

# InfoTrack New Zealand Product Terms

## Currency

*These InfoTrack NZ Product Terms are current from 31 March 2024.*

## 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.

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## PART A Third Party Terms

### A1 Acknowledgement

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A1.1 You acknowledge and agree that, in addition to the General Terms and these Product Terms, any access to and use of certain InfoTrack Products may also be subject to any applicable Third Party Terms. InfoTrack Products that are also subject to the Third Party Terms include:

- (a) Australian Company (ASIC) Searches
- (b) NZ Company and PPSR Searches
- (c) Australian PPSR Searches
- (d) Insolvency Searches
- (e) SignIT
- (f) Verification of Identity (IDV) Services
- (g) Land Registry Services and Titles Products

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.

### A1.2 Definitions

**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.nz/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.nz/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:

- (a) located here <https://infotrack.nz/legal/ThirdPartyTerms> and as updated by InfoTrack from time to time;
- (b) presented to You at the point of sale; or
- (c) agreed directly between You and the Third Party Supplier.

## PART B Land Registry Services and Titles Products

### B1 Third Party Terms

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B1.1 You acknowledge and agree that any access and use of any LRS Products is also subject to the applicable Third Party Terms, located at <https://infotrack.nz/legal/ThirdPartyTerms/>.

### B2 LRS & Titles Products – additional terms

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B2.1 **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.

- B2.2 **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.
- B2.3 **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.

## PART C Securexchange

### C1 Securexchange

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- C1.1 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**).
- C1.2 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.

### C2 InfoTrack Guarantee

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- C2.1 **InfoTrack Guarantee:** Subject to clauses C2.2 and C2.3 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**).
- C2.2 **Making a Claim:** When making a claim under clause C2.1, 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.
- C2.3 **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.

C2.4 **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.

### C3 Information Security

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C3.1 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).

### C4 Definitions

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C4.1 In this PART C:

**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; and
- (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 C1.1 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 C1.1(a).

**Transaction Materials** has the meaning given under clause C1.1(b).

## PART D SignIT

### D1 Third Party Terms

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D1.1 You acknowledge and agree that, in addition to the General Term, Your access to and use of SignIT is also subject to the applicable Third Party Terms located at <http://www.docuSign.com/company/terms-and-conditions/reseller> and also reproduced at <https://infotrack.nz/legal/ThirdPartyTerms/>.

## PART E Will Trace

### E1 Will Trace Services

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E1.1 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. The Will Trace Services, include the following services:

- (a) **Death Notices:** for participating law firm clients only, InfoTrack will notify You when InfoTrack identifies any death notices that potentially match Will Information about Your Testator;
- (b) **Will Trace:** unless You have opted out, other users of the Will Trace Services may use the Will Trace Platform to search for the location of a will, and:
  - (i) **Direct Enquiries:** if InfoTrack matches the end user search to Will Information provided by You, then InfoTrack will display the matched data and Your contact details to the end user for the purposes of contacting Your firm directly to enquire about the matched will; or
  - (ii) **Locked Enquiries:** if InfoTrack matches the end user search to Will Information provided by You, then InfoTrack will let the end user know InfoTrack may have located a matched will and contact you to let you know about the enquiry. InfoTrack will not disclose your firms details to the end user unless expressly authorised by You,

(Will Trace Services).

E1.2 **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.

### E2 Acknowledgements

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E2.1 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 Trace Platform, or
  - (ii) uploaded from a CSV file which a You created and uploaded to the Will Trace Platform via an InfoTrack System,
- (b) You consent to InfoTrack collecting, using, holding and disclosing the Will Information as described in clause E1.1 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 or other relevant third party withdraws the consent to disclose the Will Information to InfoTrack, then You must promptly follow the 'opt-out' process for that Testator's Will Information as further described in clause E3.1 below; and
- (e) You are responsible for verifying that the Will Information provided to InfoTrack is current, accurate and correct.

