

Chuck B Consulting Terms and Conditions of Use of Website and Services

ABN 30 697 916 879

(Updated 7th March 2019)

1 About the Website

- 1.1 Welcome to www.chuckborischats.com (the 'Website'). Chuck B Consulting provides coaching and counselling services to individuals and businesses (the 'Services').
- 1.2 Chuck B Consulting offers this Website and Services including all information and tools available to you, the user, conditioned upon your acceptance of all terms, conditions and policies stated here.
- 1.3 Please read these terms and conditions (the 'Terms') carefully. By using, browsing and/or reading the Website, this signifies that you have read, understood and agree to be bound by the Terms. These Terms of Service apply to all users of the Website and Services, including without limitation users who are browsers, vendors, customers, merchants, and/ or contributors of content. If you do not agree with the Terms, you must cease usage of the Website, and any of Chuck B Consulting's Services, immediately.
- 1.4 Chuck B Consulting reserves the right to review and change any of the Terms by updating this page at its sole discretion. When Chuck B Consulting updates the Terms, it will use reasonable endeavours to provide you with notice of updates to the Terms. Any changes to the Terms take immediate effect from the date of their publication. Before you continue, we recommend you keep a copy of the Terms for your records.

2 Acceptance of the Terms

You accept the Terms by remaining on the Website and/or engaging Chuck B Consulting's Services. You may also accept the Terms by clicking to accept or agree to the Terms where this option is made available to you by Chuck B Consulting in the user interface.

3 Registration to use the Services

- 3.1 In order to access the Services, or other Website information, you will be required to provide personal information about yourself (such as identification or contact details), including but not limited to:
 - a. Name, email address, phone number or address;
 - b. Personal and medical history.
- 3.2 You warrant that any information you give to Chuck B Consulting in the course of completing the registration process will always be accurate, correct and up to date.
- 3.3 Once you have completed the registration process, you agree to be bound by the Terms.
- 3.4 You may not use the Services and may not accept the Terms if:
 - a. you are not of legal age to form a binding contract with Chuck B Consulting; or
 - b. you are a person barred from receiving the Services under the laws of Australia or other countries including the country in which you are resident or from which you use the Services.

4 Modifications to the Services and Prices

Prices for Products and Services are subject to change without notice. Chuck B Consulting reserves the right at any time to modify or discontinue the Service (or any part or content thereof) without notice. Chuck B Consulting shall not be liable to you or to any third-party for any modification, price change, suspension or discontinuance of the Service.

5 Products or Services

Certain products or services may be available exclusively online through the website. These products or services are subject to return only according to Chuck B Consulting's Refund Policy (see 8 below).

Chuck B Consulting reserves the right, but is not obligated, to limit the sales of our products or Services to any person, geographic region or jurisdiction, on a case-by-case basis. Chuck B Consulting reserves the right to limit the quantities of any products or services offered. All descriptions of products or product pricing are subject to change at any-time without notice, at Chuck B Consulting's sole discretion.

Chuck B Consulting does not warrant that the quality of any products, services, information, or other material purchased or obtained by you will meet your expectations or that any errors in the Service will be corrected.

6 Your obligations

6.1 You agree to comply with the following:

- a. you will use the Services or the Website only for purposes that are permitted by:
 - (i) the Terms; and
 - (ii) any applicable law, regulation or generally accepted practices or guidelines in the relevant jurisdictions;
- b. access and use of the Website is limited, non-transferable and allows for the sole use of the Website by you and for the purposes of Chuck B Consulting providing the Services;
- c. you will not use the Services or the Website in connection with any commercial endeavours except those that are specifically endorsed or approved by the management of Chuck B Consulting;
- d. you will not use the Services or Website for any illegal and/or unauthorised use which includes collecting email addresses of Members by electronic or other means for the purpose of sending unsolicited email or unauthorised framing of or linking to the Website;
- e. you agree that appropriate legal action will be taken by Chuck B Consulting for any illegal or unauthorised use of the Website.

