

## GENERAL TERMS AND CONDITIONS FOR PEEBEE APP INSTRUCTORS

### 1. TERMS AND CONDITIONS

- 1.1. This document sets out the terms and conditions (“**the Terms**”) that govern the commercial relationship between Peebee and the Instructor, in instances where an App user wishes to purchase the services from the Instructor from time to time as part of the Instructor’s inclusion and advertisement on the applicable Peebee online platforms (collectively the “**Peebee App**”/“**App**”).
- 1.2. The Instructor’s acceptance or completion of any Programme order, service request, or similar commercial agreement from or with Peebee and/or the App and its users (“**the Services**”) indicates the Instructor’s explicit/tacit acceptance of the Terms.
- 1.3. These Terms apply in addition to the terms applicable to the use of the App, and further, these Terms are subject to the application of any additional written agreement entered into and signed between Peebee and the Instructor.
- 1.4. Not all terms are defined in order, where some may be defined in the general App Terms to which the Instructor is additionally subject.
- 1.5. I accept that this agreement is subject to a successful Instructor approval process. It is agreed that all the Terms of this agreement will only be binding on the parties on the successful approval of the Instructor and will take effect as and when such approval has been given by Peebee or its legally assigned agent.

### 2. INTRODUCTION

Peebee and/or the App provides an online application platform which allows users to search for, place an order for and/or select various types of Programmes made available by the Instructor using the App as a tool for the parties to find each other and conclude a transaction privately amongst themselves. **Peebee and/or the App itself does not sell nor offer any Programme services, but simply enables users and Instructors to meet and transact, using the App. The Instructor is the seller to the user, and the user is the buyer from the Instructor; Peebee and the App are merely a limited payment agent and facilitator for both parties to conduct their private transaction.**

### 3. THE SERVICES

The Instructor will provide the following as part of their Services:

- 3.1. provide Peebee with all necessary information on the Programmes and Services the Instructor will provide on the App, relevant media or pictures and the all-inclusive price thereof;
- 3.2. timeously accept and complete all Services placed by a user through the Peebee App with the Instructor from time to time;
- 3.3. ensure that each user has signed an indemnity form prior to providing the Services for that user;
- 3.4. allow, and grant to, Peebee a right to the Instructor’s trade name and logo to be used only on the App and/or by Peebee when advertising or describing the Instructor’s Services on the App or to other Instructors and/or App users; and
- 3.5. provide correct, complete and up-to-date information regarding the Instructor’s Services, prices, availability, Programme details, Instructor qualifications and training experience, to Peebee and/or the App when necessary or requested.

### 4. PAYMENT TO INSTRUCTOR FOR SERVICES RENDERED

- 4.1. A user will be charged for the use of the Instructor’s Services and Peebee’s Services. Collectively, these are the Charges.
- 4.2. The Instructor will receive fees from the relevant user (“**Instructor Fee**”), by using the Services and/or the App and its relevant payment services.

- 4.3. Before the Instructor receives their Instructor Fee for rendering their Services to the user, Peebee will retain up to a maximum of 25 percent of the fees charged to a user, as a commission and/or facilitation fee (“**Peebee Fee**”) for the Instructor’s use of the App.
- 4.4. The balance of the Charges remaining after the Peebee Fee has been deducted from the Charges by Peebee, will be paid to the Instructor via direct electronic fund transfer, in Rands, in to the South African bank account nominated by the Instructor to Peebee for this purpose, in their Profile.
- 4.5. It is the sole responsibility of the Instructor to collect and pay any relevant, applicable income tax or taxes associated with advertising and selling its Services on the App, including ensuring that any Instructor Fee represented to Peebee or in the App/Services, includes these taxes or fees.

**5. PERIOD OF SERVICES AND TERMINATION**

- 5.1. The Services shall commence on the date on which the application of the Instructor is approved (“**Commencement Date**”) and shall continue indefinitely, subject to termination as provided for below.
- 5.2. This agreement shall terminate should:
  - 5.2.1. either party give the other party one 30 days’ written notice to such effect; or
  - 5.2.2. the parties mutually agree in writing to terminate this agreement; or
  - 5.2.3. either party becomes entitled to cancel this agreement in terms of clause 11, pursuant to an unremedied breach of this agreement.
- 5.3. Upon termination for any reason:
  - 5.3.1. the Instructor and any intellectual property relating to them will be removed and deleted from the App and Peebee’s databases; and
  - 5.3.2. neither party will represent itself as being affiliated with the other, nor utilise the limited authorised intellectual property rights assigned to either under the Services.

