

# QMS-FOR-45 Melbourne Market Authority's Customer Portal - Terms of Use



## TERMS AND CONDITIONS OF USE

### TERMS OF REGISTRATION AND LICENCE TO USE THIS SERVICE ("Terms")

**PLEASE NOTE** – Your use of this Service and access to information that the Melbourne Market Authority ("us, we, our") chooses to make available to its tenants, occupiers, and buyers (e.g. providores, greengrocers, restaurant owners etc) (each a "Market User") via the Service, including details of Market User's use of Market services, invoices from us, details about those Market Users including account details, account contacts details, access card details, infringements history, cases history, work orders history, monthly statements and account balance, and other information from time to time ("Portal Information") is conditional on you agreeing to be bound by these Terms. By clicking "I Accept" you agree to be bound by these Terms.

We reserve the right to cancel your use of this Service if you breach these Terms – including if you do not tell us when you vacate or sublet your premises (where applicable).

#### 1. ABOUT THIS SERVICE

The MMA Salesforce Portal ("Service") is an online service provided by us that gives Market Users (such as the tenant or occupier of a tenancy at the Melbourne Market ("Premises"), or a buyer), or their respective duly authorised representative (in each case whether individuals, companies, partnerships or otherwise) ("you, your, Customer"), access to Portal Information relevant to their Premises (where applicable) and their use of Market services.

By registering for this Service, you can access your Portal Information in real time via any Internet-connected device with a web browser ("your Device").

As a part of this Service, we may also provide you with the option to receive periodic notifications from time to time about the Market or your use of the Service.

If we do provide optional notifications, you may be able to opt into receiving these notifications when you register your account or otherwise when you use the Service. You will also be able to opt out of receiving such notifications by e-mailing [Portal@melbournemarket.com.au](mailto:Portal@melbournemarket.com.au).

We will also provide a welcome email on successful registration, password reset notification emails, and other administrative emails relating to your account from time to time. These account-related emails are functional and you cannot opt out of receiving them.

#### 2. HOW TO REGISTER

To use this Service and to be able to access and update your Portal Information via your Device, you must apply to register an account with us. Registration is free but non-transferable. In return for free registration, you agree to allow us to collect and use certain personal information about you (such as your name, contact details, Premises details (where applicable), Portal Information, details (such as email address, username and password) of the representative you authorise to access the Service, payment details, support requests, contact/access card de-activation requests, and Service usage data).

When you register an account with us, the details you provide to us and your request to access your Portal Information will then be cross-checked against our records to verify your identity.

Before you register to use this Service, please be aware that:

- (a) the personal and business details we collect from you may contain unique identifiers that can be used to ascertain your identity;
- (b) we will collect, use, handle and store your personal and business information in accordance with our Privacy Policy, available at this link:
- (c) we may not be able to provide the Services and may cancel your account if you withdraw your consent in relation to required personal or business details; and
- (d) if you are accessing this Service as an authorised representative of a Market User you must obtain their prior consent. We may request evidence of this authorisation.

We may also cancel your account if you breach these Terms, you vacate your Premises (where applicable) and do not tell us or we reasonably suspect that you are not authorised to use this Service.

### 3. YOUR OBLIGATIONS

#### 3.1. When you submit a registration request

Only one person is permitted to access an account on behalf of each Market User. You are not permitted to create a shared account that is used by multiple persons on behalf of your business, and you are not permitted to create multiple accounts on behalf of your business. When you submit a registration request you represent and warrant to us that:

(a) you are the Market User nominated in your registration details in respect of which you are requesting access to the Portal Information; or

(b) if you are accessing this Service as an authorised representative of a Market User, that you have obtained their prior consent in accordance with applicable privacy and confidentiality laws to agree to these Terms and access this Service and their Portal Information on their behalf, that the Market User agrees to be bound by these Terms, and that you have the authority to agree to these Terms on behalf of the Market User.

#### 3.2. Keeping your account details up to date

As soon as you become aware, you must notify us if:

(a) you vacate the Premises or sublet your Premises (where applicable); or

(b) if you access this Service as an authorised representative of a Market User and they vacate or sublet the Premises (where applicable) or revoke their authority for you to access this Service on their behalf.

This is important because we can only provide the Portal Information to the applicable Market User or their authorised representative. If you are no longer the authorised representative of a Market User you will no longer be permitted to use this Service.

