

Terms of Business - Maxima Group Training

This Agreement is made between:

Company Name: Maxima Training Group (AUST) Limited
ABN: 90 212 392 953
Trading As: Maxima Training Group
Head Office: 180 Port Road, Hindmarsh SA 5007
Postal Address: PO Box 210, Hindmarsh SA 5007
Phone: (08) 8340 7766

And

Host Employer Registered Name:

ABN:

Trading As:

Address:

Suburb/State/Postcode:

Phone:

Mobile:

Email:

Workcover Industry Classification:

Builders Lic No.:

Background:

Maxima is a Group Training Organisation which employs Apprentices and Trainees (also known as Australian Apprentices) under a Training Contract and places them with Host Employers.

The Host Employer agrees to host the Australian Apprentice in accordance with the terms and conditions set out in this Agreement.

This Agreement is made in accordance with the revised National Standards for Group Training Organisations 2017, which requires that all Group Training Organisations have, and comply with, a written agreement with each Host Employer who hosts an Australian Apprentice employed by the Group Training Organisation.

Definitions:

Under these terms:

- "Agreement" means these terms of business;
- "Maxima" means The Maxima Group ABN 90 212 392 953, its officers, servants, agents and sub- contractors;
- "Candidate" means any potential Employee who has undertaken the recruitment process through Maxima;
- "Employee" means any Australian Apprentice employed by Maxima and provided to the Host Employer by Maxima under this Agreement and "Employees" has a corresponding meaning;
- "Fee" shall mean the cost of the services as agreed between Maxima and the Host Employer subject to relevant clauses of this agreement;
- "Host Employer" means any person or persons or corporation for whom the services are provided;
- "Supervisor" means any person employed by the Host Employer with relevant skills and qualifications to ensure the appropriate supervision, training and WHS requirements are provided to the Employee;
- "Services" means all services supplied by Maxima and includes any advice or recommendations;
- "Training Provider" means the Registered Training Organisation nominated on the Training Contract;
- "WHS" means the applicable Work, Health and Safety legislation in the relevant State or Territory.

Terms of this agreement

1. Employment

- 1.1 Maxima shall be, and remain at all times, the Legal Employer of any Employee signed under a Training Contract with Maxima and placed with the Host Employer;
- 1.2 Maxima will pay the wages and all entitlements, including leave entitlements, of any Employee placed with the Host Employer in accordance with applicable legislation, including Fair Work Act 2009, applicable industrial instruments, superannuation legislation, workers compensation legislation and other employment on-costs referable to Maxima such as training expenses.
- 1.3 Written confirmation of the placement details for each Employee placed with the Host Employer - including start date, hourly charge rate and nominated Training Provider – will be forwarded to the Host Employer, where possible, no later than the end of the first week of employment.

2. Maxima Obligations

Maxima will:

- 2.1 Advertise (where necessary) and provide nominations for placement by matching, as far as is reasonably practicable, a Candidate to the job based on the job description supplied by the Host Employer and skills reported/performed by the Candidate;
- 2.2 Undertake testing and background checking relating to a Candidate's qualifications and experience based on information provided by the Candidate. Maxima accepts no liability for errors, omissions or conclusions made based on the information provided;
- 2.3 Advise the successful Candidate of their employment, provide an induction to them as an Employee prior to placement and provide details of relevant WHS information, injury reporting procedure and details of the job and working conditions as supplied by the Host Employer;
- 2.4 Maintain regular contact with Employees during their placement with the Host Employer;
- 2.5 Provide support and guidance to Employees and Supervisors to encourage successful Host employment;
- 2.6 Deduct the requisite amounts of income tax, union dues and all other applicable deductions as required by Australian law, to ensure payment of any other statutory taxes, superannuation contributions and/or levies as required by Australian law and to maintain workers' compensation insurance for all Employees;
- 2.7 Where required:
 - 2.7.1 Vary the hourly fee and allowances without notice, and retrospectively if necessary, where an increase is as a result of any minimum wage decision by Fair Work Australia or variations under applicable industrial instruments, contracts of employment, applicable legislation and/or changes to statutory charges. Additional amounts will be invoiced accordingly.
 - 2.7.2 In all other cases Maxima will advise the Host Employer in writing with 7 days notice regarding a change to the hourly fee or allowances;
- 2.8 Provide a Tax Invoice to the Host Employer detailing the hours charged and GST amount;
- 2.9 Comply with the Australian Privacy Principles and any privacy laws by taking reasonable steps to protect any information Maxima holds from misuse, loss, unauthorised access, modification or unintended disclosure.

