

# INFOTRACK PRODUCT TERMS

## Currency

These InfoTrack Product Terms are current from 1 November 2023.

## General

In addition to the General Terms, these Product Terms apply to any InfoTrack Products identified in these terms that you access or order from InfoTrack or an InfoTrack Reseller. Third Party Terms may also apply in addition to these Product Terms.

**General Terms** means either:

- (a) the terms of any Master Services Agreement (including any applicable Order Forms) between InfoTrack and the Client (**MSA**); or
- (b) where there is no MSA between the Parties, InfoTrack’s general terms and conditions set out at <https://infotrack.com.au/legal/GeneralTerms>

**Product Terms** means these product specific terms that are applicable to any InfoTrack Products as identified in the relevant ‘Product Terms’, set out in this document and available at <https://www.infotrack.com.au/legal/ProductTerms>

**Third Party Terms** means the terms, conditions, restraints, disclaimers or limitations (as required by InfoTrack’s Third Party Suppliers) applicable to certain InfoTrack Products that are provided or licensed by Third Party Suppliers to InfoTrack, located here <https://infotrack.com.au/legal/ThirdPartyTerms> and as updated by InfoTrack from time to time.

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## PART A Third Party Terms

### A1 Acknowledgement

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A1.1 You acknowledge and agree that any access and use of certain InfoTrack Products are also subject to the relevant terms applicable to the InfoTrack Products specified in the Third Party Terms, located here <https://infotrack.com.au/legal/ThirdPartyTerms>. InfoTrack Products that are also subject to the Third Party Terms include:

- (a) ASIC Searches and Company Searches
- (b) Bankruptcy Searches
- (c) CoreLogic AVM Estimates
- (d) Land Registry Services and Titles Products
- (e) SignIT
- (f) VOI Services in respect of the Commonwealth Document Verification Service (DVS).

Please note, new products can come to market and our Third Party Suppliers often update their terms of supply. The above list may therefore not be complete and may change over time and you should also review the Third Party Terms for any special terms or disclaimers applicable to the InfoTrack Product you are using.

## PART B Land Registry Services and Titles Products

You acknowledge and agree that any access and use of any LRS Products is also subject to the relevant terms applicable to LRS Products set out in the Third Party Terms, located here <https://infotrack.com.au/legal/ThirdPartyTerms>.

### B1 LRS & Titles Products – additional terms

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B1.1 **LRS Products** includes any of the individual products: Certificates of Title, check and issue searches, land index searches, survey documents, transfer of land documents, land dealings, instruments and plans, or any of the other products described in any relevant conveyancing or transfer of land regulations, owned or licenced by the relevant government and which a Government Valuer's General Department may make available from time to time.

B1.2 **Permitted Purpose** means the Clients internal business purposes limited to advising or providing transactional or advisory services in relation to:

- (a) dealings with interests in land authorised by law;
- (b) a purpose directly related to such dealing (such as preparing and providing vendor statements as required by law) provided the purpose is not contrary to any law;
- (c) an enquiry relating to land or the ownership of land recorded in the Register provided the enquiry or the purpose of the enquiry is not contrary to any law; or
- (d) purposes ancillary to the above.

B1.3 **Victorian Name Search:** The Client acknowledges and agrees that, before it may access or order an owner name search via the Victorian Land Index, then:

- (a) it must enter into a 'Condition of Use Deed' in favour of the Government of Victoria;
- (b) it must ensure all Affiliates or Approved Contractors accessing or using the owner name search service also enter into a 'Condition of Use Deed' in favour of the Government of Victoria; and
- (c) access to the Victorian owner name search service will not be provisioned by InfoTrack to the Client, its Affiliates or Approved Contractors unless and until it has received signed copies of the 'Conditions of Use Deed' from all relevant parties.

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## PART C Litigation Services

### C1 Litigation Services

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- C1.1 The Litigation Services comprise the Court Sync Services and the eFile Services, which may be accessed and used by Your Permitted Users via the InfoTrack Litigation Portal in accordance with this Agreement.
- C1.2 **Court Sync Services:** The Court Sync Services are a service provided by InfoTrack that enables You to download and synchronise court Files to matters within Your practice management system (**PMS**) from the participating Court Portals (as enabled and selected by You within the InfoTrack Litigation Portal) (**Court Sync Services**). You may cancel Court Sync Services at any time by un-syncing a File within the InfoTrack Litigation Portal.
- C1.3 **eFile Services:** The eFile Services are a service provided by InfoTrack that enables Your Permitted Users to electronically lodge court documents (as made available within the InfoTrack Litigation Portal) with participating Court Portals for new or existing Files via the InfoTrack Litigation Portal (**eFile Services**).
- C1.4 **Agency Appointment:** You appoint InfoTrack and its Representatives as Your agent for the purposes of InfoTrack providing the Litigation Services and You authorise InfoTrack and its Representatives to act on Your behalf, in accordance with Your instructions, to access the Court Portals to provide the Litigation Services (as relevant) via an API integration between the InfoTrack System and Your PMS.

### C2 InfoTrack Warranties

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- C2.1 InfoTrack warrants and agrees that, when providing the Litigation Services:
- all documents and login credentials stored in the InfoTrack Litigation Portal will be encrypted and stored within a secure environment in accordance with our General Terms;
  - InfoTrack not use your login credentials to the Court Portal for any other reason other than to provide the Litigation Services in accordance with Your written instructions; and
  - documents will be filed with due care & skill in accordance with Your written instructions and We will not knowingly introduce any errors or omissions.

