious or repeated breach of these Terms;
 - (4) any part of your Membership Fees and any late fees remain unpaid 30 days after falling due;
 - (5) you intentionally or negligently damage any of our equipment or property;
 - (6) in our opinion, your behaviour when accessing the Services or Facility poses a serious risk to your own wellbeing or that of other members, users, our staff or contractors; or
 - (7) you do anything which in our reasonable opinion, could damage our reputation or bring us into disrepute.
- 10.4. If we cease to provide access to the Facility or Services, or terminate a Membership Agreement for any of the reasons in condition 10.3 or 10.4 or 1.1, we may (without limiting any other right or remedy) recover any other reasonable costs and expenses we incur as a result of your breach and to collect the full amount of Membership Fees due for the remainder of the then current fortnightly billing period and any arrears.
- 10.5. We will notify you of any suspension or termination under this condition by emailing you, or writing to you at the contact address we have for you in our records.
- 11.3. You are required to bring a towel, grip socks and an exercise mat to classes. We may not permit you to participate in a class if you do not have this equipment.
- 11.4. You must not use our facilities if you are infected with, or have been in close contact with a person with, a serious infectious disease, including but not limited to COVID-19, influenza, pertussis (whooping cough), novel coronavirus, measles, mumps, rubella and meningococcal disease polio. Pregnant women and children are at high risk of developing complications from such diseases. Accordingly we may ask you to leave or not attend the Facility or our Services if we reasonably suspect that you may have, or may have been in close contact with a person who has, a serious infectious disease.
- 11.5. Each time you use our Services, you promise us that:
- (1) you are in good physical health;
 - (2) you will take reasonable precautions to protect yourself and others (including any child who accompanies you in our Facility) from injury; and
 - (3) you do not know of any medical or other reason why you cannot or should not do active or passive exercise.
- 11.6. The member obligations in this condition 11 apply to each different category of membership and each person that attends our Facility or uses our Services even if that person is not a Member.

12. Your wellbeing is important to us

Seeking advice from a Health Care Professional

- 12.1. Holixir staff and contractors are not medically trained. They are not qualified to assess if you are in good physical condition and can exercise without risking your health and safety or that of your baby. You will have access to our Allied Health Service Providers at our Facility, who *may* be able to clinically assess your health depending on your medical condition and or circumstance, however these Allied Health Services are provided by Allied Health Service Provider, who are independent of Holixir.
- 12.2. It is important that you consult your health care professional prior to starting any exercise program to ensure that you are mindful of your current health and any limitations or modifications that are appropriate for you.
- 12.3. If you experience any changes to your physical condition, or if you have any doubts as to your health, we strongly urge you to seek advice from a qualified health care professional.
- 12.4. All Pre and Post Natal clients will be required to see either a women's health physiotherapist and or seek clearance from their health care provider before commencing or resuming any exercise program at Holixir.

Physical condition

- 12.5. You acknowledge there is risk involved in accessing and participating in the Services. Exercising may involve the risk of injury and you exercise with us at your own risk.
- 12.6. Please monitor your physical condition at all times and exercise to a level that is appropriate given your knowledge of your health and any medical advice you have obtained. If any unusual symptoms occur,

PART D: HOLIXIR CODE OF CONDUCT

11. User and Member obligations

- 11.1. You must comply with the Holixir Code of Conduct set out in this condition 11, as well as any other conditions of entry or rules applicable at the Facility (as notified from time to time) at all times.
- 11.2. We may from time to time mandate certain requirements for access to the Facility and Services in order to comply with local health orders and applicable laws. We will notify you of any such requirements with as much notice as reasonably practicable. Any such requirement will be implemented in order to ensure the health and safety of our Members, users, staff and contractors.

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immediately stop what you are doing and notify a staff member.

Prenatal and postnatal training

12.7. If you are pregnant, we recommend that you regularly consult your health care professional (for example, your GP, obstetrician or midwife) to ensure that you and your baby are healthy to train with us throughout your pregnancy.

12.8. If you have recently given birth (within 6 weeks post-partum) we recommend that you consult your health care professional (for example, your GP, obstetrician or midwife) prior to commencing or recommencing any exercise program. You must consult your health care practitioner after your baby is born and prior to recommencing use of our Services, to ensure you may safely access our Services.

