

PPSR CLOUD

Terms and Conditions

1. BACKGROUND

- (a) PPSR Cloud operates an online platform through which Customers can use the Services to search, create, amend, discharge and maintain Registrations on the PPSR as well as using auxiliary services related to such Registrations and searches.
- (b) PPSR Cloud offers access to and use of the Services subject to these Terms.
- (c) All Customers and Users agree to the use of the Website and Services in accordance with these Terms.

2. Price and Payment & Terms of Use

2.1 Price and Payments

- (a) All prices quoted on the Website are quoted in Australian Dollars ("AUD") if the Customer provides an Australian address and in New Zealand Dollars ("NZD") if the Customer provides a New Zealand address and are, unless stated otherwise, exclusive of all GST and other taxes.
- (b) All payments to be made to PPSR Cloud must be in AUD or NZD (whichever is applicable).
- (c) Payments that are received in a currency other than AUD or NZD (whichever is applicable) will not be accepted and any attempted registration by a Customer or attempt to access the Services will be delayed until correct payment is made.
- (d) All prices quoted on the Website are subject to change without notice. The Customer should confirm the price of a Service before placing an order for it.
- (e) The Customer acknowledges and agrees that in addition to the Fees, charges will be payable by the Customer to the registrar of the PPSR or other third-party providers for searching, registering and amending on the PPSR.

2.2 Terms of Use:

- (a) PPSR Cloud may charge the Customer's credit/debit card with the Fees at any time after their card details have been entered on the Website.
- (b) PPSR Cloud accepts major credit/debit cards and direct debit payment methods.
- (c) PPSR Cloud may also in its sole discretion offer Customers located in Australia with certain subscription plans with the option of using their own Australian Financial Security Authority ("AFSA") B2G account in which case the Customer will be directly liable and accountable to AFSA for all amounts payable.
- (d) By choosing to proceed with the financial transaction the Customer agrees not to hold PPSR Cloud responsible or liable for any loss or damage which the Customer could incur, or any fraud as a result of the transaction.
- (e) PPSR Cloud is not responsible for any foreign transaction fees (if the Customer is using an international credit card) or any other additional fees charged by the Customer's bank.
- (f) Tax invoices for monthly subscription payments, transaction reports for wallet top-ups and PPSR transactions are available for download from the Services.

- (g) PPSR Cloud does not offer refunds under any circumstances, unless required by law.

3. Term of Access

- (a) Unless otherwise specified in this clause 3, a Customer will have access to the Services provided all Fees have been paid, the Customer maintains a sufficient credit balance for future Services and the Customer has not breached any of these Terms.
- (b) The Customer agrees and understands that PPSR Cloud may prevent or restrict access to the Website or the Services for any technical, security and/or any other reasons at its absolute discretion, including if at any time the Customer has breached any of the Terms.
- (c) PPSR Cloud will advise the Customer as soon as practicable of any restrictions imposed on access to the Services or the Website. PPSR Cloud will have no liability to the Customer as a result of restricting access to the Services or the Website.

4. Intellectual Property Rights

- (a) The Intellectual Property is protected by copyright laws and international copyright treaties, as well as other intellectual property rights and treaties. Upon acceptance of these Terms, PPSR Cloud grants the Customer a non-exclusive licence to use the Services on these Terms. Title, ownership and rights to the Intellectual Property shall remain with PPSR Cloud and/or its licensors.
- (b) PPSR Cloud is the owner or authorised supplier of the Intellectual Property, and is entitled to provide the Services and the Website on these Terms.

5. Confidentiality

- (a) The Customer shall treat all Confidential Information as confidential, and shall not disclose to any party, copy or use (in any manner or form) any part of the Confidential Information without PPSR Cloud's prior written consent.
- (b) The Customer shall not appropriate, copy, memorise or in any other manner reproduce any of the Confidential Information without the prior written consent of PPSR Cloud.
- (c) The Customer agrees that it will forever observe the obligations of confidence set out in this clause unless released from such obligation in writing by PPSR Cloud.
- (d) The Customer agrees that the obligations provided for in this clause will continue to survive from the date the Customer accepts these Terms.
- (e) The parties agree that the undertaking of confidentiality does not apply to Confidential Information which:
 - (i) is or becomes available to the public other than as a result of a breach of these Terms;
 - (ii) is required by law to enforce these Terms; and
 - (iii) is reasonably disclosed on a "need to know" basis to officers, employees, and professional advisers of the party for the purposes of implementing these Terms, provided such persons have agreed to keep the Confidential Information confidential.

