



Terms and Conditions

1. INTRODUCTION

- 1.1. This document (together with any documents referred to in it) tells you the terms and conditions (T&Cs) upon which we sell and supply the services (the 'Services', the 'Workshops') listed on www.top-downpaincontrol.com - this website (the 'Website') to you.
- 1.2. Before confirming your order please:
 - 1.2.1. Read through these terms and conditions (the 'Conditions') and in particular: registration at clause 4, our cancellations policy at clause 10, Intellectual Property and Confidentiality at clause 12 and limitation of our liability and your indemnity at clause 14
 - 1.2.2. Print or save a copy for future reference.
- 1.3. By ordering any of the Services listed on this Website, you agree to be legally bound by these Conditions. You will be unable to proceed with your purchase if you do not accept these terms and conditions as may be modified or amended and posted on this Website from time to time.
- 1.4. To accept these Terms and Conditions *when participating in a workshop* simply send an email to b.whitaker@top-downpaincontrol.com confirming acceptance. You do not need to sign anything or return the T&Cs.
- 1.5. If you download any material from the website including the Guided Imagery Audio then in so doing you accept the T&Cs listed here.
- 1.6. We reserve the right to revise and amend the Website, our disclaimers and the Conditions at any time without notice to you. Your continued use of the Website (or any part thereof) following a change shall be deemed to be your acceptance of such change. It is your responsibility to check regularly to determine whether we have changed these Conditions.
- 1.7. In participating in the Workshops you will not be asked to disclose or discuss anything of a personal nature but you will be challenged to relate to, think about, 'make room for' your thoughts and feelings that might be stressful, anxiety producing, painful and so on. This is the quintessence of ACT ie Acceptance rather than avoidance. The degree to which you engage in this is entirely up to you but you should only register for this Workshop if you agree to this aspect of participation.

2. ABOUT US

- 2.1. This Website is owned and operated by Top-Down Pain Control ('TDPC'/'we'/'us'/'our'/'@topdownpaincontrol) of 1/13 Cobham Ave Swan Hill, Victoria, Australia 3585.

3. COMMUNICATIONS

- 3.1. You agree that email and other electronic communications can be used as a long-distance means of communication and acknowledge that all contracts, notices, information and other communications that we provide to you electronically comply with any legal requirement that such communications be in writing.
- 3.2. We will contact you by email or provide you with information by posting notices on our Website.

4. ONLINE 'ZOOM WORKSHOPS'

- 4.1. You may register for any of the Workshops on our website or listed as 'Events' on our Facebook page @topdownpaincontrol offered online via Zoom on a specific date and local (your) time. You will be responsible for all expenses other than the workshop fee as outlined in Section 10 in the event of a cancellation.
- 4.2. We may accept your order if you are resident outside Australia, subject to reserving a right to amend the specifications or standards of the Services offered on the Website and/or these Conditions or to refuse to accept an order for our Services from you, if it will put an excessive strain on our business or if we have an objective reason for doing so. If we accept your order, you will be liable to pay for all and any additional costs that we incur in order to facilitate your order. You will however, have an opportunity to cancel your order in case the additional costs are not acceptable.
- 4.3. If we agree to supply any Services ordered from the Website for delivery outside Australia they may be subject to import duties and/or additional taxes or expenses incurred due to complying with foreign regulatory requirements or laws. You will be responsible for payment of any such duties and/or taxes in addition to our price. Please note that we have no control over these charges and cannot predict their amount. Please contact your local customs office or taxation authority for further information before placing your order.
- 4.4. You must comply with all applicable laws and regulations of the country for which the Services are destined. We will not be liable for any breach by you of any such laws.

