

PROVIDING YOUR

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CPD UNITS  
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MAINTENANCE  
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# 65<sup>TH</sup> ANNUAL ARMIDALE CLE CONFERENCE

## Breakout sessions on:

Family Law, Property Law, Succession Law, Estate Planning,  
Commercial Law and Criminal Law

## Compulsory subjects:

Ethics, Professional Skills, Practice Management

2

REGISTRATION  
OPTIONS  
FACE TO FACE  
OR ONLINE

Armidale Ex-Services Club, Dumaresq Street,  
Armidale, NSW or Online

**Thursday 1 & Friday 2 February 2024**

## Feedback from last year's conference:

- Should be compulsory to all practitioners. Worthwhile on all fronts - learning and camaraderie. Staff outstanding. We all promise to be there in 2024. Many thanks.
- The Armidale Conference is always a pleasure to attend. Well run and good venue.
- The Armidale seminar is an excellent seminar. It attracts a wide cross section of the profession. It provides an excellent network for sole practitioners. The fact that I can speak to a fellow sole practitioner is important and you realise you are not alone and the local knowledge they provide when acting for clients in their area is invaluable.
- This is an important conference for rural practitioners. Please keep it running for as long as you can.
- This is my 14th year I expect to be returning for another 14 [by which time I will be 78] well done TEN people.
- The networking evening was a highlight, getting an opportunity to meet other solicitors.



Leaders in online CPD for Lawyers

# DAY 1 - THURSDAY 1 FEBRUARY 2024

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11.30 - 11.40am

## WELCOME AND OPENING REMARKS

Robert Clemente, Chief Executive, TEN The Education Network

11.40am - 12.40pm

### Session 1: Keynote Address

#### PROTECTING THE VULNERABLE: SAFEGUARDING AGAINST ELDER ABUSE AND FRAUD BY POWERS OF ATTORNEY

Elder abuse and fraud perpetrated through powers of attorney is an alarming issue that demands the attention and vigilance of all succession lawyers. As the aging population continues to grow, the vulnerability of older individuals to exploitation and mistreatment becomes increasingly evident. Powers of attorney, entrusted with significant decision-making authority, can wield substantial control over an elderly person's finances and assets. Regrettably, some unscrupulous individuals abuse this power for personal gain, leading to devastating consequences. This session provides a comprehensive analysis of elder abuse and fraud committed by powers of attorney, including:

- The prevalence and types of elder abuse and fraud perpetrated by powers of attorney
- The legal frameworks and regulations surrounding powers of attorney, including the responsibilities, obligations, and limitations imposed on attorneys to prevent abuse and fraud:
- Spotlight on transfers of land via online conveyancing and the rise of elder abuse:
  - the practical/PEXA and legal requirements when transferring land pursuant to a power of attorney and how to determine when the transfer was effected under a power of attorney
  - steps prudent solicitors should take when faced with a potential transfer of land purporting to be pursuant to a power of attorney
- Preventive measures and best practices that lawyers can implement to mitigate the risks associated with powers of attorney, including thorough client assessments, effective documentation, and ongoing monitoring.
- Lessons from recent cases

*Speaker: Justine Taylor, Principal Director, Uther Webster & Evans, Sydney*

12.40 - 1.40pm

### Session 2: Professional Skills

#### NAVIGATING THE CURRENTS OF WATER ACCESS LICENSES: MASTERING YOUR SKILLSET

Just as a skilled mariner charts the currents of uncharted waters, so too must lawyers adeptly traverse the complexities of water access licenses to safeguard the interests of clients and stakeholders alike. This session explores the key rules and regulations of water access licenses for when they do inevitably arise in a transaction or property dealing, including:

- Explain the relevant legislative frameworks governing water access rights, including tips for navigating the Water Management Act
- Summarise the categories and features of licenses, and key aspects of license tenure
- Explore the role of water sharing plans, WAL Register, certificates and what to look out for when dealing with water access licenses in practice.

