

IDCARE Terms and Conditions

Statement of Affirmation

Identity Care Australia & New Zealand Ltd. (ABN 84 164038 966) and IDCARE Limited (4918799), referred to herein as IDCARE, affirm our commitment to the privacy laws, regulations and principles of Australia and New Zealand.

Date of Endorsement: 12 January 2022

Version Number: 2.0

Policy Number 5/2022

About these Terms and Conditions

These Terms and Conditions govern the use of the IDCARE website idcare.org and its Services. The User must read this document carefully. The IDCARE website is owned and operated by Identity Care Australia & New Zealand Ltd (IDCARE) Group of entities, PO Box 412 Caloundra, QLD, 4551. For any questions or concerns about these Terms & Conditions, please contact IDCARE via email: privacy@idcare.org or by calling +61 7 3555 5900.

What the User should know at a glance

- IDCARE is a registered Australian and New Zealand charity and not-for-profit.
- IDCARE aims to provide accurate and up-to-date information to assist the user to protect and respond to identity and cyber security incidents.
- The advice we provide is contemporary and its accuracy is based on the information communicated to IDCARE by organisations and our on-going testing of response processes and their effectiveness as captured by community members.
- IDCARE provides this information through idcare.org, including its connectivity to our National Case Management Centre, Identity Security Operations Centre, and online portals that facilitate the delivery and actioning of response advice (the Service).
- Response advice may change over time as the identity and cyber environments change. Users are encouraged to subscribe to our free community newsletter and/or other Government alerting services to receive the latest advice on response measures and threats.
- IDCARE does not need your personal information to provide our advice, but we may need your personal information if you would like IDCARE to take response actions on your behalf.

Terms of use

Unless otherwise specified, the terms of use detailed in this section apply generally when using the IDCARE website and the Service.

By using idcare.org and/or the Service, Users confirm:

- The advice is provided to individuals, business or government users;
- To use the Service, Users must have read, understood and comply with these Terms and Conditions;
- IDCARE's website stores cookies on your computer. These cookies are used to collect information about how Users interact with our website and allow us to remember Users. IDCARE uses this information in order to improve and customise the User's browsing experience and for analytics and metrics about our visitors to our website and social media platforms. Users may disable cookies when using the website.

- Where the Response Actions afford Users the opportunity for IDCARE to “act on your behalf” to put in place certain response measures, such as inform financial institutions or government agencies to allow for additional security measures, the User may need to provide IDCARE with personal information, such as email address, phone number, date of birth, and government credential information, and participate in an identity verification process. Such actions may not be taken by IDCARE if the information requested is inaccurate or incomplete;
- Any collection of personal information will be in accordance with IDCARE's Privacy Policy;
- Advice provided by IDCARE to Users is not contingent on Users agreeing for IDCARE to act on their behalf. This is offered where relevant, and not for every Response Action recommended, and may be rejected by the User;
- User data or information collected must be complete and truthful where it is mandatory to provide in order to receive Services;
- Advice provided by IDCARE, including Response Actions, does not constitute legal advice. IDCARE recommends that you consult a legal practitioner in relation to your legal rights and obligations, including but not limited to your legal rights or obligations under Australian, New Zealand or other international privacy and data protection laws;
- While every effort has been made to ensure the accuracy of the information provided, to the maximum extent permitted by law all conditions, terms, representations, and warranties (in each case, whether express or implied) in connection with the provision of the information which might otherwise be binding upon IDCARE are excluded.

Content on idcare.org

Unless where otherwise specified or clearly recognisable, all content available on idcare.org is owned or provided by the Owner or its licensors. The Owner undertakes its utmost effort to ensure that the content provided on idcare.org infringes no applicable legal provisions or third-party rights. However, it may not always be possible to achieve such a result. In such cases, without prejudice to any legal prerogatives of Users to enforce their rights, Users are kindly asked to report related complaints using privacy@idcare.org or via published telephone numbers on idcare.org

Rights regarding content on idcare.org - All rights reserved

The Owner holds and reserves all intellectual property rights for any such content. Users may not therefore use such content in any way that is not necessary or implicit in the proper use of the Service. In particular, but without limitation, Users may not copy, download, share (beyond the limits set forth below), modify, translate, transform, publish, transmit, sell, sublicense, edit, transfer/assign to third parties or create derivative works from the content available on idcare.org, nor allow any third party to do so through the User or their device, even without the User's knowledge. Where explicitly stated on idcare.org, the User may download, copy and/or share some content available through idcare.org for its sole personal and non-commercial use

and provided that the copyright attributions and all the other attributions requested by the Owner are correctly implemented. Any applicable statutory limitation or exception to copyright shall stay unaffected.

