

Terms & Conditions of Trade

Additional Terms and Conditions to be read in conjunction with PEER's "Host Employer Agreement" and "Privacy Policy". The Privacy Policy is available to be viewed via PEER's website www.peer.com.au. If there are any inconsistencies between the documentation then (subject to applicable legislation) the Terms and Conditions contained therein shall prevail.

1. Definitions

- 1.1 "PEER" means Plumbing Electrical Electronic And Refrigeration Vocational Education Employment And Training Incorp T/A PEER, its successors and assigns or any person acting on behalf of and with the authority of Plumbing Electrical Electronic And Refrigeration Vocational Education Employment And Training Incorp T/A PEER.
- 1.2 "Host Employer" means the person/s, entities, business or organisation (and shall include, Employer/s to be engaged for Private Apprentice/s that are not employed by PEER under a GTO arrangement) requesting PEER to provide any Apprentices/Trainees for placement, or "hosting", with the Host Employer, as specified in this contract, and if there is more than one person requesting the Apprentices/Trainees, is a reference to each person jointly and severally.
- 1.3 "Apprentices/Trainees" shall mean any individual participating in the training program provided by PEER or sent by PEER to the Host Employer for placement on either a full-time, part-time, or temporary basis for the provision of on-the-job workplace environment and training, in accordance with this contract.
- 1.4 "Apprenticeship/Traineeship" means a form of structured entry level training which consists of training delivered under a formal training agreement in accordance with a mutually agreed training plan involving structured on the job training and/or off the job training.
- 1.5 "Documentation" means any goods, documents, designs, drawings, books, course materials and any other learning tools supplied, created or deposited incidentally by PEER in the course of it conducting, or supplying to the Host Employer, any Services.
- 1.6 "Services" mean all Services (including but not limited to, co-ordinating Apprentice/Trainee hosting) supplied by PEER to the Host Employer at the Host Employer's request from time to time.
- 1.7 "Course" shall mean any Course provided by PEER to the Host Employer and includes any advice or recommendations (and where the context so permits shall include any supply of Training Service and Course Work as defined below).
- 1.8 "Training Service and Course Work" shall mean all Training Services and Course Work supplied by PEER to the Host Employer and includes any training (and where the context so permits shall include any provision of the Course as defined above).
- 1.9 "Group Training Organisation (GTO)" means an organisation providing a group training service to Apprentices, Trainees and Host Employers.
- 1.10 "Confidential Information" means information of a confidential nature whether oral, written or in electronic form including, but not limited to, this Contract, either party's intellectual property, operational information, know-how, trade secrets, financial and commercial affairs, contracts, client information (including but not limited to, "Personal Information" such as: name, address, D.O.B, occupation, driver's license details, electronic contact (email, Facebook or Twitter details), medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history) and pricing details.
- 1.11 "Cookies" means small files which are stored on a user's computer. They are designed to hold a modest amount of data (including Personal Information) specific to a particular client and website, and can be accessed either by the web server or the client's computer. **If the Host Employer does not wish to allow Cookies to operate in the background when ordering from the website, then the Host Employer shall have the right to enable / disable the Cookies first by selecting the option to enable / disable provided on the website, prior to ordering Services via the website.**
- 1.12 "Price" means the price payable (plus any GST where applicable) for the Services as agreed between PEER and the Host Employer in accordance with clause 2 of this contract.
- 1.13 "GST" means Goods and Services Tax as defined within the "A New Tax System (Goods and Services Tax) Act 1999" (Cth).

2. Acceptance

- 2.1 The Host Employer is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Host Employer places an order for, or accepts delivery of, any of PEER's prescribed Services.
- 2.2 These terms and conditions may only be amended with both parties consent in writing and shall prevail to the extent of any inconsistency with any other document or agreement between the Host Employer and PEER.
- 2.3 Where an agreement is subject to a private Apprentice engagement under training or upskill development then the Apprentice or their Host Employer will be responsible for the payment of their own text books.
- 2.4 In all cases Certificates of Achievement will not be issued until PEER is in receipt of the full payment due and payable under the contract.
- 2.5 Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 9 of the Electronic Transactions Act 2000 or any other applicable provisions of that Act or any Regulations referred to in that Act.

