



TERMS OF USE

OGTR ONLINE SERVICES PORTAL

Date

Last updated: 25 January 2023

1. Terms of Use

- 1.1. Welcome to the OGTR Online Services Portal (the **Portal**). As a condition of Your use of the Portal, You must agree to these Terms of Use.
- 1.2. In these Terms of Use:
 - a. The terms **You** and **Your** refer to:
 - i. the individual users of the **Portal** who are also Applicants;
 - ii. the individual users of the **Portal** who hold a **relevant authority** and are employed or otherwise engaged by an **Applicant** to use the **Portal** under; and
 - iii. where such engagement or employment exists, the **Applicant** that employs or otherwise engages the user of the Portal.
 - b. **Access Credentials** means the secure and authenticated credentials individually provided to You by the Commonwealth once You have registered a Profile.
 - c. **Applicant** means an applicant under **GT legislation**.
 - d. **APP** means the Australian Privacy Principles.
 - e. **OGTR** means the Office of the Gene Technology Regulator ABN 15 862 053 538.
 - f. **Commonwealth** means the Commonwealth of Australia as represented by **OGTR** and the **Department**.
 - g. **Department** means the Department of Health and Aged Care ABN 83 605 426 759.
 - h. **Forms** means any form made available on the portal for applicants to make applications under the Act.
 - i. **GT Act** means the *Gene Technology Act 2000* (Cth).
 - j. **GT legislation** means the **GT Act** and the **GT Regulations**.
 - k. **GT Regulations** means the *Gene Technology Regulations 2001* (Cth).
 - l. **Intellectual Property Rights** include:

- i. all copyright (including rights in relation to phonograms and broadcasts);
 - ii. all rights in relation to inventions, plant varieties, trademarks (including service marks), designs and circuit layouts; and
 - iii. all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields,
- but does not include:
- iv. moral rights under Part IX of the *Copyrights Act 1968* (Cth); or
 - v. rights in relation to confidential information.
- m. **Material** means any thing (including, but not limited to, Provider Forms):
- i. submitted into the Portal by You or any other user of the Portal; or
 - ii. communicated by the Department or OGTR via the Portal,
- and includes any such thing in which Intellectual Property Rights arise.
- n. **Personal Information** has the same meaning as in the *Privacy Act 1988* (Cth).
- o. **Personnel** means an officer, employee, agent or subcontractor of the Department or OGTR.
- p. **Portal** means the OGTR Online Services Portal electronic platform administered by the **Commonwealth** on which **Applicants** may submit and manage **applications**.
- q. **Profile** means Your online registered account to use the Portal.
- r. **Relevant Authority** means the evidence of **Your** authority to represent the relevant **Applicant**.

2. Acceptance

- 2.1. These Terms of Use govern the relationship between You and the Commonwealth in relation to Your use of the Portal. By continuing to access the Portal, You accept the Terms of Use as they apply from time to time.
- 2.2. If You do not agree to these Terms of Use, You will not be able to access the Portal and You must immediately cease using the Portal.
- 2.3. Failure to comply with these Terms of Use during Your use of the Portal may, at any time, result in Your Profile being suspended or terminated in accordance with clause 10 of these Terms of Use.
- 2.4. The Commonwealth may, at its discretion and at any time, update these Terms of Use.

3. Access to the portal

- 3.1. You must:
- a. only access the Portal using Your Access Credentials and not using any other Access Credentials;
 - b. comply with any terms and conditions applicable to Your use of the Access Credentials; and
 - c. not access the Portal on behalf of any other individual or Applicant, other than in accordance with clause 3.2 of these Terms of Use.
- 3.2. If You are purporting to access and use the Portal as a representative of an Applicant, then You must:
- a. submit to the Commonwealth on its request evidence of Your authority to represent the relevant Applicant (**Relevant Authority**);
 - b. only use the Portal within the scope of the Relevant Authority; and
 - c. cease using the Portal in relation to the relevant Applicant if the Relevant Authority is revoked.

4. Confirmation of identity

- 4.1. You represent and warrant that Your individual identification details submitted on the Portal registration page are true and correct and that You are not misrepresenting Your identity or registering on behalf of any other individual or Applicant.

