

1. **Definitions**
    - 1.1 "DTS" shall mean DTS Worldwide Pty Ltd T/A DTS International Sydney, its successors and assigns or any person acting on behalf of and with the authority of DTS Worldwide Pty Ltd T/A DTS International Sydney.
    - 1.2 "Client" shall mean the Client (or any person acting on behalf of and with the authority of the Client) as described on any quotation, work authorisation or other form as provided by DTS to the Client.
    - 1.3 "Guarantor" means that person (or persons) who agrees to be liable for the debts of the Client on a principal debtor basis.
    - 1.4 "Goods" shall mean all goods supplied by DTS to the Client (and where the context so permits shall include any supply of Services as hereinafter defined) and are as described on the invoices, quotation, work authorisation or any other forms as provided by DTS to the Client.
    - 1.5 "Services" shall mean all Services supplied by DTS to the Client and includes any advice or recommendations (and where the context so permits shall include any supply of Goods as defined above).
    - 1.6 "Price" shall mean the Price payable for the Goods as agreed between DTS and the Client in accordance with clause 4 of this contract.
  2. **The Competition and Consumer Act 2010 ("CCA") and Fair Trading Acts ("FTA")**
    - 2.1 Nothing in this agreement is intended to have the effect of contracting out of any applicable provisions of the CCA or the FTA in each of the States and Territories of Australia (including any substitute to those Acts or re-enactment thereof), except to the extent permitted by those Acts where applicable.
    - 2.2 Where the Client buys Goods as a consumer these terms and conditions shall be subject to any laws or legislation governing the rights of consumers and shall not affect the consumer's statutory rights.
  3. **Acceptance**
    - 3.1 Any instructions received by DTS from the Client for the supply of Goods and/or the Client's acceptance of Goods supplied by DTS shall constitute acceptance of the terms and conditions contained herein.
    - 3.2 Where more than one Client has entered into this agreement, the Clients shall be jointly and severally liable for all payments of the Price.
    - 3.3 Upon acceptance of these terms and conditions by the Client the terms and conditions are binding and can only be amended with the written consent of DTS.
    - 3.4 The Client shall give DTS not less than fourteen (14) days prior written notice of any proposed change of ownership of the Client or any change in the Client's name and/or any other change in the Client's details (including but not limited to, changes in the Client's address, facsimile number, or business practice). The Client shall be liable for any loss incurred by DTS as a result of the Client's failure to comply with this clause.
    - 3.5 Goods are supplied by DTS only on the terms and conditions of trade herein to the exclusion of any other terms, conditions or warranties that may apply, notwithstanding that any such order is placed on terms that purport to override these terms and conditions of trade.
    - 3.6 These terms and conditions are meant to be read in conjunction with DTS's Distributor/Partner Agreement (where applicable) if there are any inconsistencies between the two documents then the terms and conditions contained in this document shall prevail.
  4. **Price and Payment**
    - 4.1 At DTS's sole discretion the Price shall be either:
      - (a) as indicated on invoices provided by DTS to the Client in respect of Goods supplied; or
      - (b) DTS's current price at the date of delivery of the Goods according to DTS's current Price list; or
      - (c) DTS's quoted price (subject to clause 4.2) which shall be binding upon DTS provided that the Client shall accept DTS's quotation in writing within thirty (30) days.
    - 4.2 DTS reserves the right to change the Price in the event of:
      - (a) increases to DTS in the cost of purchasing Goods from its suppliers (including, but not limited to, increases due to fluctuation in currency exchange rates); or
      - (b) the Client requesting a variation to DTS's original quotation (e.g. increases or decreases in the amount of Goods to be provided, the number of participants attending any workshop or seminar, or any other changes to the Services which were agreed to or being requested). DTS may at its discretion invoice separately for any such variations.
    - 4.3 At DTS's sole discretion a deposit may be required.
    - 4.4 At DTS's sole discretion:
      - (a) payment shall be due before the delivery of Goods or before the release of profile; or
      - (b) payment for certain approved Clients shall be due either
        - (i) seven (7) days following the date of the invoice; or
        - (ii) monthly (based on usage during the previous month) with payment to be made by credit card deduction, which deduction shall be made usually within the first 2-4 working days of each month.
