



## DetectORE Terms and Conditions

Welcome to pLIMS! pLIMS is the software platform linked with our patented detectORE™ technology for gold exploration and mining.

### 1 Our Disclosures

Our complete terms and conditions are contained below, but some important points for you to know before you become a customer are set out below:

- We may amend these Terms, the features of the Platform at any time, by providing written notice to you;
- We will handle your personal information in accordance with our privacy policy, available at <https://portableppb.com/>
- To the maximum extent permitted by law, the Fees are non-refundable;
- Our liability under these Terms is limited to us resupplying the Platform to you or, in our sole discretion, repaying you the amount of the Fees paid by you to us when you created your Account, and we will not be liable for Consequential Loss, any loss that is a result of a Third Party Service, or any loss or corruption of data; and
- We may terminate your Access at any time by giving 30 days' written notice to you.

Nothing in these terms limit your rights under the Australian Consumer Law.

### 2 Introduction

- 2.1 These terms and conditions (**Terms**) are entered into between Portable PPB Pty Ltd ABN 19 619 948 417 (**we, us or our**) and you, together the **Parties** and each a **Party**.
- 2.2 We provide a software platform where businesses using the DetectORE product to generate and track analytical data (**Platform**).
- 2.3 In these Terms, **you** means the person or entity registered with us as an Account holder.
- 2.4 If you are using the Platform on behalf of your employer or a business entity, you, in your individual capacity, represent and warrant that you are authorised to act on behalf of your employer or the business entity and to bind the entity and the entity's personnel to these Terms.

### 3 Acceptance and Platform Licence

- 3.1 You accept these Terms by checking the box, clicking "I accept", registering on the Platform, or using the Platform.
- 3.2 We may amend these Terms at any time, by providing written notice to you. By clicking "I accept" or continuing to use the Platform after the notice or 30 days after notification (whichever date is earlier), you agree to the amended Terms. If you do not agree to the amendment, you may terminate your Access in accordance with the "Cancellation of Access" clause.
- 3.3 We may use third party APIs to provide you the Platform. Your use of third party APIs is subject to their respective terms of use.
- 3.4 Subject to your compliance with these Terms, we grant you a personal, non-exclusive, royalty-free, revocable, worldwide, non-transferable licence to use our Platform in accordance with these Terms. All other uses are prohibited without our prior written consent.
- 3.5 When using the Platform, you must not do or attempt to do anything that is unlawful or inappropriate, including:
- (a) anything that would constitute a breach of an individual's privacy (including uploading private or personal information without an individual's consent) or any other legal rights;
  - (b) using the Platform to defame, harass, threaten, menace or offend any person, including using the Platform to send unsolicited electronic messages;
  - (c) tampering with or modifying the Platform (including by transmitting viruses and using trojan horses);
  - (d) using data mining, robots, screen scraping or similar data gathering and extraction tools on the Platform; or
  - (e) facilitating or assisting a third party to do any of the above acts.

### 4 DetectORE Services

- 4.1 In consideration for your payment of the Fees, we agree to provide you with access to the Platform, the support services as detailed in this section, and any other services we agree to provide as set out in your Account.

- 4.2 We agree to use our best endeavours to make the Platform available at all times. However, from time to time we may perform reasonable scheduled and emergency maintenance, and the Platform may be unavailable during the times we are performing such maintenance.
- 4.3 Should you be unable to access the Platform, or should you have any other questions or issues impacting on your use and enjoyment of the Platform, you must place a request via the help desk, over the phone, via email etc. We will endeavour to respond to any support requests in a reasonable period.
- 4.4 You acknowledge and agree that the Platform may be reliant on, or interface with third party systems that are not provided by us (for example, cloud storage providers, email clients, CRM systems, and internet providers) (**Third Party Services**). To the maximum extent permitted by law, we shall have no Liability for any Third Party Services, or any unavailability of the Platform due to a failure of the Third Party Services.
- 4.5 You acknowledge and agree that data loss is an unavoidable risk when using any software. To the extent you input any data into the Platform, you agree to maintain a backup copy of any data you input into the Platform.
- 4.6 To the maximum extent permitted by law, we shall have no Liability to you for any loss or corruption of data, or any scheduled or emergency maintenance that causes the Platform to be unavailable.

