

End-User Licence Agreement

Introduction

1. This End-User Licence Agreement (Terms) is a legal agreement between you and Makesure Consulting Pty Ltd (ACN 168 163 666) of 25 Wellington Street, Collingwood VIC 3006 (Makesure).
2. This Agreement governs your use of the IDSure Platform (Software) which is owned and operated by Makesure, and Support and Maintenance for the Software.
3. Makesure is an Approved Gateway Service Provider (GSP) with the Australian Federal Government Department of Home Affairs (DHA).
4. Makesure's Software provides access to DHA's Document Verification Service (DVS) for document matching purposes.
5. In addition to these Terms, you acknowledge and agree that you will be legally bound by and must observe the DHA DVS Business User Terms and Conditions of Use (DVS Terms) as applicable to you, which have been incorporated into these Terms in Schedule 3. Note that for the purposes of the DVS Terms, you are the DVS Business User and Makesure is the Approved GSP.
6. You acknowledge that you have received, read and understood the DVS Terms and these Terms (together the Agreement), prior to contracting with Makesure. Either the Terms or the DVS Terms may be updated from time to time on no less than 45 days' written notice to you. Your continued use of the Software following notice of any amendments shall be deemed to be your acceptance of any such modifications to the Agreement. If you do not agree to any such modifications, you must immediately stop using the Software.
7. As part of this Agreement, your use of the Software is also subject to our Privacy Policy (found at <https://www.makesure.com.au/privacy/>) which is incorporated by reference into this Agreement, provided that, if any provision thereof conflicts with any provision of this Agreement, this Agreement will prevail.

By clicking "I agree" (or similar button or checkbox) or by signing this Agreement using electronic signature, ordering, downloading, installing, accessing or using the Software, you indicate that you agree to be bound by this Agreement. If you do not agree to this Agreement, do not use or access the Software. This Agreement does not grant you any other rights other than those expressly contained herein.

1. Definitions and interpretation

Definitions

- 1.1 The following definitions apply in this agreement unless the context requires otherwise:

Austroads means Austroads Ltd ACN 136 812 390.

APP means Australian Privacy Principles as set out in the Australian Privacy Act 1988 (Cth)

Authorised Users means the specific individuals whom you designate to use the Software and for whom you have paid the required fees. Authorised Users may be your or your affiliates' employees, representatives, consultants, contractors, agents or other third parties who are acting for your or your affiliates' benefit or on your or your affiliates' behalf.

BDMs means Registries of Births, Deaths and Marriages in Australian States and Territories.

Business Day means a day (other than a Saturday, Sunday or public holiday) when banks in Melbourne, Victoria are open for business.

Change of Control means, in respect of a particular entity, a person who Controls that entity ceasing to do so or another person acquiring Control of it.

Claim means any claim, complaint, demand, proceeding, suit, litigation, action, cause of action or other legal recourse (whether in contract, tort, under statute or otherwise).

Commencement Date means the date on which the Software was first made available to you (by any means, whether tangible (such as CD or DVD) or intangible (such as email, internet download or online login)).

Confidential Information means all information (however recorded or preserved) disclosed or provided (whether in writing, orally or by any other means and whether directly or indirectly) by one party to the other before, on or after the date of this agreement in connection with this agreement or the Software where such information is identified as confidential at or before the time of its disclosure or ought reasonably be considered confidential based on its content or nature or the manner of its disclosure and, for the avoidance of doubt, includes the existence and terms of this agreement and all User Data.

Consumer Law means the *Competition and Consumer Act 2010* (Cth).

Control has the meaning given in Section 50AA of the Corporations Act.

Corporations Act means the *Corporations Act 2001* (Cth).

Disclosing Party means, in respect of any particular Confidential Information, the party that discloses that Confidential Information (whether directly or indirectly) to the other party.

Dispose means, in relation to any right, benefit or property, to sell, assign, transfer, alienate, rent, lease, distribute, sublicense alienate or create a trust or Encumbrance over or in respect of that right, benefit or property.

Documentation means all information (however recorded or preserved) relating to the Software (including manuals, notes, user guides, functional and technical drawings, specifications, data, reports, designs, modification manuals, flow charts and listings that are designed to assist or supplement the development, understanding or use of the Software).

DVS means the system (including all associated services, infrastructure, applications, facilities, functionality, data, information and material, whether belonging to or operated by the DVS Manager or a third party) established by the DVS Manager to provide Information Match Results (but does not include the Software).

DVS Business User ID means a number or other mechanism (and associated access credentials) provided by the DVS Manager by which you are uniquely

identified to the DVS Manager for purposes including accessing the DVS, transaction processing, and record keeping.

DVS Manager means Commonwealth of Australia acting and represented by the Department of Home Affairs and may include each Official Record Holder and (in the case of State and Territory information) Austroads and BDMs.

Encumbrance means any mortgage, charge (fixed or floating), pledge, lien, hypothecation, guarantee, trust, right of set-off or other third-party right or interest (legal or equitable) including any assignment by way of security, reservation of title or other security interest of any kind, howsoever created or arising, or any other agreement or arrangement (including a sale and repurchase agreement) having similar effect.

Fees mean the fees payable by you for your use of the Software as set out in the Subscription Terms.

Force Majeure Event means any:

- (a) natural disaster (such as flood, earthquake, windstorm, etc);
- (b) outbreak or escalation of hostilities (whether or not war has been declared) or any other unlawful act against public order or authority;
- (c) industrial dispute;
- (d) pandemic or epidemic
- (e) government restraint;
- (f) unavailability, shortage, breakage or failure of essential equipment, communication channels, facilities, machinery or electricity supply (not caused by the relevant party);
- (g) shut-down or corruption of, or interruption to, the internet or network servers (not caused by the relevant party); or
- (h) other event that is not within the reasonable control of the parties and which, by its nature, could not have been foreseen by the relevant party or, if it could have been foreseen, was unavoidable.

Governmental Agency means any government or governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity whether foreign, federal, state, territorial or local.

GST Act means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

GST has the same meaning given to that expression in the GST Law.

GST Law has the same meaning given to that expression in the GST Act.

Hosted Servers means servers owned and/or used by us for the purposes of hosting the Software and/or User Data.

Improvements means, in respect of the Software and/or any Documentation relating thereto, any developments, enhancements, modifications, derivatives, updates or other improvements thereof, including any customisations that are made at your request or upon your direction, even if such customisations incorporate know-how, ideas, requests or suggestions made or provided by you.

Information Match Request means an electronic request to the DVS by you (required to be submitted in a structured electronic format advised by the DVS Manager) to be provided with an Information Match Result in relation to the details of relevant information in a Supported Document.

Information Match Result means, in respect to an Information Match Request, an electronic response indicating that the information provided in the request either matches or does not match the relevant official record data, or that a system error has been encountered in trying to process that request.