Health status

12.9. Each time you use our Services you promise us that:

- (1) you are in good physical health;
- (2) you will take reasonable precautions to protect yourself and others (including any child who accompanies you on our premises) from injury; and
 - (a) you do not know of any medical or other reason why you cannot or should not do active or passive exercise.

PART D: GENERAL TERMS

13. Photography

13.1. From time to time we may take photos and videos of you accessing our Services or training with us and using our Facility, for use in our promotion and marketing activities. You consent to us taking photos and videos of you and using your image for promotion and marketing purposes, including posting images to our Website, social media pages, advertising materials and other publications.

13.2. You acknowledge that if you bring your child to our Facility, they may appear in photos and videos that we take of you and others or that others take within our facility. You consent to your child appearing in any photos and videos which may be taken while they attend our Facility, however we will not use any images of your child(ren) for promotion and marketing purposes, or for any other purpose, without first obtaining your consent .

13.3. We will take reasonable steps to securely store any photo or video containing your image (or in the case of your child(ren), your child(ren)'s image). We will not, and will ensure that our employees and contractors do not, use such photos or videos for any unauthorised use.

13.4. You release and indemnify Holixir, its agents, officers and employees from any claims arising out of or in connection with the use of your image (or in the case of your child, your child's image) permitted by these Terms.

14. Privacy

14.1. When you become a Member or otherwise access our Services or Facility, you may be required to give us personal information.

14.2. Personal information may include (without limitation) information regarding your contact details, method of

payment and nominated bank account, age, height and weight.

14.3. With your consent we may also collect personal information which relates to your physical health or condition, including (without limitation), when you complete our pre-exercise questionnaire, so that we can assess your general health, wellbeing and your readiness for physical exercise. If you do not provide this information, you will not be able to use our Facilities or Services.

14.4. If we believe you have any health issues or if our pre-exercise questionnaire is not fully completed, we may require you to obtain a medical certificate before we consider your application further.

14.5. In order to perform our Services, we may disclose some of your personal information to our related bodies corporate and to other persons involved in providing the Services to you, including the Allied Health Service Providers. Should you default on payments of Membership Fees, we may disclose your personal information by notifying the default to a credit reference agency or other third party to obtain payment from you.

14.6. We will not share your personal information without your consent unless we are required to do so by law.

14.7. If you engage any of our allied health providers to provide Allied Health Services to you, you consent to us sharing your personal information with the relevant Allied Health Provider. If you do not consent to us sharing your personal information in this manner, please let us know, however in that case, our Allied Health Service Provider may not be able to provide the relevant Allied Health Services to you.

14.8. Personal information is generally disclosed on a confidential basis to service providers and contractors to enable them to effectively provide services to us. In addition to this, we may rely on your personal information to send updated information and other promotional content to you (unless advised otherwise). Other than what is detailed in these Terms, we will not disclose your personal information without first obtaining your consent, unless we are required by law to do so.

14.9. We may use your personal information to send you newsletters and other promotional materials relating to our Services and Facility and from time to time, opportunities and offers that we consider may be of interest to you. You may unsubscribe from receiving these promotional communications at any time. If you unsubscribe, we will still need to contact you from time to time in connection with the administration of your Membership or in connection with these Terms.

14.10. You agree to your personal information being used and/or disclosed for any reasons given to you by Holixir from time to time.

14.11. If you do not allow us to collect your personal information, we may not be able to provide you with our Services or administer your Membership.

14.12. Please let us know if your personal information needs to be updated at any time.

15. Intellectual property rights and permitted use of the Content

15.1. The Holixir name, programs and the content, including (without limitation) the video content, pdf downloads, resource material, online content, trademarks, names, logos, sounds, images, graphics, text, software, software code, tools, results

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derived from the use of software and tools, interfaces, website structure, copyright works and materials displayed on it, its layout and design (**Holixir Content**) is protected by copyright, trademark and other intellectual property laws, unless expressly indicated otherwise on the Website (**Holixir IP**). All rights, title and interest in and to the Holixir IP are owned, licensed or controlled by Holixir.

15.2. Holixir grants you a personal, limited, revocable, non-exclusive and non-transferable licence (without a right of sub-licence) to use the Holixir IP solely to the extent required to enable you to use our Services. This means that you may access, view, listen to, use and print this Website and the Content solely for your personal, non-commercial use. Otherwise, to the extent permitted by law, no part of the Content or the Holixir IP may be reproduced, reused, retransmitted, adapted, published, broadcast or distributed without our prior written consent.

