



# Training Contract

## Standard Terms and Conditions

### 1. Consultant Training

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- (a) The Principal engages the Consultant as an independent consultant to provide the Training to the Principal on the terms and conditions set out in this agreement and the Consultant accepts the engagement.

### 2. Fee

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- (a) The Principal will pay the Consultant the Fee for the Training.
- (b) The Fee is inclusive of all the Consultant's costs except as expressly provided in this agreement.
- (c) The Fee is GST exclusive unless provided otherwise.
- (c) The Consultant will provide the Principal with a tax invoice for the Fee and the Principal will pay the Consultant the Fee including GST prior to the course start date.

### 3. Cancellation

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- (a) The Principal may only cancel Training in writing.
- (b) If Training is cancelled, the Principal must pay the following:
- i. 3-5 working days before the Training was scheduled 50% of the Fee.
  - ii. 2 full working days or less before the Training was scheduled 100% of the Fee.

### 4. Transfer

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- (a) The Principal may only transfer to another training course if they notify the Principal of the proposed transfer at least two full working days before the Training is scheduled.
- (b) If the Principal wants to transfer to a different training course less than two full working days before the Training is scheduled, this is treated as a cancellation and clause 3 applies.

### 5. Substitution

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Substitution of an attendee of Training may be made at any time and no fee will be incurred.

### 6. Consultant's obligations

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The Consultant will ensure that Training is provided safely in a diligent, careful, skilful and competent manner.

### 7. Occupational Safety & Health

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If the Training or any part thereof is to be performed at the Principal's premises, the Principal shall ensure a safe work environment and the Principal agrees to comply with all applicable occupational safety and health legislation.



## **8. Relationship of the Parties**

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The relationship between the Principal and the Consultant is that of a principal and independent contractor. Nothing contained in this agreement will constitute or deem the Consultant or any of its employees or agents to be a partner, employee or agent of the Principal.

## **9. Confidential Information**

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During the term of this agreement and for a period of five years after termination of this agreement, the Consultant will not:

- (a) disclose any Confidential Information without the Principal's prior written approval; or
- (b) use or allow any person to use the Confidential Information for any purpose other than the performance of the Training

except to the extent the disclosure or use is required by law or for the Consultant's record keeping purposes.

## **10. Intellectual Property**

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- (a) The Principal agrees that all Materials and all right, title and interest in the Materials developed as a result of this agreement vest in the Consultant and will be the property of the Consultant.
- (b) The Principal hereby assigns to the Consultant without further compensation, all Intellectual Property Rights in all or any part of the Materials (which includes all past, present and future Materials) throughout the world or other material or subject matter created by or on behalf of the Principal whether under this agreement or otherwise.

## **11. Termination**

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- (a) Either party may terminate this agreement if the other party commits any material breach of any provision of this agreement and the material breach is not remedied within one week of written notice.
- (b) This agreement may be terminated by either party without cause at any time by giving 30 days notice to the other.

## **12. Insurance**

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The Consultant must take out, keep current, and produce to the Principal on request, evidence of:

- (a) personal disability, accident, travel and workers' compensation insurance in respect of persons provided by the Consultant to perform Training under this agreement; and
- (b) public liability and professional indemnity insurance in an adequate amount according to industry practice.



### **13. Indemnity**

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The Consultant agrees to indemnify the Principal against all damages, loss, liabilities and claims arising directly from:

- (a) a breach by the Consultant of its obligations under this agreement;
- (b) any negligent act or omission of the Consultant in connection with the performance of the agreement,

provided always that the Consultant will not be liable to the extent that the liability was caused or contributed to by the Principal.

### **14. Debt Recovery**

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The Principal agrees that it will pay all costs, including debt collection agency fees and solicitor's costs, incurred by the Consultant in taking steps to recover any monies owing to the Consultant whether or not legal proceedings are issued for recovery of the monies.

### **15. General**

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#### **15.1 Whole Agreement**

The Proposal, Training Contract Standard Terms and Conditions and any Schedules comprise the whole agreement between the parties concerning the subject matter and replace any prior agreement, arrangement or understanding concerning the subject matter.

#### **15.2 Precedence of Documents**

If there is any conflict between the documents constituting the agreement, the documents will rank as follows:

- (a) Proposal;
- (b) Training Contract Standard Terms and Conditions; and
- (c) Schedules.

