



## TERMS & CONDITIONS

*These terms were last amended: 9 May 2018.*

### 1 GENERAL

- 1.1 We are ID-Pal Limited, a company incorporated under the laws of Ireland with company registration number 578727, whose registered office is at 102 Trimblestown, Goatstown Road, Dublin 14, Ireland (“**we**”, “**us**” and “**our**”).
- 1.2 We provide client due diligence and identity verification technology services to organisations (“**Customers**”) who wish to or are required to verify the identity of their clients. Our Customers may request their clients (“**End Client**”) to use our App to provide their identification documents to the Customer.
- 1.3 These terms and conditions, together with our Privacy Policy and Cookies Policy, set out the terms and conditions on which our Customers and End Clients can make use of our Services (“**Terms**”).
- 1.4 Please read these Terms carefully. They contain important clauses that you should read before accepting and using our Services, including clauses limiting our liability to you.
- 1.5 If you are an End Client acting for purposes which are outside of your trade, business, craft or profession, nothing in these Terms will affect your rights as a consumer under Applicable Law.

### 2 PILOT PHASE

- 2.1 In addition to the Terms, the provisions of Appendix 1 apply to you have agreed to participate in and receive the Services as part of our pilot testing and evaluation phase for a period and for such Charges as are agreed in writing between you and us (“**Pilot Phase**”).

### 3 TERM

- 3.1 **If you are a Customer** These Terms shall come into force and have legal effect on the earlier of the date that you first access or use our Services, or the date we accept your order for the Services (“**Service Start Date**”) and, unless otherwise terminated in accordance with these Terms, shall continue for:

- 3.1.1 if you participate in the Pilot Phase, the agreed period of the Pilot Phase and if a party does not issue a termination notice pursuant to section 1.3 of Appendix 1, these Terms shall automatically continue in full force and legal effect until the date that is 12 calendar months after the end of the Pilot Phase and during that period you shall acquire the full Services from us on these Terms; or

- 3.1.2 if you do not participate in the Pilot Phase, a period of 12 calendar months from the Service Start Date,

(each the “**Initial Term**”).

3.2 These Terms shall automatically renew for a successive period or periods of 12 calendar months (each a “**Renewal Period**”), unless terminated in accordance with the Terms.

3.3 **If you are an End Client** These Terms shall come into effect on the date that you download our App, or otherwise use or access the Services (for example, if you submit your information through our App during a face-to-face meeting with our Customer).

## **4 SERVICES**

4.1 We shall use reasonable care and skill when providing the Services.

4.2 We reserve the right to suspend your access to all or any part of the Services at any time and while we will try to provide you with advance notice this may not always be possible. We will not be liable if the Services are unavailable at any time or for any period.

4.3 We may change the Terms or the features or functionality of the Services at any time. Changes, for example, may include changing, suspending or ending of any part or feature of the Services. We may also impose limits on certain features and Services or restrict your access to parts or all of the Services. If a change is material, we will use reasonable endeavours to provide written notice to you, but this may not be possible if the change is necessary to comply with any Applicable Law, mandatory safety or statutory requirements.

4.4 You are responsible for reviewing and becoming familiar with any change we make. If you do not agree to a change you will have to immediately stop using the Services and close your account with us. Your continued use of the Services following our change will indicate your acceptance the Services and/or Agreement as modified.

## **5 SOFTWARE**

5.1 Where we provide access to Supplier Software through the Services, we hereby grant you, subject to these Terms, a non-exclusive, non-transferable licence to access and use the Software solely for the purpose of accessing and using the Services in accordance with these Terms.