5. REGISTRATION

- 5.1. By registering for a workshop via email you undertake:
 - 5.1.1. That all the details you provide to us for the purpose of registering and purchasing the Services are true, accurate, current and complete in all respects
 - 5.1.2. To notify us immediately of any changes to the information provided on registration or to your personal information
 - 5.1.3. To print and **have with you the workshop outline and notes** that we will email to you prior to the Zoom Workshop unless instructed otherwise
 - 5.1.4. That you are a health/social care professional or currently undertaking education as same
 - 5.1.5. That if you are not a health/social care professional, you have stated this and your request to undertake the workshop has been approved by us
 - 5.1.6. That you are over 18 years
- 5.2. Workshop places are limited and cannot be guaranteed. Every effort will be made to indicate on the website and Facebook @topdownpaincontrol in a timely manner when places are full. Should your registration be void because of lack of places you will be given priority without additional cost when the next Zoom Workshop is scheduled at a later date or a full refund of the registration fee; we are not responsible for any cost or inconvenience.
- 5.3. Variability: In registering for this workshop you acknowledge the variability in response to the effects of distraction, relaxation, mindfulness, guided imagery, Personal Construct Psychology and Acceptance and Commitment Therapy and related skills presented in the workshops with regard to managing (your or any other persons) pain, fear, distress or stress regardless of age or circumstance.
- 5.4. We reserve the right to terminate an agreement formed with you pursuant to clause 8 below immediately and without notice to you if:
 - 5.4.1. You fail to make any payment to us when due
 - 5.4.2. You breach these Conditions (repeatedly or otherwise)
 - 5.4.3. You are impersonating any other person or entity
 - 5.4.4. When requested by us to do so, you fail to provide us within a reasonable time with sufficient information to enable us to determine the accuracy and validity of any information supplied by you, or your identity
 - 5.4.5. We suspect you have engaged, or are about to engage, or have in anyway been involved, in fraudulent or illegal activity on the Website.

6. PRICE

- 6.1. The Workshop fee is as stated on the specific workshop brochure, email contact, website or Facebook Event listed on @topdownpaincontrol provided by us.
- 6.2. Prices quoted are for performance of the Services online via Zoom.
- 6.3. Unless otherwise stated, the prices quoted exclude VAT, GST etc.
- 6.4. We reserve the right, by giving notice to you at any time before delivery or performance of our obligations to you, to increase the price of the Services to reflect any increase in the cost to us due to any factor beyond our control (such as without limitation, any foreign exchange fluctuation, significant increase in the costs of labour, materials or other costs of manufacture). In the unlikely event of this occurring, you shall be entitled to cancel the order at any time before we have commenced providing the Services.

7. PAYMENT

- 7.1. Within Australia Payment can be made by bank transfer to TDPC with the Invoice details provided by us.
- 7.2. Outside Australia payment is made via PayPal. Instructions for this will be emailed upon acceptance of these T&Cs.
- 7.3. Within and Outside Australia, payment for a group of participants on a single Invoice will be accepted from a finance department or individual via bank transfer with prior arrangement
- 7.4. Details regarding payment are shown on the Invoice.
- 7.5. If paying by bank transfer you must quote the **Invoice Number**.
- 7.6. Payment is required within 14 days of the invoice being sent.
- 7.7. If your employer is paying then you must confirm that the invoice has been sent to your finance department for processing within 14 days of it being sent to you.

8. ORDER PROCESS AND FORMATION OF A CONTRACT

- 8.1. All orders are subject to acceptance and availability. If any Services ordered are not available, you will be notified by email and you will have the option either to wait until the Services are available or to cancel your order. It is your responsibility to provide us with a valid email address so that we can contact you if necessary.
- 8.2. Any order placed by you constitutes an offer to purchase the Services from us. All such offers received from you are subject to acceptance by us and we reserve the right to refuse any order placed by you at any time prior to acceptance, without providing an explanation.
- 8.3. You shall be responsible for ensuring the accuracy of the details provided by you during the order process and we will not accept an order unless all details requested from you have been entered correctly.
- 8.4. A contract between you and us (the 'Contract') incorporating these Conditions will only subsist after we have confirmed that we shall be providing the requested Service. We will send you an email to confirm this (a 'Confirmation Notice'). The Confirmation Notice will amount to an acceptance of your offer to buy the Services from us. The Contract will only be formed when we send you the Confirmation Notice (whether or not you receive it).
- 8.5. The Contract will relate only to the Workshop stated in the Confirmation Notice. We will not be obliged to supply any other Services, which may have been part of your order until we have sent you a separate Confirmation Notice relating to it.
- 8.6. You must check that the details contained in the Confirmation Notice email are correct and you should print or keep a copy of it.
- 8.7. You will be subject to the version of our policies and Conditions in force at the time that you order the Services from us, unless:
 - 8.7.1. Any change to those policies or these Conditions is required to be made by law or governmental authority
 - 8.7.2. We notify you of any change to our policies or these Conditions before we send you the Confirmation Notice, in which case, we are entitled to assume that you have accepted it, unless we receive written notification from you to the contrary within seven working days of receipt of the Confirmation Notice