**6. GENERAL OBLIGATIONS OF PEEBEE**

- 6.1. Peebee undertakes to the Instructor that it and/or the App, as the case may be, will:
  - 6.1.1. ensure that all Services performed by the Instructor are detailed to credit or attribute the Instructor, including the use of the Instructor’s name and/or logo next to its Service options/Programmes offered on the App;
  - 6.1.2. ensure that the Instructor is paid in full by the user for all Services placed with the Instructor, as per clause 4 above;
  - 6.1.3. provide the Instructor with clear, timeous and reasonable instructions and directions where necessary; and
  - 6.1.4. positively promote the Instructor and its available Services on the App and through its business and customer network generally.

**7. RELATIONSHIP OF THE PARTIES**

- 7.1. **The relationship between the parties is governed by the Terms and does not constitute a joint venture, agency, partnership, employer/employee or similar type relationship. The Instructor is at all times an independent contractor, and as such, is in control of its own work schedule, clients and tools, amongst other work features.**
- 7.2. **Nothing in these Terms restricts the Instructor from providing its services to other parties.**
- 7.3. **All consumer protection or other relevant legislation applicable between a buyer and seller will apply between the user and Instructor only, as the respective parties to their transaction. Peebee therefore has no legal obligations in that regard.**

## 8. GENERAL OBLIGATIONS OF THE INSTRUCTOR

The Instructor warrants to Peebee in relation to the Services that they:

- 8.1. shall render the Services in accordance with this agreement and shall act in such a manner as they reasonably consider to be most beneficial to the interests of Peebee and the user;
- 8.2. shall adhere strictly to all of Peebee's applicable Codes and Policies, especially those concerning Conduct and Ethics, available from the Peebee website, [www.peebee.app](http://www.peebee.app);
- 8.3. shall provide the Services as per the exact description and specifications of the Programmes as detailed by the Instructor to Peebee, the user and/or on the App;
- 8.4. shall maintain and be responsible for any registration or access to the App required to render the Services or its general transactional services to a user;
- 8.5. shall, during their regular trading hours, use all their effort to be available to receive and subsequently provide the Services placed by a user and/or the App;
- 8.6. shall perform the Services as required and in adherence with any order placed, to the best of their ability;
- 8.7. shall provide Peebee with correct information relating to any and all Services made available to Peebee and/or on the App for sale;
- 8.8. shall notify Peebee immediately when any fitness program option is no longer available as advertised, for any reason;
- 8.9. shall provide Peebee with any updates or changes to any information relating to the Services immediately upon such changes occurring;
- 8.10. is reasonably and suitably experienced, organised, financed, equipped, qualified, licensed and able to render the Services in each and every respect, as required by any applicable South African law;
- 8.11. shall undertake all Services strictly in accordance with any and all laws and codes applicable to the Instructor's qualification, actions or location of Services rendered;
- 8.12. shall never circumvent or attempt to circumvent the App and or Peebee in providing Programmes to App users outside of the App with the intention of deriving a sole and exclusive benefit, to the detriment of Peebee;
- 8.13. shall exercise due care, diligence and skill in the provision of the Services; and
- 8.14. shall not do anything or allow any act to be done which does or is reasonably and foreseeably likely to prejudice the good name and reputation of Peebee or the users,  
failing which, the Instructor will immediately be deemed to be committing a material breach of this agreement.

## 9. DISSATISFACTION AND REFUNDS

In the event that the user purchases Services from the Instructor using the App:

- 9.1. Once a user books a Programme, confirmation of same will only be provided to the user after payment of the relevant Charges is made in full.
- 9.2. If an Instructor does not arrive at all to the booked Programme as required, the user needs to register a complaint with Peebee using the prompted methods on the Application, or by emailing [info@peebee.app](mailto:info@peebee.app) within 48 (forty-eight) hours of the booked Programme. If these steps are completed correctly, the user will receive a full refund of the Instructor Fee.
  - 9.2.1. If the user fails to register this required complaint within the required 48 (forty-eight) hours, then the Programme is assumed to have happened and no refund will be issued.