## **6 ACCEPTABLE USE**

6.1 You must:

6.1.1 not attempt to reverse compile, decompile, decode, decrypt, disassemble, reverse engineer or otherwise reduce to human-perceivable form any of the Services, except as may be allowed by any Applicable Law which is incapable of exclusion by agreement between us;

6.1.2 ensure that any information you provide in connection with these Terms is timely, complete and accurate;

6.1.3 fully co-operate with us and our Personnel in the provision of the Services;

6.1.4 in performing your obligations under these Terms, comply with all Applicable Laws, from time to time in force that apply to you;

6.1.5 be responsible for making your own arrangements to access the Services;

6.1.6 provide such hardware, consumables, documentation, data, information and other assistance that we reasonably require for the performance of the Services;

- 6.1.7 not license, sell, rent, lease, transfer, assign, distribute, display, disclose, reproduce; or otherwise commercially exploit, or otherwise make the Services available to any third party without our written consent; and
- 6.1.8 not use the Services in any way which would:
  - (A) breach any Applicable Law;
  - (B) infringe any person's rights in Intellectual Property or other legal rights; or
  - (C) give rise to any cause of action against us, you or any third party;
- 6.1.9 not use the Services in a manner that is, in our opinion, unlawful, objectionable, harmful, threatening, defamatory, obscene, infringing, harassing or offensive; or
- 6.1.10 not do anything that would impair our rights, or our licensors' rights in the Services.

6.2 You agree to indemnify, hold harmless and keep indemnified and held harmless, us and our Personnel from and against any liability for loss and from and against any damages, costs, awards, proceedings, claims, demands, expenses (including reasonable legal fees) and inconvenience which arise as a result of your breach of clause 6.1.

6.3 If our performance of any of our obligations under these Terms is prevented or delayed by any act or omission by you or any failure by you to perform any relevant obligation:

6.3.1 we shall, without limiting our other rights or remedies, have the right to suspend performance of the Services until you remedy the default, and to rely on the default to relieve us from the performance of any of our obligations to the extent the default prevents or delays our performance of any of our obligations;

6.3.2 we shall not be liable for any costs or losses sustained or incurred by you arising directly or indirectly from our failure or delay to perform any of our obligations as set out in this clause 6.3; and

6.3.3 you shall reimburse us on written demand for any costs or losses sustained or incurred by us arising directly or indirectly from your default.

## **7 INTELLECTUAL PROPERTY**

7.1 We will own all Intellectual Property arising from the performance of the Services, including Intellectual Property in any Custom Developments. Subject to your compliance with these Terms at all times, we hereby grant you a non-exclusive, non-transferable non-sublicensable licence to use such Intellectual Property solely for the purpose of accessing and using the Services in accordance with these Terms, during the Term. Except as expressly stated in these Terms, these Terms do not grant you any rights to, or in Intellectual Property.

## **8 WARRANTIES**

8.1 You represent and warrant to us that:

- 8.1.1 if you are a company or other incorporated body, you are validly existing under the laws of your place of incorporation and has the power and authority to carry on your business as that business is now being conducted;
- 8.1.2 you have the power and authority to enter into and perform your obligations under these Terms; and
- 8.1.3 entering into and performing your obligations under these Terms will not breach any contractual obligations you owe to any other person.

8.2 **If you are a Customer** and you submit information and/or access or use the App on behalf of the End Client (for example, if you submit the End Customer's information through our App during a face-to-face meeting with the End Client), you represent and warrant to us that the End Customer has given their valid consent under Applicable Law to the transfer of their personal data by you to us, and has accepted these Terms. You agree to indemnify, hold harmless and keep indemnified and held harmless us and our Personnel from and against any liability for loss and from and against any damages, costs, awards, proceedings, claims, demands, expenses (including reasonable legal fees) and inconvenience which arise as a result of your breach of this clause 8.2.

