

**ONLINE TERMS AND CONDITIONS****1. ACCEPTANCE**

**1.1** These Terms and Conditions (**Terms**) are between **Amanda J Daley Pty Ltd ACN 600 639 665**, its successors and assignees (referred to as “**we**”, “**us**” or “**our**”) and you, the person, organisation or entity that purchases products or services from us (referred to as “**you**” or “**your**”), and collectively the Parties.

**1.2** You have requested specific services (**Services**) and/or products (**Products**), described on and able to be ordered via our Website. You accept these Terms by:

- (a) ticking the online acceptance box;
- (b) confirming by email that you accept the Terms;
- (c)
- (d) instructing us to proceed with the Services; or
- (e) paying any Deposit required, or making part or full payment for the Products or Services, set out in our tax invoice to you (**Invoice**).

**1.3** **You agree that these Terms form the agreement under which we will supply Services and Products to you. Please read these Terms carefully.** Please contact us if you have any questions. Purchasing Services or Products from us indicates that you have had sufficient opportunity to read these Terms and contact us if needed, that you have read, accepted and will comply with these Terms, and that you are 18 years or older, or have the consent of a legal guardian who is 18 years or older. You must not order services from us if you are under 18 years of age or do not have the consent of a legal guardian who is 18 years or older. If you do not agree to these Terms, you should not purchase from us.

**1.4** We will not commence performing the Services until you have paid the Deposit or first instalment of our Fees.

**1.5** We will provide a confirmation of account registration when you register on the Website. It is your responsibility to keep your account details confidential. You are liable for all activity on your account, including purchases made using your account details.

**2. SERVICES**

**2.1** We agree to perform the Services with due care and skill.

**2.2** You acknowledge that some of our Services require you to fill out an application on our Website and we shall inform you in writing if your application is accepted.

**2.3** You acknowledge that spaces for participants in respect of our Services can be limited and we

may accept or reject your application at our sole discretion.

**2.4** The estimated period for us to perform the Services is set out on our Website and is subject to change at our sole discretion.

**2.5** The time periods for the provision of our Services may change on notice due to different time zones and daylight saving time at our sole discretion.

**2.6** Some of our Services are provided for a fixed term as set out on our Website and at the end of the fixed term we shall cease providing the Services. It is your responsibility to use our Services provided during the fixed term.

**2.7** Our Services have certain technological and platform requirements in order to participate and you acknowledge that you must organise and pay for and are responsible for any such requirements in order to participate in the Services.

**2.8** Our Services can include group activities with other third party customers. During the provision of the Services, you must not engage in any activity that:

- (a) Infringes the intellectual property rights of any person;
- (b) defames, harasses, threatens, menaces, offends or restricts any person;
- (c) is or could reasonably be considered to be obscene, inappropriate, defamatory, disparaging, indecent, seditious, offensive, pornographic, threatening, abusive, liable to incite racial hatred, discriminatory, blasphemous, in breach of confidence or in breach of privacy; or
- (d) that would bring us into disrepute;
- (e) interferes with or inhibits any user from using the Services; or
- (f) facilitates or assists another person to do any of the above facts.

**2.9** We may provide the Services to you using our employees, contractors and third party providers, and they are included in these Terms.

**2.10** Third parties who are not our employees or our direct contractors (**Third Parties**) will be your responsibility. We are not responsible for the services provided by Third Parties.

**3. PRODUCTS & ORDERS**

**3.1** You may order Products from us as set out on the Website. We may at our discretion accept or reject an order depending on factors including availability of products and our ability to validate payment for the products.

**3.2** It is your responsibility to check the order details, including product and pricing, before you complete your order on the Website.

**3.3** We will provide you with order details, which may include an order number, an order ID, the shipping and billing addresses and a description

of what was ordered, when you order and pay on the Website and your payment has been validated.