### C3 Client Acknowledgements

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- C3.1 You acknowledge and agree that:
- before being able to use the Litigation Services, You must first register with the relevant Court Portals and have valid login credentials;
  - InfoTrack may access the relevant Court Portals on Your behalf as your agent to retrieve, store, upload and file court documents and data to or from the Court Portals;
  - You agree to be bound by terms and conditions provided by the Court Portals (**Court Portal Terms**). You are solely responsible for Your compliance with the Court Portal Terms including when Your Permitted Users are accessing or using the Litigation Services;
  - You warrant You have the rights under the Court Portal Terms to:
    - share Your Court Portal login credentials with Us; and
    - use the Litigation Services via the InfoTrack Litigation Portal;
  - it is Your responsibility to verify any content, data or documents that You file via the InfoTrack Litigation Portal, including to consider any errors that may be flagged by any 'error checks' performed by InfoTrack;
  - it is Your responsibility to provide InfoTrack with the correct login credentials to the Court Portal and provide Us with any updated credentials if they change;
  - neither all Court Portals for all Australian courts nor all the services available within those Court Portals will be made available within the InfoTrack Litigation Portal;

- (h) InfoTrack may vary:
  - (i) the Court Portals available within the InfoTrack Litigation Portal; and
  - (ii) the features or services comprising the Litigation Services, within the InfoTrack Litigation Portal from time to time; and
- (i) that the Litigation Services available within the InfoTrack Litigation Portal will vary between the various Court Portals.

## C4 Disclaimers & Liability

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C4.1 InfoTrack makes no representation or warranty regarding:

- (a) the accuracy, currency, reliability or completeness of documents, content or data provided by or downloaded from the Court Portals;
- (b) the documents, content or data entered or uploaded by Your Permitted Users into the InfoTrack Litigation Portal;
- (c) InfoTrack does not warrant that the Litigation Services comply with the Court Portal Terms;
- (d) that any 'error checks' performed by InfoTrack will identify all errors or that the potential issues flagged are accurate or correct.

C4.2 As between the courts and operators of the Court Portals and You, InfoTrack accepts no liability for Your use of the Litigation Services or the InfoTrack Litigation Portal nor the matters set out in clause C4.1, except to the extent any Loss or Claim arises directly from InfoTrack's breach of this Agreement.

## C5 Fees

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C5.1 All Fees for the Litigation Services are set out in the 'Price List' located under the Your Account Tab on the InfoTrack search website.

C5.2 You agree the following Fees for the Litigation Services will be payable in accordance with the General Terms:

- (a) **Court Sync Services:**
  - (i) a once-off set-up Fee charged per matter File selected for syncing with Your PMS; and
  - (ii) a recurring monthly activity Fee charged per matter File, payable only while the Court Sync Services are active for the relevant matter File;
- (b) **eFile Services:**
  - (i) a filing service Fee for each electronic lodgement of court documents via the InfoTrack Litigation Portal; and
  - (ii) a filing 'Authority Fee' payable to the relevant court, which is included in the Fee charged by InfoTrack for the eFile Service.

## C6 Definitions

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C6.1 In this PART C:

**Court Portal** means the Australian court portals made available from time to time within the InfoTrack Litigation Portal.

**File** means a court matter or court file available within the relevant Court Portals.

**InfoTrack Litigation Portal** means the InfoTrack System you can access from Your integrated PMS or the InfoTrack search website to access and use the Litigation Services.

**Litigation Services** means the Court Sync Services and the eFile Services (as appropriate).

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## PART D Securexchange

### D1 Securexchange

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- D1.1 The 'Securexchange Services' are services provided by InfoTrack which enable Your Permitted Users to securely, via the Securexchange Platform:
- (a) create a Securexchange Workspace for a specific property transaction or dealing (**Transaction**) and invite other Invited Users to join Your Securexchange Workspace;
  - (b) securely request, share, sign, exchange or share any document or other information (such as bank or trust account details) in connection with a Transaction (**Transaction Materials**); and
  - (c) track the status of the Transaction within the Securexchange Workspace,
- (**Securexchange Services**).
- D1.2 You acknowledge and agree that You are responsible for the use of and access to the relevant Securexchange Workspace by Your Permitted Users and each Consumer User invited by Your Permitted Users to that Securexchange Workspace, including all materials accessed, used, uploaded or imported into the Securexchange Workspace by that user.

### D2 InfoTrack Guarantee

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- D2.1 **InfoTrack Guarantee:** Subject to clauses D2.2 and D2.3 and where the Eligibility Criteria is met, InfoTrack will indemnify You and keep You indemnified from and against any Losses or third party Claims (including any reasonable legal costs) reasonably incurred or suffered by You in respect of a Relevant Transaction arising directly from:
- (a) any Data Breach of the Securexchange Platform that affects the Transaction Materials; or
  - (b) any intentional, criminal or fraudulent act or omission of a third party arising from a failure of or breach by InfoTrack of the Securexchange Security Controls,
- limited to a maximum aggregate liability of \$1 million per Claim (the **InfoTrack Guarantee**).
- D2.2 **Making a Claim:** When making a claim under clause D2.1, InfoTrack reserves the right to assess Your claim against the Eligibility Criteria, request relevant documents and conduct its own investigation. The decision of InfoTrack in all matters is final.
- D2.3 **Exclusions:** The InfoTrack Guarantee does not apply where Your Permitted Users or Invited Users have caused or contributed to the Loss or Claim such as by entering the incorrect bank or trust account details.
- D2.4 **Limitation of Liability:** Except as provided by the InfoTrack Guarantee and without limiting clauses 9.2 or 10.1 of the General Terms, InfoTrack makes no representation or warranty, and excludes all liability arising from or in connection with:
- (a) the accuracy, currency, reliability or completeness of all Transaction Materials and other content entered or uploaded by Your Permitted Users or Invited Users into a Securexchange Workspace;
  - (b) Your reliance on Transaction Materials entered or uploaded by a Permitted User or an Invited User into a Securexchange Workspace.