6. Customer's Warranties, Acknowledgments and Obligations

- (a) The Customer warrants, acknowledges and agrees that:

- (i) it will abide by PPSR Cloud's Conduct Policy contained at clause 11 of these Terms;
- (ii) use of and access to the Services and the Website is the Customer's responsibility and solely at the Customer's own risk, including any improper or fraudulent use or access to the Customer's account;
- (iii) the Services and all information and data provided by the Customer to PPSR Cloud will be hosted and stored in Australia regardless of the location of the Customer;
- (iv) there is no guarantee, warranty or representation that the Services will achieve the purpose required by the Customer nor that the Registrations the Customer makes are valid, enforceable or have priority to other security interests;
- (v) it is responsible for ensuring it enters the correct information when using the Services and for updating the Services when any information has changed;
- (vi) PPSR Cloud does not check or verify any of the Customer's Registrations whether registered prior to the use of the Services or during the use of the Services, nor does it check or verify the Customer has a valid security interest capable of Registration. Where PPSR Cloud offers the Customer auxiliary services through a third-party provider, including PPS consulting services and/or validation services to verify details, PPSR Cloud gives no warranties or guarantees as to the accuracy of the information provided by or verification conducted by the third party;
- (vii) PPSR Cloud makes no warranties or guarantees as to the accuracy or efficiency of any alert services which are made available to the Customer through the Services. Information provided in alerts is for indicative purposes only, and the Customer is responsible for confirming the accuracy of any information provided by alert services;
- (viii) it will not share its username or password or grant access to any third party to the Services;
- (ix) it will not excessively download, print, save or forward content, videos or pictures from the Services;
- (x) it accepts the risk that any downtime or disruption in access to or use of the Services will affect the timing and priority of Registrations, and PPSR Cloud will not be responsible for any loss or damages as a result of any downtime or disruption in access to or use of the Services;
- (xi) PPSR Cloud may monitor the Customer's use and access of the Services and if it considers unreasonable access or abnormal activity is occurring, including whether there is excess downloading or multiple accesses from different locations, the Customer's access may be suspended or cancelled at the sole discretion of PPSR Cloud;
- (xii) PPSR Cloud may delete any material uploaded, posted, transmitted or otherwise made available by the Customer on the Services which does not comply with PPSR Cloud's Conduct Policy in its sole discretion and without compensation;
- (xiii) the Services and information provided on the Website is provided as general information only and is not intended to be professional or legal advice;
- (xiv) prior to entering into a transaction or taking any particular course of action in connection with the Website or the Services, the Customer will make their own enquiries and seek independent advice tailored to the Customer's specific circumstances and objectives;
- (xv) all material and information on the Website is provided in good faith and is believed to be accurate and current as at the date of publication, however, PPSR Cloud provides no warranty or guarantee that any material or information on the Website or linked websites will be accurate or complete;

- (xvi) PPSR Cloud makes no guarantee as to the usefulness of the Services and information on the Website, nor any of the products and services promoted on it or via linked websites. In particular, PPSR Cloud makes no guarantee as to the appropriateness of the options selected by the Customer and no guarantee as to the likelihood of results which may be gained by virtue of any course of action undertaken; and
 - (xvii) PPSR Cloud does not and is not able to check whether the timing of the Customers PPSR registration is in accordance with the strict timing requirements of the Corporations Act and the PPSA. A failure to abide by the timing requirements can materially impact the effectiveness of the Customers PPSR registration and the Customers ability to enforce the Customers security. PPSR Cloud accepts no responsibility and or liability for the Customers failure to comply with the timing requirements.
 - (xviii) it has a security interest capable of registration prior to making any Registrations through the Services, it is using the Website and Services (including making Registrations and conducting searches) for an authorised purpose and it is otherwise complying with the *Personal Property Securities Act 2009* (Australia) or the *Personal Property Securities Act 1999* (New Zealand) (whichever is applicable) at all times.
- (b) The Customer acknowledges that PPSR Cloud is not responsible or liable in any way whatsoever for:
- (i) any incorrect, outdated or incomplete information or advice contained in the Services (including information obtained from the PPSR) and on the Website;
 - (ii) any misuse of the Customer's account;
 - (iii) any incorrect, outdated or incomplete information contained in a registration made on the PPSR by the Customer;
 - (iv) any registration made by the Customer on the PPSR being enforceable or valid;
 - (v) any financial loss occurring from the use of the Website, the Services or from any information or advice which is provided to the Customer;
 - (vi) any delay in providing the Services to the Customer or responding to a query from the Customer;
 - (vii) any virus, spam, contamination, damage or loss as a direct or indirect consequence from the use of the Services or the Website, including contacting or interacting with PPSR Cloud via email, Facebook, YouTube, Twitter, LinkedIn, or any other social media contact with PPSR Cloud;
 - (viii) any difficulty the Customer has in viewing videos or other information on the Website;
 - (ix) any data loss, corruption, disruption, shutdown or downtime to the Customer's ability to access the Website or use the Services;
 - (x) the accuracy or reliability of content provided on or within third party websites, whether or not that third party website was recommended by PPSR Cloud;
 - (xi) any information or material, services, advice provided or supplied by any third-party website or link thereto, including personal data or payments or refunds. Customers accept and take full responsibility for any personal loss or damages arising from any linked or third-party website accessed by them;
 - (xii) the Customer's personal information being misused or becoming insecure as a result of PPSR Cloud's computer system or database being hacked or compromised;