Insolvency Event means, in respect of a party:

- (a) where the party is an individual, that party commits an act of bankruptcy or is declared bankrupt or insolvent or that party's estate otherwise becomes liable to be dealt with under any law relating to bankruptcy or insolvency;
- (b) where the party is a company, a resolution is passed or court order made for the winding up of that party or an administrator is appointed to that party pursuant to any relevant law;
- (c) a receiver or manager or receiver and manager is appointed to the assets or undertaking of the party or any part thereof; or
- (d) the party is otherwise unable to pay its debts as and when they fall due.

IP Ownership Claim has the meaning given in clause 14.1.

IP Rights means patents, rights to inventions, copyright and related rights, trademarks and service marks, trade names and domain names, rights in get-up, rights to goodwill or to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights in confidential information (including know-how, trade secrets and marketing secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Licence means the licence to use the Software and Documentation provided by us to you pursuant to clause 2.

Losses means any loss, damage, debt, cost, charge, expense, fine, outgoing, penalty, diminution in value, deficiency or other liability of any kind or character (including legal and other professional fees and expenses on a full indemnity basis) that a party pays, suffers or incurs or is liable for, including all:

- (a) liabilities on account of Tax;
- (b) interest and other amounts payable to third parties;
- (c) legal and other professional fees and expenses (on a full indemnity basis) and other costs incurred in connection with investigating, defending or settling any Claim, whether or not resulting in any liability; and
- (d) all amounts paid in settlement of any Claim.

Object Code means the executable version of a computer program.

Official Record Holder means, in respect of each Supported Document, the entity against whose official record data the information submitted in an Information Match Request is matched (or attempted to be matched) via the DVS.

Order means the documentation to which these terms and conditions were attached or that accompanied, or was provided along with, these terms and conditions.

Personal Information has the meaning given in the relevant Privacy Act

Privacy Act means either *The Privacy Act 1988* (Cth) and *The Privacy Act 2020* (New Zealand).

Recipient means, in respect of any particular Confidential Information, the party that receives that Confidential Information (whether directly or indirectly) from the other party.

Representatives means, in respect of a person, its employees, consultants, agents and advisors and, in respect of a body corporate, includes its officers.

Software means the software described as follows, including the Documentation and all updates and upgrades of that software and Documentation:

IDSure Platform

Source Code means a computer program expressed in a source language or form that can be interpreted or compiled and then executed by a computer as commands, together with all documentation and tools reasonably required to enable a person having commercially available computer programming skills to read, understand and modify the computer program.

Subscription Terms means the pricing and inclusions for the Licence as specified in the Order.

Support and Maintenance means the support and maintenance services to be provided by us under clause 9

Supported Document means a type of document (for example an Australian Passport or Australian Citizenship Certificate) that is supported by the DVS.

Tax means any tax, levy, impost, deduction, charge, rate, compulsory loan, withholding or duty by whatever name called, levied, imposed or assessed under any statute, ordinance or law by any Governmental Agency, including any:

- (a) profits tax, property tax, land tax, interest tax, income tax, tax related to capital gains, tax related to the franking of dividends, bank account debits tax, fringe benefits tax, sales tax, value-added tax, goods and services tax, payroll tax, superannuation guarantee charge or withholding tax;
- (b) stamp, transaction or registration duty or similar charge imposed by any Governmental Agency; and
- (c) any interest, penalty, charge, fine or fee or other amount of any kind assessed, charged or imposed on or in respect of the above.

Trademarks means the trademarks and service marks of Makesure that are used or displayed in the Software and/or the Website.

Treasury Laws Amendment means the *Treasury Laws Amendment (2017 Enterprise Incentives No. 2) Act 2017* (Cth).

User Data means any data, content, code, video, images or other materials of any type that you submit, upload, transmit or otherwise make available to or through the Software.

Website means our website located at <https://idsure.com.au> and pages within that domain and any of its subdomains.

Interpretation

- 1.2 The following rules of interpretation apply in this agreement unless the context requires otherwise:
- (a) headings in this agreement are for convenience only and do not affect its interpretation or construction;
 - (b) no rule of construction applies to the disadvantage of a party because this agreement is prepared by (or on behalf of) that party;
 - (c) where any word or phrase is defined, any other part of speech or other grammatical form of that word or phrase has a cognate meaning;
 - (d) a reference to a document (including this agreement) is a reference to that document (including any schedules and annexures) as amended, consolidated, supplemented, novated or replaced;
 - (e) references to recitals, clauses, subclauses, paragraphs, annexures or schedules are references to recitals, clauses, subclauses, paragraphs, annexures and schedules of or to this agreement;
 - (f) in each schedule to this agreement, a reference to a paragraph is a reference to a paragraph in that schedule;
 - (g) a reference to any statute, proclamation, rule, code, regulation or ordinance includes any amendment, consolidation, modification, re-enactment or reprint of it or any statute, proclamation, rule, code, regulation or ordinance replacing it;
 - (h) an expression importing a natural person includes any individual, corporation or other body corporate, partnership, trust or association and any Governmental Agency and that person's personal representatives, successors, permitted assigns, substitutes, executors and administrators;
 - (i) a reference to writing includes any communication sent by post, facsimile or email;
 - (j) a reference to time refers to the time in Melbourne, Victoria and time is of the essence;
 - (k) all monetary amounts are in Australian currency;
 - (l) the word "**month**" means calendar month and the word "**year**" means 12 calendar months;
 - (m) the meaning of general words is not limited by specific examples introduced by "**include**", "**includes**", "**including**", "**for example**", "**in particular**", "**such as**" or similar expressions;

- (n) a reference to a “**party**” is a reference to a party to this agreement and a reference to a “**third party**” is a reference to a person that is not a party to this agreement;
- (o) a reference to the termination of this agreement includes a reference to the expiry or revocation of the Licence in accordance with the terms of this agreement;
- (p) a reference to a liability includes a reference to a present, prospective, future or contingent liability;
- (q) a reference to any thing is a reference to the whole and each part of it;
- (r) a reference to a group of persons is a reference to all of them collectively and to each of them individually;
- (s) words in the singular include the plural and vice versa; and
- (t) a reference to one gender includes a reference to the other genders.

2. Licence

Hosted service

- 2.1 You acknowledge and agree that the Software will be provided to you as a hosted service, rather than as a standalone product installed on your computer equipment and that accordingly:
 - (a) you will have access to the Software through a web browser interface or application programming interface;
 - (b) to the extent that functionality of the Software is divided into designated modules, you will have access only to the modules that you are entitled to use; and
 - (c) access to the Software depends on your having valid and current access permissions that are recognised by the Hosted Servers; and
 - (d) all User Data will be stored on the Hosted Servers, rather than on your computer equipment.

Grant of Licence

- 2.2 Subject to the provisions of this agreement, with effect on and from the Commencement Date, we hereby grant to you a non-exclusive, non-transferable, non-sublicensable, licence to use the Software in Australia and New Zealand, but only for your own business purposes in accordance with the terms of this agreement.

Subscription Terms

- 2.3 This agreement sets out our standard licence terms for the Software. The particular pricing and inclusions of your Licence are set out in your Payment Terms in Schedule 1.