**3.4** A binding agreement comes into existence between you and us once we have given you an order number. No changes to these Terms will be effective unless we both agree to the changes in writing

#### **4. PRICE, INVOICING AND PAYMENT**

**4.1** You agree to pay us the amounts set out on our Website, for the chosen Product and/or Services, including any Deposit required, by one of the methods set out on the Website. All amounts are stated as provided on the Website. All amounts include Australian GST (where applicable).

**4.2** If a method of payment for the Services as set out on the Website includes a direct debit payment plan over a period of time (as applicable), it is your responsibility to ensure that your direct deposit details are kept up to date. You must not pay, or attempt to make any payments through any fraudulent or unlawful means. If your payment is not able to be successfully processed then we may cease to provide the Services. You must pay the full amount of the payment plan even where you cease using our Services.

**4.3** You agree to pay our Invoices within the Invoice terms. If an Invoice is unpaid for more than 10 business days we will cease to provide the Services to you until we receive payment of the Invoice.

**4.4** We may charge interest at the rate of 2% per month on any amounts unpaid after the expiry of 7 days after the payment date.

**4.5** If invoices are unpaid for 7 days after the payment date, we have the right to engage debt collection services for the collection of unpaid and undisputed debt, and the right to commence legal proceedings for any outstanding amounts owed to us. You agree to pay any fees and costs incurred by the company associated with the collection of the debt.

**4.6** Our pricing structure, payment methods and these Terms may be amended from time to time at our discretion. The pricing changes will apply to you for Products and Services provided to you after the date of the change. All other changes will apply from the date that the amended or new Terms are posted on our Website or are provided to you, whichever is earlier.

#### **5. YOUR OBLIGATIONS AND WARRANTIES**

**5.1** You warrant that you will not canvass, employ, induce or attempt to employ, induce, solicit or entice away from us, any employee or contractor that was employed by or contracted

to us during the term that we provide Services to you or the prior twelve (12) month period.  
**5.2** You warrant that throughout the term of these Terms that:

- (a) there are no legal restrictions preventing you from agreeing to these Terms;
- (b) you will cooperate with us and provide us with information that is reasonably necessary to enable us to perform the Services as requested by us from time to time, and comply with these requests in a timely manner;
- (c) the information you provide to us is true, correct and complete;
- (d) you will not infringe any third party rights in working with us and receiving the Services;
- (e) you will inform us if you have reasonable concerns relating to our provision of Products or Services under these Terms, with the aim that we and you will use all reasonable efforts to resolve your concerns;
- (f) you are responsible for obtaining any consents, licences and permissions from other parties necessary for the Services to be provided, at your cost, and for providing us with the necessary consents, licences and permissions;
- (g) you consent to the use of your name and Intellectual Property in relation to the Products or Services in a way which may identify you;
- (h) if applicable, you hold a valid ABN which has been advised to us; and
- (i) if applicable, you are registered for GST purposes.

#### **6. OUR INTELLECTUAL PROPERTY**

**6.1** The work and materials that we provide to you in carrying out the Services or providing the Products contains material which is owned by or licensed to us and is protected by Australian and international laws (**Materials**). We own the intellectual property rights in the Materials, Website, business, Products and branding. We own the copyright which subsists in all creative and literary works incorporated into our Materials.

**6.2** You agree that, as between you and us, we own all Intellectual Property rights in our Materials, and that nothing in these Terms constitutes a transfer of any intellectual property rights in our Materials, except as stated in these Terms or with our written permission.

**6.3** Your use of our Materials does not grant you a licence, or act as a right to use any Intellectual Property in the Materials, whether registered or unregistered, except as stated in these Terms or with our written permission.