9. DELIVERY OF SERVICES

- 9.1. The Workshops will be delivered online via Zoom and in accordance with the details specified in the Workshop Brochure, @topdownpaincontrol Facebook Event, Website listing and related materials available or downloadable on the Website.
- 9.2. We shall not be liable for any delay in completing performance of the Service, however caused.
- 9.3. According to the information provided by Zoom you do not need a 'Zoom Account' to join the workshop.

10. CANCELLING YOUR CONTRACT AND RETURNS

10.1. Cancelling before receiving a Confirmation Notice

- 10.1.1. You may cancel your order for the Services at any time prior to receiving a Confirmation Notice from us so long as you contact us in writing. You can send us a cancellation notice by sending an email to b.whitaker@top-downpaincontrol.com. Your cancellation notice must quote your name, address, the Workshop and date for which you had registered.

10.2. Cancellation after receiving a Confirmation Notice

- 10.2.1. You are entitled to cancel your Contract and obtain a refund minus a 20% administration fee within 20 working days from the date of the Confirmation Notice. Alternatively, you may nominate a substitute with no administration fee.
- 10.2.2. You may notify us of your wish to cancel or nominate a substitute by sending us a cancellation notice to b.whitaker@top-downpaincontrol.com. Your cancellation notice must quote your name, address, the Workshop and date for which you had registered. Your substitution notice must contain the name, email and phone number of your substitute. It is the responsibility of your substitute to register for the Workshop by email and in so doing agree to the Terms and Conditions.
- 10.2.3. Upon receiving your cancellation notice, we will contact you providing any necessary instructions, which you will be required to follow.
- 10.2.4. So long as you have complied with your obligations under this clause, we will refund the purchase price to you.

10.3. Exception to the right to cancel

You will not have a right to cancel an order for any Services purchased from us, in the following situations:

- 10.3.1. If you fail to join the Zoom Workshop on the day without prior notice, the registration fee will be retained in full and no refund or transfer will be possible.
- 10.3.2. If you are unable to attend or send a substitute for any reason and notify us of this less than 48hrs prior to the workshop then 50% of the workshop fee will be retained. You may be able to register for a subsequent workshop subject to availability but you will be required to pay 80% of the registration fee for that workshop.

10.4. Incorrectly priced or described Services

- 10.4.1. Whilst we try and ensure that all the information in our communication and on our Website is accurate, errors may occur. In the unlikely event that the price and/or description of an item listed or downloaded on the Website has been incorrectly advertised, we will not be under any obligation to sell or provide those Services to you.
- 10.4.2. If we discover the error before sending you a Confirmation Notice we will at our discretion, either reject your order and notify you of such rejection, or inform you as soon as possible and give you the option of cancelling your order or reconfirming it at the correct price and/or description. If we give you the option of cancelling your order or reconfirming it at the correct price and/or description but either cannot contact you or do not receive your response within 14 days of sending you notification (whether or not you receive it), we will reject your order.
- 10.4.3. If we discover the error after sending you a Confirmation Notice we may, at our discretion and without incurring any liability to you, cancel the Contract provided that the error is, in our reasonable opinion, obvious and unmistakable and could have reasonably been recognised by you. We will notify if we cancel the Contract.
- 10.4.4. If your order is cancelled or rejected and you have already paid for the Services, you will receive a full refund in accordance with clause 10.5

10.5. Processing refunds

- 10.5.1. We will notify you about your refund via email within a reasonable period of time. We will usually process a refund as soon as possible and, in any case, within 30 days of the day we confirmed to you via email that you are entitled to a refund.