3. Price and Payment

- 3.1 The Price shall be as indicated on invoices provided by PEER to the Host Employer in respect of the Services supplied.
- 3.2 At PEER's sole discretion, a deposit will be required prior to commencement of training.
- 3.3 All Apprentices/Trainees must complete timesheets to record their hours of work. PEER provide timesheets, however, the Host Employer may elect that their own timesheets are used, this can be accompanied (this must be with the express approval of PEER Finance Department prior to implementation). The Host Employer will be responsible to check and sign the Apprentices/Trainee's timesheets to ensure they have been accurately completed prior to submission to PEER.
- 3.4 Time for payment for the Services shall be of the essence and will be stated on the invoice, quotation, or any other order forms. If no time is stated then payment will be due seven (7) days following the date of the invoice by direct debit.
- 3.5 Payment may be made by electronic/on-line banking, direct debit, credit card (no surcharge applies) or by any other method as agreed to between the Host Employer and PEER.
- 3.6 The Host Employer shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Host Employer by PEER nor to withhold payment of any invoice because part of that invoice is in dispute.
- 3.7 Unless otherwise stated the Price does not include GST. In addition to the Price the Host Employer must pay to PEER an amount equal to any GST PEER must pay for any supply of Services by PEER under this or any other agreement. The Host Employer must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Host Employer pays the Price. In addition the Host Employer must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.
- 3.8 The Host Employer acknowledges and agrees that the Host Employer's obligations to PEER for the supply of Services shall not cease until:
 - (a) the Host Employer has paid PEER all amounts owing for the particular Services; and

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- (b) the Host Employer has met all other obligations due by the Host Employer to PEER in respect of all contracts between PEER and the Host Employer.
- 3.9 Receipt by PEER of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised and until then PEER ownership or rights in respect of this agreement shall continue.
- 4. Personal Property Securities Act 2009 (“PPSA”)**
- 4.1 In this clause:
- (a) financing statement has the meaning given to it by the PPSA;
 - (b) financing change statement has the meaning given to it by the PPSA;
 - (c) security agreement means the security agreement under the PPSA created between the Host Employer and PEER by these terms and conditions; and
 - (d) security interest has the meaning given to it by the PPSA.
- 4.2 Upon assenting to these terms and conditions in writing the Host Employer acknowledges and agrees that these terms and conditions:
- (a) constitute a security agreement for the purposes of the PPSA; and
 - (b) create a security interest in all Documentation being transported by PEER.
- 4.3 The Host Employer undertakes to:
- (a) promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which PEER may reasonably require to:
 - (i) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
 - (ii) register any other document required to be registered by the PPSA; or
 - (iii) correct a defect in a statement referred to in clause 4.3(a)(i) or 4.3(a)(ii);
 - (b) indemnify, and upon demand reimburse, PEER for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA or releasing any Documentation charged thereby;
 - (c) not register a financing change statement in respect of a security interest without the prior written consent of PEER;
 - (d) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Documentation in favour of a third party without the prior written consent of PEER.
- 4.4 PEER and the Host Employer agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.
- 4.5 The Host Employer hereby waives its rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.
- 4.6 The Host Employer waives its rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.
- 4.7 Unless otherwise agreed to in writing by PEER, the Host Employer waives its right to receive a verification statement in accordance with section 157 of the PPSA.
- 4.8 The Host Employer shall unconditionally ratify any actions taken by PEER under clauses 4.3 to 4.5.
- 4.9 Subject to any express provisions to the contrary nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.
- 5. Security and Charge**
- 5.1 In consideration of PEER agreeing to supply the Services, the Host Employer charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Host Employer either now or in the future, to secure the performance by the Host Employer of its obligations under these terms and conditions (including, but not limited to, the payment of any money).
- 5.2 The Host Employer indemnifies PEER from and against all PEER’s costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising PEER’s rights under this clause.
- 5.3 The Host Employer irrevocably appoints PEER and each director of PEER as the Host Employer’s true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 5 including, but not limited to, signing any document on the Host Employer’s behalf.
- 6. The Commonwealth Competition and Consumer Act 2010 (“CCA”) and Fair Trading Acts (“FTA”)**
- 6.1 Under applicable State, Territory and Commonwealth Law (including, without limitation the CCA), certain statutory implied guarantees and warranties (including, without limitation the statutory guarantees under the CCA) may be implied into these terms and conditions (Non-Excluded Guarantees).
- 6.2 PEER acknowledges that nothing in these terms and conditions purports to modify or exclude the **Non-Excluded Guarantees**.
- 6.3 Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, PEER makes no warranties or other representations under these terms and conditions including but not limited to the quality or suitability of the Services. PEER’s liability in respect of these warranties is limited to the fullest extent permitted by law.
- 6.4 If the Host Employer is a consumer within the meaning of the CCA, PEER’s liability is limited to the extent permitted by section 64A of Schedule 2.
- 6.5 If PEER is required to rectify, re-provide, or pay the cost of re-providing the Services under this clause or the CCA, but is unable to do so, then PEER may refund any money the Host Employer has paid for the Services but only to the extent that such refund shall take into account the value of Services which have been provided to the Host Employer which were not defective.
- 6.6 If the Host Employer is not a consumer within the meaning of the CCA, PEER’s liability for any defective Services is:
- (a) limited to the value of any express warranty or warranty documentation provided to the Host Employer by PEER at PEER’s sole discretion;
 - (b) otherwise negated absolutely.
- 7. Default and Consequences of Default**
- 7.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at PEER’s sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 7.2 If the Host Employer owes PEER any money the Host Employer shall indemnify PEER from and against all costs and disbursements incurred by PEER in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, PEER’s contract default fee, and bank dishonour fees).
- 7.3 Further to any other rights or remedies PEER may have under this contract, if a Host Employer has made payment to PEER and the transaction is subsequently reversed, the Host Employer shall be liable for the amount of the reversed transaction, in addition to any further costs incurred