3. Restrictions on use

- 3.1 You must:

- (a) only disclose your account access details to your Representatives on a need-to-know basis;
- (b) ensure that your Representatives who have access to the Software:
 - (i) are made aware of the terms of this agreement; and
 - (ii) do not do, or omit to do, anything which, if done or omitted to be done by you, would constitute a breach of this agreement by you,

and you acknowledge and agree that you will be responsible for, and liable to us in respect of, the actions and omissions of any and all of your Representatives in relation to the Software as if they were your own actions or omissions;
- (c) contact us immediately if you have any reason to believe that any of your passwords have been compromised or used without your authority;
- (d) keep your account access details secure and confidential and change your passwords whenever directed to do so by us;
- (e) where directed, provide us with details of any other professional parties linked to your account;
- (f) keep your account details and other personal information, including your email address and payment method details, updated and provide us with notice of any changes to that information so that we can complete your transactions and contact you as needed in connection with your account; and
- (g) keep your internet privacy and virus detection software up-to-date.

3.2 You must not:

- (a) provide access to the Software to a third party or otherwise Dispose of your access to the Software, whether in whole or in part, to any person without our prior written consent under clause 17;
- (b) use the Software:
 - (i) in any way other than pursuant to the Licence granted to you under clause 2;
 - (ii) in any way that could damage our reputation or the goodwill or IP Rights associated with the Software;
 - (iii) for competitive analysis or to build competitive products; or
 - (iv) to share inappropriate content or material (involving, for example, nudity, , pornography, offensive language, graphic violence, or criminal activity);
- (c) use any software or services in conjunction with the Software that modifies or reroutes, or attempts to modify or reroute, the Software;
- (d) authorise any third party to access and/or use the Software on your behalf using any automated process such as a bot or spider or periodic caching of information stored by the Software;

- (e) reverse engineer, decompile, disassemble, decrypt, hack, emulate, exploit, adapt, modify, translate, frame or reformat any part of the Software or otherwise seek to obtain or derive any of the Source Code or any underlying ideas, algorithms or file formats of, or any components used in, the Software by any means whatsoever, or attempt to do any of the foregoing;
- (f) modify or remove any copyright or proprietary notices pertaining to the Software;
- (g) disclose your passwords to any third party;
- (h) circumvent any restrictions on access to, or availability of, the Software;
- (i) attempt to access or control the Software or the Hosted Servers except through the interfaces to which we have given you access;
- (j) engage in activity that is harmful to you, the Software or others (eg, transmitting viruses, stalking, posting terrorist or violent extremist content, communicating hate speech or advocating violence against others);
- (k) infringe upon the rights of others (eg, unauthorised sharing of copyrighted material); or
- (l) engage in activity that violates the privacy of others.

4. Privacy

- 4.1 You acknowledge that your use of the Software is subject to our Privacy Policy. We reserve the right to monitor, collect and store your communications with us (whether by email, facsimile or any other form of transmission) for the purposes of our business needs, including quality control and security.
- 4.2 In relation to any Personal Information that is included in any User Data, all parties must comply with the Privacy Act, the Australian Privacy Principles and any guidelines issued from time to time by the Office of the Australian Information Commissioner.

5. Duration of the Licence and renewals

The Licence and Support and Maintenance will commence on the Commencement Date and will continue in force without limit of period unless terminated or revoked in accordance with clause 7.

6. Payment of Fees

- 6.1 You must pay us the Fees as set out in Schedule 2 based on your usage of the Software, in full and on time in accordance with this clause 6. We retain the right to update the Fees in Schedule 2 on the provision of 30 days' notice to you. Your use of, and access to, the Software is conditional upon your payment of the Fees.

Periodic payments

- 6.2 In consideration for granting the Licence, you must pay the applicable Fees to us periodically in accordance with the payment methods as set out in Schedule 1.
- 6.3 If you opt to pay via upfront payment, your credit balance will be adjusted each time you use the Software in accordance with the fees as set out in Schedule 2. If you do

not have sufficient positive credit balance to initiate an Information Match Request (minimum balance), you will be unable to initiate any Information Match Requests until your credit balance is topped up and exceeds the minimum balance.

- 6.4 You agree that you are authorising recurring payments and you authorise us to invoice you for the Software on a monthly basis until the Licence is validly terminated by you or by us pursuant to clause 7. We may suspend or cancel the Licence if we do not receive an on time, full payment from you.

Timing of payment

- 6.5 All payments must be made in full within 30 days after the date on which you receive a relevant tax invoice from us. Failure to pay in full by that due date is a fundamental breach of this agreement.

Method of payment

- 6.6 Payments to be made under this agreement may be made by electronic funds transfer or by credit card. Payments by credit card will attract a surcharge.

Failed payment fees

- 6.7 If any payment is returned unpaid or if any credit card or similar transaction is rejected or denied, we reserve the right to collect any applicable return item, rejection or insufficient funds fee and process any such fee as an additional payment. If you initiate a chargeback or reversal with your bank for your payment of the Fees, we will deem you to have cancelled as of the date that the original payment was made, and you authorise us to immediately terminate the Licence and revoke your access to the Software.

Refunds

- 6.8 Except as expressly provided otherwise in this agreement and where required by the Consumer Law, all amounts paid on account of Fees are non-refundable.

No set-off or deduction

- 6.9 The parties acknowledge and agree that – unless otherwise required by law, but subject to clause 6.10 – all amounts payable under this agreement are to be paid without set-off, counterclaim, withholding, deduction or claim to a lien whatsoever (whether or not any such set-off, counterclaim, withholding, deduction or lien arises under this agreement).
- 6.10 If a party is required by law to make a deduction or withholding in respect of any sum payable under this agreement, that party must, at the same time as the sum that is the subject of the deduction or withholding is payable, make a payment to the recipient of such additional amount as is required to ensure that the net amount received by the recipient will equal the full amount that would have been received by it had no such deduction or withholding been required to be made.

7. Revocation and termination

Suspension of access

- 7.1 We may, with or without notice, suspend your access to all or part of the Software:
- (a) for the purposes of any scheduled or unscheduled maintenance periods that we decide at our discretion to implement; and/or

- (b) if you breach this agreement or do, or allow to be done, anything that may have the effect of jeopardising the operation of the Software for other users.

Termination without cause

7.2 Either party may terminate this agreement on the provision of 30 days' written notice to the other party.

Other Termination Rights

7.3 Notwithstanding clause 7.2, each party may terminate this agreement with immediate effect by written notice to the other party if:

- (a) the other party materially breaches this agreement where:
 - (i) such breach is irremediable; or
 - (ii) if remediable, the other party fails to remedy the breach within 14 days of written notice by the terminating party;
- (b) an Insolvency Event occurs in respect of the other party; or
- (c) a Force Majeure Event preventing the performance of this agreement continues for more than 20 Business Days.

Payment obligations

7.4 In no event shall termination of this agreement release you from the obligation to pay any amounts that became due and payable on or before the date of termination.

8. Consequences of termination

8.1 You acknowledge and agree that, following termination of this agreement in any circumstances, you will not have further access to your User Data. However, on request and with reasonable notice, we may provide you with a download of your User Data .