- (xiii) the actions of the Customer, including if they misread or misunderstand information, erroneously or otherwise act on information or fail to comply with clause 6(a) above; and
- (xiv) any civil penalties imposed on the Customer under the *Personal Property Securities Act 2009* (Australia) or the *Personal Property Securities Act 1999* (New Zealand) (whichever is applicable) even if that penalty arises as a result of the Customer's use of the Website or Services.

7. No Warranties and Limitation of Liability

Notwithstanding anything contained herein the Customer acknowledges and agrees that:

- (a) No representation, warranty or condition, express or implied, is given by PPSR Cloud and its officers, directors, employees, agents, servants and related entities about the Website or the Services or that the Website or the Services provided comply with the rules, regulations, laws and legislation of the place where the Customer is located, and to the maximum extent permitted by law, PPSR Cloud disclaims all warranties relating to the Website and the Services, either oral or written, express or implied, including any implied warranties of merchantability, fitness for a particular purpose, or interoperability between the Website or the Services and any type(s) of device or system; and
- (b) To the maximum extent permitted by applicable law, PPSR Cloud and its officers, directors, employees, agents, servants and related entities will not be liable under any circumstance for any claims, losses or damages of any kind whatsoever arising from or in relation to the Website and the Services, including any inaccuracy, inoperability, error or omission in the Website or the Services or any other information provided by or to PPSR Cloud. This exclusion of liability applies to liability in contract, tort (including negligence) and any other principle or type of legal liability; and
- (c) Mandatory statute or consumer warranty laws may apply to the Website or the Services. If such a law applies, then no provision in these Terms shall operate to exclude any such consumer guarantee, warranty or right imposed by law, provided however that the liability of PPSR Cloud will be limited to the amount of the Fees paid by the Customer.

8. Indemnity and Release

- (a) The Customer indemnifies and holds harmless and shall continue to indemnify and hold harmless PPSR Cloud and its officers, directors, employees, agents, servants and related entities from and against all liabilities, actions, demands, claims, suits, causes of action, proceedings, costs and expenses (including legal costs on a full indemnity basis) suffered or incurred by PPSR Cloud or its officers, directors, employees, agents, servants and related entities by reason of, arising out of or referable to any breach or non-performance by the Customer of any provision of these Terms.
- (b) Except as provided in these Terms, the Customer releases and holds harmless PPSR Cloud and its officers, directors, employees, agents, servants and related entities from and against any and all liabilities, actions, claims, suits, causes of action and demands whatsoever that the Customer may now or in the future have against PPSR Cloud and its officers, directors, employees, agents, servants and related entities arising out of or in connection with the Customer's use of the Website or the Services and this release may be pleaded as an absolute bar to any such claim against PPSR Cloud and its officers, directors, employees, agents, servants and related entities.

9. General

- (a) Any expressions or terms which are not defined in these Terms but are defined in the *Personal Property Securities Act 2009* (Australia) or the *Personal Property Securities Act 1999* (New Zealand) (whichever is applicable) have the same meanings given to them under, or in the context of those Acts.