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### E3 Privacy and Opting-Out

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- E3.1 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 Testator basis by going into Your 'Privacy Settings' within the Will Trace Platform at any time;
  - (b) hide Will Information for all of Your Testators by going into Your 'Privacy Settings' within the Will Trace Platform at any time; or
  - (c) contact the InfoTrack HelpDesk to request such a cancellation.
- E3.2 Where You have 'opted-out' under clause E3.1 above, InfoTrack will promptly action such requests with due care and skill.

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### E4 Limitation of Liability

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- E4.1 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 Trace Platform 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 Trace Platform; 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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### E5 Definitions

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- E5.1 In this PART E:

**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 Trace Platform** 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 E1.1.

## PART F Identity Verification Services

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### F1 Third Party Terms

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- F1.1 You acknowledge and agree that in addition to the General Terms and these Product Terms, Your access to and use of any IDV Services is also subject to the Principal Agreement entered into directly between You and the Third Party Supplier and incorporates the third party vendor terms located at <https://www.gbg-cloudcheck.com/third-party-vendor/>.

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### F2 Access to the InfoTrackID Platform

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- F2.1 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 supply the IDV Services in respect of a Person Being Identified;
- (b) retrieve completed IDV Reports via the InfoTrackID Platform; and
- (c) communicating with InfoTrack about the IDV Services.

### F3 IDV Services

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**F3.1 IDV Services:** The IDV Services facilitate the verification of the Identity Documents submitted to the Third Party Supplier by the Person Being Identified, and comprise:

- (a) the InfoTrackID Services (provided by InfoTrack); and
- (b) the Verifi Identity Check services (being a Third Party Product provided by a Third Party Supplier), (together, the **IDV Services**).

**F3.2** Subject to entering in a Principal Agreement with the Third Party Supplier (see clause F4.1(a)), You may submit a Request for IDV Services in respect of a Person Being Identified via an InfoTrack Platform by including all relevant information reasonably requested by InfoTrack.

**F3.3 InfoTrackID Services:** Where You have submitted a Request for the IDV 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 Third Party Platform; and
- (b) upon completion of the Verifi Identity Checks by the Third Party Supplier, InfoTrack will:
  - (i) notify You by email that the IDV Report is available for retrieval (unless you have opted out of these notifications or changed your default settings); and
  - (ii) make the completed IDV Report in relation to the Person Being Identified available for download via the InfoTrackID Platform in accordance with this Agreement,

(**InfoTrackID Services**).

**F3.4 Verifi Identity Checks:** The Third Party Supplier will:

- (a) facilitate the Person Being Identified's submission of the Identity Documents via the Third Party Platform;
- (b) attempt verification of the Identity Documents, including by submitting the Identity Documents to the relevant document verification services;
- (c) generate the IDV Report and return that IDV Report to InfoTrack, in accordance with Your Principal Agreement with the Third Party Supplier (**Verifi Identity Checks**).

### F4 Client Acknowledgements

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**F4.1 Third Party Supplier:** You acknowledge and agree that:

- (a) before You can submit a Request for the IDV Services, You must first enter into a Principal Agreement with the Third Party Supplier for the Verifi Identity Checks, which forms a separate agreement between You and the Third Party Supplier in respect of the supply by the Third Party Supplier, and Your use of, the IDV Report;
- (b) the Verifi Identity Checks are provided by the Third Party Supplier (and not InfoTrack) in accordance with the terms of the Principal Agreement; and
- (c) You will comply with the terms of the Principal Agreement and any reasonable and lawful directions given by the Third Party Supplier in relation to Your use of the IDV Report.

**F4.2 Client Data:** You acknowledge and agree that:

- (a) You must provide all relevant information required to enable InfoTrack and the Third Party to provide the IDV Services for the Person Being Identified (**Client Data**); and
- (b) You are responsible for the accuracy and completeness of all Client Data made available by You to InfoTrack and the Third Party Supplier in connection with the IDV Service.

F4.3 **Consent:** You warrant and agree that:

- (a) the Person Being Identified has given You consent as required by applicable Laws to disclose their Personal Information to InfoTrack and any applicable Third Party Suppliers for their use in connection with providing the IDV Services and as set out in this Agreement and in accordance with the 'Verifi Policies' located here: <https://www.gbg-cloudcheck.com/legal/>; and
- (b) You have a legitimate legal basis for initiating the IDV Services and conducting and verification of identity in respect of the Person Being Identified.

