

Tutoring Client Services Terms and Conditions

In these Terms, when we say **you** or **your**, we mean both you and any entity you are authorised to represent (such as your employer and where you are a parent or guardian engaging our Services on behalf of a minor, references to you include that minor where the context requires). When we say **we**, **us**, or **our**, we mean Olivia Jane Evans Trading As Exceptional Like Me (ABN 73 815 755 964). We and you are each a **Party** to these Terms, and together, the **Parties**.

These Terms form our contract with you, and sets out our obligations as a service provider and your obligations as a customer. You cannot use our Services unless you agree to these Terms.

Some capitalised words in these Terms have defined meanings, and each time that word is used in these Terms it has the same meaning. You can find a list of the defined words and their meaning at the end of these Terms.

For questions about these Terms, or to get in touch with us, please email: dr.olivia.j.evans@gmail.com

These Terms were last updated on 22nd June 2026.

OUR DISCLOSURES

Please read these Terms carefully before you accept. We draw your attention to:

- our privacy policy (on our website) which sets out how we will handle your personal information; and
- clause 12 (Liability) which sets out exclusions and limitations to our liability under these Terms.

These Terms do not intend to limit your rights and remedies at Law, including any of your Consumer Law Rights.

We also draw your attention to the fact that our tutor's personal presentation may include visible tattoos and facial piercings. Our tutor is openly a member of the LGBTQIA+ community. If you have any concerns, we encourage you to raise them with us before or following your first session. You retain the right to terminate these Terms in accordance with clause 13.1 at any time.

1. Engagement and Term

1.1 These Terms apply from the Commencement Date until the date that is the earlier of:

- (a) the date the Services are completed (as reasonably determined by us); or
 - (b) the date on which these Terms are terminated,
- (Term)

2. Services

2.1 In consideration of your payment of the Price, we will provide the Services in accordance with these Terms.

Complimentary Consultation

2.2 We offer a complimentary telephone consultation of up to 15 minutes in duration to prospective clients prior to engagement (**Complimentary Consultation**). You acknowledge and agree that:

- (a) the Complimentary Consultation is available by telephone only and is not available in person or by video call;
- (b) one Complimentary Consultation is available per student or individual across all of our services, regardless of the number or type of services subsequently engaged. Where you seek to engage us for services in respect of more than one student, a separate Complimentary Consultation may be available for each student at our discretion;
- (c) the duration of the Complimentary Consultation is determined by us and will not exceed 15 minutes;
- (d) the Complimentary Consultation is intended to assist you in determining whether our Services are suitable for your needs and does not constitute the commencement of the Services or give rise to any ongoing obligation on either Party; and
- (e) we make no guarantee as to our availability for a Complimentary Consultation at any particular time.

Variations

- 2.3 All variations to the Services must be agreed in writing between the Parties and will be priced in accordance with any schedule of rates provided by us, or otherwise as reasonably agreed between the Parties. If we consider that any instructions or directions from you constitute a variation to the scope of the Services or our obligations under these Terms, then we will not be obliged to comply with such instructions or directions unless agreed in accordance with this clause.
- 2.4 Notwithstanding clause 2.3, you agree that we may vary the Services or the Price at any time, by providing 30 days' written notice to you (**Variation Notice Period**). If you do not agree to any amendment made to the Services or Price, you may, before the end of

the Variation Notice Period, terminate these Terms by giving us 30 days' notice in writing, in which case, the proposed variation will not come into effect and clause 13.3 will apply.