### D3 Information Security

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- D3.1 In addition to InfoTrack's obligations under the General Terms set out at clause 19.1 (Data Protection and Security), InfoTrack will use commercially reasonable efforts to establish, implement and maintain the following security controls within the Securexchange Platform that are designed to protect the Transaction Materials that are stored, handled or processed by InfoTrack from accidental or unlawful destruction, loss, alteration, or unauthorised disclosure or access including as follows:
- (a) verification of and multi-factor authentication for all Permitted Users and Invited Users;
  - (b) for InfoTrack Personnel, access to Transaction Materials is subject to the principle of least privilege access and restriction of access on a need to know basis, using multi-factor authentication;
  - (c) encryption in transit and at rest that meets or exceeds encryption in transit standard TLS 1.2 (or equivalent standard) and any successor standards; and

- (d) firewalls which are properly configured and use industry best practice software, (Securexchange Security Controls).

## D4 Definitions

D4.1 In this PART D:

**Eligibility Criteria** means, in respect of a Relevant Transaction:

- (a) a Permitted User and Invited User share bank or trust account information within the Securexchange Platform for the purposes of completing a Relevant Transaction within the Securexchange Platform;
- (b) the Permitted User or Invited User has correctly and in good faith attempted to transfer funds to the applicable bank or trust account recorded in the Securexchange Platform;
- (c) the relevant funds are lost or stolen by a third party and are unable to be recovered by InfoTrack or You; and
- (d) You have provided a written demand or Claim to InfoTrack.

**Invited Users** means:

- (a) **Professional Users:** individual conveyancers, solicitors or real estate agents invited by Your Permitted User to access and use a Securexchange Workspace created by You within the Securexchange Platform. Before being permitted to access a Securexchange Workspace, a Professional User is required to have a Securexchange account and can access and use all of the Securexchange Services,
- (b) **Consumer User:** individual vendor or purchasers invited by Your Permitted User to access and use a Securexchange Workspace created by You within the Securexchange Platform. Consumer User access is limited to actioning assigned tasks, providing instructions and inviting a Professional User to the Securexchange Workspace.

**Relevant Transaction** means a Transaction being completed or negotiated between Your Permitted Users and Invited Users within the Securexchange Platform.

**Securexchange Platform** means the InfoTrack System located at <https://www.securexchange.com.au/>.

**Securexchange Services** has the meaning given under clause D1.1 above.

**Securexchange Workspace** means a unique workspace for Permitted Users to use the Securexchange Services for a specific property transaction or dealing.

**Transaction** has the meaning given under clause D1.1(a).

**Transaction Materials** has the meaning given under clause D1.1(b).

## PART E SignIT

You acknowledge and agree that any access and use of SignIT is also subject to the relevant terms applicable to SignIT set out in the Third Party Terms, located here <https://infotrack.com.au/legal/ThirdPartyTerms>.

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## PART F Will Trace

### F1 Will Trace Services

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- F1.1 The 'Will Trace Service' is a service offered by InfoTrack that maintains a searchable index of Will Information provided by You and other participating Will Trace clients. By subscribing to the Will Trace Services, InfoTrack will:
- (a) **Death Notices:** notify You when InfoTrack identifies any death notices that potentially match Will Information about Your Testator;
  - (b) **Will Trace:** enable You to locate a will which another participating InfoTrack client may hold and contacting Your firm directly or through InfoTrack, depending on Your privacy settings to initiate or enquire about probate opportunities; and
  - (c) **Will Enquiries:** unless You have opted out, enable other users of the Will Trace Services to search for and locate a will which You may hold and contacting Your firm either directly or through InfoTrack, depending on Your privacy settings to enquire about a will that You might hold, (Will Trace Services).
- F1.2 **InfoTrack Promise:** In providing the Will Trace Services, InfoTrack promises:
- (a) it will never view, upload or store any copies of Your Testator's will; and
  - (b) it will store the Will Information securely and implement information security controls designed to protect the Will Information from any unauthorised loss, disclosure or access.

### F2 Acknowledgements

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- F2.1 By using the Will Trace Services, You acknowledge and agree that:
- (a) You consent to Your Testator's Will Information:
    - (i) automatically synchronised from your practice management system (where enabled) to the Will Index, or
    - (ii) uploaded from a CSV file which a You created and uploaded to the Will Index via an InfoTrack System,
  - (b) You consent to InfoTrack collecting, using, holding and disclosing the Will Information as described in clause F1.1 above for the purposes of providing the Will Trace Services;
  - (c) You have obtained all necessary consents and authorisations from Your Testator clients or other relevant third parties to disclose the Will Information to InfoTrack for the purposes of the Will Trace Services and You will not provide any Will Information to InfoTrack unless such consent is obtained;
  - (d) if Your Testator client withdraws their consent to disclose their Will Information to InfoTrack, then You must promptly follow the 'opt-out' process for that Testator's Will Information as further described in clause F3.1 below; and
  - (e) You are responsible for verifying that the Will Information provided to InfoTrack is current, accurate and correct.

