Australian Government

Services Australia

2020 Interface Agreement

Recitals

A   This Interface Agreement ('***agreement***') explains the terms on which ***you*** can seek approval from the Commonwealth of Australia as represented by Services Australia (ABN 90 794 605 008) ('***us***', '***we***', or '***our***') for ***your product*** for use in facilitating online transactions and other communications. It also:

    a. explains how ***you*** can use ***our material*** to develop your ***product*** and sets out the ***requirements your product*** must comply with; and

    b. sets out ***our*** process for issuing ***you*** with a ***Product Certification***.

B   By accepting these terms, ***you*** agree to comply with the ***requirements*** in this ***agreement***.

Operative provisions

1. Defined terms

1.1 In this **agreement**, words in **bold italics** have the meanings given in clause 22.

2. Commencement and duration of this agreement

2.1 This **agreement** commences on the **commencement date** and continues until terminated by either **party**. For the purpose of this clause, **we** will acknowledge **your** acceptance of these terms by email or via the **portal**.

2.2 This **agreement** is not intended to supersede or replace any **existing agreement** that **you** may have with **us**. **Existing agreements** may continue to operate in conjunction with this **agreement** until 13 March 2022 or such later date notified by **us** to **you** in writing, to the extent that they relate to **products** which use different methods of facilitating transactions or making communications.

3. Principles

3.1 The **parties** agree to the following principles:

3.1.1 to facilitate **you** obtaining a **Product Certification we** will provide reasonable assistance to **you** in using **our material** for the purpose permitted by this **agreement**;

3.1.2 **we** may consult with **you** and other industry representatives to ensure that, if possible, **your** concerns about the exercise of **our** rights in this **agreement** are taken into account; and

3.1.3 **we** will use reasonable endeavours to support the use of older versions of **our material**. Where more than one version is supported, **your product** will only be required to comply with one of these versions. **We** will use reasonable endeavours to **notify you** before **we** decommission older versions of **our material** in accordance with the **Version Control Policy Health and Aged Care Web Services**.

4. Requirements

4.1 **You** must comply with the **requirements** specified in this **agreement** (see, in particular, clause 8) and as varied in accordance with clause 4.2 at **your** cost.

4.2 **We** may, from time to time, acting unilaterally, without consultation with **you**, or without **your** consent, expand, vary or supplement the **requirements**. If **you** do not agree with the change, **you** can terminate this **agreement** (see clause 19 below).

4.3 Any such variation or supplementation takes effect on the date specified by **us** in a **notice** to **you**.

4.4 **We** will use reasonable endeavours to consult with **you** (and to give you reasonable **notice**) before expanding, varying or supplementing the **requirements**.

5.   Compliance with applicable laws (Legislation and Regulations)

5.1   *You* must:

    5.1.1   at *your* cost, comply (and ensure that the *product* complies) with all applicable *laws* as amended from time to time (including any *laws* specified in the *requirements*); and

    5.1.2   immediately report to *us* if at any time the *product* is inconsistent with such *laws*.

6.   Licence to use our material and view your product

6.1   *We* grant *you* a non-exclusive, royalty-free and revocable licence to use *our material* for the purpose of developing, testing, operating and supporting *your product* on the terms set out in this clause 6 during the *term*.

6.2   *You* grant *us* a non-exclusive, non-transferable, royalty free licence during the *term* (including a right of sub-license) to examine and assess the version of the *product* (and any associated documentation) that *you* submit to *us* as required for or incidental to *us* reviewing the *product* and providing a *Product Certification*.

6.3   *You* may only use *our material* within Australia unless otherwise approved by *us* in writing and in advance.