8.2 If this agreement is terminated or expires for any reason, then, in addition, and without prejudice, to any other rights or remedies:

- (a) the parties are immediately released from their obligations under this agreement, other than under clauses **Error! Reference source not found.** (Privacy), 6 (Payment of Fees), 7 (Revocation and termination), 10 (Warranties), 11 (Disclaimer of warranties and limitation of liability), 12 (Indemnities), 13 (Intellectual property rights), 14 (IP Ownership Claims), 15 (Confidentiality), 16 (GST), 20 (General) and this clause 8, which shall survive any termination of this agreement;
- (b) your right to use the Software immediately ceases and the licence granted to you under clause 2.2 immediately terminates; and
- (c) we reserve the right to delete your account and retain your User Data pursuant to our obligations as a Gateway Service Provider

Accrued rights

8.3 Termination of this agreement will not affect any rights or liabilities that the parties have accrued under it prior to such termination.

9. Support and Maintenance

During the term of your licence, we will exercise commercially reasonable efforts to:

- (a) promptly correct any failure of the Software to perform according to its specifications; and
- (b) keep the Software current via updates, upgrades, new releases or other enhancements as they become available from time to time.

10. Warranties

You represent and warrant that:

- (a) you are authorised to use the payment method you provided and that any payment information you provide is true and accurate;
- (b) you have the legal power and authority to execute, deliver and perform your obligations under this agreement and the transactions contemplated by this agreement, and no limit on your powers will be exceeded as a result of the transactions contemplated by this agreement;
- (c) you have taken all necessary actions, and obtained all required consents, to enable you to execute, deliver and perform your obligations under this agreement, and any such authorisations are in full force and effect;
- (d) your obligations under this agreement are legal, valid, binding and enforceable; and
- (e) the execution, delivery and performance of this agreement by you does not and will not violate, breach, or result in the contravention of:
 - (i) any law, resolution or authorisation;
 - (ii) any document that is binding upon you or any of your assets; or
 - (iii) if applicable, your constitution or other constituent documents.

11. Disclaimer of warranties and limitation of liability

Disclaimer of warranties

11.1 To the maximum extent permitted by law, we expressly disclaim all representations, warranties and guarantees (whether implied, statutory or otherwise) in relation to the Software, including any implied warranty of merchantability, fitness for a particular purpose or non-infringement.

11.2 The Software and Support and Maintenance are provided strictly on an 'as is' basis and, to the maximum extent permitted by law, we make no representation, warranty or guarantee as to the reliability, timeliness, quality, suitability, truth, availability, accuracy or completeness of the Software and in particular we do not represent, warrant or guarantee that:

- (a) your use of the Software will be secure, timely, uninterrupted or error-free or operate in combination with any other hardware, software, system or data;
- (b) the Software will meet your requirements or expectations;

- (c) errors or defects will be corrected; or
- (d) the Software and the servers that make them available will be free of viruses or other harmful components.

Third-party products

- 11.3 You may choose to use or procure other third-party products or services in connection with the Software, including third-party applications or implementation, customisation, training or other services. Your receipt or use of any third-party products or services is subject to a separate agreement between you and the third-party provider.
- 11.4 If you enable or use third-party products or services with the Software, you acknowledge that the third-party providers may access or use your data as required for the interoperation of their products and services with the Software. This may include transmitting, transferring, modifying or deleting your data or storing your data on systems belonging to third-party providers or other third parties. Any third-party provider's use of your data is subject to the applicable agreement between you and such third-party provider. We are not responsible for any access to, or use of, your data by third-party providers or their products or services, or for the security or privacy practices of any third-party provider or its products or services. You are solely responsible for your decision to permit any third-party provider or third-party product or service to use your data.
- 11.5 We disclaim all liability and responsibility for any third-party products or services (whether support, availability, security or otherwise) or for the acts or omissions of any third-party providers or vendors.

Exclusion of liability

- 11.6 To the maximum extent permitted by law, we exclude all liability to you or any other person for any Losses arising directly or indirectly out of, or in connection with, any use of, or reliance upon, the Software by you or any other person (provided that nothing in this clause 11.6 absolves us of our obligations as expressly set out in this agreement, subject always to the liability cap under clause 11.8).

Waiver and release

- 11.7 You hereby irrevocably release us from, waive the right to bring, and covenant not to bring, any Claim that you have, or would otherwise have had, against us arising directly or indirectly out of, or in connection with, any use of, or reliance upon, the Software by you or any other person and acknowledge and agree that this waiver and release may be pleaded as a bar and complete defence to any such Claims (provided that nothing in this clause 11.7 absolves us of our obligations as expressly set out in this agreement, subject always to the liability cap under clause 11.8).

Liability cap

- 11.8 Our total aggregate liability for all Claims under or in respect of this agreement is limited to the aggregate amount of the Fees paid by you under this agreement in the 12-month period preceding the event giving rise to the Claim or, for multiple Claims the 12-month period ending on the date of the latest Claim.

Remedies limited

11.9 Without limiting or derogating from the liability cap under clause 11.8, to the maximum extent permitted by law, we expressly limit our liability for breach of any non-excludable condition or warranty implied by virtue of any legislation to the following remedies (the choice of which is to be at our sole discretion):

- (a) the supply of the services again; and/or
- (b) the payment of the cost of having the services supplied again.

Force Majeure Event

11.10 To the maximum extent permitted by law, and without limiting any other provision of this agreement, we exclude liability for any delay in performing any of our obligations under this agreement where such delay is caused by a Force Majeure Event, and we shall be entitled to a reasonable extension of time for the performance of such obligations.

12. Indemnities

You will indemnify and hold us harmless against all Losses that may be suffered or incurred by us arising directly or indirectly out of, or in connection with:

- (a) any breach of this agreement by you;
- (b) your negligent acts or omissions; and/or
- (c) any Claim brought, or threatened to be brought, by a third party against us alleging that your use of the Software constitutes an infringement of any IP Rights of the third party.

13. Intellectual property rights

Makesure retains ownership

13.1 You acknowledge and agree that:

- (a) this agreement does not transfer or assign any IP Rights to you;
- (b) we own and retain all IP Rights in the Software and Documentation including any and all Improvements that may be created or developed by you; and
- (c) you have no IP Rights in any part of the Software or Documentation, including any Improvements thereof, other than the rights granted to you pursuant to clause 2.2 and you must not take any step to invalidate or prejudice our title thereto.

Ownership of User Data

13.2 We acknowledge and agree that you own and retain all IP Rights in the User Data submitted, uploaded, transmitted, generated or otherwise made available to or through the Software. Solely to the extent necessary to provide the Software and DVS services to you, you grant us a worldwide, limited-term licence to access, use, process, copy, distribute, perform, export, and display your User Data.

Trademarks

- 13.3 The Trademarks are unregistered trademarks owned by us and/or our licensors or affiliates. You may not use any of the Trademarks without our prior written consent. You must comply with our reasonable usage guidelines and directions with respect to the Trademarks as notified to you from time to time.

