

SallyProsser

Business Services Agreement

BETWEEN THE PARTIES

You are the Client, and Your details are set out in the Invoice (the '**Client**')

- AND -

Sally Prosser Pty Ltd (ACN: 626 997 439) t/a Sally Prosser of

1/444 Logan Road, Stones Corner, QLD

('Sally Prosser').

RECITALS

- A. Sally Prosser specialises in Voice Coaching and Presentation Training services and workshops, tailored to the Client's needs and requirements (the '**Services**').
- B. This Business Services Agreement ('**Agreement**') governs your relationship with Sally Prosser and is read in conjunction with the Invoice provided to You at the time of providing these Terms and Conditions (the '**Invoice**').

ESSENTIAL TERMS

- **A 50% Deposit is required to be paid to secure your dates for the Services.**
- **A date will be held for 3 days from the date of our invoice. If the invoice is not paid within 3 business days, the date will not be held any longer.**
- **All invoices will be issued and are payable within 7 days from the completion of the Services.**
- **Costs for venue, audio visual equipment and catering is not included in the Fees.**
- **Travel costs are applicable when we are required to travel 50km+ outside the Brisbane CBD.**
- **Half day workshops are up to 4 hours. Full day workshops are up to 8 hours (including breaks).**

THE PARTIES AGREE AND DECLARE AS FOLLOWS

1. Interpretation

1.1. Definitions

In this Agreement unless the context otherwise requires:

Agreement means this Business Services Agreement;

Business Day means a day on which banks generally are open for trading business in the Queensland, Australia;

Commencement Date means the date that the Provider will begin to provide the Services as set out in the Invoice or subsequent email correspondences;

Confidential Information means information provide by a party under this Agreement to the other party, that is not generally available to the public;

Deposit means the amount required to be paid to secure the date for the Services.

Fees means the fees set out in the Invoice;

GST Act means A New Tax System (Good & Services Tax) Act 1999 (Cth);

Intellectual Property means the business names, copyrights, patents, trade marks, service marks, trade names, designs, and similar industrial, commercial and intellectual property (whether registered or not) of Sally Prosser;

Loss and Claim means, in relation to any person;

- a. a damage, loss, cost, expense, or liability incurred by the person; or
- b. a claim, action, proceeding or demand made against the person,

however arising and whether present or future, fixed or ascertained, actual or contingent;

Parties means the parties to this Agreement;

Services means the services set out in the Invoice;

Tax means any tax, levy, impost, deduction, charge or duty of any kind and whether direct or indirect, (and any related interest, penalty, fine or costs in connection with any of them) levied or imposed by any Government Agency.

2. The Engagement

- (a) Sally Prosser agrees to perform the Services for the Client, for the Fees, for the Term/on the Date/s set out in the Invoice and subsequent email correspondences, commencing on the Commencement Date.
- (b) Sally Prosser may be required to alter the description of the Services from time to time. If this is necessary, Sally Prosser will provide written notice to the Client by email.
- (c) A Deposit is required to be paid to secure the date for the Services. The Deposit must be paid within 3 days from the date of the invoice. If the Deposit is not paid within this time, the date will not be held.

3. Warranty Period for the Services

- (a) Sally Prosser will use its best efforts and take all reasonable steps to help the Client achieve the desired results. However, Sally Prosser makes no warranty that the Services will meet the Client's requirements or that all Clients will achieve the same results.
- (b) The Services do come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the service, you are entitled to cancel your service contract with Sally Prosser, and you are entitled to a refund for the unused portion, or to compensation for its reduced value.

4. Payment for the Services

4.1. Consideration

The Client agrees to pay Sally Prosser an amount set out in the Invoice – this is referred to as the consideration for Sally Prosser providing the Services to you.

4.3 Goods and Services Tax

Unless otherwise stated, all amounts, including out of pocket expenses, expressed and described on or in connection with this Agreement are listed in Australian Dollars (AUD) and are GST inclusive, being goods and services tax as defined in *A New Tax System (Goods and Services Tax) Act 1999*, inclusive amounts. Where the services are provided outside Australia, GST is inapplicable.