## 9 CHARGES AND PAYMENT

### **If you are a Customer**

- 9.1 You must pay us all Charges in accordance with this clause 9.
- 9.2 Unless otherwise agreed by us, you must pay for the Services annually in advance. You must pay the Charges, including amounts in respect of value added tax (VAT), in full at the time you place your order. All amounts payable by you under these Terms are payable in euro (€), unless expressly agreed otherwise.
- 9.3 You may purchase additional Services throughout the Term as agreed by us. Payment for these Services will be made in accordance with clause 10.1, and the additional Services will be subject to these Terms and any additional terms we notify to you.
- 9.4 If you fail to make any payment due to us under these Terms by the due date for payment, we reserve the right without prejudice to any of our other rights or remedies to:
  - 9.4.1 charge interest on such overdue sums on a day to day basis from the original due date until paid in full at a rate of 5% above the then current base lending rate of the ECB; and/or
  - 9.4.2 suspend the provision of the Services on no less than five days' prior written notice.
- 9.5 You must pay all amounts due under these Terms in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by Applicable Law). We may at any time, without limiting our other rights or remedies, set off any amount owing to us by you against any amount payable us to you.

**9.6** We are entitled to increase the Charges at the start of each Renewal Period upon no less than 60 days' prior written notice to you. If you do not agree to our increase of the Charges, you must terminate these Terms with us by giving us written notice no less than 30 days before expiry of the Initial Term or current Renewal Period in accordance with the process set out in clause 13.2.3 below.

## **10 CUSTOMER DATA**

### **If you are a Customer**

#### **Obligations of the Customer**

10.1 As between the Customer and us, the Customer Data belongs to you and you determine the purposes for which the Customer Data is being or will be processed, and the manner in which the Customer Data is being or will be processed.

10.2 You agree and confirm that:

10.2.1 you are the Data Controller and we are the Data Processor;

10.2.2 you shall determine and advise us of the purpose of and legal basis for the processing of Customer Data;

10.2.3 you shall determine and instruct us as to what type of Personal Data will be processed via the Services and you will identify the End Client whose Personal Data will be processed;

10.2.4 you shall determine and advise us of the retention period for the storage of Customer Data;

10.2.5 you hereby instruct us to process Customer Data on your behalf which includes transferring Customer Data outside the EEA as part of the provision of the Services, where necessary;

10.2.6 you authorise us to appoint sub-processors;

**10.2.7** you shall comply with your Personal Data security and other obligations that apply to you, as Data Controller, pursuant to Data Protection Legislation;

10.2.8 you have established a procedure for the exercise of the rights of the individuals whose Personal Data comprises the Customer Data and you will advise such individuals of their rights under Data Protection Legislation and how they exercise them;

10.2.9 the Customer Data has been lawfully, fairly and validly collected and will be adequate, relevant and limited to what is necessary in relation to the purpose for which the Customer Data is being processed;

10.2.10 after assessment of the requirements of Data Protection Legislation, the security and confidentiality measures implemented as part of the Services are suitable for protection of the Customer Data against any accidental or unlawful destruction, accidental loss, alteration, unauthorized or unlawful disclosure or access, in particular when the processing involves data transmission over a network, and against any other forms of unlawful or unauthorized processing; and

- 10.2.11 you will take reasonable steps to ensure compliance with the provisions of these Terms by you and your Personnel and by any person accessing or using the Customer Data on your behalf