5. Your Obligations

Applicant Information

- 5.1. On each occasion that You submit a Form in the Portal, You:
- a. represent and warrant that You have complied with:
 - i. these Terms of Use;
 - ii. the requirements of all applicable laws (including, without limitation, the Act); and
 - iii. any guidelines provided in the Portal relating to the submission of Forms in the Portal (to the extent the guidelines are consistent with the requirements of clauses 5.1(a)(i) and (ii) of these Terms of Use);
 - b. represent and warrant that to the best of Your knowledge, the information contained in the Form is true and accurate;
 - c. understand that the Commonwealth may not be able to accept the Form if the file size exceeds 5 Megabytes per file upload; and
 - d. undertake to advise the Commonwealth of any subsequent changes to the information contained in the Form.

- 5.2. On each occasion that You save a draft Form in the Portal, You:
- a. represent and warrant that You have complied with:
 - i. these Terms of Use;
 - ii. the requirements of all applicable laws (including, without limitation, the Act); and
 - iii. any guidelines provided in the Portal relating to the submission of Forms in the Portal (to the extent the guidelines are consistent with the requirements of clauses 5.1(a)(i) and (ii) of these Terms of Use);
 - b. understand that the Commonwealth may not be able to accept the Form if the file size exceeds 5 Megabytes per file upload; and

Lawful and appropriate use of the Portal

- 5.3. You agree that You must:
- a. only use the Portal:
 - i. for Your own lawful purposes; and
 - ii. in accordance with these Terms of Use as amended from time to time and any other conditions notified by the Commonwealth on the Portal relating to the use of the Portal; and
 - iii. in a manner that does not infringe the Intellectual Property Rights of, or restrict or inhibit the use of the Portal by, any person;
 - b. only access and use the Portal from within Australia;
 - c. not share Your Access Credentials with any other person or allow any other person to use the Portal on Your behalf;
 - d. ensure Your Access Credentials are secured from unauthorised access and disclosure;
 - e. not access, or attempt to gain access, to any Materials other than those submitted by You or to which You have been given express permission by the Commonwealth;
 - f. immediately notify the Commonwealth of any unauthorised use of Your Profile or any other breach of security that You become aware of, and take all other actions that the Commonwealth reasonably deems necessary to maintain or enhance the security of the Portal;
 - g. maintain Your Profile details and ensure Your Profile details are at all times true, accurate, current and correct;
 - h. not use or misuse the Portal in any way which may disrupt or impair the functionality, security or integrity of the Portal or other systems used for the Portal; and

- i. not transmit, or input via the Portal, any:
 - i. harmful code or malware;
 - ii. unlawful, defamatory, obscene, offensive or scandalous Material, or any Material that constitutes or encourages conduct that would contravene any law or which may harass or cause distress or inconvenience to any person; or
 - iii. Material in violation of any Intellectual Property Rights or any other applicable law, or Material that You do not have the right to use or transmit or input into the Portal.
- 5.4. It is Your responsibility to ensure that any files uploaded in the Portal comply with the conditions in clause 5.3 of these Terms of Use. Any Material (including attachments) submitted to the Portal that does not comply with these conditions may be destroyed by the Commonwealth in its absolute discretion where legislation permits.
- 5.5. You acknowledge that:
 - a. Your access to, and use of, the Portal is subject to applicable Commonwealth legislation, including but not limited to GT legislation, the *Crimes Act 1914* (Cth), the *Criminal Code Act 1995* (Cth) and the *Privacy Act 1988* (Cth).
 - b. penalties may apply for misuse of information obtained from the Portal or disclosure of information contrary to law.

6. Audit logs

- 6.1. You acknowledge that Your use of the Portal will be logged for the purpose of security and usage monitoring.

7. Collection and disclosure of Personal Information

- 7.1. The Commonwealth is bound by the *Privacy Act 1988* (Cth) and the Australian Privacy Principles (**APPs**).
- 7.2. OGTR ([Privacy Policy](#)) and The Department ([Privacy Policy](#)) have policies which contain information about:
 - a. how You may access the Personal Information the Department holds about You and how You can seek correction of it; and
 - b. how You may complain about a breach of:
 - i. the *Privacy Act 1988* (Cth);
 - ii. the APPs; or
 - iii. a registered APP code that binds OGTR; and
 - c. how OGTR will deal with such a complaint.