Access to external resources

Through idcare.org Users may have access to external resources provided by third parties. Users acknowledge and accept that the Owner has no control over such resources and is therefore not responsible for their content and availability. Conditions applicable to any resources provided by third parties, including those applicable to any possible grant of rights in content, result from each such third parties' terms and conditions or, in the absence of those, applicable statutory law.

Acceptable use

Idcare.org and the Service may only be used within the scope of what they are provided for, under these Terms and applicable law. Users are solely responsible for making sure that their use of idcare.org and/or the Service violates no applicable law, regulations or third-party rights. Therefore, the Owner reserves the right to take any appropriate measure to protect its legitimate interests including by denying Users access to idcare.org or the Service, terminating contracts, reporting any misconduct performed through idcare.org or the Service to the competent authorities – such as judicial or administrative authorities - whenever Users engage or are suspected to engage in any of the following activities:

- violate laws, regulations and/or these Terms;
- infringe any third-party rights;
- considerably impair the Owner's legitimate interests;
- offend the Owner or any third party.

Liability and indemnification

Australian Users

Limitation of liability

Nothing in these Terms excludes, restricts or modifies any guarantee, condition, warranty, right or remedy which the User may have under the Competition and Consumer Act 2010 (Cth) or any similar State and Territory legislation and which cannot be excluded, restricted or modified (non-excludable right). To the fullest extent permitted by law, our liability to the User, including liability for a breach of a non-excludable right and liability which is not otherwise excluded under these Terms of Use, is limited, at the Owner's sole discretion, to the re-performance of the services or the payment of the cost of having the services supplied again.

US users

Disclaimer of Warranties

Idcare.org is provided strictly on an "as is" and "as available" basis. Use of the Service is at Users' own risk. To the maximum extent permitted by applicable law, the Owner expressly

disclaims all conditions, representations, and warranties — whether express, implied, statutory or otherwise, including, but not limited to, any implied warranty of merchantability, fitness for a particular purpose, or non-infringement of third-party rights. No advice or information, whether oral or written, obtained by user from owner or through the Service will create any warranty not expressly stated herein.

Without limiting the foregoing, the Owner, its subsidiaries, affiliates, licensors, officers, directors, agents, co-branders, partners, suppliers and employees do not warrant that the content is accurate, reliable or correct; that the Service will meet Users' requirements; that the Service will be available at any particular time or location, uninterrupted or secure; that any defects or errors will be corrected; or that the Service is free of viruses or other harmful components. Any content downloaded or otherwise obtained through the use of the Service is downloaded at users own risk and users shall be solely responsible for any damage to Users' computer system or mobile device or loss of data that results from such download or Users' use of the Service.

The Owner does not warrant, endorse, guarantee, or assume responsibility for any product or service advertised or offered by a third party through the Service or any hyperlinked website or service, and the Owner shall not be a party to or in any way monitor any transaction between Users and third-party providers of products or services.

The Service may become inaccessible or it may not function properly with Users' web browser, mobile device, and/or operating system. The owner cannot be held liable for any perceived or actual damages arising from Service content, operation, or use of this Service. Federal law, some states, and other jurisdictions, do not allow the exclusion and limitations of certain implied warranties. The above exclusions may not apply to Users. This Agreement gives Users specific legal rights, and Users may also have other rights which vary from state to state. The disclaimers and exclusions under this agreement shall not apply to the extent prohibited by applicable law.