Feedback

- 13.4 We welcome your comments, feedback, suggestions, information and other communications regarding the Software and Support and Maintenance – however, please note that:
- (a) any such feedback will be and remain our exclusive property and you will relinquish any right, title or interest in such feedback immediately upon it being sent to us;
 - (b) we will be entitled to use, exploit, improve, make, copy, disclose, display or perform publicly, distribute, improve and modify any such feedback for any purpose whatsoever without restriction; and
 - (c) we will not compensate you for any such feedback.

14. IP Ownership Claims

- 14.1 You must promptly notify us of any actual or suspected infringement of, or attack or challenge to the ownership or registration of, any of our IP Rights in the Software that comes to your attention (each an **IP Ownership Claim**).
- 14.2 We will have absolute discretion to decide what action to take in respect of any IP Ownership Claim and sole conduct of any related legal proceedings (including any legal proceedings conducted in our name or in the joint names of you and us). Accordingly, you must:
- (a) not bring any legal proceedings in respect of any IP Ownership Claim without our prior written consent; and
 - (b) cooperate fully with us, and take all steps requested by us in our discretion, in defending any IP Ownership Claim, provided that we will be responsible for the cost of any related legal proceedings and entitled to any damages, account of profits and/or awards of costs recovered in respect thereof,
- and you must ensure that any and all of your assignees or sub-licensees do the same.

15. Confidentiality

Confidentiality obligations

- 15.1 Subject to clauses 15.2, 15.3 and 15.5, the Recipient must:
- (a) keep the Confidential Information of the Disclosing Party confidential and not disclose or make available that Confidential Information in whole or in part to any third party;

- (b) not use or exploit that Confidential Information in any way except for the purposes of complying with its obligations and exercising its rights under this agreement; and
- (c) implement and maintain effective security measures to prevent unauthorised use and disclosure of that Confidential Information whilst it is in the Recipient's possession or control.

Disclosure to authorised Representatives

15.2 The Recipient may disclose the Confidential Information of the Disclosing Party to the Recipient's Representatives but only to the extent that they have an actual need to know the Confidential Information in order for the Recipient to properly perform its obligations and exercise its rights under this agreement and provided that the Recipient:

- (a) must ensure that all such Representatives:
 - (i) comply with the obligations in this agreement as if each of them was a party to this agreement in the place of the Recipient; and
 - (ii) do not do, or omit to do, anything which, if done or omitted to be done by the Recipient, would constitute a breach of this agreement by the Recipient; and
- (b) will be responsible for, and liable to the Disclosing Party in respect of, the actions and omissions of any and all of its Representatives in relation to that Confidential Information as if they were its own actions or omission.

Other exceptions

15.3 Subject to clause 15.4, the obligations in clause 15.1 do not apply to any Confidential Information which (as shown by appropriate documentation and other evidence in the Recipient's possession):

- (a) either:
 - (i) is or becomes generally available to the public;
 - (ii) was already known to the Recipient or its Representatives on a non-confidential basis prior to the time of its first disclosure (whether direct or indirect) by the Disclosing Party to the Recipient; or
 - (iii) is received by the Recipient (whether directly or indirectly) from a third party after that time,

unless it became so generally available, known or received (as applicable) as a direct or indirect result of an unlawful act or breach of confidentiality about which the Recipient knew or ought reasonably (after due enquiry) to have known;
- (b) is required by law or court order to be disclosed, provided that the Recipient must:
 - (i) promptly notify the Disclosing Party in writing in advance of any such disclosure, if reasonably practicable; and
 - (ii) reasonably assist the Disclosing Party in obtaining confidential treatment for, or avoiding or minimising such disclosure of, the relevant

Confidential Information to the extent reasonably requested by the Disclosing Party;

- (c) is independently developed by the Recipient or its Representatives without any direct or indirect use of, reference to, or reliance on any Confidential Information of the Disclosing Party; or
- (d) subject to clause 15.5, is authorised for release or use by the written pre-approval of the Disclosing Party but only to the extent of such written pre-approval.

15.4 The exceptions in clause 15.3 do not apply to any specific Confidential Information merely because it is included in more generally non-confidential information, nor to any specific combination of Confidential Information merely because individual elements, but not the combination, are included in non-confidential information.

Announcements

15.5 At any time during the term of this agreement, either party may publicly disclose (including via a statement on its website or in a press release or other public announcement) the fact that you have a subscription to use the Software, and that fact alone, without needing any consent of the other party. For the avoidance of doubt, any further public statement regarding this agreement or the Software may not be made without the written pre-approval of the other party under clause 15.3(d) or pursuant to another exception in clause 15.3. Neither you nor Makesure is permitted to make any public statement about using the DVS System.

16. GST

- 16.1 In this clause 16, terms used have the meanings given to them by the GST Law.
- 16.2 Unless expressly stated otherwise, any sum payable, or amount used in the calculation of a sum payable, under this agreement has been determined without regard to GST and must be increased on account of any GST payable under this clause 16.
- 16.3 If any GST is payable on any taxable supply made under this agreement to the recipient by any other party, the recipient must pay the GST to us on the earlier of:
- (a) the time of making payment of any monetary consideration on which the GST is calculated; and
 - (b) the issue of an invoice relating to the taxable supply.
- 16.4 The recipient must pay the GST in the same manner as making payment of any monetary consideration on which the GST is calculated. We must provide, as a precondition to payment by the recipient of the GST, a tax invoice or a document that the Commissioner will treat as a tax invoice.
- 16.5 The amount recoverable on account of GST under this clause 16 by us will include any fines, penalties, interest and other charges incurred as a consequence of any late payment or other default by the recipient under this clause 16.
- 16.6 If any party is required to pay, reimburse or indemnify another party for the whole or any part of any cost, expense, loss, liability or other amount that the other party has incurred or will incur in connection with this agreement, the amount must be reduced

by the amount for which the other party (or Representative if this is not the other party) can claim an input tax credit, partial input tax credit or other similar offset.

17. Assignment and sub-licensing

17.1 You must not Dispose of your access to the Software, the Licence, the benefit of this agreement or any rights or obligations hereunder, whether in whole or in part, to any person without our prior written consent, which we may withhold or delay at our absolute discretion. We may provide any such consent subject to such conditions as we choose at our absolute discretion to impose. For the purposes of this clause 17.1, a Change of Control in respect of you will be deemed to constitute a Disposal of your rights under this agreement requiring our prior written consent in accordance with this clause 17.1.

18. Changes to this agreement

We may modify the Terms with notice given to you by email, through the Software or through our Website.

19. Notices

19.1 We will send you notices via email or regular mail. We may also display notices in the Software and/or the Website.

19.2 A notice is deemed to have been received:

- (a) if delivered by hand, at the time of delivery;
- (b) if sent by pre-paid post, 48 hours from the date of posting;
- (c) if sent by email on the date and time of the sent time (as recorded on the sender's email server), unless the sender receives a notice from the party's email server or internet service provider that the message has not been delivered to the; or
- (d) if displayed in the Software and/or the Website, at the time the notice is posted in the Software and/or the Website,

except that, if such deemed receipt is not within business hours (meaning 9:00 am to 5:30 pm on a Business Day), the notice will be deemed to have been received at the next commencement of business hours in the place of deemed receipt.