### **Obligations of ID Pal**

- 10.3 In discharging our obligations under these Terms, we will comply with Data Protection Legislation. In particular, we will:
- 10.3.1 act as your Data Processor and process the Customer Data only on your behalf and in compliance with your instructions and these Terms and shall not disclose Customer Data to any third party (including for back-up purposes) apart from authorised sub-processors. If we cannot provide such compliance, we will promptly inform you of our inability to comply and you will be entitled to terminate these Terms on written notice to us;
  - 10.3.2 inform you of any intended changes concerning the addition or replacement of sub-processors and afford you an opportunity to object;
  - 10.3.3 promptly inform you if, in our opinion, an instruction from you infringes Data Protection Legislation. We will not be obliged to carry out any instructions that we believe contravene Data Protection Legislation;
  - 10.3.4 implement appropriate technical and organisational security measures to protect the Customer Data;
  - 10.3.5 comply, and ensure our Personnel comply, with appropriate confidentiality obligations in respect of the Customer Data;
  - 10.3.6 inform you promptly of:
    - (A) any non-compliance by us or our Personnel with these Terms or the provisions of Data Protection Legislation relating to the protection of the Customer Data;
    - (B) any legally binding request for disclosure of Customer Data by a law enforcement authority, unless otherwise prohibited, for example, in order to preserve the confidentiality of an investigation by the law enforcement authorities;
    - (C) any incident which gives rise to a risk of unauthorised disclosure, loss, destruction or alteration of Personal Data;
    - (D) any notice, inquiry or investigation by a supervisory authority; and
    - (E) any complaint, inquiry or request (in particular, requests for access to, rectification or blocking of Customer Data) received directly from an End Client. We will not be responsible for responding to such requests, as required by Data Protection Legislation.
  - 10.3.7 at your cost, provide you with such assistance as is reasonably necessary to allow you to discharge your obligations under Data Protection Legislation, including but not limited to assistance with Data Subject rights requests; Data Breach investigations; and Data Protection Impact Assessments, taking into account the nature of the Services and the Customer Data;

- 10.3.8 if we are required by law to process Customer Data, inform you of this requirement in advance of any processing, unless we are prohibited from informing you on grounds of important public interest; and
  - 10.3.9 make available to you all information reasonably necessary to demonstrate compliance with the obligations in this clause 10; and
  - 10.3.10 we will, with prior notice, allow for and contribute to audits/inspections conducted by you or your appointed auditor.
- 10.4 We may, depending on our needs, engage one or more third parties acting on our behalf to help us to satisfy our obligations in accordance with these Terms. We will enter into contractual arrangements with such sub-processors requiring them to implement appropriate technical and organisational security measures to protect the security of the Customer Data. You hereby consent to us engaging sub-processors reasonably required for the purpose of providing the Services. We will inform you of any intended changes concerning the addition or replacement of other sub-processors, providing you with the opportunity to reasonably object to such changes.
- 10.5 Following termination of these Terms, as instructed by you, we will delete all copies of the Customer Data unless required to maintain copies to comply with Applicable Law. You can download the Customer Data through the Services, and you are responsible for doing this before termination of these Terms.
- 10.6 You agree to indemnify, hold harmless and keep indemnified and held harmless us and our Personnel from and against any liability for loss and from and against any damages, costs, awards, proceedings, claims, demands, expenses (including reasonable legal fees) and inconvenience which arise as a result of your processing, generation, creation, storage of Customer Data in connection with the Services.

**If you are an End Client**

- 10.7 We will process your personal data in accordance with Applicable Law and our Privacy Policy. When we process your personal data, we do this in accordance with the instructions of our Customer. The Customer is the data controller of your information and will determine how your information is collected, used, shared and retained. For more information you can contact them directly.

**11 CONFIDENTIALITY**

- 11.1 Each of us hereby undertakes to the other:
- 11.1.1 to keep secret and strictly confidential, in perpetuity, all Confidential Information belonging to the other party;
  - 11.1.2 not without the other's written consent to disclose the Confidential Information in whole or in part to any other person save those of its employees directly involved in the performance of these Terms and who have a need to know the same; and
  - 11.1.3 to use the Confidential Information solely in connection with the performance of these Terms and not for its own or the benefit of any third party.
- 11.2 The provisions of clause 11.1 shall not apply to the whole or any part of the Confidential Information to the extent that it is:

11.2.1 already in the other's possession other than as a result of a breach of these Terms; or

11.2.2 in the public domain other than by breach of these Terms (or other obligation of confidentiality).

11.3 Nothing in this clause prevents either party from disclosing Confidential Information to the extent that it is required to do so by Applicable Law or other competent authority, provided that it gives the other party as much notice as possible of such proposed disclosure and provides it with reasonable assistance in seeking to prevent any such disclosure.

11.4 You agree to indemnify, hold harmless and keep indemnified and held harmless, us and our Personnel from and against any liability for loss and from and against any damages, costs, awards, proceedings, claims, demands, expenses (including reasonable legal fees) and inconvenience which arise as a result of your breach of this clause 11.