- 9.3. If a user fails to arrive for a Programme as booked, or fails to cancel a Programme within 24 (twenty-four) hours of the booked Programme time, the user will be charged in full for the Programme and will not be entitled to any refund.
- 9.4. Trainer has option to waive their fee portion in which case there will be a refund less 10% (ten percent) cancellation fee.
- 9.5. If member cancels before 24 hours prior, then there is a full refund less 10% (ten percent) cancellation fee
- 9.6. Notwithstanding the above, should a user receive Services which they deem as unacceptable and are entitled to reject under applicable laws, the user and Instructor will engage with each other as the private parties to the transaction and reach an amicable solution amongst themselves. Peebee does not have to, but reserves the right to, become involved in any such dispute in order to assist the private parties reach a solution. Peebee is however under no obligation to do so.

## 10. **LIABILITY AND INDEMNIFICATION**

- 10.1. Each party warrants to the other party that any information, including but not limited to, images, documents or design files, provided to a party in connection with the Services is free from any copyright and/or does not infringe upon any rights of any third party to which the information belongs.
- 10.2. **Apart from instances of fraud or gross negligence, Peebee will not be liable for loss, damage, injury, death or delay, including loss of profits, income and consequential damages, suffered by the Instructor as a result of these Terms, their use of the Services and/or the App or negligence in respect thereof.**
- 10.3. **The Instructor agrees to hold harmless and indemnify Peebee against any losses, expenses, claims, injury, death, damage or delay, including loss of profits and consequential damages, suffered by the Instructor or any user or third party arising as a result of the Instructor's breach of these Terms, provision of their Services to users, or use of the Services and/or the App.**

## 11. **BREACH**

- 11.1. Either party ("**the innocent party**") shall have the right, at its election, to terminate this agreement forthwith by notice in writing to the other party ("**the breaching party**") in the event that:
  - 11.1.1. on written notice to that effect by the innocent party should the breaching party commit any breach or permit the commission of any breach of any material obligation or warranty contained in this agreement and, in respect of such a breach capable of remedy, fail to remedy that breach within 5 (five) business days after the giving of written notice to that effect by the innocent party to the breaching party; or
  - 11.1.2. the breaching party repeatedly breaches any of the terms and/or conditions of this agreement in such a manner as to justify the innocent party in holding that the breaching party's conduct is inconsistent with the intention or ability of the breaching party to carry out the provisions of this agreement.
- 11.2. In the event of cancellation of this agreement in the circumstances contemplated in clause 11.1, written notice of any such cancellation shall be given and such cancellation shall take effect on the giving of such notice.
- 11.3. The cancellation of this agreement or exercising of any right conferred by this clause 11 shall be without prejudice to any claims hereunder then accrued or to any further or other rights or remedies of either party, whether under this agreement or otherwise in law, and whether for damages or otherwise.

## 12. **INTELLECTUAL PROPERTY PROTECTION**

- 12.1. Both parties will allow, and grant to the other party a right to use each other's trade name and logo to be used only on the App and/or by the relevant party when advertising and/or describing the

Instructor's Services on the App, or Peebee's services or the App or to other Instructor and/or App users. No other rights relating to any other intellectual property belonging to the Instructor or Peebee are granted to the other party, unless expressly done so in writing between the parties.

- 12.2. All material, information, data, software, icons, text, graphics, lay-outs, images, sound clips, advertisements, video clips, trade names, logos, trade-marks, designs, copyright and/or service marks (as well as the organisation and layout of the App) together with the underlying software code of the App and/or Peebee are owned (or co-owned or licenced, as the case may be) by Peebee, its members, associates and/or partners, whether directly or indirectly, and as such, are protected from infringement by domestic and international legislation and treaties.
- 12.3. Subject to the rights afforded to the Instructor in these Terms, all other rights to all intellectual property on the App or of Peebee's are expressly reserved. The Instructor may not copy, download, print, modify, alter, publish, broadcast, distribute, sell or transfer any intellectual property, content, graphics or other material on the App or the underlying software code, or of Peebee's generally, whether in whole or in part, without the written consent of Peebee first being granted to it, which consent may be refused at the discretion of Peebee. No modification of any intellectual property or content or graphics is permitted.
- 12.4. Peebee reserves the right to make improvements or changes to the intellectual property, information, artwork, graphics and other materials on the App, including that of an Instructor in their advert, or to suspend or terminate the App, at any time without notice; provided that any transaction already concluded through the App will not be affected by such suspension or termination (as the case may be).