Distribution of *our material*

6.4   *You* may only distribute or sub-license *our material*:

    6.4.1   in its entirety and without modification;

    6.4.2   where *our material* includes third party software, with all third party licences noted or included in *our material* as may be required from time to time and *you* must ensure that the person to whom *you* distribute or sub-license *our material* complies with those licences as *notified* to *you* or available through *our portal*;

    6.4.3   to an entity assisting *you* in the development, testing, operation or support of the *product*;

    6.4.4   for access and use within Australia unless otherwise approved by *us* in writing and in advance and you must ensure that the person to whom *you* distribute or sub-license *our material* complies with this requirement; and

    6.4.5   if *you* do not give, or purport to give, the person to whom *our material* is sub-licensed:

        (a)   a right to further sub-license *our material*; and

        (b)   a right to do anything with *our material* that *you* cannot do.

6.5   *You* must:

    6.5.1   not reverse assemble or reverse compile *our material* (if such material is capable of reverse assembly or reverse compilation);

    6.5.2   where *our material* includes third party software, comply with the terms of any applicable third party licences; and

6.5.3 not remove any copyright or other proprietary legend from **our material**, and ensure that any copy you make of **our material** includes these legends.

Source code

6.6 Nothing in this **agreement** confers a right to **you** or any other person to use or acquire the source code for **our material**.

Updates and replacements

6.7 Subject to clause 3.1.3, **we** may update or replace **our material** at any time. **We** will make reasonable efforts to **notify you**.

7. Intellectual Property

7.1 All **intellectual property** in **our material** remains owned by **us**.

7.2 The **intellectual property** in **your product** (and any associated documentation) that exists at the **commencement date** and is created by **you** by any enhancement, modification or translation after that date is retained by **you**.

7.3 **You** must ensure **your** licence for **us** to examine and assess **your product** does not infringe the **intellectual property** or moral rights of any person.

Our Intellectual property responsibilities

7.4 Subject to any specific licence requirements in this **agreement**, **we** will ensure **we** have the necessary right and authority to licence **your** use of **our material**.

7.5 To the extent permitted by **law**, **we** exclude any warranties or conditions, express or implied, including any implied warranties of fitness for a particular purpose.

7.6 **You** agree that **your** sole remedy in relation to any claim **you** may have against **us** in respect of this **agreement** is for **us**, at **our** option, to either:

7.6.1 replace the version of **our material** with a non-infringing version of **our material** that has substantially equivalent functionality; or

7.6.2 modify **our material** so as to cause **our material** to be free of infringement; or

7.6.3 procure, at no additional cost to **you**, the right for **you** to continue to use **our material**.

Claims against intellectual property rights

7.7 **You** must **notify us** as soon as practicable if any claim, demand or suit is brought, made, commenced or threatened in which it is alleged that the use of **our material** has infringed the **intellectual property rights** of a third party.

8. Product Requirements

8.1 **Your product** must:

8.1.1 be developed in conformance with a version of **our material** approved by **us** from time to time for the purposes of this **agreement**;

8.1.2   meet the *requirements* for *our* approval for integration with our systems;

8.1.3   if the *product* supports *cloud computing* services, comply with clause 8.2 and clause 9 of this *agreement*;

8.1.4   comply with all applicable *laws*, which may include:

(a)   *National Health Act 1953* (Cth);

(b)   *Health Insurance Act 1973* (Cth);

(c)   *Aged Care Act 1997* (Cth); and

(d)   *Healthcare Identifiers Act 2010* (Cth); and

8.1.5   without limiting clauses 8 or 13 of this *agreement*, comply with those *requirements* specified in:

(a)   the *Integrated Third Party Security Policy*;

(b)   the *Version Control Policy Health and Aged Care Web Services*; and

(c)   any other policy documents referred to in this *agreement* or *notified* to *you*.

8.2   If the *product* supports or can be used with *cloud computing* services where software is hosted by a *cloud computing* service provider:

8.2.1   on the date of this *agreement*, *you* must ensure that *we* have received written *notice* from *you* that the *product* supports or can be used with *cloud computing* services including details of the *cloud computing* service provider; and

8.2.2   from any time during the *term* (other than the date of this *agreement*), *you* must provide *us* with 30 *business days* prior written *notice* that the *product* will support or can be used with *cloud computing* services including details of the *cloud computing* service provider, or any other information *we* request.