## **12 LIMITATION OF LIABILITY**

12.1 Nothing in these Terms limits or excludes a party's liability for death or personal injury caused by its negligence, fraud or fraudulent misrepresentation or any other liability which cannot be limited or excluded by Applicable Law.

12.2 Subject to clause 12.1, we are not liable, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with these Terms for loss of profits; loss of data; loss of sales or business; loss of agreements or contracts; loss of anticipated savings; loss of or damage to goodwill; loss of use or corruption of software, data or information; or any indirect or consequential loss.

12.3 We shall have no liability in respect of any claim for breach of contract, negligence, breach of statutory duty or other claim in respect of any delay or failure by us to perform any of our obligations under these Terms where such failure results from any breach or negligence by you.

12.4 **If you are a Customer** You acknowledge and agree that between you and us, you are solely responsible for discharging your obligations to identify the End Client pursuant to any Applicable Law or other requirement that you may be subject to.

12.5 We will have no liability to you or any third party for any claim for breach of contract, negligence, breach of statutory duty or other claim arising from or in connection with (a) your, or a third party's interpretation of, or reliance on any results or outputs obtained through the Service; or (b) any withdrawal of the Service.

12.6 To the maximum extent permitted by Applicable Law, all warranties, conditions and other terms implied by statute, common law or otherwise are excluded from these Terms. We specifically disclaim any warranty or representation that the operation of the Services or will be uninterrupted or error-free or that our systems and software are free of Viruses or other harmful components, or that our security procedures and mechanisms will prevent the loss or alteration of or improper access to information or content by third parties.

12.7 **If you are a Customer** Subject to clauses 2 and 12.1 to 12.6, our total aggregate liability to you, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with these Terms, is limited to the value of the Charges paid by you in the 12 months immediately preceding the date on which the event (or the first of a series of connected events) giving rise to the alleged liability first arose.



12.8 **If you are an End Client** Subject to clauses 2 and 12.1 to 12.6, our total aggregate liability to you, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with these Terms, is limited to €100.

### 13 TERMINATION

13.1 **If you are a Customer** We may terminate these Terms immediately on written notice to you if:

13.1.1 you have a petition presented for your winding up, have a liquidator appointed to it or have a receiver or an examiner appointed to you or over part or all of your assets or enter into a composition with your creditors (save for the purposes of a bona fide reconstruction or amalgamation on terms approved in advance by us), are dissolved, become bankrupt, convene any meeting of creditors, or are unable to pay your debts or in any like case in any jurisdiction or otherwise cease to trade; or

13.1.2 you fail to pay any amount due under these Terms on the due date for payment and remains in default not less than 30 days after being notified in writing to make such payment.

13.2 **If you are a Customer** Either of us may terminate these Terms:

13.2.1 immediately on written notice if the other party continues to be subject to a Force Majeure Event for a continuous period of more than 30 consecutive days;

13.2.2 immediately on written notice if the other party is in material breach of these Terms and do not rectify such breach (where such breach is capable of rectification) within 10 days of receipt of written notice from the other party requiring it to do so; or

13.2.3 at the end of the Initial Term or any Renewal Period, by giving the other party written notice of the intention to terminate no less than 30 days before the end of the Initial Term or the current Renewal Period (see clause 3).

13.3 **If you are a Customer** We may terminate these Terms at any time by giving you 30 days' written notice.

13.4 **If you are an End Client** You may terminate these Terms at any time by deleting the App and/or ceasing to use and access the Services. We may terminate these Terms at any time by providing you with notice.

13.5 On termination or expiry of these Terms for any reason:

13.5.1 you must immediately stop using the Services;

13.5.2 all licences granted under these Terms shall immediately terminate; and

13.5.3 you must immediately pay us all our outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, we may submit an invoice, which is payable immediately on receipt.

