

Membership Agreement

Become a member of the Profit First Professionals[®]
<https://profitfirstaustralia.com.au/apply/>

1. Introduction

Thank you for your interest in becoming a licensed Profit First[®] Professional.

Profit First Australia is the official Australian Headquarters for Profit First, the leading money management system created by Mike Michalowicz, to effortlessly create profitable and sustainable businesses. In the Profit First Membership, we train Australian accountants, bookkeepers and business coaches to offer the Profit First method to their clients. Our role includes protecting the integrity of the Profit First brand in Australia through quality assurance, ongoing training and support for our members. Only certified members of the Profit First Professionals are permitted to teach their clients how to use the Profit First system or to implement the Profit First methods for their clients.

Please note that Profit First[®] and Profit First Professionals[®] are registered trade marks in Australia and are used under licence. This means that these names may not be used commercially to sell products or services without permission from the trade mark owners, which we have, and which we are licensed to grant to our members. Where the [®] is omitted in this document, it is for your reading convenience only.

This agreement sets out important information about the Profit First Professionals[®] Membership (the "Membership") and the terms of the Licence granted to members.

It is very important that you read this document carefully before you agree to it. By accepting the terms of this agreement and joining the Membership, you are entering into a legally binding contract, so please consider carefully whether this agreement is right for you and contact us before you proceed if you have any concerns.

We are committed to the design and delivery of quality mentoring services through our Membership, and to providing you with the best possible foundation for offering the Profit First[®] methodology through your business. If anything in this

This contract was prepared by



Michelle Whitehead

Business Serenity Through Wise Management & Professional Support

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agreement is unclear, please seek independent advice to ensure you fully understand your rights and obligations. I encourage you to negotiate any clause of this agreement which feels unfair to you.

It is our aim to maintain a collaborative environment which is supportive, engaged and conducive to the success of all Profit First Professionals. We welcome constructive feedback as an opportunity to review and improve our practice. Please feel free to contact Laura Elkaslassy at laura@profitfirstaustralia.com.au to discuss your concerns at any time.

This Licence Agreement is between:

“Us”

Profit First Professionals Australia Pty Ltd

ABN 87 623 902 214

Director: Laura Elkaslassy

Address: Suite 3887, 805/220 Collins St, Melbourne VIC 3000

AND

“You”

You will enter your details into our website when you make your first Membership payment. Paying your Membership fee signifies your acceptance of this Agreement, and your willingness to be legally bound by it.

Profit First Professional Australia is an Australian business, and the Membership is offered in compliance with Australian Consumer Law.

2. Prerequisites for Membership

- (i) All applications for membership of the Profit First Professionals are carefully considered to ensure that we maintain our reputation for high standards and quality service, in Australia and worldwide.
- (ii) To be eligible to apply for Membership, you must have:
 - a. Read the book *Profit First* by Mike Michalowicz;
 - b. A registered ABN or ACN;
 - c. Conducted an established Australian business in a relevant industry for at least 3 years;
 - d. A good reputation, evidenced by positive client testimonials and/or a feedback rating of at least 4 out of 5; and

- e. A minimum annual turnover of at least \$100,000, as it goes against the Profit First philosophy to allow our Members to take on an investment that would cause them financial hardship.
- (iii) Intake for Membership of Profit First Professionals Australia is held monthly. The process for acceptance into the Membership includes:
- a. The initial application;
 - b. A discernment period in which you are requested to conduct your own research, ask questions and determine whether this Membership is right for you and your business, and whether you are prepared to commit to the engagement required;
 - c. An intake form to gather information about your business, your qualifications, and your revenue;
 - d. An interview to confirm that you are a good fit for the Profit First Professionals Membership, which will include looking at your motivations, experience and suitability, as well as confirming your understanding of the obligations you will be undertaking around continuing activity and engagement; and
 - e. Research into your online presence.

3. **The Training**

- (i) The purpose of the Membership is to mentor and train you in the Profit First system, certify you as a licenced Profit First Professional and support you with active learning, community engagement and proprietary resources as you apply the Profit First methodology in your own business and with your client base.
- (ii) The training is delivered through access to the Profit Uni, our members-only online university learning platform, plus additional resources from the US head office.
- (iii) You will engage in self-paced learning, delivered through our video training library, quizzes, and uploading information about the implementation of the Profit First methodology in your own business.
- (iv) On average, it takes Members between 3 to 6 months to complete the training, depending on how much time you dedicate to the modules each week.

