



PLATFORM TERMS AND CONDITIONS

1 About the Platform

- 1.1 Welcome to www.super-heroes.com.au (the “**Platform**”), a web and mobile application based platform that provides users with an opportunity to browse and purchase a variety of services, including but not limited to cleaning, gardening and other similar domestic services (the “**Services**”).
- 1.2 The Platform is operated by Super Heroes Australia (ACN 169 216 620) (“**Super Heroes Australia**”). Access to and use of the Platform, or any of its associated products or Services, is provided by Super Heroes Australia. Please read these terms and conditions (the “**Terms**”) carefully. By using, browsing and/or reading the Platform, this signifies that you have read, understood and agree to be bound by the Terms. If you do not agree with the Terms, you must cease usage of the Platform, or any of its products or Services, immediately.
- 1.3 Super Heroes Australia reserves the right to review and change any of the Terms by updating this page at its sole discretion. When Super Heroes Australia updates the Terms, it will use reasonable endeavours to provide you with notice of same. Any changes to the Terms take immediate effect from the date of their publication. Before you continue, we recommend you keep a copy of the Terms for your records.

2 Acceptance of the Terms

- 2.1 You accept the Terms by registering for the Services and/or making any payment as required under the Terms. You may also accept the Terms by clicking to accept or agree to the Terms where and if this option is made available to you in the user interface.

3 Registration to use the Services

- 3.1 In order to access the Services, you must first register for an account through the Platform (the “**Account**”).
- 3.2 In creating an Account, you may be provided with a variety of registration methods which may include registration through the use of your Facebook or Google account (the “**Third Party Registration**”). You may also create the Account by registering manually through the Platform (the “**Manual Registration**”).
- 3.3 Where you are create the Account by Third Party Registration, you acknowledge and agree that the Platform will utilise the Personal Information stored with third parties to verify your identify. You warrant that where you elect to register for an account by way of Third Party Registration, the information that you have previously provided to these third parties is accurate, correct and up to date and is able to be relied on by Super

Heroes Australia in the provision of the Services.

- 3.4 Where you create the Account by Manual Registration then, as part of the registration process or as part of your continued use of the Services, you may be required to provide personal information about yourself (such as identification or contact details), including:
- (a) an email address and/or preferred username;
 - (b) your Facebook username and/or Google account;
 - (c) a mailing address;
 - (d) a telephone number;
 - (e) a password.
- 3.5 You warrant that any information you give to Super Heroes Australia in the course of completing the registration process will always be accurate, correct and up to date.
- 3.6 Once you have completed the registration process you will be a registered member of the Platform (“**Member**”) and agree to be bound by the Terms. As a Member, you will be granted immediate access to the Services.
- 3.7 You may not use the Services and may not accept the Terms if:
- (a) you are not of legal age to form a binding contract with Super Heroes Australia;
or
 - (b) you are a person barred from receiving the Services under the laws of Australia or other countries including the country in which you are resident or from which you use the Services.

4 Your obligations as a Member

- 4.1 As a Member, you agree to comply with the following:
- (a) you will use the Services only for purposes that are permitted by:
 - (i) the Terms; and
 - (ii) any applicable law, regulation or generally accepted practices or guidelines in the relevant jurisdictions;
 - (b) you have the sole responsibility for protecting the confidentiality of your password and/or email address. Use of your password by any other person may result in the immediate cancellation of the Services;
 - (c) any use of your registration information by any other person, or third parties, is strictly prohibited. You agree to immediately notify Super Heroes Australia of any unauthorised use of your password or email address or any breach of security of which you have become aware;

