

# InfoTrack General Terms and Conditions (Services)

## 1. Definitions

**'Authorised Purposes'** means a purpose directly related to the Service provided that that purpose is not contrary to Law but does not mean data aggregation, data matching, marketing, compilation or mailing lists, list brokering, or any related purpose except to the extent that such data aggregation, data matching, marketing, compilation or mailing lists, list brokering or the like is required under Law (including any obligation under a court order);

**'Confidential Information'** in relation to a party (**Disclosing Party**) means any information disclosed by the Disclosing Party to the other party (**Receiving Party**) under this Agreement that:

- (a) is by its nature confidential;
- (b) is designated by the Disclosing Party as confidential; or
- (c) the Receiving Party knows or ought to know is confidential,

but does not include information that is:

- (d) in the public domain otherwise than as a result of a breach of this Agreement;
- (e) already known by the Receiving Party independently; or
- (f) independently developed or obtained by the Receiving Party without breach of this Agreement.

**'Court Sync Service'** means the service described in clause 6.2.

**'InfoTrack Go Services'** means those products and services available at [www.infotrackgo.com](http://www.infotrackgo.com), [www.infotrackgo.com.au](http://www.infotrackgo.com.au) and [www.infotrackgo.co.uk](http://www.infotrackgo.co.uk).

**'Insolvency Event'** in relation to a party means the occurrence of any of the following:

- (a) a receiver, receiver and manager, liquidator, provisional liquidator, administrator or trustee is appointed in respect of that party or any of its assets;
- (b) an application is made to court or a resolution is passed or an order is made for the winding up or dissolution of that party;
- (c) that party proposes or takes any steps to implement a scheme of arrangement or other compromise or arrangement with its creditors or any class of them; or
- (d) that party is declared or taken under any applicable law to be insolvent or that party's board of directors resolves that it is, or is likely to become at some future time, insolvent.

**'Intellectual Property Rights'** means all industrial and intellectual property rights both in Australia and throughout the world, whether now known or devised in the future, and for the duration of the rights including any patents, copyright, registered or unregistered trade marks or service marks, registered designs and commercial names and designations, circuit layouts, database rights, and rights in relation to confidential information, insights, analytics and trade secrets, whether or not registered or registrable.

**'Laws'** means (whether in Australia or any other relevant jurisdiction) all laws, codes, guidelines and the like, including rules of common law, principles of equity, statutes, regulations, proclamations, ordinances, by-laws, rules, regulatory principles and requirements, statutory

rules of an industry body, statutory and mandatory codes of conduct, writes, orders, injunctions, judgements and industry-wide non-statutory rules in force or as applicable from time to time.

'**Service**' means the InfoTrack online system, InfoTrack website, InfoTrack products, InfoTrack settlement, InfoTrack Go Services, Securexchange Services and other manual services and InfoTrack support, unless otherwise specified.

'**Securexchange Services**' means the services provided at [www.secureexchange.com.au/](http://www.secureexchange.com.au/).

'**User**' means an individual authorised to use the Service.

## **2. Term**

- (a) The User will be bound by the terms and conditions set out in this Agreement from the date that the User first accesses or uses the Services.
- (b) This Agreement will apply to all visitors, users, members, contributors and others who access the Services. Where such a person accesses the Services on behalf of an entity or organisation, that entity or organisation will be bound by this Agreement.

## **3. Updates to the InfoTrack Terms and Conditions (Services)**

- (a) Users can, at any time, access the then-current, latest version of the InfoTrack Terms and Conditions (Services) through a hyperlink on the relevant web page(s) including but not limited to: [www.infotrack.com.au](http://www.infotrack.com.au), [www.infotrackgo.com](http://www.infotrackgo.com) and [www.secureexchange.com.au](http://www.secureexchange.com.au) .
- (b) InfoTrack may from time to time vary the conditions of this Agreement, including Attachment A, by giving notice (for example, by way of email or push notification) of such variation to the User. This may include the prices at which the Service is to be provided however InfoTrack agrees not to vary the prices more than once every six (6) months.
- (c) In accessing the Services, it will be taken that the User accepts the updated conditions.

## **4. InfoTrack responsibilities**

- (a) InfoTrack provides the Services on a non-exclusive basis and nothing in this agreement prevents InfoTrack from providing services which are the same or similar to itself or to any third party.
- (b) InfoTrack will perform the Services:
  - (i) in a professional workmanlike manner
  - (ii) with due care, skill and diligence; and
  - (iii) in accordance with applicable Laws.
- (c) Where appropriate, engage suitably qualified third-party contractors for the provision of certain services, including but not limited to the SettleIT services.

## **5. User responsibilities**

- (a) The User will:
  - (i) use the Services for the Authorised Purposes;
  - (ii) be responsible for Users' compliance with this Agreement (including any applicable client order forms);

- (iii) use reasonable efforts to prevent unauthorised access to or use of the Services;
  - (iv) notify InfoTrack promptly if the User becomes aware of any possible or actual unauthorised access or use of the Services;
  - (v) ensure that the Users' use of the Services is in accordance with any applicable Laws;
  - (vi) accept all responsibility in relation to verifying data entered into any Service offered by InfoTrack, including, but not limited to, client details, court orders, and dates;
  - (vii) be responsible for verifying data has correctly synchronised with integrated platforms such as government websites and third-party software.
- (b) The User will not;
- (i) make the Services available to any person other than as specified in the client order form;
  - (ii) commercialise the Services;
  - (iii) use the Services to store or transmit illegal materials or malicious code.
  - (iv) use the Services in any way that may be illegal, obscene, threatening, defamatory, invasive of privacy, infringing intellectual property rights or otherwise injurious to third- parties.
  - (v) submit or upload any content containing viruses, political advertising, commercial solicitation, mass mailings, or any form of spam or any information or program that may damage the operation of anyone else's computer.
  - (vi) use a false e-mail address, impersonate any person or entity, or otherwise mislead anyone as to the Customer's origin (except to the extent that InfoTrack permits the use of a pseudonym, moniker, or Customer name).
- (c) The User warrants that all information that the User provides to InfoTrack may be used by InfoTrack in providing the Services without breaching or infringing:
- (i) any copyright, trade mark, obligation of confidentiality or other personal or proprietary right;
  - (ii) any law of defamation, obscenity or contempt of any court;
  - (iii) any law concerning privacy; or
  - (iv) any other law or applicable code (including any common law, statute, delegated legislation, rule or ordinance).
- (d) Certain government departments and agencies impose terms and conditions and limitations of liability in respect of the obtaining and use of information and searches from those departments and agencies. The User agrees to comply with the terms and conditions of supply and use imposed by any relevant government departments and agencies from time to time, including those which are extracted in Attachment "A" hereto.

## 6. Product specific terms and conditions

### 6.1 Securexchange

- (a) It is a condition precedent to InfoTrack providing the Securexchange Services that the User has registered with InfoTrack and provided all information required by InfoTrack in accordance with the forms and instructions for registration on <https://www.securexchange.com.au/>.
- (b) InfoTrack Guarantee
  - (i) Without limiting any other clause in this Agreement, InfoTrack guarantees up to A\$500,000 per Conveyancing Transaction in circumstances:
    - A. when the User has transferred funds to the trust account details entered by the User in Securexchange and verified by InfoTrack; and
    - B. the funds are for a Conveyancing Transaction; and
    - C. funds are lost due to third party intervention,

#### **(Eligibility Criteria)**

- (ii) When making a claim, InfoTrack reserves the right to assess a User's claim against the Eligibility Criteria, request relevant documents and conduct its own investigation. The decision of InfoTrack in all matters is final.
- (iii) InfoTrack reserves the right to modify or withdraw the InfoTrack Guarantee at any time.