#### **15.3 Variation**

A variation to this agreement must be in writing and signed by the parties.

#### **15.4 Severability**

Any provision of, or the application of any provision of, this agreement which is void, illegal or unenforceable in any jurisdiction does not affect the validity, legality or enforceability of that provision in any other jurisdiction or of the remaining provisions in that or other jurisdiction.

#### **15.5 Counterparts**

This agreement may be executed in any number of counterparts. All counterparts, taken together, constitute one instrument. A party may execute this agreement by signing any counterpart.



## 15.6 Governing Law

This agreement is governed by the laws of Western Australia. Each Party irrevocably submits to the non-exclusive jurisdiction of the courts of Western Australia.

## 15.7 Assignment

A party may not assign the benefit of this agreement or any part of it without the prior written consent of the other party, which may not be unreasonably withheld.

## 15.8 Principal's terms and conditions not a part of the agreement

If the Principal supplies the Principal's terms and conditions on any document at any time (including on consignment notes or other documents) the Principal's terms and conditions will be of no legal effect; and not constitute part of the contract for the performance of the Training, even if a representative of the Consultant signs a document that indicates that the Principal's terms and conditions apply.

## 16. Definitions and interpretation

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### 16.1 Definitions

The following words have these meanings in this agreement unless the contrary intention appears:

**Confidential Information** means any information relating to the Principal or its affairs and includes:

- (a) any information relating to the Principal, its clients or its businesses which is not in the public domain; and
- (b) any trade secrets of the Principal;

**Consultant** means the Chamber of Commerce and Industry of Western Australia Inc or Apprenticeships Australia Pty Ltd as provided in the proposal or other relevant documentation and includes, where the context permits, the Consultant's legal representatives, successors, directors, officers, employees, agents and related bodies corporate;

**Fee** means the fee as agreed by the parties for the Training;

**GST** means goods and services tax or similar value added tax levied or imposed in Australia pursuant to the GST Act or otherwise on a supply;

**GST Act** means a New Tax System (Goods and Training Tax) Act 1999;

**Intellectual Property Rights** means all statutory and other proprietary rights and interests including copyrights and all rights in the nature of copyright, patents, pending patents, trade marks, service marks, trade names, domain names, designs, circuit layouts, database rights and all other intellectual property rights;

**Materials** means all works as defined in the Copyright Act 1968 (Cth), and all other things including, but not limited to, documents, ideas, reports, formulations, systems, research, inventions, plans, designs, slogans and all intellectual property relating in any way to the business activities of the Principal, or any client of the Principal, which may be produced, improved, developed or otherwise brought into existence by the Consultant, alone or with others, in the course of providing the Training, whenever and wheresoever;



**Principal** means the company, person or persons described as Principal in the proposal or if not described the company, person or persons booking or receiving the Training.

**Training** means the Training provided by the Consultant.

## 16.2 Interpretation

In this agreement, headings are only for convenience and do not affect interpretation and, unless the context requires otherwise, a reference to:

- (a) a party includes that party's legal personal representatives, successors, directors, officers, employees, agents and related bodies corporate;
- (b) words in the singular include the plural and the plural includes the singular;
- (c) a reference to a clause, party, attachment, annexure or schedule is a reference to a clause of, and a party, attachment, annexure and schedule to, this agreement;
- (d) a reference to this agreement includes any attachment, annexure or schedule;
- (e) a reference to a right includes a remedy, power, authority, discretion or benefit;
- (f) a reference to a person includes a body corporate, an incorporated association, an unincorporated body or other entity and conversely;
- (g) a reference to an agreement or document is to the agreement or document as amended, varied, supplemented, novated or replaced from time to time, except to the extent prohibited by this agreement;
- (h) a promise or agreement by 2 or more persons binds each person individually and all of them jointly;
- (i) a reference to legislation or to a provision of legislation includes a modification or re enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it;
- (j) a reference to conduct includes, but is not limited to, an omission, statement and undertaking, whether or not in writing;
- (k) a reference to an agreement includes any undertaking, deed, agreement and legally enforceable arrangement whether or not in writing; and
- (l) a reference to a document includes an agreement (as so defined) in writing, and any certificate, notice, instrument or document of any kind and also a reference to a document includes a reference to all electronic, magnetic, photographic and other mediums by which information may be stored or reproduced.