#### 3.3. Keeping passwords and user accounts up to date

If you are a Market User, immediately upon your authorised user of the Service being no longer authorised by you to use the Service, including once they are no longer employed by you or if they have changed roles and no longer require access to the Service in connection with your business, you must contact us to change the account details, or you must change the password so that the user can no longer access the Service, in order to revoke their access to the Service and to any Portal Information or other Confidential Information in relation to your business stored in or accessible via the Service. This is important because the Service is available to any Internet-connected device online, anywhere in the world. If you do not change the relevant account password or change the account details, they will still have access to your information, including all Portal Information, accessible via the Service. We accept no responsibility for the disclosure of any information, including Portal Information and commercially sensitive information in respect of your business, as a result of you failing to remove access to a user who is no longer authorised by you to access the Service or view such Portal Information. You will be and remain liable to us for the actions of any such user who is not authorised by you to access such information and whose access you have not revoked in accordance with this procedure.

#### 3.4. Your responsibility for this Service and other obligations

When you register for an account:

(a) you are provided with access to this Service only for your personal use;

(b) you must ensure that your access to and use of this Service is not illegal or prohibited by law;

(c) you must ensure that only the authorised representative notified to us accesses your account and that the username, password and login credentials are not shared with any other person, whether or not also authorised by you;

(d) all intellectual property in this Service is owned or licensed by us and except for a licence to use this Service in accordance with these Terms, nothing in these Terms grants you any right, title or interest in relation to this Service. You must not copy, adapt or otherwise breach any intellectual property rights in the registration process, screen displays and anything else related to this Service;

(e) you must:(i) only use this Service and the Portal Information provided to you for lawful purposes; and

(ii) ensure that any person you have expressly or impliedly authorised to use this Service (including without limitation other household members or employees) abides by these Terms;

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(f) you must not attempt to use or misuse this Service, or any Portal Information provided to you via the Service:

- (i) for any unauthorised commercial purpose;
- (ii) to breach any law or regulation or allow any person to do the same; or
- (iii) to infringe another person's rights or expose us to liability or do anything which could bring us or our service providers into disrepute; or
- (iv) in any way which may damage any property of a third party or injure or kill any person; and
- (g) you must take all best efforts to restrict access to this Service and information delivered by this Service to only the person who is expressly authorised to use this Service and receive the Portal Information on behalf of your business.

## 4. OUR OBLIGATIONS

### 4.1. Terms Implied by Statute

You may have rights under the Australian Consumer Law and these Terms are subject to those rights. If you have statutory guarantees and other rights available to you at law that cannot be excluded under the Australian Consumer Law, nothing in these Terms limits or excludes any such rights.

### 4.2. Security of Information

We endeavour to ensure the security of all information we share with you and have implemented procedures and processes to meet the requirements of Victorian Data Security Laws. Unfortunately, no data transmission over the internet and via sms is guaranteed as totally secure. So, whilst we strive to protect such information, we cannot ensure the security of any information which is transmitted. In addition, we disclaim all responsibility for hacking or other wilful or unauthorised access to such information.

### 4.3. Hardware and Software Defects

If you use any third-party hardware or software (such as hardware manufactured by third parties), we take no responsibility for defects in such hardware or software and inaccurate information, damage or loss arising from the use of such hardware or software.

We make no warranties that any third-party hardware or software will successfully connect to this Service.

We take no responsibility for lost data due to system failure

### 4.4. This Service is Not Guaranteed to be Error Free

Subject to clause 9.1, you acknowledge that this Service, Service Content and Portal Information cannot be guaranteed error free.

You acknowledge that the existence of any such errors will not constitute a breach of this agreement.

## 5 CONFIDENTIAL INFORMATION

For the purposes of this clause the following definitions apply:

"Confidential Information" means

- (a) information that at the time of disclosure by a Disclosing Party is identified to you as being confidential; and
- (b) all other information belonging or relating to the Disclosing Party, or any Related Entity (which has the meaning given to that term in the Corporations Act 2001 (Cth) ("Service") of that Disclosing Party, that is not generally available to the public at the time of disclosure other than by reason of a breach of these Terms or which you know, or ought reasonably to be expected to know, is confidential to that Disclosing Party or any Related Entity of that Disclosing Party.

"Disclosing Party" means either us or the applicable Market User, depending upon who the relevant Confidential Information belongs or relates to, in respect of Confidential Information of us or of the Market User.