F4.4 **Compliance:** You acknowledge and agree:

- (a) that the IDV Services are a tool designed to facilitate Your attempts to verify the identity of the identity of the Person Being Identified as, as such:
  - (i) You will need to satisfy yourself of adequacy, appropriateness and compatibility of the IDV Services for your requirements (including comply with the IDV Rules and applicable Laws and
  - (ii) You will take all further necessary and reasonable steps to comply with applicable IDV Rules and Laws;
- (b) that You are solely responsible (and neither InfoTrack nor the Third Party are responsible) for complying with all applicable IDV Rules and Laws in respect of Your obligations to verify the identity of the Person Being Identified;
- (c) InfoTrack is not acting as your agent in respect of Your obligations to verify the identity of the Person Being Identified;
- (d) neither InfoTrack nor its Third Party Supplier's will conduct any face-to-face interviews with the Person Being Identified;
- (e) that You are responsible for reviewing the IDV Report and must reasonably satisfy yourself based on the information available to You (including the IDV Report and the Matter Information) that the Identity Documents for the Person Being Identified have been properly verified; and
- (f) that You are responsible for storing and maintaining your own records of the IDV Reports as required by applicable IDV Rules and Laws.

## F5 Warranty Disclaimers

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F5.1 Neither InfoTrack nor the Third Party Supplier warrants that:

- (a) the successful completion of a IDV Service proves the identity of the Person Being Identified nor eliminates the possibility of identity fraud; or
- (b) the IDV Services alone will meet or comply with the IDV Rules or other Laws applicable to Your obligations to verify the identity of the Person Being Identified.

## F6 Limitation of Liability and Indemnities

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F6.1 **Limitation of Liability:** You acknowledge and agree that, subject to InfoTrack's compliance with this Agreement and all Laws applicable to InfoTrack, InfoTrack has no liability to You, howsoever arising (whether directly or indirectly and whether on contract, tort or negligence), in respect of Losses or Claims suffered by You in connection with or arising from:

- (a) the matters set out in clause F4.4 and F4.1 above; and
- (b) the Verifi Identity Checks provided by the Third Party Supplier in connection with the IDV Services.

F6.2 **Indemnity:** You indemnify and keep indemnified InfoTrack from and against any Losses or Claims (including any reasonable legal costs) reasonably incurred or suffered by InfoTrack arising directly from or in connection with:

- (a) any breach of the Principal Agreement caused or contributed to by You or Your Representatives; and
- (b) any breach of clause F4.3 (Consent).

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## F7 Record Retention

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- F7.1 **Retrieval from the UI:** InfoTrack will make available the following records about the IDV 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) a copy of the IDV Report;
- (IDV Records).
- F7.2 **Archiving of the IDV Records:** Any time between 30 and 60 days after the completion of the IDV Services, InfoTrack may permanently and securely destroy the IDV Records from all InfoTrack Systems.

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## F8 Definitions

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F8.1 In this PART F:

**Identity Documents** means the identity documents required to be submitted by the Person Being Identified to enable the IDV Services to be performed.

**IDV Report** means a written report (in electronic form) containing the result of the Verifi Identity Check in respect of the Person Being Identified as performed and prepared by the Third Party Supplier.

**IDV Rules** means the applicable Laws, rules and regulations applicable to Your obligations to verify the identity of the Person Being Identified and the type of IDV Services requested by You.

**IDV Service** has the meaning given to that term under clause F3.1.

**InfoTrackID Platform** means a secure online platform which InfoTrack may make available to You for initiating Requests and accessing IDV Reports.

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

**Principal Agreement** means the agreement between You and the Third Party Supplier for the Verifi Identity Checks provided by the Third Party Supplier and incorporates the third party vendor terms located at <https://www.gbg-cloudcheck.com/third-party-vendor/>.

**Request** means the request for IDV Services in respect of a Person Being Identified made by You.

**Third Party Platform** means the application hosted and operated by the Third Party Supplier to provide the verification of identity services.

**Verifi Identity Check** has the meaning given to that term under clause F3.4.