20. General

Further assurances

20.1 Each party must (at its own expense, unless otherwise provided in this agreement) promptly execute and deliver all such documents, and do all such things, as any other party may from time to time reasonably require for the purpose of giving full effect to the provisions of this agreement.

Relationship of the parties

20.2 This agreement does not create any partnership, joint venture or agency relationship between the parties. No party has the authority to bind any other party.

Entire agreement

20.3 This agreement contains the entire understanding between the parties in relation to its subject matter and supersedes any previous arrangement, understanding or agreement relating to its subject matter. There are no express or implied conditions, warranties, promises, representations or obligations, written or oral, in relation to this agreement other than those expressly stated in it or necessarily implied by statute.

Severability

20.4 If a provision of this agreement is invalid or unenforceable in a jurisdiction:

- (a) it is to be read down or severed in that jurisdiction to the extent of the invalidity or unenforceability; and
- (b) that fact does not affect the validity or enforceability of that provision in another jurisdiction, or the remaining provisions.

No waiver

20.5 No failure, delay, relaxation or indulgence by a party in exercising any power or right conferred upon it under this agreement will operate as a waiver of that power or right. No single or partial exercise of any power or right precludes any other or future exercise of it, or the exercise of any other power or right under this agreement.

Ipsso facto legislation

20.6 If any provision of this agreement is otherwise unenforceable by virtue of the operation of the Treasury Laws Amendment, upon the occurrence of an Insolvency Event in respect of a particular party, notwithstanding any other provision of this agreement, to the maximum extent permitted by law:

- (a) time is of the essence in respect of all obligations of that party under this agreement (whether falling due for performance before, upon or after the occurrence of that Insolvency Event); and
- (b) any breach of this agreement by that party (whether occurring before, upon or after the occurrence of that Insolvency Event), however minor, will (alone or, severally, in combination with the occurrence of that Insolvency Event) be deemed to be a material breach of this agreement,

and, if any such material breach has occurred or occurs, the parties acknowledge and agree that such provision will instead be enforceable by virtue of the occurrence of that material breach.

Governing law and jurisdiction

20.7 This agreement and any disputes or claims arising out of or in connection with its subject matter or formation (including non-contractual disputes or claims) are governed by, and shall be construed in accordance with, the laws of Victoria, Australia.

20.8 The parties irrevocably agree that the courts of Victoria, Australia have exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with, this agreement or its subject matter or formation (including non-contractual disputes or claims).

Your concerns

20.9 Should you have any questions concerning the Software, Support and Maintenance and/or this agreement, please contact us at customer@makesure.com.au.

* * * *

Schedule 1 – Subscription Terms and Payment Options

Payment via monthly invoice		
Invoice frequency	Monthly following end of month	
Fees	Charged as set out in Schedule 2	
Payment of Invoices	Within 30 days of the receipt of the invoice	
Address for Invoices	Client contact name and email address	
Upfront payment and use of credit points		
Minimum upfront payment amount		
Fees	Charged as set out in Schedule 2	
Contact details	Client contact name and email address	

Schedule 2 - Fees

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Schedule 3



Australian Government

Department of Home Affairs

Document Verification Service Business User

TERMS AND CONDITIONS OF USE

Introduction

- 1 Your access to and use of the DVS is subject to these Document Verification Service Business User Terms and Conditions of Use (these Conditions).

1. Use or disclosure of Any Australian Government Related identifier

- 2 You must not use or disclose a Australian Government Related Identifier of an individual unless:
 - 2.1 the use or disclosure of the identifier is reasonably necessary for you to verify the identity of the individual for the purposes of your activities or functions; or
 - 2.2 the use or disclosure of the identifier is reasonably necessary for you to fulfil your obligations to an Agency or an Australian State or Territory Authority; or
 - 2.3 the use or disclosure of the identifier is required or authorised by or under an Australian law or a court/tribunal order.
- 3 You acknowledge that, where you are subject to the Australian Privacy Act, a breach of clause 2 would also involve a breach of Australian Privacy Principle 9.2¹.

2. Pre-conditions to DVS use

- 4 To be able to connect to the DVS you must:
- 5 be carrying on a business in Australia and/or New Zealand;
- 6 have an operational DVS Business User ID;
- 7 either yourself be a current Approved Gateway Service Provider or have in place an arrangement with a third party current Approved Gateway Service Provider;
- 8 ensure any DVS Information Match Results you receive are recorded so as to allow the DVS Manager to efficiently and effectively audit your compliance with these Conditions; and
- 9 meet all other requirements the DVS Manager may advise you of relating to your access and use of the DVS.
- 10 You represent and warrant all information provided to the DVS Manager and to your Approved Gateway Service Provider by any means and at any time, including in, or in relation to, any application in relation to your access to or use of the DVS to use the DVS, is true, correct, accurate and not misleading.
- 11 You acknowledge and agree that you will be legally bound by and must observe the Document Verification Service Business User Terms and Conditions of Use (which you have acknowledged that you have received, read and understood prior to contracting with your Approved Gateway Service Provider) as and from the date the DVS Manager advises you in writing that you have been registered as an 'Approved Business User'.
- 12 You further acknowledge and agree that in consideration of Austroads and Registries of Births, Deaths and Marriages (BDMs) agreeing with Home Affairs to provide Information Match Results in relation to State and Territory document information in

¹ For details of the Australian Privacy Principles see [Privacy fact sheet 17: Australian Privacy Principles](#) or Schedule 1 to the Australian Privacy Act

connection with the Document Verification Service and to perform other obligations to the DVS Manager, as and from the time you first issue an Information Match Request in respect of a State or Territory Supported Document you will be legally bound by and must observe the Document Verification Service Business User Terms and Conditions of Use under an additional and separate contract with Austroads and BDMs.

- 13 You acknowledge and agree that you will only seek access to, and you undertake only to use, address details from the Australian Electoral Commission, or any associated Information Match Results, for the purposes of the *Anti-Money Laundering and Counter Terrorism Financing Act 2006* (Cth) or the *Financial Transactions Reports Act 1988* (Cth).