13.6 Termination of these Terms will be without prejudice to any accrued rights and remedies available to us and, for the avoidance of doubt, will not relieve you of your obligation to pay the Charges in respect of any Services we supplied to you prior to the date of termination. Clauses 6, 7, 10, 11, 12, 13, 14, 15 and 16 continue in force following

termination or expiry of the Terms along with such other clauses as are necessary to give effect to those clauses. All other clauses of these Terms that by their nature should survive termination or expiration of these Terms survive any such termination or expiration.

## **14 DISPUTE RESOLUTION**

### **If you are a Customer**

- 14.1 If any dispute, difference of opinion or disagreement between the parties arises out of, in connection with or relating to these Terms (including as to its existence, interpretation, operation, termination or performance) (“**Dispute**”) then either party may give to the other written notice of the Dispute, setting out its nature and full particulars (“**Dispute Notice**”), together with relevant supporting documents. On service of the Dispute Notice, each of our representatives with day to day responsibility for these Terms will attempt in good faith to resolve the Dispute.
- 14.2 If the representatives under 14.1 are for any reason unable to resolve the Dispute within 30 days of service of the Dispute Notice, each party will appoint a designated senior executive who has sufficient authority to settle the Dispute (and who is at a higher management level than the representatives under 14.1) (“**Senior Representative**”). The Senior Representatives negotiate in good faith to resolve the Dispute.
- 14.3 If the parties are unable to resolve the Dispute within 30 days after the appointment of both Senior Representatives, then either party may proceed with any other available remedy.
- 14.4 Notwithstanding the foregoing, either party may seek necessary interim or other equitable relief (including an injunction).

### **If you are an End Client**

- 14.5 If you have a complaint, please contact us at [info@id-pal.com](mailto:info@id-pal.com) or write to us at 102 Trimblestown, Goatstown Road, Dublin 14, Ireland.

## **15 NOTICES**

- 15.1 Notices to any party relating to these Terms must be in writing in the English language and will be sufficiently served if delivered by hand or if sent by registered post to the registered address of the recipient. Any such notice or communication is deemed to have been served, if delivered by hand, at the time of delivery; or if sent by pre-paid registered post, 48 hours after posting provided that any such delivery, transmission or postage outside the hours of 9.00am to 5.30pm is deemed to have been served on the next Business Day.
- 15.2 Where we are required to give written notice under any provision of these Terms, we may do so by giving notice through the Services. Such notice will be deemed to have been served at the time of transmission.
- 15.3 This clause 15 does not prevent us from sending you routine correspondence in relation to the Services, the Charges or these Terms by email.

## **16 GENERAL**

- 16.1 Each party on behalf of itself acknowledges and agrees with the other party that these Terms, constitute the entire agreement and understanding between the parties and overrides and supersedes any previous agreement between us relating to the Services

(which will be deemed to have been terminated by mutual consent). Each party confirms that it has not relied on, and has no remedies in respect of, any representations, assurances or warranties (whether made innocently or negligently) except those expressly set out in these Terms.