9.   Cloud Computing

9.1   If using a multi-tenanted *cloud computing* service, you must abide by the requirements set out in:

9.1.1   The Integrated Third Party Security Policy; and

9.1.2   any other policy documents referred to in this *agreement* or *notified* to *you*.

10.   Issue of Product Certification

10.1   *You* may request *us* to provide a *Product Certification* for a version of *your product*.

10.2   *You* must conduct integration tests as *we* consider appropriate and in accordance with detailed specifications which will be made available to *you*, for the specific version of *our material* on the version of *your product*.

10.3   If a version of *your product* passes all required integration tests to *our* satisfaction and *you* are complying with this *agreement*, *we* will issue *you* a *Product Certification* to that effect for that version of *your product*.

10.4   If *you* supplement, change or update a version or any part of a version of *your product*, the version as supplemented, changed or updated may be required to successfully undertake relevant testing for a new *Product Certification* to be provided by *us* to *you*, on the terms of this *agreement*. For the avoidance of doubt, *notification* is required to *us* for any supplement, change or update *you* make to *your product*, including any that relate to *cloud computing* services.

10.5   The provision of a current *Product Certification* in accordance with this agreement in respect of a version of your product is an essential pre-requisite for that version of product to integrate with our systems.

11.   Representations

Endorsement

11.1   *You* acknowledge and agree that *we* do not endorse *you* or *your product* in any way and *you* must not represent to any third party that *we* have or will provide such endorsement.

Terminology

11.2   When communicating to the public or to customers or potential customers regarding the features and functionality of *your product*, *you* must describe the functionality of *your product* (insofar as it relates to transacting digitally with *our systems*) using the same terminology and concepts as *we* use from time to time in relation to transacting digitally with *our systems*.

Representations about suitability

11.3   *You* must not represent to any person that a version of *your product* is suitable for conducting transactions with *us* digitally unless, at the time the representation is made:

11.3.1   we have issued a *Product Certification* for the version of *your product*;

11.3.2   the version of *your product* complies with the *requirements*; and

11.3.3   the applicable *Product Certification* has not been revoked.

12.   Revocation of Product Certification

12.1   If, at any time, *we* reasonably consider that a version of *your product* for which a *Product Certification* has been provided does not comply with *our material* or this *agreement* and *you* fail to rectify the non-compliance within 90 days of written *notice* by *us* to *you* that *we* consider that the relevant version is non-compliant (notice of non-compliance), *we* may revoke any *Product Certification* issued in respect of that version of *your product* with immediate effect by giving a *notice* to that effect to *you*.

12.2   If this *agreement* is terminated, *we* may revoke any *Product Certification* provided in respect of any version of *your product*, in accordance with clause 19.3 of this *agreement*.

12.3   If a **Product Certification**, provided in respect of a version of **your product**, is revoked in accordance with this **agreement**, that version of **your product** is taken to not be provided with a current **Product Certification**.

13.   Personal Information and Security

Personal information

13.1   This clause 13 applies only where **you** deal with **personal information** for the purpose of developing and making the **product** available in accordance with this **agreement**.

13.2   **You** must:

13.2.1   comply with all privacy **requirements** as set out in the **requirements**.

13.2.2   comply with any reasonable direction regarding **personal information** included in a **notice** given to **you** by **us**;

13.2.3   comply with all privacy **laws** in respect of **your** collection, use, storage, or disclosure of **personal information**;

13.2.4   use or disclose **personal information** obtained during the course of performing this **agreement** only for the purposes of this **agreement**;

13.2.5   carry out and discharge the obligations contained in the **Australian Privacy Principles** (**APPs**) as if it were **us** under the **Privacy Act**;

13.2.6   not use or disclose **personal information** or engage in an act or practice that would breach an **APP** or a registered **Approved Privacy Code** that is applicable to **you**;

13.2.7   assist **us** to meet **our** obligations in relation to **personal information** collected, used or disclosed in connection with the **product**; and

13.2.8   ensure that **your representatives** are made aware of the privacy obligations of **you**.