15.3. You must not:

- (1) use any part of the Content for any commercial purpose;
- (2) transfer, transmit, sublicense, loan, lease, sell or distribute Content containing Holixir IP to any other person;
- (3) reproduce, copy, imitate, modify or otherwise use any of the Content, in whole or in part, in a manner that is reasonably likely to infringe our rights in the Holixir IP, without prior written permission from us or our licensors; or
- (4) use the Website or the Content in any manner or for any purpose which is unlawful or which is otherwise prohibited by these Terms.

15.4. The following are examples of conduct that are not authorised by these Terms:

- (1) publishing or posting any of the Content on any other website, but excluding your personal social media pages;
- (2) providing third parties who are not members of Holixir with passwords or login details to enable them to access any of the Content;
- (3) using the Holixir logo or trademarks, the phrase “Holixir Women’s Wellness”, “Holixir”, “Holixir Pre & Post Natal”, “ Holixir Home of Women’s Wellness”, “Holixir Sun Sweat” and “Holixir Health Suites” (or anything substantially similar), to describe, market, endorse or promote any goods or services (including goods and services similar to the Services); and
- (4) registering or maintaining any social media pages or websites that misrepresent or are reasonably likely to misrepresent any affiliation with, or endorsement by, Holixir.

15.5. If you breach these Terms, your rights to access and use our Content and Website will cease immediately and you must, at our option and at your expense, return to us or destroy any copies of the Content that you have.

15.6. You agree to notify Holixir in writing promptly upon becoming aware of any unauthorised access to or use of the Website or any Content by any party or of any claim that the Website or any of the Content

infringes any copyright, trade mark, or other contractual, statutory or common law rights of any third party.

16. Use of our Website

16.1. When using our Website you must not:

- (1) do anything that interferes with or adversely affects the normal operation or integrity of the Website (including the ability of other users to access the Website);
- (2) use the Website in a way that is unlawful or breaches the intellectual property, privacy or other rights of any other person;
- (3) introduce viruses, trojans, worms, logic bombs or other materials which are malicious or technologically harmful;
- (4) attempt to gain unauthorised access to our Website, our servers, computers or databases;
- (5) perform any indexing, scraping or data mining of the Website; and
- (6) use the Website other than as expressly permitted by these Terms or in a manner authorised by us.

16.2. We may modify, change, suspend, limit or discontinue all or any part of the Website at any time without notice. From time to time we may also need to interrupt access to the Website to perform maintenance. We do not guarantee that our Website will always be available or access will be uninterrupted. We will not be liable to you if for any reason the Website is unavailable at any time or for any period.

16.3. This Website may contain links to other websites, which are provided for convenience only. We have no control over those linked websites or the services made available through them and accept no responsibility for them or for any loss or damage that may arise from your use of them. You may link to the home page of our Website, provided you do not suggest any form of association, approval or endorsement on our part without our express prior permission and you promptly delete the link at our request.

16.4. All Content is provided in good faith. Although we make reasonable efforts to update the information on our Website, you acknowledge that the Content may not be the most current knowledge. To the extent permitted by law we make no representations, warranties or guarantees, whether express or implied, that the Content is accurate, complete or reliable and we make no guarantees of any specific result from use of the Content.

16.5. You acknowledge and agree that any health information provided on the Website is intended for general consumer understanding and education only, and is not intended to be and is not a substitute for professional medical advice. The use of or reliance on any information provided on this Website is solely at your own risk.

16.6. We are not liable for viruses and technological attacks. We do not guarantee that our Website or the Content will be secure or free from bugs or viruses. You must take your own precautions to ensure that the process which you employ for accessing this Website does not expose you to the risk of viruses, malicious computer code or other forms of

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interference which may damage your own computer system.

16.7. We do not warrant and cannot ensure the security of any information which you transmit to us through the Website. Any information which you transmit to us is transmitted at your own risk. Nevertheless, once we receive your transmission, we will take reasonable steps to preserve the security of such information.

16.8. We will try to make sure our Services and Website are available to you when you need them. However, we do not guarantee that our Services or Website will always be available or be uninterrupted. We may suspend, withdraw, discontinue or change all or any part of our Services or Website without notice. We will not be liable to you if for any reason our Services or Website are unavailable at any time or for any period.