### 6.2 Court Sync Service

- (a) Court Sync is a service offered by InfoTrack that downloads and synchronises court files to a User's practice management system. By using Court Sync, you agree to be bound by terms and conditions provided by the Federal Court of Australia, the Federal Circuit Court of Australia and the Family Court of Australia, located at:
  - (i) [www.comcourts.gov.au](http://www.comcourts.gov.au);
  - (ii) [www.fedcourt.gov.au](http://www.fedcourt.gov.au);
  - (iii) [www.federalcircuitcourt.gov.au](http://www.federalcircuitcourt.gov.au); and
  - (iv) [www.familycourt.gov.au](http://www.familycourt.gov.au),as updated from time to time.
- (b) By using Court Sync, you agree and acknowledge that InfoTrack may access the Commonwealth Courts Portal to retrieve and store data on your behalf. All documents are encrypted and stored within a secure environment.
- (c) InfoTrack makes no representation or warranty as to the accuracy, currency, reliability or completeness of data provided by the Commonwealth Courts Portal or data entered by Users into the Court Sync service.
- (d) InfoTrack accepts no liability for use of the Court Sync content or service. By using this service, the User holds InfoTrack harmless for any and all liability arising out of the User's use of the Court Sync service. The User acknowledges that any use of the

Court Sync service is entirely at the User's own risk and the User acknowledges and agrees that it is the User's responsibility to verify any data.

- (e) To "unsync" a court case or file:
  - (i) Open Court Sync screen;
  - (ii) Click "Settings";
  - (iii) Select the "Edit/Unsync File" button;
  - (iv) Select file/s; and
  - (v) Click "Done".

## **7. Payments and Charges**

### **7.1 InfoTrack services**

- (a) For the purpose of this clause 7.1, "Service" and "Services" excludes InfoTrack Go Services.
- (b) All charges are payable net thirty days from date of a tax invoice, or as otherwise specified by InfoTrack at its discretion.
- (c) InfoTrack reserves the right to retain service fees where a search result is cancelled, or the search result is NIL. Each refund is assessed based on its own merits and requires the relevant Authority to refund the applicable charges.
- (d) If the User defaults in paying any amounts due and payable in accordance with paragraph (b), InfoTrack reserves the right at its sole discretion, without limiting InfoTrack's other rights and remedies under this Agreement:
  - (i) to suspend access to the Service until such amounts are received in full; and
  - (ii) if payment is not made within 14 days of the due date specified in the tax invoice, to cease providing you access to the Service and terminate this Agreement with immediate effect.
- (e) If any amounts are due and payable but not received by InfoTrack within thirty (30) days from the date on which such amounts fall due (as specified in the order form), then, at InfoTrack's sole discretion, we may;
  - (i) terminate this Agreement (and any applicable client order form) immediately; and
  - (ii) transfer the right to receive, recover or pursue such amounts to a third party and the User will be liable to InfoTrack and/or the third party for any associated costs until such time as such amounts are paid in full to such third party;
- (f) In addition to 7.1(e) above, if:
  - (i) any amounts are due and payable but not received by InfoTrack within sixty (60) days from the date on which such amounts fall due (as specified in the order form) and
  - (ii) the amount owed is over \$150.00, and

- (iii) InfoTrack has requested payment of the debt either in person (for example by phone call) or in writing (for example, by sending an email or letter to the details the User provided on the order form) or is unable to contact the User

then, at InfoTrack's sole discretion, InfoTrack may notify a commercial credit reporting agency and provide the User with notice of InfoTrack's intent to do so.

## **7.2 InfoTrack Go Services**

- (a) For the avoidance of doubt, this clause 7.2 applies to InfoTrack Go Services only.
- (b) Certain aspects of the InfoTrack Go Service may be provided for a fee or other charge. If you elect to use paid aspects of the InfoTrack Go Service, you agree to the pricing and payment listed on the InfoTrack Go Service which we may update from time to time. InfoTrack Go Service may add new services for additional fees and charges, or amend fees and charges for existing services, at any time in its sole discretion.
- (c) All charges are payable upfront upon check-out or as otherwise specified by InfoTrack at its discretion.
- (d) All charges will be conducted in Australian Dollars (AUD) at the current market exchange rate, as determined by InfoTrack, excluding any applicable fees and charges.
- (e) If the User defaults in paying any amounts due and payable in accordance with paragraph 7.1, InfoTrack reserves the right at its sole discretion, without limiting InfoTrack Go's other rights and remedies under this Agreement:
  - (i) attempt to retry a payment up to three times; or
  - (ii) suspend access to the InfoTrack Go Service until such amounts are received in full.
- (f) All sales/orders are final.
- (g) InfoTrack reserves the right to retain fees and charges where a search result is cancelled, or the search result is nil. In this case, a request for a refund is assessed on its own merits and requires the relevant Authority to refund the applicable charges. InfoTrack's decision is final.
- (h) You may cancel your InfoTrack Go account at any time; however, there are no refunds for cancellation. In the event that InfoTrack suspends or terminates your account or this Agreement, you understand and agree that you shall receive no refund or exchange for any credits, any content or data associated with your account, or for anything else.

## **7.3 Court Sync Services**

- (a) For the avoidance of doubt, this clause 7.3 applies to Court Sync Services only.
- (b) By syncing a File with the Court Sync service, the User agrees they will be charged:
  - (i) An upfront fee of \$3.00 per File selected for syncing with the relevant practice management system; and
  - (ii) A recurring monthly activity fee of \$3.00 per File, payable only while the sync is active and the User receives updated information from the Commonwealth Courts Portal, including, but not limited to, changes to court events and orders, documents filed or parties.

- (c) All orders of Court Sync Services are final.
- (d) The charges in 7.3(b) above will be added to a User's monthly invoice and clause 7.1 applies.
- (e) InfoTrack reserves the right to change the fees in this clause 7.3 at any time.
- (f) Users may cancel Court Sync Services above at any time by un-syncing a File as per clause 6.2 above; however, there are no refunds for cancellation.
- (g) For the purpose of this clause, "File" means a court case or file within the relevant court systems specified in clause 6.2(a) above.

## 8. Payment information

- (a) All information that you provide in connection with a purchase or transaction or other monetary transaction interaction with the InfoTrack Service and/or InfoTrack Go Service must be accurate, complete, and current. You agree to pay all charges incurred by users of your credit card, debit card, direct debit or other payment method used in connection with a purchase or transaction or other monetary transaction interaction with the InfoTrack Service and/or InfoTrack Go Service at the prices in effect when such charges are incurred.

## 9. Taxes

- (a) Subject to clause 10 in relation to GST only, InfoTrack fees do not include any taxes, duties or charges imposed or levied in Australia or overseas (collectively, **Taxes**) in connection with this Agreement and its performance.
- (b) If InfoTrack have a legal obligation to pay or collect any Taxes on the Users' behalf or arising under paragraph (a), the User agrees that InfoTrack can invoice such amounts to the User, unless the User provides InfoTrack with an authorised tax exemption certificate from the appropriate taxing authority.