### F3 Privacy and Opting-Out

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- F3.1 To opt-out or cancel some or all of Your Testator's Will Information synchronising to, or being searchable via, the Will Trace Service, You acknowledge that You may:
- (a) hide Will Information on an individual per Testator basis by going into Your 'Privacy Settings' within the Will Register at any time;
  - (b) hide Will Information for all of Your Testators by going into Your 'Privacy Settings' within the Will Index at any time; or
  - (c) contact the InfoTrack HelpDesk to request such a cancellation.



F3.2 Where You have 'opted-out' under clause F3.1 above, InfoTrack will promptly action such requests with due care and skill.

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## F4 Limitation of Liability

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F4.1 You acknowledge and agree that, to the fullest extent permitted by Law:

- (a) all terms, conditions or warranties are expressly excluded, and InfoTrack expressly disclaims any warranties that:
  - (i) the Will Information held within the Will Index is correct, accurate, complete, reliable, current, up-to-date or otherwise error-free
  - (ii) the Will Trace Services will correctly, accurately, completely or reliably synchronise or upload the Will Information provided by You to the Will Index; and
- (b) You hold InfoTrack harmless and InfoTrack excludes all liability arising from or in connection with any errors or omissions contained in the Will Information or Your use of the Will Trace Services.

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## F5 Definitions

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F5.1 In this PART F:

**Testator** means Your client and the testator of the relevant will.

**Will Information** means testator name, name of Your law firm, testator place of birth, and the date the will was last updated.

**Will Index** is an InfoTrack System that is owned and hosted by InfoTrack and which may be used by Your Permitted Users for the purposes of accessing and using the Will Trace Services.

**Will Trace Services** has the meaning given to that term in clause F1.1.

# PART G Verification of Identity (VOI) Services

You acknowledge and agree that any access and use of any VOI Services is also subject to the relevant terms applicable to VOI Services set out in the Third Party Terms, located at <https://infotrack.com.au/legal/ThirdPartyTerms>.

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## G1 Appointment

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G1.1 You acknowledge and agree that:

- (a) You appoint InfoTrack as your agent for the purposes of:
  - (i) carrying out InfoTrack verification of identity VOI Services in respect of the Person Being Identified (ie, Your client) and,
  - (ii) where instructed, to sign Client Authorisation Forms including as Your Representative Agent (within the meaning of the Participation Rules) as required; and
- (b) You direct InfoTrack to carry out the VOI Services in respect of the Person Being Identified in accordance with the VOI Rules.

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## G2 Access to the InfoTrackID Platform

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G2.1 InfoTrack grants you with access to the InfoTrackID Platform in accordance with the licence granted under this Agreement for the purposes of:

- (a) submitting a request for InfoTrack to perform the VOI Services in respect of a Person Being Identified;
- (b) retrieve completed VOI Reports via the InfoTrackID Platform; and
- (c) communicating with InfoTrack about the VOI Services.



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### G3 VOI Services

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- G3.1 You may submit a request for VOI Services in respect of a Person Being Identified via the InfoTrackID Platform (**Request**).
- G3.2 **InfoTrackID Services:** Where You have submitted a Request for the 'InfoTrackID Services' in respect of a Person Being Identified, InfoTrack will:
- (a) send an email and/or SMS to the Person Being Identified with a link to the InfoTrackID Platform;
  - (b) issue a Client Code to the Person Being Identified;
  - (c) facilitate the Person Being Identified's submission of the VOI Checks via the InfoTrackID Platform;
  - (d) submit the VOI Checks to the DVS where directed by You in the InfoTrackID Platform;
  - (e) generate the VOI Report,
- in accordance with the applicable VOI Rules and this Agreement (**InfoTrackID Services**).
- G3.3 Upon successful completion of the VOI Service, InfoTrack will make the completed VOI Report in relation to the Person Being Identified available for download via the InfoTrackID Platform and notify You by email that the VOI Report is available for retrieval (unless you have opted out of these notifications or changed your default settings).

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### G4 Premium VOI Services

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- G4.1 **Premium VOI Services:** Where You subscribe to the Premium VOI Services, in addition to the InfoTrackID Services, for each VOI Check submitted by a Person Being Identified and prior to uploading the final VOI Report to the InfoTrackID Platform, InfoTrack will:
- (a) manually check and compare identity documents submitted by the Person Being Identified;
  - (b) request any documents submitted by the Person Being Identified that are of poor quality to be resubmitted to the InfoTrackID Platform;
  - (c) correct common transcription errors to the extent identified by using OCR (Optical Character Recognition) technology; and
  - (d) resubmit documents through DVS (Document Verification Service) if required; and
  - (e) promptly notify You:
    - (i) where InfoTrack has been unable to successfully verify the identity of the Person Being Identified in its performance of the Premium VOI Service (such as where the Person Being Identified has been unable to provide valid identity documents); and
    - (ii) the reason for the unsuccessful verification (to the extent possible),
- in accordance with the applicable VOI Rules and this Agreement (**Premium VOI Services**).
- G4.2 **Personnel:** InfoTrack will ensure, for all InfoTrack Personnel (including the employees of any subcontractors) employed or engaged to undertake the Premium VOI Service, that:
- (a) the person's identity is verified by InfoTrack at onboarding;
  - (b) the person has entered into an employee confidentiality agreement;
  - (c) criminal history checks are completed at onboarding and every 2 years thereafter and do not show any crime indicating fraud, dishonesty, or any other crime that could give rise to risks if that person was to perform the Premium VOI Services; and
  - (d) the person has been properly trained to carry out the Premium VOI Services including in relation to the requirements of the VOI Rules and other matters relevant to the Premium VOI Service (and any ongoing training refreshers as required from time to time) and will be regularly reviewed by InfoTrack in their performance of the Premium VOI Service.