## 5 Accounts

- 5.1 You must register on the Platform and create an account (**Account**) to access the Platform's features.
- 5.2 You must provide basic information when registering for an Account including your business and/or entity name, contact name and email address and you must choose a username and password.
- 5.3 All personal information you provide to us will be treated in accordance with our [Privacy Policy](#).
- 5.4 You agree to provide and maintain up to date information in your Account and to not share your Account password with any other person. Your Account is personal and you must not transfer or provide it to others.
- 5.5 You are responsible for keeping your Account details and your username and password confidential and you will be liable for all activity on your Account, including purchases made using your Account details. You agree to immediately notify us of any unauthorised use of your Account.

## 6 Access

- 6.1 Once you have created an Account, you agree to pay any required fee set out on the Platform or as invoiced to you by us (**Fees**) upfront to access and use the Platform (**Access**).
- 6.2 The payment methods we offer for the Fees are set out on the Platform or as otherwise agreed between the Parties. We may offer payment through a third-party provider. You acknowledge and agree that we have no control over the actions of the third-party provider, and your use of the third-party payment method may be subject to additional terms and conditions.
- 6.3 You must not pay, or attempt to pay, the Fees by fraudulent or unlawful means. If you make a payment by debit card or credit card, you warrant that you are authorised to use the debit card or credit card to make the payment.
- 6.4 You agree that we may set-off or deduct from any monies payable to you under these Terms, any amounts which are payable by you to us (whether under these Terms or otherwise).
- 6.5 We do not store any credit card details, and all payment information is collected and stored through our third-party payment processor.
- 6.6 To the extent permitted by law, the Fees are non-refundable and non-cancellable once paid.
- 6.7 We may need to change what is available as part of your Access (for example, the inclusions, exclusions, updated features to your Access) from time to time. If we change what is available as part of your Access, we will provide you with 30 days' notice of the change. After 30 days, we will apply the changes to your Access. If the changes substantially and adversely affect your enjoyment of the Access, you may cancel your Access in accordance with the 'Cancellation' clause.
- 6.8 We are not required to provide you notice of any minor changes to your Access and to the Platform such as bug fixes, and feature updates, which are ordinarily required to provide you the Platform.

## 7 Our Intellectual Property

- 7.1 You acknowledge and agree that any Intellectual Property or content (including copyright and trademarks) available on the Platform, the Platform itself, and any algorithms or machine learning models used on the Platform (**Our Intellectual Property**) will at all times vest, or remain vested, in us.
- 7.2 We authorise you to use Our Intellectual Property solely for your limited commercial use. You must not exploit Our Intellectual Property for any other purpose, nor allow, aid or facilitate such use by any third party. Use must be limited to devices that are controlled or approved by you.
- 7.3 You must not, without our prior written consent:
- (a) copy, in whole or in part, any of Our Intellectual Property;
  - (b) reproduce, retransmit, distribute, disseminate, sell, publish, broadcast or circulate any of Our Intellectual Property to any third party; or

