

Terms and Conditions – Employment Verification by Equifax (New Zealand)

By requesting the Services, you agree that these terms and conditions, including the Schedules, govern their supply and we will supply our Services to you after we accept your request for the Services. No confirmation, shipment or delivery docket, quote, purchase order, invoice or other document issued by you or on your behalf (including the terms on any pre-printed purchase order form) in relation to the Services will vary of form part of these Terms and Conditions.

1. Defined Terms

In these Terms and Conditions the terms:

- a. "Agent" means Equifax New Zealand Information Services and Solutions Limited, a New Zealand registered company (Company Number 371729), which like Equifax, is part of the Equifax Group of companies. The Agent acts on behalf of the Supplier in selling its services in New Zealand; and
- b. "Agreement" means these Terms and Conditions, the Schedule and any document incorporated by express reference as part of these Terms and Conditions;
- c. "Approved Purpose" means pre-employment and employment screening and other employment related purposes in accordance with the consent given to you by the relevant Individual;
- d. "Companies Act" means the Companies Act 1993;
- e. "Commencement Date" means the commencement date set out in the Schedule;
- f. "Equifax", "we", "us" and "our" mean Equifax Australasia Workforce Solutions Pty Ltd;
- g. "Individual" means each person on whom you request Equifax to perform the Services;
- h. "Initial Term" means the date starting on the Commencement Date and ending on the Termination Date.
- i. "Law" means any statute, ordinance, or code and includes regulations, codes and other instruments under any of them and consolidations, amendments, re-enactments, or replacements of any of them;
- j. "Personal Information" has the meaning given to it in the Privacy Act 1993;
- k. "Privacy Laws" means the Privacy Act 1993; and any other applicable legislation from time to time in New Zealand or Australia affecting privacy, Personal Information or the collection, handling, storage, processing, use or disclosure of Personal Information, data and other types of information including the Unsolicited Electronic Messages Act 2007 and includes any code of regulations made under the Privacy Act 1993;
- l. "Renewal Term" has the meaning given to it in clause 9;
- m. "Schedule" means each Schedule executed by the parties containing terms which govern the provision and use of the services outlined in the Schedule and may include Third Party Services;
- n. "Services" means the services to be provided to you under the Agreement including the information, data, products, services and reports provided to you by Equifax in response to your request;
- o. "Terms and Conditions" means these terms and conditions;
- p. "Third Party Services" means any services or data that has been supplied to Equifax by a third party, or any data that arises out of the performance of any Services which are provided to Equifax by a third party; and
- q. "you" means the company or entity that has requested to use our Services, a New Zealand registered company.

2. Supply of Information

- a. Equifax agrees to undertake the checks that you request and report on these in the fastest time possible however we are not liable for any delay or failure to provide information arising from, caused by or contributed to by you or any third party.
- b. You must provide us with all information, materials, assistance and decisions required to enable us to provide the Services and otherwise perform our obligations under these Terms and Conditions.
- c. We cannot commence any work in respect of a verification request until we receive the necessary consents that we require from the Individual who is the subject of the request.
- d. We will make a maximum of three attempts to Equifax information or obtain missing information before closing a verification or search as "unverified".

- e. We reserve the right to close off an outstanding verification request after 15 working days from the date that the request is made by you, if you, or the Individual who is the subject of the request, have not responded to our notice for further instruction.
- f. You acknowledge that Equifax obtains all data supplied as part of the Services from third parties and relies on those suppliers of data to take reasonable steps to ensure that the data is accurate. You further acknowledge that Equifax does not independently verify the data and agree that Equifax does not provide any guarantee or warranty as to the accuracy or completeness of the data to you.
- g. Equifax will provide the Services where it is reasonably able to do. You acknowledge and agree that Equifax may, at its option and by notice to you, suspend provision of the Services or terminate the agreement formed by these Terms and Conditions if:
 - i. the requirements of any law render (or are likely to render) the provision of the Services contrary to that or any other Law;
 - ii. any regulatory policy or published view of a regulator renders (or is likely to render) the provision of the Services contrary to the established regulatory position;
 - iii. a third party supplier ceases to supply the necessary component services or data for Equifax to provide the Services; or
 - iv. a third party supplier changes the terms on which it supplies the necessary component services or data such that it is unreasonably onerous for Equifax to comply with those terms to provide the Services.

