

Access Sketch Terms of Use

By using the Access Sketch website located at www.accesssketch.com ("Site") you agree to comply with these Terms of Use. This Site is operated and owned by Access Sketch (ABN 18 631 302 361) ("Access Sketch"). Your access to and use of the Site is subject to these Terms of Use. Use of the Site indicates your acceptance of these Terms of Use. We may update these Terms of Use from time to time, and your continued use of the Site constitutes acceptance by you of any updates. Please read these Terms of Use carefully before using the Site.

1. Definitions

In these Terms of Use 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) "Intellectual Property Rights" means all present and future rights conferred by statute, common law or equity in or in relation to any copyright, drawings, designs, trade marks, designs, patents, circuit layouts, software, business and domain names, inventions and other results of intellectual activity related to or connected with the Site;
- (c) "Service" means the provision of the Site and any services described therein;
- (d) "Site" means accesssketch.com and all parts and pages of it;
- (e) "Software" means the software owned or licensed by Access Sketch which forms part of the Site and includes any software which is required by, relevant to, or used in conjunction with the Site including but not limited to all object and source codes, copyright, inventions, discoveries, novel designs whether or not registrable as designs or patents, including any invention of or development or improvements to equipment, technology, methods or techniques relating to the software;
- (f) "us" means Access Sketch and 'we' or 'our' shall be interpreted accordingly;
- (g) "you" means the person or entity that accesses the Site and 'your' shall be interpreted accordingly.

2. Access

- (a) Your use of this Site is by non-exclusive licence granted by Access Sketch strictly in accordance with these Terms of Use.
- (b) You acknowledge and agree with Access Sketch that you will not, as a result of being granted a non-exclusive licence, acquire any rights (including without limitation Intellectual Property Rights) in the Software or the Site other than the non-exclusive rights granted in accordance with these Terms of Use.
- (c) The Site is available only to, and may only be used by, individuals who can form legally binding contracts under their applicable law. Without limiting the foregoing, our services are not available to and may not be used by persons under 18 years of age. If you do not qualify, please do not use our services.
- (d) In order to use this Site, you require the equipment and connections necessary to access the World Wide Web. Without limitation, you are responsible for:
 - (i) the provision of any such connection or access to the World Wide Web;

- (ii) the payment of any fees associated with such connection or access (such as those charged by an internet service provider or other online service); and
 - (iii) the provision of all equipment necessary for you to make any such connection to the World Wide Web, including a computer and a modem.
- (e) The Site is controlled and operated by us from our offices in the Australia. We have used our best endeavours to ensure that the Site complies with Australian laws. However, the Site is not appropriate or available for use in locations outside Australia.

3. Registration

- (a) This registration clause is only applicable if Access Sketch requires you to register use the Services from time to time.
- (b) Requirements for Registration
- (i) You must be legally able to form binding contracts to use this Service. This means you must not register for the Service if you under 18 years of age, an undischarged bankrupt, or under any type of insolvency, administration or other insolvency event where you are a company.
- (c) Registration Process
- (i) You must register your details with us to use this Service which will create an account. This account will be your account for use of the Service ("your Account").
 - (ii) Registration is free and does not require you to purchase anything from Access Sketch or the Site.
 - (iii) You must not use false or misleading information in registering or using the Service and you must update your details should they have changed from the last time you used the Service. We are not responsible for any loss or damage (including misdirected deliveries or notifications) which may occur because you have not provided us with up to date, accurate or complete information.
 - (iv) You must choose a username and password when registering your Account. You are responsible for the security of your username and password and we will assume that anyone using your Account is authorised by you. Under no circumstances will unauthorised access and use of your Account reduce your liability in connection with the Service. This includes your obligation to purchase Services which may result from use of your username and password.
 - (v) You must notify us immediately if you become aware of any unauthorised use of your Account or other security breach which we may consider relevant.
 - (vi) You permit us to send you notifications by email of the status of any delivery, a copy of your invoice and any other marketing or promotional events and offers. We will refrain from sending you marketing related materials, including special offers, if you tell us you do not wish to receive these communications when you complete your registration online. We may additionally request that you participate in customer feedback from time to time so that we can improve the Service to you.

- (vii) We accept no liability for any loss or damage incurred if you do not receive any notifications by us to you, for whatever reason.
 - (viii) You may request that your account be closed by emailing us. Your account will be closed if you have paid everything you owe to us in cleared funds and all transactions have been completed.
- (d) Transmissions to Site
- (i) You are solely responsible for transmissions to our Site when using your account or when the Site is accessed by someone using your Account.