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## G5 Client Acknowledgements

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G5.1 You acknowledge and agree that:

- (a) You must provide all relevant information required to enable InfoTrack to initiate the VOI Checks with the Person Being Identified and complete the VOI Services, including:
  - (i) the required VOI Rule set for the performance of the VOI Services (eg, ARNECC, 100 Points etc)
  - (ii) the properly completed Client Authorisation Form (if required for the selected VOI Rule set or otherwise required by You) for signing by the Person Being Identified,  
**(Client Materials).**
- (b) You must review the VOI Report prior to relying on it and must reasonably satisfy yourself based on the information available to You (including the VOI Report and the Matter Information) that the Person Being Identified's identity has been properly verified in accordance with the VOI Rules and all applicable Laws.
- (c) You must take further steps as reasonably necessary in the circumstances, to verify the identity of the Person Being Identified if You are not satisfied that the Person Being Identified's identity has been properly verified in accordance with the VOI Rules and all applicable Laws.
- (d) where a Transaction document is to be executed by a Body Corporate or Power of Attorney:
  - (i) You are responsible for taking reasonable steps to establish who is authorised to sign on behalf of the Body Corporate or that the Transaction is authorised by the Power of Attorney, as required by the VOI Rules; and
  - (ii) the provision of a VOI Report by InfoTrack in relation to a Person Being Identified who purports to sign for a Body Corporate or under a Power of Attorney does not prove that the Person Being Identified is authorised to sign on behalf of the Body Corporate or donor.
- (e) You are responsible for the accuracy and completeness of all data made available by You to InfoTrack in connection with the VOI Service.

G5.2 **Compliance:** You acknowledge and agree:

- (a) that You are responsible for storing and maintaining your own records of the VOI Services and VOI Reports as required by Law;
- (b) that You are responsible for complying with all Laws in respect of Your obligations to verify the identity of the Person Being Identified including under the Electronic Conveyancing National Law and the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth); and
- (c) InfoTrack is not an Identity Agent for the purposes of the ARNECC Participation Rules and is not responsible for compliance with Laws applicable to Your verification of identity obligations; and
- (d) InfoTrack will not conduct any face-to-face interviews with the Person Being Identified,  
and, subject to InfoTrack's compliance with this Agreement and all Laws applicable to InfoTrack, InfoTrack has no liability to You, however arising, in respect of Losses or Claims suffered by You arising from the matters set out in paragraphs (a) to (d) above.

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## G6 Record Retention

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G6.1 **Retrieval from the UI:** InfoTrack will make available the following records about the VOI Services for Your retrieval from the InfoTrackID Platform for a period of at least 30 days:

- (a) copies/record of the Request and Client Materials submitted by You;
  - (b) any copies made of the identification documents about the Person Being Identified submitted to InfoTrack as part of the VOI Services;
  - (c) a copy of the VOI Report;
- (VOI Records).**

G6.2 **Archiving of the VOI Records:** Approximately 30 – 60 days after the completion of the VOI Services (or other period agreed between the Parties), InfoTrack may securely archive and retain the VOI Records for

a period of at least 7 years and thereafter InfoTrack may permanently and securely destroy the VOI Records from all InfoTrack Systems.

- G6.3 **Record Deletion:** InfoTrack reserves the right to delete or change its VOI Record retention policy upon 90 days written notice to You and thereafter, notwithstanding clause G6.2, InfoTrack may permanently and securely delete the VOI Records from all InfoTrack Systems approximately 30 – 60 days after the completion of the VOI Services, unless required to be retained longer by Law.
- G6.4 **Deletion Requests:** If the Person Being Identified requests destruction of the VOI Records, we will first inform You of such request and give You an opportunity to request retrieval of the VOI Records. We will then proceed to permanently delete or destroy the VOI Records in accordance with such request.
- G6.5 **Retrieval of Records:** You may request InfoTrack to retrieve the retained VOI Records at any time within the 7 years after the completion of the VOI Services (to the extent not already permanently destroyed under clauses G6.3 or G6.4). InfoTrack will provide an estimate of the time and any associated cost promptly upon receipt of Your request.

## G7 Warranties and Disclaimers

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G7.1 InfoTrack warrants that:

- (a) it will perform the VOI Service diligently with due care and skill and in compliance with the VOI Rules using reasonable steps and in accordance with this Agreement; and
- (b) the VOI Services will facilitate the collection and verification of the documents required to be verified by the Subscriber under the VOI Rules.

G7.2 InfoTrack does not warrant that:

- (a) the Person Being Identified has the authority to enter into the Transaction or deal with the property subject of the Transaction;
- (b) the successful completion of a VOI Service proves the identity of the Person Being Identified nor eliminates the possibility of identity fraud; or
- (c) the VOI Services alone will meet the Verification of Identity Standard.

## G8 Insurance

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- G8.1 InfoTrack will maintain professional indemnity insurance with an annual aggregate of not less than \$10 million.
- G8.2 Upon reasonable written request, InfoTrack will provide to You a copy of the certificate of currency for the insurances set out in clause G8.1 above.

## G9 Definitions

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G9.1 In this PART G:

**ARNECC** means the Australian Registrars National Electronic Conveyancing Council.

**Client Authorisation Form** means the 'Client Authorisation Form' set out in Schedule 4 of the Participation Rules authorising You to act for the Person Being Identified.

**Client Code** means the unique identifying code issued by InfoTrack to the Person Being Identified.

**Identity Agent** has the meaning given to that term under the Participation Rules.

**InfoTrackID Platform** means a secure online platform which InfoTrack may make available to You for initiating Requests and accessing VOI Reports and to the Person Being Identified to complete the VOI Check.