    - 4.5 Payment may be made by cheque, bank cheque, credit card (plus a surcharge of up to two percent for Visa or Mastercard, or up to three and a half percent (3.5%) of the Price for Amex (Diners cards are not accepted), direct credit, or by any other method as agreed to between the Client and DTS. DTS may at its sole discretion waive the credit card surcharge for approved Clients.
    - 4.6 GST and other taxes and duties that may be applicable shall be added to the Price except when they are expressly included in the Price.
  5. **Special Discounts**
    - 5.1 DTS may run discount promotions where the Client will need to comply with certain criteria in order to qualify for the discount(s) offered. In the event that a Client takes advantage of such a promotion and then subsequently breaches or fails to comply with all applicable criteria then DTS reserves the right to charge the Client the full standard retail Price that would have been payable for the Goods as if a discount had never been offered.
    - 5.2 Where DTS agrees to create or customise Goods for a Client then the Client shall be required to sign off/approve the customised Goods before DTS will commence production of the same. Once approved clause 15.3 below shall apply in relation to those Goods.
    - 5.3 The Client acknowledges and accepts that it is a requirement when purchasing a profile that the Client provides each respondent to a profile with a copy of the profile result (the "Instrument") and appropriate feedback. The feedback is only to be provided to the respondent by a DTS accredited psychometric professional who has the appropriate accreditation relevant to the particular profile and subsequent Instrument provided to the respondent.
  6. **Delivery of Goods**
    - 6.1 Delivery of the Goods shall take place when the Client takes possession of the Goods at the Client's nominated address.
    - 6.2 At DTS's sole discretion the costs of delivery are:
      - (a) included in the Price; or
      - (b) in addition to the Price; or
      - (c) for the Client's account.
    - 6.3 The Client shall make all arrangements necessary to take delivery of the Goods whenever they are tendered for delivery. In the event that the Client is unable to take delivery of the Goods as arranged then DTS shall be entitled to charge a reasonable fee for redelivery.
    - 6.4 Delivery of the Goods to a third party nominated by the Client is deemed to be delivery to the Client for the purposes of this agreement.
    - 6.5 DTS may deliver the Goods by separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these terms and conditions.
    - 6.6 The failure of DTS to deliver shall not entitle either party to treat this contract as repudiated.
    - 6.7 DTS shall not be liable for any loss or damage whatsoever due to failure by DTS to deliver the Goods (or any of them) promptly or at all, where due to circumstances beyond the control of DTS.
  7. **Risk**
    - 7.1 If DTS retains ownership of the Goods nonetheless, all risk for the Goods passes to the Client or the Guarantor from the time of delivery.
    - 7.2 If any of the Goods are damaged or destroyed following delivery but prior to ownership passing to the Client, DTS is entitled to receive all insurance proceeds payable for the Goods. The production of these terms and conditions by DTS is sufficient evidence of DTS's rights to receive the insurance proceeds without the need for any person dealing with DTS to make further enquiries.
  8. **Title**
    - 8.1 DTS and the Client agree that ownership of the Goods shall not pass until:
      - (a) the Client has paid all amounts owing for the particular Goods; and
      - (b) the Client has met all other obligations due by the Client to DTS in respect of all contracts between DTS and the Client.
    - 8.2 Receipt by DTS of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised and until then DTS's ownership or rights in respect of the Goods shall continue. It is further agreed that:
      - (a) where practicable the Goods shall be kept separate and identifiable until DTS shall have received payment and all other obligations of the Client are met; and
  - (b) until such time as ownership of the Goods shall pass from DTS to the Client DTS may give notice in writing to the Client to return the Goods or any of them to DTS. Upon such notice the rights of the Client to obtain ownership or any other interest in the Goods shall cease; and
  - (c) DTS shall have the right of stopping the Goods in transit whether or not delivery has been made; and
  - (d) if the Client fails to return the Goods to DTS then DTS or DTS's agent may (as the invitee of the Client) enter upon and into land and premises owned, occupied or used by the Client, or any premises where the Goods are situated and take possession of them from the Client; and
  - (e) the Client is only a bailee of the Goods and until such time as DTS has received payment in full for the Goods then the Client shall hold any proceeds from the sale or disposal of the Goods, up to and including the amount the Client owes to DTS for the Goods, on trust for DTS; and
  - (f) the Client shall not deal with the money of DTS in any way which may be adverse to DTS; and
  - (g) the Client shall not charge the Goods in any way nor grant nor otherwise give any interest in the Goods while they remain the property of DTS; and
  - (h) DTS can issue proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods may not have passed to the Client; and
  - (i) until such time that ownership in the Goods passes to the Client, if the Goods are converted into other products, the parties agree that DTS will be the owner of the end products.