4. System Integrity & User Conduct

- (a) You must not use the Site to:
- (i) impersonate or otherwise misrepresent your identity or affiliation with any other person or entity;
 - (ii) input, upload, post, disclose or transmit any material that is defamatory, obscene, indecent, lewd, pornographic, violent, abusive, insulting, threatening, harassing or misleading or deceptive;
 - (iii) input, upload, post, disclose or transmit any material which is subject to Intellectual Property Rights of Access Sketch or any third party or breaches any duty of confidence or contractual obligation owed to Access Sketch or any third party;
 - (iv) input, upload, post, disclose or transmit any material that is unlawful or violates any law;
 - (v) send junk, obscene, indecent, offensive or threatening electronic mail or electronic mail in contravention of the *Spam Act 2003* (Cth) to any person or company;
 - (vi) download and store electronically, reproduce, transmit, display, copy, distribute or use the Software or any materials contained in the Site;
 - (vii) upload any files that contain viruses, Trojan horses, worms, time bombs, corrupted files or any other similar software or programs that may damage the operation of the Site or another's computer or property of another;
 - (viii) sub-license, rent, lease, transfer or attempt to assign the rights in the Site or the Software to any other person and any dealing in contravention of this sub-clause shall be ineffective;
 - (ix) falsify or delete any attributions, legends, or other proprietary designations of origin or source of any content of the Site;
 - (x) conduct, display, or forward surveys, contests, pyramid schemes, or chain letters;
 - (xi) interfere with or disrupt the Site or servers or networks connected to the Site, or disobey any requirements, procedures, policies, or regulations of networks connected to the Site;
 - (xii) attempt to gain unauthorised access to the Site or computer systems or networks connected to the Site through any means;

- (xiii) commit forgery (or attempted forgery), harass any individual, or harm minors in any way;
 - (xiv) collect, store, input, upload, post, disclose or transmit personal information or data about others, including, without limitation email addresses; or
 - (xv) breach the *Privacy Act 1988* (Cth) as amended, or the National Privacy Principles;
 - (xvi) contravene or breach any applicable state, Commonwealth or international law, convention or regulation.
- (b) You acknowledge and agree that you must not:
- (i) use the Site for any purpose other than the purpose for which it was designed and intended;
 - (ii) commit or permit any act which may interfere with the use of the Site by any other user;
 - (iii) tamper with, hinder the operation of or make unauthorised modifications to the Site or any part thereof;
 - (iv) damage or modify the Software or the Site or any part thereof;
 - (v) reverse engineer, decompile or disassemble the Software or the Site or any part thereof;
 - (vi) copy, republish, frame, download, transmit, rent, lease, loan, sell, distribute, licence or sublicense the Software or any content within the Site or any part thereof; or
 - (vii) modify, alter, adapt, disassemble, reverse engineer, decompile or amend the Software or any content within the Site or any part thereof in any way.
- (c) You must not without prior written consent of Access Sketch which shall be given, given with conditions or withheld at Access Sketch's absolute discretion affix or otherwise display your name or logo on the content of the Site or any other website in a way that suggests a direct or indirect association with Access Sketch and/or any content provider to the Software or the Site.

5. Links & Advertising

- (a) This Site may contain links to third party websites. Those websites are not under the control of Access Sketch and Access Sketch is not responsible for the content of the links contained in those websites or any webcasting or other transmission received from any such websites.
- (b) Neither Access Sketch nor its officers, directors, employees, agents, or related bodies corporate recommend or endorse the content of any third party websites which may be linked to or from the Site, or Services or services of any third party organisations mentioned or described on this Site or linked to or from this Site. you acknowledge that you enter any third party websites at your own risk.
- (c) The Site may contain advertisements for third parties' goods and/or services. The third party advertisers are responsible for the accuracy of all representations made in those advertisements. Neither Access Sketch nor its officers, directors,

employees, agents or related bodies corporate recommend or endorse the goods or services that may be advertised on the Site, nor do they offer the goods or services for sale or make any other representation whatsoever about them. If you choose to order Services or service advertised by a third party on the Site, you do so at your own risk.

- (d) You must not link the Site from any other website not owned or operated by Access Sketch without prior written consent from Access Sketch.