## 10. GST

- (a) Any consideration or amount payable under this Agreement (including any non-monetary consideration) (**Consideration**) is exclusive of GST.
- (b) If GST is or becomes payable on a Supply made under or in connection with this Agreement, an additional amount (**Additional Amount**) is payable by the party providing consideration for the Supply (**Recipient**) equal to the amount of GST payable on that Supply as calculated by the party making the Supply (in this clause 10 only, the **Supplier**) in accordance with the GST Law.
- (c) The Additional Amount payable under paragraph 10(b) is payable at the same time and in the same manner as the Consideration for the Supply.
- (d) If for any reason the amount of GST payable on a Supply varies from the Additional Amount payable by the Recipient under paragraph (b):
  - (i) the Supplier must provide a refund or credit to the Recipient, or the Recipient must pay a further amount to the Supplier, as appropriate;
  - (ii) the refund, credit or further amount (as the case may be) will be calculated by the Supplier in accordance with the GST Law; and
  - (iii) the Supplier must notify the Recipient of the refund, credit or further amount within 10 Business Days after becoming aware of the variation to the amount of GST payable. Any refund or credit must accompany such notification and the Recipient must pay any further amount within 5

Business Days after receiving such notification, as appropriate. If there is an Adjustment Event in relation to the Supply, the requirement for the Supplier to notify the Recipient will be satisfied by the Supplier issuing to the Recipient an Adjustment Note within 10 Business Days after becoming aware of the occurrence of the Adjustment Event.

- (e) Despite any other provision in this Agreement:
  - (i) if an amount payable under or in connection with this Agreement (whether by way of reimbursement, indemnity or otherwise) is calculated by reference to an amount incurred by a party, whether by way of cost, expense, outlay, disbursement or otherwise (**Amount Incurred**), the amount payable must be reduced by the amount of any Input Tax Credit to which that party is entitled in respect of that Amount Incurred; and
  - (ii) no Additional Amount is payable under paragraph (b) in respect of a Supply to which s 84-5 of the GST Law applies.
- (f) Any reference in this clause to an Input Tax Credit to which a party is entitled includes an Input Tax Credit arising from a Creditable Acquisition by that party but to which the Representative Member of a GST Group of which the party is a member is entitled.

## 11. Licence

- (a) In using the Services, the User grants to InfoTrack a non-exclusive, royalty-free, transferable, sub-licensable, worldwide license to host, use, distribute, modify, run, copy, publicly perform or display, translate, and create derivative works of your content (consistent with the InfoTrack Privacy Policy). The User can end this license anytime by deleting their account.

## 12. Warranty

- (a) Both parties warrant that they have the capacity, power and authority to enter into and perform this Agreement and have obtained all necessary approvals, consents and authorisations to enable it to do so.
- (b) To the maximum extent permitted by applicable law, InfoTrack provide the Services to the User on an "as is" basis and InfoTrack does not make or give any express or implied representations, conditions or warranties in relation to the Services, including InfoTrack do not warrant that the Services will operate uninterrupted, be free from defects or viruses or meet the Users' requirements.
- (c) Without limiting paragraph (b), the User acknowledges that:
  - (i) InfoTrack does not provide any legal advice or legal services, accounting or other professional services advice by providing the User access to the Services;
  - (ii) InfoTrack does not warrant or represent the accuracy, currency or quality of any legal or accounting information, any data provided by the User or any other information practice guides, legal forms, precedents, letters or documents which are provided as examples only and on the basis that the User is suitably qualified (or working under the direction of suitably qualified personnel) and will not rely on such documents;
  - (iii) InfoTrack does not warrant or represent the accuracy, currency, reliability or completeness of data provided by integrated platforms such as government websites and third-party software;



- (iv) InfoTrack does not warrant the accuracy or timeliness of searches provided by any government department or agency or other third-party provider;
- (v) InfoTrack does not warrant or represent that the Services can be accessed or operate without defects, data corruptions, software failures or performance degradation caused by viruses or by other software or components on the Users' or third-party hardware that may interfere with the Software (including any third party internet networks); and
- (vi) InfoTrack do not warrant or represent that any of data supplied by the User and hosted on InfoTrack servers is secure, can be accessed uninterrupted or will be free from defects and viruses or will be stored, hosted or accessed without any loss or damage, data corruption, software failures or degradation.

**13. Liability**

- (a) The Users' sole and exclusive remedy for InfoTrack's breach of any statutorily implied warranties, conditions or guarantees which cannot lawfully be excluded is, to the extent legally permitted, limited to, at InfoTrack's option, either providing those Services again or paying the cost of providing those Services again in respect of which the breach occurred.
- (b) To the maximum extent permitted by applicable law, InfoTrack excludes and will not be liable for any loss of revenue, business, anticipated savings or profits, loss of goodwill, loss of any data provided by the User to InfoTrack or for any indirect or consequential loss arising out of or relating to the Services or this Agreement (including any applicable client order form).
- (c) To the maximum extent permitted by applicable law, InfoTrack's liability arising under or in connection with this Agreement which is not otherwise excluded by paragraphs (a) and (b), is limited, in the aggregate, to the amounts paid or payable by the User to the service fees charged for the particular service to which such liability relates.
- (d) Our limitations and exclusions of liability as set out in this clause 13 apply regardless of the basis on which the relevant liability arises, whether in contract, tort (including negligence), equity, breach of statutory duty or otherwise.

**14. Users, password and user manuals**

- (a) InfoTrack shall issue the User with a User ID and Password allowing access to the Services. The User is responsible for the acts of its own employees and contractors and, without limitation must ensure that it protects the secrecy of any passwords issued to the User and controls the use of the Services by its employees and contractors. The User is responsible for all charges incurred on the User's account (and will pay such amounts as invoiced by InfoTrack as if such amounts were incurred by the User).
- (b) Where the User requests in writing that InfoTrack cancel a particular password or account, InfoTrack will use its reasonable endeavours to cancel that password or account as soon as practicable in normal business hours following receipt of that request.
- (c) The User must notify InfoTrack of any actual or suspected loss, theft or unauthorised use of the Service or passwords. InfoTrack is not liable for any activity or any unlawful or unauthorised access to the Service.

## 15. Additional Services, Upgrades and Enhancements

- (a) In introducing any additional services InfoTrack may add to or vary the conditions of this Agreement as they apply to those additional services by notification on-screen or by written notice to the User of variation to the terms and conditions of this Agreement. Usage of the additional services by the User after such notification shall be taken as agreement by the User to be bound by the conditions so displayed or notified.
- (b) From time to time InfoTrack may, at its sole discretion modify, upgrade, enhance or alter the Services at its sole discretion. All such modifications, upgrades, enhancements or alterations shall also be governed by the terms of this Agreement unless otherwise specified by InfoTrack.