5.1 Subject to clause 5.2, you must:

- (a) keep the Confidential Information confidential and not directly or indirectly disclose, divulge or communicate any Confidential Information to, or otherwise place any Confidential

Information at the disposal of, any other person without the prior written approval of the Disclosing Party;

- (b) take all reasonable steps to secure and keep secure all Confidential information coming into your possession or control;
- (c) only use the Confidential Information for the purposes of performing, and to the extent necessary to perform, your obligations under these Terms, or for the purposes of managing the use of our services by the Market User, and their relationship with us;
- (d) not memorise, modify, reverse engineer or make copies, notes or records of the Confidential Information for any purpose other than in connection with the purposes set out in clause 5.1(c) above; and
- (e) take all reasonable steps to ensure that any person to whom you are permitted to disclose the Confidential Information under clause 5.3 complies at all times with the Terms of this clause 5.

5.2 The obligations of confidentiality under clause 5.1 do not apply to:

- (a) any Confidential Information that:
  - (i) is disclosed to you by a third party entitled to do so, whether before or after the date of these Terms;
  - (ii) was lawfully in your possession when it was given to you and was not otherwise acquired from a Disclosing Party directly or indirectly; or
  - (iii) is generally available to the public at the date of these Terms or subsequently becomes so available other than by reason of a breach of these Terms; or
- (b) any disclosure of Confidential Information by you that is necessary to comply with any court order or applicable law if, to the extent practicable and as soon as reasonably possible, you:
  - (i) notify the Disclosing Party of the proposed disclosure;
  - (ii) consult with the Disclosing Party as to its content; and
  - (iii) use reasonable endeavours to comply with any reasonable request by the Disclosing Party concerning the proposed disclosure.

### 5.3 Authorised Disclosure

- (a) You may disclose Confidential Information to any Related Entity, employee, agent, contractor, officer, professional adviser, banker, auditor or other consultant of the Market User (each a "Recipient") only if the disclosure is made to the Recipient strictly on a "need to know basis" and, prior to the disclosure:
  - (i) you notify the Recipient of the confidential nature of the Confidential Information to be disclosed; and
  - (ii) the Recipient undertakes to you (for the benefit of the Disclosing Party) to be bound by the obligations in this clause 5 as if the Recipient was the party receiving the Confidential Information disclosed to you.
- (b) You are liable for any breach of this clause 5 by the Recipient as if the Recipient were you in relation to the Confidential Information disclosed to the Recipient.

### 5.4 Breach of Confidence

You must promptly notify the relevant Disclosing Party if you become aware of any unauthorised access, use or disclosure of all or any part of the Confidential Information of that Disclosing Party and must give the Disclosing Party all reasonable assistance in connection with any claim which it may institute in connection with that unauthorised access, use or disclosure.

### 5.5 Return or destruction of Confidential Information

Immediately on the written request of the Disclosing Party, you must:

- (a) cease the use of all Confidential Information of or relating to the Disclosing Party (or any Related Entity of the Disclosing Party);
- (b) deliver to the Disclosing Party all documents and other materials in your possession or control containing, recording, or constituting that Confidential Information or, at the option of the Disclosing Party, destroy, and certify to the Disclosing Party that you have destroyed, those documents and materials; and

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(c) upon delivery of the Confidential Information under clause 5.5(b), permanently delete that Confidential Information from all electronic media on which it is stored, so that it cannot be restored.

## 6 INTELLECTUAL PROPERTY

"Intellectual Property Rights" means all present and future intellectual and industrial property rights conferred by statute, at common law or in equity and wherever existing, including:

(a) patents, inventions, designs, copyright, trademarks, brand names, product names, domain names, database rights, rights in circuit layouts, plant breeder's rights, know how, trade secrets and any other rights subsisting in the results of intellectual effort in any field, whether or not registered or capable of registration;

(b) any application or right to apply for registration of any of these rights;

(c) any registration of any of those rights or any registration of any application referred to in paragraph (b); and

(d) all renewals divisions and extensions of these rights.

"Service Content" means any content, information, communications, advice, text or other material provided by us or our Related Entities on the Service but excluding Portal Information.

### 6.1 Service Content

(a) The Service is owned (or licensed) and operated on our behalf.

(b) The Service Content and Portal Information is for general information purposes only. We do not warrant or make any representations as to any third-party products or services described or referred to in the Service. Any use of the Service Content, Portal Information, or other materials or information on the Service by another person or organisation is at your own risk.

(c) The Portal Information and Service Content may be obtained and developed from a variety of sources including but not limited to collaborations with third parties and information provided by third parties under a licence. Inclusion of this content on the Service is not an endorsement of any organisation, product, service or advice.

(d) All Intellectual Property Rights, including copyright, in the Service, Service Content, or Portal Information, is owned or licensed by us or any of our Related Entities. You must not copy, modify or transmit any part of the Service, the Service Content, or, to the extent it is not the Intellectual Property Rights of the Market User or is otherwise licensed by them, Portal Information.