7 Payment and Billing

7.1 Where the option is given to you, you may make payment for the Services (the 'Services Fee') by way of:

- a. Electronic funds transfer ('EFT') into the nominated bank account
- b. Credit Card Payment ('Credit Card')
- c. Debit Card Payment ('Debit Card')

- d. Cash ('Cash')
- e. Cheque ('Cheque')
- f. PayPal Australia Pty Limited (ABN 93 111 195 389) ('PayPal')

- 7.2 Card Payments made in the course of your use of the Services may be processed using Paypal or Square ('Square'). In using the Website, the Services or when making any payment in relation to your use of the Services, you warrant that you have read, understood and agree to be bound by the Paypal or Square terms and conditions which are available on their websites.
- 7.3 You acknowledge and agree that where a request for the payment of the Services Fee is returned or denied, for whatever reason, by your financial institution or is unpaid by you for any other reason, then you are liable for any costs, including banking fees and charges, associated with the Services Fee.
- 7.4 You agree and acknowledge that Chuck B Consulting can vary the Services Fee at any time.
- 7.5 Chuck B Consulting reserves the right to refuse any order you place. These restrictions may include orders placed by or under the same customer account, the same credit card, and/or orders that use the same billing and/or shipping address.

8 Refund Policy

Chuck B Consulting will only provide you with a refund of the Services Fee in the event of inability to continue to provide the Services or if Chuck B Consulting makes a decision, at its absolute discretion, that it is reasonable to do so under the circumstances ('Refund').

9 Errors, Inaccuracies and Omissions

Occasionally there may be information on our site or in the Service that contains typographical errors, inaccuracies or omissions that may relate to product descriptions, pricing, promotions, offers, and availability. Chuck B Consulting reserves the right to correct any errors, inaccuracies or omissions, and to change or update information or cancel orders if any information in the Service or on any related Website is inaccurate at any time without prior notice (including after you have submitted your order).

Chuck B Consulting undertakes no obligation to update, amend or clarify information in the Service or on any related website, including without limitation, pricing information, except as required by law. No specified update or refresh date applied in the Service or on any related website, should be taken to indicate that all information in the Service or on any related website has been modified or updated.

10 Copyright and Intellectual Property

- 10.1 The Website, the Services and all of the related products of Chuck B Consulting are subject to copyright. The material on the Website is protected by copyright under the laws of Australia and through international treaties. Unless otherwise indicated, all rights (including copyright) in the Services and compilation of the Website (including but not limited to text, graphics, logos, video images, audio clips, Website, code, scripts, design elements and interactive features) or the Services are owned or controlled for these purposes, and are reserved by Chuck B Consulting or its contributors.
- 10.2 All trademarks, service marks and trade names are owned, registered and/or licensed by Chuck B Consulting, who grants to you a worldwide, non-exclusive, royalty-free, revocable license whilst you are a Member to:
- a. use the Website pursuant to the Terms;

- b. copy and store the Website and the material contained in the Website in your device's cache memory; and
- c. print pages from the Website for your own personal and non-commercial use.

Chuck B Consulting does not grant you any other rights whatsoever in relation to the Website or the Services. All other rights are expressly reserved by Chuck B Consulting.

10.3 Chuck B Consulting retains all rights, title and interest in and to the Website and all related Services. Nothing you do on, or in relation to, the Website will transfer any:

- a. business name, trading name, domain name, trade mark, industrial design, patent, registered design or copyright, or
- b. a right to use or exploit a business name, trading name, domain name, trade mark or industrial design, or
- c. a thing, system or process that is the subject of a patent, registered design or copyright (or an adaptation or modification of such a thing, system or process),

to you.

10.4 You may not, without the prior written permission of Chuck B Consulting and the permission of any other relevant rights owners: broadcast, republish, up-load to a third party, transmit, post, distribute, show or play in public, adapt or change in any way the Services or third party Services for any purpose, unless otherwise provided by these Terms. This prohibition does not extend to materials on the Website which are freely available for re-use or are in the public domain.