## 16. Restrictions

- (a) Subject to the terms of this Agreement, we grant you a non-exclusive, non-transferable, revocable, limited licence to access and use the Software for the Term of this Agreement solely for your internal business purposes.
- (b) InfoTrack is the sole and exclusive owner of all right, title and interest (including all Intellectual Property Rights) in or in relation to the Services or any materials provided by InfoTrack under this Agreement.
- (c) InfoTrack is the owner of the copyright in the compilation of the information used to supply the Services, and in the reports supplied to Users when using InfoTrack's Services. InfoTrack has developed information technology, software and documentation that it may use to provide the information services to Users, and InfoTrack has copyright and other rights in those items. The User will not copy them, modify them, adapt them, reverse engineer them or infect them with viruses.
- (d) Except as permitted under this Agreement, the User must not, nor must the User authorise any third party to:
  - (i) rent, lease, reproduce, modify, adapt, create derivative works of, distribute, sell, sublicense, transfer, or provide access to the Service to a third party;
  - (ii) use the Service for any illegal purpose, or in violation of any laws (including without limitation data, privacy and export control laws);
  - (iii) interfere with any license key mechanism in the Service or otherwise circumvent mechanisms in the Service intended to limit your use;
  - (iv) reverse engineer, decompile, disassemble, or otherwise attempt to discern the source code of the components of the Service or reproduce all or any portion of the said components; and
  - (v) redistribute content from the Service (unless the content is specifically made for redistribution), without the written consent of InfoTrack, other than to the extent necessary to view the material as permitted by law.

## 17. Privacy

- (a) InfoTrack collects personal information in accordance with its Privacy Policy, available at [www.infotrack.com.au/](http://www.infotrack.com.au/) and updated from time to time. By using the InfoTrack services User acknowledges that it has read, understood and agrees to InfoTrack Privacy Policy.
- (b) You must ensure that when you collect, use, disclose, transfer or otherwise handle Personal Information in relation to the Services or your obligations under this

Agreement, you comply at all times with applicable Privacy Laws, procure that Users comply with applicable Privacy Laws, and not do anything with the handled Personal Information that will cause us to breach our obligations under Privacy Laws..

**18. Confidential Information**

- (a) The Receiving Party may only use the Confidential Information of the Disclosing Party for the purposes of exercising its rights or performing its obligations under this Agreement.
- (b) The Receiving Party must keep confidential, and not disclose, the Confidential Information of the Disclosing Party, except as permitted under paragraph (d).
- (c) This clause extends to Confidential Information of a party provided to or obtained by the other party before the Commencement Date.
- (d) The Receiving Party may disclose Confidential Information of the Disclosing Party:
  - (i) to those of its personnel or any third party that need to know for the purposes of the Receiving Party exercising its rights or performing its obligations under this Agreement, provided that the Receiving Party uses its reasonable endeavours to ensure that such personnel or third parties keep the Confidential Information confidential in a manner consistent with the Receiving Party's obligation under this clause 18;
  - (ii) to those third parties that need to know for the purposes of monitoring and analysing the Disclosing Party's usage of the Software and to assist with improving the Services provided under this Agreement;
  - (iii) to the extent that disclosure is required by Law provided that the Receiving Party provides the Disclosing Party reasonable notice before any such disclosure and takes all reasonable steps to maintain that Confidential Information in confidence; or
  - (iv) with the prior written consent of the Disclosing Party.

**19. Third Party Information**

- (a) The Website may contain links to or provide information posted by, contributed to or advertised by third parties (Third Party Content). InfoTrack does not warrant the accuracy of any third-party content. The inclusion of such links or material is not an endorsement or recommendation by InfoTrack and InfoTrack accepts no liability for any Third-Party Content or for any loss or damage the Customer may suffer by accessing such websites or acquiring any goods or services from the suppliers of those websites or otherwise using or relying on Third Party Content.
- (b) The User agrees that the User will use the its own expertise and judgment when considering any Third-Party Content and the Customer acknowledges that InfoTrack is not providing any advice or recommendation in respect of any products, services or other information.

**20. Termination**

- (a) Either party may terminate this Agreement for cause with immediate effect by providing written notice to the other party if the other party:
  - (i) commits a material breach of this Agreement that is capable of remedy and fails to remedy that breach within seven (7) days after receiving written notice identifying the breach and requiring the breach to be remedied;

- (ii) commits a material breach of this Agreement that is not capable of remedy; or
  - (iii) is the subject of an Insolvency Event.
- (b) InfoTrack may terminate this Agreement for convenience at any time by providing at least 30 days written notice to you.
- (c) If this Agreement is terminated or expires:
  - (i) the Users' right to access or use the Services ceases; and
  - (ii) the User must immediately pay all outstanding amounts due and payable under this Agreement.
- (d) Any provision of this Agreement which, by its nature, would reasonably be expected to be performed after the termination of this Agreement, shall survive and be enforceable after such termination and termination of this Agreement does not affect any of InfoTrack or the Users accrued rights or remedies under this Agreement.

**21. Force Majeure**

InfoTrack shall not be liable for any delay, loss or damage (including consequential loss) caused to the User directly or indirectly by the unavailability of access to the Service caused by the failure of the User to comply with this Agreement, power or mechanical failure howsoever caused, delays or failures in telecommunication systems or in the transmission of information via the internet or any cause whatsoever outside the control of InfoTrack.

**22. Entire Agreement**

This Agreement and any client order form attached to or referred to herein constitute the entire agreement between the parties in respect of the Services and supersede all other negotiations, agreements or understandings whether written or oral relating to the supply the Services and the other services inaccuracy caused by communicating via the internet.

**23. Assignment and Notices**

InfoTrack may by notice in writing to the User assign the benefits and obligations of this Agreement. Users may only assign this Agreement with the consent in writing of InfoTrack.

**24. Severability**

If a provision of this Agreement or a right or remedy of a party under this Agreement is invalid or unenforceable it is read down or severed only to the extent of the invalidity or unenforceability.

**25. Governing Law**

This Agreement (including all client order forms) are governed by the laws in force in New South Wales, and each party irrevocably and unconditionally submits to the exclusive jurisdiction of New South Wales and the courts that hear appeals from them.

A. **Extract of terms and conditions imposed by various government departments and agencies**

1.1 **Department of Natural Resources, Mines and Energy**

**Definitions**

**Direct Marketing** means one to one marketing using personal details (e.g. name, address, email address or other Personal Information), normally supported by a database/resource, which uses one or more advertising media to effect a measurable response and/or transaction from a person (including a corporation or organisation) and includes, but is not limited to; telemarketing, bulk email messaging (spam), postal canvassing and list brokering.

**Information Product** means a product supplied through online access search types (e.g. Title Search).

**Personal Information** means information or an opinion (including information or an opinion forming part of a database), whether true or not and whether recorded in a material form or not, about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion.

**Ownership**

I acknowledge that I have no rights of ownership in the Information Products and all intellectual property rights, including copyright in the Information Products that the State of Queensland (Department of Natural Resources, Mines and Energy) or the copyright owner has, are retained by the State of Queensland (Department of Natural Resources, Mines and Energy) or the copyright owner.

**Liability**

I acknowledge that, except as provided in the section titled Statutory Compensation below, the State of Queensland (Department of Natural Resources, Mines and Energy) does not guarantee the accuracy or completeness of the Information Products, and does not make any warranty about the Information Products.

I agree that, except as provided in the section titled Statutory Compensation below, the State of Queensland (Department of Natural Resources, Mines and Energy) is not under any liability to me for any loss or damage (including consequential loss or damage) arising out of or in connection with my use of the Information Products.

