

PRESS LOFT CLIENT TERMS & CONDITIONS

1. Definitions

Agreement means the agreement concluded between Press Loft and the Client whereby Press Loft will provide the Client with the Services for the duration of any Trial Period and/or those Services as requested by the Client on the Order Form or Online Registration Form (as applicable) for the duration of the Subscription Period as the case may be and in accordance with these Terms and Conditions;

PR Calendar means the service provided by Press Loft whereby email alerts are sent by Press Loft to Clients and Registered Users indicating upcoming key dates and suggested press release topics relating to such key dates;

Client means the person, company or other legal entity which is entering into this Agreement with Press Loft and has supplied the information requested by Press Loft when registering to use the Services;

Client Content means any and all visual content and textual material in electronic form or otherwise provided by the Client to Press Loft under the Agreement and in accordance with these Terms and Conditions, including but not limited to photographs, pictures, text, logos, trademarks, trade names, pdfs and press releases;

Commencement Date means the date of commencement of the Subscription Period, as set out on the Order Form or the date of submission to Press Loft of the Online Registration Form (as applicable);

Press Loft means Press Loft Australia Pty Ltd, a company incorporated in Australia, whose registered office is Suite 405, 49 Queens Road, Five Dock, NSW 2046. ACN: 149 161 222, and is a wholly owned subsidiary of Image Loft Ltd (trading as Press Loft) whose registered offices are at Enterprise House, 1–2 Hatfields, London SE1 9PG (Registered Company Number: 05685925).

Image Library means the service provided by Press Loft whereby Clients are provided with an area on the Website where they may display Client Content and which Registered Users may access and download such Client Content from time to time;

Initial Term means the period from the Commencement Date and continuing for a minimum period of 30 days, unless opting for the discounted Annual contract term in which case the minimum period is 12 months, or unless otherwise agreed in writing between the parties. For the avoidance of doubt the Initial Term shall not comprise any Trial Period;

Intellectual Property Rights means all intellectual property rights or moral rights of any nature whatsoever throughout the world and for the full duration of any and all protection afforded to the same including, without limitation, all: patents, registered trade marks, service marks, copyright, performance rights, designs and any and all applications for registration of any of the same wheresoever made; and all unregistered trade marks, service marks, designs, design right and copyright; and databases, know how, trade secrets and confidential information howsoever arising; and computer software and any right or interest in any of the foregoing;

Liabilities means all costs and expenses, losses, damages and adverse effects resulting from any and all allegations, claims, judgments, causes of action, liabilities, obligations, damages, deficiencies, penalties, interest and expenses (including the reasonable fees and expenses of solicitors and other professionals and specialists);

Licence Fees means all fees payable by the Client to Press Loft in respect of the Services provided by Press Loft during the Subscription Period in accordance with the amounts specified on the Order Form or Online Registration Form (as applicable) from time to time;

Online Registration Form means the form completed and submitted online by Clients in order to subscribe for membership of all or any of the Services for the duration of the Subscription Period;

Order Form means the hard copy order form completed and submitted by Clients in order to subscribe for membership of all or any of the Services for the duration of the Subscription Period;

Registered Users means those people who have registered with Press Loft to access the Client Content;

Press Release means the service provided by Press Loft whereby press releases containing Client Content are held on the Website and distributed to selected Registered Users via email;

Journalist Requests means the service provided by Press Loft whereby email alerts are sent from Registered Users to Clients via the Website requesting further information and relevant content in relation to articles Registered Users may be researching and/or writing;

Services means the services provided by Press Loft during any Trial Period and/or as selected by the Client in the Order Form or Online Registration Form (as applicable). These are described more fully in these Terms and Conditions and described more fully on the Website. These include, but are not limited to, Image Library, Press Releases, Journalist Requests, Branded Press Office and PR Calendar.