- (d) access and use of the Platform is limited, non-transferable and allows for the sole use of the Platform by you for the purposes of Super Heroes Australia providing the Services;
- (e) you will not use the Services or the Platform in connection with any commercial endeavours except those that are specifically endorsed or approved by the management of Super Heroes Australia;
- (f) you will not use the Services or Platform for any illegal and/or unauthorised use which includes collecting email addresses of Members by electronic or other means for the purpose of sending unsolicited email or unauthorised framing of or linking to the Platform;
- (g) you agree that commercial advertisements, affiliate links, and other forms of solicitation may be removed from the Platform without notice and may result in termination of the Services. Appropriate legal action will be taken by Super Heroes Australia for any illegal or unauthorised use of the Platform; and
- (h) **you acknowledge and agree that any automated use of the Platform or its Services is prohibited.**

5 Payment

- 5.1 You understand that the price for the Services will vary dependant on the nature of the Services being provided to you by Super Heroes Australia and will be identified through the Platform (the "**Services Fee**"). The Services Fee is determined by Osscar Technology Service in their sole discretion and may be varied by Super Heroes Australia from time to time.
- 5.2 Where the option is given to you, you may make payment for the Services (the "**Services Fee**") by way of Credit Card Payment using eMatters Australia Pty Ltd (ABN 46 066 323 582) ("**eMatters**").
- 5.3 In using the Platform, the Services or when making any payment in relation to same, you warrant that you have read, understood and agree to be bound by the eMatters terms and conditions which are available on their website.
- 5.4 You acknowledge and agree that where a request for the payment of the Services Fee is returned or denied, for whatever reason, by your financial institution or is unpaid by you for any other reason, then you are liable for any costs, including banking fees and charges, associated with the same.
- 5.5 You agree and acknowledge that Super Heroes Australia can vary the Services Fee at any time and that the varied Subscription Fee will come into effect following the conclusion of the existing Subscription Period.

6 Cancellation and Refund Policy

- 6.1 Where you have booked the Services through the Website (the "**Booking**"), Super Heroes Australia will allow you to cancel or reschedule the Booking subject to you paying an appropriate Cancellation Fee calculated as follows:

- (a) where the Booking is cancelled or rescheduled no less than twenty four (24) hours prior to the time for the performance of the Services nominated by you in the Booking, you will not be required to pay any cancellation fee and the Services Fee will be refunded to you;
- (b) where the Booking is cancelled or rescheduled less than twenty four (24) hours but no less than four (4) hours prior to the time for the performance of the Services nominated by you in the Booking, you will be required to pay a cancellation fee equivalent to one (1) hour of the payment for Services with the remainder of the Services Fee refunded to you;
- (c) where the Booking is cancelled or rescheduled less than four (4) hours prior to the time for the performance of the Services nominated by you in the Booking, you will be required to pay a cancellation fee equivalent to 100% of the Services Fee and the Services Fee will be automatically allocated against that payment.

6.2 Other than as outlined above in respect to the cancellation or rescheduling of a Booking outlined above, Super Heroes Australia will only provide you with a refund of the Services Fee in the event they are unable to continue to provide the Services, or if the manager of Super Heroes Australia makes a decision, at its absolute discretion, that it is reasonable to do so under the circumstances (the “**Refund**”). Super Heroes Australia may provide you with a voucher to reuse the Services should the Member request same.

7 Copyright and Intellectual Property

7.1 The Platform, the Services and all of the related products of Super Heroes Australia are subject to copyright. The material on the Platform is protected by copyright under the laws of Australia and through international treaties. Unless otherwise indicated, all rights (including copyright) in the Services and compilation of the Platform (including but not limited to text, graphics, logos, button icons, video images, audio clips, Platform, code, scripts, design elements and interactive features) or the Services are owned or controlled for these purposes, and are reserved by Super Heroes Australia or its contributors.

7.2 All trademarks, service marks and trade names are owned, registered and/or licensed by Super Heroes Australia, who grants to you a worldwide, non-exclusive, royalty-free, revocable license whilst you are a Member to:

- (a) use the Platform pursuant to the Terms;
- (b) copy and store the Platform and the material contained in the Platform in your device’s cache memory; and
- (c) print pages from the Platform for your own personal and non-commercial use.