- 6.4 You must not breach our Intellectual Property rights by, including but not limited to:
- (a) altering or modifying any of the Materials;
  - (b) creating derivative works from the Materials; or
  - (c) using our Materials for commercial purposes such as onsale to third parties.
- 6.5 **Editable files:** Editable files may be supplied to you upon request and full payment by you. These are provided only for the express purpose of the Services, are for personal use only, and must not be disclosed, provided to, or used by any other party, except with our written permission.
- 6.6 **Marketing:** You acknowledge that we may record your voice and video of you for the purpose of and at any time during the provision of the Services (**Footage**). You grant us a non-exclusive, irrevocable, perpetual, worldwide, royalty free, transferable licence to use the Footage and your name and your testimonials in our marketing and promotional activities and materials for the Website, Products and/or Services.
- 7. CONFIDENTIAL INFORMATION**
- 7.1 We, including our employees and contractors, agree not to disclose your Confidential Information to any third party (other than, where necessary, third party suppliers); to use all reasonable endeavours to protect Confidential Information from any unauthorised disclosure; only to use the Confidential Information for the purpose for which it was disclosed by you, to provide better quality services to you, and not for any other purpose.
- 7.2 You, including your employees and contractors, agree not to disclose our Confidential Information to any third party; to use all reasonable endeavours to protect Confidential Information from any unauthorised disclosure; and only to use the Confidential Information for the purpose for which it was disclosed or provided by us to you, and not for any other purpose.
- 7.3 These obligations do not apply to Confidential Information that:
- (a) is authorised to be disclosed;
  - (b) is in the public domain and/or is no longer confidential, except as a result of breach of these Terms;
  - (c) is received from a third party, except where there has been a breach of confidence; or
  - (d) must be disclosed by law or by a regulatory authority including under subpoena.
- 7.4 The obligations under this clause will survive termination of these Terms.
- 8. FEEDBACK**
- 8.1 Your feedback is important to us. We seek to resolve your concerns quickly and effectively. If you have any feedback or questions about the Services, please contact us.
- 9. CANCELLATION AND TERMINATION**
- 9.1 If you have purchased our Services and decide you wish to terminate or cancel your use of our services (despite whether you are paying in full or by instalments over time), you acknowledge and agree that you are still liable to pay the full fees for the Services.
- 9.2 Either Party may terminate these Terms, if there has been a material breach of these Terms, subject to the above dispute resolution procedure.
- 9.3 We may terminate these Terms immediately, at our sole discretion, if:
- (a) we consider that a request for the Products or Service is inappropriate, improper or unlawful;
  - (b) you fail to provide us with clear or timely instructions to enable us to provide the Products or Services;
  - (c) we consider that our working relationship has broken down including a loss of confidence and trust;
  - (d) for any other reason outside our control which has the effect of compromising our ability to perform the work required within the required timeframe; or
  - (e) you fail to pay an Invoice within 7 days of the payment date.
- 9.4 On termination of these Terms you agree that you will be liable for the full cost of the Service as this is a fixed term Service and we will be unable to fill your position in the course. Any Deposit or payments made are not refundable to you, and on termination any remaining fees will immediately become payable to us to compensate us for the reasonable time and expense incurred in providing or preparing the provision of the Services.
- 9.5 On termination of these Terms you agree to promptly return (where possible), or delete or destroy (where not possible to return), our Confidential Information and Intellectual Property, and/or documents containing or relating to our Confidential Information and Intellectual Property.
- 9.6 On termination of these Terms, we agree to promptly return (where possible), or delete or destroy (where not possible to return), your Confidential Information and Intellectual Property, and/or documents containing or relating to your Confidential Information and Intellectual Property.
- 9.7 On completion of the Services, we will retain your documents (including copies) as required by law or regulatory requirements. Your express or implied agreement to these Terms constitutes your authority for us to retain or