13.3   **You** must promptly **notify us** if **you**:

13.3.1   become aware of a breach or possible breach of any of **your** privacy obligations under this **agreement**;

13.3.2   become aware that a disclosure of **personal information** is required by **law**; or

13.3.3   receive a request or an inquiry from the **Privacy Commissioner**, or from any individual to whom any **personal information** held by **you** relates, in respect of **personal information**.

Notifiable Data Breach Scheme and Eligible Data Breaches

13.4   The *parties* agree to comply with the 'Notifiable Data Breach Scheme' as set out in Part IIIC of the *Privacy Act*.

13.5   If *you* have reasonable grounds to suspect there may have been an event which amounts to an *eligible data breach*, *you* must:

   13.5.1   as soon as possible, but within 2 business days, notify *us* of the event;

   13.5.2   comply with the *Privacy Act* as a 'contracted services provider' (as defined under the Privacy Act) in relation to that event;

   13.5.3   provide *us* with all information requested by *us* about the event; and

   13.5.4   if requested, allow *us* to participate in *your* assessment of the event and whether it amounts to an *eligible data breach*.

13.6   If, after complying with clause 13.5, the *parties* are unable to agree whether an *eligible data breach* has occurred then *we* will, acting reasonably, decide and provide notice of this decision to *you*.

13.7   Where an *eligible data breach* has occurred and notification of that *eligible data breach* is required under the *Privacy Act*, either to the *Privacy Commissioner* or individuals or both:

   13.7.1   if requested by *us*, the *parties* must discuss and endeavour to agree who will issue the relevant notification (but if the *parties* are unable to agree, then *we* will, acting reasonably, decide which *party* will issue that notification); and

   13.7.2   if *you* are to issue the relevant notification, then *you* must:

   (a)   as soon as possible, but within 3 *business days* of the decision that an *eligible data breach* has occurred, provide *us* with a draft of the notification;

   (b)   make any changes to the draft notification that are reasonably required by *us*; and

   (c)   issue the notification in accordance with the requirements of the *Privacy Act* (including any applicable time periods);

   13.7.3   if we are to issue the notification, then we must:

   (a)   as soon as possible, but within 5 *business days* of the decision that an *eligible data breach* has occurred, notify *you* and provide a draft of the notification;

   (b)   make any changes to the notification that are reasonably required by *you*; and

   (c)   the notification in accordance with the requirements of the *Privacy Act* (including any applicable time periods).

13.8   You must ensure that:

   13.8.1   *We* are promptly notified of any investigation or other action taken by the *Privacy Commissioner* in connection with any actual or suspected *eligible data breach*, or notification in relation to that matter; and

13.8.2   *We* are kept informed in relation to that investigation or other action.

13.9   The *parties* acknowledge and agree that nothing in clauses 13.4 to 13.8 (inclusive) operates to reduce their obligations under the *Privacy Act*.

13.10   At *our* request and on reasonable *notice*, *you* must provide reasonable assistance to *us* or the *Privacy Commissioner* to access *your* premises, files, information technology systems and staff to monitor compliance by *you* of *your* obligations under this clause 13.

Security

13.11   You must comply with all security requirements set out in the requirements or otherwise notified by us from time to time.

13.12   Unless otherwise approved by *us* in advance and in writing, *your product* must be developed, tested, operated and supported wholly from and within Australia.

13.13   Without limiting clauses 13.11 or 13.12, *you* must:

13.13.1   unless approved by *us*, ensure all *our data* is hosted onshore, within Australian jurisdiction;

13.13.2   cooperate with requests for information from *us* on the location of *our data* and nature of transactions with *us*;

13.13.3   cooperate with all security vetting procedures *notified* by *us* or notified by *AGSVA*; and

13.13.4   include equivalent requirements to this clause 13.11 (including this clause 13.13.4) in any subcontract entered into that relates to this *agreement*.