5. Venue Hire, Catering and Audio Visual Equipment Hire

Venue hire, catering and audio visual equipment hire are not included in the Services provided by Sally Prosser under this Agreement. However, this can be quoted for separately upon request.

6. Expenses

The Client will reimburse Sally Prosser the amount of all expenses reasonably and properly incurred in the performance of duties under this Agreement. This includes travel expenses and accommodation expenses if Sally Prosser is required to travel, and these will be quoted to the Client in advance.

7. Copyright and Intellectual Property Rights

7.1. Intellectual Property Rights

- (a) The Client agrees that any works, items, materials or information of whatever nature produced or developed by Sally Prosser or under Sally Prosser's direction pursuant to

or in the course of providing the Services will remain the sole and complete property of Sally Prosser, whether such property is tangible or is in the nature of industrial and Intellectual Property Rights (including copyright and rights of Confidential Information).

- (b) If the Client has fully complied with this Agreement and if the works, items, materials or information referred to in clause 7.1(a) have been produced by Sally Prosser as part of the Services, Sally Prosser grants the Client a non-exclusive and non-transferable licence to use such works, items, materials and information for such purposes as the parties reasonably contemplate at the Commencement Date.
- (c) There is no assignment of Intellectual Property Rights by Sally Prosser to the Client pursuant to this Agreement.
- (d) Nothing in this Agreement affects the Moral Rights in any works, items, materials or information supplied pursuant to this Agreement.

7.2. Indemnification

The Client hereby indemnifies and agrees to keep indemnified Sally Prosser against all liability, losses or expenses incurred by the Client in relation to or in any way directly or indirectly connected with any breach of copyright or any rights in relation to copyright in such literary and artistic works supplied as aforesaid.

8. Additional Services

If the Client requests in writing, Sally Prosser may provide services in addition to the agreed Services set out in this Agreement and additional fees will be charged, by Agreement of the parties.

9. Cancellations, Refunds and Termination

9.1. Cancellations and Refunds

- (a) The Client must notify Sally Prosser of an intention to cancel a scheduled Service as soon as practicable in writing by email, in which case the following cancellation policy will apply (**'the Cancellation Policy'**).
- (b) If Services are cancelled with at least 21 days' notice, Sally Prosser will re-schedule the Service at no extra charge.
- (c) If Services are cancelled with less than 21 days' notice, unless otherwise agreed in writing, the full fee will be payable and is non-refundable.
- (d) If Sally Prosser foresees being unable to undertake the Services on the agreed date and time, Sally Prosser will inform the Client at as soon as practicable and will reschedule the Services.

9.2 Termination of On-Going Agreements

- (a) Both parties agree to provide each other with 21 days' notice in the event that either party wishes to terminate an on-going Agreement.
- (b) If a Client chooses to terminate an Agreement, the Cancellation Policy applies and 21 days' notice must be given or the full Fee for the next workshop will not be refundable.

- (c) Sally Prosser will only be required to provide the Client with a refund of the Fees in the event that Sally Prosser is unable to continue to provide the Services (the 'Refund').

10. Liability and waivers

10.1. Liability

Sally Prosser's total liability arising out of or in connection with the Services or this Agreement, however arising, including under contract, tort (including negligence), in equity, under statute or otherwise, will not exceed the resupply of the Services to the Client.

10.2. Waivers

- (a) A waiver of any right, power or remedy under this Agreement must be in writing signed by the party granting it. A waiver is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.
- (b) The fact that a party fails to do, or delays in doing, something the party is entitled to do under this Agreement does not amount to a waiver.