- (c) breach any intellectual property rights connected with the Platform, including (without limitation) altering or modifying any of Our Intellectual Property, causing any of Our Intellectual Property to be framed or embedded in another website, or creating derivative works from any of Our Intellectual Property.
- 7.4 Nothing in the above clause restricts your ability to publish, post or repost Our Intellectual Property on your social media page or blog, provided that:
- (a) you do not assert that you are the owner of Our Intellectual Property;
  - (b) unless explicitly agreed by us in writing, you do not assert that you are endorsed or approved by us;
  - (c) you do not damage or take advantage of our reputation, including in a manner that is illegal, unfair, misleading or deceptive; and
  - (d) you comply with all other terms of these Terms.
- 7.5 This clause will survive the termination or expiry of your Access.
- 8 Your Data**
- 8.1 You own all data, information or content you upload into the Platform (**Your Data**), as well as any data or information output from the Platform using Your Data as input (**Output Data**). Note that Output Data does not include the Analytics (as described below).
- 8.2 You grant us a limited licence to copy, transmit, store, backup and/or otherwise access or use Your Data and the Output Data to:
- (a) communicate with you (including to send you information we believe may be of interest to you);
  - (b) supply the Platform to you and otherwise perform our obligations under these Terms;
  - (c) diagnose problems with the Platform;
  - (d) enhance and otherwise modify the Platform;
  - (e) perform Analytics;
  - (f) develop other services, provided we de-identify Your Data; and
  - (g) as reasonably required to perform our obligations under these Terms.
- 8.3 You agree that you are solely responsible for all of Your Data that you make available on or through the Platform. You represent and warrant that:
- (a) you are either the sole and exclusive owner of Your Data or you have all rights, licences, consents and releases that are necessary to grant to us the rights in Your Data (as contemplated by these Terms); and
  - (b) neither Your Data nor the posting, uploading, publication, submission or transmission of Your Data or our use of Your Data on, through or by means of our Platform will infringe, misappropriate or violate a third party's intellectual property rights, or rights of publicity or privacy, or result in the violation of any applicable law or regulation.
- 8.4 You acknowledge and agree that we may monitor, analyse and compile statistical and performance information based on and/or related to your use of the Platform, in an aggregated and anonymised format (**Analytics**). You acknowledge and agree that we own all rights in the Analytics, and that we may use the Analytics for our own internal business purposes, provided that the Analytics do not contain any identifying information.
- 8.5 We do not endorse or approve, and are not responsible for, any of Your Data.
- 8.6 You acknowledge and agree that the Platform and the integrity and accuracy of the Output Data is reliant on considerations including the accuracy and completeness of Your Data, and the provision by you of Your Data that is inaccurate or incomplete may affect the use, output and operation of the Platform.
- 8.7 You acknowledge and agree that the Platform and the accuracy of the Output Data may vary depending on a variety of factors including the instrument used, your brand and vintage of pXRF and mineralisation style.
- 8.8 This clause will survive the termination or expiry of your Access.
- 9 Warranties**
- 9.1 You represent, warrant and agree that:
- (a) you will not use our Platform, including Our Intellectual Property, in any way that competes with our business;
  - (b) there are no legal restrictions preventing you from entering into these Terms;
  - (c) all information and documentation that you provide to us in connection with these Terms is true, correct and complete; and

(d) you have not relied on any representations or warranties made by us in relation to the Platform (including as to whether the Platform is or will be fit or suitable for your particular purposes), unless expressly stipulated in these Terms.

## 10 Australian Consumer Law

- 10.1 Certain legislation, including the Australian Consumer Law (**ACL**) in the *Competition and Consumer Act 2010 (Cth)*, and similar consumer protection laws and regulations, may confer you with rights, warranties, guarantees and remedies relating to the provision of the Platform by us to you which cannot be excluded, restricted or modified (**Consumer Law Rights**).
- 10.2 If the ACL applies to you as a consumer, nothing in these Terms excludes your Consumer Law Rights as a consumer under the ACL. You agree that our Liability for the Platform provided to an entity defined as a consumer under the ACL is governed solely by the ACL and these Terms.
- 10.3 Subject to your Consumer Law Rights, we exclude all express and implied warranties, and all material, work and services (including the Platform) are provided to you without warranties of any kind, either express or implied, whether in statute, at law or on any other basis.
- 10.4 This clause will survive the termination or expiry of your Access.