*Speaker: Mark Procajlo, Partner, Thomson Geer, Sydney*

1.40 - 2.40pm

Lunch

# DAY 1 - THURSDAY 1 FEBRUARY 2024

2.40 - 3.40pm

*Concurrent Sessions – Delegates can choose to attend either Stream A or Stream B*

STREAM A

## Session 3A - Estate Planning

### MORE THAN A MATTER OF HOUSEKEEPING: LIFE TENANCIES AND RIGHTS TO RESIDE

Complex family dynamics arising from successive relationship formations have resulted in the family home becoming a central issue in estate planning. This session will take a deep dive into the risks and benefits of the various options for limited “housekeeping” for the partner left behind, including:

- The fundamental differences between a life tenancy and a right to reside
- What conditions or limitations can be attached to the grant?
- The ongoing role of the executor
- Tips for taking ageing and health into account - can the property be used to fund aged care?
- When can a property be assumed to have been vacated? Buy-outs and other options for remaindermen
- Financial and taxation consequences for the estate and the rights holder
- Drafting guide and strategies for avoiding challenges
- Worked examples

*Speaker: Lauren Howes, Senior Associate, Makinson d'Apice Lawyers, Sydney*

STREAM B

## Session 3B - Commercial Law

### WAR OF THE WORDS: THE SIGNIFICANT CHANGES TO UNFAIR CONTRACT TERMS

In late 2023, new laws governing unfair contract terms came into effect. To avoid the significantly increased and additional penalties the new laws will bring, all businesses caught by the scheme must ensure that all of their contracts are free of unfair contract terms or else face the risk of the harsher penalties being introduced. This includes not only businesses covered under present law but also those smaller businesses who will be caught under the new law's expanded scope. This session examines the key changes and their practical implications, including:

- Explain which contracts the new law will apply to and which businesses (companies and individuals) will be caught under the expanded scope of the new law
- Talk through what happens following a breach including an overview of the new and significantly increased penalties for breaches
- Outline the expanded powers of the courts and their role in enforcement
- Discuss the new definition of standard form contract under the new regime

*Speaker: Hugh Smith, Senior Associate, Chamberlains Law Firm, Canberra*

# DAY 1 - THURSDAY 1 FEBRUARY 2024

3.40 - 4.40pm

*Concurrent Sessions – Delegates can choose to attend either Stream A or Stream B*

STREAM A

## Session 4A - Estate Planning

### THE LOAN RANGER: PROTECTING THE BANK OF MUM AND DAD

The pressures on parents to lend or give their adult children money has increased in line with the cost of living, leaving parents vulnerable and children potentially abusive. This session will set out some of the options available for providing loans which safeguard mum and dad and the rest of the family, including:

- Deciding on the appropriate mechanism for loan arrangements
- What are the essential clauses in a formal loan agreement?
- Repayment obligations, security and rights to secure in future
- When is a co-ownership agreement an option?
- Drafting for potential changes in circumstances
- Strategies for protecting the loan from future claims in the event of a relationship breakdown
- Implications and financial consequences of loan arrangements through family trusts
- Updating wills to reflect loans and directions to executors for forgiveness or collection
- Equalising bequests to other children to offset sibling loans
- Recent cases

*Speaker: Nathan Yii, Principal Lawyer, Chartered Tax Advisor and SMSF Specialist Advisor - Nathan Yii Lawyers, Melbourne*

STREAM B

## Session 4B - Commercial Law

### GETTING READY TO RUMBLE: SHARE OR ASSET SALE? IS THE CHOICE STILL YOURS?

When buying a business that is operated by a company an important consideration is whether the buyer should purchase the shares of the company comprising the business or the assets out of the company itself. A key driver of this decision is often taxation implications. This session provides an overview of the taxation implications of share versus asset sales, with a focus on how these decisions have become increasingly vulnerable to attack on the basis of anti-avoidance rules. It covers:

- The options for implementation of sale structures having regard to anti-avoidance measures in a share sale vs asset sale (including dealing with assessments and justifying share over an asset sale)
- The recent shift in focus of revenue offices at state level and the growing rise of anti-avoidance activity
- The tax avoidance characteristics of the sale structure drawing the current attention of the ATO, when to expect a structure to be attacked and how to best respond if it does