- a. We strongly recommend a minimum of 2 hours per week – at least 1 hour in the Profit Uni and 1 hour on a call each week. More time can be invested if you wish to fast track your training.
 - b. It is expected that you will complete your training and achieve certification in your first 12 months of Membership. Failure to do so may be a breach of your obligation to actively engage in the Membership.
- (v) You will also receive resources to support your learning and assist in setting up your Profit First business, including:
 - a. Done for you branding tool kit;
 - b. Marketing tool kit;
 - c. Pricing documents;
 - d. Client proposal scripts; and
 - e. Profit First calculators
- (vi) You will also be required to implement the Profit First system for 2 of your existing clients, who are willing to sign a consent form allowing you to upload financial documentation demonstrating your progress.
- (vii) The training is supported by online open office group sessions, where you can ask questions and share your experiences with other Members, as well as the opportunity to book 1:1 coaching support calls.

4. **Assessment**

- (i) Once you have completed your training, you are required to:
 - a. Resubmit proof of your implementation of Profit First in your business by uploading evidence of the changes it has made for you; and
 - b. Sit an exam assessing your knowledge of the Profit First System.
- (ii) You must get a pass rate of 85% in order to become a certified Member of the Profit First Professionals.
- (iii) If you do not satisfactorily pass the exam, you will be provided with opportunities to repeat it, along with 1:1 support to assist you with any areas where you are struggling.
- (iv) To complete the assessment, you are also required to submit three references:
 - a. A reference from a new client;

- b. A reference from a client that you have worked with for less than 6 months; and
- c. A reference from a client that you have worked with for more than 12 months.

5. Membership

- (i) You can choose between monthly and annual Membership when you make your first payment and accept this Agreement.
- (ii) As a Member, you will be provided with regular learning opportunities and ongoing updates to the licensed resources.
- (iii) You will receive:
 - a. Support around implementing the Profit First system;
 - b. Workshops focused on marketing an online business;
 - c. Monthly calls with experts for business improvement;
 - d. Ongoing 1:1 mentoring calls;
 - e. Access to US events and global calls; and
 - f. An opportunity to purchase tickets to attend a Profit First Members only event with Mike Michalowicz in Australia each year (unless cancelled due to circumstances beyond our control, such as travel restrictions and quarantine.)
- (iv) We maintain a directory on our website of certified and uncertified Members.
 - a. Uncertified Members are those who are still undergoing training.
 - b. Certified Members are those who have completed their training and assessment.
 - c. Certified Members have the opportunity to be matched with leads who contact us through our website and social media channels.
- (v) There is an Australian and an international private Facebook group where Members can ask questions, share wins, seek advice on challenges and enjoy engaging with their fellow Profit First Professionals.
- (vi) Our monthly expert calls are recorded. However, our events and online workshops are usually live and not recorded to encourage attendance and engagement. Online workshops may occasionally be recorded, but this is not guaranteed.

- (vii) Open office group calls are generally not recorded for privacy reasons, to allow us to explore the challenges that Members are experiencing without compromising your business and client confidentiality. If we choose to record a section of a call, we will let everyone on the call know, and the recording will only cover topics that are of benefit to the Membership and do not include any private information, such as how-to sessions, sample pricing conversations and role play opportunities.

6. Certification

- (i) You become a certified Member of Profit First Professionals Australia when you successfully pass your assessment.
- (ii) However, please be aware that we reserve the right to revoke your certification if:
 - a. You cease actively engaging in the Membership for a significant period without a reasonable excuse that is beyond your control;
 - b. We receive significant negative feedback about you, which our investigations suggest has been made in good faith and is not malicious or vexatious; or
 - c. You fail to pass the annual examination to the relevant standard.
- (iii) We take our responsibility for quality assurance very seriously, as it affects the reputation of all Profit First Members worldwide. This role is also mandated by our Agreement with the US headquarters of Profit First Professionals, which requires that we test and audit Members “to establish that they have the knowledge and skills to be a worthy and compliant Profit First Professional.” Our ongoing audits include:
 - a. Monitoring your participation in calls and your engagement in the Membership;
 - b. Checking in with you regularly around your use of Profit First in your own business; and
 - c. An annual examination to assess your knowledge and skills.
- (iv) Your Profit First Professionals licence may only be used in your Australian business. However, there is no restriction on the location of your clients, whose businesses may be situated anywhere in the world.
- (v) While we provide a wide range of resources and support aimed at helping you operate successfully, we do not dictate how you run your business. Any advice or insights for marketing your business that may be provided