8. Indemnification and liability

- 8.1. You remain solely responsible and liable for complying with all applicable laws in connection with Your use of the Portal.
- 8.2. You indemnify the Commonwealth for any loss or damage incurred by the Commonwealth in dealing with any claim against it, including legal costs and expenses on a solicitor/own client basis and the cost of time spent, resources used or disbursements paid by the Commonwealth, arising from either:
- a. a breach by You of these Terms of Use; or
 - b. an act or omission involving fault on Your part in connection with these Terms of Use.
- 8.3. Your liability to indemnify the Commonwealth under these Terms of Use will be reduced proportionately to the extent that any negligent or other tortious act or omission of the Commonwealth contributed to the relevant loss or damage.

9. Termination of access

- 9.1. If You:
- a. breach any of these Terms of Use or other conditions imposed by the Commonwealth regarding Your use of the Portal; or
 - b. engage in misleading, deceptive, fraudulent, immoral or illegal conduct,
- the Commonwealth may, without limiting its rights, terminate Your access to the Portal, or suspend for any period of time, Your use of the Portal. The Commonwealth reserves the right to pursue legal action.

10. Disclaimer

- 10.1. You agree that Your use of the Portal is entirely at Your own risk, and You have made Your own assessment of the risk of use of the Portal and any Materials.
- 10.2. You agree that You are solely responsible for any Forms or other Material submitted in the Portal using Your Profile.
- 10.3. You agree that Forms and other Material input via the Portal may be accessed by Personnel who are permitted access by the Department or the OGTR for the purposes of:
- a. carrying out functions under GT legislation and other relevant legislation including but not limited to, the *Freedom of Information Act 1982*;
 - b. processing and assessment of any Forms under GT legislation; and
 - c. for operating and administering the Portal.
- 10.4. The Commonwealth gives no warranty in connection with the Portal and its Materials and does not guarantee that the use of the Portal and its Materials will not breach Intellectual Property Rights, will be uninterrupted or error free, that

any defects Portal and its Material will be corrected, or that the Portal is free of harmful code.

- 10.5. Where connection to a system or website outside Commonwealth control compromises the objectives or functions of the Portal, the Commonwealth may sever links to that website or system.
- 10.6. The Commonwealth may make changes to the Portal (including by removing any Materials held in the Portal), conduct maintenance on the Portal, or otherwise temporarily or permanently cease to provide the Portal at any time and without notice.
- 10.7. The Portal is hosted in a cloud environment and has been designed to meet relevant requirements under the Australian Government Protective Security Policy Framework and the Information Security Manual. However, You acknowledge that the Commonwealth does not give any representation or warranty that the Portal or any underlying environment or platform is secure or meets a particular security standard.
- 10.8. To the maximum extent permitted by law, the Commonwealth excludes all liability and responsibility to You (or any other person) for any loss (including loss of information, data, profits and savings) or damage resulting, directly or indirectly, in connection with Your (or any other person's) use of or reliance on, the Portal or its Materials.
- 10.9. Where the Portal links to third party information, You are responsible for making your own enquiries and decisions about the accuracy, reliability, currency and completeness of information contained in such information. The Commonwealth accepts no legal liability arising from or connected to Your use or reliance on any third party information.

11. General

- 11.1. You cannot assign Your obligations or rights under these Terms of Use without the prior written consent of the Commonwealth, which may be withheld in the Commonwealth's complete discretion or given on conditions.
- 11.2. A reference to any legislation or legislative provision includes any statutory modification, substitution or re-enactment of that legislation or legislative provision.
- 11.3. If any of these Terms of Use are held to be invalid, unenforceable or illegal for any reason, the remaining Terms of Use will continue in full force.
- 11.4. You are not by virtue of these Terms of Use an officer, employee, partner or agent of the Commonwealth, nor do You have any power or authority to bind or represent the Commonwealth. You agree to not misrepresent Your relationship with the Commonwealth.
- 11.5. These Terms of Use are governed by the laws of the Australian Capital Territory, Australia, and You agree to submit to the exclusive jurisdiction of the courts of the Australian Capital Territory.

- 11.6. If either party waives any breach of these Terms of Use, this will not constitute a waiver of any other breach. No waiver will be effective unless made in writing.