Scope of Services

- 2.5 Where our Services are engaged in connection with a student who has a disability, is gifted, or is twice-exceptional (that is, both gifted and has a disability), you acknowledge and agree that:
- (a) we strongly encourage parents and guardians to ensure that students are informed of their own disability, giftedness, or twice-exceptional status, as we consider self-knowledge to be integral to self-acceptance and effective learning. We will, where appropriate, encourage you to have this conversation with your child;
 - (b) unless you notify us in writing prior to the commencement of sessions that the student has not been informed of their disability, giftedness, or twice-exceptional status and that you do not wish us to discuss or imply this with the student, we will assume that the student is aware of their status and may engage with them accordingly;
 - (c) where you do notify us in writing in accordance with clause 2.5(b), we will use reasonable endeavours to respect your wishes, but you acknowledge that this may limit the extent to which we are able to tailor our approach to the student's needs; and
 - (d) regardless of any instructions provided by you, our practice is and will remain neuroaffirming. We will not treat disability as a deficit, a negative characteristic, or something to be ashamed of, and we will not treat giftedness as a social liability. You acknowledge and agree that this approach is fundamental to our Services.
- 2.6 You acknowledge and agree that:
- (a) rapport-building between tutor and student is an integral part of our pedagogical approach and is considered by us to be essential to effective learning outcomes. Sessions may therefore include brief conversation that is not directly related to the subject matter of study, including discussion of the student's interests, hobbies, or general wellbeing;
 - (b) with older students, we may use informal language, where in our reasonable professional judgement this assists in building trust and engagement. We will not use language that is offensive, discriminatory, or inappropriate having regard to the student's age and circumstances; and
 - (c) you acknowledge that our approach to session delivery reflects our professional experience and expertise, and you agree not to direct or restrict our delivery style in a manner that is inconsistent with this clause.
- 2.7 Our Services are offered in minimum increments of one hour at a time. Where you wish to split a one-hour session between more than one child, this is acceptable provided the full hour subject to the following conditions:
- (a) the session is split between a maximum of two children;
 - (b) each child receives a minimum of 30 continuous minutes within the session;
 - (c) the full hour is taken as a single continuous block; and
 - (d) you provide us with reasonable notice prior to the session.
- For the avoidance of doubt, where a family wishes to allocate a session time to different children on an alternating basis across multiple sessions (regardless of the number of children in the family), this is acceptable provided that each individual session complies with the conditions set out above.
- 2.8 You understand that we tutor to the NSW curriculum as it is taught in NSW public schools, unless you advise us otherwise. Sessions may be directed to specific areas of focus at your request, but you acknowledge that your preferred focus may not align with the way the curriculum is currently taught and may have no impact, or an adverse impact, on academic performance.
- 2.9 Ongoing tutoring is offered on a minimum one-term basis, for a minimum of one hour per fortnight, which is to be prepaid before lessons begin. We will not undertake additional work outside of the paid hours, including providing feedback on work or reading or viewing texts with which we are not familiar. If you wish to engage us for such additional duties, subject to our availability, the rate will be the same as the applicable tutoring rate, however you understand that we cannot guarantee our availability for those duties.
- 2.10 One-off tutoring lessons may be available on occasion as a one-off, subject to our availability, however we make no guarantee that one-off lessons will be available at certain times or on a regular basis. If you engage us for one-off Services, you acknowledge and agree that:
- (a) one-off lesson times are offered to ongoing tutoring clients first;
 - (b) availability may be particularly limited around school assessment periods;
 - (c) there is no guarantee of future lessons or of any particular timeslot, regardless of the times at which lessons have previously been held;
 - (d) our availability may change; and
 - (e) one-off lessons are most likely to become available within 24-48 hours as last-minute cancellation replacements.

- 2.11 You acknowledge that until lesson times are confirmed by both Parties, they remain available for other bookings.
- 2.12 Where additional lessons beyond your regular weekly or fortnightly tutoring time are requested, we will provide options subject to our availability. There is no guarantee that additional lessons will be available, or available at a particular time or for a particular duration, even if they have previously been available.
- 2.13 You acknowledge and agree that tutoring does not guarantee academic improvement or specific academic or career outcomes. We will assist you with careful consideration of your personal circumstances as you have reported them to us, to the best of our ability. However, to the maximum extent permitted by law, we will not be liable for:
- (a) specific school policies or expectations that we have not been informed of;
 - (b) incorrect or incomplete information provided by you or, where we have received information from a third party and had reasonable grounds to believe that information was accurate at the time it was provided to you;
 - (c) teacher discretion in marking or behaviour management;
 - (d) the effort and time commitment of the student, particularly outside of tutoring sessions;
 - (e) the performance or effort of other participants in group work;
 - (f) the behaviour, personality or abilities of other students, teachers, academics, school or institutional leadership, or colleagues;
 - (g) unexpected changes in diagnosis, personal circumstances, cohorts, teachers, school or university leadership, or program offerings; or
 - (h) foreign laws, errors in translation, or cultural expectations that we have not been informed of.
- 2.14 You acknowledge and agree that our tutoring services are not a 24/7 support service. We are not obligated to respond to communications, review materials, or provide assistance outside of scheduled and paid session times, except to the extent that such work falls within the agreed scope.

