

Cheyenne Oosthuizen T/A Kynd Nutrition

# Privacy Notice

For: Customers, Contractors, Suppliers, Visitors, and users of our website

Last Updated: 28 September 2022

Please read this Privacy Notice carefully to understand how we handle your personal information. If you do not agree with this Privacy Notice, please do not use our website and/or services.

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## 1. INTRODUCTION

This Notice applies to the business activities of the Kynd Nutrition. This Notice refers to them as “we”, “us” and “our”.

We are a sole proprietorship trading in accordance with the laws of the Republic of South Africa.

Our offices are at: 24 Hans Strijdom Ave, Cape Town City Centre, Cape Town, 8000, South Africa.

## 2. CONTACT US

Privacy queries and requests are handled by our Information Officer. You may contact our Information Officer to discuss this Privacy Notice, your data protection rights, and to raise any complaints with us. Further contact information and contact forms are available in our PAIA Manual.

- **Email Address:** **cheyenne@kyndnutrition.co.za**
- **Telephone No.:** **082 877 6767**

## 3. OUR SERVICES

We offer:

- one on one online nutrition consultations,
- nutrition programmes and packages,
- medical nutrition therapy, and
- related products and services.

(“our Services”).

## 4. WHO DOES THIS NOTICE COVER?

This Privacy Notice doesn’t govern all the information we may process. This Notice only applies to:

- users of our website;
- users and recipients of our Services;
- our potential and existing customers;
- our suppliers and contractors; and
- visitors to our offices.

This Notice must be read with any other documents, agreements, consent forms and privacy notices that describe how we process your personal information. If there is any conflict, the terms of the specific document will apply

## 5. WHAT PERSONAL INFORMATION DO WE COLLECT?

If we collect, receive, record, organise, store, update, change, analyse, use and share your personal information, we are “**processing**” your personal information.

The personal information we collect may differ according to the Services you receive from us. We may process various categories of personal information as follows:

<b>Customer booking Information</b>	<ul style="list-style-type: none"> <li>▪ Your name</li> <li>▪ Telephone number</li> <li>▪ Email address</li> </ul>	<ul style="list-style-type: none"> <li>▪ Identity Number</li> <li>▪ Physical address</li> </ul>
<b>Delivery Information</b>	<ul style="list-style-type: none"> <li>▪ billing address, delivery address, physical address.</li> </ul>	
<b>Financial Information</b>	<ul style="list-style-type: none"> <li>▪ payment card details.</li> <li>▪ Proof of payment (account details)</li> </ul>	We manage payment card details in compliance with PCI DSS.
<b>Consultation Details</b>	<ul style="list-style-type: none"> <li>▪ Correspondence with us</li> <li>▪ Order or booking forms</li> </ul>	<ul style="list-style-type: none"> <li>▪ Health data disclosed to us relevant to the Services</li> <li>▪ Electronic signature</li> </ul>
<b>Health data</b>	<p>information about a customer's health and wellbeing disclosed by them to us, such as</p> <ul style="list-style-type: none"> <li>▪ health conditions or diseases,</li> <li>▪ dietary information and preferences,</li> <li>▪ past and existing diagnosis, lab results, treatments, prescriptions, chronic medication, supplements, herbals, and dosages,</li> <li>▪ other physical and emotional characteristics to the extent that they are relevant to protecting the customer's best interests,</li> <li>▪ Referral letter from another health practitioner,</li> </ul>	<ul style="list-style-type: none"> <li>▪ Lifestyle and habits such as fitness and stress levels, and consumption of alcohol, tobacco, and banned or illegal products, to the extent that they may associate with or contribute to or worsen the relevant condition,</li> <li>▪ Blood test results,</li> <li>▪ Consult notes,</li> <li>▪ Supplementation and medication details if necessary,</li> <li>▪ Medical aid or health insurance membership to the extent that the customer wishes to claim from them for our services.</li> </ul>
<b>Technical Information</b>	<p>including your:</p> <ul style="list-style-type: none"> <li>▪ internet protocol (IP) address,</li> <li>▪ browser type and version,</li> <li>▪ time zone setting and location,</li> <li>▪ operating system and platform</li> </ul>	On the devices you use to access our website, products or Services.
<b>Usage Information</b>	including any information you voluntarily share with us.	That is relevant to your experience of using our products and Services.
<b>Marketing and Communications Information</b>	your email address in respect of receiving marketing or sales information from us.	Your communication preferences.