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- destroy documents in accordance with the statutory periods, or on termination of these Terms.
- 9.8 The accrued rights, obligations and remedies of the Parties are not affected by the termination of these Terms.
- 10. CONSUMER LAW, LIMITATION OF LIABILITY AND DISCLAIMERS**
- 10.1 **ACL:** Certain legislation including the Australian Consumer Law (**ACL**) in the *Consumer and Competition Act 2010* (Cth), and similar consumer protection laws and regulations may confer you with rights, warranties, guarantees and remedies relating to the provision of Services by us to you which cannot be excluded, restricted or modified (**Statutory Rights**). Our liability is governed solely by the ACL and these Terms.
- 10.2 **Delay:** Where the provision of Services depends on your participation, information, response or technological or platform requirements, we have no liability for a failure to perform the Services in the period set out on our Website where it is affected by your non or limited participation, delay in response, supply of incomplete or incorrect information or any technological issues.
- 10.3 **Information:** While the information and Materials provided to you as part of our Products and/ or Services is believed to be accurate and current, it is provided by us in good faith on an "as is" basis, and we accept no responsibility for and make no representations or warranties to you or to any other person as to the reliability, accuracy or completeness of such information and Materials. It is provided as general business information only, not therapy or counselling or any such similar service, and it does not take into consideration your own circumstances. You are solely responsible for determining the suitability of any of our Products and/or Services, and your reliance on any information and Materials that are provided to you through our Products and/or Services are at your own risk.
- 10.4 **Further Disclaimers:**
- (a) Health Coaches operate in an unregulated industry which is not governed by any industry codes in Australia and we make no representation that we are health practitioners or registered medical professionals and we do not have expertise in diagnosing, examining, or treating medical conditions of any kind. You acknowledge and agree that our Services do not purport to offer any advice that could be construed as medical advice or attempt to diagnose or treat medical conditions or diseases.
- (b) You acknowledge and agree that we, our employees, affiliates and representatives are not responsible for decisions that you may make, or for any consequences, undesired or otherwise, that may flow from your use of the Services.
- (c) It is your sole responsibility to independently verify the information provided during the provision of the Services.
- (d) No information provided by us during the provision of our Services should be construed as providing legal, financial, medical or otherwise professional advice. Use caution and always seek professional advice before acting on any information provided by us.
- (e) We provide online business coaching and education for health coaches, by supplying content, information and providing support, guidance and tools to achieve results, but any decisions made, and the consequences that flow from those decisions, are your sole responsibility. Your success depends on many factors, including your own commitment, dedication, desire, and motivation, your dissemination and application of our education and training to your own circumstances, considering your own personal and professional development, or your capabilities, and the general economic climate.
- (f) You acknowledge that there is an inherent risk and uncertainty in any business enterprise or activity and we cannot and do not make any guarantees about your ability to achieve results or earn any income with the information or documents provided during our Services.
- (g) Any financial representations referenced by us are illustrative of concepts only and should not be considered as promises for actual or future performance.
- (h) We shall not be liable, under any circumstances whatsoever, for any loss of business, profits or goodwill, loss of use or data, interruption of business, or for any indirect, special, incidental or consequential damages of any character, that result in any way from your use of the Services.
- (i) We do not guarantee that our Online courses will be free from external intruders (hackers), virus or worm attacks or any
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- other third party conduct or system failures which are ultimately out of our control.
- 10.5 **Referral:** On request by you, we may provide you with contact details of third party specialists. This is not a recommendation by us for you to seek their advice or to use their services. We make no representation or warranty about the third party advice or provision of services, and we disclaim all responsibility and liability for the third party advice or provision of services, or failure to advise or provide services.
- 10.6 **Warranties:** To the extent permitted by law, we exclude all express and implied warranties, and all material and work is provided to you without warranties of any kind, either express or implied. We expressly disclaim all warranties including but not limited to implied warranties of merchantability and/or fitness for a particular purpose.
- 10.7 **Liability:** To the extent permitted by law, we exclude all express or implied representations, conditions, guarantees and terms relating to the Services and these Terms, except those set out in these Terms, including but not limited to:
- (a) implied or express guarantees, representations or conditions of any kind, which are not stated in these Terms;
  - (b) the Services being unavailable; and
  - (c) any loss, damage, costs including legal costs, or expense whether direct, indirect, incidental, special, consequential and/or incidental, including loss of profits, revenue, production, opportunity, access to markets, goodwill, reputation, use or any indirect, remote, abnormal or unforeseeable loss, or any loss or damage relating to business interruption, or otherwise, suffered by you or claims made against you, arising out of or in connection with your inability to access or use the Services, and the late supply of Services, even if we were expressly advised of the likelihood of such loss or damage.
- 10.8 **Refunds:**
- (a) We do not provide refunds for change of mind.
  - (b) Refunds are not provided for our products and/or Services, whether accessed by you or not, unless we are in breach of the Australian Consumer Law, as set out in Schedule 2 to the Australian and Competition Act, 2010 (Cth).
  - (c) Any initial deposits or final payments paid to us for the provision of Services to you are non-refundable.
- 10.9 **Chargebacks:** Since we have a clear and explicit Refunds policy in this agreement that you have signed prior to completing the purchase of the Program, **we do not tolerate or accept any type of chargeback threat or actual chargeback from your credit card company.** In the event that a chargeback is placed on a purchase or we receive a chargeback threat during or after your purchase, we reserve the right to report the incident to credit reporting agencies or to any other entity for inclusion in any chargeback database or for listing as a delinquent account which could have a negative impact on your credit score. The information reported will include your name, email address, order date, order amount, and billing address. Chargebacks abusers wishing to be removed from the database shall make the payment for the amount of the chargeback.
- 11. LIMITATION OF LIABILITY AND DISCLAIMERS**
- 11.1 While the information and material contained on the Website is believed to be accurate and current, it is provided by us in good faith on an "as is" basis, and we and our directors, officers, employees, contractors and agents accept no responsibility for and make no representations or warranties to you or to any other person as to the reliability, accuracy or completeness of the information contained on the Website.
- 11.2 To the extent permitted by law, we exclude all express or implied representations, conditions, guarantees and terms relating to the Products and Services, the Website and these Terms, except those set out in these Terms, including but not limited to:
- (a) implied or express guarantees, representations or conditions of any kind, which are not stated in these Terms;
  - (b) the Website, the products and services being unavailable; and
  - (c) any loss, damage, costs including legal costs, or expense whether direct, indirect, incidental, special, consequential and/or incidental, including loss of profits, revenue, production, opportunity, access to markets, goodwill, reputation, use or any indirect, remote, abnormal or unforeseeable loss, or any loss or damage relating to business interruption, loss of programs or other data on your information systems or costs of replacement goods, or otherwise, suffered by you or claims made against you, arising out of or in connection with the Website, inability to access or use the Website, the products, the services, the late supply of products, or these Terms, even if we were expressly advised of the likelihood of such loss or damage.