Curriculum Content Disclosure

- 2.15 You acknowledge that certain curriculum content, particularly at Years 11 and 12 level, may include mature or sensitive themes including but not limited to sexual content, historical atrocities (including genocide, war crimes and human experimentation), and MA-rated film content. We do not introduce such content beyond what is required by the NSW curriculum. If you have specific concerns or restrictions regarding particular topics or content, you must notify us in writing prior to the commencement of sessions. We will use reasonable endeavours to accommodate such requests, but you acknowledge that where content forms part of the prescribed NSW curriculum, we may be unable to avoid it entirely.
- 2.16 Our tutoring is delivered in accordance with the NSW curriculum. If you hold particular beliefs or views that may conflict with curriculum content, you must notify us in writing prior to the commencement of sessions so that we can determine together whether our Services are suitable for your needs.

Homeschooling Services

- 2.17 Where homeschooling services are requested, we will provide NESA-compliant programs and assessment tasks tailored to your needs. You acknowledge and accept that:
- (a) we are not experienced in homeschooling compliance administration;
 - (b) you remain solely responsible for ensuring compliance with all applicable homeschooling regulations, including required documentation and attendance records; and
 - (c) we make no representation that our homeschooling services will ensure your compliance with applicable regulatory requirements.

Advocacy Letters and Supporting Documentation

- 2.18 Subject to the conditions set out in this clause, we may, at our discretion, prepare written letters in support of a student's application for school accommodations, disability provisions (including NESA disability provisions), or similar purposes (**Advocacy Letter**).
- 2.19 Advocacy Letters are only available in respect of students whom we have tutored or consulted with on a minimum of three separate occasions.
- 2.20 Advocacy Letters will be billed at our standard hourly rate, as set out on our website at the time of the request, on the basis of time reasonably spent. Where additional research or meetings are required beyond the standard scope, these will be billed at the same rate and we will notify you in advance where reasonably practicable.
- 2.21 You acknowledge that we are not a medical practitioner, psychologist, or registered therapist, and that Advocacy Letters prepared by us do not constitute medical, clinical, or diagnostic opinion and should not be represented as such.

- 2.22 We make no representation and give no guarantee that an Advocacy Letter will achieve any particular outcome, including approval of any accommodation, provision, or application to which it relates.
- 2.23 Our ability to prepare an Advocacy Letter is subject to our availability and we reserve the right to decline a request at our discretion, including where we do not consider that we have sufficient knowledge of the student to provide a meaningful letter.

3. Your Obligations

- 3.1 You agree to (and to the extent applicable, ensure that your Personnel agree to):
- (a) comply with these Terms, all applicable Laws, and our reasonable requests;
 - (b) provide us with access to your premises (and its facilities) and any other premises as is reasonably necessary for us to provide the Services, free from harm or risk to health or safety at the times and on the dates reasonably requested by us or as agreed between the Parties;
 - (c) provide us with all documentation, information, instructions, cooperation and access reasonably necessary to enable us to provide the Services; and
 - (d) not (or not attempt to) disclose, or provide access to, the Services to third parties without our prior written consent.
- 3.2 Where sessions are held at a location of your choosing:
- (a) you are responsible for ensuring that the location is open and accessible at the agreed-upon time;
 - (b) you are responsible for reimbursing us for any parking fees reasonably incurred where free parking is not available within a five-minute walk of the agreed location; and
 - (c) we retain the right to refuse, acting reasonably, to attend any particular location at any time due to safety concerns or where insufficient notice of location was provided.
- 3.3 You agree to treat us with courtesy and respect at all times. If you or any person present does not do so, we will provide one warning, after which, to the maximum extent permitted by law, we reserve the right to terminate the session, acting reasonably, and you will not be provided with a refund. In the case of physical violence, we reserve the right to terminate the session immediately without refund, and may take further action as we consider appropriate and in accordance with applicable laws.
- 3.4 Parents and guardians are permitted to be present during tutoring sessions but are requested not to comment on or intervene in the delivery of the session. If a parent or guardian continually intervenes in a session, we will provide a warning before terminating the session, acting reasonably. In that event, any remaining prepaid lessons will be refunded, but the lesson during which the behaviour occurred will not be refunded.
- 3.5 You agree to pay our additional costs reasonably incurred as a result of you failing to comply with this clause 3.

