

## Skills Active Aotearoa Ltd Terms and Conditions of Trade

### 1. Sale and purchase

1. These terms and conditions of trade relate to the products and services offered by Skills Active Aotearoa Ltd (“Skills Active”) from time to time to Workplaces and prospective Workplaces (“Customer”). The products and services on offer at a particular time are set out on Skills Active’s website.
2. An agreement is formed between Skills Active and a Customer on these terms and conditions when:
  1. a Customer signs a Training Agreement (“TA”);
  2. a Customer submits a Purchase Order (“PO”) to Skills Active; or
  3. Skills Active (in its discretion) accepts a Customer’s purchase request without a PO.

### 2. Training Agreements - cancellation of training and change of Customer

1. Where a TA is terminated within 30 days of receipt by Skills Active (“sign up”), all fees paid in respect of that TA will be refunded less a 20% administration fee. Where a TA is terminated on or after 30 days of receipt by Skills Active no refund or credit is payable.
2. Once credit has been reported for any TA, if the TA is subsequently terminated by the customer no refund or credit is payable.
3. Where a trainee in respect of whom Skills Active has refunded fees pursuant to clause 2.1 commences work with a new Customer, a new TA is required and full fees are payable to Skills Active by the new Customer.
4. Where a trainee leaves a Customer after 30 days of sign-up and commences work with a new Customer within 6 weeks of leaving the original Customer and either re-signs to the same qualification or a new qualification at the same level there are no fees payable by the new Customer or refund of fees payable to the original Customer.
5. Skills Active may, at its discretion, refund fees for printed material and only if the material is returned to Skills Active in its original condition at the Customer’s expense.

### 3. Price and price variation

1. Prices quoted by Skills Active are excluding GST unless otherwise stated.
2. Skills Active may change prices from time to time, and will in all cases communicate such change to Customers.
3. Unless otherwise agreed in writing, the price of goods and services will be the current price set out in the fees schedule on the Skills Active website on the day of order.

### 4. Payment

1. Unless otherwise agreed, all payments shall be made to Skills Active’s nominated bank account on or before the 20th of the month following the month in which the Skills Active’s invoice is dated.
2. If the Customer disputes any item in an invoice, the Customer must pay the undisputed portion of the invoice in accordance with the normal terms of payment as provided in clause 4.1. Payment of the disputed portion may be withheld provided the matter is brought to Skills Active’s attention immediately it is discovered and an

explanation is provided in writing within seven days of the discovery, setting out the particulars of the dispute. Skills Active shall use its best endeavours to resolve any invoice dispute raised by a Customer within 60 days of being advised that there is a dispute.

3. If any sum payable by a Customer remains unpaid for 14 days after the due date, Skills Active may, on giving notice to the Customer:
  1. suspend coordination of a trainee; and/or
  2. suspend a Customer's account, and the taking of either action will not:
  3. relieve the Customer from having to pay any sum due and owing to Skills Active; or
  4. restrict any other right or remedy of Skills Active.
4. If the Customer does not pay all sums owing by it by the due date, the Customer must pay Skills Active's legal and other fees and expenses (including costs on a solicitor own client basis) incurred in respect of the recovery of any overdue sum.
5. The Customer agrees to refund Skills Active for any fees or costs imposed if any payment is dishonoured or reversed.

#### **5. Delivery**

1. Skills Active shall deliver any goods ordered to the address stated on the PO or as agreed in writing.
2. Skills Active shall deliver the goods by such carrier and such form of transport Skills Active consider to be appropriate.
3. The Customer must inform Skills Active within 14 days of the date of order if proof of delivery is required. After this period, Skills Active will not be required to provide proof of delivery.
4. Skills Active Aotearoa Ltd will not be responsible for any part delivery or delay in delivery of the goods as a result of events occurring beyond Skills Active's control. Skills Active Aotearoa Ltd shall not be responsible for any consequences (direct or indirect) arising from such delay or non-delivery.

#### **6. Non-achievement**

1. If a trainee fails to achieve ten credits in any calendar year, Skills Active reserves the right to terminate the TA without notice. No credit or refund is available.
2. If a trainee fails to complete their training programme within six months of the programme's expected end date, Skills Active Aotearoa Ltd reserves the right to terminate the TA without notice. No credit or refund is available.

#### **7. Privacy Act 1993**

1. The Customer authorises Skills Active Aotearoa Ltd to collect, retain, and use information about the Customer for the following purposes:
  1. assessing the Customer's creditworthiness.
  2. disclosing to a third party details of any credit application and subsequent dealings for the purpose of recovering amounts payable or providing credit references.
  3. marketing goods and services provided by Skills Active Aotearoa Ltd to the Customer.

4. delivering goods and services, invoicing the Customer for such goods and services, and enforcing these terms and conditions.
2. The Customer has a right of access to information about the Customer held by Skills Active. The Customer may request correction of that information and may require that the request be stored with that information.

#### **8. Intellectual Property**

1. All printed materials sold or supplied by Skills Active remain the intellectual property of Skills Active and may not be reproduced without Skills Active's authorisation.
2. Resale of any printed materials supplied by Skills Active is strictly prohibited.
3. Where training resources or other materials have been provided by Skills Active in electronic form, the Customer may only print those materials for trainees who have signed a TA related to the electronic material provided.

#### **9. Variations to terms and conditions of trade**

1. Skills Active may from time to time and at its sole discretion amend, add to or delete any of these terms and conditions of trade with immediate effect by giving notice to its Customers.

#### **10. Governing Law**

1. These terms of trade are governed by the laws of New Zealand.
2. Skills Active and the Customer shall submit to the non-exclusive jurisdiction of the courts of New Zealand in respect of any dispute or proceeding arising out of these terms and conditions of trade.