

# Purchasing Agreement: Terms & Conditions

- **Business Services**
- **Community Services**
- **Early Childhood Education and Care**
- **Foundation Skills**

**Aspire Learning Resources**  
**Version 1**  
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# Terms and Conditions of Purchasing Agreement

Qualification Bundle agreement for:  
**Business Services**  
**Community Services**  
**Early Childhood Education and Care**  
**Foundation Skills**

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## 1. Definitions

**Agreement** means the agreement constituted by the Order and these Terms and Conditions.

**Aspire** means Aspire Training & Consulting Ltd (ACN 054 306 428) trading as Aspire Learning Resources (ABN 51 054 306 428).

**ASQA** means Australian Skills Quality Authority.

**Fee** means the applicable fee as set out in clause 2 below.

**Intellectual Property Rights** means intellectual property rights of any kind including copyright, future copyright, trademarks, designs, patents, circuit layout rights, moral rights and all other intellectual property rights, whether registered or unregistered and whether registrable or not, anywhere in the world.

**Order** means the order form submitted by you with these Terms and Conditions and accepted by Aspire by supplying the Product.

**Product** means any of Aspire's Learner Guides and/or Assessment Support Packs for the Units of Competency of such of the following qualifications as requested in the Order:

**BSB10120 Certificate I in Workplace Skills**  
**BSB20120 Certificate II in Workplace Skills**  
**BSB30120 Certificate III in Business**  
**BSB40120 Certificate IV in Business**  
**BSB50120 Diploma of Business**  
**BSB60120 Advanced Diploma of Business**  
**BSB40520 Certificate IV in Leadership and Management**  
**BSB50420 Diploma of Leadership and Management**  
**BSB60420 Advanced Diploma of Leadership and Management**  
**CHC14015 Certificate I in Active Volunteering**  
**CHC24015 Certificate II in Active Volunteering**  
**CHC34015 Certificate III in Active Volunteering**  
**CHC22015 Certificate II in Community Services**  
**CHC32015 Certificate III in Community Services**  
**CHC33015 Certificate III in Individual Support**  
**CHC42015 Certificate IV in Community Services**  
**CHC43015 Certificate IV in Ageing Support**  
**CHC43115 Certificate IV in Disability**  
**CHC43215 Certificate IV in Alcohol and Other Drugs**  
**CHC43315 Certificate IV in Mental Health**  
**CHC43415 Certificate IV in Leisure and Health**  
**CHC51015 Diploma of Counselling**  
**CHC52015 Diploma in Community Services**  
**CHC33021 Certificate III in Individual Support**  
**CHC33021 Certificate III in Individual Support (Ageing)**  
**CHC33021 Certificate III in Individual Support (Disability)**  
**CHC42021 Certificate IV in Community Services**  
**CHC43021 Certificate IV in Ageing Support**  
**CHC43121 Certificate IV in Disability Support**

**CHC52021 Diploma of Community Services**  
**CHC30121 Certificate III in Early Childhood Education and Care**  
**CHC50121 Diploma of Early Childhood Education and Care**  
**FSK10219 Certificate I in Skills for Vocational Pathways**  
**FSK20119 Certificate II in Skills for Work and Vocational Pathways**

**RTO** means the Registered Training Organisation/s registered by the ASQA or, where required, by a state regulator, to deliver vocational education and training services which is specified by you in the Order.

**SSO** means a Skills Service Organisation.

**UOC** means a Unit of Competency as set out by the relevant SSO.

**you** means the person or entity (purchaser) buying this Product, solely for and in respect of your RTO.

## 2. Fees and Delivery

- a) The Fee must be paid in advance of delivery of the Product. Delivery of the Product will be by SharePoint (or other means specified by Aspire) within three (3) business days from receipt of payment in full of the Fee by Aspire.
- b) The Product will be accessible for 14 days.
- c) The Fee is GST inclusive (unless otherwise specified).
- d) The Fee enables you to print unlimited copies of the Product as required for your RTO in accordance with this Agreement.
- e) You are not entitled to a refund of all or any part of the Fee if you change your mind or if any of your related campuses or registered training organisations (other than your purchasing RTO) enters into or has previously entered into an agreement with Aspire for the Product or other products.

## 3. Updates

- a) Payment of the Fee does not entitle you to maintenance updates, made by Aspire, to the resources included in the Product.
- b) Payment of the Fee does entitle you to updates of the resources included in the Product for up to 24 months from the date of the Order, where the Training Package or UOC are materially updated.
- c) While reasonable efforts will be made to maintain all references included in the Product, from time to time these references become out of date without Aspire's knowledge. Should this occur, you are invited to contact Aspire to request updates. Aspire does not provide any guarantee with regards to the timeframe in which the Product will be updated.

## 4. Agreement

### 4.1.

- a) This Agreement commences on the date of purchase of the Product.
- b) This Agreement and your rights to use the Product will cease immediately upon written notice from Aspire if you breach any provision of this Agreement, and, if the breach is capable of remedy, you fail to so remedy it within 7 days written notice from Aspire.