4. Price and Payment

- 4.1 In consideration for us providing the Services, you agree to pay all amounts due under these Terms in accordance with the Payment Terms.
- 4.2 Our standard rates may vary depending on the time, location, or nature of the session. All applicable rates, discounts, and surcharges will be set out on our website at the time of booking and form part of the Price. We reserve the right to introduce, vary, or remove any discount or surcharge by providing 30 days' written notice in accordance with clause 2.3.
- 4.3 **Payment Terms:** Tutoring fees are prepaid before lessons begin. For ongoing tutoring clients, fees are payable on a per-term basis in advance, being payment for the agreed number of sessions in that term.
- 4.4 You acknowledge that tutoring fees are likely to increase annually in line with the consumer price index and to reflect our increasing experience and expertise. We will provide you with 30 days' written notice of any such increase in accordance with clause 2.4.
- 4.5 If any payment has not been made in accordance with the Payment Terms, we may (at our absolute discretion, and without prejudice to any of our rights or remedies under these Terms or at Law):
- (a) after a period of 5 Business Days from the relevant due date, cease providing the Services, and recover, as a debt due and immediately payable from you, our reasonable additional costs of doing so (including all recovery costs); and/or
 - (b) charge interest at a rate equal to the Reserve Bank of Australia's cash rate, from time to time, plus 2% per annum, calculated daily and compounding monthly, on any such amounts unpaid after the relevant due date in accordance with the Payment Terms.
- 4.6 When applicable, GST payable will be clearly shown on our invoices. You agree to pay us an amount equivalent to the GST imposed on these charges. "GST" has the meaning given in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).
- 4.7 Where, in our reasonable opinion, you have demonstrated a pattern of excessive cancellations, we reserve the right to require you to prepay for sessions in advance as a condition of continued engagement. We will notify you in writing if we intend to exercise this right.

5. Cancellations, Rescheduling and Attendance

- 5.1 If you are unable to attend a prepaid tutoring session and you notify us prior to 30 minutes before the scheduled start time, the session may be rescheduled at a mutually convenient time before the end of the NSW public school holiday period following the relevant term. Prepaid sessions not rescheduled before the end of that period will be forfeited.
- 5.2 To the maximum extent permitted by law, if you are unable to attend a session that has not been prepaid, the following notice periods and refunds apply:
- (a) 48 hours or more notice: no fee applies;
 - (b) 24 hours or more but less than 48 hours notice: 50% of the fee applies; or
 - (c) less than 24 hours notice or no notice: the full fee applies.
- The Parties acknowledge and agree that these amounts are a genuine pre-estimate of the loss and damage that we will suffer as a result of insufficient notice being given, as we will not be able to fill the session.
- 5.3 Session times commence and conclude at the agreed times. If you are late, the location is inaccessible, there are required sign-in procedures, or you or the venue experience technology issues, no additional time or refund will be provided.
- 5.4 If we are late, we will offer additional time to make up the agreed session time, or if we will be delayed by greater than 25 minutes, you will be given the option to reschedule the session at no cost.
- 5.5 If you do not arrive at the agreed time and provide no notice, we will send two text messages and make one phone call within the first 15 minutes of the scheduled session time. If you do not provide an estimated time of arrival within that 15-minute period, or do not arrive within 10 minutes of any estimated time of arrival provided, the session will be treated as a no-show and you will be billed the full fee. The Parties acknowledge and agree that this amount is a genuine pre-estimate of the loss and damage that we will suffer as a result of insufficient notice being given.
- 5.6 If you choose to cancel or take a break from ongoing tutoring, you acknowledge that we will not hold your session time or any other time for you upon your return.
- 5.7 We reserve the right to cancel tutoring sessions due to illness or unavailability. Where we cancel, we will notify you as soon as reasonably practicable, ordinarily by text message. Where you have pre-paid for a session and we cancel, we will provide a refund for the cancelled sessions, except where we have cancelled for your breach of these Terms.
- 5.8 Where a change to our schedule requires us to offer you a different session time on an ongoing basis, we will notify you as soon as reasonably practicable and offer available alternatives subject to our availability. If no mutually agreeable ongoing time can be found, we will refund any prepaid sessions that can no longer be delivered. To the maximum extent permitted by law, we will not be liable for any loss arising from schedule changes beyond our reasonable control, including changes caused by school timetable adjustments.

