

## Terms and Conditions

### SYSTEM USE AND SERVICE TERMS: PLEASE READ CAREFULLY

#### 1. Terms of Use Between User and Onsite Track Easy Pty Ltd

The Portal (the Portal) is comprised of various web pages owned and/or operated under licence by Onsite Track Easy Pty Ltd of 426 King Street, Newcastle NSW 2300 (Pegasus). The Portal is offered to you conditional on your acceptance without modification of the terms, conditions, and notices contained herein. Your use of the Portal constitutes your agreement to all such terms, conditions, and notices.

#### 2. Modification of these Terms of Use

Pegasus reserves the right to change the terms, conditions, and notices under which the Portal is offered, providing it serves 14 days notice of that change to you. You will be deemed to accept the change if you continue to access and use the Portal.

#### 3. No Unlawful or Prohibited Use Liability Disclaimer

The information, software, products, and services included in or available through the Portal includes information and data uploaded into the Portal by clients and other users of the Portal. Pegasus does not verify the accuracy of that information and data. Accordingly it may include inaccuracies or typographical errors. Changes are periodically added to the information herein. Pegasus and/or its suppliers may make improvements and/or changes in the Portal at any time. Advice received via the Portal should not be relied upon for personal, medical, legal or financial decisions and you should consult an appropriate professional for specific advice tailored to your situation.

Pegasus stores and provides access to the information and data contained in the Portal. Pegasus does not own or control the information or data contained within the Portal. Pegasus and/or its suppliers make no representations about the suitability, reliability, availability, timeliness, and accuracy of the information, software, products, services and related graphics contained on the Portal for any purpose. To the maximum extent permitted by applicable law, all such information, software, products, services and related graphics are provided “as is” without warranty or condition of any kind. Pegasus and/or its suppliers hereby disclaim all warranties and conditions with regard to this information, software, products, services and related graphics, including all implied warranties or conditions of merchantability, fitness for a particular purpose, title and non-infringement.

As a condition of your use of the Portal, you warrant to Pegasus that you will not use the Portal for any purpose that is unlawful or prohibited by these terms, conditions, and notices. You may not use Portal in any manner which could damage, disable, overburden, or impair the Portal or interfere with any other party’s use and enjoyment of the Portal. You may not obtain or attempt to obtain any materials or information through any means not intentionally made available or provided for through the Portal. To the maximum extent permitted by applicable law, in no event shall Pegasus and/or its suppliers be liable for any indirect, punitive, incidental, special, consequential damages or any damages whatsoever including, without limitation, damages for loss of use, data or profits, arising out of or in any way connected with the use or performance of the Portal, with the delay or inability to use the Portal or related services, the provision of or failure to provide services, or for any information, software, products, services and related graphics obtained through the Portal, or otherwise arising out of the use of the Portal, whether based on contract, tort, negligence, strict liability or otherwise, even if Pegasus or any of its suppliers has been advised of the possibility of damages.

Because some states/jurisdictions do not allow the exclusion or limitation of liability for consequential or incidental damages, the above limitation may not apply to you. If you are dissatisfied with any portion of the Portal, you agree that your sole and exclusive remedy is to discontinue using the Portal. If you do not agree with any part of these terms, you should not commence or continue use of the Portal.

#### **4. Termination/Access Restriction**

You acknowledge the Portal, among other things, stores information pertaining to compliance, competency and site attendances of individual users.

You further acknowledge that site owners/operators registered to use the Portal will have certain rules for individual users regarding compliance, competency and site attendance. You should ensure you are familiar with these rules.

If the Portal assesses a failure to comply with rules for any site registered with the Portal, one of the possible ramifications may be that you are made an inactive user for one or more sites (meaning you will be denied access to those sites until any contravention of a site rule has been rectified) and this can be verified by Pegasus through the Portal.

#### **5. General**

Use of the Portal is unauthorised in any jurisdiction that does not give effect to all provisions of these terms and conditions, including without limitation this paragraph. You agree that no joint venture, partnership, employment, or agency relationship exists between you and Pegasus as a result of this agreement or use of the Portal.

To the maximum extent permitted by law, this agreement is governed by the laws of the State of NSW, Australia and you hereby consent to the exclusive jurisdiction and venue of courts in NSW, Australia in all disputes arising out of or relating to the use of the Portal. Pegasus reserves the right, in its sole discretion, to terminate your access to the Portal and the related services or any portion thereof at any time, without notice. Pegasus's performance of this agreement is subject to existing laws and legal process, and nothing contained in this agreement is in derogation of Pegasus's right to comply with governmental, court and law enforcement requests or requirements relating to your use of the Portal or information provided to or gathered by Pegasus with respect to such use.

If any part of this agreement is determined to be invalid or unenforceable pursuant to applicable law including, but not limited to, the warranty disclaimers and liability limitations set forth above, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of the agreement shall continue in effect.

Unless otherwise specified herein, this agreement constitutes the entire agreement between the user and Pegasus with respect to the Portal and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral or written, between the user and Pegasus with respect to the Portal.

A printed version of this agreement and of any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to this agreement to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form. It is the express wish to the parties that this agreement and all related documents be drawn up in English.

#### **6. Online Purchases**

##### **7. Fees Authorisation, Cancellation, Refund and Re-Scheduling Policy**

1. All purchases are final – specifically, Pegasus does not refund for cancelled applications or failure to present for Australia Post appointments. Online courses not completed within 6 months of purchase will automatically expire without refund.

2. Pegasus reserves the right to cancel or block a cardholder based on authorisation or direction from any site operator or industry bodies.

3. By providing your payment details through the Portal, you irrevocably authorise and direct Pegasus to use those details to deduct all fees payable to Pegasus by you, including without limitation card registration fees.

#### **8. Copyright and Trademark Notices**

All contents of the Portal are: Copyright 2016 Onsite Track Easy Pty Ltd and/or its suppliers. All rights reserved.

#### **9. Trademarks**

Any rights not expressly granted herein are reserved.

The names and images of companies and products mentioned herein may be the trademarks of their respective owners.

## **Data and Privacy**

The Portal (and any access cards encoded to be compatible with the Portal) may contain data and information relevant to multiple sites and/or information relating to general industry training. Even if you cease using the Portal, your data and information will be retained in the Portal. You will be identified as inactive, or similar, but your data and information will not be permanently deleted unless authorised by Pegasus.

Your data may be accessed by any site owner/operator registered to use the Portal or their assignees.

Pegasus is not responsible or liable for the unauthorised access to the Portal or use of any access cards.

Pegasus will use reasonable endeavours to comply with its obligations under the Privacy Act and will otherwise treat any personal information in its control in accordance with its privacy policy, which can be found at [www.pegasus.net.au](http://www.pegasus.net.au).