

Access Sketch Customer Terms & Conditions

The provision of the Service by Access Sketch, made available by us through the website www.accesssketch.com to you is subject to these Terms and Conditions. By placing an Order indicates your acceptance and to be bound of these Terms and Conditions. Please read them carefully before using our Services.

1. Definitions

In these Terms and Conditions the following words and phrases shall have the following meanings, unless the context otherwise requires:

- (a) "Access Sketch" means Access Sketch (ABN 18 631 302 361)
- (b) "Design" means any drawings or designs provided by us to you;
- (c) "Intellectual Property" means but is not limited to all present and future rights conferred by statute, common law or equity in or in relation to any copyright, trade marks, designs, patents, circuit layouts, software, business and domain names, inventions and other results of intellectual activity related to or connected with the Services including:
 - (i) information or data, source codes and other information technology relating to or connected with the Services;
 - (ii) books and records relating to or connected with the Services;
 - (iii) advices (including without limitation verbal advices) relating to or connected with the Services;
 - (iv) marketing information relating to or connected with the Services;
 - (v) technical information, including trade secrets, drawings, Designs, plans, encryptions, codes and Services descriptions and information relating to or connected with the Services; and
 - (vi) ideas or models relating to or connected with the Services, even if not reduced to material form;
- (d) "Moral Rights" means:
 - (i) a right of attribution of authorship; or
 - (ii) a right not to have authorship falsely attributed; or
 - (iii) a right of integrity of authorship; or
 - (iv) a right of a similar nature;which is conferred by statute, and which exists or comes to exist anywhere in the world in a deliverable form comprised within this Agreement;
- (e) "Order" means an order for Services;
- (f) "Services" means the services provided by Access Sketch and selected by you as outlined at the Site and <https://accesssketch.com/#quote>
- (g) "Site" means accesssketch.com and all parts and pages of it;
- (h) "us" means Access Sketch and 'we' or 'our' shall be interpreted accordingly;
- (i) "you" means the person or entity that accesses the Site and 'your' shall be interpreted accordingly.

2. Services

- (a) The sale price of the Services will be as shown on the Site or notified by us by other means at the time you place your Order. The sale price will be exclusive of GST unless otherwise stated.
- (b) If we agree to accept your Order we will then forward you an email called a Confirmation of Order email. Upon transmission of that email a Contract is formed between us and subject to payment by you of the invoiced amount, we are obliged to provide the Services to you.
- (c) Whilst we do our very best to ensure that the prices shown on the Site at all times are accurate, we will confirm during the acceptance process of your Order whether the price shown on the Site is the correct price, and if it is not the correct price we will contact you and ascertain whether or not you wish to continue to proceed with your Order at the correct price for the Services.
- (d) After we have forwarded the Confirmation of Order email you will be required to pay for the Services in accordance with the method set out in that email and within the time period stated therein. You will also be required to pay any duties or taxes which attach to the supply of the Services (if applicable). We are unable to provide you with the Services until full payment in accordance with the Confirmation of Order email is made to us by you.
- (e) At all times prior to our Confirmation of Order email being forwarded to you, you are at liberty to withdraw your Order by advising us in email.
- (f) Unfortunately given the nature of the Services, once you have paid for your Order we are unable to give you a refund of any amount paid.

3. Supply of the Services

- (a) We will supply you with the Services in the manner agreed to by us. Generally we only supply the Services online. For example if the Services require us to provide you with advice, we may email that advice to you or we may have a Skype (or similar) consultation with you in our discretion. If the Services require us to provide you with a Design, we may email that Design to you. You will be responsible for any costs associated with receiving the Services, such as the costs of retrieving any email sent by us.
- (b) You will be responsible for preparing correct and up to date instructions which include designs and budget) to us in relation to providing the Services. In the event there are amendments before, during or after supply of Services or instructions, Access Sketch has the right to cancel, without refund, the Services or provide a new quote for the Services to be provided.

4. Intellectual Property Rights

- (a) You agrees that any Designs, works, items, materials or information of whatever nature produced or developed or discovered by Access Sketch whether before, during or after the date Access Sketch is engaged to provide the Services shall remain the sole and exclusive property of Access Sketch, whether such property is tangible or is in the nature of industrial and intellectual property rights (including copyright and rights of confidential information) and you will promptly sign all documents and do all things necessary to register, vest or transfer any interest or ownership in such additional or further property to Access Sketch.
- (b) You acknowledge Access Sketch's title to the Intellectual Property and undertake not to take or permit or omit any action which would or might:
 - (i) Invalidate or put in dispute Access Sketch's title to the Intellectual Property or any part of it;
 - (ii) Oppose any application for registration or invalidate any registration of the Intellectual Property or any part of it;
 - (iii) Support any application to remove or undo Access Sketch's title in the

Intellectual Property or any part of it; or

- (iv) Assist any other person directly or indirectly in any of the above.

5. Moral Rights

- (a) To the extent that Moral Rights exist in any thing produced or provided to you by Access Sketch in the course of the provision of the Services, you acknowledge that those Moral Rights vest in Access Sketch.
- (b) Any publication in respect of the Services by you must attribute Access Sketch, whether the provision of the Services is complete or otherwise. The form of attribution must be approved by Access Sketch prior to the publication, and Access Sketch may approve, disprove, or approve the publication subject to conditions (such as alterations and additions) in its sole discretion.