*Speaker: Andrew Rider, Barrister, Level 22 Chambers, Sydney*

4.40 - 5.00pm

Afternoon tea

# DAY 1 - THURSDAY 1 FEBRUARY 2024

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5.00 - 6.00pm

## Session 5: Practice Management & Business Skills

### STRENGTHENING YOUR DEFENCES AGAINST SCAMS, PHISHING AND CYBER SECURITY ATTACKS

Around 300,000 cybercrimes are committed in Australia every year. Many of these incidents arise not from hacking but from the behaviour of people who fall prey to scams, phishing and other social engineering methods. And as the recent headlines have shown us, lawyers are no exception. This session assists practitioners keep on top of their cyber-security risk by examining:

- The different methods currently employed for scams
- Tips for how to identify scams and fraudulent communications
- Suggestions for systems, policies and steps lawyers can take to minimise their risk
- Potential consequences that can arise following a breach
- Case study: There's been a breach - what should you do next?

*Speaker: Jason Symons, Partner, Mills Oakley, Sydney*

6.00pm

**Close Day 1**

6.30 - 9.00pm

Conference Cocktail Party

## 6.30-9PM CONFERENCE COCKTAIL PARTY

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*All delegates are invited to attend the conference cocktail party. There is no extra charge and you are welcome to bring spouses/spices at no extra charge.*

*Many of the speakers will also attend the party and this will be a great opportunity for all to meet and mingle.*

# DAY 2 - FRIDAY 2 FEBRUARY 2024

9.00 -10.00am

*Concurrent Sessions – Delegates can choose to attend either Stream A or Stream B*

STREAM A

## Session 6A - Property Law

### PRACTICE AND PROCEDURE IN CONVEYANCING: RECENT DEVELOPMENTS IN NSW

Despite the slow-down in the property market, regulatory changes and other developments continue to keep the industry on its toes. This session will provide an overview of key legislation, cases and other significant changes, including:

- Electronic conveyancing update including process changes and reform timelines
- Update on interoperability - The politics of intervention and the impact of the Electronic Conveyancing (Adoption of National Law) Amendment Act 2022
- The impact of anti-money laundering legislation on property transactions and industry players
- An update on the strata legislation rewrite and introduction of amendments
- Recent cases of interest

*Speaker: Tony Cahill, Legal Author & Commentator, Chatswood*

STREAM B

## Session 6B - Family Law

### FROM EROSION TO SPRINGBOARDS: THE ASSESSMENT OF INITIAL CONTRIBUTIONS OVER TIME

The approach of the Court to the assessment of initial contributions and the weight that ought to be properly placed on initial contributions at trial has changed over time. From early arguments of erosion to later discussion of springboards - the language employed when discussing how the Court should assess initial contributions is vital, as use of an incorrect term could arguably lead the court into error. To assist practitioners, this session will explore:

- The arguments surrounding the appropriate assessment of initial contributions in property settlement matters
- The current views within the profession as to the 'erosion' and 'springboard' arguments and the preferred approach to assessing the relevance of the impact of time to initial contributions
- The scenarios in which a just and equitable outcome may arguably call for an assessment of initial contributions that merits 'special' recognition

*Speaker: Graeme Hearl, Consultant, Delaney Lawyers, Sydney*

# DAY 2 - FRIDAY 2 FEBRUARY 2024

10.00 - 11.00 am

*Concurrent Sessions – Delegates can choose to attend either Stream A or Stream B*

STREAM A

## Session 7A - Property Law

### MAKING THE DEPOSIT COUNT

Deposits are largely negotiable between sellers and buyers of property in NSW, and at a time of economic downturn the acceptance of greater risk in deposit terms can make or break a sale. This session will examine some of the choices each party has when it comes to payment and release of the deposit and the inherent risks, including:

- The legislative requirements including minimum deposit amounts
- What can go wrong will go wrong – cases and examples of deposit forfeiture and return
- Instalment deposits pro's and con's
- Why and when to use a deposit bond
- Drafting tips for deposit contract conditions
- Deposits in off-the-plan purchases
- Factors influence the court discretion under s55(2A) deposit repayment
- Cases including *Luong Din Luu v Sovereign Developments Pty Ltd* [2006] NSWCA 40; *Ringrow Pty Ltd v BP Australia* [2005] HCA 71; *Blanco v Wan* [2021] NSWSC 273; *Retirement Village Bargo Pty Ltd v Anwar* [2023] NSWSC 209; *Dasreef Developments Pty Ltd v Josiv Velkovski* [2017] NSWSC 1698