## 11 Liability

- 11.1 Despite anything to the contrary, to the maximum extent permitted by law:
- (a) you agree to indemnify us for any Liability we incur due to your breach of the Acceptance and Platform Licence clause and the Intellectual Property clause of these Terms;
  - (b) neither Party will be liable for Consequential Loss;
  - (c) neither Party will be liable for any Liability incurred or suffered by a Party due to an event or circumstance beyond the other Party's reasonable control;
  - (d) each Party's liability for any Liability under these Terms will be reduced proportionately to the extent the relevant Liability was caused or contributed to by the acts or omissions of the other Party or any of that Party's personnel, including any failure by that Party to mitigate its losses; and
  - (e) our aggregate liability for any Liability arising from or in connection with these Terms will be limited to us resupplying the Platform to you or, in our sole discretion, to us repaying you the amount of the Fees paid by you to us when you created your Account.
- 11.2 This clause will survive the termination or expiry of your Access.

## 12 Termination

- 12.1 **Cancellation of Access:** Without limiting your rights under the Australian Consumer Law, you may request to cancel your Access at any time by notifying us via email, via 'cancel my Access' feature in your Account. Your cancellation will take effect immediately.
- 12.2 We may terminate your Access at any time by giving 30 days' written notice to you (**Termination for Convenience**).
- 12.3 Access will terminate immediately upon written notice by a Party (**Non-Defaulting Party**) if:
- (a) the other Party (**Defaulting Party**) breaches a material term of these Terms and that breach has not been remedied within 10 Business Days of the Defaulting Party being notified of the breach by the Non-Defaulting Party; or
  - (b) the Defaulting Party is unable to pay its debts as they fall due.
- 12.4 Should we suspect that you are in breach of these Terms, we may suspend your access to the Platform while we investigate the suspected breach.
- 12.5 Upon expiry or termination of your Access:
- (a) we will remove your access to the Platform and your Account will be deleted;
  - (b) you agree that other than where termination is due to our Termination for Convenience or our breach of these Terms, and to the maximum extent permitted by law, any payments made by you to us (including any Fees) are not refundable to you;
  - (c) we may retain Your Data and any Output Data for three years or any other time as determined by us at our discretion; and
  - (d) where we terminate your Access for any reason other than a Termination for Convenience, you also agree to pay us our reasonable additional costs directly arising from such termination.
- 12.6 Termination of Access will not affect any rights or liabilities that a Party has accrued under these Terms.
- 12.7 This clause will survive the termination or expiry of your Access.