Subscription Period means the period commencing on the Commencement Date and continuing for the duration of the Initial Term and thereafter indefinitely unless and until terminated by either party in accordance with these Terms and Conditions and during which the Client shall pay the Licence Fees;

Terms and Conditions means the terms and conditions of this Agreement;

Trial Period means the 60 day free trial period during which Press Loft may offer the Services to Trialists free of charge on a one time only basis, such period to commence at such time as the Trialist accepts the Terms and Conditions via the appropriate tick box on the Website;

Trialist means any Client provided with a promotional code by Press Loft for the purposes of registering for a Trial Period;

Unacceptable Content means any material of any nature which is or which contains (a) any errors, bugs, viruses, worms, trojan horses or other contaminants that may (i) be used to access, modify, delete or damage any data files or other computer programs, computer hardware, software, telecommunications and other services and facilities used or operated by Press Loft; or (ii) cause a material adverse effect on the operating of any such hardware, software, telecommunications and other services and facilities used or operated by Press Loft; or (iii) provide access to any errors, bugs, viruses, worms, trojan horses or other contaminants; or (b) anything which is or may be offensive, blasphemous, obscene, defamatory or otherwise unlawful, which may infringe the rights including the Intellectual Property Rights of any person or which is used, disclosed or provided by the Client in breach of any obligation which the Client may have to any third party including any obligation of confidentiality; and

Branded Press Office means a client's own branded press office page hosted by Press Loft and with its own individual URL; and

Website means the website with the domain names www.pressloft.com.au and www.pressloft.com.

2. Press Loft Services

2.1 Press Loft shall provide the Services as relevant to your Trial Period and/or Subscription Period (as applicable) subject to these Terms and Conditions.

2.2 Press Loft does not guarantee that all Registered Users will be able to view the entire content of emails sent in a press release due to spam filters and various email clients.

2.3 Press Loft reserves the right, in its absolute discretion, not to send press releases if press release content is not deemed to be appropriate or current.

2.4 Press releases sent with Press Loft must be no older than 7 days.

2.5 Clients may upload no more than 2 press releases per month onto the Website as part of the Standard or Premium packages, unless otherwise agreed in writing between the parties.

2.6 Press Loft reserves the right to edit the relevant categories and key words selected for press releases and images.

2.7 Press Loft cannot guarantee the authenticity of email requests received by Clients via Journalist Requests and Clients respond to such requests at their own risk.

2.8 Journalist Requests and PR Calendar email alerts are the copyright of Press Loft. Should the content of these emails be replicated in any way or forwarded to other persons, the person to whom the email address forwarding such content is registered will be in breach of copyright.

2.9 Clients may be contacted from time to time by Registered Users via Press Loft's online email facility. Press Loft cannot guarantee the authenticity of such email requests received by Clients and Clients respond to such requests at their own risk.

3. Client Content

3.1 The Client shall submit Client Content to Press Loft.

3.2 The Client shall not submit Client Content to Press Loft which is or gives access to Unacceptable Content.

3.3 Press Loft may refuse any Client Content which may in Press Loft's sole discretion be Unacceptable Content or breaches any law or regulation, these Terms and Conditions, any other terms agreed between the parties or any third party's rights, including Intellectual Property Rights. Although, nothing in this Clause is to imply that Press Loft monitors the Client Content, and the Client hereby acknowledges that Press Loft does not actively monitor the Client Content.

3.4 The Client will regularly monitor and keep all Client Content accurate and up to date. Press Loft may refuse, remove or update such content if it is deemed, in Press Loft's sole discretion, not to be appropriate for inclusion.

3.5 Under this contract the Client has the right to remove and submit any content at any time subject to the availability of the computer systems on which Press Loft is deployed but the Client acknowledges and agrees that Press Loft shall not be responsible for any failure of the Website or error or other fault out of Press Loft's control which may lead to downtime.

3.6 The Client agrees that Press Loft has the right to send Client Content and links to Client Content to Registered Users.

3.7 The Client acknowledges and agrees that when Press Loft provides a caption for the Client Content Press Loft shall not be liable for any damage or loss suffered by the Client as a result of posting such caption, whether, without limitation, the information provided is inaccurate, misinterpreted by the reader or otherwise.

3.8 For PR Agencies signing the Agreement as a Client, Client Content can only be added from companies who are employing the PR Agency's services. Press Loft reserves the right to request to view Contracts between PR Agencies and companies at any time. Should Press Loft be under any doubt, Press Loft reserves the right to refuse membership to PR Agencies and refuse permission for companies' Client Content to appear on the site.