11. COMPLAINTS

- 11.1. If you have a comment, concern or complaint about any Services you have purchased from us, please contact us via email at b.whitaker@top-downpaincontrol.com

12. INTELLECTUAL PROPERTY and CONFIDENTIALITY

- 12.1. The content of the Website is protected by copyright (including design copyrights), trade marks, patent, database and other intellectual property rights and similar proprietary rights which include, (without limitation), all rights in materials, works, techniques, computer programs, source codes, data, technical information, trading business brand names, goodwill, service marks utility models, semi-conductor topography rights, the style or presentation of the goods or services, creations, inventions or improvements upon or additions to an invention, confidential information, know-how and any research effort relating to Top-Down Pain Control moral rights and any similar rights in any country (whether registered or unregistered and including applications for and the right to apply for them in any part of the world) and you acknowledge that the intellectual property rights in the material and content supplied as part of the Website shall remain with us or our licensors.
- 12.2. You may download or copy the content and other downloadable items displayed on the Website or provided by us subject to the condition that the material may only be used for personal or professional non-commercial purposes. Copying or storing the contents of the Website or material provided by us for other than personal or professional non-commercial use is expressly prohibited.
- 12.3. You may retrieve and display the content of the Website on a computer screen, store such content in electronic form on disk (but not any server or other storage device connected to a network) or print content for your own personal, professional non-commercial use, provided you keep intact all and any copyright and proprietary notices. You may not otherwise reproduce, modify, sample, copy or distribute or use for commercial purposes any of the materials or content on the Website.
- 12.4. You acknowledge that any other use of the material and content of this Website is strictly prohibited and you agree not to (and agree not to assist or facilitate any third party to) copy, reproduce, sample, transmit, publish, display, distribute, commercially exploit or create derivative works from such material and content.
- 12.5. Confidentiality: With regard to the videos shown to you in the Zoom or face-to-face Workshop you agree not to (and agree not to assist or facilitate any third party to) copy, reproduce, transmit, publish, display, distribute, commercially exploit or create derivative works from this material and content in any form whatsoever.
- 12.6. No licence is granted to you in these Conditions to use any of our trade marks or those of our affiliated companies.

- 12.7. Services sold by us and Website content may be subject to copyright, trade mark or other intellectual property rights in favour of third parties. We acknowledge those rights.

13. WEBSITE USE

- 13.1. You are permitted to use the Website and the material contained in it only as expressly authorised by us under our terms of use.