11. Disclosure and Use of Confidential Information

- (a) All obligations of confidence set out in this Agreement continue in full force and effect after the Services have been provided.
- (b) Sally Prosser must not disclose any Confidential Information to any third party without the prior consent of the Client.
- (c) Each party must keep confidential the terms of this Agreement. If a party becomes aware of a breach of this obligation, that party will immediately notify the other party.
- (d) This Agreement prohibits the disclosure of Confidential Information by Sally Prosser with exception to the following circumstances:
 - i. the disclosure is to a professional adviser for it to provide advice in relation to matters arising under or in connection with this Agreement and the Client has consented to the disclosure of such information to the professional adviser;
 - ii. the disclosure is required by applicable law or regulation; or
 - iii. if the confidential information is already in the public domain at no fault of Sally Prosser.

12. Force Majeure

- (a) If circumstances beyond Sally Prosser's control prevent or hinder its provision of the Services, Sally Prosser is free from any obligation to provide the Services while those circumstances continue. Sally Prosser may elect to terminate this Agreement or keep the Agreement on foot until such circumstances have ceased.
- (b) Circumstances beyond Sally Prosser's control include, but are not limited to, unavailability of materials or components, pandemics, strikes, lockouts, riots, natural disasters, fire, war, acts of God, Government decrees, proclamations or orders, transport difficulties and failures or malfunctions of computers or other information technology systems.

- (c) For the sake of clarity, if in Sally Prosser's reasonable opinion, the provision of the Services will be affected by the COVID-19 Pandemic, Sally Prosser may suspend the provision of the Services in part or in whole to you indefinitely. Additionally, Sally Prosser will not be liable for any losses or damage due to the COVID-19 Pandemic. If the Client chooses to terminate an agreement due to the COVID-19 Pandemic, cl. 9.2 will apply.

13. No partnership or agency

Nothing contained or implied in this Agreement will create or constitute, or be deemed to create or constitute, a partnership between the parties. A party must not act, represent or hold itself out as having authority to act as the agent of or in any way bind or commit the other parties to any obligation.

14. Governing Law & Jurisdiction

- (a) This Agreement is governed by the laws of the Queensland, Australia.
- (b) In the event of any dispute arising out of or in relation to the Services, the parties agree that the Queensland, will be the venue for resolving any disputes.

15. Dispute Resolution & Mediation

- (a) If a dispute arises out of or relates to the terms of this Agreement, either party may not commence any legal proceedings in relation to the dispute, unless the following clauses have been complied with (except where urgent interlocutory relief is sought).
- (b) A party to this Agreement claiming a dispute ("**the Dispute**") has arisen under the terms of this Agreement, must give written notice to the other party detailing the nature of the Dispute, the desired outcome and the action required to settle the Dispute ("**the Notice**").
- (c) On receipt of the Notice by the other party, the parties must within 7 days from the date the Notice was served, attempt in good faith to resolve the Dispute as expeditiously as possible, including by negotiation or such other means upon which they may mutually agree.
- (d) If for any reason whatsoever, 21 days after the date the Notice was served, the Dispute has not been resolved the parties must either agree upon the selection of a mediator or request that an appropriate mediator be appointed by the President of the Law Society of the Queensland.
- (e) It is agreed that mediation will be held in the Queensland, with the venue to be agreed.
- (f) The parties agree to be equally liable for the fees and reasonable expenses of a mediator and the cost of the venue of the mediation and undertake to pay any amounts requested by the mediator as a pre-condition to the mediation commencing. The parties must each pay their own costs associated with the mediation.
- (g) All communications concerning negotiations made by the parties arising out of and in connection with this clause are confidential and to the fullest extent possible, must be treated as "without prejudice" negotiations.
- (h) In the event that the Dispute is not resolved at the conclusion of the mediation, either party may institute legal proceedings concerning the subject matter of the Dispute.

16. Severance

Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction will, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such provisions in any other jurisdiction.

17. Entire Agreement and Modifications

(a) Both the Client and Sally Prosser confirm and acknowledge that:

- i. This Agreement is the entire Agreement between Sally Prosser and the Client and supersedes and override all previous communications, either oral or written, between the parties;
- ii. No Agreement or understanding varying or extending this Agreement shall be binding upon any party unless arising out of the specific provisions of this Agreement; and
- iii. If for whatever reason there is inconsistency between this Agreement and any other Agreement, this Agreement shall prevail.