*Speaker: Tony Cahill, Legal Author & Commentator, Chatswood*

STREAM B

## Session 7B - Family Law

### HOW LATE IS TOO LATE? MANAGING LIMITATION PERIODS AND APPLICATIONS TO PROCEED OUT OF TIME

Limitation periods and applications to proceed out of time are critical issues in family law proceedings. Missing a limitation period can have severe consequences, including the loss of important rights and entitlements. At the same time, it can be challenging to determine when an application to proceed out of time is appropriate and how to effectively manage such applications. This practical session explores the key strategies and best practices for managing limitation periods and applications to proceed out of time, including:

- How late is too late? And does it matter why? The legal requirements of s.44 of the Family Law Act and the circumstances in which the court has authority to consider out of time applications
- Consequences of missing a limitation period for you and your client
- The factors the court considers when deciding whether to grant an application to proceed out of time
- Evidence that should be presented in support of an application to proceed out of time
- Practical and strategic guidance on running (and defending) out of time applications in practice
- How the law has been applied in recent cases, focusing on the facts in matters which supported a finding of hardship in favour of the applicant

*Speaker: Adam Cooper, Principal, Cooper Family Law, Brisbane*

11.00 - 11.20am

Morning Tea

# DAY 2 - FRIDAY 2 FEBRUARY 2024

11.20am - 12.20pm

*Concurrent Sessions – Delegates can choose to attend either Stream A or Stream B*

STREAM A

## Session 8A - Succession Law

### WHERE THERE'S A WILL THERE'S A WAY: INFORMAL WILLS AND TESTAMENTARY INTENT

While wills are generally regarded as formal legal documents, there are circumstances in which other documents or records of testamentary intentions may be accepted by the courts as an informal will. In a world where technology has caused a general relaxation of language and diverse means of communications, it is more important than ever to understand the circumstances in which an informal document or recording may be end up being construed as a will and to advise clients accordingly. This session will examine:

- The requirements, and exceptions, of a valid will under the Succession Act 2006
- When should practitioners consider preparing an informal wills?
- Probate and informal wills - what are the challenges?
- Recent case examples of when recordings and less common forms of communication have been used as the basis of an alleged will and the practical issues which arose in such cases
- Spotlight on the problems which have emerged with remote signing
- The circumstances in which the Court may recognise an informal will - what are the courts looking for?

*Speaker: John Armfield, Barrister, Second Floor Wentworth Chambers, Sydney*

STREAM B

## Session 8B - Criminal Law

### PART A - MASTERING COMPLEX SENTENCE MATTERS IN THE LOCAL COURT: STRATEGIES FOR EFFECTIVE PREPARATION AND PRESENTATION

At the core of every criminal lawyer's skill set lies the imperative ability to adeptly prepare and present intricate sentence matters within the local court system. This practical session explores the key issues to help sharpen the practitioners' skillset, including:

- Identifying what type of expert to instruct:
  - Forensic versus treating or both
  - Identify potential cognitive impairment
  - Psychologist versus psychiatrist
- Oral v written submissions
- Statutory and common law sentencing principles that are common and important to know for local court proceedings
- Tips and tricks for local court pleas

## Session 8B - Criminal Law

### PART B - PREPARING AND PRESENTING DEFENDED LOCAL COURT HEARINGS

The effective handling of defended Local Court hearings is a cornerstone skill for all criminal law practitioners. This paper delves into strategies and insights for effectively navigating this process, offering practical guidance on preparation and presentation. It covers:

- Giving evidence in the Local Court - spotlight on DVEC:
  - What can you do with a video copy of the DVEC?
  - What if the complainant does not attend court?
  - Essential items to be considered under the Criminal Procedure Act
- Tips and tricks in preparing and presenting at defended local court hearings