11 Privacy

Chuck B Consulting takes your privacy seriously and any information provided through your use of the Website and/or Services are subject to Chuck B Consulting's Privacy Policy, available on the Website.

12 General Disclaimer

12.1 Nothing in the Terms limits or excludes any guarantees, warranties, representations or conditions implied or imposed by law, including the Australian Consumer Law (or any liability under them) which by law may not be limited or excluded.

12.2 Refer to the Website Disclaimer, available on the Chuck B Consulting website for specific details regarding website usage terms.

12.3 Subject to this clause, and to the extent permitted by law:

- a. all terms, guarantees, warranties, representations or conditions which are not expressly stated in the Terms are excluded; and
- b. Chuck B Consulting will not be liable for any special, indirect or consequential loss or damage (unless such loss or damage is reasonably foreseeable resulting from our failure to meet an applicable Consumer Guarantee), loss of profit or opportunity, or damage to goodwill arising out of or in connection with the Services or these Terms (including as a result of not being able to use the Services or the late supply of the Services), whether at common law, under contract, tort (including negligence), in equity, pursuant to statute or otherwise.

- 12.4 Use of the Website and the Services is at your own risk. Everything on the Website and the Services is provided to you "as is" and "as available" without warranty or condition of any kind. None of the affiliates, directors, officers, employees, agents, contributors and licensors of Chuck B Consulting make any express or implied representation or warranty about the Services or any products or Services (including the products or Services of Chuck B Consulting) referred to on the Website. This includes (but is not restricted to) loss or damage you might suffer as a result of any of the following:
- a. failure of performance, error, omission, interruption, deletion, defect, failure to correct defects, delay in operation or transmission, computer virus or other harmful component, loss of data, communication line failure, unlawful third party conduct, or theft, destruction, alteration or unauthorised access to records;
 - b. the accuracy, suitability or currency of any information on the Website, the Services, or any of its Services related products (including third party material and advertisements on the Website);
 - c. costs incurred as a result of you using the Website, the Services or any of the products of Chuck B Consulting; and
 - d. the Services or operation in respect to links which are provided for your convenience.

13 Limitation of liability

- 13.1 Chuck B Consulting's total liability arising out of or in connection with the Services or these Terms, however arising, including under contract, tort (including negligence), in equity, under statute or otherwise, will not exceed the resupply of the Services to you.
- 13.2 You expressly understand and agree that Chuck B Consulting, its affiliates, employees, agents, contributors and licensors shall not be liable to you for any direct, indirect, incidental, special consequential or exemplary damages which may be incurred by you, however caused and under any theory of liability. This shall include, but is not limited to, any loss of profit (whether incurred directly or indirectly), any loss of goodwill or business reputation and any other intangible loss.

14 Termination of Contract

- 14.1 The Terms will continue to apply until terminated by either you or by Chuck B Consulting as set out below. Your notice should be sent, in writing, to Chuck B Consulting via the 'Contact' form or email provided on the Website.
- 14.2 If you want to terminate the Terms, you may do so by:
- a. providing Chuck B Consulting with 7 days' notice of your intention to terminate; and
 - b. closing your accounts for all of the services which you use, where Chuck B Consulting has made this option available to you.
- 14.3 Chuck B Consulting may at any time, terminate the Terms with you if:
- a. you have breached any provision of the Terms or intend to breach any provision;
 - b. Chuck B Consulting is required to do so by law;
 - c. the provision of the Services to you by Chuck B Consulting is, in the opinion of Chuck B Consulting, no longer commercially viable.
- 14.4 Subject to local applicable laws, Chuck B Consulting reserves the right to discontinue or cancel your access to the Website or Services at any time and may suspend or deny, in its sole discretion, your access

to all or any portion of the Website or the Services without notice if you breach any provision of the Terms or any applicable law or if your conduct impacts Chuck B Consulting's name or reputation or violates the rights of those of another party.

