



HOLDACCESS USER AGREEMENT

This Agreement is between the Customer and Hold Access (ABN 70 605 568 192) (**HOLDACCESS**) and governs the Customer's use of the Software and (if applicable) the Personal ID Card. This Agreement expressly incorporates elements of HOLDACCESS's Privacy Policy.

1 Background

- 1.1 The Software allows the Customer to upload, store and access information and documents.
- 1.2 The Personal ID Card represents an Individual's verified skills, health information, identity, diversity, ethnicity and (if applicable) Aboriginality.
- 1.3 If the Customer is accepting this Agreement on behalf of a company or trust, the Customer warrants that they are authorised to accept this Agreement on behalf of the company or trust.

2 Parties

- 2.1 For the purposes of this Agreement, **HOLDACCESS** means Hold Access (ABN 70 605 568 192).
- 2.2 For the purposes of this Agreement, **Customer** means (as applicable):
 - (a) the individual whose information and documents can be uploaded, stored and accessed via the Software (**Individual**); or
 - (b) the organisation who can upload, store and access information and documents about the Individual via the Software (**Organisation**).

3 Term

This Agreement commences on the Commencement Date and ends when terminated by either party in accordance with this Agreement.

4 Licence

- 4.1 HOLDACCESS grants to the Customer, and the Customer accepts, a limited, personal, non-exclusive and non-transferable licence to use and access the Software and (if the Customer is an Individual) the Personal ID Card solely for the Purpose for the duration of the Agreement and on the terms and conditions of this Agreement.

5 Use of the Software

- 5.1 The Customer must only use the Software in accordance with this Agreement and the normal operating procedures notified to the Customer by HOLDACCESS.
- 5.2 The Customer must not copy the Software in any circumstances.
- 5.3 The Customer must not modify or alter the Software or merge all or any part of the Software with any other software without HOLDACCESS's express written permission.
- 5.4 The Customer agrees and acknowledges that:
 - (a) HOLDACCESS may perform maintenance services on the Software and this might interfere with the Customer's rights to use the Software and the information and documents on the Software; and
 - (b) the Customer has no rights against HOLDACCESS for loss or interference suffered as a result of any maintenance services performed by HOLDACCESS.

- 5.5 The Customer must not reverse assemble, reverse compile or reverse engineer or allow or cause (either directly or indirectly) a third party to reverse assemble, reverse compile or reverse engineer the whole or any part of the Software.
- 5.6 Only the Verifier(s) appointed by an Organisation may upload documents and information to the Software on behalf of the Organisation. HOLDACCESS will grant each Verifier a verification ID.
- 5.7 If the Customer is:
- (a) an Individual, the Individual will:
 - (i) use the Software in accordance with this Agreement, including maintaining the security of their log-in details; and
 - (ii) be responsible for granting permission to Organisations to access their documents and information on the Software.
 - (b) an Organisation, the Organisation will:
 - (i) ensure that only its officers, employees, agents, volunteers, representatives, advisors and contractors (**Representatives**) who need access to the Software as part of the duties they are required to perform for the Organisation are granted access to the Software through the Organisation Verifiers;
 - (ii) ensure its Representatives use of the Software in accordance with this Agreement, including maintaining the security of their log-in details;
 - (iii) ensure its Representatives do not access Individual's documents and information (including personal information) uploaded to the Software unless the Representative is authorised to access that document or information and needs to access that document or information as part of the duties the Representative is required to perform for the Organisation;
 - (iv) request permission from Individuals to access their documents and information, and will only do so where the Organisation needs to access that Individual's documents and information in the ordinary course of conducting its operations;
 - (v) request permission from Individuals to provide a third party with access to the Individual's documents and information, and will only do so where the third party needs to access that Individual's documents and information in the ordinary course of conducting its operations and for the benefit of the individual and the Organisation will remain responsible for the third party's use of the Individual's documents and information;
 - (vi) appoint at least one Verifier;
 - (vii) ensure that only its Verifier(s) upload documents and information to the Software on behalf of the Organisation; and
 - (viii) ensure that its Verifier(s) only upload documents and information to the Software that the Verifier(s) have verified as being true, accurate, complete, uncorrupted, certified (if applicable) and not misleading or deceptive.