3. Host Employer Obligations

The Host Employer will:

- 3.1 Provide an accurate and clear description of its job requirements and notify Maxima of any significant changes to that description or the location of where the Employee will perform work during the term of Host Employment;
- 3.2 Provide feedback to Maxima on the performance of Employees during the placement. The Host Employer must not take any disciplinary action against the Employee unless authorised by Maxima to do so;
- 3.3 Make available an authorised representative to check and countersign timesheets submitted by the Employee/s it hosts in order that they will be received by Maxima's payroll department no later than 2pm on the Monday afternoon following the end of the pay period;
- 3.4 Assist Maxima with Annual Leave requests and the management of accrued Annual Leave;
- 3.5 Accept liability for invoices prepared on the basis of timesheets submitted to Maxima that have been authorised by the Host Employer;
- 3.6 Accept costs associated with overtime and allowances (including travel if applicable under the relevant award) incurred will be an additional charge and the liability of the Host Employer;
- 3.7 Formally notify Maxima:
 - 3.7.1 Prior to the end of each pay cycle, of any changes to the duties of the Employee(s) which will require adjustment of classification and/or payment of higher duties or allowances.
 - 3.7.2 Maxima will not be liable for any accumulated back pay arising from the failure of the Host Employer to comply with this requirement;
- 3.8 Provide Employees with adequately experienced and qualified Supervisors appropriate to the class of work being undertaken, with sufficient information, instruction and training in accordance with Work Health & Safety legislation.
 - 3.8.1 In some instances where certain medical requirements are necessary, this will be conducted in consultation with Maxima, the Host Employer and the Employee;
- 3.9 Release the Employee to attend training sessions as required to complete their training contract;
- 3.10 Consult, cooperate and coordinate activities with Maxima to ensure the health and safety of all Maxima Employees in the Host Employer's workplace is not adversely affected by the placement;
- 3.11 Provide access to Maxima to visit Employees and to provide the Employees reasonable access to communication facilities for the Employees to contact Maxima;
- 3.12 Provide Employees with alternative work in the event of conditions that prevent a job from being completed (e.g. inclement weather);
- 3.13 Comply with the National Privacy Principles and privacy laws by taking reasonable steps to protect any personal information regarding Employees from misuse, loss, unauthorised access, modification or unintended disclosure.

4. Host Employer Work Health & Safety (WHS) Obligations

The Host Employer acknowledges it has duties and obligations under WHS Legislation in the applicable state or territory, including a responsibility to ensure so far as reasonably practicable, the health and safety of all its employees including Maxima Employees.

The Host Employer will:

- 4.1 Induct Employees into the organisation and encourage integration into the consultative mechanisms of the organisation. Induction must include all applicable safe operating procedures (SOPs), Job Safety Analysis (JSA's), Safe Work Methods Statements (SWMS), reporting procedures and equipment maintenance procedures;
- 4.2 Properly inform Employees of any specific requirements for the job which the Employee has been hired to perform ensuring the task is well understood by the Employee and within their current skill set;

- 4.3 Provide assistance and any relevant safety information and documentation to Maxima in the conduct of pre-placement risk assessments, first day workplace safety inductions, monitoring visits, periodic re-assessment of workplace risks and incident investigations;
- 4.4 Undertake regular workplace and task risk assessments as appropriate to ensure Employees are aware of workplace hazards and their control requirements;
- 4.5 Ensure workplace and task risk assessments are undertaken where the Employee is exposed to a new worksite, system, or plant/equipment;
- 4.6 Consult with Maxima and the Employee about the provision of Personal Protective Equipment (PPE) and ensure PPE is used consistently, appropriately and satisfactorily maintained;
- 4.7 Keep accurate information and supply Maxima with copies of their induction records, SOPs, JSA's, SWMS reporting procedures and equipment maintenance procedures; and any further amendments to these procedures where requested;
- 4.8 Notify Maxima as soon as reasonably practicable of any fundamental changes to the workplace, including change of supervisor, duties, work practices or procedure, plant equipment, materials or substances that may place the health and safety of Employees at risk;
- 4.9 Consult with Employees on any fundamental changes to the workplace, duties, work practices or procedure, plant equipment, materials or substances that may put the health and safety of Employees at risk;
- 4.10 Refrain from providing Employees with work that is unsuitable or unsafe. Employees have the legal right to seek alternative duties if they consider the working conditions or tasks assigned to be unsafe until such a time the hazards associated with the assigned tasks have been reviewed and reasonable and adequate controls have been implemented;
- 4.11 Report to Maxima immediately any injuries occurring to an Employee. In the event of a serious or notifiable incident consultation between Maxima and Host Employer is to occur prior to, or directly after notifying the relevant Safety Regulator. For minor injuries, incidents and near misses contact with Maxima must be made within 24hours;
- 4.12 Provide assistance to Maxima to support Employees injured during placement by contributing to their rehabilitation and early return to work and; in accordance with the obligations under the relevant workers compensation legislation,
- 4.13 Provide suitable return to work duties for the injured Employee where reasonably practical;
- 4.14 Report immediately if any Employee is involved (actually or allegedly) in any capacity whatsoever, in conduct that constitutes or could constitute harassment, sexual harassment, discrimination or bullying. The Host Employer will not take any action regarding the Employee's involvement without the prior approval of Maxima;
- 4.15 Provide Maxima with any documents reasonably requested by Maxima to enable it to perform a Workplace Health and Safety Assessment or incident investigation (this includes copies of WHS audits of the premises conducted by the Host Employer or a third party);
- 4.16 Report immediately if the Host Employer suspects an Employee has acted in a manner that constitutes serious misconduct and provide Maxima with sufficient information to investigate the allegation;
- 4.17 Effect and maintain insurance cover in respect of any claims which may be made against the Host Employer that arise as a result of the Host Employer's occupation of premises, and otherwise in respect of any act or omission in respect of machinery, equipment or vehicles used by an Employee, and to indemnify Maxima against any such claims;

