



PRIME.COM.AU

Service Access Application

**For any further information, please call our Customer Service Team on 1300 130 637
visit our website at www.prime.com.au
or email us on info@prime.com.au**

Customer Details:

Organisation Name:

Postal Address:

Town/City:State.....P/Code.....

Street Address:

Town/City:State.....P/Code.....

DX No. and Exchange:.....

Signed:.....(Authorised signatory of contracting party)

Name (print)(Name and position in contracting party)

Primary Customer Contact (for searches, correspondence etc):

Name: Ms:

Title/Position: PhoneFax Number:

Email Address:

Secondary Customer Contact (for searches, correspondence etc):

Name:

Title/Position:

Phone Number:Fax Number:

Email Address:

Office Use Only: Accepted by prime.com.au Pty LtdFor prime.com.au Pty Ltd

Upon acceptance of this application by prime.com.au Pty Ltd ABN 45 604 798 321 trading as Prime Legal Services ("prime"), the Contracting Party set out above ("User") will be provided access to the prime Service ("the Service") as set in the current prime.com.au Internet Products & Fees Schedule ("the Schedule") and agrees to be bound by prime payment terms (7 days from date of invoice), the prime Conditions of Access (including the Government provisions), the Schedule and by operating procedures displayed on the screen or obtained in the User Manual as supplied by prime.



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Conditions of Access

1. Term

- 1.1. This Agreement shall commence upon the acceptance of the Service Access Application by prime and shall remain in force for a period of six months and shall continue thereafter until the expiry of one month following the date upon which either party gives one month's notice of termination to the other.
- 1.2. Prime may vary the conditions of the Agreement (including the prices at which the service is to be provided) by giving not less than one month's notice of such variation to the User. Should prime give notice to the User pursuant to this sub-clause the User may terminate this Agreement by giving notice to prime within one month of the notice being given to the User by prime. Should the User give such notice to prime, this Agreement shall terminate at the end of the calendar month in which such notice was given by the User to prime.

2. Termination

- 2.1. Notwithstanding Clause 1, prime may terminate Agreement immediately by denying Service access to the User if the User is in breach of any of the conditions herein or if the User commits any act of bankruptcy or makes any composition or arrangements with its creditors or a receiver or manager is appointed over any part of its undertaking or its assets or it goes into liquidation or any petition is presented for its winding up.
- 2.2. In the event that the Services is not fully utilised by the User for a period in excess of 6 months, prime may terminate this Agreement by denying Service access to the User.

3. Charges

- 3.1. All charges are payable net seven days from the date of invoice. If default is made in payment, access to the Service may be suspended and/or this Agreement may be terminated without notice by prime. The User acknowledges that all charges are incurred by the Users as a principal and not as any agent for any other party and agrees to pay all charges by the due date, notwithstanding that the User may not have been put in funds by another party.

4. Liability

- 4.1. prime grants the User access to the Service on the basis that prime is not engaged in rendering legal or otherwise professional services.
- 4.2. prime shall not be liable to the User in negligence or otherwise in respect of anything done or omitted to be done by the User in reliance in whole or in part on the Service including any assistance or demonstration provided to the User by prime.
- 4.3. To the extent that Clause 4.2 is rendered void or unenforceable by any relevant law prime's liability to the User is limited to either (at prime's discretion) the supplying of the service again or the payment of the cost of having the service supplied again.
- 4.4. The User acknowledges that further provision relating to liability of government departments or agencies are set out in Clause 12 which is contained in the two following pages.

5. Force Majeure

- 5.1. prime shall not be under any liability for any delay, loss or damage (including consequential loss) caused to the User directly or indirectly by the unavailability of access to the Service caused by the failure of the User to comply with this Agreement, power or mechanical failure howsoever caused or any cause whatsoever outside of the control of prime.

6. Access Codes, Password and User Manuals

- 6.1. prime shall issue the User with IDs and passwords allowing access to the Service following training. The User is responsible for all charges incurred against these IDs and passwords. Prime shall cancel Account IDs and passwords as soon as practicable within normal business hours upon being requested to do so by the User.
- 6.2. Upon termination of this Agreement the User shall return to prime any equipment, software or User Manuals supplied free of charge to the User by prime.

7. Additional Services

- 7.1. in introducing addition services prime may add to or vary the conditions of the Agreement as they apply to those additional services by notification on-screen or by notice to the User. Usage of the additional services shall be taken as agreement to be bound by the conditions so displayed or notified.