6 Use of the Personal ID Card

- 6.1 HOLDACCESS may issue a Personal ID Card to the Individual.
- 6.2 If the Individual is issued a Personal ID Card that refers to their Aboriginality, the Individual warrants that they meet HOLDACCESS's criteria for determining Aboriginality (the WUNA Criteria).
- 6.3 The Individual must not tamper with, destroy or transfer the Personal ID Card.
- 6.4 The Individual must inform HOLDACCESS as soon as reasonably possible if the Individual's Personal ID Card is lost or destroyed.

7 Fees

- 7.1 The Organisation must pay the Fees to HOLDACCESS.
- 7.2 Upon payment of the Fees, the Organisation will be granted access to the Software via a dedicated account which will allow the Organisation to create accounts for Individuals, access the documents and information of those Individuals, provide documents and information to those Individuals and obtain Personal ID Cards for those Individuals.
- 7.3 The Organisation must pay the Fees to HOLDACCESS annually or monthly upfront during the term of this Agreement, with the first payment to be made on the Commencement Date.
- 7.4 The Organisation must pay the Fees electronically in cleared funds without any set off or deduction except to the extent required by law.
- 7.5 HOLDACCESS must provide the Organisation with valid GST tax invoices annually in advance for the Fees due for the following year.
- 7.6 The Fees excludes GST, which the Organisation must pay on taxable supplies under this Agreement.
- 7.7 HOLDACCESS may charge interest on overdue amounts. Interest will be calculated from the due date to the date of payment (both inclusive) at an annual percentage rate equal to the corporate overdraft reference rate (monthly charging cycle) applied by HOLDACCESS's primary trading bank as at the due date (or if HOLDACCESS's primary trading bank ceases to quote such a rate, then the rate which in the opinion of the bank is equivalent to that rate in respect of similar overdraft accommodation expressed as a percentage) plus 2% per annum.
- 7.8 HOLDACCESS may increase the Fees at any time in accordance with changes in its applicable standard rates on the provision of fourteen (14) days written notice to the Organisation. If the Organisation does not wish to pay the updated Fees, it may terminate this Agreement and no Fees will be payable for the period after the date of termination.

8 Privacy and Data

- 8.1 HOLDACCESS will handle any personal information that it collects from the Customer or the Customer's use of the Software in accordance with the terms of HOLDACCESS's Privacy Policy.

The Customer agrees to the terms of HOLDACCESS's Privacy Policy. If the Customer is:

- (a) an Individual, the Individual consents to HOLDACCESS's collection and use of personal information (including sensitive information) about them in respect of the means of collection and the uses set out in HOLDACCESS's Privacy Policy; or

- (b) an Organisation, the Organisation consents to HOLDACCESS's collection and use of personal information about its Representatives in respect of the means of collection and the uses set out in HOLDACCESS's Privacy Policy.
- 8.2 The Customer owns the information and documents that they upload to or input into the Software (**Customer Data**). Subject to HOLDACCESS's privacy obligations to the Customer and to the extent permissible at law, the Customer hereby grants to HOLDACCESS a non-exclusive licence to copy, reproduce, store, distribute, publish, export, adapt, edit and translate the Customer Data to the extent reasonably required for the performance of HOLDACCESS's obligations and the exercise of HOLDACCESS's rights under this Agreement.
- 8.3 The Customer warrants to HOLDACCESS that the Customer Data, including when used by HOLDACCESS in accordance with this Agreement, will not infringe the intellectual property rights or other legal rights of any person under all applicable laws.
- 8.4 HOLDACCESS may anonymise and aggregate Customer Data and data that it collects from the Customer's use of the Software for HOLDACCESS's business purposes. HOLDACCESS will own all such aggregated and anonymised data.
- 8.5 If an Individual's account has been inactive for 12 months, HOLDACCESS will transfer all Customer Data associated with that Individual's account to HOLDACCESS' external electronic storage facilities and store that Customer Data for a reasonable period longer than two years. At the expiry of that period, if the Individual has not reactivated their account or contacted HOLDACCESS to retrieve the Customer Data, HOLDACCESS will permanently delete the Customer Data.

9 Intellectual Property

- 9.1 HOLDACCESS owns and shall retain ownership of the intellectual property rights in and to the Software and Personal ID Card.
- 9.2 This Agreement does not transfer or assign any right to the intellectual property in the Software or Personal ID Card to the Customer or any third party.