6. Availability and Waitlist

- 6.1 You acknowledge that our availability may change without notice and that the agreement of a session time does not guarantee that time will remain available for any particular period. We agree to provide reasonable notice of ongoing changes to our availability, and agree to keep session time information available for you upon reasonable request.
- 6.2 On occasion, we may be unavailable for periods within a school term due to professional development, training, or other commitments. We will provide you with as much notice as reasonably practicable in those circumstances. Any prepaid sessions that fall within such a period and cannot be rescheduled will be refunded.
- 6.3 You acknowledge and agree that a place on our waitlist does not guarantee a consulting time and we do not make any guarantees as to our availability. Tutoring times that become available will generally be set and not open to negotiation. If you decline a tutoring time when one becomes available, you may be returned to the bottom of the waitlist.
- 6.4 We are not obligated to provide sessions during NSW public holidays or NSW public school holiday periods. Where we are available during those periods, sessions may be offered at the usual time or at a mutually agreed alternative time, including additional sessions. Our availability during these periods is not guaranteed and may vary.

7. Premises and Safety

- 7.1 Where sessions are held at our premises, you acknowledge that there may be water, trip hazards, uneven ground or other hazards when navigating the property. We will take reasonable steps to ensure your safety. You agree to comply with our reasonable instructions regarding safety on the property. To the maximum extent permitted by law, we will not be liable for any injuries or property damage that may occur in the course of accessing or using our premises where you have not taken reasonable steps to protect your safety or where you have not complied with our instructions.
- 7.2 While we will take all reasonable care to provide a safe and appropriate environment for clients and their accompanying persons, if a client acts in an unsafe manner, you acknowledge and agree that you will be liable for any injuries caused to themselves or others, or any damage to property.
- 7.3 Where sessions are held at a public location or a third-party venue (including but not limited to libraries, cafés, or community centres), you acknowledge that:

- (a) we have no control over the condition, safety, or management of that venue;
- (b) to the maximum extent permitted by law, we will not be liable for any injuries, property damage, or loss arising from the condition of or hazards present at that venue; and
- (c) you are responsible for ensuring that the venue is appropriate and safe for the student and any accompanying persons.

8. Intellectual Property

8.1 As between the Parties:

- (a) we own all Intellectual Property Rights in Our Materials;
- (b) you own all Intellectual Property Rights in Your Materials; and
- (c) nothing in these Terms constitutes a transfer or assignment of any Intellectual Property Rights in Our Materials or Your Materials.

8.2 As between the Parties, ownership of all Intellectual Property Rights in any New Materials will at all times vest, or remain vested, in us upon creation. To the extent that ownership of such Intellectual Property Rights in any New Materials does not automatically vest in us, you hereby assign all such Intellectual Property Rights to us and agree to do all other things necessary to assure our title in such rights.

8.3 We grant you a non-exclusive, revocable, royalty-free, worldwide, non-sublicensable and non-transferable right and licence, to use Our Materials that we provide to you and the New Materials, solely for your use and enjoyment of the Services, as contemplated by these Terms.

8.4 You grant us a non-exclusive, irrevocable, royalty-free, worldwide, non-sublicensable (other than to our related bodies corporate, as that term is defined in the *Corporations Act 2001* (Cth)) and non-transferable right and licence to use Your Materials that you provide to us solely for the purpose of performing of our obligations or exercising our rights under these Terms.

8.5 If you (if you are an individual) or any of your Personnel have any Moral Rights in any material provided, used or prepared in connection with these Terms, you agree to (and will procure that your Personnel) consent to our use or infringement of those Moral Rights.