17. Liability

17.1. Exercising and the use of our Services and Website may involve the risk of injury and you access our Facility, exercise and use our Services and Website at your own risk. Please monitor your physical condition at all times and exercise to a level that is appropriate given your knowledge of your health and any medical advice you have obtained. If any unusual symptoms occur immediately stop what you are doing and notify a staff member or seek medicate assistance. By entering into this Agreement, and using our Services and Website, you accept these risks.

17.2. We will not be liable for any injury you sustain in the course of exercising or engaging in any recreational activities as part of your use of our Services or our Facility, except to the extent caused by our gross negligence. In this condition:

- (1) *injury* includes:
 - (a) any form of personal injury, including death;
 - (b) physical or mental injury;
 - (c) the aggravation, acceleration or recurrence of a physical or mental injury;
 - (d) the contraction, aggravation or acceleration of a disease; and
 - (e) the coming into existence, the aggravation, acceleration or recurrence of any other condition, circumstance, occurrence, activity, form of behaviour, course of conduct or state of affairs in relation to an individual, that is or may be harmful or disadvantageous to the individual or community, resulting from our failure to comply with a guarantee under consumer protection legislation.
- (2) *gross negligence* in relation to an act or omission, means doing the act or omitting to do an act with reckless disregard, with or without consciousness, for the consequences of the act or omission; and
- (3) *recreational activities* means your participation in a sporting activity or a similar leisure time pursuit or your participation in any other activity that

17.3. To the extent that our Services consist of recreational services or recreational activities within the meaning of the *Competition and Consumer Act (2010)* (Cth) or any State or Territory civil liability or consumer protection legislation, you acknowledge that participating and using those Services may involve risks, including of personal injury and death. Prior to participating in or using those Services, you must assess all the risks involved, including risks that may be caused by your own acts or omissions, your health condition, those of other members and risks that are not known to you or are not readily foreseeable at the time. By participating, you are doing so voluntarily and at your own risk. To the extent permitted and required by law, this is a risk warning pursuant to the various civil liability and consumer protection legislation.

17.4. We will use reasonable care and skill in providing our Services and in operating and maintaining the Website. However, without limitation to conditions 17.2, 17.3 and 17.5 and your statutory rights in relation to the supply of services which cannot be excluded or limited, to the maximum extent permitted by law:

- (1) we exclude all conditions, representations, warranties and statutory guarantees, whether express or implied, in relation to our Services and Website; and
- (2) neither we nor any of our related bodies corporate, their officers, employees, contractors or agents will be liable for any losses, or direct, indirect, consequential, incidental or special damages of any kind out of or in connection with your use of our Services or this Website.

17.5. Nothing in these Terms will be read or applied so as to exclude, restrict or modify or have the effect of excluding, restricting or modifying any condition, warranty, guarantee, right or remedy implied by law (including under the Australian Consumer Law) which cannot by law be excluded, restricted or modified. If such legislation applies, to the extent possible we limit our liability in respect of any claim to, at our option:

- (1) if the breach relates to goods, replacing, repairing or supplying goods equivalent to those goods or paying the cost of replacing or repairing them or acquiring equivalent goods; or
- (2) if the breach relates to services, re-supplying, or paying the cost of re-supplying, those services.

18. Indemnity

You agree to indemnify and keep indemnified Holixir, our officers, employees, contractors and agents against any third party claims and all losses, liabilities and expenses (including legal costs on a solicitor and own client basis) suffered or incurred by us arising out of or in connection with any breach by you of your obligations under these Terms or any act or omission involving your wilful misconduct or negligence, except to the extent that we contributed to any such loss, liability or expense.

19. General

19.1. If we waive any rights available to us under these Terms on one occasion, this does not mean that those rights will automatically be waived on any other occasion.

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- 19.2. If a provision of these Terms is void, illegal or unenforceable, it will be deemed severed without affecting the enforceability of the other terms.
- 19.3. We may transfer our rights and obligations (or both) under your Membership Agreement, or subcontract our obligations under it, to another organisation without giving you notice and you will continue as a Member. If the other organisation fails to provide the same (or equivalent) facilities and services as we provided, you may terminate your Membership Agreement with effect from the end of the current billing period (that is, with effect from the date for which your Membership Fees are paid up until).
- 19.4. These Terms are governed by the laws of New South Wales. You agree to submit to the non-exclusive jurisdiction of the courts of that state. If you access the Services or Website from outside Australia, you are responsible for ensuring compliance with all laws in the place where you are located.

If you have any questions about our Services, a Membership or these Terms, you can contact us by email frontdesk@holixir.com.