- c) Upon termination or expiration of the Agreement, for whatever reason, you agree to cease using the Product and:
- i) to immediately destroy the Product and all copies thereof;
  - ii) to immediately delete from your computer or network all application files created by the software component of the Product; and
  - iii) that you are not entitled to a refund of any part of the Fee.
- 4.2.** In consideration of you paying Aspire the applicable Fee, Aspire grants you a non-exclusive, non-transferable, single site licence to:
- a) use the Product (for which the applicable Fee is paid) for your RTO in accordance with this Agreement;
  - b) at your risk, customise, contextualise, brand and/or adapt the Assessment Support Packs of the Product to meet the requirements of your registered students (but always retaining Aspire branding and copyright notices);
  - c) install any software component of the Product in accordance with this Agreement; and
  - d) make the Product available to the registered students of your RTO solely for educational and training purposes in accordance with this Agreement.
- 4.3.** The software component of the Product may be installed on your site server (or your active external cloud-based server) and made accessible to the registered students of your RTO through your local area network. Aspire reserves the right to determine what circumstances or situations constitute a single site.
- 4.4.** The Agreement entitles you to print hard copies of the Product to use in accordance with these terms and conditions. As stated in clause 4.2b, you are permitted to customise, contextualise, brand and/or adapt the Assessment Support Packs of the Product for your registered students as provided for in this Agreement.
- 4.5.** Other than as expressly provided in this Agreement (see clauses 2d, 4.2b and 4.4) you must not:
- a) copy, reproduce (including via electronics or print), translate, adapt, vary, modify or in any way alter the Product and provide copies of the Product to organisations or individuals who are not party to this Agreement. Examples of Product customisation or adaptation that sit outside the terms of this Agreement include reproducing the Product and providing a copy to an individual at another registered training organisation and/or translating and reproducing the Product for a registered training organisation not party to this Agreement;
  - b) reverse assemble or reverse compile or directly or indirectly allow or cause a third party to reverse assemble or reverse compile in whole or in part the Product;
  - c) print or distribute (except as above), rent, lease, sell, re-sell, charge, sub-license, assign, transfer, lend or otherwise deal with the Product;
  - d) transmit or reproduce the Product in any electronic, recorded or mechanical form; or
  - e) use the Product for any registered training organisation or other organisation except for your RTO and its registered students (except pursuant to and in accordance with another fully paid purchase from Aspire).
- 4.6.** It is your responsibility to:
- a) provide all hardware and software (other than the software component of the Product) required to use the Product;
  - b) install the Product;
  - c) train or supervise your personnel in relation to the use of the Product;

- d) install and maintain legitimate virus protection software and you acknowledge that Aspire will not be responsible for any damage or loss caused by any virus;
- e) protect the Product and the Intellectual Property Rights therein from misuse;
- f) pay all charges (if any) incurred by you in the use of the Product;
- g) ensure that only your employees and registered students of your RTO use the Product and are aware of and comply with the terms of this Agreement; and
- h) in the event that you change your operating system, ensure that the Product will run on the new system (as Aspire bears no responsibility for software that no longer works after an operations systems change).

**4.7.** You accept and acknowledge that:

- a) Aspire owns all Intellectual Property Rights in the Product;
- b) the Product is protected by copyright;
- c) the Product may not be copied except in accordance with the Agreement;
- d) the Product may not be customised, contextualised or adapted except in accordance with clause 4.2b;
- e) you are fully responsible for and indemnify and will keep Aspire indemnified for the consequences of any such customisation, contextualisation or adaption;
- f) any such customisation, contextualisation or adaption does not affect or diminish Aspire's Intellectual Property Rights in the Product (whether before or as a result of such changes);
- g) this Agreement does not transfer the title or ownership of any Intellectual Property Rights in the Product to you; and
- h) this Agreement does not grant you any rights in connection with any registered or unregistered trade marks of Aspire.

**4.8.** This Agreement is governed by and construed in accordance with the laws of the State of Victoria, Australia and the parties irrevocably submit to the exclusive jurisdiction of the Courts of or in Victoria and courts of appeal therefrom.

**4.9.** The information contained in the Product is provided on the understanding that it neither represents nor is it intended to be advice or that Aspire or the author is engaged in rendering legal or professional advice. While diligence has been taken in its preparation, no person should act specifically on the basis of such information. If expert assistance is required, competent professional advice should be sought.

**4.10.** Aspire will replace any defective files by which the Product is supplied at no charge to you, provided you raise any concerns within 10 days of receipt by you. However, Aspire will be under no obligation to replace any files if, in Aspire's absolute opinion, the defect is caused by failure to comply with this Agreement, accident, abuse or misapplication, or has resulted from abnormal conditions of use.

**4.11.** Aspire does not warrant that the Product:

- a) is or will be complete or free from all errors and you acknowledge that the existence of any such error does not constitute a breach of this Agreement;
- b) is fit for any purpose, whether or not that purpose has been advised to Aspire; or
- c) is suitable for you, your RTO or your students.

**4.12.** Other than as contained herein, and to the extent permitted by law, all express or implied warranties in respect of the Product are hereby excluded. In the event that any statute implies terms into the Agreement that cannot be excluded, such terms will apply to the Agreement but the liability of Aspire for breach of any such implied term will be limited, at the option of Aspire to any one or more of the following:

- a) if the breach relates to goods:
  - i) the replacement of those goods or the supply of equivalent goods;
  - ii) the payment of the cost of replacing the goods or acquiring equivalent goods;and
- b) if the breach relates to services:
  - i) supplying those services again; or
  - ii) the payment of the cost of having the services supplied again

**4.13.** The licence granted by this Agreement is solely in respect of your RTO and may not be assigned or transferred without Aspire's prior written approval.

**4.14.** As stated in this Agreement, the Product is protected by copyright. Other than as expressly set out in this Agreement or for the purpose of and subject to the conditions prescribed in the *Copyright Act 1968*, no part may by any means be reproduced, stored in a retrievable system or transmitted without Aspire's prior written permission. Please refer to the imprint page of each Product for more detail.

Signed for and on behalf of your RTO by you as its authorised representative who warrants his/her authority to sign this Agreement:

**Company Name:** \_\_\_\_\_

**RTO Number:** \_\_\_\_\_

**Representative Signature:** \_\_\_\_\_

**Name of Representative:** \_\_\_\_\_

**Position:** \_\_\_\_\_

**Date:**