Cyber Security

13.14   *You* must:

13.14.1   undertake all reasonable steps to ensure that *our data* is protected at all times from unauthorised access or use by a third party or misuse, damage or destruction by any person (including through botnet and denial of service attacks and any other phishing emails or related activities, Trojan, worm, or malware);

13.14.2   implement protective measures that are no less rigorous than accepted industry standards and commensurate with the consequences and probability of unauthorised access to, or use, misuse or loss of, *our data*, and provide all information requested by *us* about them;

13.14.3   without limiting clause 13.14.2, comply with all security regulations or procedures or directions as are specified in this *agreement* and the *requirements* (if any) or given by *us* from time to time;

13.14.4   ensure that *your representatives* are appropriately trained to a standard that is no less rigorous than accepted industry standards for the type of services that are to be provided under this *agreement* in cyber security risks and risk management; and

13.14.5   if required by *us* (in the form of a notice), provide for approval by us a Commonwealth Data Protection Plan (CDPP) that sets out how the parties will deal with and discharge

their obligations in respect of our data (including personal information) during the provision of the product. Such notice will specify our requirements.

13.15   In the event there is a *cyber security incident*, *you* must:

13.15.1   *notify us* in writing promptly (and in any event, no longer than 12 hours after becoming aware of the *cyber security incident*); and

13.15.2   comply with any directions issued by *us* in connection with the *cyber security incident* (including to resolve the *cyber security incident*).

13.16   You must ensure that all representatives who have access to our data comply with clause 13.15.

14.   Fraud control

14.1   You must comply with the Commonwealth Fraud Control Policy, as amended from time to time at:

https://www.ag.gov.au/Integrity/counter-fraud/fraud-australia/Documents/FraudControlPolicy.pdf

You must notify us immediately if you know or have reason to suspect that any fraud has occurred or is occurring or is likely to occur in relation to this agreement, including by you or your representatives

15.   Compliance with our policies and Commonwealth policies

15.1   *You* must ensure that, whenever *your representatives* are on *our* premises or using *our* equipment or facilities, they comply with:

15.1.1   Commonwealth *laws* and policies, procedures and rules as if they were *our representatives*; and

15.1.2   all reasonable directions given to them by *us* in relation to, but not limited to, workplace health and safety, smoking in the workplace, computer use and building or general security.

15.2   *You* agree to promptly give to the Australian National Audit Office or other auditor appointed by that Office or *us*, the assistance they reasonably require in conducting any audits, including full access at all reasonable times and on reasonable notice to all premises, equipment and *our data* used in connection with the performance of this *agreement*.

16.   Information Management obligations

Authentication

16.1   *You* will need to use an *authentication method notified* by us from time to time, to authenticate *your* organisation and *your representatives* (who will execute this *agreement* on *your* behalf).

16.2   *You* warrant that you have properly complied with all authentication requirements and processes described in this *agreement* or otherwise advised by *us* when submitting the *product* for our review and using the *product*.

17. Your responsibilities

17.1 *You* must:

    17.1.1 develop, test, operate and supply the *product* to *our* satisfaction and in accordance with the *requirements*; and

    17.1.2 ensure the *product* is fit for purpose.

17.2 To the extent permitted by *law*, *you* must indemnify *us* and *our representatives* from and against any claim, loss, liability or expense (including consequential and indirect loss or damage and legal expenses on a solicitor/own client basis) arising out of, or connected with:

    17.2.1 *your* use of *our material*, including for the purpose of obtaining a *Product Certification*;

    17.2.2 *your* breach of this *agreement*;

    17.2.3 the negligent or wrongful act or omission (including fraud) of *you* or *your representative* or *your cloud computing* service provider;

    17.2.4 use of the *product* by *you* or any third party; and

    17.2.5 *our* use of the *product* (or any associated documentation) in accordance with this *agreement*.

17.3 *We* agree to give *you* 30 *business days*, or such time as may be specified by a court of competent jurisdiction, to rectify such liability, loss, damage or expense before *we* may take action under this clause 17.