8.6 This clause 8 will survive termination or expiry of these Terms.

9. Confidential Information

9.1 Each Receiving Party agrees:

- (a) not to disclose the Confidential Information of the Disclosing Party to any third party (subject to subclause 9.1(c));
- (b) to protect the Confidential Information of the Disclosing Party from any loss, damage or unauthorised disclosure;
- (c) to only disclose the Confidential Information to those of its Personnel who need to know the Confidential Information in connection with these Terms, or its third party service providers for the purposes of assisting it to perform its obligations under this Agreement, provided those third parties keep the Confidential Information confidential in accordance with this clause 9; and
- (d) to only use the Confidential Information of the Disclosing Party for the purpose of performing obligations, or exercising rights or remedies, under these Terms.

9.2 The obligations in clause 9.1 do not apply to Confidential Information that:

- (a) is required to be disclosed for the Parties to comply with their obligations under these Terms;
- (b) is authorised in writing to be disclosed by the Disclosing Party;
- (c) is in the public domain or is no longer confidential, except as a result of a breach of these Terms or other duty of confidence; or
- (d) must be disclosed by Law or by a regulatory authority, including under subpoena, provided that (to the extent permitted by Law) the Receiving Party has given the Disclosing Party notice prior to disclosure.

9.3 Each Party agrees that monetary damages may not be an adequate remedy for a breach of this clause 9. A Party is entitled to seek an injunction, or any other remedy available at Law or in equity, at its discretion, to protect itself from a breach (or continuing breach) of this clause 9.

9.4 This clause 9 will survive the termination of these Terms.

10. Privacy

10.1 If you are required to provide us with Personal Information so that we can provide the Services, you agree to comply with the Australian Privacy Principles as set out in the *Privacy Act 1988* (Cth) as applicable to you, and any other applicable Laws relating to privacy (**Privacy Laws**).

- 10.2 We agree to handle any Personal Information you provide to us, solely for the purpose of performing our obligations under these Terms, and in accordance with any applicable Laws.
- 10.3 You acknowledge that in the course of providing the Services, we may receive sensitive personal information including neuropsychological reports, school reports and assessment results. We will handle all such information in accordance with our privacy policy and applicable Privacy Laws. Where we are required to seek guidance from colleagues or other professionals, we will de-identify all personal information before doing so.

11. Australian Consumer Law

- 11.1 Certain legislation, including the Australian Consumer Law, and similar consumer protection laws and regulations, may confer you with rights, warranties, guarantees and remedies relating to the supply of the Services by us to you which cannot be excluded, restricted or modified (**Consumer Law Rights**). To the extent that you maintain Consumer Law Rights at Law, nothing in these Terms excludes those Consumer Law Rights.
- 11.2 Subject to your Consumer Law Rights, we provide all material, work and services (including the Services) to you without conditions or warranties of any kind, implied or otherwise, whether in statute, at Law or on any other basis, except where expressly set out in these Terms.
- 11.3 This clause 11 will survive the termination or expiry of these Terms.

12. Liability

- 12.1 Despite anything to the contrary but subject to your Consumer Law Rights, to the maximum extent permitted by Law:
- (a) neither Party will be liable for Consequential Loss;
 - (b) a Party's liability for any Liability under these Terms will be reduced proportionately to the extent the relevant Liability was caused or contributed to by the acts or omissions of the other Party (or any of its Personnel), including any failure by that other Party to mitigate its loss; and
 - (c) (where our Services are not ordinarily acquired for personal, domestic or household use or consumption) in respect of any failure by us to comply with relevant Consumer Law Rights, our Liability is limited (at our discretion) to supplying the Services again or paying the cost of having the Services supplied again; and
 - (d) our aggregate liability for any Liability arising from or in connection with these Terms will be limited to the Price paid by you to us in respect of the supply of the relevant Services to which the Liability relates.
- 12.2 This clause 12 will survive the termination or expiry of these Terms.