- 11.3 **Limitation:** Our total liability arising out of or in connection with the Products, the Services or these Terms, however arising, including under contract, tort (including negligence), in equity, under statute or otherwise, will not exceed the total price paid by you for the purchase of Products and/or Services under these Terms
- 11.4 This clause will survive termination of these Terms
- 12. INDEMNITY**
- 12.1 You agree to indemnify us and our officers, agents, partners, directors, shareholders and employees and subcontractors, against any direct losses, liabilities, costs, charges or expenses and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses suffered or incurred by us arising out of or in connection with:
- (a) your use of our products and/or Services;
  - (b) any claim made against us or you by a third party arising out of or in connection with the provision of our products, Services and/or these Terms;
  - (c) any breach of these Terms by you, including any failure to pay any fees on time;
  - (d) the circulation, distribution or publication of any information or materials provided by you being contrary to Law;
  - (e) any reliance by you or a third party on our products or Services or any advice or information provided in connection with the provision of our products or Services and/or these Terms; and
  - (f) the enforcement of these Terms.
- 12.2 You must make payments under this clause in full without set-off or counterclaim, and without any deduction in respect of taxes unless prohibited by Law.
- 12.3 We are not responsible, and expressly limit our liability to the extent permitted by Law, which is without limitation to your rights under the Australian Consumer Law, for damages of any kind arising out of use, reference to, or reliance or use on any information contained within our Site or by engaging our Services.
- 12.4 This clause survives the termination of this agreement.
- 13. NO DISPARAGEMENT**
- 13.1 At all times, you must not make any public or private statement or comment, whether oral or in writing, which in our reasonable opinion is adverse to the interest, reputation or commercial standing of or is in any respect a disparaging remark or representation about us and/or any of our services nor any statement that is false and does or has the tendency to damage our reputation of by any method including but not limited to any social media platform or review website anywhere in the world.
- 13.2** Should you breach this clause, you hereby indemnify us in accordance with clause 12 above.
- 14. GENERAL**
- 14.1 **Privacy:** We agree to comply with the legal requirements of the Australian Privacy Principles as set out in the *Privacy Act 1988* (Cth), the *General Data Protection Regulation* (EU) and any other applicable legislation or privacy guidelines.
- 14.2 **Publicity:** You consent to us using advertising or publically announcing that we have undertaken work for you.
- 14.3 **Email:** You acknowledge that we are able to send electronic mail to you and receive electronic mail from you. You release us from any claim you may have as a result of any unauthorised copying, recording, reading or interference with that document or information after transmission, for any delay or non-delivery of any document or information and for any damage caused to your system or any files by a transfer.
- 14.4 **GST:** If and when applicable, GST payable on the Services will be set out on our Invoices. By accepting these Terms you agree to pay us an amount equivalent to the GST imposed on these charges.
- 14.5 **Relationship of parties:** These Terms are not intended to create a relationship between the parties of partnership, joint venture, or employer-employee.
- 14.6 **Linked Websites:** Any links to other websites on our website, which are not operated by us are not controlled by us and we accept no responsibility for them or for any loss or damage that may arise from your use of them. Your use of any linked sites will be subject to the terms of use and service contained within each such site.
- 14.7 **No Assignment:** These Terms are personal to the Parties. A Party must not assign or deal with the whole or any part of its rights or obligations under these Terms without the prior written consent of the other Party (such consent not to be unreasonably withheld).
- 14.8 **Severance:** If any provision (or part of it) under these Terms is held to be unenforceable or invalid in any jurisdiction, then it will be interpreted as narrowly as necessary to allow it to be enforceable or valid. If a provision (or part of it) under these Terms cannot be interpreted as narrowly as necessary to allow it to be enforceable or valid, then the provision (or part