### 13. **FORCE MAJEURE**

If either party is prevented from or hindered or delayed in performing any obligation under these Terms by reason of any circumstance beyond its reasonable control (including but not limited to, acts of god, governmental restraints, strikes, labour disputes (other than strikes or labour disputes by its own staff), war, extreme weather, electrical load-shedding, fire, flood, riot, sabotage and terrorism), it shall be excused performance to the extent affected by the circumstances concerned so long as it shall both give notice to the other party, and any effected user, if applicable, of those circumstances promptly after they first affected performance and use all reasonable commercial endeavours to remove or avoid their cause or effect.

### 14. **DATA PROCESSING**

- 14.1. The Instructor understands and agrees that it may, during its provision of the Instructor Services, operate as a "processor" and/or "operator" of personal information, as defined in the *Protection of Personal Information Act, 2013* ("**POPI**"), as it will receive such personal information from users and/or Peebee.
- 14.2. Accordingly, the Instructor warrants that it shall adhere to all applicable duties and obligations of a "processor" and/or "operator" as defined and required under POPI, as applicable, where same duties and obligations shall be detailed in a separate data processing agreement between the parties.
- 14.3. The Instructor is also aware that Peebee is not necessarily the "Responsible Party" and/or the "Data Controller", as defined by POPI, when processing the data of its customers or clients, and as such, the Instructor may be required to engage a third party to ensure that its duties under POPI are satisfied.

### 15. **CONFIDENTIALITY**

- 15.1. Neither party shall during or after the provision of their services use to the prejudice or detriment of the other party, or divulge to any person any material, client list, business method, trade secret or any other confidential information concerning the business affairs of the other party which may have come into its possession or knowledge during the course of this agreement or provision of the Services.

15.2. The parties may only advertise their affiliation specifically as agreed between them and only on the terms specified between them.

16. **DISPUTE RESOLUTION**

16.1. Should any dispute, disagreement or claim arise between the parties (“**the dispute**”) concerning this agreement, its termination and/or cancellation and/or rectification, the parties shall submit the dispute to final arbitration for resolution in accordance with the rules of the Arbitration Foundation of Southern Africa (“**AFSA**”) by an arbitrator or arbitrators appointed by AFSA utilising such expedited proceedings as may be available in terms of such rules, including direction as to the payment of any and all legal costs associated with the dispute.

16.2. Any arbitration shall be held in Cape Town, South Africa.

16.3. Notwithstanding anything to the contrary contained in this clause 16.1, either party shall be entitled to approach and seek relief from any competent court having jurisdiction.

16.4. The parties both agree that in no circumstance will either party publicize the dispute on any public platform, including social media platforms. The parties understand that any publicity of this nature can cause serious damage to the other party, which damage may result in a financial claim against the infringing party.

17. **NO CESSION OR ASSIGNMENT**

The Instructor shall not be entitled to cede, assign, transfer or delegate all or any of its rights, obligations, interests in, under or in terms of the Terms to any third party without the prior written consent of Peebee.

18. **SERVICE ADDRESS**

Each of the parties choose their service address for the purposes of the giving of any notice, the payment of any sum, the serving of any process and for any other purposes arising from this agreement at their respective addresses outlined in this agreement and/or specifically identified in writing between the parties from time to time.

19. **GENERAL**

19.1. **Survival of Rights, Duties and Obligations:** Termination of this agreement for any cause whatsoever shall not release either party from any liability which at the time of termination has already accrued to the other or which thereafter may accrue in respect of any act or omission prior to such termination.

19.2. **Variation of this Agreement:** No alteration, consensual cancellation, variation of, or addition to this agreement shall be of any force or effect unless reduced to writing and signed by both parties.

19.3. **Counterparts:** This agreement may be signed in any number of counterparts, all of which taken together shall constitute one and the same instrument.

19.4. **Governing law:** This agreement shall be governed by and interpreted in accordance with the law of the Republic of South Africa. All disputes, actions and other matters in connection with this agreement shall be determined in accordance with such law.

19.5. **Indulgences:** No indulgence, leniency or extension of time which any party (“**the grantor**”) may grant or show to the other shall operate as an estoppel or in any way prejudice the grantor or preclude the grantor from exercising any of its rights in the future

19.6. **Cumulative Rights and Remedies:** The rights and remedies of the parties under this agreement are cumulative and in addition to any rights and remedies provided by law.

20. I accept that this agreement is subject to a successful Instructor approval process. It is agreed that all the Terms of this agreement will only be binding on the parties on the successful approval of the Instructor by Peebee or its legally assigned agent.

21. **I acknowledge that I have read and understood the Terms and agree to be bound by the terms of same.**