3. Use

- 14 You must ensure that all your Personnel are aware of and comply with all provisions of these Conditions that are relevant to their role, function and duties.
- 15 You must ensure that your use of the DVS does not (and does not attempt to) modify, interfere with, disrupt, adversely affect or misuse the DVS or DVS functionality in any way, or interfere with or disrupt use of the DVS by any other person.
- 16 You must ensure that, your access to and use of the DVS (which includes submission of Information Match Requests) and your access to and use of Information Match Data complies with all laws, regulatory requirements, and complies with all codes of conduct to which you ascribe.
- 17 You must promptly provide the DVS Manager with any information the DVS Manager requests in respect to your access to or use of the DVS, including any routine reports and certifications.
- 18 You must strictly comply with all requirements, instructions and guidance the DVS Manager advises you in respect to your access to and use of the DVS and Information Match Data and any other related matter.
- 19 Your use of the DVS must at all times comply with all applicable laws, without limitation including all relevant Privacy Laws. Unless authorised in writing by the DVS Manager, you must not use or disclose any personal information obtained through your use of the DVS for any purpose other than your access and use of the DVS.
- 20 Except as may be specifically authorised by the DVS Manager in writing, you must:
 - 15.15 only access and use the DVS and DVS Data in Australia and / or New Zealand;
 - 15.16 not allow any person other than your authorised Personnel to access or use Information Match Data or your DVS Business User ID;
 - 15.17 only access and use the DVS and Information Match Data exclusively for your own internal purposes;
 - 15.18 not use the DVS or collect, store or use Information Match Data for any purpose associated with the provision, or potential provision of, an information service to any person;
 - 15.19 not use or disclose any personal information (as defined in relevant Privacy Laws), if any, contained in any Information Match Result or otherwise provided by the DVS Manager for any purpose other than your access and use of the DVS; and
 - 15.20 not make any public statement concerning the DVS or your access to or use of it.
 - 15.21 for any organisation outside Australia or New Zealand seeking to connect to the DVS, permission for access and use of the DVS must be sought in writing from the DVS Manager, as per clause 20. When seeking this permission, such organisations must specify the processes and procedures that they have in place to mitigate any risks, in terms of the handing of any personal information accessed on the DVS.

- 21 You must not, by act or omission, directly or indirectly, mislead any person in relation to the DVS, your access to or use of the DVS or any related matter.
- 22 You and your Approved Gateway Service Provider must fully cooperate with and support any audit or verification process the DVS Manager (or our agents) wishes to conduct to verify your compliance with these Conditions, without limitation including providing the DVS Manager with prompt access to relevant records, systems, premises and facilities. You authorise the DVS Manager access to any records or information held by any Approved Gateway Service Provider relevant to your access to or use of the DVS.

4. Privacy, consent and information use

- 23 You must ensure that your use of the DVS and Information Match Data complies with all relevant Privacy Laws.
- 24 You must ensure that each individual providing details in a Supported Document to you:
 - 18.1 confirms they are authorised to provide those details to you;
 - 18.2 is informed of the purpose for which that information is sought and will be used by you including that:
 - (a) the information will be subject to an Information Match Request in relation to relevant Official Record Holder information;
 - (b) that the Information Match Request, the Information Match Result and other Information Match Data and your access to and use of the DVS, may involve use of third-party systems and services; and
 - (c) as relevant, that information provided to or by you in or from Australia will be transmitted to New Zealand or vice versa; and
 - 18.3 provides you with their express consent for such use and accessing such information, and as relevant, such transmission, prior to any such use or access or transmission being initiated or made by you and that you keep full and proper records of all such disclosures, confirmations and consents.

5. Your facilities

- 25 You must provide everything that you need to access and use the DVS and ensure that your equipment and facilities are properly configured and otherwise meets all relevant requirements advised by the DVS Manager.

6. Fees and charges

- 26 You must pay all fees and charges advised to you in respect to you being a DVS Business User. Unless specifically stated to the contrary, all fees, once incurred are payable and once paid are non-refundable, including where your access to or use of the DVS is cancelled, suspended or terminated for any reason.

7. Security

- 27 You must comply with all security procedures advised to you in relation to the DVS and take all reasonable action to protect and maintain the security of the DVS and your access to and use of it, including, without limitation, maintaining the security of all tokens, access codes, encryption keys and other information relating to access, authentication or security relating to the DVS.
- 28 You must take all reasonable action to prevent and detect unauthorised use of the DVS and your Business Access System.

- 29 You must immediately notify the DVS Manager if you know or suspect that access or authentication security information has been compromised or any other kind of unauthorised use or security breach has occurred, or if you know or suspect that there is a security vulnerability, fault, error or problem in the DVS or any Information Match Result.

8. Updates and changes to the DVS

- 30 The DVS may be upgraded, and its features, functionality and other characteristics may change from time to time. The DVS Manager will endeavour to provide reasonable notice of any changes that the DVS Manager considers is not routine and should be advised to DVS Business Users. You acknowledge that it may not be reasonably possible to provide notice in all circumstances and that in no event will the DVS Manager be obliged to provide notice exceeding 14 days.

9. The DVS is provided 'as is' and 'as available'

- 31 The DVS has been implemented in a technical environment that is designed to provide high availability and be fault tolerant. However, as with any technology-based facility, the speed and characteristics of the DVS will vary at different times and under different circumstances and the DVS may not always work as described, and the DVS and Information Match Results may be subject to faults, errors, interruption or breakdown or be fully or partially unavailable. You acknowledge and agree that subject to clause 34, your access to and use of the DVS is on an 'as is, as available' basis only, and without limiting the foregoing:
- 25.1 you must ensure your business processes and operations can be satisfactorily conducted despite the DVS or Information Match Data being subject to faults, errors, interruption or breakdown or be fully or partially unavailable for any reason; and
 - 25.2 any information the DVS Manager provides regarding availability, performance or other service levels or characteristics relating to the DVS, no matter how expressed, are non-contractual statements of intent only and do not constitute a representation or warranty of any kind.
- 32 You acknowledge and agree that you:
- 26.1 are solely responsible for your business processes and decisions;
 - 26.2 must, where any issues arise with your customers or other stakeholders that in any way relate to your access to or use of the DVS or Information Match Data, ensure that the relevant customers and stakeholders understand that you are the sole point of contact in relation to those issues; and
 - 26.3 must manage and resolve all such issues yourself as expeditiously as possible and without seeking to involve the DVS Manager in any way.

10. Changes to these conditions

- 33 The DVS Manager can update or otherwise vary these Conditions by not less than 45 days prior written notice to you.

11. Cancellation

- 34 THE DVS MANAGER WILL PROMPTLY CANCEL YOUR DVS BUSINESS USER ID IF YOU NOTIFY THE DVS MANAGER TO DO SO. THE DVS MANAGER WILL ADVISE YOU ONCE CANCELLATION HAS BEEN AFFECTED.**

12. SUSPENSION AND TERMINATION

- 35 The DVS Manager may refuse access to the DVS or suspend its operation in whole or in part either for you as a specific DVS Business User, for any Approved Gateway Service Provider or generally, at any time for any reason the DVS Manager thinks fit.
- 36 The DVS Manager may terminate your DVS Business User ID:
 - 30.1 with or without cause at any time by not less than 45 days prior written notice to you; and
 - 30.2 where you have breached these Conditions, immediately by written notice to you.

13. Indemnity

- 37 Subject to clause **Error! Reference source not found.**, you indemnify the DVS Manager against any loss, damage, cost, expense (including legal expenses on a solicitor and own client basis), claim, proceeding or liability of any kind that the DVS Manager (or our Personnel) may incur, that arises (no matter how arising including from negligence by the DVS Manager) out of or in connection with, your use (including unauthorised use) of your DVS Business User ID, your access to or use of the DVS and Information Match Data, the correctness or otherwise of Information Match Data, your Gateway Service or the lawful exercise of our rights pursuant to these Conditions.

14. Priority

- 38 To the extent of any inconsistency between a provision in this document and any other provision forming part of these Conditions, the provision in this document will prevail.