- (b) PPSR Cloud may vary these Terms at any time. In the event that PPSR Cloud varies these Terms, it will provide notice by publishing the varied Terms on the Website. By doing this, PPSR Cloud has provided the Customer with sufficient notice of the variation.
- (c) If any part of these Terms is held invalid, illegal or unenforceable, that part shall be severed, and the remainder will continue to be valid and enforceable. None of these Terms will merge in or upon the execution of this or any other agreement, document, act, matter or thing and will continue to remain in full force and effect for so long as is necessary to give effect to these Terms.
- (d) These Terms and the use of the Website and Services is governed by, construed and enforced in accordance with:
 - (i) if accessing the Website from Australia or using the Services for Registrations in Australia, the laws of Australia and the User irrevocably submits to the jurisdiction of the courts of Australia and their respective courts of appeal in that regard; and
 - (ii) if accessing the Website from New Zealand or using the Services for Registrations in New Zealand, the laws of New Zealand and the User irrevocably submits to the jurisdiction of the courts of New Zealand and its courts of appeal in that regard.
- (e) The Customer may not assign these Terms or any of its rights and obligations in whole or in part in these Terms, whether by actual assignment or by operation of law or by providing any information on the Website to any third party without PPSR Cloud's prior written consent, unless otherwise agreed to in writing between the parties.
- (f) PPSR Cloud may at any time assign these Terms or any of its rights and obligations in whole or in part in these Terms to an affiliated company or a reputable third party by written notice to the Customer.
- (g) A provision of these Terms may not be waived except in writing and signed by an authorised officer of PPSR Cloud. No waiver or breach of any provision of these Terms shall constitute a waiver or breach of any other provision.
- (h) If these Terms are inconsistent with any other previous document or agreement between the parties, these Terms will prevail to the extent of the inconsistency.

10. Privacy

If a User submits or uploads personal information to PPSR Cloud or its related companies, the User consents to the collection, use, processing, transmission and disclosure of that information by PPSR Cloud and its related companies. The User warrants that they have obtained all necessary consents to disclose the personal information to PPSR Cloud and its related companies, and for PPSR Cloud and its related companies to retain and use that information for the supply of Services and any of the other purposes set out in PPSR Cloud's current Privacy Policy (accessible at <https://ppsrcloud.com>). Privacy Policy may be updated from time to time. The parties hereby agree that PPSR Cloud's Privacy Policy, as may be modified from time to time, is incorporated into these Terms.

Users acknowledge that they are responsible for ensuring the way they use the Services complies with applicable privacy and legal regulations in their location.

11. Conduct Policy

By using the Services, the Customer agrees to PPSR Cloud's Conduct Policy below which forms part of the Terms.

The Customer agrees not to:

- (a) use the Website or Services in breach of any applicable laws or regulations;
- (b) use the Website or Services (or material obtained from the Website or Services):
 - (i) to transmit (or authorise the transmission of) "junk mail," "chain letters," unsolicited emails, instant messaging, "spimming," or "spamming";
 - (ii) to impersonate any person or entity;
 - (iii) to solicit money, passwords or personal information from any person;
 - (iv) to harm, abuse, harass, stalk, threaten or otherwise offend others; or
 - (v) for any unlawful purposes;
 - (vi) to upload, post, transmit or otherwise make available (or attempt to upload, post, transmit or otherwise make available) any material that:
 - 1. is not the Customer's original work, or which in any way violates or infringes (or could reasonably be expected to violate or infringe) the intellectual property or other rights of another person;
 - 2. contains, promotes, or provides information about unlawful activities or conduct;
 - 3. is, or could reasonably be expected to be defamatory, obscene, offensive, threatening, abusive, pornographic, vulgar, profane, indecent or otherwise unlawful, including material that racially or religiously vilifies, incites violence or hatred, or is likely to offend, insult or humiliate others based on race, religion, ethnicity, gender, age, sexual orientation or any physical or mental disability;
 - 4. exploits another person in any manner;
 - 5. contains nudity, excessive violence, or sexual acts or references;
 - 6. includes an image or personal information of another person or persons unless the Customer has their consent;
 - 7. poses or creates a privacy or security risk to any person;
 - 8. the Customer knows or suspects (or ought reasonably to have known or suspected) to be false, misleading or deceptive;
 - 9. contains large amounts of untargeted, unwanted or repetitive content;
 - 10. contains restricted or password only access pages, or hidden content;
 - 11. contains viruses, or other computer codes, files or programs designed to interrupt, limit or destroy the functionality of other computer software or hardware;
 - 12. advertises, promotes or solicits any goods or services or commercial activities (except where expressly permitted or authorised by PPSR Cloud); or
 - 13. contains financial, legal, medical or other professional advice;
- (c) interfere with, disrupt, or create an undue burden on PPSR Cloud or the Services;