13. Termination

- 13.1 Either Party may terminate these Terms at any time by giving 7 days' notice in writing to the other Party.
- 13.2 These Terms will terminate immediately upon written notice by a Party (**Non-Defaulting Party**) if:
- (a) the other Party (**Defaulting Party**) breaches a material term of these Terms and that breach has not been remedied within 10 Business Days of the Defaulting Party being notified of the breach by the Non-Defaulting Party; or
 - (b) the Defaulting Party goes bankrupt, insolvent or is otherwise unable to pay its debts as they fall due.
- 13.3 Upon expiry or termination of these Terms:
- (a) we will immediately cease providing the Services;
 - (b) without limiting and subject to your Consumer Law Rights, any payments made by you to us for Services already performed are not refundable to you;
 - (c) you are to pay for all Services provided prior to termination, including Services which have been provided and have not yet been invoiced to you, and all other amounts due and payable under these Terms;
 - (d) by us pursuant to clause 13.2, you also agree to pay us our additional costs, reasonably incurred, and which arise directly from such termination (including recovery fees); and
 - (e) we may retain your documents and information (including copies) to the extent required by Law or pursuant to any information technology back-up procedure, provided that we handle your information in accordance with clause 9.
- 13.4 Termination of these Terms will not affect any rights or liabilities that a Party has accrued under it.
- 13.5 This clause 13 will survive the termination or expiry of these Terms.

14. General

- 14.1 **Amendment:** Subject to clauses 2.3 and 2.4, these Terms may only be amended by written instrument executed by the Parties.
- 14.2 **Assignment:** Subject to clauses 14.3 and 14.10, a Party must not assign, novate 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 is not to be unreasonably withheld).

- 14.3 **Assignment of Debt:** You agree that we may assign or transfer any debt owed by you to us, arising under or in connection with these Terms, to a debt collector, debt collection agency, or other third party.
- 14.4 **Disputes:** A Party may not commence court proceedings relating to any dispute arising from, or in connection with, these Terms (**Dispute**) without first meeting a representative of the other Party within 10 Business Days of notifying that other Party of the Dispute. If the Parties cannot resolve the Dispute at that meeting, either Party may refer the Dispute to mediation administered by the Australian Disputes Centre.
- 14.5 **Force Majeure:** Neither Party will be liable for any delay or failure to perform their respective obligations under these Terms if such delay or failure is caused or contributed to by a Force Majeure Event, provided that the Party seeking to rely on the benefit of this clause:
- (a) as soon as reasonably practical, notifies the other Party in writing details of the Force Majeure Event, and the extent to which it is unable to perform its obligations; and
 - (b) uses reasonable endeavours to minimise the duration and adverse consequences of the Force Majeure Event.
- Where the Force Majeure Event prevents a Party from performing a material obligation under these Terms for a period in excess of 60 days, then the other Party may by notice terminate these Terms, which will be effective immediately, unless otherwise stated in the notice. This clause will not apply to a Party's obligation to pay any amount that is due and payable to the other Party under these Terms.
- 14.6 **Governing Law:** These Terms are governed by the laws of New South Wales. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts operating in New South Wales and any courts entitled to hear appeals from those courts and waives any right to object to proceedings being brought in those courts.
- 14.7 **Notices:** Any notice given under these Terms must be in writing addressed to the addresses set out in these Terms, or the relevant address last notified by the recipient to the Parties in accordance with this clause. Any notice may be sent by standard post or email, and 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 by email.
- 14.8 **Publicity:** Despite clause 9, with your prior written consent, you agree that we may advertise or publicise the broad nature of our supply of the Services to you, including on our website or in our promotional material.
- 14.9 **Relationship of Parties:** These Terms are not intended to create a partnership, joint venture, employment or agency relationship between the Parties.
- 14.10 **Subcontracting:** We may subcontract the provision of any part of the Services without your prior written consent. We agree that any subcontracting does not discharge us from any liability under these Terms and that we are liable for the acts and omissions of our subcontractor.

15. Definitions

In these Terms, unless the context otherwise requires, capitalised terms have the meanings given to them below:

Australian Consumer Law means the Australian consumer laws set out in Schedule 2 of the *Competition and Consumer Act 2010* (Cth), as amended, from time to time.

Business Day means a day on which banks are open for general banking business in Sydney, New South Wales, excluding Saturdays, Sundays and public holidays.

Commencement Date means the date that is the earlier of:

- (a) the date that you book in your first session with us;
- (b) the date that you ask us to begin supplying the Services; or
- (c) the date that you make part or full payment of the Price.