(e) The Services, Service Content and Portal Information may also contain our, or our Related Entities', trademarks, logos and trade names, which may be registered or otherwise protected by law. You are not permitted to use any trademarks, logos or trade names appearing on the Service, Service Content or Portal Information.

(f) We grant you a non-exclusive and non-transferable licence to use the Service, Service Content and Portal Information in connection with the business of the Market User, subject to the restrictions specified elsewhere in these Terms. It is not to be otherwise used for commercial exploitation.

(g) If you have a complaint regarding any of the content on the Service, our sole obligation will be to review any written complaint notified to us and, if we see fit, in our sole discretion, to modify or remove the particular content.

### 6.2 Prohibited Uses

You agree that in accessing and using the Service, you will not engage or attempt to engage in any activities that:

(a) download (other than page caching), transmit, copy, store, reformat or otherwise modify any element of the Service or Service Content;

(b) impersonate or falsely claim to represent that a person or organisation;

(c) are commercial, including selling, marketing, advertising or promoting goods or services, except if expressly permitted by these Terms;

(d) frame the Service or its content without our express written consent;

(e) post, link to, or otherwise communicate or distribute any misleading, deceptive, inappropriate, profane, defamatory, infringing, obscene, indecent or unlawful material or

information, or otherwise use the Service in a manner which is unlawful or would infringe the rights of another person including any Intellectual Property Rights;

(f) bypass (or attempt to bypass) any security mechanisms imposed by the Service;

(g) provide access or links to any material (including links to peer-to-peer network trackers/beacons) which may infringe the Intellectual Property Rights of another person;

(h) delete or alter or attempt to delete or alter attributions, legal notices, trademarks, or copyright marks on any material contained in the Service;

(i) knowingly post, introduce or transmit, or permit the posting, introduction or transmission of a virus, worm Trojan horse, malware, spyware, disabling or malicious device or code, time bomb, or any other software or hardware or configuration that may cause harm or change to the Service;

(j) breach or circumvent any applicable laws in using or accessing the Service;

(k) damage or tamper with the operation of the Service Content or the Service;

(l) use the Service or Service Content in a manner which is unlawful or would infringe the rights of another person, including any Intellectual Property Rights;

(m) share a user password or login credentials to access the Service, or permit anyone other than the authorised individual notified to us in respect of a Market User to access the Service and your account.

## 7. NO LIABILITY FOR DAMAGES

7.1 Except as expressly provided in these Terms, you acknowledge that we are not liable to you for any indirect, incidental, special or consequential loss or damage, loss of profits or anticipated profits, economic loss, loss of business opportunity, loss of data, loss of reputation or loss of revenue (irrespective of whether the loss or damage is caused by or relates to breach of contract, tort (including negligence), statute or otherwise) arising out of or in connection with your use of the Service and receipt of information from the Service.

7.2 Subject to this clause 7, our maximum aggregate liability for all proven losses and claims arising out of or in connection with these Terms or the use of the Service, including liability for breach, in negligence or in tort or for any other common law or statutory action, is limited to the sum of \$100.

7.3 Nothing in these Terms excludes, restricts or modifies any consumer guarantee, right or remedy conferred on by the Australian Consumer Law or any other applicable law that cannot be excluded, restricted or modified by agreement.

7.4 To the fullest extent permitted by law, our liability for a breach of a non-excludable guarantee referred to in clause 7.3 is limited to, at our option:

- (a) in the case of goods supplied or offered by us, any one or more of the following:
- (i) the replacement of the goods or the supply of equivalent goods;
  - (ii) the repair of the goods;
  - (iii) the payment of the cost of replacing the goods or of acquiring equivalent goods; or
  - (iv) the payment of the cost of having the goods repaired; or
- (b) in the case of services supplied or offered by us:
- (i) the supplying of the services again; or
  - (ii) the payment of the cost of having the services supplied again.

## 8. YOUR PERSONAL INFORMATION

### 8.1. Information that we may collect

You acknowledge that any personal information provided by you is freely given by you and with your consent. You acknowledge that we may obtain some personal information about you including your use of the Service and Portal Information as an incidental part of providing the Service to you.

### 8.2. Our use of your information

Any information you provide to us will be maintained and may be used by us in accordance with our Privacy Policy (see clause 2(b)) and applicable privacy laws.