17.4 *Our* right to be indemnified under this *agreement* is in addition to and not exclusive of, any other right, power or remedy provided by *law*.

Your clients' data

17.5 Clause 17.6 below applies where the *product* operates using *cloud computing* services.

17.6 The use of the *product* on behalf of *your clients* to facilitate online transactions with *us* may create records (which may be stored via the *cloud computing* service) and *your clients* may be obliged by applicable *laws* to retain those records. To facilitate compliance with those requirements, and subject to any applicable *laws*, you must:

    17.6.1 make such records available to *your client*; and

    17.6.2 on expiry or termination of your agreement with *your client*, promptly collect and provide the records (in any format reasonably requested by the *client*).

Limitation of responsibility

17.7 Subject to clause 7.6 and to the extent permitted by *law*, *we* are not liable to *you* for any claim, loss, liability or expense (including consequential and indirect loss or damage) incurred by *you* or *your representatives* arising out of, or connected with:

    17.7.1 this *agreement*;

17.7.2   *your* (or *your representative's*) presence at or near *our* premises;

17.7.3   *our data*;

17.7.4   *our systems*;

17.7.5   the exercise of *our* right to terminate this *agreement*; and

17.7.6   the decision to grant, not grant or revoke a *Product Certification* whether the claim, loss, liability or expense is based in contract, equity, tort, statute or otherwise.

18.   Dispute resolution

18.1   A *party* claiming there is a dispute must give the other *party* to the dispute a *notice* setting out details of the dispute.

18.2   The *parties* must work together to promptly resolve the dispute within 10 *business days* of the *party* receiving the *notice* of dispute (or a longer period if the *parties* agree in writing).

18.3   If the *parties* are unable to resolve the dispute in accordance with clause 18.2, the *parties* must refer the dispute to alternative dispute resolution.

18.4   The *parties* must continue to perform their obligations under this *agreement* despite the existence of a dispute or alleged dispute.

Costs

18.5   Each *party* to a dispute must pay its own costs of complying with this clause 18. The *parties* to the dispute must equally pay the costs of any alternative dispute resolution.

19.   Termination

19.1   Either *party* may terminate this *agreement* immediately by giving the other *party notice*.

19.2   A right of termination under clause 19.1 may be exercised for any reason, but *you* accept that we may exercise this right if any security incident occurs or is, in our opinion, not effectively managed.

Effect of termination

19.3   On termination of this *agreement*, *we* may, at *our* option, either immediately or at some later date determined by *us*, revoke any *Product Certification* issued by *us* in respect of any version of *your product*.

19.4   In the event that *we* revoke a *Product Certification*:

19.4.1   *your* rights under this *agreement*, including *your* licence in respect of *our material* granted under clause 6.2, cease (subject to clause 19.5);

19.4.2   *you* must ensure *your* clients within a timeframe notified by *us* cease using the relevant version of *your product* to access *our systems*; and

19.4.3   *you* must destroy or delete all copies of *our material* in *your* possession or control.

19.5 The provisions of clauses 5, 7, 8, 11, 13, 14, 16, 17, 19 and 21 survive termination or expiration of this *agreement*.

20. Notices and address

20.1 A *notice* given under this *agreement* by a *party* must be in writing, addressed to the other *party* at the relevant address to below or to a changed address that has been *notified* in writing, being the address for all matters arising from this *agreement* unless there is written *notification* to the contrary.

Our address

Online Technical Support
Services Australia
PO Box 1001
Tuggeranong ACT 2900
Telephone: 1300 550 115
Email: developerliaison@servicesaustralia.gov.au

Your address

As provided by *you* to *us* for the purpose of receiving *notices* at the time you accept this *agreement*.

20.2 Any *notice* must be:

20.2.1   sent by pre-paid post or registered mail to that address; or

20.2.2   sent by email where email addresses have been provided.