in the Membership are for your consideration and professional development. There is no compulsory marketing scheme or benchmark performance requirements associated with Certification, and you are expected to use your own best judgment in developing your own marketing strategy.

- (vi) You are not authorised to grant a licence or certification to anyone else. This means that when you teach the Profit First methods to your clients, they may only use the system in their own business. No-one is permitted to offer Profit First as a service in Australia unless they have been certified by us.
- (vii) Certification is personal to you and may not be assigned or transferred to others.
 - a. It is possible for an organisation, such as a company or collaboration, to present to the public as a certified Profit First Professional business, so long as at least one active, office-holding owner of the organisation is a certified Member.
 - b. However, as the suitability and viability of the organisation is assessed as a whole, you must inform us if there is a significant change to the organisation's ownership or executive structure, including where a certified Member leaves the organisation or ceases to be actively engaged in an organisation's business.
 - c. We provide access to the Profit Uni without charge for employees and business partners of existing Member organisations, so they can be trained in elements of the Profit First methodology ("associate access"). Associate access does not include access to the open office calls or any 1:1 support, and does not permit you to offer Profit First services except in a supporting role to a certified Member.
 - d. An organisation with at least one certified Member paying the full Membership fee may apply for additional people in the organisation to become certified Members ("additional Members") at a reduced rate of 50% of the Membership fee for each additional Member.
 - i. Additional Members are subject to the same requirements, restrictions and obligations as any other Member, including prerequisites, training, assessment and certification;
 - ii. Additional Members are entitled to access all the calls, support and resources; and

- iii. Additional Members are entitled to offer Profit First services through the organisation, but not in any other capacity.
- e. Where an organisation consists of a full Member and one or more additional Members, and the full Member ceases to be involved in the organisation, there is no guarantee that the additional Member(s) will be granted the right to continue offering Profit First services on their own, or in conjunction with new people entering the organisation.
- f. If a full Member leaves an organisation or ceases to be actively engaged in an organisation's business, we reserve the right to review that organisation's entitlement to offer services as a Profit First Professional (including the rights of additional Members and those with associate access). Depending on the extent of the changes involved, we may, at our sole discretion:
 - i. Restart the 12 months Membership for the organisation, requiring payment of the full Membership fee, so those who have previously enjoyed associate access can seek full certification as a Member;
 - ii. Require key personnel, including owners, directors, significant shareholders, or additional Members to undergo further training and assessment for an additional fee, in order to retain certification of the organisation; or
 - iii. Revoke the certification if we determine that, for any reason, the organisation no longer meets Profit First's required standards of worthiness and compliance.

7. Intellectual Property

- (i) Certified Members are authorised under licence:
 - a. To use the following Australian registered trade marks, only in addition to your own branding, and only in relation to activities or promotions associated with your Membership:
 - i. Profit First®; and
 - ii. Profit First Professionals®
 - b. To display an official Profit First Professional badge on their website, email correspondence, social media profiles and stationery; and
 - c. To use the Profit First materials, content and methodology in their own business and with their clients.