**Statutory Compensation**

The provisions of the section titled Liability above are subject to the provision that the State of Queensland through the Department of Natural Resources, Mines and Energy will be liable to compensate me in accordance with the provisions of Subdivision C of Division 2 of Part 9 of the Land Title Act 1994 (as amended) if I suffer deprivation of a lot, interest in a lot or loss or damage in accordance with the Land Title Act. Where I am entitled to compensation against the State of Queensland through the Department of Natural Resources, Mines and Energy pursuant to the above-mentioned provisions of the Land Title Act, I agree that I will seek compensation in accordance with the provisions of the Land Title Act.

**Privacy**

I agree that I will not use, other than for the purpose for which the Information Products are provided under this agreement, or disclose to any other person, any Personal Information contained in the Information Products.

I agree that I will not use the Information Products for Direct Marketing.

## **Permitted Use**

I accept that the use of the Information Products by me will be limited to my own personal use or for use in the ordinary course of my business. I will not on-sell or distribute the Information Products to any other third party, nor will I produce any products incorporating the Information Products, except with the prior written approval of the State of Queensland (Department of Natural Resources, Mines and Energy).

## **General Conditions**

This agreement will be governed by and construed in accordance with the laws of the State of Queensland, Australia.

### **1.2 Australian Securities and Investments Commission ("ASIC")**

The User acknowledges that;

- (a) The search extracts contained in the ASIC System and ASIC Registers are based on information provided to ASIC by third parties.
- (b) ASIC has not verified the accuracy, currency, reliability or completeness of the search extracts and makes no representation or warranty as to their accuracy, currency or reliability.
- (c) ASIC will have no liability to any persons for any inaccuracy, omission, defect or error in the Test Database, ASIC System, ASIC Registers or InfoTrack's programs or data.

### **1.3 Mirus Data (Person Locator)**

The User acknowledges Mirus Data may be supplied by third parties and InfoTrack does not guarantee accuracy or validity of data. Provision of Minis Data is an acceptance of terms and conditions and compliance with Privacy Legislation.

### **1.4 Australian Financial Security Authority ("AFSA")**

User acknowledges that the National Personal Insolvency Index ("NPII") maintained by AFSA may contain errors and that InfoTrack shall not be liable for any inaccuracy in the NPII.

### **1.5 NSW Land Registry Services ("NSW LRS")**

Conditions of use:

Users are prohibited from:

Using the Property Information other than for their own business purposes; On-selling, sub-licensing, disclosing or otherwise providing Property Information in any form to any other person; Altering the format, meaning or substance of any Property Information supplied; Printing Property Information on paper other than plain or pre-printed paper, which includes a Proprietary Notice. \*

Making copies of the Property Information other than as are reasonably required for backup purposes, provided that such copies include a Proprietary Notice \* and are secured so as not to be accessed or used by unauthorised persons or for any purpose other than backup.

\* Proprietary Notice means a notice on material in which NSW LRS claims rights, title or ownership, and appears as "CD Office of the Registrar-General [year of publication]".

### **1.6 Landata, VIC Land Registry ("Landata")**

#### **1. Definitions and Interpretations**

These terms are in conjunction with the agreement between InfoTrack and LANDATA® and the following definitions apply:

**Authorised Purposes** means:

- (a) Dealings with interests in land authorised by Law;
- (b) A purpose directly related to such dealing provided that the purpose is not contrary to any Law; or
- (c) An enquiry relating to land or the ownership of land recorded in the Register provided that the enquiry or the purpose of enquiry is not contrary to Law,

but does not mean:

- (d) data aggregation, data matching, marketing, compilation of mailing lists, list brokering of the Licensed Material or any related purpose except to the extent that such data aggregation, data matching, marketing, compilation of mailing lists, list brokering of the Licensed Material or related purpose is required by law (including any obligation under a court order).

**Crown Land Status Information** means information in relation to Crown land that may include land description, whether and for what purposes it is reserved and reference to related instruments;

**Land Index** means the electronic cross reference table listing registered proprietors, title particulars, parcel and property identifiers available as part of the LANDATA® System;

**LANDATA® System** means the computerised system, including the Shell, as varied from time to time which currently provides access to the Licensed Material;

**Law** means the requirements of all Acts of the Parliament of Victoria and of the Commonwealth of Australia and the requirements of all ordinances, regulations, by-laws, orders and proclamations made or issued under any such Acts or ordinances and with the lawful requirements of public and other authorities in any way affecting or applicable to this agreement;

**Licensed Material** means the data available and known as:

- (a) Statutory land titles information as held in the Register including title searches and dealings affecting the title and other information made available to the LANDATA® System by the Registrar of Titles including information about unregistered dealings;
- (b) Searches of the Land Index;
- (c) The Property Transaction Alert Service;
- (d) Survey products including plan and instrument searches;
- (e) Property Enquiry Data including planning and other property related certificates;
- (f) Crown Land Status Information;
- (g) Information held in the Water Register comprising of the Water Share Record and Water Register Document; and
- (h) Any other data or information as notified in writing by LANDATA® And any update or new release of that material.

**Licensed Material accessed through the Shell** means the data available and known as:

- (a) Statutory land titles information as held in the Register including title searches and dealings affecting the title and other information made available to the LANDATA® System by the Registrar of Titles including information about unregistered dealings;
- (b) The Property Transaction Alert Service;
- (c) Survey products including plan and instrument searches;
- (d) Property Enquiry Data including planning and other property related certificates
- (e) Crown Land Status Information;
- (f) Information held in the Water Register comprising of the Water Share Record and Water Register Document; and
- (g) Any other data or information as notified in writing by LANDATA®.

**Property Enquiry Data** means details obtained from various statutory bodies relating to a property in Victoria but excluding Title Search Data;

**Property Transaction Alert Service** means the service of providing alerts relating to property transactions including:

- (a) For specified folios of the Register — notice of lodgement of dealing(s);
- (b) For specified unregistered plans of subdivision — notice of the lodgement of the plan or other dealing(s) affecting the plan; and
- (c) For specified registered plans of subdivision — notice of the lodgement of dealing(s) affecting the registered proprietor of any lot in the plan of subdivision.

**Register** has the same meaning as is in section 4 of the Transfer of Land Act 1958 (Vic);

**Shell** means the portal through which a Customer, User or Ad-hoc Customer can access that part of the Licensed Material that the Licensor makes available through the Shell;

**State** means the Crown in right of the State of Victoria;

**Title Search Data** means information consisting of the details of the Register including title particulars, final search, historical search, plans and lodged instruments;

2. The User is prohibited from:

- (a) Providing the Licensed Material by way of online connection to any other party unless the User is also an InfoTrack Searching Reseller;
- (b) Altering the format, meaning or substance of the Licensed Material;
- (c) Assembling or compiling, attempting to assemble or compile or directly or indirectly allowing or causing another person to assemble or compile or attempt to assemble or compile a database, directory or similar device which is similar in content, functionality or in any other respect to the Register or Land Index;
- (d) Extracting data from the Licensed Material, or directly or indirectly allowing or causing another person to extract data from the Licensed Material, using screen scraping, web scraping or any other similar data extraction techniques;
- (e) On selling or distributing the Licensed Material in any format unless the User is also an InfoTrack Searching Reseller, and