## 6. SPECIAL PERSONAL INFORMATION

We may process specific Health data when it is necessary for us to protect your best interests in providing you with our Services as a registered dietitian. Religious beliefs and preferences may be processed only to the extent that it concerns your dietary requirements. If we need to, we will do so in the ordinary course of our business, for a lawful purpose, and per applicable laws.

## 7. HOW WE COLLECT PERSONAL INFORMATION?

You directly provide us with most of the **personal information** we process. We collect and process **personal information** in the following ways, namely:

- through direct interactions with you;
- through passive or automated collections;
- while supplying our Services to you or your business, including when you register as a customer to use any of our Services or you opt-in to receiving any direct marketing from us;
- from third parties, where needed and allowed.

### 7.1. Direct collection

We collect personal information about you when you:

- (a) **enquire** about or **contract** with us for our Services;
- (b) access our **website**;
- (c) **contact us**, or otherwise interact with us. For example:
  - via email, consultations, telephone calls and other electronic communications;
  - when you fill in forms or registers online or offline, or make any purchases with us;
  - when you voluntarily complete a survey, provide feedback or ask for marketing information to be sent to you.

If you contact us, we reserve the right to retain a record of that correspondence or video call, which may include personal information.

The **personal information** we collect from you may include any of the categories listed in **section 5** above depending on what will be necessary to perform the Services.

### 7.2. Passive (automated) collection

- (a) We may passively collect certain categories of your personal information from the devices that you use to access and navigate our website or use to join our meeting links ("**Access Devices**").
- (b) The categories of personal information we passively collect from your Access Device may include your:
  - Technical Information; and
  - Usage Information.

### 7.3. Collection from third parties

We may also receive your personal information indirectly from, among others, the following sources (including public parties):

- (a) our information technology suppliers;

- (b) third party social networks (such as Facebook and Google);
- (c) advertising interactions (if you interact with on one of our ads on a third party website, we may receive information about that interaction);
- (d) from other responsible parties where we act as contracted outsourced processors (“**Operators**”) or co-responsible parties in performing our Services, including:

▪ other health professionals	▪ telehealth platforms
▪ software and server suppliers	▪ telecommunications providers
▪ medical schemes and insurers	

When we collect your Personal Data from third parties it is either because you have given us express consent to do so, your consent was implied by your actions, or because you provided consent, either explicit or implicit, to the third party that provided this data to us.

## 8. WHY WE USE YOUR PERSONAL INFORMATION

### 8.1. Consent

- we will collect, store, use data about your health and well-being as described in this Notice and the relevant consent form to provide dietitian services to you.
- where required by law, we may process your email address for marketing purposes.
- You may withdraw your consent at any time after giving it by clicking unsubscribe on the marketing communication received or by emailing our Information Officer.

### 8.2. Contract

We process your personal information if it is necessary to enter into or perform under a contract that we have with you as a customer or to provide a solution to you as a customer. This includes to:

- **identify** you;
- **provide** you with **our Services**;
- **manage a product or service purchased** by you;
- process **your requests, orders or instructions**;
- **collect payments** for our Services rendered;
- **respond** to your enquiries and complaints;
- meet record-keeping **obligations**;
- **enforce** any agreement we have with you
- **transfer** limited and necessary personal information **to our contracted service providers** (such **cloud storage providers**) to perform our obligations to you;
- **check** the **accuracy** of your personal information; and
- achieve other related and lawful purposes brought to your attention.