Super Heroes Australia does not grant you any other rights whatsoever in relation to the Platform or the Services. All other rights are expressly reserved by Super Heroes Australia.

7.3 Super Heroes Australia retains all rights, title and interest in and to the Platform and all

related Services. Nothing you do on or in relation to the Platform will transfer any:

- (a) business name, trading name, domain name, trade mark, industrial design, patent, registered design or copyright, or
- (b) a right to use or exploit a business name, trading name, domain name, trade mark or industrial design, or
- (c) a thing, system or process that is the subject of a patent, registered design or copyright (or an adaptation or modification of such a thing, system or process),
to you.

7.4 You may not, without the prior written permission of Super Heroes Australia and the permission of any other relevant rights owners: broadcast, republish, up-load to a third party, transmit, post, distribute, show or play in public, adapt or change in any way the Services or third party Services for any purpose, unless otherwise provided by these Terms. This prohibition does not extend to materials on the Platform which are freely available for re-use or are in the public domain.

8 Privacy

8.1 Super Heroes Australia takes your privacy seriously and any information provided through your use of the Platform and/or Services are subject to Super Heroes Australia' Privacy Policy, which is available on the Platform.

9 General Disclaimer

9.1 Nothing in the Terms limits or excludes any guarantees, warranties, representations or conditions implied or imposed by law, including the Australian Consumer Law (or any liability under them) which by law may not be limited or excluded.

9.2 Subject to this clause, and to the extent permitted by law:

- (a) all terms, guarantees, warranties, representations or conditions which are not expressly stated in the Terms are excluded; and
- (b) Super Heroes Australia we will not be liable for any special, indirect or consequential loss or damage (unless such loss or damage is reasonably foreseeable resulting from our failure to meet an applicable Consumer Guarantee), loss of profit or opportunity, or damage to goodwill arising out of or in connection with the Services or these Terms (including as a result of not being able to use the Services or the late supply of the Services), whether at common law, under contract, tort (including negligence), in equity, pursuant to statute or otherwise.

9.3 Use of the Platform and the Services is at your own risk. Everything on the Platform and the Services is provided to you "as is" and "as available" without warranty or condition of any kind. None of the affiliates, directors, officers, employees, agents, contributors and licensors of Super Heroes Australia makes any express or implied representation or warranty about the Services or any products or Services (including the products or Services of Super Heroes Australia) referred to on the Platform. This

includes (but is not restricted to) loss or damage you might suffer as a result of any of the following:

- (a) failure of performance, error, omission, interruption, deletion, defect, failure to correct defects, delay in operation or transmission, computer virus or other harmful component, loss of data, communication line failure, unlawful third party conduct, or theft, destruction, alteration or unauthorised access to records;
- (b) the accuracy, suitability or currency of any information on the Platform, the Services, or any of its Services related products (including third party material and advertisements on the Platform);
- (c) costs incurred as a result of you using the Platform, the Services or any of the products of Super Heroes Australia; and
- (d) the Services or operation in respect to links which are provided for your convenience.

10 Limitation of liability

10.1 Osscarr Technology Service's total liability arising out of or in connection with the Services or these Terms, however arising, including under contract, tort (including negligence), in equity, under statute or otherwise, will not exceed the resupply of the Services to you.

10.2 You expressly understand and agree that Super Heroes Australia, its affiliates, employees, agents, contributors and licensors shall not be liable to you for any direct, indirect, incidental, special consequential or exemplary damages which may be incurred by you, however caused and under any theory of liability. This shall include, but is not limited to, any loss of profit (whether incurred directly or indirectly), any loss of goodwill or business reputation and any other intangible loss.

11 Termination of Contract

11.1 The Terms will continue to apply until terminated by either you or by Super Heroes Australia as set out below.

11.2 If you want to terminate the Terms, you may do so by:

- (a) providing Super Heroes Australia with fourteen (14) days' notice of your intention to terminate; and
- (b) closing your accounts for all of the services that you use, where Super Heroes Australia has made this option available to you.