6. Services are a Guide Only

- (a) The Services may be used by you as a guide only. As you will appreciate, the Services are designed to be a low cost means of obtaining initial advice or initial Designs in relation to architectural matters. The Services are not designed to substitute or supplement the services of an architect registered under the relevant architects legislation in each State and Territory of Australia and you acknowledge and agree that you will not use the Services in place of the services that would normally be provided by a registered architect.
- (b) You should not rely on any information arising from the provision of the Services for any purpose whatsoever, including for the purpose of obtaining a tender or quote from a third party, other than as being an initial guide.
- (c) Without limitation and for the avoidance of doubt, you acknowledge and agree that you will not use or rely on the Services for any purposes in connection with obtaining a permit, submitting a town planning application or submitting a development application or any similar purpose, or building or constructing any thing, such as a house.

7. Limitation of Liability

- (a) The Services are provided without any representations or warranties, express or implied.
- (b) The Services are provided by us on a general "as is" basis only. Neither us nor any related entities (as that term is defined in section 9 of the Corporations Act 2001 (Cth)), officers, directors, agents, employees, contractors or suppliers make any representation or warranty, express or implied, as to the quality, fitness for purpose, currency, accuracy, reliability or completeness of the Services provided and none of those persons or entities accepts any responsibility or liability for any reliance placed on the Services by any person. The Services do not purport to be comprehensive or to contain all the information, designs, considerations and advice you may desire or require in respect of their subject matter. You should make your own enquiries and obtain your own independent advice in relation to the information provided through the Services before making any decision or taking any action based on the same.
- (c) To the maximum extent permitted by law, we and any related entities (as that term is defined in section 9 of the Corporations Act 2001 (Cth)), officers, directors, agents, employees, contractors and suppliers will not be liable to you for any loss, liability, cost, charge, expense, or damage of any nature whatsoever, including any special, incidental, exemplary, compensatory or consequential losses, (whether or not foreseeable) (howsoever arising or caused, including, without limitation, negligence) ("Loss"):
 - (i) suffered or incurred by any person relying or acting on any matter in connection with the provision of the Services, including any Designs, written or oral opinions, advice or information provided by us; or
 - (ii) arising as a result of or in connection with the Services in any way or by reason

of any reliance thereon by any person;

and whether caused by reason of any negligence, accident, default or however otherwise caused.

- (d) If any warranties or conditions which cannot be excluded by law and are implied under the laws of any State or Territory or any similar law, our liability for a breach of any such warranties or conditions is limited, to the maximum extent permitted by law, to:
- (i) the costs of supplying the Services; or
 - (ii) \$10.00,
- whichever is the lesser.

8. Indemnity

- (a) You agree to indemnify and hold harmless Access Sketch, and its officers, directors, shareholders, employees, consultants, agents, and related bodies corporate from and against all losses, damages, expenses and costs (including solicitor client costs on a full indemnity basis) and all third-party claims, liability, losses, damages, expenses and costs arising from any claim, demand, suit, action or proceeding by any person against any of those indemnified in relation to or in connection with your use of the Services or your failure to comply with these Terms and Conditions, or from your violation of any applicable law.

9. General

- (a) These Terms and Conditions should be read in conjunction with the Terms of Use concerning your use of the Site.
- (b) Access Sketch may from time to time amend, update, or change these Terms and Conditions, without prior notice.
- (c) Access Sketch shall not be liable by reason of the failure in the performance of obligations under the Terms and Conditions by reason of strikes, riots, fire, explosion, acts of God, governmental action, or any other cause which is beyond the reasonable control of Access Sketch, including any form of technological failure or the actions of third parties.
- (d) These Terms and Conditions constitute the entire agreement between you and Access Sketch with respect to the Services, and the Terms and Conditions replace all prior or contemporaneous understandings or agreements, written or oral, regarding the Services.
- (e) No oral explanation or information provided by a party to another affects the meaning or interpretation of this Agreement or constitutes any collateral agreement, warranty or understanding.
- (f) If any provision of these Terms and Conditions is found to be invalid or unenforceable, that provision shall be enforced to the maximum extent possible and will be deemed deleted to the extent that it is not enforceable, and the remaining provisions of the Terms and Conditions shall remain in full force and effect.
- (g) The failure by Access Sketch to insist upon or enforce strict performance of any of these Terms and Conditions will not be construed as a waiver of any right or remedy of Access Sketch in respect of any existing or subsequent breach of these Terms and Conditions.
- (h) No waiver by a party of a provision of this Agreement is binding unless made in writing.
- (i) The laws of Victoria, Australia govern these Terms and Conditions. you hereby consent and submit to the non-exclusive jurisdiction and venue of the Courts of the State of Victoria and the Commonwealth of Australia for any cause of action relating to or arising under these Terms and Conditions.

- (j) Where possible, the obligations of the parties under this Agreement will indefinitely survive the finalisation or discontinuance of this Agreement.
- (k) This Agreement shall be for the benefit of and binding upon the parties and their heirs, executors, successors and permitted assigns.
- (l) The parties must execute and deliver all documents and must do all things as are necessary for the complete performance of their respective obligations under this Agreement.
- (m) The rights and remedies of a party to this Agreement are in addition to the rights or remedies conferred on the party at law or in equity.
- (n) The *contra proferentem* rule and other rules of construction will not apply to disadvantage a party whether that party put the clause forward, was responsible for drafting all or part of it or would otherwise benefit from it.