6. Intellectual Property Rights

- (a) The information, names, text materials, graphics, logos, button icons, images, video and audio clips, trade marks (whether registered or not), advertisements, layout, arrangement, graphical user interface, look and feel, and control features of the Site (the "Content") is protected by Intellectual Property Rights.
- (b) The Content, the Software and the Site are protected by Intellectual Property Rights. You acknowledge that Access Sketch is the owner of these rights, with our affiliates or other third party licensors.
- (c) All Services and company names and logos contained within the Site are the trade marks, service marks or trading names of their respective owners, including Access Sketch.
- (d) You acknowledge and agree that no right, title or interest in any of the Intellectual Property Rights in the Content, the Software or the Site is transferred or granted to you, other than the rights granted expressly by these Terms of Use.
- (e) You agree that:
 - (i) Any Intellectual Property Rights created, formulated or discovered by you through the use or access to the Software or the Site will be the sole and exclusive property of Access Sketch;
 - (ii) You will promptly sign all documents and do all things necessary to register, vest or transfer any interest or ownership in the Intellectual Property Rights created under to us.
- (f) The Access Sketch logo and name are owned by us, and may not be used as part of your business or in connection with any goods or services without the prior written consent of Access Sketch which shall be given, given with conditions or withheld at Access Sketch's absolute discretion.

7. Relationship

- (a) Your use of the Site or your completion of any forms or tables on the Site does not automatically create a relationship of any sort between you and Access Sketch, including that of client and agent.

8. Information Provided and Privacy

- (a) The following applies to any information that you provide to Access Sketch:
 - (i) You authorise us to use, store or otherwise process any information including personal information which relates to and/or identifies you, including, but not limited to, your name, company or business name, email address and postal address ('the Personal Information'), to the extent reasonably necessary for the provision of any goods and services requested by you.

- (ii) You must ensure that the Personal Information you provide to us and that all registration details (where applicable) contain your correct name, address, e-mail address and other requested details.
- (iii) By accepting these Terms of Use, you agree to the processing and disclosure of the Personal Information for the purpose of us providing the goods and services requested by you. If you would like to review or modify any part of your Personal Information then you should contact us.
- (iv) For further information as to how we deal with your Personal Information, please see our Privacy Policy.

9. Warranties

- (a) Access Sketch does not warrant that:
 - (i) The Software or the Site will provide any function for which it is not specifically designed;
 - (ii) The Software or the Site will provide any minimum level of performance;
 - (iii) The Software or the Site will be virus free or free of performance anomalies or be operational without interruption.
- (b) You warrant to us that at the time of entering the Site, you were not relying on any representation made by us.
- (c) Except as expressly provided to the contrary, and to the extent permitted by law, We make no representations or warranties of any kind, express or implied as to the operation of your access to or the results of your access to the Software or the Site (including any related or linked websites) or the correctness, accuracy, timeliness, or completeness or reliability of the information, content, materials or Services included on the Site.

10. Disclaimer and Limitation of Liability

- (a) To the extent permitted by law, the Site is provided by Access Sketch on an "as is" basis without any express or implied warranty of any kind.
- (b) The Software or the Site may contain inaccuracies or typographical errors.
- (c) The World Wide Web exists across open public networks that are neither secure nor private. Accordingly, you acknowledge and accept the risk that any communication to or from the Site may be intercepted, used or modified by third parties.
- (d) Access Sketch may change any of the material on the Site at any time without notice.
- (e) Access Sketch makes no commitment to update any material on the Site.
- (f) You are responsible for assessing the reliability, accuracy, completeness, timeliness, suitability, quality, physical state or for a particular purpose of the material on or accessible through the Site.
- (g) You accept all risks and responsibility for all loss, damage, costs and other consequences resulting from your use of the Site or the material on or accessible through the Site.

- (h) Where the laws of any country or state in which these Terms of Use are effective implies into these Terms of Use any term, condition or warranty, and those laws avoid or prohibit provisions in a contract excluding or modifying them, then the term, condition or warranty shall be deemed to be included in these Terms of Use provided that the liability of Access Sketch, its officers, directors, employees, agents and related bodies corporate for a breach of any such term, condition or warranty, including any economic or consequential loss which you may sustain shall be limited to the supply of the Services again or \$10.00, whichever is the lesser.
- (i) You release Access Sketch and its officers, directors, employees, agents or related bodies corporate from its liability for any loss or damage including without limitation, losses or damages for loss of profits, business interruption, loss of information, indirect, special, punitive or consequential losses or damages arising out of the use or inability to use or reliance on the material or information available on or accessible through the Site, even if Access Sketch has been advised of the likelihood of such damages and whether or not caused by any negligent act or omission.
- (j) Without limiting clause 10(i), you release us from any loss or damage (including indirect, special or consequential loss or damage) arising from the use of, or reliance on, the Software or the Site, whether or not caused by any negligent act or omission including but not limited to:-
 - (i) loss of use, data or profits on any theory of liability arising out of or in connection with the use of or the inability to use the Software or the Site;
 - (ii) your reliance on the Software or the Site;
 - (iii) the statements or actions of any employee or agent of Access Sketch;
 - (iv) any unauthorised access to or alteration of your transmissions or data;
 - (v) any information that is sent or received or not sent or received;
 - (vi) any failure to store or loss of data or files or other content;
 - (vii) your fraudulent, negligent or otherwise unlawful behaviour;
 - (viii) any delay or interruption of the Software or the Site;
 - (ix) any loss incurred as a result of a third party obtaining your access details, either with or without your knowledge;
 - (x) any loss or damages in relation to the supply of services on or in relation to this Site and any advertisement placed on the Site or information made available on the Site.