9. **Personal Property Securities Act 2009 ("PPSA")**
  - 9.1 In this clause:
    - (a) financing statement has the meaning given to it by the PPSA;
    - (b) financing charge statement has the meaning given to it by the PPSA;
    - (c) security agreement means the security agreement under the PPSA created between the Client and DTS by these terms and conditions; and
    - (d) security interest has the meaning given to it by the PPSA.
  - 9.2 Upon assenting to these terms and conditions in writing the Client acknowledges and agrees that these terms and conditions:
    - (a) constitute a security agreement for the purposes of the PPSA; and
    - (b) create a security interest in:
      - (i) all Goods previously supplied by DTS to the Client (if any);
      - (ii) all Goods that will be supplied in the future by DTS to the Client.
  - 9.3 The Client understands that:
    - (a) promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which DTS may reasonably require to:
      - (i) register a financing statement or financing charge statement in relation to a security interest on the Personal Property Securities Register;
      - (ii) register any other document required to be registered by the PPSA; or
      - (iii) correct a defect in a statement referred to in clause 9.3(a)(i) or 9.3(a)(ii);
    - (b) indemnify, and upon demand reimburse, DTS for all expenses incurred in registering a financing statement or financing charge statement on the Personal Property Securities Register established by the PPSA or releasing any Goods charged thereby;
    - (c) not register a financing charge statement in respect of a security interest without the prior written consent of DTS;
    - (d) not register, or permit to be registered, a financing statement or a financing charge statement in relation to the Goods in favour of a third party without the prior written consent of DTS; and
    - (e) immediately advise DTS of any material change in its business practices of selling the Goods which would result in a change in the nature of proceeds derived from such sales.
  - 9.4 DTS's rights under sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.
  - 9.5 The Client hereby waives its rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.
  - 9.6 The Client waives its rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.
  - 9.7 Unless otherwise agreed to in writing by DTS, the Client waives its right to receive a verification statement in accordance with section 157 of the PPSA.
  - 9.8 The Client shall unconditionally ratify any actions taken by DTS under clauses 9.3 to 9.5.
10. **Security and Charge**
  - 10.1 Despite anything to the contrary contained herein or any other rights which DTS may have whatsoever:
    - (a) where the Client and/or the Guarantor (if any) is the owner of land, realty or any other asset being charged, the Client and/or the Guarantor agree to mortgage and/or charge all of their joint and/or several interest in the said land, realty or any other asset to DTS or DTS's nominee to secure all amounts and other monetary obligations payable under these terms and conditions. The Client and/or the Guarantor acknowledge and agree that DTS (or DTS's nominee) shall be entitled to lodge where appropriate a caveat, which caveat shall be withdrawn once all payments under these terms and conditions have been met;
    - (b) should DTS elect to proceed in any manner in accordance with this clause and/or its sub-clauses, the Client and/or Guarantor shall indemnify DTS from and against all DTS's costs and disbursements including legal costs on a solicitor and own client basis.
    - (c) the Client and/or the Guarantor (if any) agree to irrevocably nominate constitute and appoint DTS or DTS's nominee as the Client's and/or Guarantor's true and lawful attorney to perform all necessary acts to give effect to the provisions of this clause 10.1.
11. **Defects**
  - 11.1 The Client shall inspect the Goods on delivery (irrespective of whether delivered physically or by electronic means) and shall within seven (7) days of delivery (time being of the essence) notify DTS of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Client shall afford DTS an opportunity to inspect the Goods within a reasonable time following delivery if the Client believes the Goods are defective in any way. If the Client fails to do so, then these provisions the Goods shall be presumed to be free from any defect or damage. For defective Goods, which DTS has agreed in writing that the Client is entitled to reject, DTS's liability is limited to either (at DTS's discretion) replacing the Goods or repairing the Goods except where the Client has acquired the Goods as a consumer within the meaning of the Competition and Consumer Act 2010 (CWL10) or the Fair Trading Acts of the relevant state or territories of Australia, and may therefore also be entitled to either a refund of the purchase price of the Goods, or repair of the Goods, or replacement of the Goods.
  - 11.2 Once purchased Goods will under no circumstances be accepted for return other than as is allowed under clause 11.1.