- (ii) Members are granted a non-exclusive, limited right to use Profit First intellectual property as follows:
 - a. Advertising and delivering your services as a Profit First Professional (noting that the format, content and theory underlying the Profit First system involves trade secrets belonging to us, or for which we hold an exclusive Australian licence);
 - b. Copyright resources for you to use and supply to your clients, including handouts, videos, presentation materials, games and other content;
 - c. A disclaimer, report template and tools for you to use when conducting Profit First assessments with your clients and potential clients; and
 - d. A template for client engagement to help you maintain compliance with the Profit First system.
- (iii) The core content and system of Profit First must be delivered to your clients with integrity, as taught to you in the training. You may not change the system or present the material in a way that makes significant changes to the underlying concept, parameters or scope of the work. However, it is intended that you will work within the bounds of your own practice, using the modality in a way that reflects your own unique experience and the needs of your clients, while staying true to the principles of Profit First.
- (iv) Any changes you wish to make to the system or practice, including adaptations to existing material, or the creation of new material incorporating Profit First intellectual property, must be provided to us and approved in advance before you use them with your clients or make them public in any way.
- (v) While you are welcome to create training manuals, online courses, webinars, workbooks, short ebooks, guides and printables to meet your client's needs under the Membership, you agree that you will share your creations with us. We also reserve the right to conduct random audits of materials created by Members from time to time, by requesting samples for inspection. Samples must be provided on request. Refusal to provide samples or to make suggested amendments to materials that you have created based on Profit First intellectual property may provide grounds for cancelling your Membership.

8. Cost of Membership

- (i) The Membership fee is either \$6200 annually, paid upfront, or \$620 per month on a payment plan.
- (ii) Membership is an annual commitment, even if you choose a monthly payment. This means that even if you choose to drop out of the training, you are committed to paying the whole cost of the 12 month Membership, as you have received access to our intellectual property.
- (iii) All costs are in Australian dollars and include GST.
- (iv) All training, assessment, certification and access to resources is included in the Membership. There are no additional fees.

9. Refund & Cancellation Policies

- (i) There are no refunds for the Membership if you change your mind (including deciding it is too hard). When you sign up for Membership, you are making a serious commitment to engage deeply with the material and its implementation in your business and that of your clients over a 12 month period. This is because the success of Profit First Professionals is built on establishing long-term relationships of trust. We have built a period of discernment into our rigorous application process and we strongly encourage you to use this time to ensure you are making a fully informed decision about whether this Membership is right for you.
- (ii) If you are unable to engage actively in the Membership due to extreme circumstances beyond your control, we may agree to cancel your Membership and provide a pro-rata refund. This decision is made at our sole discretion and requires strong evidence of hardship.
- (iii) If you make significant changes to the Profit First system or material in breach of clause 7(iii), or engage in behaviour capable of damaging our reputation or the Profit First brand, you will be notified and requested to bring your conduct back into alignment with our requirements. If you fail to take appropriate action within a reasonable time, your Membership may be cancelled without refund.
- (iv) If your Membership is relinquished, revoked or cancelled for any reason, you:
 - a. No longer have the right to use any of the Profit First intellectual property, including the Profit First trade marks and the copyright resources;

- b. Must remove all Profit First branding from your website, programs, marketing, social media and other material associated with your business;
- c. Must cancel or transfer to us any domain names or business name registrations that use the Profit First brand name;
- d. Understand that your business will be removed from the directory on the Profit First Professionals Australia website; and
- e. must stop selling any programs, products or services that make significant use of the Profit First system. If you have any doubt about whether a particular use qualifies as significant, please contact us to discuss how to untangle the Profit First intellectual property from yours in an acceptable manner.

10. Restrictions on Members

- (i) You are required to familiarise yourself with all relevant legal requirements for conducting a business in your location. You take full responsibility for ensuring that you comply with all applicable local laws and regulations.
- (ii) As a Member, you must comply with all reasonable directions that we may issue regarding the manner of using Profit First intellectual property. This includes displaying all appropriate trade mark and copyright information on material that you use, in order to maintain appropriate notification and protection of our intellectual property rights, and those of the Profit First Professionals headquarters in the US.
- (iii) You agree not to apply for registration in Australia or internationally of any trade mark, business name, company name or domain name that incorporates signs, logos or words the same as, substantially identical or deceptively similar to the Profit First trade mark or any associated intellectual property, including copyright, whether registered or unregistered, without our express written permission. Failure to comply with this provision will be taken very seriously and may result in your Membership being revoked.