- 16.2 You shall not novate, assign, transfer, charge, sub-license, subcontract or deal in any other manner with all or any of your rights or obligations under these Terms without our prior written consent. We may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of our rights or obligations under these Terms and you agree to same and will execute any document necessary or desirable, in our sole opinion, attesting and/or giving effect to it.
- 16.3** We are not liable or deemed to be in default for any delay or failure in performance of the Services or under these Terms resulting from causes beyond our reasonable control. (**"Force Majeure Event"**).
- 16.4 The parties respectively shall ensure that there are done and executed all acts, documents and other things as may reasonably be required for securing each of the rights and obligations of the parties under these Terms.
- 16.5 Any failure by us at any time to enforce any provision of these Terms shall in no way affect our right thereafter to require complete performance by you, nor shall the waiver of any breach of any provision be taken or held to be a waiver of any antecedent or subsequent breach of any such provision or be a waiver of the provision itself. Any waiver to be effective must be in writing.
- 16.6 If any provision or part-provision of these Terms is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of these Terms.
- 16.7 Nothing in these Terms is intended to, or is deemed to, establish any partnership or joint venture between the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party. Each party confirms it is acting on its own behalf and not for the benefit of any other person.
- 16.8 The formational, interpretation and operation of these Terms and all non-contractual obligations arising from or connected with them shall be governed by and construed in accordance with, and all Disputes between the parties arising out of or in any way relating to these Terms or any Disputes between the parties in any way connected with the subject matter of these Terms (whether contractual or non-contractual) shall be governed by, the laws of Ireland. Each Party submits to the exclusive jurisdiction of the Irish Courts. Nothing contained in this clause shall limit our right to bring enforcement proceedings in another jurisdiction or to seek interim, protective or provisional relief in the courts of another jurisdiction.
- 16.9 Without prejudice to any other rights or remedies that we may have, you hereby acknowledge and agree that damages alone would not be an adequate remedy for any breach of these Terms by you. Accordingly, we shall be entitled to the remedies of injunction, specific performance or other equitable relief for any threatened or actual breach of these Terms.

16.10 Our rights and remedies provided by the Agreement are cumulative and are not exclusive of any right or remedy provided under Applicable Law or in equity or otherwise under these Terms

## 17 DEFINITIONS AND INTERPRETATION

17.1 In these Terms, unless otherwise stated:

**“Applicable Law”** means law applicable in Ireland or any other jurisdiction in which the Services are provided (without further enactment) including Data Protection Legislation and including, without limitation, common law, statute, statutory instrument, proclamation, bye-law, directive, decision, regulation, rule, order, notice, code of practice, code of conduct, rule of court, instruments, or delegated or subordinate legislation;

**“App”** means our mobile application, web application, dynamic website or other similar component of the Services, through which End Clients or Customers can submit the End Client’s identification documents and related information;

**“Business Day”** means any day which is not a Saturday, a Sunday or a public holiday in Ireland;

**“Charges”** means the charges payable to us by the Customer for the provision of the Services, as set out on our website at the time the Customer places its order, or as otherwise agreed between the Customer and us, and as varied by us from time to time in accordance with these Terms;

**“Confidential Information”** means all information about the organisation, affairs, plans, transactions, proposals, projections, strategies, finance, prices, know how, methodologies, costs, operations, accounts, strategic plan, operational processes, data, systems, Intellectual Property and back-ups, as the case may be, as a result of or in anticipation of or in connection with these Terms or any other information which either party ought reasonably regard as confidential or which is marked or designated as confidential by the party disclosing the information;

**“Custom Developments”** means any development, add-on or modification of the Supplier Software created by us specifically for the Customer as part of the Services;

**“Customer”** has the meaning given to it in clause 1.2;

**“End Client”** has the meaning given to it in clause 1.2;

**“Customer Data”** means any Personal Data and Special categories of Personal Data belonging to the End Client processed, generated, created, stored or held by the Customer or the End Client (as appropriate) through the Services;

**“Personal Data”** and **“Special categories of Personal Data”** and **“Data Subject”** and **“Data Breach”** and **“Data Protection Impact Assessment”** have the meaning afforded to them in Data Protection Legislation;

**“Data Protection Legislation”** means Data Protection Acts 1988 and 2003, and, from 25 May 2018, the General Data Protection Regulation (2016/679);

**“Force Majeure Event”** has the meaning given to it in clause 16.3;

**“Initial Term”** has the meaning given to it in clause 3.1;

**“Intellectual Property”** includes, without limitation, copyrights, discoveries, concepts, domain names, patents, secret processes, database rights, technologies, know how, inventions, ideas, improvements, information, all copyright works, business methods, logos, designs, trademarks, service marks, topography and semi-conductor chip rights, business names, literary, goodwill, dramatic, musical and artistic works anywhere in the world (whether any of the foregoing is registered or unregistered and including any application in relation to any of the aforesaid);