- of it) must be severed from these Terms and the remaining provisions (and remaining part of the provision) of these Terms are valid and enforceable.
- 14.9 **Notice:** Any notice required or permitted to be given by either Party to the other under these conditions will be in writing addressed to you at the address you provided us when you registered on our Website. Our address is set out on our Website. Any notice may be sent by standard post or email, and notice will be deemed to have been served on the expiry of 48 hours in the case of post, or at the time of transmission in the case of transmission.
- 14.10 **Jurisdiction & Applicable Law:** These terms are governed by the laws of Queensland and the Commonwealth of Australia. These terms apply to all customers, whether Australian or international. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts operating in Queensland, Australia.
- 14.11 **Entire Agreement:** These Terms and any document expressly referred to in them represent the entire agreement between you and us and supersede any prior agreement, understanding or arrangement between you and us, whether oral or in writing.
- 14.12 **Sub-contracting:** We are free to sub-contract any of our obligations under these Terms, but such sub-contracting will not release us from our liabilities under these Terms.
- 14.13 **Binding on Successors:** These terms shall be for the benefit of and binding upon the parties and their heirs, executors, successors and permitted assigns.
15. **FORCE MAJEURE**
- 15.1 We will not be in breach of these Terms or liable to you for any Loss you may incur as a direct result of our failing to perform our obligations or being prevented, hindered or delayed in performing our obligations under these Terms where such prevention, hindrance or delay results from a Force Majeure Event.
- 15.2 If a Force Majeure Event occurs, we will notify the you (Non-affected Party) in writing as soon as practicable and that notice must state the particulars of the Force Majeure Event and the anticipated delay.
- 15.3 On providing the notice in the above clause, we will have the time for performance of the affected obligations extended for a period equivalent to the period during which performance has been delayed, hindered or prevented, however, we will continue to use all reasonable endeavours to perform those obligations.
- 15.4 The performance of the affected obligations will be resumed as soon as practicable after such Force Majeure Event is removed or has ceased.
- 15.5 References to a Force Majeure Event in this clause means: events, circumstances or causes beyond a party's reasonable control including (but not limited to):
- (a) strikes, lock-outs or other industrial action;
  - (b) civil commotion, riot, invasion, cyber-attack, service attack, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war;
  - (c) fire, explosion, storm, flood, earthquake, subsidence or other natural disaster;
  - (d) epidemic, pandemic, health emergencies, disease;
  - (e) impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport;
  - (f) interruption or failure of utility Services (including the inability to use public, private telecommunications networks, servers or third party hosting platforms); and
  - (g) the acts, decrees, legislation, regulations or restrictions of any Government Agency; however does not include a lack of funds.
- 15.6 References to Loss in this clause means: any loss, liability, cost, charge, expense, Tax, Duty or damage of any nature whatsoever, including special, incidental, or consequential damages, losses or expenses (howsoever arising or caused, including, without limitation, negligence).
16. **DISPUTE RESOLUTION**
- 16.1 If a dispute arises between the parties in relation to these Terms, the dispute must be dealt with in accordance with this clause.
- 16.2 Any party claiming that a dispute exists must notify the other party to the dispute (Second Party) in writing of the nature of the dispute.
- 16.3 In the case of claims against us, all notices are to be provided to [support@amandajdaley.com](mailto:support@amandajdaley.com).
- 16.4 If the dispute is not resolved by agreement within 10 business days of the Second Party receiving the notice referred to above, either party may refer the matter to mediation conducted by a mediator agreed between the parties within a further 10 business days or