- (d) use any robot, spider, or other device or process to retrieve, index, or in any way reproduce, modify or circumvent the navigational structure, security or presentation of PPSR Cloud, the Website or the Services;
- (e) use the Services with the assistance of any automated scripting tool or software;
- (f) frame or mirror any part of the Services without our prior written authorisation;
- (g) use code or other devices containing any reference to the Services to direct other persons to any other web page;
- (h) except to the extent permitted by law, modify, adapt, sublicense, translate, sell, reverse engineer, decipher, decompile or otherwise disassemble any portion of the Website or the Services or cause any other person to do so; and
- (i) delete any attributions or legal or proprietary notices on the Website.

12. Definitions and Interpretation

“Confidential Information” means information which relates directly or indirectly to the business, operations or affairs of the business of PPSR Cloud and which is expressed to be confidential or which PPSR Cloud, acting reasonably, advises the Customer it regards as confidential, whether the information is in oral, visual or written form or is recorded in any other medium. Confidential Information includes all information contained within the Services, these Terms, any other non-public information whatsoever supplied by PPSR Cloud to the Customer (including records, documents, plans, formulae, specifications, Intellectual Property, devices, methods, price information, and papers of every description including all copies or extracts from the same relating to the affairs or the business of PPSR Cloud or any related entity of PPSR Cloud) which from time to time is made available or becomes known or comes into the possession of the Customer;

“Customer” means a person who registers to use the Services;

“Intellectual Property” means all rights in intellectual property (whether registered or unregistered), including all copyright, patents, trademarks, designs, trade secrets, logos, moral rights and all other proprietary rights in the Services and the Website, together with any modifications, enhancements, and derivative works of any of the foregoing in any media, tangible or intangible, now in existence or created in the future;

“Fees” means all fees and charges payable by a Customer to PPSR Cloud to use the Services;

“PPSR” means the Personal Property Securities Register established under the *Personal Property Securities Act 2009* (Australia) or the *Personal Property Securities Act 1999* (New Zealand) (whichever is applicable);

“PPSR Cloud” means PPSR Cloud Pty Ltd (ACN 654 880 038) (if accessing the Website from Australia or using the Services for Registrations in Australia) or PPSR Cloud Ltd (NZBN To be confirmed) (if accessing the Website from New Zealand or using the Services for Registrations in New Zealand);

“Registrations” has the meaning given to it by the *Personal Property Securities Act 2009* (Australia) or means a Financing Statement (as amended by any Financing Change Statement) registered on the PPSR (New Zealand) (whichever is applicable);

“Services” means the software application allowing Customers to search, create, amend, discharge and maintain Registrations on the PPSR (including all underlying software, content, documentation, files, databases, operating systems, hosting infrastructure and supporting services) and any other auxiliary services offered from time to time by PPSR Cloud to Customers;

“Terms” means these terms and conditions as supplemented, varied or amended from time to time;

“User(s)” means all persons accessing the Website and/or using the Services (including any part of the Services) including persons that load and/or manage content on the Website and/or Services, or that receive or subscribe for any paid content or Services, and/or any persons providing personal information to PPSR Cloud; and

“Website” means any website (or websites) operated by PPSR Cloud, including the website(s) used as part of the Services.

In these Terms, unless the context requires otherwise:

- (a) “Person” includes references to individuals, companies, corporations, partnerships, firms, joint ventures, associations, trusts, organisations, governmental or other regulatory bodies or authorities or other entities in each case whether or not having separate legal personality;
- (b) A reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and also any subordinate legislation or law issued under that legislation or legislative provision;
- (c) Any covenant not to do anything shall also constitute an obligation not to suffer, permit, cause or assist any other person to do that thing;
- (d) Headings are for convenience only and do not affect the interpretation of these Terms except for use as cross-references;
- (e) A reference to a party includes a reference to that party’s permitted assignees and successors; and
- (f) The meaning of general words is not limited by specific examples introduced by “including”, “for example” or similar expressions.

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