20.3 Any *notice* is taken to be received:

20.3.1   if sent by post, on the sixth *business day* after posting;

20.3.2   if sent by registered mail, up to six *business days* after the registration of the *notice* of posting; and

20.3.3   if sent by email, 30 minutes after the time sent (as recorded on the device from which the sender sent the email), unless the sender receives an automated message that the email has not been delivered, but if the delivery or receipt is on a day which is not a *business day* or is after 5.00 pm on a *business day* (addressee's time) it is taken to be received 9.00 am on the following *business day*.

21. General

21.1 *You* warrant that the person who has accepted these terms, by clicking 'I agree', has the requisite authority to bind *you* to the terms of this *agreement*.

21.2 Failure or delay by either *party* in enforcing any provision of this *agreement* does not mean that that *party* no longer regards that provision as binding. A waiver by either *party* of a breach of a

provision of this *agreement* is effective only to the extent set out in writing and will not constitute a waiver of any other breach of this *agreement*.

21.3   *You* (including your *representatives*) may not assign, either in whole or in part, the benefit or burden of this *agreement* without *our* prior written consent, which will not be unreasonably withheld.

21.4   If any provision of this *agreement* is unlawful, void or for any other reason unenforceable, it will be deemed severable from, and will in no way affect the validity or enforceability of, the remaining provisions of this *agreement*.

21.5   *You* must not represent *yourself* as, and must ensure that none of *your representatives* represent themselves as, a partner, agent or employee of *us*. Neither *you* nor any of *your representatives* are partners, agents or employees of *us* for any purpose.

21.6   From time to time (at our discretion) *we* may transfer some or all of *our* responsibility for the administration of this *agreement*, *our material* and/or *our systems* to another Commonwealth entity, including as part of a machinery of government change. If this happens, *we* may require *you* to enter into a deed of variation to this *agreement* or a new *agreement* for continued use of *our material*.

21.7   This *agreement* is governed by the *laws* of the Australian Capital Territory and each *party* submits to the non-exclusive jurisdiction of the courts of that place.

---

22.   Interpretation

22.1   Definitions

Words used in this *agreement* that are in *bold italics* have the meaning given below, unless the contrary intention appears:

agreement means this agreement between *us* and *you* for *our* approval and issuing of a *Product Certification* and *your* provision of the *product*.

authentication method means an access control system that confirms credentials in a database of authorised users / enables a third-party application to obtain access to authorised services.

AGSVA means the Australian Government Security Vetting Agency, currently within the Commonwealth Department of Defence which is responsible for the processing and granting of security clearances for the majority of Australian government agencies and state and territory agencies.

business day means any day other than a Saturday, Sunday or public holiday (including public service holidays) throughout Australia, promulgated in the Commonwealth of Australia Gazette.

client means *your* clients and, for the purpose of clause 17.6, includes *your* former clients.

cloud computing means a model for enabling ubiquitous, convenient, on-demand network access to a shared pool of configurable computing resources (e.g. networks, servers, storage, applications, and services) that can be readily provisioned and released with minimal management effort or service provider interaction.

commencement date means the date by which *this agreement* is accepted by *you*, whether in the form of a wet ink signature, an electronic signature or by electronic acceptance of these terms, and *we* acknowledge *your* acceptance.

cyber security incident means any actual or suspected actions taken through the use of computer networks or any unauthorised access or use that may result in an actual or potentially adverse effect on any or all of the following:

    (a)   *your* information system or the ability to use *your* information system as intended; and

    (b)   *our data* residing on that system or accessible by *your* systems or *your cloud computing* service provider's systems.

eligible data breach means:

    (a)   unauthorised access to, unauthorised disclosure of, or loss of *personal information* held by *you* or *us*;

    (b)   the unauthorised access, unauthorised disclosure, or loss of the *personal information* is likely to result in serious harm to any of the individuals to whom the *personal information* relates; and

    (c)   the *party* in possession or control of the *personal information* has been unable to prevent the likely risk of serious harm to individuals to whom the *personal information* relates by taking sufficient remedial action.