4. License to use

4.1 By supplying Client Content to Press Loft the Client grants Press Loft an irrevocable, perpetual and unlimited licence to use that Client Content in any way which Press Loft deems fit, including but not limited to storage, retrieval, copying, modification, transmission, publication and making available to others, either electronically or by any other means. This licence includes use by Press Loft of the Client's trade name and any of the Client's trade marks which relate to the Client Content, and includes use by Press Loft of the Client Content, trade names and trade marks for the promotion of its own services for the duration of the Agreement between Press Loft and the Client. The Client also acknowledges that Registered Users will be accessing the Client Content and thus grants to Registered Users an irrevocable, perpetual non-exclusive licence to enjoy the Client Content in accordance with the services provided to them by Press Loft. This clause applies only for the duration of the Agreement.

5. Payment

5.1 The Client shall pay the Licence Fees for the whole of the Subscription Period. For the avoidance of doubt, no Licence Fees shall be payable for any Trial Period.

5.2 The Licence Fees may be modified at any time upon at least 15 days prior notice to the Client in writing, online or otherwise.

5.3 Licence Fees are payable in advance in such instalments as are specified in the Order Form or Online Registration Form (as applicable). Clients may elect to pay the Licence Fees either by credit or debit card only.

5.3b The Client will be responsible for all Internet connection charges and utility charges or related costs.

5.4 All Licence Fees for the Services are payable immediately by the Subscriber via the automatic NAB payment gateway, unless otherwise stated in the invoice. If the Client fails to pay any charges when due then Press Loft shall be entitled at its discretion to remove Client Content from the Website in respect of the non-paying Client.

5.5 All Licence Fees are exclusive of Good and Services Tax which will be added to the Licence Fees as appropriate.

5.6 Credit card transactions are processed via the National Australia Bank's secure payment gateway. Credit Card details processed are not recorded on our servers nor are they kept in full in any record we hold. Full credit card details are hidden from view and stored securely with the National Australia Bank.

5.7 Refunds and subsequent payments are to be processed via the National Australia Bank's secure payment gateway.

6. Warranties, Indemnities and Liability

6.1 The Client represents, undertakes and warrants that it is and will remain to be the holder of any and all Intellectual Property Rights, consents, licences and other rights needed to display the Client Content on the Website and lawfully grant the licences granted in these Terms and Conditions, and that Press Loft's actions under those licences will not infringe upon any law, regulation, other agreement or third party's Intellectual Property Right or other right and that the Client Content does not infringe any legislation or regulations of the Commonwealth of Australia and the State of New South Wales including, but not limited to, the Competition and Consumer Act, 2010 (Cth) and the Fair Trading Act 1987 (NSW) and equivalent state and territory legislation and any other parliament competent to legislate in relation to the Website or any law in any country where the Client Content is or will be available electronically to users of this Website.

6.2 The Client shall at any time, at Press Loft's first request, provide written proof of the rights and/or licences specified in Clause 6.1.

6.3 Client shall indemnify and keep Press Loft indemnified against any Liabilities incurred directly or indirectly related to or resulting from: (i) the Client Content, (ii) the use by Press Loft of the Client Content, the Client's trade name(s) and trade marks used in accordance with these Terms and Conditions, (iii) a breach of any of the Client's obligations in these Terms and Conditions (including the obligation to keep Client Content accurate and up to date).

6.4 Notwithstanding any other Clause in these Terms and Conditions, neither Press Loft nor the Client excludes any liability for death, personal injury or fraud (including fraudulent misrepresentation).

6.5 Press Loft shall not be liable for (i) any loss of or damage caused to the Client as a result of the Client Content; (ii) any loss or damage resulting from inaccuracy or insufficient quality of the Client Content; (iii) any indirect or consequential loss or damage resulting from a failure by Press Loft to provide or fully provide or timely provide the Services; and (iv) any indirect or consequential loss or damage caused by use of Client Content by Registered Users.