Limitations of liability

To the maximum extent permitted by applicable law, in no event shall the Owner, and its subsidiaries, affiliates, officers, directors, agents, co-branders, partners, suppliers and employees be liable for

- any indirect, punitive, incidental, special, consequential or exemplary damages, including without limitation damages for loss of profits, goodwill, use, data or other intangible losses, arising out of or relating to the use of, or inability to use, the Service; and
- any damage, loss or injury resulting from hacking, tampering or other unauthorised access or use of the Service or User account or the information contained therein;
- any errors, mistakes, or inaccuracies of content;
- personal injury or property damage, of any nature whatsoever, resulting from User access to or use of the Service;

- any unauthorised access to or use of the Owner's secure servers and/or any and all personal information stored therein;
- any interruption or cessation of transmission to or from the Service;
- any bugs, viruses, trojan horses, or the like that may be transmitted to or through the Service;
- any errors or omissions in any content or for any loss or damage incurred as a result of the use of any content posted, emailed, transmitted, or otherwise made available through the Service; and/or
- the defamatory, offensive, or illegal conduct of any User or third party. In no event shall the Owner, and its subsidiaries, affiliates, officers, directors, agents, co-branders, partners, suppliers and employees be liable for any claims, proceedings, liabilities, obligations, damages, losses or costs in an amount exceeding the amount paid by User to the Owner hereunder in the preceding 12 months, or the period of duration of this agreement between the Owner and User, whichever is shorter.

This limitation of liability section shall apply to the fullest extent permitted by law in the applicable jurisdiction whether the alleged liability is based on contract, tort, negligence, strict liability, or any other basis, even if company has been advised of the possibility of such damage.

Some jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, therefore the above limitations or exclusions may not apply to User. The terms give User specific legal rights, and User may also have other rights which vary from jurisdiction to jurisdiction. The disclaimers, exclusions, and limitations of liability under the terms shall not apply to the extent prohibited by applicable law.

Indemnification

The User agrees to defend, indemnify and hold the Owner and its subsidiaries, affiliates, officers, directors, agents, co-branders, partners, suppliers and employees harmless from and against any and all claims or demands, damages, obligations, losses, liabilities, costs or debt, and expenses, including, but not limited to, legal fees and expenses, arising from

- User's use of and access to the Service, including any data or content transmitted or received by User;
- User's violation of these terms, including, but not limited to, User's breach of any of the representations and warranties set forth in these terms;
- User's violation of any third-party rights, including, but not limited to, any right of privacy or intellectual property rights;
- User's violation of any statutory law, rule, or regulation;
- any content that is submitted from User's account, including third party access with User's unique username, password or other security measure, if applicable, including, but not limited to, misleading, false, or inaccurate information;
- User's willful misconduct; or

- statutory provision by User or its affiliates, officers, directors, agents, co-branders, partners, suppliers and employees to the extent allowed by applicable law.

Common provisions

No Waiver

The Owner's failure to assert any right or provision under these Terms shall not constitute a waiver of any such right or provision. No waiver shall be considered a further or continuing waiver of such term or any other term.

Service interruption

To ensure the best possible service level, the Owner reserves the right to interrupt the Service for maintenance, system updates or any other changes, informing the Users appropriately. Within the limits of law, the Owner may also decide to suspend or terminate the Service altogether. If the Service is terminated, the Owner will cooperate with Users to enable them to withdraw Personal Data or information in accordance with applicable law. Additionally, the Service might not be available due to reasons outside the Owner's reasonable control, such as "force majeure" (eg. labour actions, infrastructural breakdowns or blackouts etc).

Service reselling

Users may not reproduce, duplicate, copy, sell, resell or exploit any portion of idcare.org and of its Service without the Owner's express prior written permission, granted either directly or through a legitimate reselling program.

Privacy policy

To learn more about the use of their Personal Data, Users may refer to the [privacy policy](#) of idcare.org.

Intellectual property rights

Without prejudice to any more specific provision of these Terms, any intellectual property rights, such as copyrights, trademark rights, patent rights and design rights related to idcare.org are the exclusive property of the Owner or its licensors and are subject to the protection granted by applicable laws or international treaties relating to intellectual property. All trademarks — nominal or figurative — and all other marks, trade names, service marks, word marks, illustrations, images, or logos appearing in connection with idcare.org are, and remain, the exclusive property of the Owner or its licensors and are subject to the protection granted by applicable laws or international treaties relating to intellectual property.