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- failing agreement within that period, as appointed by the executive director for the time being of the Australian Disputes Centre.
- 16.5 Once a mediator is appointed, the parties agree that:
- (a) The costs of the mediator shall be borne equally between the disputing parties.
  - (b) The chosen mediator shall determine the procedures for mediation.
  - (c) The chosen mediator will not have the power or authority to make any other determination in relation to the dispute.
- 16.6 If the parties have not mediated a resolution of the dispute within 10 business days of the selection of a mediator, neither party shall be obliged to continue any attempt at mediation under this clause, and either party may then commence such legal proceedings as it considers fit in relation to the dispute.
- 16.7 Nothing in this clause prevents a party from commencing proceedings seeking urgent interlocutory relief from a court of competent jurisdiction to hear the matter, if, in that party's reasonable opinion, it is necessary to protect their rights.
- 16.8 Despite the existence of a dispute the parties must continue to comply with their obligations under the contract.
- 16.9 This clause survives termination of these Terms.

## 17. DEFINITIONS

- 17.1 **Confidential Information** includes confidential information about the business, structure, programs, processes, methods, operating procedures, activities, products and services, trade secrets, know how, financial, accounting, marketing and technical information, customer and supplier lists (including prospective customer and supplier information), ideas, concepts, know-how, Intellectual Property, technology, and other information whether or not such information is reduced to a tangible form or marked in writing as "confidential".
- 17.2 **Deposit** means the deposit required for the Services, as set out on our Website or otherwise communicated to you.
- 17.3 **GST** means GST as defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) as amended from time to time or any replacement or other relevant legislation and regulations.
- 17.4 **Intellectual Property** includes any and all intellectual and industrial property rights throughout the world, whether subsisting now or in the future and includes all copyright and analogous rights, all rights in relation to inventions (including patent rights), registered and unregistered trademarks, designs (whether or not registered or registrable), circuit layouts,

trade names, trade secrets, business names, company names or internet domain names.

- 17.5 **Website** means the website, available at [www.amandajdaley.com](http://www.amandajdaley.com)

### Contact details:

Amanda J Daley Pty Ltd ACN 600 639 665  
53 Pintail Crescent, Burleigh Waters, QLD 4220  
[support@amandajdaley.com](mailto:support@amandajdaley.com)

**Last updated:** June 2022