### 8.3. By law

We process customer's personal information if the law requires or allows it. This includes to:

- **verify** your **identity** and **age** to comply with legislative, regulatory, professional, risk and compliance requirements;
- **comply** with our **legal obligations** concerning health records, and insurance;
- **fulfil** reporting requirements and **data subject access requests**; and
- meet our record-keeping **obligations**;

### 8.4. Legitimate interests

We process personal information when it is necessary to pursue your legitimate interests or our legitimate interests. This includes to:

- **answer** any requests or questions you might have;
- **provide** you with information about the things we create or do;
- **assess our transactional risk** and your likelihood of defaulting on any credit terms;
- detect, prevent and investigate fraud, security breaches, misuse, and other **prohibited or illegal activity**, claims and liabilities;
- **protect our rights** in any litigation that may involve you;
- **enforce** and **defend other legal claims**;
- manage **business continuity** and emergencies;
- analyse and **gather metrics** to better understand how you use our website and Services, and to evaluate and improve them; and
- achieve other purposes described to you when collecting your information.

### 8.5. Third-party collection

If we collect your personal information from third parties it is because such third parties have:

- **authorised or instructed** us to do so; and
- have represented to us (either express or implied) that:
  - ⊕ their instructions are lawful;
  - ⊕ they are allowed to disclose such personal information to us;
  - ⊕ **they will**, where required by law, **obtain** the necessary **consent** or **justify** the necessary interests pursued, and provide all necessary privacy notices to you as a data subject.

We use your personal information only for the purpose for which it was originally collected by the relevant Responsible Party and strictly following their instructions and authorisation.

## 8.6. Further processing limitation

We will not collect additional categories of personal information or use the personal information we collected for materially different, unrelated, or incompatible purposes without providing you and our customers notice.

## 9. CONSEQUENCES OF NOT SHARING COMPULSORY INFORMATION WITH US

Where we must process certain personal information by law, or in terms of a contract that we have entered into with you, and you fail to provide such personal information when requested to do so, we may be unable to perform in terms of the contract in place or are trying to enter into with you. In such a case, we may be required to terminate the contract or relationship with you, upon due notice to you. Consequences concerning our dietitian related services are disclosed in our Ts and Cs and consent forms.

## 10. AUTOMATED DECISIONS ABOUT YOU

We do not use your personal information to make any automated decisions about you.

## 11. DISCLOSURE OF PERSONAL INFORMATION

We may provide access to and disclose your personal information for legitimate business purposes, following applicable law and subject to applicable regulatory requirements on confidentiality and appropriate data protection measures.

**We may disclose** your personal information in the following ways:

### 11.1. Service Providers to carry out the Services to you

We provide limited access to or share limited data with our Service Providers who use the data to perform part of the Services on our behalf, and whose help we need to conduct our business operations and that:

- have agreed to apply similar or higher levels of protection to your data; and
- are not authorised by us to use or disclose the data except as strictly necessary to perform the services on our behalf as instructed or to comply with legal or professional requirements.

We will only authorise the processing of any personal information by a third party by entering into agreements with those third parties governing our relationship with them and highlighting instructions, confidentiality, security and non-disclosure obligations.

### 11.2. Third parties used to facilitate your booking, for example sharing your email address with a telehealth platform to send you an invite link.

### 11.3. For our protection and others

You acknowledge that we may access, keep and disclose the data we collect and maintain about you if required to do so by law or, in good faith, believe that such access, retention or disclosure is reasonably necessary to:

- comply with legal process (e.g., a subpoena or court order);

- enforce our terms and conditions, this Privacy Notice, or other contracts with you, including investigating any potential violations to such terms and policies;
- respond to claims that any content violates the rights of third parties;
- respond to your requests for customer service; or
- to mitigate any reasonable risk, or to protect the rights, property or personal safety of Kynd Nutrition and our Service providers, its customers or the public. This includes exchanging data with other companies and organizations for fraud protection, and similar purposes.