Changes to these Terms

The Owner reserves the right to amend or otherwise modify these Terms at any time. In such cases, the Owner will appropriately inform the User of these changes. Such changes will only affect the relationship with the User for the future. The continued use of the Service will signify the User's acceptance of the revised Terms. If Users do not wish to be bound by the changes, they must stop using the Service. Failure to accept the revised Terms, may entitle either party

to terminate the Agreement. The applicable previous version will govern the relationship prior to the User's acceptance. The User can obtain any previous version from the Owner. If required by applicable law, the Owner will specify the date by which the modified Terms will enter into force.

Assignment of contract

The Owner reserves the right to transfer, assign, dispose of by novation, or subcontract any or all rights or obligations under these Terms, taking the User's legitimate interests into account. Provisions regarding changes of these Terms will apply accordingly. Users may not assign or transfer their rights or obligations under these Terms in any way, without the written permission of the Owner.

Contacts

All communications relating to the use of idcare.org must be sent using the contact information stated in this document.

Severability

Should any provision of these Terms be deemed or become invalid or unenforceable under applicable law, the invalidity or unenforceability of such provision shall not affect the validity of the remaining provisions, which shall remain in full force and effect.

EU Users

Should any provision of these Terms be or be deemed void, invalid or unenforceable, the parties shall do their best to find, in an amicable way, an agreement on valid and enforceable provisions thereby substituting the void, invalid or unenforceable parts. In case of failure to do so, the void, invalid or unenforceable provisions shall be replaced by the applicable statutory provisions, if so permitted or stated under the applicable law. Without prejudice to the above, the nullity, invalidity or the impossibility to enforce a particular provision of these Terms shall not nullify the entire Agreement, unless the severed provisions are essential to the Agreement, or of such importance that the parties would not have entered into the contract if they had known that the provision would not be valid, or in cases where the remaining provisions would translate into an unacceptable hardship on any of the parties.

US Users

Any such invalid or unenforceable provision will be interpreted, construed and reformed to the extent reasonably required to render it valid, enforceable and consistent with its original intent. These Terms constitute the entire Agreement between Users and the Owner with respect to the subject matter hereof, and supersede all other communications, including but not limited to all prior agreements, between the parties with respect to such subject matter. These Terms will be enforced to the fullest extent permitted by law.

Governing law

These Terms are governed by the law of the place where the Owner is based, as disclosed in the relevant section of this document, without regard to conflict of laws principles.

Exception for European Consumers

However, regardless of the above, if the User qualifies as a European Consumer and has their habitual residence in a country where the law provides for a higher consumer protection standard, such higher standards shall prevail.

Venue of jurisdiction

The exclusive competence to decide on any controversy resulting from or connected to these Terms lies with the courts of the place where the Owner is based, as displayed in the relevant section of this document.

Exception for European Consumers

The above does not apply to any Users that qualify as European Consumers, nor to Consumers based in Switzerland, Norway or Iceland.

Dispute resolution

Amicable dispute resolution

Users may bring any disputes to the Owner who will try to resolve them amicably. While Users' right to take legal action shall always remain unaffected, in the event of any controversy regarding the use of idcare.org or the Service, Users are asked to contact the Owner at the contact details provided in this document.

The User may submit the complaint including a brief description and if applicable, the details of the related order, purchase, or account, to the Owner's email address specified in this document. The Owner will process the complaint without undue delay and within 21 days of receiving it.

Online dispute resolution for Consumers

The European Commission has established an online platform for alternative dispute resolutions that facilitates an out-of-court method for solving any dispute related to and stemming from online sale and service contracts. As a result, any European Consumer can use such platform for resolving any dispute stemming from contracts which have been entered into online.

Definitions and legal references

Idcare.org (or this Application)

The property that enables the provision of the Service.

Agreement

Any legally binding or contractual relationship between the Owner and the User, governed by these Terms.

Consumer

Any User qualifying as a natural person who accesses goods or services for personal use, or more generally, acts for purposes outside their trade, business, craft or profession.

European (or Europe)

Applies where a User is physically present or has their registered offices within the EU, regardless of nationality.

Owner (or We)

Indicates the natural person(s) or legal entity that provides idcare.org and/or the Service to Users.

Service

The service provided by idcare.org as described in these Terms and on idcare.org.

Terms

All provisions applicable to the use of idcare.org and/or the Service as described in this document, including any other related documents or agreements, and as updated from time to time.

User (or You)

Indicates any natural person or legal entity using idcare.org.