6.6 Any liability of Press Loft shall be limited to the amount paid by Client in consideration of the Services provided by Press Loft in the calendar year of the event giving rise to Client's claim.

6.7 Press Loft cannot guarantee a photo credit in any instance, and will not be held liable if a photo credit is not made. Nor can Press Loft guarantee if a photo credit is made that it will show the Client name.

6.8 Press Loft shall have the right, including in advertising and publicity in any media, to use the name of any Client to advertise and promote the Services and/or the Press Loft brand.

6.9 Part of the Press Loft service to Registered Users allows them to crop and alter the Client Content for their journalistic purposes. The Client hereby grants to the Registered Users the right to alter their Images providing they do not become or give access to Unacceptable Content and the Client undertakes that the person who created the Client Content has waived all moral rights in respect of use of the Client Content pursuant to these Terms and Conditions by Press Loft and its Registered Users.

6.10 Press Loft cannot guarantee that Registered Users are journalists.

6.11 Press Loft cannot guarantee that Registered Users will use the Client Content for journalistic purposes.

7. Force Majeure

7.1 Press Loft shall not be liable for any loss or damage resulting from a failure by Press Loft to perform its obligations under these Terms and Conditions, if such failure is a result of an unforeseen event which is beyond the control of Press Loft and cannot be reasonably avoided or counteracted. This includes, but is not limited to: acts of terrorism, fire, flood, earthquake, explosion, riot, strike, labour troubles, lockouts, transport restrictions, failure or delay of delivery by any supplier, war, regulations and measures of any governmental or local authority, accident or theft, technical malfunctioning of systems which are part of the internet, technical malfunctioning of the infrastructure for telecommunication, electricity failure, or stoppage of output in or at Press Loft's systems. Should any such event occur, Press Loft may at its own option cancel or suspend the Agreement with the Client without incurring any liability.

8. Term and Termination

8.1 In the case of any Subscription Period, the Agreement between Press Loft and the Client will remain in force until it is terminated by either party on the provision of 30 days written notice from their billing day to expire no earlier than the expiration of the Initial Term or otherwise in accordance with these Terms and Conditions. For the avoidance of doubt the Initial Term shall not comprise any Trial Period.

8.2 In the case of any Trial Period, the Agreement shall terminate immediately upon expiry of such 60 day period.

8.2 Without prejudice to any statutory rights, each of the parties shall have the right to terminate the Agreement, either in whole or in part, with immediate effect and without prior notice, in the event that and at such time as: (i) the other party is in material breach of the these Terms and Conditions and, if remediable, the party fails to remedy the breach within 14 days; (ii) the other party enters liquidation (except for the purposes of financial restructuring), is unable to pay its debts or reaches an agreement with its creditors to pay only part of its debts; (iii) the other party files for bankruptcy or is declared bankrupt; (iv) the other party is a legal entity which is dissolved; or (v) where the other party suffers an analogous event to (ii) to (v) above.

8.3 Any termination of the Agreement shall be without prejudice to any other rights or remedies a party may be entitled to under the Agreement or these Terms of Conditions or at law and shall not affect any accrued rights or liabilities of either party nor the coming into or continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.

9. Miscellaneous

9.1 Any database rights regarding any collection of Client Content or arising out of any of the Services provided hereunder shall vest with Press Loft.

9.2 Press Loft may sub-license, subcontract or assign all or any part of its rights and obligations under the Agreement without Client's prior consent. Client shall not assign its rights or obligations under the Agreement without Press Loft's prior written consent.

9.3 These Terms and Conditions supersede any prior terms and conditions which may have been applicable between the parties although the Client acknowledges that Press Loft reserves the right to amend these Terms and Conditions at its sole discretion on providing the Client with notice of the same.

9.4 Unless specifically agreed between the parties, these Terms and Conditions constitute the whole agreement between the parties to its subject matter.

9.5 The Agreement and these Terms and Conditions shall be governed by and construed in accordance with the law of New South Wales and Australia and the parties hereby irrevocably submit to the non-exclusive jurisdiction of the New South Wales Courts as regards any claim or matter arising in relation to the agreement between the parties or these Terms and Conditions.