- (f) Using the information available from the Licensed Material for other than the Authorised Purposes.
3. InfoTrack (and an InfoTrack Reseller where appropriate) will not provide access to the Land Index unless the User has executed a deed in the form prescribed by LANDATA®.
  4. The User acknowledges and agrees that:
    - (a) Copyright in all information from the Register is owned by the State. No part of the Licensed Material supplied may be reproduced by any process except in accordance with the provisions of the Copyright Act 1968 (Cth), pursuant to written agreement or to the extent required for the purpose of compliance with section 32 of the Sale of Land Act 1962 (Vic);
    - (b) The State does not warrant the accuracy or completeness of the Property Enquiry Data, the information in the Property Transaction Alert Service, the information in the Land Index or Crown Land Status Information or other information made available by the LANDATA® System other than Title Search Data and any person using or relying upon such information does so on the basis that the State bears no responsibility or liability whatsoever for any errors, faults, defects or omissions in the information; and
    - (c) The information from the Register is valid at the time and in the form obtained from the LANDATA® System only. The State accepts no responsibility for any subsequent release, publication or reproduction of the information from the Register. The State accepts no responsibility for information or data other than that which is part of the Register as provided for in the Transfer of Land Act 1958 (Vic).
  5. The User acknowledges that where a User has access to Property Enquiry Data, the User is responsible for the accuracy and completeness of the information submitted in each application and that if, due to the inaccurate or incomplete information which the User supplies:
    - (a) There is an error in the Register search statement or property certificate sent to the User; or
    - (b) The wrong Register search statement or property certificate is sent to the User,

InfoTrack is still responsible for the payment of the fees and charges for such data under the terms of the agreement between InfoTrack and LANDATA®.
  6. The User consents to the collection and use of the information which is provided by the User when using the LANDATA® System for all purposes associated with the use and operation of LANDATA®, the LANDATA® System and all related administration and operations of LANDATA®.
  7. The User must maintain a record of all persons who are given access to the Licensed Material throughout the term of its Agreement with the Licensee and not less than 7 years from the date of termination or expiration of its Agreement with the Licensee.
  8. The User may only store data drawn from the Licensed Material for a period of 120 days and after the expiration of that period the data must be deleted from any server or other data storage facility, but may be retained as part of the discrete record of that Enquiry. The User may only use the data stored for the purposes of the Enquiry for which it was originally made.

## **1.7 Landgate's terms and conditions for broker's end users**

### **1. The End User:**

- (a) May only use the Title Products for its own Internal Use;
- (b) Must do all things within its power to prevent the unauthorised use or disclosure of the Title Products and any related information;

- (c) Must do all things within its power to ensure the Title Products are only used for lawful purposes and in ways that are consistent with these (Landgate Suggested) terms and conditions, the Broker's Agreement, the TLA and the Land Information Authority Act 2006.
- (d) Must at its own cost, comply with all regulations, restrictions and conditions imposed by any legislation for the use of, access to, storage of or dealing with the Title Products. This includes, but is not limited to, the requirements of the Privacy Legislation.

2. **The End User must not:**

- (a) Reproduce, supply, on-sell, sub-license, disclose or otherwise provide Title Products in any form to any other person;
- (b) Alter the format, meaning or substance of any Title Products supplied;
- (c) Alter or omit the meaning, substance, content, coordinates or spatial integrity of any Title Products;
- (d) Create data or other products which are the same as or substantially similar to the Title Products, or reverse engineer or rework the Title Products or by any means use any:
  - (i) outputs, whether or not from the Title Products; or
  - (ii) combination of data which includes the Title Products; or
  - (iii) permit any third party to do the same, except as permitted bylaw;
- (e) Derogate or detract from the legal rights of Landgate in the Title Products or any data derived from the Title Products
- (f) Display, distribute, sell, license, hire, let, trade or expose the Title Products for sale;
- (g) Keep a copy of any portion of the Title Products or any data derived from the Title Products;
- (h) Store any Title Products (or any part of them) in any form;
- (i) Not use or permit to be used, the logo of Landgate or any modification thereof, unless:
  - (i) in accordance with these (Landgate Suggested) terms and conditions; or
  - (ii) with the prior written consent of Landgate.

3. **End Users acknowledge that they use the Title Products at their own risk, from the time of delivery to them.**

4. **The End User must:**

- (a) Have formal procedures in place to:
  - (i) provide protection (e.g. Firewall) against intrusion and uncontrolled access to any Title Product, particularly through the Internet;
  - (ii) prevent unauthorised access or downloading of Title Products; and
  - (iii) ensure any Title Products are properly secured from interference when they are being transferred across the Internet.

- (b) Ensure that its officers, employees, agents, contractors and third parties are made personally aware of and agree to comply with the security obligations contained in these (Landgate Suggested) terms and conditions, before providing them with access to any Title Product.

5. **The Parties acknowledge and agree that all Intellectual Property Rights in:**

- (a) the Title Products;
- (b) any data derived from the Title Products; and
- (c) any documentation provided by Landgate to the Broker for the purposes of supplying or providing Title Products to End Users;

are the property of either Landgate or the State of Western Australia.

6. **The End User agrees to:**

- (a) comply with the requirements of the Privacy Legislation, particularly in relation to its handling of personal information, as defined in the same, including the collection, use, disclosure and security of such information, whether or not the End User is required by law to comply with the Privacy Legislation; and
- (b) comply with any other reasonable direction relating to privacy given by Landgate, including those relating to Landgate's own privacy policies and procedures; and
- (c) not to do anything which if done by Landgate would be a breach of the Privacy Legislation.

7. **Landgate (including its board members and employees) will not be responsible for any actions, claims, cost, proceedings, suits or demands whatsoever arising out of any breach of the Privacy Legislation by an End User or third person, in relation to any Title Product they obtain, or in relation to the Broker's Outputs. Furthermore:**

- (a) The End User must not use any Title Product for the purpose of Direct Marketing of goods or services.
- (b) The End User must not release the Title Products to any third party where that party intends to use those Title Products for the purpose of Direct Marketing of goods or services.
- (c) The End User must provide any assistance requested by Landgate in relation to an investigation of an allegation of misuse of any Title Product, or contravention of the Privacy Legislation.

8. **The End User agrees to only release publicity statements or any other form of advertisement or promotion that specifically refers to Landgate or Landgate's Land Information Products where:**

- (a) they have first been approved by Landgate's authorised delegate in writing (including by email), which approval will not be unreasonably withheld; and
- (b) at least 24 hours written notice has been provided to Landgate prior to any such release;

9. The End User acknowledges and agrees that, other than as expressly provided for in these (Landgate Suggested) terms and conditions, and to the extent permitted by law:

- (a) No warranty, condition, description or representation is given by Landgate in relation to any documentation, services and/or software provided in conjunction with the Title Products, except for the Title Products themselves as provided under the TLA;

- (b) All representations, warranties, terms and conditions whether express or implied by use, statute or otherwise, in relation to the state, quality or fitness for purpose of any documentation, services and/or software provided in conjunction with the Title Products are excluded, except for those provided under the TLA for the Title Products themselves;
- (c) Landgate will not be liable to End Users for any loss or damage (including loss of profits, business, revenue or data), arising from or in connection with the supply of the Title Products, whether in contract, tort, negligence or otherwise, or in relation to:
  - (i) the performance of the Web Service;
  - (ii) any claim for infringement of intellectual property rights based on the modification, combination, operation or use of the Title Products with any computer programs, systems or data not furnished by Landgate;
  - (iii) the Broker's Outputs; or
  - (iv) anything except the Title Products provided under the TLA.
- (d) Notwithstanding the preceding clause, Landgate's liability for any breach of terms implied by legislation which cannot be excluded, will be limited to the extent permitted by law and at the option of Landgate, to one or more of the ways permitted by section 68A(i) of the Trade Practices Act 1974 (Cth), at Landgate's option.