14. LIABILITY AND INDEMNITY

- 14.1. Notwithstanding any other provision in the Conditions, nothing will affect or limit your statutory rights; or will exclude or limit our liability for:
- 14.1.1. Death or personal injury resulting from our negligence
 - 14.1.2. Fraud or fraudulent misrepresentation
 - 14.1.3. Any matter for which it would be unlawful for us to exclude or attempt to exclude our liability
- 14.2. The Website is provided on an 'as is' and 'as available' basis without any representation or endorsement made and we make no warranties or guarantees, whether express or implied, statutory or otherwise (unless otherwise expressly stated in these Conditions or required by law) in relation to the information, materials, content or services found or offered on the Website for any particular purpose or any transaction that may be conducted on or through the Website including but not limited to, implied warranties of non-infringement, compatibility, timeliness, performance, security, accuracy, condition or completeness, or any implied warranty arising from course of dealing or usage or trade custom.
- 14.3. We will not be liable if the Website or Zoom connection at your or our end is unavailable at any time for any reason.
- 14.4. We will not be responsible or liable for anyone, present or not, feeling or acting as a result of participation or communication of information or views expressed in the Workshop, Website or related materials.
- 14.5. We make no representation or warranty of any kind express or implied statutory or otherwise regarding the availability of the Website or that it will be timely or error-free, that defects will be corrected, or that the Website or the server that makes it available are free of viruses or bugs.
- 14.6. We will not be responsible or liable to you for any loss of content or material uploaded or transmitted through the Website or Zoom connection and we accept no liability of any kind for any loss or damage resulting from action taken in reliance on material or information contained on the Website or presented in the Zoom Workshop.
- 14.7. We cannot guarantee and cannot be responsible for the security or privacy of the Website and any information provided by you. You must bear the risk associated with the use of the internet. In particular, we will not be liable for any damage or loss caused by a distributed denial-of-service attack, any viruses trojans, worms, logic bombs, keystroke loggers, spyware, adware or other material which is malicious or technologically harmful that may infect your computer, peripheral computer equipment, computer programs, data or other proprietary material as a result of your use of the Website or you downloading any material posted or sold on the Website or from any website linked to it.
- 14.8. We will use all reasonable endeavours to carry out our obligations within a reasonable period of time but will not be liable to you for any loss, costs or expenses arising directly or indirectly from any delays in doing so.
- 14.9. We will not be liable, in contract or tort (including, without limitation, negligence), or in respect of pre-contract or other representations (other than fraudulent misrepresentations) or otherwise for:
- 14.9.1. any economic losses (including without limitation loss of revenues, profits, contracts, business or anticipated savings and any other consequential loss); or
 - 14.9.2. any loss of goodwill or reputation; or
 - 14.9.3. any special or indirect losses; or
 - 14.9.4. any loss of data; or
 - 14.9.5. wasted management or office time; or
 - 14.9.6. any other loss or damage of any kind suffered or incurred arising out of or in connection with the provision of any matter under these Conditions and/or the Contract and/or the use of this Website or any aspect related to your purchase of the Services even if such losses are foreseeable or result from a deliberate breach of these Conditions by us that would entitle you to terminate the Contract between us or as a result of any action we have taken in response to your breach of these Conditions. Without prejudice to the terms of this clause and in the event that we are unable to rely upon it, our liability for all and any losses you suffer as a result of us breaking the Contract, whether or not deliberate, including those listed in clauses 14.9.1 to 14.9.6, is strictly limited to the purchase price of the Services you purchased.
- 14.10. You agree to fully indemnify, defend and hold us, and our officers, directors, employees and suppliers, harmless immediately on demand, from and against all claims, including but not limited to losses (including loss of profit, revenue, goodwill or reputation), costs and expenses, including reasonable administrative and legal costs, arising out of

any breach of these Conditions by you, or any other liabilities arising out of your use of this Website or any other person accessing the Website using your personal information with your authority.

14.11. This clause does not affect your statutory rights as a consumer, nor does it affect your contractual cancellation rights.

15. FORCE MAJEURE

15.1. We shall have no liability for delays or failures in delivery or performance of our obligations to you resulting from any act, events, omissions, failures or accidents that are outside of our control ('Force Majeure'), which, without limitation, include:

15.1.1. Strikes, lock-outs or other industrial action

15.1.2. Shortages of labour, fuel, power, raw materials

15.1.3. Late, defective performance or non-performance by suppliers

15.1.4. Private or public telecommunication, computer network failures or breakdown of equipment

15.1.5. Civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war.

15.1.6. Fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster or extreme weather conditions.

15.1.7. Impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport.

15.1.8. Acts, decrees, legislation, regulations or restrictions of any government

15.1.9. Other causes, beyond our reasonable control

15.2. Our performance will be deemed to be suspended for the period that the event of Force Majeure continues, and we will have an extension of time for performance for the duration of that period. We will use our reasonable endeavours to minimise any delay caused by Force Majeure or to find a solution by which our obligations may be performed despite the Force Majeure event. We shall promptly notify you of any Force Majeure event giving details of it and (where possible) the extent and likely duration of any delay.

15.3. Where the period of non-performance or delay in relation to any event of Force Majeure exceeds 30 days from the date of notice to you of the event of Force Majeure, either you or us may, by written notice to the other, terminate the Contract with immediate effect upon service.

16. PRIVACY POLICY

16.1. All information provided by you will be treated securely and in accordance with the Privacy Act 1988.

17. PRIVACY OF CONTRACT

17.1. A person who is not a party to the Contract has no right to enforce any term of the Contract.

18. EXTERNAL LINKS

18.1. To provide increased value and convenience to our users, we may provide links to other websites or resources for you to access at your sole discretion and risk. You acknowledge and agree that, as you have chosen to enter the linked website we are not responsible for the availability of such external sites or resources, and do not review or endorse and are not responsible or liable in any way, whether directly or indirectly, for:

18.1.1. The privacy practices of such websites

18.1.2. The content of such websites, including (without limitation) any advertising, content, products, goods or other materials or services on or available from such websites or resources

18.1.3. The use which others make of these websites; or

18.1.4. Any damage, loss or offence caused or alleged to be caused to you, arising from or in connection with the use of or reliance upon any such advertising, content, products, goods, materials or services available on and/or purchased by you from such external websites or resources

19. LINKING TO THE WEBSITE

19.1. You must not create a link to the Website from another website, document or any other source without first obtaining our prior written consent.