#### 11.4. **Business transfers**

We may buy, merge, partner with or be acquired by other companies. In such transactions, (including in contemplation of such transactions) customer and user data may be among the transferred assets. If a part or all our assets are sold or transferred to a third party, customer and data (including your contact and identifying data) would likely be one of the transferred business assets. If such transfer is subject to more mandatory restrictions under applicable laws, we will comply with such restrictions.

11.5. **Government departments and regulators** where reporting is mandatory under applicable laws.

11.6. **With your consent**, we may also disclose your data in other ways you direct us to.

## 12. **STORING AND TRANSFER OF PERSONAL INFORMATION**

Generally, the Information we collect about you will be processed in South Africa with the use of cloud servers.

Depending on the circumstances, we may collect or transfer personal information to other countries to perform in terms of a contract with you. We will endeavour to apply suitable safeguards to protect the privacy and security of your personal information.

We reserve the right to transfer to and/or store your personal information (other than your Health data) on servers in a jurisdiction other than where it was collected, and in a jurisdiction that may not have comparable data protection legislation to South Africa. If we do, we will take reasonable steps to ensure that your personal information is protected in that jurisdiction.

## 13. **SECURITY AND INTEGRITY**

We will take reasonable technical and organisational steps to protect all personal information held by us in line with industry best practices, including protection against accidental or unlawful destruction, accidental loss or alteration, and unauthorised disclosure or access. This includes to:

- keep systems secure (such as monitoring access and usage);
- control access to our premises, systems and records on a strict need-to-know basis;
- safely destroy records;
- encrypt and/or password protect sensitive data;
- use firewalls and anti-virus software;
- test the security of our IT systems regularly;



- ensure our payment gateways comply with PCI-DSS; and
- review how we collect, store and use information, including security measures.

We will notify you and the relevant regulatory authorities of any data breaches where we are legally required to do so and within the prescribed period.

#### 14. RETENTION AND DELETION

We will only retain your personal information for as long as it is necessary to fulfil the purposes explicitly set out in this Notice.

If there are no other lawful grounds for us to continue processing your personal information, we will destroy such data using secure methods.

#### 15. INTEGRITY AND AVAILABILITY

We will take reasonable steps to ensure that your personal information is accurate and complete.

Anyone about whom we maintain personal information may request to inspect and, if appropriate, correct the personal information held by us by following our Access to Information Manual. **It is your responsibility to inform us should your personal information be incorrect, incomplete, misleading or out-of-date by contacting us.**

#### 16. DATA MINIMISATION

We will only collect information that is relevant and necessary for us to perform the relevant activity.

We have procedures in place to destroy information given to us by you or a third party that is surplus to our requirements.

#### 17. YOUR DATA PROTECTION RIGHTS

Data protection laws grant you the following rights:

- **Request access to your personal information** – You may ask us free of charge to confirm that we hold your personal information, or ask us to provide you with details, at a fee, how we have processed your data, which can be done by submitting [PAIA Form 2](#) to us;
- **Request the correction of your personal information** – to ensure any incomplete or inaccurate personal information is corrected by submitting [POPI Form 2](#) to us;
- **Request erasure of your personal information** – where there is no lawful basis for the retention or continued processing of your personal information by submitting [POPI Form 2](#) to us;
- **Object to the processing of your personal information for a legitimate interest (or those of a third party)** – under certain conditions where you feel it impacts your fundamental rights and freedoms by submitting [POPI Form 1](#) to us;
- **Request restriction of processing of your personal information** – to restrict or suspend the processing of your personal information to limited circumstances submitting [POPI Form 1](#) to us;

- **Withdraw consent given in respect of the processing of your personal information at any time** – withdrawal of consent will not affect the lawfulness of any processing carried out before your withdrawal notice. It may also not affect the continued processing of your personal information in instances where your consent is not required. To withdraw your consent – email our Information Officer stating that you “*withdraw your consent for National Edging to process your personal information.*”

If an above request/objection is to be made, please use the contact details in [this Notice](#) and we will revert **within 30 calendar days**. The relevant forms to be completed in exercising your rights are also available on the [Information Regulator’s website](#) or in our PAIA Manual.