8. Land Inquiry Service NSW and Property Enquiry Service VIC

- 8.1. Notwithstanding Cluse 4 hereof, prime warrants that certificates issued pursuant to applications made via prime for these services have a similar legal standing and effect if the User had supplied the same information in a application form acceptable to the department, authority, corporation or council issuing the certificate.



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9. Land Searches NSW

- 9.1. Notwithstanding Clause 4 hereof, prime warrants that the screen display and printout of any computer folio final search which indicates that the result of the search is "Nil Affecting" or "No Dealings Affect" is a correct transmission of the data held and maintained by the Registrar General for the purpose of issuing certificates under section 96F of the Real Property Act, 1900.
- 9.2. Clause 4 hereof does not apply in respect of any manual searches carried out by prime pursuant to this agreement.

10. Assignment and Notices

- 10.1. prime may by notice in writing or by facsimile to the User assign the benefits and obligations of this Agreement. Notices required to be given to the User may be given to the Contracting Party at the address shown for "Details for Notice of Searches, Correspondence etc" or at the address used for the purpose of sending invoices and statements to the User.

11. Jurisdiction

- 11.1. This Agreement shall be governed by the laws of the State of Victoria.

The Government Provisions form part of these Conditions of Access and are contained in additional pages constitute Clause 12 of these Conditions of Access.

12. Government Provisions

12.1. Department of Natural Resources Queensland

- 12.1.1. For the purposes of Clause 12.1 of these conditions of Access:
 - a) Associated Documentation refers to operating manuals and any other forms necessary for access to the Licensed Data.
 - b) Department of Natural Resources refers to the State of Queensland through the Department of Natural Resources.
 - c) End User means any person who enters into an agreement with prime for the supply of the Licensed Data and Information Product by prime and includes the User.
 - d) End User Licence Agreement means this agreement.
 - e) Licensed Data refers to the Licensed Data in Schedule A of the Head Licence Agreement subject to any modification made with paragraph 3 of Schedule A.
 - f) Head Licence Agreement refers to the Agreement between the Department of Natural Resources and Australian Business Research Pty Ltd ("ABR") whereby ABR has been granted a non-exclusive licence to distribute the Licence Data.
 - g) Prime means prime.com.au Pty Ltd trading as Prime Legal Services
- 12.1.2. The End User acknowledges that prime has the right and privilege to enter this agreement with the End User under the Terms and Conditions of the Head Licence Agreement.
- 12.1.3. The End User acknowledges that the Licensed Data remains the property of the Department of Natural Resources in perpetuity and that this agreement grants a non-exclusive, non-transferable Licence for access to the Licensed data to the End User.
- 12.1.4. The End User agrees that the Licensed data will only be accessed by the End User for their own personal use for the purpose of the lawful pursuit of their ordinary business activities (solicitor, accountant, title search agent etc) but not where that business is itself acting as an electronic re-supplier in a similar manner to a de facto Agent/Service Provider where the consent of the Registrar of Titles has not been obtained as required pursuant to Clause 2.2 and 2.4 of the Head Licence Agreement.
- 12.1.5. The End User agrees that they will abide by the terms and conditions of this agreement.
- 12.1.6. The Department of natural Resources shall not be liable to the End User for any loss or damage whatsoever or howsoever caused arising directly or indirectly in connection with this Licence, the Licensed data, its use or otherwise, except that which it is unlawful to exclude.
- 12.1.7. In the event that any limitation or provision contained in this Licence shall be held to be invalid for any reason and the Department of Natural Resources becomes liable for loss or damage that would have been lawful to exclude, such liability shall be limited to the Regulatory Fee paid to the Department of Natural Resources.
- 12.1.8. The provision of paragraphs 12.1.6 and 12.1.7 above are subject to the proviso that the Department of Natural Resources shall be liable to compensate the End User in accordance with the provisions of Subdivision C of Division 2 of Part 9 of the Land Titles Act 1994 (as amended) where the End User suffers deprivation of a lot, interest in a lot or loss or damage through the provision of incorrect Licensed Data by the Department of Natural Resources. Where the End User is entitled to compensation against the Department of Natural Resources pursuant to the above mentioned provisions of the Land Titles Act the End Users shall not commence legal proceedings against prime or ABR but must seek compensation in accordance with the provisions of the Land Titles Act 1994 (as amended).