By clicking on "Agree to terms of use", you acknowledge that you have read our Privacy Policy, understood its contents and consent to its requirements, and you consent to:

(a) the use of your personal and business information to verify your identity for lawful purposes;

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(b) the provision of your personal and business information to third parties for lawful purposes such as for the management and provision of the Service or the provision of Portal Information to the Market User and its authorised representatives;

(c) the use of your personal and business information in an aggregated and de-identified form for research and analysis purposes (in all such circumstances, we will ensure that individuals remain anonymous); and

(d) us sending you emails from time to time for administrative purposes, such as password resets, welcome emails and other notifications from time to time, which may include communications such as tips on how to use this Service, outage notifications, and Service and Portal Information-related notifications.

You must not upload any personal information of another individual to the Service unless you first make them aware of our Privacy Policy and have their consent to upload such personal information.

If you do not consent to any of the above uses, you can contact us via the website to discuss your requirements. However, we may not be able to provide the Services to you if we do not have your consent in relation to certain required personal and business information.

## 9. PORTAL INFORMATION

### 9.1. Accuracy of information

Portal Information is derived from our systems. All data delivered to you is indicative only. This Service is a tool to help you track your use of our services but should not be relied on as completely accurate.

### 7.2. Maintenance and down time

We may conduct maintenance on this Service from time to time.

Your use of this Service and your ability to access your Portal Information via your Device may be temporarily disrupted from time to time for maintenance and related purposes.

### 7.3. Internet connection

(i) To access this service you must maintain your own internet connection.

(ii) Website browsing and page loading will be based on the account holders Internet connection speeds and quality of the Service from their Internet Service Provider and not us.

(iii) It is the Customer's responsibility to safeguard their username and password and not reveal them to any person. Any actions or information performed using your username will be deemed to have been done by you.

(iv) It is the Market User's responsibility to allocate a password to its authorised user, and immediately when an authorised user leaves or is no longer authorised by the Market User, to reset the relevant password.

(v) No transmission over the Internet is ever 100% secure. However, we strive to protect your information including personal information and cannot guarantee its absolute security. Our storage of your information is very important to us, and we follow generally accepted industry standards when personal information is transmitted to us. When you login to the Service via the Salesforce Portal, our website is encrypted using secure socket layer technology (SSL). If you have concerns, please send the query to [info@melbournemarket.com.au](mailto:info@melbournemarket.com.au)

(vi) We may use cookies (small web file that stores information on your PC) from our website for user experience and interaction between us and the external user. You can delete them from your PC by following the web browser applications instructions on their technical page.

## 10. INDEMNITY

You agree and acknowledge that you will indemnify us in respect of all loss, damages, cost and expenses (including legal fees on a full indemnity basis), fines, penalties, claims, demands and proceedings however arising, whether at common law (including negligence) or under statute, in connection with:

(a) any breach of these Terms by you;

(b) your use of the Service or Service Content, including any wrongful, wilful or negligent act or omission;

(c) your communications with us;

(d) your misuse of the Service including using the Service in any way that causes you to breach, or that causes us to breach, any third-party licence terms in connection with our provision of the Service to you, including any software licence terms provided to us by Salesforce; or

(e) your failure to reset a user's password immediately after the user ceases to be your authorised representative in respect of the Service.

## 11. CHANGES TO THESE TERMS

We reserve the right to change these Terms from time to time. If we update these Terms you will be notified of any changes when you next access this Service. You may deregister your account at any time if you do not agree to these Terms (as amended).

## 12. TERM OF AGREEMENT

### 12.1. Termination

This agreement begins from the time you click "I Accept", or when you otherwise indicate your acceptance to these Terms (for example, by manually signing a printed copy of them) and terminates automatically upon the occurrence of any of the following circumstances:

(a) if you breach any term of this agreement, upon notice by us that the agreement is terminated;

(b) if you cancel your account or give notice that you withdraw your consent in relation to personal information required to receive the Service;

(c) if you move from or sublet your Premises (where applicable) or we consider that you are not or may not be the rightful recipient of Portal Information;

(d) if you are a company, firm or partnership, if that company, firm or partnership is dissolved or wound up;

(e) if we reasonably suspect that your use of this Service is unauthorised, inappropriate or unlawful; and

(f) it becomes unlawful for us to provide this Service.

### 12.2. Consequences of Termination

Upon termination, your account will be disabled or deactivated, and you will no longer be able to access data from this Service.

## 13. GENERAL

(a) We have no liability for any failure to comply with these Terms where failure is due to circumstances beyond our reasonable control.

(b) These Terms are governed by the law of Victoria, Australia.

Customer Reference: \_\_\_\_\_

Account Name: \_\_\_\_\_

Full Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Portal Nominee Contact: \_\_\_\_\_

Portal Nominee Email: \_\_\_\_\_

Portal Nominee Contact Number: \_\_\_\_\_

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