12. **Warranty**
  - 12.1 To the extent permitted by statute, no warranty is given by DTS as to the quality or suitability of the Goods for any purpose and any implied warranty, is expressly excluded. DTS shall not be responsible for any loss or damage to the Goods, or caused by Client's use of the Goods, or any part thereof howsoever arising.
13. **Intellectual Property**
  - 13.1 The intellectual property/copyright in all Goods supplied by DTS to the Client shall remain with DTS, (or where applicable DTS's suppliers and commercial partners) at all times, unless otherwise agreed between the relevant copyright holder and the Client in writing.
  - 13.2 Where DTS has specifically designed, drawn, written or created Goods for the Client, then the intellectual property/copyright in those designs, drawings, documents and other materials shall remain vested in DTS, and shall only be used by the Client at DTS's discretion.
  - 13.3 The Client warrants that all designs or instructions to DTS will not cause DTS to infringe any patent, registered design or trademark in the execution of the Client's order and the Client agrees to indemnify DTS against any action taken by a third party against DTS in respect of any such infringement.
  - 13.4 The Client agrees that DTS may use any documents, designs, drawings or Goods created by DTS for promotional purposes.
14. **Default and Consequences of Default**
  - 14.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at DTS's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
  - 14.2 In the event that the Client's payment (including those relating to payment) DTS shall be liable for any dishonour fees incurred by DTS.
  - 14.3 If the Client defaults in payment of any invoice when due, the Client shall indemnify DTS from and against all costs and disbursements incurred by DTS in pursuing the debt including legal costs on a solicitor and own client basis and DTS's collection agency costs.
  - 14.4 Without prejudice to any other remedies DTS may have, if at any time the Client is in breach of any obligation (including those relating to payment) DTS may suspend or terminate the supply of Goods to the Client and any of its other obligations under the terms and conditions. DTS will not be liable to the Client for any loss or damage the Client suffers because DTS has exercised its rights under this clause.
- 14.5 If any account remains overdue after thirty (30) days then an amount of the greater of twenty dollars (\$20.00) or ten percent (10%) of the amount overdue (up to a maximum of two hundred dollars (\$200.00)) shall be levied for administration fees which sum shall become immediately due and payable.
- 14.6 Without prejudice to DTS's other remedies at law DTS shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to DTS shall, whether or not due for payment, become immediately payable in the event that:
  - (a) any money payable to DTS becomes overdue, or in DTS's opinion the Client has failed to satisfy its payments as they fall due; or
  - (b) the Client becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
  - (c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.
15. **Cancellation**
  - 15.1 DTS may cancel any contract to which these terms and conditions apply or cancel delivery of Goods at any time before the Goods are delivered by giving written notice to the Client. On giving such notice DTS shall repay to the Client any sums paid in respect of the Price. DTS will not be liable for any loss or damage whatsoever arising from such cancellation.
  - 15.2 **Cancellation – Goods Related**
    - In the event that the Client cancels the delivery of Goods the Client shall be liable for any loss incurred by DTS (including, but not limited to, any loss of profits) up to the time of, or as a direct result of, the cancellation.
    - Cancellation of orders for Goods specifically customised, or made to individual Client requirements, will definitely not be accepted once production of those Goods has commenced, and the Client shall remain liable to pay for all the Goods ordered.
  - 15.3 **Cancellation – Services Related**
    - Once DTS has received payment (either a deposit or in full) for any Services which are to be provided by DTS (e.g. a workshop or seminar (the "Event")) and profile costs, workbooks and or other materials have been generated by DTS for the Client, then the Client will remain liable to pay for those Goods (at full retail rates as per clause 15.5) if the Client wishes to cancel the Event for any reason.
    - 15.4 DTS's Services are cancelled after DTS has commenced provision of the same then all Goods, time and resources that are to be charged to the Client shall be invoiced at the full retail rate that DTS would normally apply to such things notwithstanding any discounts originally offered by DTS as such discounts will immediately become voided by the cancellation.
    - 15.5 Subject to the provisions of clauses 15.4 & 15.5 the following shall apply to the cancellation of any Event(s) by the Client:
      - (a) if cancelled less than seven (7) prior to the date of the Event full payment of the Price will be required; or
      - (b) if cancelled seven (7) to fourteen (14) days in advance of the Event then fifty percent (50%) of the Price will payable; or
      - (c) if cancelled more than fourteen (14) but less than thirty (30) days in advance then twenty percent (20%) of the Price will payable; however
      - (d) where multi date Events are scheduled for a Client then a strict thirty (30) day notice period applies to cancellations i.e. the full Price will remain payable for all scheduled Events for which less than thirty (30) days notice is given.