10 Confidential Information

- 10.1 HOLDACCESS will keep all information and documents disclosed by the Customer confidential and only use or disclose the information and documents at the request of the Customer or otherwise in accordance with clause 8 (Privacy and Data).
- 10.2 All information disclosed by HOLDACCESS to the Customer that is marked as being confidential to HOLDACCESS or that in the circumstances surrounding disclosure or because of the nature of the information should in good faith be treated as confidential, will be treated as **HOLDACCESS's Confidential Information** for the purposes of this Agreement.
- 10.3 The Customer acknowledges that the HOLDACCESS's Confidential Information is valuable to HOLDACCESS. The Recipient must take reasonable steps to protect HOLDACCESS's Confidential Information and keep HOLDACCESS's Confidential Information secure from any unauthorised use or disclosure. The Recipient must only use or disclose HOLDACCESS's Confidential Information for purposes contemplated in this Agreement.

11 Warranties

- 11.1 Each party warrants that it has full power and authority to enter into and perform its obligations under the Agreement which, when signed, will constitute binding obligations on the warranting party.

- 11.2 The Customer warrants to HOLDACCESS that to the best of its knowledge, its use of the Software and (if applicable) the Personal ID Card in accordance with this Agreement will not infringe the intellectual property rights of any other person.
- 11.3 The Customer warrants to HOLDACCESS that it has not relied on any representation made by HOLDACCESS which has not been stated expressly in this Agreement or on any descriptions or illustrations or specifications contained in any document including any catalogues or publicity material produced by HOLDACCESS.
- 11.4 The Customer warrants to HOLDACCESS that it will only upload accurate, verified, complete, uncorrupted and certified (if applicable) documents and information to the Software.

12 Indemnity

- 12.1 The Organisation indemnifies HOLDACCESS against any loss, costs, expenses, demands, or liability, whether direct or indirect, arising out of a claim by a third party if the claim arises from a breach by the Customer (either the Individual or the Organisation) of this Agreement.

13 Limitation of Liability

- 13.1 While HOLDACCESS will use reasonable care and skill in providing the Software, HOLDACCESS cannot promise that the Software will always be available or completely free of faults or errors.
- 13.2 To the maximum extent permitted by law, HOLDACCESS shall not be liable to the Customer for any loss or damage of any kind suffered by the Customer or any third party, whether caused by use of the Software or Personal ID Card or otherwise and whether the claim be in contract (including failure to abide by the terms of this Agreement), tort or equity.
- 13.3 To the extent HOLDACCESS is unable by law to exclude any implied condition, representation, warranty or statutory guarantee in relation to the provision of services, HOLDACCESS limits its liability (at its option) to the re-supply of those services or payment for such re-supply.

14 Termination

- 14.1 HOLDACCESS and the Organisation may be parties to more than one agreement on the same terms as this Agreement, each of which relates to an Individual who is an employee of the Organisation.
- 14.2 If HOLDACCESS terminates this Agreement in relation to the Organisation or the Organisation terminates this Agreement, then all agreements between HOLDACCESS and the Organisation on the same terms as this Agreement are terminated.
- 14.3 For the avoidance of doubt, if the Individual terminates this Agreement or HOLDACCESS terminates this Agreement in relation to the Individual, only this Agreement is terminated and any other agreements between HOLDACCESS and the Organisation on the same terms as this Agreement remain on foot.
- 14.4 A party may terminate this Agreement by providing thirty (14) days' written notice to the other parties from within the period of receiving the Software or Personal ID Card. Where an Organisation terminates pursuant to this clause, HOLDACCESS will provide the Organisation with a pro-rata refund of the Fees paid for then current subscription year.
- 14.5 A party may terminate this Agreement immediately by notice in writing to the other parties if another party commits a breach of this agreement and either:
- (a) the breach is material and not capable of being cured; or

- (b) the breach is capable of being cured and the defaulting party fails to cure the breach within fourteen (14) days of being notified in writing of the breach by the party giving the notice.
- 14.6 Without limiting the generality of any other clause in this Agreement, HOLDACCESS may terminate this Agreement immediately by written notice to the Customer if:
 - (a) the Organisation has any outstanding payments due to HOLDACCESS for more than fourteen (14) days; or
 - (b) the Customer disposes of or misuses the Software or Personal ID Card.
- 14.7 Upon termination of this Agreement, the licence to the Software terminates, the Customer must cease using the Software and (if applicable) the Personal ID Card and HOLDACCESS may:
 - (a) if it has terminated pursuant to clause 14.6:
 - (i) retain any money paid; and
 - (ii) charge a reasonable sum for the work performed in respect of which work no sum has been previously charged; and
 - (b) be regarded as discharged from any further obligations under this Agreement.