5. Liability for Workplace injuries to Employees

- 5.1 Maxima shall be liable for any compensable disability, under relevant state or territory workers compensation legislation, suffered by its Employees which arise out of performance of duties with the Host Employer;
- 5.2 In the event that Maxima or any Employee of Maxima should suffer injury, loss or damage as a result of a negligent act or oversight by the Host Employer, then the Host Employer shall be liable for and will indemnify Maxima and/or its Employees against any claims, demands, actions or losses suffered by Maxima and/or its Employees.

6. Third Party Liability

- 6.1 Maxima places Employees with the Host Employer without warranties of any kind, either express or implied;
- 6.2 Subject to clause 5.1, whilst the Employee is acting under the directions of the Host Employer, the Host Employer shall be liable for all of their acts, omissions or defaults and shall indemnify Maxima against all actions, suits, proceedings, claims, demands, losses, damages, compensation, sums of money, costs (including solicitor and client costs), charges and expenses arising directly or indirectly out of their use by the Host Employer;
- 6.3 The Host Employer must maintain and provide evidence of a current public liability insurance policy with an Australian Prudential Regulation Authority (APRA) approved insurer and renewal certificates for an amount not less than \$10,000,000 in respect of any one claim;
- 6.4 The Host Employer will include Maxima Employees in their public liability insurance cover.

7. Termination

Maxima is committed to ensuring that the right person is placed with your business. The period of hire as per confirmed placement details is generally specified as the duration of the vocation listed on the Training Contract.

Where a Host Employer has issues or concerns that relate to the Employee Maxima is able to provide a mediation and mentoring service.

Should the continued hosting of the Employee be deemed to be not in the best interests of all parties the following conditions apply:

- 7.1 Maxima or the Host Employer may terminate the Agreement by giving fourteen days (14) notice in writing unless the training contract has less than fourteen days to run;
- 7.2 Maxima and the Host Employer may on agreement terminate the hosting agreement immediately in the event of serious misconduct or on early completion, suspension, cancellation or withdrawal from the Training Contract – please note that requirements as per the National Employment Standards in relation to notice and final pay will apply which may result in payment in lieu of notice;
- 7.3 Maxima may withdraw the Employee placed with the Host Employer immediately and without payment or penalty if:
 - 7.3.1 The Host Employer fails to pay any amount to Maxima
 - 7.3.2 The Host Employer breaches any obligations outlined in this Agreement
 - 7.3.3 In Maxima's sole opinion, the health, safety or welfare of the Employee is, or may become, in jeopardy

8. Terms of Payment

- 8.1 Tax Invoices issued by Maxima for the services provided must be paid by the Host Employer within seven (7) days from the date of the invoice.
- 8.2 Failure to pay within the terms of payment may result in
 - 8.2.1 The removal of the Employee (as per 7.3.1)
 - 8.2.2 An interest charge, debt collection cost or any legal expenses incurred for any outstanding amounts owed.
- 8.3 All invoices are subject to GST. A Tax Invoice showing the amount of GST will be forwarded to the Host Employer upon processing of the Employee's timesheet.

9. Acceptance

9.1 Acceptance of Employee on site constitutes acknowledgement of this Agreement and agreement to the terms therein.

10. General

10.1 If any provision of this Agreement shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired;

10.2 This Agreement and any contract to which it applies shall be governed by the laws in force, and subject to the jurisdiction of the courts within the relevant states and territories of Australia where the services are provided;

10.3 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, drought, storm or other event beyond the reasonable control of either party;

10.4 The Host Employer must not on-hire any Maxima Employee to a third party;

10.5 Where the Host Employer makes a decision to directly employ a Maxima Employee prior to the completion of the training contract they accept that a recruitment fee of up to \$3000 (plus GST) may be applicable to compensate Maxima for unrecovered costs associated with the recruitment of that Employee;

10.6 Each party shall pay their own costs and expenses in relation to the negotiation, preparation, execution and delivery of this Agreement and any documents entered into pursuant to, or in respect of, this Agreement;

10.7 This Agreement shall not be varied except by a written document signed by both parties;

10.8 This Agreement supersedes any prior Agreement made with Maxima.

Executed as an Agreement

Signed for and on behalf of: (Host Employer)

Company Address:

Host Employer Representative:

Host Employer Signature: Date

Witness Name:

Witness Signature: Date

Signed for and on behalf of: The Maxima Group

Maxima Representative:

Maxima Signature: Date

Witness Name:

Witness Signature: Date