**“Personnel”** means, in respect of a party, that party's directors, officers, employees, agents, subcontractors and individual contractors;

**“Pilot Phase”** has the meaning given to it in clause 2.1;

**“Renewal Period”** has the meaning given to it in clause 3.1;

**“Services”** means the customer due diligence services and related services to be supplied by ID Pal to the Customer through the App, website, online portal and other technical means, pursuant to these Terms (and includes, as the context so admits or requires, any one, more or all of them or any part or parts of any one, more or all of them);

**“Supplier Software”** means ID Pal's proprietary software or third party software licenced by us to you as part of the Services;

**“Term”** means the term of these Terms comprising; (i) if you are a Customer the Initial Term and any Renewal Period; or (ii) if you are an End Client, the period from date that these Terms comes into effect in accordance with clause 3.1, until it is terminated in accordance with clause 13; and

**“Virus”** means any program which contains malicious code or infiltrates or damages a computer system without the owner's informed consent or is designed to do so or which is hostile, intrusive or annoying to the owner or user and has no legitimate purpose (including any virus, worm, Trojan Horse, trapdoor, software switch, time bomb, malware or logic bomb as these words are generally understood from time to time within the computer industry and any equivalent or similar corruptive mechanism).

17.2 In these Terms, unless otherwise stated:

17.2.1 any reference to any provision of any legislation includes any modification, amendment, re-enactment, extension or consolidation of the legislation together with any secondary legislation made under it for the time being in force;

17.2.2 the masculine gender includes the feminine and neuter and the singular number include the plural and vice versa and words importing persons include firms or companies;

17.2.3 references to “written” or “in writing” include email;

17.2.4 any reference to any document includes that document as amended, replaced or supplemented from time to time;

17.2.5 any reference to a "person" includes any person, firm, company, governmental or other legal entity and its successors, personal representatives and permitted assigns;

- 17.2.6 a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of these Terms or any part of it;
- 17.2.7 any headings to clauses are for convenience only and do not affect the meaning of these Terms;
- 17.2.8 terms such as “including”, “in particular”, “such as”, and “for example” are not to be read as exhaustive, or to limit, but may extend the generality of the provisions to which they relate;
- 17.2.9 the terms "personal data", "controller", "data subject", "processing" and "sensitive personal data" have the meanings given to them in the Data Protection Legislation; and
- 17.2.10 any obligation on a party in these Terms not to do or omit to do any act or thing is deemed to include an obligation not to permit or suffer such act or thing to be done or omitted, as the case may be.

## APPENDIX 1 – PILOT PHASE ADDITIONAL TERMS

### 1 PILOT PHASE

- 1.1 If you agree with us to participate in and receive the Services as part of the Pilot Phase then, in addition to the Terms, these provisions set out in this Appendix 1 also apply to you.
- 1.2 If there is any conflict or inconsistency during the Pilot Phase between the Terms and the provisions of this Appendix 1 the provisions of this Appendix 1 will take precedence to the extent of any conflict or inconsistency.
- 1.3 A party may, at its option, serve notice on the other party that it wishes to terminate these Terms during the Pilot Phase by providing no less than seven days written notice before the expiry of the Pilot Phase. On service of such notice these Terms shall automatically terminate and clauses 13.5 and 13.6 shall apply.
- 1.4 You must pay us the Charges for the Pilot Phase. For the avoidance of doubt, we may charge you the Charges even if you cancel or stop using the Services before expiry of the Pilot Phase.
- 1.5 During the Pilot Phase the Services are intended for evaluation and testing purposes only and to the extent permitted by Applicable Law:
  - 1.5.1 we make no guarantee or representation, express or implied, relating to the capabilities, functionality, performance or availability of the Pilot Phase Services;
  - 1.5.2 all warranties (whether express, implied, statutory or otherwise), in respect of the Pilot Phase Services are excluded; and
  - 1.5.3 we shall have no liability to you arising from your access, use of, or reliance on the Services or any data or outputs during the Pilot Phase.