15 General

- 15.1 **Notices:** Every notice under this Agreement must be in writing and must be served to the party by the last known email address or by registered post to the party's registered office address.
- 15.2 **Mediation:** Any dispute, difference or question which may arise at any time between HOLDACCESS and the Customer with respect to the true construction of this Agreement or the rights and liabilities of the parties or any inability to reach agreement on any operational aspect of this Agreement will, unless otherwise agreed by the parties, be referred to mediation by a mediator mutually agreed to by the parties.
- 15.3 **Amendment:** No amendment to this Agreement will be valid unless in writing and signed by the parties in the same manner as that in which this Agreement has been executed.
- 15.4 **Waiver:** Any failure or omission by HOLDACCESS to enforce a provision of this Agreement will in no way be deemed a waiver of HOLDACCESS's right to enforce that provision or any other provision of this Agreement.
- 15.5 **Entire Agreement:** This Agreement, and any notice(s) given by the parties in accordance with this Agreement, contains the entire agreement between the parties in respect of the subject matter of this Agreement and supersedes all prior understandings and representations between the parties with respect to the subject matter of this Agreement.
- 15.6 **Severability:** If any covenant, undertaking or condition of this Agreement is found to be void or unenforceable at law, that covenant, undertaking or condition will not affect any other term of this Agreement and, as far as it is possible, will read down to the extent required to make it enforceable. If necessary, the parties will, in good faith, negotiate a valid and enforceable replacement term to express their intention.
- 15.7 **Governing Law:** The contents of this Agreement, its meaning, interpretation and the relationship of the parties are to be governed by the current and valid laws of the Northern Territory, Australia. The parties irrevocably submit to the jurisdiction of the courts in the Northern Territory, Australia.

- 15.8 Assignment: The Customer must not transfer, assign or sub-license any of its liabilities or rights under this Agreement to any third-party unless expressly agreed by written notice from HOLDACCESS. HOLDACCESS may assign or transfer this Agreement, including its associated rights and obligations, at any time and the Customer agrees to cooperate with HOLDACCESS in connection with such an assignment or transfer.
- 15.9 Counterparts: This Agreement may be signed in several counterparts, each of which will be considered an original but all of which together will constitute one and the same Agreement. This Agreement may be executed and/or signed in electronic counterparts and exchanged electronically.

16 Definitions

Base Fee means the annual total of:

- (a) The monthly license fee agreed between the Organisation and HoldAccess in writing in respect of the Software; and
- (b) The monthly fee agreed between the Organisation for the Software required by the Organisation.

Commencement Date means the date that the Customer agrees to the terms of this Agreement.

Fees means the fees for the relevant package selected by the Organisation during the sign-up process.

Personal ID Card means the identification card which HOLDACCESS provides to an Individual and which represents the Individual's identity, diversity, ethnicity and (if applicable) Aboriginality.

Privacy Policy means HOLDACCESS's privacy policy available at [insert URL of privacy policy]

Optional Fees: (new) special features, training of users, onboarding new account user for third parties, digital verification of account users.

Fees means the fees for the relevant package selected by the Organisation during the sign-up process.

Purpose means:

- (a) in respect of the Software, to upload, store and access information and documents (including certificates) about an Individual; and
- (b) in respect of the Personal ID Card, for identification.

Software means the platform (including any mobile application) provided by HOLDACCESS which Individuals can use to upload, store and access information and documents about themselves and which Organisations can use to upload, store and access information and documents about Individuals that they currently employ or may employ in the future.

Verifier means an individual who has been authorised by the Organisation to upload documents and information to the Software on behalf the Organisation.

Consent between users and entities requesting account links sharing of information under the terms of the license agreement where the individual consents to share information with third parties who are manage information under the terms of this Agreement.

Overseas Sharing of personal information such as names and addresses is only by the direct consent of users and the linked third parties' they approve consent sharing. Information such as demographic data without containing real names and account holder details of personal addresses may be used by HoldAccess to improve user experiences, marketing, and data analysis.

17 **Complaints Process**

Complaints can be handled with support directly with HoldAccess available contact by email directly to ceo@holdaccess.com or, at <https://www.holdaccess.com/contact-us>

By checking the box on the sign-up application, you have accepted these Terms of Agreement & the Privacy Policy.