11. 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 Site or the Software or your failure to comply with these Terms of Use, or from your violation of any applicable law.

12. Upgrades

- (a) You acknowledge and agree that these Terms of Use apply to updates, supplements, add on components, or internet based services components of the Software and the Site together with any other terms along with the update, supplement, add on component or internet based services components which Access Sketch provides.
- (b) Access Sketch reserves the right to discontinue any internet based services provided to you or made available to you through the use of the Software and the Site at any time.

13. Breach and Termination

- (a) If Access Sketch reasonably considers that you are using the Site in breach of these Terms of Use, Access Sketch reserves the right to remove any infringing data, file, content or material from the Site and Access Sketch shall have no liability to you.
- (b) Access Sketch reserves the right to deny you access to, or use of, all or part of the Site, without prior notice, if you engage in any conduct that Access Sketch believes, in its sole discretion:
 - (i) violates any term or provision of these Terms of Use or any other terms or policies of Access Sketch in place from time to time; or
 - (ii) violates the rights of Access Sketch or any third party; or
 - (iii) is otherwise inappropriate for continued access and use of the Site.
- (c) Access Sketch may terminate your right to access to, or use of, all or part of the Site, immediately on written notice to you if you:
 - (i) commit a material breach of these Terms of Use, which is capable of remedy, and you fail to remedy the breach within a reasonable time of a written notice to do so; or
 - (ii) commit a material breach of these Terms of Use which cannot be remedied; or
 - (iii) are repeatedly in breach of these Terms of Use; or
 - (iv) are the subject of a bankruptcy order, or become insolvent, or make any arrangement or composition with or assignment for the benefit of your creditors, or if you go into voluntary (otherwise than for reconstruction or amalgamation) or compulsory liquidation, or a receiver or administrator is appointed over your assets.
- (d) On termination or expiry of this Agreement your right to use the Site shall cease.
- (e) Termination of your access to the Site shall be without prejudice to the rights of the parties accrued before termination. All restrictions imposed on you, disclaimers and limitations of liability set out in these Terms of Use will survive termination.

14. General

- (a) If you wish to purchase Services advertised on the Site, that purchase will be governed by the terms contained in the document titled "Customer Terms and Conditions" or similar.

- (b) Publication of electronic addresses on this Site is for the purpose of professional communication only and must not be used to infer consent to the receipt of unsolicited commercial electronic messages.
- (c) Access Sketch may from time to time amend, update, or change the Site, including these Terms of Use, without prior notice.
- (d) Access Sketch shall not be liable by reason of the failure in the performance of obligations under the Terms of Use 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.
- (e) These Terms of Use constitute the entire agreement between you and Access Sketch with respect to this Site, and the Terms of Use replace all prior or contemporaneous understandings or agreements, written or oral, regarding the Site.
- (f) 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.
- (g) If any provision of these Terms of Use 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 of Use shall remain in full force and effect.
- (h) The failure by Access Sketch to insist upon or enforce strict performance of any of these Terms of Use 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 of Use.
- (i) No waiver by a party of a provision of this Agreement is binding unless made in writing.
- (j) The law of Victoria, Australia govern these Terms of Use. 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 of Use.
- (k) Access Sketch operates the Site in Australia. Information contained on the Site may not be appropriate or available for use in other locations. If you access the Site from other locations, you do so at your own initiative and you are solely responsible for compliance with local laws.
- (l) Where possible, the obligations of the parties under this Agreement will indefinitely survive the finalisation or discontinuance of this Agreement.
- (m) This Agreement shall be for the benefit of and binding upon the parties and their heirs, executors, successors and permitted assigns.
- (n) 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.
- (o) 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.

- (p) 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.