*Speaker: Manny Conditis, Partner, Conditis Lawyers, Sydney*



# DAY 2 - FRIDAY 2 FEBRUARY 2024

12.20 - 1.20pm

*Concurrent Sessions – Delegates can choose to attend either Stream A or Stream B*

STREAM A

## Session 9A - Succession Law

### ONCE UPON A TIME IN NSW: THE USE AND ABUSE OF NOTIONAL ESTATE ORDERS

Notional estate orders are a complex and unique component of New South Wales succession law, shaping the distribution of assets in a manner that extends beyond the confines of a testator's will. Given their potential to reshape asset distribution and inheritance outcomes, it is vital that succession lawyers understand the full reach of notional estate rules. This session will examine:

- Essential characteristics of notional estate laws and their implications for asset distribution
- Scenarios where notional estate laws may be applicable
- Strategies for minimizing the risks associated with the clawback of a deceased individual's assets
- Identifying potential issues before they escalate into significant problems

Lessons from recent cases

*Speaker: Adrian Bailey, Principal, Cleary Hoare Solicitors, Sydney*

STREAM B

## Session 9B - Criminal Law

### THE LATEST AND GREATEST CASE LAW AND LEGISLATIVE DEVELOPMENTS: 12 MONTH REVIEW

In the realm of New South Wales criminal law, the landscape is in a constant state of flux, with case law and legislative updates shaping the very foundation on which legal practitioners stand. This practical session takes a focused look back at the past 12 months, distilling the most impactful shifts in case law and legislative developments including:

- Spotlight on the new offence of coercive control in domestic relationships
- Case law development in sentencing law
- Case law developments related to serious indictable offences

*Speaker: Michal Mantaj, Partner, Conditis Lawyers, Sydney*

1.20 - 2.20pm

Lunch

2.20 - 3.20pm

## Session 10: Ethics & Professional Responsibility

### Lessons from the Battlefield: Navigating Professional Risk in Practice

In this practical session, hear directly from Lawcover on the ethical and professional challenges facing practitioners in private practice. With a focus on the key learnings from recent reported and unreported decisions over the last 12 months, this session provides practitioners with best practice guidance on how to best manage risks and prevent future claims.

*This session is a Maintenance Event for the purposes of Lawcover's Risk Management Education Program Premium Discount.*

*Speaker: Jennifer McMillan, Manager, Practice Support Services, Lawcover, Sydney*

3.20pm

Conference Close

# GENERAL INFORMATION

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## Conference Registration Fee

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The registration fee includes attendance at the conference, conference papers, refreshment breaks and lunch on both conference days.

## Conference Papers

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TEN will not provide printed copies of the conference papers or Powerpoints at the event. Access to the papers & Powerpoints will be available online to all delegates in the lead-up to the conference (as they become available).

## CPD Units

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Delegates attending the conference (either face to face or live online) will earn their 10 CPD units for the current CPD year – including the 3 compulsory subjects.

## The Conference Venue

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### Armidale Ex-Services Club

137 Dumaresq Street  
Armidale, NSW

## Conference Accommodation

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EX-SERVIES MOTEL (adjoining the conference venue) - **for bookings call (02) 6772 0918**

- Executive King Rooms - \$180 (room only)
- Executive Spa Rooms - \$220 (room only).
- There are limited rooms available so get in quick to avoid missing out.

CITY CENTRE MOTEL ARMIDALE (formally known as Comfort Motor Inn/City Centre Motor Inn - located approx. 10–15-minute walk to conference venue)

- Superior King room - \$170
- Superior Queen Room - \$139
- Superior Small Family Room - \$161
- Superior Small Family Room - \$179

Rate includes Continental Breakfast for all guests.

For bookings contact - Ph: 02 6772 2351 or Email: [stay@citycentreamidale.com.au](mailto:stay@citycentreamidale.com.au)

## Travelling to the Conference Venue

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Delegates are advised to make their own travel arrangements.