11. Confidential Information

- (i) Where it is indicated to you that any part of the intellectual property provided comprises confidential material, you:

- a. must not disclose that confidential information to any person or organisation without obtaining our prior written consent; and
 - b. must take such steps as may be necessary to ensure that anyone connected with you or your business will not disclose such confidential material.
- (ii) This obligation to protect our confidential information survives the expiration or termination of this Agreement and continues indefinitely or until such time as the confidential information enters the public domain. You explicitly acknowledge that this is reasonably necessary to protect our legitimate business interests.
- (iii) We make a reciprocal acknowledgment of obligation to you in respect of any declared confidential information that you share with us about your business. We comply with best practice requirements for data storage in line with the Australian Privacy Principles.
- (iv) During training, group calls, mentoring and coaching, you are likely to be sharing confidential and sensitive information about your clients and your clients' businesses, and hearing confidential and sensitive information about the clients and businesses of other Members.
 - a. You acknowledge and agree that you are under a strict duty of confidentiality in respect of such information and that you will not disclose it to anyone unless legally required to do so. This prohibition on disclosure includes your colleagues, other members of your business, and those with whom you are in a domestic relationship.
 - b. You will always use your best endeavours to avoid compromising your clients' confidentiality by keeping their details anonymous, unless you have their express, informed, written consent to identify them in connection with the information being shared.
- (v) If you are found to have breached confidentiality without consent, whether during training, while engaging in Membership activities or in the context of your practice, your Membership will be immediately revoked.
- (vi) Where we ask you to provide profit & loss balance sheets or other data from identified clients for the purposes of assessment or to gain support in implementation, we will provide you with a consent form to request their express written permission. You undertake not to provide this material to us without their consent, and acknowledge that if a client refuses to provide consent for any reason, it is your responsibility to locate an alternative client who is willing to give permission. The

requirements for assessment will not be waived due to a lack of suitable or consenting clients.

12. Dealing with Problems

- (i) You must promptly advise us in writing of any claims or legal disputes which may be brought against you, or in respect of which you or Profit First Professionals Australia may become liable arising out of the Membership or your activities as a Member.
- (ii) You indemnify us against any loss, damage or expense arising out of your use of the Profit First system in your business, and in your clients' businesses.
- (iii) The defence of any litigation to which this clause applies is to be under your control, and you are to bear all legal costs and expenses of any such litigation. Profit First Professionals Australia and our legal advisors may choose to participate in such litigation at our own expense and at our own discretion.
- (iv) Notwithstanding, and without limiting clause 12(iii), if any dispute does arise relating to your use of the Profit First system, you are to pursue all reasonable means of resolving the dispute through negotiation and mediation, with litigation as a last resort.

13. General Provisions

- (i) This agreement comprises the whole agreement between us concerning the Membership and certification, and replaces any prior agreement, arrangement or understanding.
- (ii) Any variation to this agreement must be in writing and clearly acknowledged by all parties.
- (iii) If any part of this agreement is held to be void, illegal or unenforceable, it can be removed without affecting the validity, legality or enforceability of any other part of this agreement.
- (iv) Where the words "including" or "includes" appear in this agreement, they mean "including (or includes) without limitation".

14. Jurisdiction & Dispute Resolution

- (i) Profit First Professionals Australia Pty Ltd is located in Victoria, Australia. This agreement is subject to the governing laws of Victoria.
- (ii) If any concerns or issues arise out of this agreement, your participation in the Membership or your certification as a Profit First Professional, all parties agree to communicate with the intention of making a genuine

effort to seek a win/win solution and resolve any dispute by negotiation and discussion.

- (iii) If we are unable to resolve a dispute by negotiation and discussion within 14 days, we agree to proceed to mediation with the assistance of an independent accredited mediator, seeking online dispute resolution or mediation by telephone if we are not both in Victoria, Australia.
- (iv) The mediator is to be appointed by agreement between us or, failing agreement within twenty-one (21) days of the first notification of the dispute, the person initiating the dispute will seek the appointment of a dispute resolution professional by the President of the Law Institute of Victoria: <https://www.liv.asn.au/Mediators>.
- (v) We agree to share the costs of mediation equally between us.
- (vi) It is a condition precedent to the right of either of us to commence litigation other than for interlocutory relief that we have first offered to submit the dispute to mediation. Litigation is to be considered a last resort and may not be commenced until, in the opinion of the independent mediator, the potential for negotiation and mediation have been exhausted.
- (vii) We both agree that we shall not publicly or privately disparage each other or anyone connected with the other's business, but rather shall act in good faith to refrain from any conduct or communication which might reasonably be expected to interfere with the business and/or personal interests of each other.