**InfoTrackID Services** means the InfoTrack verification of identity service which attempts to verify the identity of the Person Being Identified in accordance with the standards set out in the VOI Rules.

**Participation Rules** means the Model Participation Rules published by ARNECC pursuant to the ECNL as may be amended from time to time and as may be implemented in each state.

**Person Being Identified** means the individual who is required to have their identity verified.

**Premium VOI Services** means a premium version of the standard VOI Service, which includes a manual verification process.

**Representative Agent** has the meaning given in the Participation Rules.

**Request** means the request for VOI Services in respect of a Person Being Identified made by You using the InfoTrackID Platform.

**Transaction** means the land property dealing being entered into by the Person Being Identified (e.g., transfer, mortgage or caveat, discharge of mortgage or withdrawal of caveat).

**VOI Checks** means the verification of identity steps required to be undertaken by the Person Being Identified as part of the VOI Services as required under the VOI Rules, including the uploading or submission of identity documents.

**VOI Report** means a written report (in electronic form) containing copies of identity documents of the Person Being Identified and the 'InfoCheck' DVS result.

**VOI Rules** means the rules and regulations to the extent applicable to the type of VOI Services requested by You and includes (without limitation):

- (d) **ARNECC**: the Participation Rules (as may be amended from time to time);
- (e) **100 Points**: Austrac 100 point ID check;
- (f) **REINSW**: Real Estate Institute of NSW proof of identity checklist.

**VOI Service** means both InfoTrackID Services and the Premium VOI Service (as the context requires).

## PART H SettleIT

For the purposes of these SettleIT Product Terms, any references in the General Terms to:

- (a) InfoTrack should be read as a reference to SettleIT;
- (b) the Services or InfoTrack Products should be read as a reference to the SettleIT Services; and
- (c) the InfoTrack System should be read as a reference to the SettleIT Platform.

### H1 SettleIT Authority to Act

H1.1 You appoint SettleIT Pty Ltd (acting through its Personnel, Affiliates and SettleIT Agents) as Your agent for the purposes of SettleIT providing the SettleIT Services and You authorise SettleIT to act on behalf of You in accordance with Your instructions, the Client Authorisation and this Agreement, where directed, to perform the SettleIT Services (**Authority to Act**).

### H2 SettleIT Services

H2.1 The SettleIT Services may be provided by SettleIT Pty Ltd (**SettleIT**) or its Affiliates, or a SettleIT Agent.

H2.2 **SettleIT Services**: In consideration for the Fees, SettleIT in its capacity as a Subscriber (including through its Affiliates or a SettleIT Agent) will perform the following services in accordance with the Client Instructions in respect of Your Customer Transaction requests that are submitted by You through the SettleIT Platform and accepted by SettleIT:

- (a) conduct the Verification of Identity;
- (b) sign the Client Authorisation Form;
- (c) sign documents on Your behalf as required for the Conveyancing Transaction;
- (d) ensuring due diligence has been affected on each of Your Customer Transactions in compliance with the Participation Rules and any other applicable Laws;
- (e) opening the ELNO workspace (or accepting the workspace invite) and prepare the relevant land registry documents for Your approval;

- (f) attending to the stamping of the transfer of land (or any other relevant document) as necessary to complete Your Customer Transaction subject to Your assessment and payment of duty by You or Your Customer;
  - (g) preparing the statement of adjustments for Your approval;
  - (h) contacting councils and other relevant authorities to verify outstanding balances;
  - (i) uploading the cheque directions provided by You into the ELNO workspace;
  - (j) enabling You to utilise the SettleIT Agent's trust account when instructed. The SettleIT Agent must not charge You any fee for usage of its trust account;
  - (k) lodging the Australian Taxation Office GST Withholding Form 1 and 2 via the ELNO Workspace or ATO website when withholding is required by You for Your Customer Transaction;
  - (l) submission and execution of Your Customer Transaction through the Electronic Lodgement Network Operator in accordance with the Client Instructions;
  - (m) executing the Client Instructions as provided by You;
  - (n) completing the Title Activity Check via the ELNO on the settlement date but not a Land Titles Office Final Search which shall be Your responsibility;
  - (o) uploading all Materials which are created during the Conveyancing Transaction to the SettleIT Platform;
  - (p) using the SettleIT Platform to communicate with You;
  - (q) notifying You on the completion of all major milestones of Your Customer Transaction on the SettleIT Platform;
  - (r) provide services relating to the completion and settlement, and other incidental services, all in connection with the instructed Conveyancing Transaction
  - (s) any related or ancillary services which are required for the proper performance of the services described above or otherwise offered or provided by SettleIT from time to time,
- (the **SettleIT Services**).

H2.3 **SettleIT Obligations:** Without limiting any other of its obligations under this Agreement, SettleIT must, and must ensure each Settlement Agent:

- (a) performs the SettleIT Services in respect of each of Your Customer Transactions accepted by SettleIT:
  - (i) in a proper, timely and workmanlike manner and with due care and skill;
  - (ii) manually or electronically using an Electronic Lodgement Network using appropriate technology and systems in accordance with good industry practice;
  - (iii) through Personnel or SettleIT Agents who either: (A) have a valid solicitor practicing certificate or conveyancing licence in the State or Territory in which those Personnel or Settlement Agents reside; or (B) are otherwise appropriately qualified and experienced to perform their roles and functions;
  - (iv) in accordance with all applicable Laws, Regulatory Requirements, the Electronic Conveyancing National Law and the ARNECC Participation Rules, any Prescribed Requirements and this Agreement;
  - (v) in accordance with reasonable and lawful Client Instructions provided by You from time to time;
- (b) holds and maintains (at its own cost) all licences, authorities, consents, approvals and other authorisations necessary to provide the SettleIT Services; and
- (c) holds and maintains evidence to support Your Customer Transaction for seven years from the date of registration of the document.