# TERMS AND CONDITIONS

1. In these terms,
  - a. "TEN" means Television Education Network Pty Ltd
  - b. "you" means the person who has registered to attend or the person or persons who attend(s) the conference (if different from the person registered)
  - c. "conference" means the live face to face or live or recorded online educational event or which you have registered (by whatever name called and includes conferences, masterclasses, webinars and webinar series).
  - d. "live conference" means a conference other than a recorded conference.
  - e. "recorded conference" means a recording of a presentation or a series of presentations which you can view at a time of your choosing
  - f. "online" in relation to a conference means a conference you attend by viewing the conference over the Internet
  - g. "face to face" in relation to a conference means a conference held in an external venue where you view the conference in the conference room

## General – all conferences

2. TEN may change the program for a live conference as described in the brochure you have downloaded or in the TEN website without notice to you in any manner and at any time.
3. The information and opinions of presenters at the conference are not necessarily those of TEN and are in the nature of general information and not professional advice and you rely on these at their own risk. TEN is not responsible for the accuracy of the information or the correctness of the opinions offered by presenters at the conference.
4. TEN is not responsible for any financial or other losses incurred by you or for injury or damage to persons or property which occur at or in connection with the conference.

## Copyright

5. The copyright in materials prepared by presenters at a conference and made available to you by TEN is and remains the property of each presenter.
6. You are entitled to use those materials for private study and research only.
7. The copyright in the live stream and in any recording of a conference offered online is the property of TEN.
8. You are entitled to watch a conference for private study and research only.

## Conference cancellation by TEN – all conferences

12. TEN reserves the right to cancel a conference for any reason.
13. If TEN cancels the conference, you will be entitled either to a refund of the registration fee you have paid or to a credit equal to that fee which you can use to purchase another TEN product within 12 months of the first day of the cancelled conference.

## Cancellation by You – all conferences

14. Refunds for registration cancellation by you other than under Clause 6(b):
  - a. If notice of cancellation is actually received by TEN more than 10 days before the first day on which the conference is to be held, 85% of the registration fee you have paid
  - b. Otherwise, no refund.

## Governing Law – all conferences

15. The agreement between TEN and you is governed by the laws in force in the State of Victoria and the courts and tribunals of that State have sole jurisdiction to determine disputes arising in relation to it.

# REGISTRATION FORM TAX INVOICE\*

Registration is simple; complete the form below and fax or post your registration to us or register online.  
Television Education Network Pty Ltd (ABN 19 052 319 365) trading as TEN The Education Network.  
GPO Box 61, Melbourne, Victoria 3001  
Phone (03) 8601 7700 Enquiries Hayley Williams-Cameron (03) 8601 7730  
Register online: <http://www.tved.net.au> – go to CONFERENCES

Please register me for the **65th Annual Armidale CLE Conference** – a 2-day conference to be held in Armidale NSW on Thursday 1 & Friday 2 February 2024

Delegates have 2 options for attending the 2024 conference – both cost the same.

- Registration type 1:** Attend in person [code: ARMFEB24]
- Registration type 2:** Attend online [code: ARMFEB24L0]
- Early Bird Registration** – for registrations made on or before 24 November 2023 – **\$759** (\$690 + \$69 GST)
- Full Price Registration** – **\$880** (\$800 + \$80 GST)

**Multiple registration discount?** Discounts are available for multiple registrations: The more you send, the greater the discount. You can access the discount by contacting our Event Coordinator, Hayley Williams-Cameron, to organise your registrations – email [hayley@tved.net.au](mailto:hayley@tved.net.au) or phone (03) 8601 7730.

- 3 registrations – **5% discount** for each delegate
- If you register 4 people at the same time you are entitled to a **10% discount** for each delegate
- If you register 5 people or more people at the same time you are entitled to a **15% discount** for each delegate.

**One-day only?** We do accept bookings for attending one day only (either day 1 or day 2). To organise a one-day booking, please contact Hayley (details above).

Mr/Mrs/Miss/Ms First Name .....

Middle Init.....Last Name .....

Preferred Name for nametag *[if different from above]* .....

Position .....

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I enclose cheque for \$..... payable to **Television Education Network Pty Ltd**

Visa  Bankcard  American Express  Mastercard

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Cardholder's Signature: .....

\* Note: This form will be a Tax Invoice for GST when you make a payment.