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by PEER under this clause 7 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Host Employer's obligations under this agreement.

8. Cancellation

- 8.1 Without prejudice to any other remedies PEER may have, if at any time the Host Employer is in breach of any obligation (including those relating to payment) under these terms and conditions PEER may suspend or terminate the supply of Services (including but not limited to the withdrawal of the Apprentice/s/Trainee/s from the worksite) to the Host Employer. PEER will not be liable to the Host Employer for any loss or damage the Host Employer suffers because PEER has exercised its rights under this clause.
- 8.2 PEER may cancel any contract to which these terms and conditions apply or cancel delivery of Services at any time before the Services are commenced by giving seven (7) days written notice to the Host Employer. On giving such notice PEER shall repay to the Host Employer any sums paid in respect of the Price, less any amounts owing by the Host Employer to PEER for Services already performed. PEER shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 8.3 In the event that the Host Employer cancels the delivery of Services the Host Employer must provide not less than five (5) business days written notice and shall be liable for any and all loss incurred (whether direct or indirect) by PEER as a direct result of the cancellation (including, but not limited to, any loss of profits).

9. Compliance with Laws

- 9.1 The Host Employer and PEER shall comply with the provisions of all statutes, regulations and bylaws of government, local and other public authorities such as the RTO (Registered Training Organisation-PEER-RTO Number 7027) that may be applicable to the Services.
- 9.2 The Host Employer agrees that the site will comply with any occupational health and safety laws and any other relevant safety standards or legislation.
- 9.3 All staff employed by PEER is qualified to the standards required by the National Quality Council (or its successors) and meet the requirements of the RTO.