15. Disclaimer and liability

- 39 You acknowledge that we provide Information Match Results based on information provided to us by Official Record Holders and third parties and that we have not independently verified the accuracy or completeness of the information provided. Subject to clause **Error! Reference source not found.**, the DVS and Information Match Results are made available without any representation or warranty of any kind (without limitation in respect to the accuracy of Information Match Results) and the DVS Manager has no liability to you in respect of any loss or damage that you might suffer no matter how arising (including from negligence by the DVS Manager) that is directly or indirectly related to the DVS, or Information Match Data or any other relevant matter, without limitation including any Gateway Service and, any Approved Gateway Service Provider.
- 40 Except as set out in this clause **Error! Reference source not found.**, nothing in these Conditions excludes, restricts or modifies the application of, or liability in respect of, any consumer guarantee that applies to these Conditions under the Australian Consumer Law (Consumer Guarantee). Our liability for any failure by the DVS Manager to comply with a Consumer Guarantee that applies to these Conditions is limited to the DVS Manager (at our election):
 - 34.1 supplying the services again; or
 - 34.2 paying the cost of having the services supplied again,except where it is not 'fair or reasonable' (as contemplated under section 64A of the Australian Consumer Law) for the DVS Manager to do so.

16. Notice

- 41 The DVS Manager may advise or notify you of any matter in relation to the DVS and these Conditions by email, mail, facsimile or telephone to any relevant address or number that you have provided to the DVS Manager.

17. Applicable law and jurisdiction

- 42 These Conditions are governed by, and are to be construed in accordance with, the laws of the Australian Capital Territory.
- 43 The DVS Manager and you irrevocably and unconditionally submit to the non-exclusive jurisdiction of the courts of the Australian Capital Territory and any courts that have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.

18. Definitions

- 44 In these Conditions, unless the context implies a contrary intention, the following terms have the meaning set out below:

Agency means an *agency* as defined in the Australian Privacy Act.

Approved Gateway Service Provider means a provider of a Gateway Service that is at all relevant times approved by the DVS Manager.

Australian Consumer Law means Schedule 2 to the *Competition and Consumer Act 2010* (Cth) and the corresponding provisions of the Australian Consumer Law (ACT) or any other state or territory as applicable.

Australian Privacy Act means the *Privacy Act 1988* (Cth)

Australian Government Related Identifier means a *government related identifier* as defined in the Australian Privacy Act (as at the date of publication of these Conditions being an *identifier of an individual that has been assigned by*:

- a) a Commonwealth government agency
- b) an Australian state or territory
- c) an agent of a Commonwealth government agency, or an Australian state or territory authority, acting in its capacity as an agent, or
- d) a contracted service provider for an Australian Commonwealth or state or territory contract, acting in its capacity as a contracted service provider for that contract).

Australian State or Territory Authority means a *State or Territory authority* as defined in the Australian Privacy Act.

Austroads means Austroads Ltd ACN 136 812 390.

BDMs means Registries of Births, Deaths and Marriages in Australian States and Territories.

Business Access System means systems and facilities that you use to connect to and interact with the DVS.

DVS means the system (including all associated services, infrastructure, applications, facilities, functionality, data, information and material, whether belonging to or operated by the DVS Manager or a third party) established by the DVS Manager to provide Information Match Results (but does not include any Gateway Service).

DVS Business User ID means a number or other mechanism (and associated access credentials) provided by the DVS Manager by which you are uniquely identified to the DVS Manager for purposes including accessing the DVS, transaction processing, and record keeping.

DVS Manager means Commonwealth of Australia acting and represented by the Department of Home Affairs and, in relation to clauses 25, 31, 33 and 34, also includes each Official Record Holder and (in the case of State and Territory information) Austroads and BDMs.

DVS Testing Environment means any system or facility the DVS Manager makes available to you for testing purposes.

Gateway Service means the services and facilities (forming part of your Business Access System) by which your internal systems connect to the DVS.

Home Affairs means the Department of Home Affairs acting for and representing the Commonwealth of Australia. **Information Match Data** means data and information in or relating to Information Match Requests or Information Match Results.

Information Match Request means an electronic request to the DVS by a User (required to be submitted in a structured electronic format advised by the DVS Manager) to be provided with an Information Match Result in relation to the details of relevant information in a Supported Document.

Information Match Result means, in respect to an Information Match Request, an electronic response indicating that the information provided in the request either matches or does not match the relevant official record data, or that a system error has been encountered in trying to process that request.

New Zealand Privacy Act means the *Privacy Act 1993* (NZ).

Official Record Holder means, in respect of each Supported Document, the entity against whose official record data the information submitted in an Information Match Request is matched (or attempted to be matched) via the DVS.

Our means the DVS Manager.

person includes a natural person, partnership, unincorporated or incorporated association, corporation or body politic.

personal information has the meaning defined in the relevant Privacy Law.

Personnel includes employees, officers, directors, contractors and agents.

Privacy Laws means the Australian Privacy Act; the New Zealand Privacy Act and any other law relating to privacy or personal information which you may be subject to.

Supported Document means a type of document (for example an Australian Passport or Australian Citizenship Certificate) that is supported by the Document Verification Service.

we and **us** means Commonwealth of Australia acting represented by the Department of Home Affairs and, in relation to clauses **Error! Reference source not found.**, **Error! Reference source not found.**, **Error! Reference source not found.** and **Error! Reference source not found.** also includes each Official Record Holder and (in the case of driver's licence information) Austroads and BDMs.

User means each person (and, if relevant, each automated system) who can initiate an Information Match Request in relation to your DVS Business User ID.

you mean the relevant DVS Business User, and, as the context admits, each relevant User.



Document Verification Service Business User Addendum 1 – Document Availability

Document Type	Availability
Australian Driver Licences	All Australian States and Territories (Qld, NSW, ACT, Vic, Tas, SA, WA, NT)
Medicare Cards	Australian Resident (Green)
	Interim Card (Blue)
	Reciprocal Health Care Agreement (Yellow)
Centrelink Concession Cards	Health Care Card
	Pensioner Concession Card
	Commonwealth Seniors Health Care Card
Australian Travel Documents	Passport (including Ordinary, Frequent traveller, Diplomatic, Official and Emergency)
	Certificate of Identity
	Document of Identity
	UN Convention Travel Document
Australian Visas	Not including: Some Bridging Visas and Humanitarian Visas (PLO56)
Citizenship Certificates	
Registration by Descent Certificates	
ImmiCards	Evidence of Immigration Status (EIS) ImmiCard
	Permanent Residence Evidence (PRE) ImmiCard
	Residence Determination (RDI) ImmiCard
	Australian Migration Status (AMS) ImmiCard
Birth, Marriage, Death and Change of Name Certificates	All Australian States and Territories (Qld, NSW, ACT, Vic, Tas, SA, WA, NT)
Aviation and Maritime Security Identification Cards (ASIC/MSIC)	
Address Details from the Australian Electoral Commission (AEC)	This document type is only available to selected organisations, and then only for <i>Anti-Money Laundering and Counter Terrorism Financing Act 2006</i> (Cth) or <i>Financial Transaction Reports Act 1988</i> (Cth) purposes.