H2.4 **Conflict of Interest:** Notwithstanding any other provision of this Agreement the parties shall comply with Rule 11 of the Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015 or any similar rules applicable to Conveyancers who are engaged in Your Customer Transaction (**Rules**) and, prior to

settlement of any transaction, if requested by SettleIT, You will provide reasonable evidence of Your compliance with the Rules to enable compliance by SettleIT with such Rules.

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### H3 Settlement Agents

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H3.1 You acknowledge and agree that:

- (a) the SettleIT Services may be performed in whole or in part by SettleIT Agents appointed by SettleIT in accordance with this Agreement;
- (b) SettleIT Agents are subcontractors of SettleIT and may be appointed or removed as SettleIT Agents by SettleIT in its sole discretion;
- (c) You can choose which SettleIT Agents are appointed to your SettleIT Panel through the SettleIT Platform;
- (d) SettleIT will ensure that the Settle Services are only performed by SettleIT, a SettleIT Affiliate or SettleIT Agents appointed to Your SettleIT Panel;
- (e) where a SettleIT Agent appointed to Your SettleIT Panel is unable to act or has been removed as a SettleIT Agent by SettleIT, SettleIT will let You know promptly and work with You to appoint another SettleIT Agent on Your SettleIT Panel.

H3.2 SettleIT will use reasonable commercial endeavours to ensure that the SettleIT Agent:

- (a) has satisfied all of the Eligibility Conditions:
  - (i) before the SettleIT Agent provides any SettleIT Services pursuant to this Agreement; and
  - (ii) on an ongoing basis during the term of its appointment,
- (b) has secure access to the SettleIT Platform.

H3.3 **SettleIT Obligations:** When appointing a SettleIT Agent, SettleIT warrants and agrees that:

- (a) it must ensure that the contract (or proposed contract) between it and the SettleIT Agent is consistent with all relevant terms of this Agreement; and
- (b) it will be responsible and liable for all acts and omissions of the SettleIT Agent as if they were acts or omissions of SettleIT. The entry by SettleIT into a subcontract with a SettleIT Agent will not relieve SettleIT from liability for performance of its obligations to You.

### H4 Ordering & Transaction Process

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H4.1 You may, from time to time, request that SettleIT performs the SettleIT Services in respect of Your Customer Transaction. Your Customer Transaction request may be made online through the SettleIT Platform accessed via the SettleIT Search Platform.

H4.2 SettleIT (or the SettleIT Agent) may reject or accept Your Customer Transaction request in its sole discretion.

H4.3 SettleIT must notify you within 24 hours from receipt of Your Customer Transaction request whether the request has been accepted or rejected.

H4.4 You may cancel Your Customer Transaction request at any time before SettleIT provides notification of acceptance pursuant to clause H4.3 in respect of that request.

H4.5 If SettleIT accepts Your Customer Transaction request, SettleIT must provide the SettleIT Services in respect of Your Customer Transaction in accordance with this Agreement.

H4.6 SettleIT acknowledges and agrees that:

- (a) the SettleIT Services may only be performed in respect of Your Customer Transactions as requested by You; and
- (b) You will not be liable to pay any fees or charges (including the Fees) to SettleIT in connection with services performed by SettleIT in relation to any transaction:
  - (i) that is not Your Customer Transaction;
  - (ii) that You did not authorise SettleIT to perform; or



- (iii) in respect of which a request for SettleIT Services was validly cancelled by you under clause H4.3.

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## H5 Client Acknowledgement

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H5.1 You acknowledge and agree that:

- (a) in performing the SettleIT Services and carrying out the Client Instructions, SettleIT is not providing legal advice to You, Your Customer or any other party to Your Customer Transaction;
- (b) You are solely responsible for providing professional advice to Your Customers (including, but not limited to, legal advice);
- (c) You are solely responsible (at Your own cost) for obtaining access to, and use of, the LEAP Software, any other practice management systems, or the ELNO Platform (to the extent required by you).

H5.2 **Client Instructions:** You acknowledge and agree that:

- (a) You are responsible for providing all Client Instructions, documents, consents or approvals as requested by SettleIT or otherwise necessary for SettleIT to complete Your Customer Transactions and You undertake to review, verify and approve the Client Instructions in respect of the SettleIT Services as requested by SettleIT from time to time;
- (b) You will use Your best endeavours to ensure that all Client Instructions are true and correct to the best of Your knowledge and belief;
- (c) SettleIT will not verify, review or amend the Client Instructions and is entitled to rely on the accuracy and completeness of the Client Instructions provided by You;
- (d) all requests and any Client Instructions in respect of a request must be provided in writing by You through the SettleIT Platform only;
- (e) you must not provide requests, Client Instructions or otherwise communicate with SettleIT or a SettleIT Agent other than through the SettleIT Platform;
- (f) You must not accept SettleIT Services from a SettleIT Agent that are not provided through the SettleIT Platform.

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## H6 Client Data

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H6.1 You consent to the Client Data being disclosed by SettleIT to:

- (a) SettleIT Agents;
- (b) PEXA or any other Electronic Lodgement Network Operator;
- (c) relevant government agencies,

for the purposes of providing the SettleIT Services and completing Your Customer Transactions, provided that such disclosures must be made in accordance with all Laws and the terms of this Agreement.