10. Privacy Policy

- 10.1 All emails, documents, images or other recorded information held or used by PEER is Personal Information, as defined and referred to in clause 10.3, and therefore considered Confidential Information. The PEER acknowledges its obligation in relation to the handling, use, disclosure and processing of Personal Information pursuant to the Privacy Act 1988 ("the Act") including the Part IIIC of the Act being Privacy Amendment (Notifiable Data Breaches) Act 2017 (NDB) and any statutory requirements, where relevant in a European Economic Area ("EEA"), under the EU Data Privacy Laws (including the General Data Protection Regulation "GDPR") (collectively, "EU Data Privacy Laws"). The PEER acknowledges that in the event it becomes aware of any data breaches and/or disclosure of the Host Employers Personal Information, held by PEER that may result in serious harm to the Host Employer, PEER will notify the Host Employer in accordance with the Act and/or the GDPR. Any release of such Personal Information must be in accordance with the Act and the GDPR (where relevant) and must be approved by the Host Employer by written consent, unless subject to an operation of law.
- 10.2 Notwithstanding clause 10.1, privacy limitations will extend to PEER in respect of Cookies where transactions for purchases/orders transpire directly from PEER's website. The PEER agrees to display reference to such Cookies and/or similar tracking technologies, such as pixels and web beacons (if applicable), such technology allows the collection of Personal Information such as the Host Employer's:
- (e) IP address, browser, email client type and other similar details;
 - (f) tracking website usage and traffic; and
 - (g) reports are available to PEER when PEER sends an email to the Host Employer, so PEER may collect and review that information ("collectively Personal Information")
- In order to enable / disable the collection of Personal Information by way of Cookies, the Host Employer shall have the right to enable / disable the Cookies first by selecting the option to enable / disable, provided on the website prior to proceeding with a purchase/order via PEER's website.
- 10.3 The Host Employer agrees for PEER to obtain from a credit reporting body (CRB) a credit report containing personal credit information (e.g. name, address, D.O.B, occupation, driver's license details, electronic contact (email, Facebook or Twitter details), medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history) about the Host Employer in relation to credit provided by PEER.
- 10.4 The Host Employer agrees that PEER may exchange information about the Host Employer with those credit providers and with related body corporates for the following purposes:
- (a) to assess an application by the Host Employer; and/or
 - (b) to notify other credit providers of a default by the Host Employer; and/or
 - (c) to exchange information with other credit providers as to the status of this credit account, where the Host Employer is in default with other credit providers; and/or
 - (d) to assess the creditworthiness of the Host Employer including the Host Employer's repayment history in the preceding two (2) years.
- 10.5 The Host Employer consents to PEER being given a consumer credit report to collect overdue payment on commercial credit.
- 10.6 The Host Employer agrees that personal credit information provided may be used and retained by PEER for the following purposes (and for other agreed purposes or required by):
- (a) the provision of Services; and/or
 - (b) analysing, verifying and/or checking the Host Employer's credit, payment and/or status in relation to the provision of Services; and/or
 - (c) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Host Employer; and/or
 - (d) enabling the collection of amounts outstanding in relation to the Services.
- 10.7 PEER may give information about the Host Employer to a CRB for the following purposes:
- (a) to obtain a consumer credit report;
 - (b) allow the CRB to create or maintain a credit information file about the Host Employer including credit history.
- 10.8 The information given to the CRB may include:
- (a) Personal Information as outlined in 10.3 above;
 - (b) name of the credit provider and that PEER is a current credit provider to the Host Employer;
 - (c) whether the credit provider is a licensee;
 - (d) type of consumer credit;

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- (e) details concerning the Host Employer's application for credit or commercial credit (e.g. date of commencement/termination of the credit account and the amount requested);
 - (f) advice of consumer credit defaults, overdue accounts, loan repayments or outstanding monies which are overdue by more than sixty (60) days and for which written notice for request of payment has been made and debt recovery action commenced or alternatively that the Host Employer no longer has any overdue accounts and PEER has been paid or otherwise discharged and all details surrounding that discharge (e.g. dates of payments);
 - (g) information that, in the opinion of PEER, the Host Employer has committed a serious credit infringement;
 - (h) advice that the amount of the Host Employer's overdue payment is equal to or more than one hundred and fifty dollars (\$150).
- 10.9 The Host Employer shall have the right to request (by e-mail) from PEER:
- (a) a copy of the Personal Information about the Host Employer retained by PEER and the right to request that PEER correct any incorrect Personal Information; and
 - (b) that PEER does not disclose any Personal Information about the Host Employer for the purpose of direct marketing.
- 10.10 PEER will destroy Personal Information upon the Host Employer's request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this Contract or is required to be maintained and/or stored in accordance with the law.
- 10.11 The Host Employer can make a privacy complaint by contacting PEER via e-mail. PEER will respond to that complaint within seven (7) days of receipt and will take all reasonable steps to make a decision as to the complaint within thirty (30) days of receipt of the complaint. In the event that the Host Employer is not satisfied with the resolution provided, the Host Employer can make a complaint to the Information Commissioner at www.oaic.gov.au.

11. General

- 11.1 The failure by either party to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect that party's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 11.2 These terms and conditions and any contract to which they apply shall be governed by the laws of South Australia the state in which PEER has its principal place of business, and are subject to the jurisdiction of the courts in that state.
- 11.3 PEER shall be under no liability whatsoever to the Host Employer for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Host Employer arising out of a breach by PEER of these terms and conditions (alternatively PEER's liability shall be limited to damages which under no circumstances shall exceed the Price).
- 11.4 The Host Employer agrees that PEER may amend these terms and conditions by notifying the Host Employer in writing. These changes shall be deemed to take effect from the date on which the Host Employer accepts such changes, or otherwise at such time as the Host Employer makes a further request for PEER to provide Services to the Host Employer.
- 11.5 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.
- 11.6 Both parties warrant that they have the power to enter into this agreement and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this agreement creates binding and valid legal obligations on them.