Your notice should be sent, in writing, to Super Heroes Australia via the 'Contact Us' link on our homepage.

11.3 Super Heroes Australia may at any time, terminate the Terms with you if:

- (a) you have breached any provision of the Terms or intend to breach any provision;

- (b) Super Heroes Australia is required to do so by law;
- (c) the provision of the Services to you by Super Heroes Australia is, in the opinion of Super Heroes Australia, no longer commercially viable.

11.4 **Subject to local applicable laws, Super Heroes Australia reserves the right to discontinue or cancel your membership at any time and may suspend or deny, in its sole discretion, your access to all or any portion of the Platform or the Services without notice if you breach any provision of the Terms or any applicable law or if your conduct impacts Osscarr Technology Service's name or reputation or violates the rights of those of another party.**

12 Indemnity

12.1 You agree to indemnify Super Heroes Australia, its affiliates, employees, agents, contributors and licensors from and against any breach of the Terms.

13 Dispute Resolution

13.1 Compulsory:

If a dispute arises out of or relates to the Terms, either party may not commence any Tribunal or Court proceedings in relation to the dispute, unless the following clauses have been complied with (except where urgent interlocutory relief is sought).

13.2 Notice:

A party to the Terms claiming a dispute ("**Dispute**") has arisen under the Terms, must give written notice to the other party detailing the nature of the dispute, the desired outcome and the action required to settle the Dispute.

13.3 Resolution:

On receipt of that notice ("**Notice**") by that other party, the parties to the Terms ("**Parties**") must:

- (a) Within seven (7) days of the Notice endeavour in good faith to resolve the Dispute expeditiously by negotiation or such other means upon which they may mutually agree;
- (b) If for any reason whatsoever, twenty-one (21) days after the date of the Notice, the Dispute has not been resolved, the Parties must either agree upon selection of a mediator or request that an appropriate mediator be appointed by the President of the Law Society of New South Wales or his or her nominee;
- (c) The Parties are equally liable for the fees and reasonable expenses of a mediator and the cost of the venue of the mediation and without limiting the foregoing undertake to pay any amounts requested by the mediator as a pre-condition to the mediation commencing. The Parties must each pay their own costs associated with the mediation;
- (d) The mediation will be held in Sydney, Australia.

13.4 Confidential

All communications concerning negotiations made by the Parties arising out of and in connection with this dispute resolution clause are confidential and to the extent possible, must be treated as "without prejudice" negotiations for the purpose of applicable laws of evidence.

13.5 Termination of Mediation:

If thirty (30) days have elapsed after the start of a mediation of the Dispute and the Dispute has not been resolved, either Party may ask the mediator to terminate the mediation and the mediator must do so.

14 Venue and Jurisdiction

The Services offered by Super Heroes Australia is intended to be viewed by residents of Australia. In the event of any dispute arising out of or in relation to the Platform, you agree that the exclusive venue for resolving any dispute shall be in the courts of New South Wales, Australia.

15 Governing Law

The Terms are governed by the laws of New South Wales, Australia. Any dispute, controversy, proceeding or claim of whatever nature arising out of or in any way relating to the Terms and the rights created hereby shall be governed, interpreted and construed by, under and pursuant to the laws of New South Wales, Australia, without reference to conflict of law principles, notwithstanding mandatory rules. The validity of this governing law clause is not contested. The Terms shall be binding to the benefit of the parties hereto and their successors and assigns.

16 Independent Legal Advice

Both parties confirm and declare that the provisions of the Terms are fair and reasonable and both parties having taken the opportunity to obtain independent legal advice and declare the Terms are not against public policy on the grounds of inequality or bargaining power or general grounds of restraint of trade.

17 Severance

If any part of these Terms is found to be void or unenforceable by a Court of competent jurisdiction, that part shall be severed and the rest of the Terms shall remain in force.