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## H7 Termination

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H7.1 If this Agreement is terminated:

- (a) unless otherwise directed by You, SettleIT (and the SettleIT Agent) will continue to perform all outstanding requested SettleIT Services which it has already commenced performing in accordance with the terms of this Agreement; and
- (b) where directed by You, SettleIT must promptly transition the performance of the SettleIT Services to any person at Your Cost nominated by You (including providing all necessary co-operation and assistance reasonably required by You).

H7.2 You acknowledge and agree:

- (a) where clause H7.1(a) applies, You will be liable to pay all Fees paid or accrued in respect of outstanding requests completed in accordance with H7.1(a);



- (b) where clause H7.1(b) applies, You will be liable to pay all Fees paid or accrued up to the date of such termination or expiry, and any reasonable fees incurred by SettleIT in the course of handing over the file relating to Your Customer Transactions to a new settlement agent.

## H8 Liability

H8.1 Subject to the limitation of liability set out in the Agreement, SettleIT indemnifies You against any and all Loss that You suffer or incur directly as a result of:

- (a) any failure by SettleIT or the SettleIT Agent to provide the SettleIT Services in accordance with all applicable Laws;
- (b) any action taken against You by a Regulator in connection with any act or omission by SettleIT or the SettleIT Agent in its performance of the SettleIT Services;
- (c) any failure by SettleIT or the SettleIT Agent to follow or complete Your Customer Transaction in accordance with the Client Instructions as provided by You.

H8.2 SettleIT excludes all liability (however arising), and You release and indemnify SettleIT from any Loss or Claim arising from or in connection with:

- (a) any requests, Client Instructions or communications provided by You outside of the SettleIT Platform;
- (b) any resultant service provided by a SettleIT Agent provided outside of the SettleIT Platform; and
- (c) any errors contained in Client Instructions as provided by You.

## H9 Definitions

H9.1 The following capitalised terms have the meaning given below:

**ARNECC** means the Australian Registrars National Electronic Conveyancing Council.

**Client Authorisation** has the same meaning given to it under the *Electronic Conveyancing National Law* and means the authorisation provided by You to SettleIT (as a Subscriber) to do one or more things on Your behalf in connection with the Conveyancing Transaction so that the Conveyancing Transaction, or part of the Conveyancing Transaction, can be completed electronically.

**Client Instructions** means directions, instructions and Client Data provided by You in relation to the SettleIT Services set out at clause H2.1 and other reasonable directions provided by You in connection with the performance of the SettleIT Services and Your Customer Transaction, including any approvals given under clause H5.2.

**Conveyancing Transaction** has the same meaning as given to it in the *Electronic Conveyancing National Law*.

**Electronic Conveyancing National Law** or **ECNL** means the *Electronic Conveyancing (Adoption of National Law) Act 2012*.

**Electronic Lodgement Network** has the same meaning given to it under the *Electronic Conveyancing National Law*.

**Electronic Lodgement Network Operator** or **ELNO** has the same meaning given to it under the *Electronic Conveyancing National Law*.

**Eligibility Conditions** means the following conditions that must be met by a SettleIT Agent:

- (a) the SettleIT Agent must have a valid solicitor practicing certificate or conveyancing licence in the State or Territory in which the SettleIT Agent resides (or where the SettleIT Agent is not an individual, the SettleIT Agent has Personnel who have a valid solicitor practicing certificate or conveyancing licence in the State or Territory in which such Personnel reside);
- (b) the SettleIT Agent must have all insurances necessary or desirable for the SettleIT Agent to be able to lawfully perform the Services, as required by their professional body or set out by the Electronic Lodgement Network Operator pursuant to the ARNECC Participation Rules of the relevant State or Territory;

- (c) the SettleIT Agent must have a valid participation agreement (or similar agreement) to be able to access and use the PEXA Platform or equivalent Electronic Lodgement Network Operator as a Subscriber for the purposes of performing the Services.
- (d) the SettleIT Agent must hold and maintain evidence to support the Conveyancing Transaction for seven years from the date of registration of the document.

**Participation Rules** means the Model Participation Rules published by ARNECC pursuant to the ECNL as may be amended from time to time and as may be implemented in each State or Territory.

**Prescribed Requirement** has the meaning given to that term under the Participation Rules and means any published requirement of the Registrar that Subscribers are required to comply with.

**Registrar** has the meaning given under applicable conveyancing laws of the participating and relevant jurisdiction.

**Regulator** means any court, governmental body or regulatory or supervisory authority having authority over all or any part of the SettleIT Agent's obligations under this Agreement.

**Representative** has the meaning given under the Participation Rules and means the Australian legal practitioner, law practice or licensed conveyancer named in the Client Authorisation who acts on Your behalf and under the relevant legislation of the Jurisdiction in which the property is situated can conduct a Conveyancing Transaction.

**SettleIT Platform** means the web-based application made available by SettleIT enabling You to access information relating to Your Customer Transactions, for the purposes of providing Client Instructions and enabling SettleIT to perform the SettleIT Services.

**SettleIT Services** means the services described in clause H2.1.

**Subscriber** has the meaning given to that term under the ECNL and means a person who is authorised under a participation agreement to use an ELN to complete Conveyancing Transactions on behalf of another person or on their own behalf.

**Your Customer** means your client being the person named in the Client Authorisation.

**Your Customer Transaction** means a Conveyancing Transaction for which You have submitted a request via the SettleIT Platform for SettleIT to perform the SettleIT Services.