10. **If there is any inconsistency between:**

- (a) these (Landgate Suggested) End User terms and conditions; and
- (b) the remainder of the agreement between the Broker and the End User for the supply or provision of Title Products;

these (Landgate Suggested) End User terms and conditions prevail to the extent of that inconsistency.

11. **DEFINITIONS**

**Broker's Agreement** means the means the head licence between the Broker and Landgate, or the document entitled the Landgate Title Products Broker Agreement 2009.

**Broker** means:

- the party who has been appointed by Landgate as its non-exclusive agent to carry on Landgate's Business for the term of the Broker's Agreement; and
- the party with whom the End User has entered into a contract to supply or provide Title Products.

**Broker's Outputs** means the Broker's own products and services which:

- are produced independently by the Broker; and
- are not part of Landgate's Business and not the subject of Landgate's agency arrangements; and
- supplement the Title Products, without altering their inherent nature or integrity; and
- will be supplied at a price determined entirely by the Broker.

**Broker's Outputs** may include the following products and services:

- Bundling or packaging together several Title Products; and/or
- Bundling or packaging the Title Products with other products from the Broker's business;
- Providing integrated web portals or web services;
- Providing advanced account management functions;
- Any other Broker product which incorporates a Title Product

**End User** means the Broker's or Sub-Broker's customer, member or subscriber, who has entered into an agreement with the Broker or Sub-Broker, for the supply or provision of Title Products. The term End User includes the officers, employees, servants, contractors and agents of the same. End Users may use Title Products for Internal Use only.

**Intellectual Property Rights** means all rights in and to any copyright, trademark, trading name, design, patent, know how (trade secrets) and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic field and any application or right to apply for registration of any of these rights and any right to protect or enforce any of these rights, as further specified in clause 26 of the Broker's Agreement.

**Internal Use** means use for an End User's:

- own business or internal purposes; or
- own clients or customers, where those clients will be the final recipient of the Title Products concerned and they will only use the Title Products concerned in relation to the singular purpose or transaction for which they were acquired.

**Landgate's Business** means to market, promote and sell Title Products, on behalf of Landgate to End Users.

**Privacy Legislation** means the Privacy Act 1988 (Cth) and any State privacy legislation which may be enacted during the Term.

**Title Product** is the generic term used to describe:

- any of the products which are supplied by Landgate to the Broker, as specified in the Broker's Agreement; or
- any of the other products described in the TLA Regulations, which Landgate may make available to Brokers through the Web Service from time to time.

**TLA** means the Transfer of Land Act 1893 (WA).

**Web Service** means the customised internet access to Landgate's computerised systems, including an online ordering service, which is provided by Landgate for the Broker.

## **1.8 Northern Territory Integrated Land Information Services ("ILIS")**

1. The User accepts that the data, and the copyright therein, provided by ILIS to InfoTrack and on-sold to the User, is owned wholly by ILIS. The User provides an undertaking to InfoTrack that it shall observe and perform with respect to the data the following terms and conditions as they are imposed by ILIS upon InfoTrack:

### **2. Limitations on Use**

- (a) The User is permitted to use the data solely for the purposes of general conveyancing, surveying, lodgement and searching for or on behalf of clients transacting or dealing with land in the Northern Territory register of land. Use of the data and materials is limited to own personal use or for use in the ordinary course of business.
- (b) The User does not have the right to on-sell the data to third party clients.
- (c) The User shall not, and shall ensure that its employees do not, use the data for any purpose other than that set out in this clause.
- (d) Except as set out in this clause, the User shall not reproduce, store or distribute the data to any person.
- (e) The User may not use the data for the compilation of mailing lists or for direct marketing purposes.
- (f) Except as set out in this clause, or unless otherwise agreed by the parties in writing, the User shall not use the data to on-sell or produce materials for sale to a third party, or for general sale or distribution.

### 3. **Intellectual Property**

- 3.1 No rights of ownership in the data are conferred on the User.
- 3.2 All intellectual property rights in the data, including but not limited to copyright, shall remain vested in ILIS.

### 4. **Confidentiality**

Except as provided in this Agreement, the User shall treat the data as private and confidential and shall take all reasonable steps to keep the data private and confidential. To this end the User shall:

- (a) maintain a system for the safe custody of the data and copies of the data;
- (b) copy the data for its own purposes only;
- (c) disclose the data only to those of its employees whose duties require a knowledge of, or access to, the data and take all reasonable steps to minimise the risk of disclosure of the data by those employees;
- (d) on becoming aware that a breach of this Agreement has occurred immediately advise InfoTrack of the nature of the breach and what action has been taken or will be taken to protect the interests of InfoTrack.

### 5. **Privacy**

5.1 In this clause:

- (a) **Act** means the *Information Act* (NT)
- (b) **Privacy Laws** means the Information Privacy Principles set out in the Act or any 'code of practice' approved under the Act that applies to any of the parties to this Agreement.
- (c) **Personal Information** means all information about a person that is "personal information" as defined in the Act which is collected and/or handled by any of the parties in connection with this agreement.

- 5.2 The User agrees to deal with all Personal Information in a manner which is consistent with the Privacy Laws and any other relevant privacy legislation.
- 5.3 The User is to use Personal Information only for the purposes of fulfilling its obligations under this agreement.
- 5.4 The User is not to disclose Personal Information without the written authority of InfoTrack.
- 5.5 The User is to immediately notify InfoTrack when it becomes aware that a disclosure of personal information may be required by law.
- 5.6 The User is to ensure that any employees, agents or other person who may have access to Personal Information held by the User, are aware of and undertake to not access, use or disclose or retain Personal Information except in performing their duties of employment.
- 5.7 The Licensee is to take all reasonable measures to ensure that Personal Information is protected from misuse and loss and from authorised access, modification, disclosure or other misuse and that only personnel necessary to fulfil the obligations under this agreement have access to the Personal Information.
- 5.8 The User acknowledges that individual have the right to request access to, or correction of, the Personal Information held about them.
- 5.9 The User, in respect to Personal Information, is to immediately notify InfoTrack when the User becomes aware of a breach of this clause or the Privacy Laws.

## 1.9 Land Services South Australia (“LSSA”)

### 1. Terminology

“**You**” and “**Your**” means you personally, your business entity and officers, employees and agents of your business entity.

“**We**”, “**us**”, “**our**” and “**LSSA**” is a reference to either Land Services SA Operating Pty Ltd (ACN 618 229 815) as trustee for the Land Services SA Operating Trust (ABN 86 650 939), trading as “Land Services SA”, in its capacity as principal and, to the extent that it provides any of the Online Services as delegate or agent of the Crown in Right of the State of South Australia (“**State**”), in its capacity as delegate or agent (as the case may be) of the State.

“**Personal Information**” has the meaning given in the Privacy Act.

### 2. Application of Terms

These terms apply to your use of any services provided via the internet by us including the use of:

our website [www.sailis.gov.au](http://www.sailis.gov.au) (“**Website**”)

certain search and product services as only being available to Account Holders (“**Account Holder Services**”).

certain search and product services specified as only available to both Account Holders and Guest Users of the Website (“**Guest User Services**”); and

any materials provided by us to you, or by you to us or any information or materials obtained by you (either directly or indirectly) as a result of or in connection with your use of the Website or the Services (including information, text, images, graphics, logos, audio and/or video recordings, code and software information obtained by LSSA in providing certain land titling services,

valuation services, transaction processing and other customer services for and on behalf of the State and information and data obtained by you in the search and product services (“Data”)(“Content”).