  16. **Privacy Act 1988**
    - 16.1 The Client and/or the Guarantor(s) (herein referred to as the Client) agree for DTS to obtain from a credit reporting agency a credit report containing personal credit information about the Client in relation to credit provided by DTS.
    - 16.2 The Client agrees that DTS may exchange information about the Client with those credit providers either named as referees by the Client or named in a consumer credit report issued by a credit reporting agency for the following purposes:
      - (a) to assess an application by the Client; and/or
      - (b) to notify other credit providers of a default by the Client; and/or
      - (c) to exchange information with other credit providers as to the status of this credit account, where the Client is in default with other credit providers; and/or
      - (d) to assess the creditworthiness of the Client.
    - 16.3 The Client understands that the information exchanged can include anything about the Client's creditworthiness, credit standing, credit history or credit capacity that credit providers are allowed to exchange under the Privacy Act 1988.
    - 16.4 The Client consents to DTS being given a consumer credit report to collect and use for any commercial credit (Section 18K(1)(b) Privacy Act 1988).
    - 16.5 The Client agrees that personal credit information provided may be used and retained by DTS for the following purposes (and for other purposes as shall be agreed between the Client and DTS or required by law from time to time):
      - (a) the provision of Goods; and/or
      - (b) the marketing of Goods by DTS, its agents or distributors; and/or
      - (c) analysing, verifying and/or checking the Client's credit, payment and/or other credit information; and/or
      - (d) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Client; and/or
      - (e) enabling the daily operation of Client's account and/or the collection of amounts outstanding in the Client's account in relation to the Goods.
    - 16.6 DTS may give information about the Client to a credit reporting agency for the following purposes:
      - (a) to obtain a consumer credit report about the Client;
      - (b) allow the credit reporting agency to create or maintain a credit information file containing information about the Client.
    - 16.7 The information given to the credit reporting agency may include:
      - (a) personal particulars (the Client's name, sex, address, previous addresses, date of birth, name of employer and driver's licence number);
      - (b) details concerning the Client's application for credit or commercial credit facilities; and/or
      - (c) advice that DTS is a current credit provider to the Client;
      - (d) advice of any overdue accounts, loan repayments, and/or any outstanding monies owing which are overdue by more than sixty (60) days, and for which debt collection action has been started;
      - (e) that the Client's overdue accounts, loan repayments and/or any outstanding monies are no longer overdue in respect of any default that has been listed;
      - (f) information that, in the opinion of DTS, the Client has committed a serious credit infringement that is fraudulently or shown an intention not to comply with the Client's credit obligations);
      - (g) advice that cheques drawn by the Client for one hundred dollars (\$100) or more, have been dishonoured more than once;
      - (h) that credit provided to the Client by DTS has been paid or otherwise discharged.
  17. **General**
    - 17.1 If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
    - 17.2 If any provisions of these terms and conditions are inconsistent with the PPSA, the PPSA shall prevail to the extent of that inconsistency.
    - 17.3 These terms and conditions and any contract to which they apply shall be governed by the laws of New South Wales and are subject to the jurisdiction of the courts of Sydney, New South Wales, Australia.
    - 17.4 DTS shall be under no liability whatsoever to the Client for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by DTS of these terms and conditions.
    - 17.5 In the event of any breach of this contract by DTS the remedies of the Client shall be limited to damages which under no circumstances shall exceed the Price of the Goods.
    - 17.6 The Client shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Client by DTS nor to withhold payment of any invoice because part of that invoice is in dispute.
    - 17.7 DTS may license or sub-contract all or any part of its rights and obligations without the Client's consent.
    - 17.8 The Client agrees that DTS may review these terms and conditions at any time. If, following any such review, there is to be any change to these terms and conditions, then that change will take effect from the date on which DTS notifies the Client of such change. The Client shall be under no obligation to accept such changes except where DTS supplies further Goods to the Client and the Client accepts such Goods.
    - 17.9 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 responsibility of either party.
    - 17.10 The failure by DTS to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect DTS's right to subsequently enforce that provision.