existing agreement means any agreement, licence or understanding (written, oral or arising from conduct) between *us* and *you* in force as at the date of commencement of this *agreement* that relate to or are connected with *your product.*

Integrated Third Party Security Policy means the Commonwealth policy of that name as updated from time to time, or another policy **notified** by **us**.

intellectual property means business names, copyrights, registered and unregistered designs, registered and unregistered trademarks, patents and patent applications, inventions, semi-conductors and circuit layouts, confidential information (whether in writing or recorded in any other form), know-how and other proprietary or personal rights arising from intellectual activity in the business, industrial, scientific, technical or artistic fields, whether created, formed or arising before or after the date of this *agreement* in Australia or elsewhere.

ISM means the Commonwealth Information Security Manual, as updated from time to time, which is available at https://acsc.gov.au/infosec/ism/index.htm.

law means any applicable statute, regulation, by-law, ordinance or subordinate legislation in force from time to time in Australia, whether made by a State, Territory, the Commonwealth or local government, and includes the common law as applicable from time to time.

licence means the licence granted under this *agreement*.

notice means a notice given by one party to the other in accordance with clause 20.

our data means data that belongs to *us* (including *our material*, *our test data* and *our production data*) *you* have custody, control or access to for purposes connected with this *agreement*.

our material or *material* means the specifications, requirements, software, test plans and other material issued by *us* to *you* from time to time (including *our test data*) which *we* identify as, or *notify you* is, *our material* and includes all *intellectual property*, media, documents and other property contained in *our material* or provided as support during the *term* of this *agreement* and any updates and new releases of *our material*. *Our material* includes any tools, such as chat bots, that *we* make available from time to time.

our production data means all data used in digital transactions with *us* for the purpose of accessing government payments and services..

our systems means those parts of Services Australia ICT Systems with which *you* and/or *your product* will interface to access *our material* and/or *our data* during the development, testing and/or operation of *your product.*

our test data means mock data that is used to replicate various business and system scenarios for the purpose of *interface* testing.

party or *parties* means either or both *you* and *us* (however described).

personal information has the meaning given by section 6(1) of the *Privacy Act*.

portal means the 'Health Systems Developer Portal' or such other replacement systems *we* notify to you.

Privacy Act means the *Privacy Act 1988* (Cth).

Privacy Commissioner means the officer appointed as the *Privacy Commissioner* under an Act of Parliament or the Information Commissioner as defined in the *Privacy Act*, or their successors.

product(s) means, the product, including those components of a product which you provide to us for review under this *agreement*.

Product Certification means the *notification* issued to *you* in accordance with this *agreement* and, in particular, clause 10.

PSPF means the Commonwealth Protective Security Policy Framework, as updated from time to time, which is available at https://www.protectivesecurity.gov.au/Pages/default.aspx.

representative, in relation to a *party*, includes an employee, agent, officer, director, auditor, adviser, partner, consultant, joint venturer or sub-contractor of that *party*.

requirements means the requirements that *you* and *your product* must comply with as set out in this *agreement* (including as set out in clauses 5, 8, 9 and 13) as expanded, varied or supplemented from time to time under clause 4.

term means the term of this *agreement* as set out in clause 2.1.

Version Control Policy Health and Aged Care Web Services means the Commonwealth policy of that name as updated from time to time, or another policy ***notified*** by ***us***.

you means the legal entity which has indicated its acceptance of this ***agreement***.

22.2   Interpretation

22.3   **In this** *agreement***, except where the contrary intention is expressed:**

22.3.1   a reference to a document, policy or instrument includes the document, policy or instrument as amended, supplemented or replaced from time to time;

22.3.2   a reference to a statute, ordinance, code or other ***law*** includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;

22.3.3   the meaning of general words is not limited by specific examples introduced by "including", "for example" or similar expressions; and

22.3.4   a rule of construction does not apply to the disadvantage of a party because that party was responsible for the preparation of this ***agreement***.