## 18. CHILDREN

We will not knowingly solicit or collect personal information in respect of children below the age of 18, unless we have parental consent.

## 19. THIRD PARTY OPERATORS

We use external processors (“**Operators**”) for certain activities to assist with our operations. We reserve the right to change our Operators at any time without further notice to you, but we will ensure our Operators are bound by this Privacy Notice and our relevant policies, or similar terms providing the same or higher level of protection. Such external processing activities include, but are not limited to:

- IT systems and infrastructure;
- debt collection services;
- human resources;
- payroll;
- posting and email infrastructure;
- record keeping infrastructure;
- telehealth infrastructure; and
- server hosts and data centres.

Before entering business relationships with our Operators, we go through due diligence checks with them.

## 20. COOKIES

We may place small text files called “cookies” on your device when you visit our website. Cookies do not hold personal information, but they do contain a personal identifier allowing us to affiliate your personal information with a certain device. Cookies serve useful purposes for you, including:

- remembering who you are as a user of our website to remember any preferences you may have selected on our website, such as saving your username and password, or settings (“**functional cookies**”);
- allowing our website to perform their essential functions. Without these cookies, some parts of our website would stop working (“**essential cookies**”). For example, data on error messages displayed to Users will be collected and the developer team will assess and solve it;
- monitoring how our website are performing, and how you interact with it to understand how to improve our website or Services (“**site analytics**”).

See our Cookie Statement for more information on our use of cookies.

Your internet browser may accept cookies automatically and you can delete cookies manually. However, no longer accepting cookies or deleting them may prevent you from accessing certain aspects of our website where cookies are necessary.

As cookies are stored in the web browser used to access our website, to disable cookies you need to change the settings on that browser. Many websites use cookies and more information is available at: [www.allaboutcookies.org](http://www.allaboutcookies.org).

## 21. **GOVERNING LAW**

This Privacy Notice is governed by South African law.

If any provision of this Privacy Notice is determined to be illegal, void or unenforceable due to applicable law or by order of court, it shall be deemed to be deleted and the continuation in full force and effect of the remaining provisions shall not be prejudiced.

## 22. **CHANGES TO THIS POLICY**

We may amend this Privacy Notice from time-to-time and we will take reasonably practicable steps to inform you when changes are made. Without limiting the manner in which we may inform you, we may notify you by email, or by posting an updated notice on our Website.

## 23. **QUERIES, COMPLAINTS, AND REGULATORS**

If you have any questions or complaints about your privacy rights or this Privacy Notice, please contact our Information Officer (see **CONTACT US**). If you believe our attempts to resolve the issue have been inadequate, you can file a complaint with the South African Information Regulator ([www.inforegulator.org.za](http://www.inforegulator.org.za)).

If you are located outside of South Africa, you may contact the appropriate regulatory authority in your country of domicile.

**ANNEXURE A – DEFINITIONS**

<b>“Operator”</b>	Any person or entity that processes personal information on behalf of a Responsible Party.
<b>“personal information”</b>	Information or data relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person.
<b>“We” / “us” / “our”</b>	Cheyenne Oosthuizen trading as Kynd Nutrition
<b>“PCI DSS”</b>	Payment Card Industry Data Security Standard
<b>“Responsible Party”</b>	The entity that decides how and why personal information is Processed. Responsible Parties may instruct Operators to processes personal information on their behalf.
<b>“Service Provider”</b>	Third party providers of various services with whom we engage, including, but not limited to, providers of information technology, communication, file storage, data storage, copying, printing, distribution/logistics, accounting or auditing services, counsel, investigators, attorneys, professional advisors, and our insurers.
<b>“special personal information”</b>	personal information about health, dietary requirements, race or ethnicity, political opinions, religious or philosophical beliefs, trade union membership, physical or mental health, sexual life or orientation, any actual or alleged criminal offences or penalties, or any other data that may be deemed to be sensitive under applicable law.
<b>“Website”</b>	<a href="https://www.kyndnutrition.co.za/">https://www.kyndnutrition.co.za/</a>