(together the “Online Services”).

### 3. **Content**

While LSSA endeavours to ensure that all Content is accurate, complete, up-to-date, reliable and error-free, you acknowledge that this may not always be the case and that LSSA does not represent or warrant that this will be the case.

Subject to any requirements of the *Real Property Act 1886 (SA)* (**Real Property Act**), any Content may be changed, withdrawn, discontinued at any time and without notice. The Content is provided from Australia and may not be available, appropriate or lawful for use in other jurisdictions. The Content does not necessarily reflect the views or opinions of LSSA or the State. The Content may not be tailored to your particular circumstances and does not constitute advice or a recommendation.

LSSA and the State accept no liability for any use of the Content or any reliance placed on it. Any use of or reliance on the Content is entirely at your own risk and you acknowledge and agree that it is your responsibility to verify any Content and otherwise seek your own independent advice.

The Content provided by LSSA is subject to change without notice.

### 4. **Collection of Information and Privacy**

LSSA may collect Personal Information using the Online Services for providing Content to you, marketing purposes, our internal business purposes and any other specific purposes advise to you from time to time. The information may be used by us, our related companies, the State, and may be disclosed to our and the State’s consultants or advisers. Any disclosure of Personal Information by us, our related companies or our consultants or advisers will be governed by both the *Privacy Act 1988 (Cth)* (**Privacy Act**) and by our Privacy Policy and Privacy Statement (each found here: [www.sailis.gov.au](http://www.sailis.gov.au)). Any disclosure of Personal Information to the State will be governed by the State’s Information Privacy Principles found at <https://www.dpc.sa.gov.au/documents/rendition/DPC-Circular-Information-Privacy-Principles-IPPS-Instruction.pdf>. Our Privacy Policy and Privacy Statement each include details of:

how we collect, hold, store and share Personal Information;

the circumstances in which your Personal Information might be sent overseas;

your rights of access to, and correction of your Personal Information; and

the security measures we have in place over your personal Information.

You are not required to provide us with your Personal Information by any law, however if you fail to do so, we may not be able to carry out the purpose for which the Personal Information may be collected and used.

You may contact LSSA if you have any questions regarding our use of your Personal Information or otherwise to request access to any Personal Information about you held by LSSA.

LSSA and the State do not guarantee the security of any information you may send to LSSA or the State during its transmission, however LSSA will endeavour to protect such information once it is received.



## 5. **Intellectual Property and Use of Data**

Unless stated otherwise, either the State of LSSA owns or licences the copyright and all other proprietary rights in the Content. All Intellectual Property Rights in the Data remain with the State. Subject to the requirements of the law, at no stage are you entitled to commercialise the Data.

You may not, without LSSA's or the State's prior written permission, reproduce, display, store, print, publish, distribute, commercialise, perform, adapt, or create derivative works from any Content other than as permitted by law and as required for your effective use of the Online Services. Any word or logo which appears in the Online Services in association with the ™ or ® symbol is a trade mark, and must not be used unless in accordance with the requirements of the law. LSSA and the State reserves any rights not expressly granted by these Terms.

Except as expressly permitted under these Terms or to the extent permitted by law (including exercising your rights of inspection under section 65 of the Real Property Act), you must not:

decompile, disassemble, reverse compile or otherwise reverse engineer all or any portion of the Online Services or the Content including any source code, object code, algorithms, methods or techniques used or embodied therein or any Data forming part of the Content;

remove or alter any copyright, trademark, logo or other proprietary notice or label appearing on or in the Online Services of the Content;

data mine, scrape, crawl, email harvest or use any process or processes that send automated queries to the Online Services or the Content (including robots or spiders);

use any robot, spider, or other device or process which impacts on the availability of the Online Services to other users; or

use, or offer to use, the Online Services or any Content with the intention of encroaching upon the privacy of an individual or otherwise breaching the Privacy Act.

Without limiting the above, you must not undertake any action that will impose a burden or make excessive demands on LSSA's or the State's infrastructure hosting the Website that we or the State deem, in our sole discretion, to be unreasonable or disproportionate usage.

## 6. **Disclaimer**

LSSA and the State do not attempt or purport to exclude any liability arising under statute it, and to the extent, that liability cannot be lawfully excluded. However, LSSA and the State exclude to the extent lawfully permitted all liability for any loss or damage of whatever kind (including consequential or incidental damage) and however arising (including due to negligence) that you may suffer, directly or indirectly, in connection with your use of or reliance on Online Services or any Content. Any warranties, guarantees, representations or other assurances implied or imposed by law or statute are expressly excluded to the fullest extent permitted by law. To the extent that any cannot be excluded, the liability of LSSA and the State will be limited to the cost of the resupply of the Content.

In no event will LSSA or the State be liable for any direct, indirect, special, punitive, exemplary or consequential losses or damages of any kind (including without limitation loss of profits, loss of data or damage to any equipment) arising out of your use of or access to the Online Services or any Content, your inability to use the Online Services or any Content, or the interruption, suspension or termination of the Website or any Content (including any damage incurred by third parties).

## 7. **Indemnity**

You agree to indemnify and hold harmless LSSA and the State, their affiliates, agents, officers, employees and representatives from any loss, damage, expenses, penalties, claims or other liabilities that LSSA or the State may incur due to your use of the Online Services, any Content or any breach by you of these Terms.

## 8. **Amendments to Terms and Conditions**

LSSA may at any time vary these Terms by publishing update Terms on the Website. Any amendment will be subject to approval of the State. You agree that any such updated Terms will immediately apply from the time that they are published on the Website. Your continued use of the Online Services after LSSA publishes updated Terms constitutes your acceptance to be bound by the updated Terms.

### 1.10 **Document Verification Service (“DVS”)**

1. The Australian Government's Document Verification Service ("DVS") verifies Government issued documents. As InfoTrack are an approved ID Service Provider ("IDSP"), You ("ID Service Client") can include the DVS as part of the InfoTrack assessment.
2. In using the ID service offerings provided by InfoTrack You agree that, at all times, You meet the following requirements ("DVS Access Criteria"):
  - a. The information You are providing is Personal Information as defined in the Australian Privacy Act 1988 and/or the New Zealand Privacy Act 1993 and you have the authority to disclose it to us;
  - b. The information You are obtaining is for use on your own behalf, and not as an agent of any other person;
  - c. You are a legal entity and have full power and authority to adhere to these terms and conditions;
  - d. You are carrying on business in Australia and/or New Zealand and are subject to Australian and/or New Zealand law;
  - e. You are subject to the Australian Privacy Act 1988 and/or the New Zealand Privacy Act 1993 as applicable in the relevant circumstances;
  - f. You have not been issued any information security or privacy breach notifications from the Office of the Australian Information Commissioner or the Office of Privacy Commissioner (New Zealand).
  - g. Any other relevant regulators have not commenced any suspensions, sanctions or actions of any other kind against You;
3. You agree that all disclaimers, exclusions, limitations of liability and indemnities that form part of these terms and conditions ensure to the benefit of DVS and can be directly enforced by DVS.