19.2. Any agreed link must be:

19.2.1. To the Website's homepage

19.2.2. Established from a website or document that is owned by you and does not contain content that is offensive, controversial, infringes any intellectual property rights or other rights of any other person or does not comply in any way with the law in Australia and the law in any country from which they are hosted

- 19.2.3. Provided in such a way that is fair and legal and does not damage our reputation or take advantage of it
- 19.2.4. Established in such a way that does not suggest any form of association, approval or endorsement on our part where none exists
- 19.3. We have no obligation to inform you if the address of the Website home page changes and it is your responsibility to ensure that any link you provide to our homepage is at all times accurate.
- 19.4. We reserve the right to withdraw our consent without notice and without providing any reasons for withdrawal. Upon receiving such notice you must immediately remove the link and inform us once this has been done.

20. NOTICES

- 20.1. All notices given by you to us must be given to us at 1/13 Cobham Ave, Swan Hill, Victoria Australia 3585 or by using b.whitaker@top-downpaincontrol.com. We may give notice as described in clause 3
- 20.2. Notice will be deemed received and properly served immediately when posted on our Website, 24 hours after an email is sent, or three days (national) ten days (international) after the date of posting of any letter. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an email, that such email was sent to the specified email address of the addressee.

21. ENTIRE AGREEMENT

- 21.1. The Contract represents the entire agreement between us in relation to the subject matter of the Contract and supersede any prior agreement, understanding or arrangement between us, whether oral or in writing.
- 21.2. We each acknowledge that, in entering into a Contract, neither of us has relied on any express or implied representation, undertaking or promise given by the other from anything said or written in any negotiations between us prior to such Contract except as has been expressly incorporated in such Contract.
- 21.3. Neither of us shall have any remedy in respect of any untrue statement made by the other, whether orally or in writing, prior to the date of any Contract (unless such untrue statement was made fraudulently) and the other party's only remedy shall be for breach of contract as provided in these Conditions.

22. GENERAL

- 22.1. We reserve the right to change the domain address of this Website and any services, products, product prices, product specifications and availability at any time.
- 22.2. All prices and descriptions supersede all previous publications. All product descriptions are approximate.
- 22.3. If any provision of these terms and conditions is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of the Contract and the remainder of the provision in question will not be affected.
- 22.4. All Contracts are concluded and available in English only.
- 22.5. If we fail, at any time during the term of a Contract, to insist upon strict performance of any of your obligations under it or any of these terms and conditions, or if we fail to exercise any of the rights or remedies to which we are entitled under the Contract, this shall not constitute a waiver of such rights or remedies and shall not relieve you from compliance with your obligations.
- 22.6. A waiver by us of any default shall not constitute a waiver of any subsequent default.
- 22.7. No waiver by us of any of these Conditions or of any other term of a Contract shall be effective unless it is expressly stated to be a waiver and is communicated to you in writing in accordance with clause 3
- 22.8. Any Contract between you and us is binding on you and us and on our respective successors and assigns. You may not transfer, assign, charge or otherwise dispose of the Contract, or any of your rights or obligations arising under it, without our prior written consent. We may transfer, assign, charge, sub-contract or otherwise dispose of a Contract, or any of our rights or obligations arising under it, at any time during the term of the Contract.

23. GOVERNING LAW AND JURISDICTION

- 23.1. The Website is controlled and operated in Australia.
- 23.2. Every purchase you make shall be deemed performed in Australia.
- 23.3. The Conditions and any Contract brought into being as a result of usage of this Website will be governed by the laws of Australia and you irrevocably agree to submit to the exclusive jurisdiction of the courts of Australia.