Confidential Information means information which:

- (a) is disclosed to the Receiving Party in connection with these Terms at any time;
- (b) relates to the Disclosing Party's business, assets or affairs; or
- (c) relates to the subject matter of, the terms of and/or any transactions contemplated by these Terms,

whether or not such information or documentation is reduced to a tangible form or marked in writing as "confidential", and howsoever the Receiving Party receives that information.

Consequential Loss includes any consequential loss, special or indirect loss, real or anticipated loss of profit, loss of benefit, loss of revenue, loss of business, loss of goodwill, loss of opportunity, loss of savings, loss of reputation, loss of use and/or loss or corruption of data, whether under statute, contract, equity, tort (including negligence), indemnity or otherwise. However, your obligation to pay us the Price and any other amounts payable under these Terms will not constitute "Consequential Loss".

Consumer Law Rights has the meaning given in clause 11.1.

Deliverables means any materials, goods, items or other deliverables forming part of the Services.

Disclosing Party means the Party disclosing Confidential Information to the Receiving Party.

Force Majeure Event means any event or circumstance which is beyond a Party's reasonable control including but not limited to, acts of God including fire, hurricane, typhoon, earthquake, landslide, tsunami, mudslide or other catastrophic natural disaster, civil riot, civil rebellion, revolution, terrorism, insurrection, militarily usurped power, act of sabotage, act of a public enemy, war (whether declared or not) or other like hostilities, ionising radiation, contamination by radioactivity, nuclear, chemical or biological contamination, any widespread illness, quarantine or government sanctioned ordinance or shutdown, pandemic (including COVID-19 and any variations or mutations to this disease or illness) or epidemic.

Intellectual Property Rights or Intellectual Property means any and all existing and future rights throughout the world conferred by statute, common law, equity or any corresponding law in relation to any copyright, designs, patents or trade marks, domain names, know-how, inventions, processes, trade secrets or confidential information, circuit layouts, software, computer programs, databases or source codes, including any application, or right to apply, for registration of, and any improvements, enhancements or modifications of, the foregoing, whether or not registered or registrable.

Law means all applicable laws, regulations, codes, guidelines, policies, protocols, consents, approvals, permits and licences, and any requirements or directions given by any government or similar authority with the power to bind or impose obligations on the relevant Party in connection with these Terms or the supply of the Services.

Liability means any expense, cost, liability, loss, damage, claim, notice, entitlement, investigation, demand, proceeding or judgment (whether under statute, contract, equity, tort (including negligence), indemnity or otherwise), howsoever arising, whether direct or indirect and/or whether present, unascertained, future or contingent and whether involving a third party or a Party to these Terms or otherwise.

Moral Rights has the meaning given in the *Copyright Act 1968* (Cth) and includes any similar rights in any jurisdiction in the world.

New Materials means all Intellectual Property developed, adapted, modified or created by or on behalf of us or you or any of your or our respective Personnel in connection with these Terms or the supply of the Services (including the Deliverables), whether before or after the date of these Terms and any improvements, modifications or enhancements of such Intellectual Property, but excludes Our Materials and Your Materials.

Our Materials means all Intellectual Property which is owned by or licensed to us and any improvements, modifications or enhancements of such Intellectual Property, but excludes New Materials and Your Materials.

Payment Terms means the timings for payment of the Price and any other amounts payable under these Terms, as set out in clause 4 or otherwise agreed between the Parties in writing.

Personal Information means information or an opinion, whether true or not and whether recorded in a material form or not, about an individual who is identified or reasonably identifiable.

Personnel means, in respect of a Party, any of its employees, consultants, suppliers, subcontractors or agents, but in respect of you, does not include us.

Price means the price set out on our website at the time of booking your session with us, as adjusted in accordance with these Terms.

Receiving Party means the Party receiving Confidential Information from or on behalf of the Disclosing Party.

Services means the services set out on our website and in clause 2, as adjusted in accordance with these Terms.

Terms means these terms and conditions and any documents attached to, or referred to in, each of them.

Your Materials means all Intellectual Property owned or licensed by you or your Personnel before the Commencement Date (which is not connected to these Terms) and/or developed by or on behalf of you or your Personnel independently of these Terms and any improvements, modifications or enhancements of such Intellectual Property, but excludes Our Materials and New Materials.