## 13 General

- 13.1 **Assignment:** Subject to the below clause, a Party must not assign or deal with the whole or any part of its rights or obligations under these Terms without the prior written consent of the other Party (such consent is not to be unreasonably withheld).
- 13.2 **Assignment of Debt:** You agree that we may assign or transfer any debt owed by you to us, arising under or in connection with these Terms, to a debt collector, debt collection agency, or other third party.
- 13.3 **Disputes:** A Party may not commence court proceedings relating to any dispute, controversy or claim arising from, or in connection with, these Terms (including any question regarding its existence, validity or termination) (**Dispute**) without first meeting with a senior representative of the other Party to seek (in good faith) to resolve the Dispute. You agree that we may obtain data from third parties, undertake lab checks and verification processes, to assist resolve the Dispute. You must provide us with and not withhold information requested by us to assist resolve the Dispute including information about size fraction, mineralisation style, known refractory ore and multi-element results.
- If you are an entity in Australia:** If the Parties cannot agree how to resolve the Dispute at that initial meeting, either Party may refer the matter to a mediator. If the Parties cannot agree on who the mediator should be, either Party may ask the Law Society of Western Australia to appoint a mediator. The mediator will decide the time, place and rules for mediation. The Parties agree to attend the mediation in good faith, to seek to resolve the Dispute. The costs of the mediation will be shared equally between the Parties. Nothing in this clause will operate to prevent a Party from seeking urgent injunctive or equitable relief from a court of appropriate jurisdiction.
- If you are an entity outside of Australia:** If the relevant Parties are unable to resolve the Dispute or agree on an alternate method to resolve the Dispute, the Dispute may be referred by either Party (by notice in writing to the other Party) to arbitration in accordance with the Australian Centre for International Commercial Arbitration (**ACICA**) rules. Once a Dispute has been referred to the ACICA, the Parties agree to be bound by the decision of the ACICA. The seat of arbitration shall be Sydney, Australia. The language of the arbitration shall be English. The number of arbitrators shall be one. The costs of the arbitration will be shared equally between the Parties. Nothing in this clause will operate to prevent a Party from seeking urgent injunctive or equitable relief from a court of appropriate jurisdiction.
- 13.4 **Entire Terms:** Subject to your Consumer Law Rights, these Terms contains the entire understanding between the Parties and the Parties agree that no representation or statement has been made to, or relied upon by, either of the Parties, except as expressly stipulated in these Terms, and these Terms supersedes all previous discussions, communications, negotiations, understandings, representations, warranties, commitments and agreements, in respect of its subject matter.
- 13.5 **Force Majeure:** To the maximum extent permitted by law, we shall have no Liability for any event or circumstance outside of our reasonable control.
- 13.6 **Governing law:** These Terms are governed by the laws of Western Australia, Australia. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts operating in Western Australia, Australia and any courts entitled to hear appeals from those courts and waives any right to object to proceedings being brought in those courts.
- 13.7 **Notices:** Any notice given under these Terms must be in writing addressed to us at the details set out below or to you at the details provided in your Account. Any notice may be sent by standard post or email, and will be deemed to have been served on the expiry of 48 hours in the case of post, or at the time of transmission in the case of transmission by email.
- 13.8 **Privacy:** Each Party agrees to comply with the legal requirements of the Australian Privacy Principles as set out in the Privacy Act 1988 (Cth) and any other applicable legislation or privacy guidelines.
- 13.9 **Publicity:** You agree that we may publicise the fact that you are a user of our Platform, including on our website or in our promotional material.
- 13.10 **Severance:** If a provision of these Terms is held to be void, invalid, illegal or unenforceable, that provision is to be read down as narrowly as necessary to allow it to be valid or enforceable, failing which, that provision (or that part of that provision) will be severed from these Terms without affecting the validity or enforceability of the remainder of that provision or the other provisions in these Terms.
- 13.11 **Third party sites:** The Platform may contain links to websites operated by third parties. Unless we tell you otherwise, we do not control, endorse or approve, and are not responsible for, the content on those websites. We recommend that you make your own investigations with respect to the suitability of those websites. If you purchase goods or services from a third party website linked from the Platform, such third party provides the goods and services to you, not us. We may receive a benefit (which may include a referral fee or a commission) should you visit certain third-party websites via a link on the Platform (**Affiliate Link**) or for featuring certain products or services on the Platform. We will make it clear by notice to you which (if any) products or services we receive a benefit to feature on the Platform, or which (if any) third party links are Affiliate Links.
- 14 **Definitions**
- 14.1 **Consequential Loss** includes any consequential loss, indirect loss, real or anticipated loss of profit, loss of benefit, loss of revenue, loss of business, loss of goodwill, loss of opportunity, loss of savings, loss of reputation, loss of use and/or loss or corruption of data, whether under statute, contract, equity, tort (including negligence), indemnity or otherwise.

- 14.2 **Intellectual Property** means any domain names, know-how, inventions, processes, trade secrets or confidential information; or circuit layouts, software, computer programs, databases or source codes, including any application, or right to apply, for registration of, and any improvements, enhancements or modifications of, the foregoing.
- 14.3 **Liability** means any expense, cost, liability, loss, damage, claim, notice, entitlement, investigation, demand, proceeding or judgment (whether under statute, contract, equity, tort (including negligence), indemnity or otherwise), howsoever arising, whether direct or indirect and/or whether present, unascertained, future or contingent and whether involving a third party or a party to these Terms or otherwise.

**For any questions or notices, please contact us at:**

Portable PPB Pty Ltd ABN 19 619 948 417

**Email:** [info@portableppb.com.au](mailto:info@portableppb.com.au)

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