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- 12.1.9. The Licensed Data which prime may have imparted and may from time to time impart to the End User is proprietary and commercial valuable. The End User hereby agrees that it shall use the Licensed Data solely in accordance with the provisions of this Licence and that it shall not at any time during or after expiry or termination of this Licence, disclose the same, whether directly or indirectly, to any third party without the Department of Natural Resources' prior written consent save where disclosure to any third party is in the ordinary course of the End User's business.
- 12.1.10. The End User acknowledges that there is no transfer of title or ownership of the Licensed Data to prime.
- 12.1.11. Both parties acknowledge that this agreement does not operate as a transfer or assignment of any intellectual property rights, including copyright, in the Licensed Data and does not confer on either parties any rights of ownership in the Licensed Data.
- 12.1.12. The End User shall not produce any commercial hardcopy products incorporating the Licensed Data except with the prior written approval of the Licensor. Royalties may be payable.
- 12.1.13. Subject to paragraphs 12.1.7 and 12.1.8 above the End User agrees that the Department of Natural Resources shall not be liable to the End User under any circumstances whatsoever, arising by virtue of a claim for breach or warranty (express or implied), tort (including negligence), strict liability or otherwise, for actual, incidental, contingent, special or consequential damages or lost profits or revenues arising directly or indirectly from or out of the use of this system including, but not restricted to, any claim arising from the inaccuracy of information provided to the End User.
- 12.1.14. The Department of Natural Resources does not warrant the accuracy and/or the transmission of the Licensed Data between ABR or prime and the End User.
- 12.1.15. Australian Securities and Investment Commission ("ASIC")**
The User acknowledges that ASIC does not accept responsibility for any inaccuracies omissions defects or error in the ASIC's database or in any of the software for accessing or searching those databases.
- 12.1.16. Business Names**
In respect of all business name services provided by prime, the relevant State or Territory Department or Agency is referred to in this Clause 12.3 as "the Provider".
- 12.1.17. The User acknowledges that the Provider cannot warrant that the Provider's database is free of inaccuracies, defect or errors.
- 12.1.18. The Provider shall not be responsible for any inaccuracy, defect or error in either the Provider's database or prime's programs data.
- 12.1.19. Insolvency and Trustee Service Australia (ITSA)**
User acknowledges that the national Personal Insolvency Index ("NPII") maintained by ITSA may contain errors and that prime shall not be liable for any inaccuracy in the NPII.
- 12.1.20. Land Titles Office NSW ("NSW LTO")**
The User Agrees in respect of any data deliverable by electronic on-line supply and sourced from the NSW LTO that the User shall not provide that data by way of any on-line connection to any other party; alter the format, meaning or substance of any of that data so supplied; or print that data on paper other than plain paper or pre-printed paper where the text or other material printed on such pre-printed paper has been approved in writing by the NSW LTO.
- 12.1.21. Land Registry Victoria ("Landata")**
The User agrees not to sell any information derived from Landata except in the course and for the purpose of the User's ordinary business and if any such information is reproduced in written or printed form it shall be sold not more than once by the User.
- 12.1.22. Land Information Centre of NSW ("LIC")**
The database has been acquired from documents from various sources and therefore is recorded and stored at different levels of reliability and, accordingly, LIC gives no warranty in respect of the accuracy of any of the databases. LIC does not warrant that the database does not contain errors and the LIC shall be in no way liable for any loss, damage or injury suffered by the User or any person or corporation consequent upon the existence of any errors in the database.
- 12.1.23. Department of Environment and Heritage South Australia ("The Minister")**
- 12.1.24. The Minister for Environment and Heritage for the State of South Australia ("The Minister") does not warrant that any information transmitted through LOTS is true, correct, accurate or complete and the Minister shall not be liable to the User or to any other person for any costs, expenses, losses, or damages howsoever incurred as a result of such information being relied upon by the User or by any other person.
- 12.1.25. The Minister shall not be liable to the User for any costs, expenses, losses or damage incurred by the User arising out of any failure of LOTS as a result of:
- 12.1.26. any cause which is outside the Minister's control;
- 12.1.27. any breach of this agreement by the User;
- 12.1.28. any period during which lots or part of LOTS is undergoing maintenance work by the Minister;
- 12.1.29. any strike, lock out, picket or restraint of labour;
- 12.1.30. any power or electrical failure or diminution of power, however caused;
- 12.1.31. any telephone failure or inability of the User to connect or gain access to a telephone line;
- 12.1.32. any fire, storm, flood, earthquake, war or act of God.
- 12.1.33. The Minister acknowledges that the Minister may discontinue any data base or any part thereof at any time and that the Minister shall not be liable to the User or any other person for any costs, expenses, losses or damages incurred by the User as the result of any such action by the Minister.