15 Indemnity

- 15.1 You agree to indemnify Chuck B Consulting, its affiliates, employees, agents, contributors, third party content providers and licensors from and against:
- a. all actions, suits, claims, demands, liabilities, costs, expenses, loss and damage (including legal fees on a full indemnity basis) incurred, suffered or arising out of or in connection with Your Content;
 - b. any direct or indirect consequences of you accessing, using or transacting on the Website or attempts to do so; and/or
 - c. any breach of the Terms.

16 Dispute Resolution

- 16.1 Compulsory: If a dispute arises out of or relates to the Terms, either party may not commence any Tribunal or Court proceedings in relation to the dispute, unless the following clauses have been complied with (except where urgent interlocutory relief is sort).
- 16.2 Notice: A party to the Terms claiming a dispute (**'Dispute'**) has arisen under the Terms, must give written notice to the other party detailing the nature of the dispute, the desired outcome and the action required to settle the Dispute.
- 16.3 Resolution: On receipt of that notice (**'Notice'**) by that other party, the parties to the Terms (**'Parties'**) must:
- a. Within 14 days of the Notice endeavour in good faith to resolve the Dispute expeditiously by negotiation or such other means upon which they may mutually agree;
 - b. If for any reason whatsoever, 14 days after the date of the Notice, the Dispute has not been resolved, the Parties must either agree upon selection of a mediator or request that an appropriate mediator be appointed by the President of the Australian Mediation Association or similar, or his or her nominee;
 - c. The Parties are equally liable for the fees and reasonable expenses of a mediator and the cost of the venue of the mediation and without limiting the foregoing undertake to pay any amounts requested by the mediator as a pre-condition to the mediation commencing. The Parties must each pay their own costs associated with the mediation;
 - d. The mediation will be held in Western Australia, Australia.
- 16.4 Confidential: All communications concerning negotiations made by the Parties arising out of and in connection with this dispute resolution clause are confidential and to the extent possible, must be treated as "without prejudice" negotiations for the purpose of applicable laws of evidence.
- 16.5 Termination of Mediation: If 1 month has elapsed after the start of a mediation of the Dispute and the Dispute has not been resolved, either Party may ask the mediator to terminate the mediation and the mediator must do so.

17 Venue and Jurisdiction

The Services offered by Chuck B Consulting is intended to be viewed by residents of Australia. In the event of any dispute arising out of or in relation to the Website, you agree that the exclusive venue for resolving any dispute shall be in the courts of Western Australia, Australia.

18 Independent Legal Advice

Both parties confirm and declare that the provisions of the Terms are fair and reasonable and both parties having taken the opportunity to obtain independent legal advice and declare the Terms are not against public policy on the grounds of inequality or bargaining power or general grounds of restraint of trade.

19 Governing Law

The Terms are governed by the laws of Western Australia and Australia. Any dispute, controversy, proceeding or claim of whatever nature arising out of or in any way relating to the Terms and the rights created hereby shall be governed, interpreted and construed by, under and pursuant to the laws of Western Australia and Australia, without reference to conflict of law principles, notwithstanding mandatory rules. The validity of this governing law clause is not contested. The Terms shall be binding to the benefit of the parties hereto and their successors and assigns.

20 Severance

You expressly understand and agree to submit to the personal and exclusive jurisdiction of the courts of the country, state, province or territory determined solely by Chuck B Consulting to resolve any legal matter arising from this agreement or related to your use of Chuck B Consulting. If the court of law having jurisdiction, rules that any provision of the agreement is invalid, then that provision will be removed from the Terms and the remaining Terms will continue to be valid.

21 Entire Agreement

You understand and agree that the above Terms constitute the entire general agreement between you and Chuck B Consulting. You may be subject to additional Terms and Conditions when you use, purchase or access other services, affiliate services or third-party content or material.

22 Changes to the Terms

Chuck B Consulting reserves the right to modify these Terms from at our sole discretion and without any notice. Changes to Terms become effective on the date they are posted and your continued use of the Website or Services after any changes to Terms will signify your agreement to be bound by them.

For any questions or notice, please contact Chuck B Consulting:

Email: chuck@chuckborischats.com

Phone: 0402 720 775