Where Equifax determines, acting reasonably, that it cannot continue to provide one or more of the Services under these Terms and Conditions, then it may cease to provide that Equifax Service, without any further obligation accruing to it under these Terms and Conditions.

- h. In respect of Third Party Services, the liability and indemnities of the parties are set out in the respective Schedule(s) or if not specified therein, then in accordance with the terms of these Terms and Conditions.

3. Consumer Credit check in New Zealand

- a. You will only be able to access our New Zealand consumer credit checking service, if:
 - i. You do so pursuant to a subscriber agreement with Equifax New Zealand Information Services and Solutions Limited.
 - ii. you have an existing consent to do so from the individual you are checking;
 - iii. that individual is a prospective employee; and is seeking a position involving significant financial risk; and
 - iv. you keep a record of their consent to credit check for at least five years from the date of your credit checking enquiry.
 - v. You do not access for any other purpose than in 3a.iii.

4. Your use of our Services

- a. You must use the Services, and any information provided to you as a part of the Services for the Approved Purpose only and at all times comply with these Terms and Conditions and all applicable Laws in all jurisdictions that relate to your access to and use of the Services.
- b. You must:
 - i. in your use of the Personal Information, comply with the Privacy Act 1993 and any additional Privacy Laws or regulations by which you are bound or which Equifax notifies you that Equifax is bound, as if you were bound by it and comply with Equifax's reasonable instructions to enable this to be achieved;
 - ii. use the Personal Information only for the Approved Purpose in accordance with your obligations under these Terms and Conditions;
 - iii. restrict access to the Personal Information to employees who need to access the Personal Information to fulfil your obligations under these Terms and Conditions;
 - iv. take all reasonable steps to ensure that the Personal Information is protected against misuse and loss, or unauthorised access, modification or disclosure, including:

- A. undertaking any staff training as may be required;
 - B. monitoring staff and third party use of the Personal Information;
 - C. obtaining a written agreement from any third party to whom the Personal Information is disclosed to comply with Privacy Laws and contractual provisions having the same effect as this clause 4 of these Terms and Conditions;
 - D. not disclosing any Personal Information to a third party unless the third party is the Individual to whom the information relates or the disclosure is otherwise permitted under the Privacy Act 1993;
 - E. during and after the term of this Agreement not do anything with the Personal Information that will cause you or Equifax to breach any Privacy Laws and co-operate with Equifax to resolve any complaint made under any Privacy Laws; and
 - F. Immediately notify Equifax if you become aware of a breach of the Privacy Legislation in connection with this Agreement.
- c. In addition to the above, you acknowledge and agree that where in order to provide the Services Equifax needs to pass Personal Information to a third party, you have or will obtain valid authority from the relevant Individual to allow Equifax to provide the Services.
- d. Except as expressly permitted by these Terms and Conditions, and subject to clause 3(e) below, you must::
- i. Not re-use credit reporting information (or any other information) or re-sell, re-package or permit third parties to use information supplied as part of the Services otherwise than as expressly permitted under these Terms and Conditions; and
 - ii. not use the information supplied as part of the Services for any purpose other than your internal business use and for the purposes for which it was supplied, save for disclosure as part of your statutory obligations including under the Privacy Laws.
- e. Where you are placing orders for the Services on behalf of your customer (Authorised Clients), you are permitted to use the Services and any information provided to you as a part of the Services for the sole purpose of providing recruitment or other employment-related services to the Authorised Client, provided that you do not use the Services for your own benefit. You:
- iii. warrant that you have the authority to act as agent for the Authorised Client;
 - iv. shall ensure that each Authorised Client complies with this Agreement as if it were a party hereto;
 - v. will be responsible for the acts and omissions of all Authorised Clients as fully as if they were your acts or omissions;
 - vi. indemnify Equifax and its related bodies corporate (as that term is defined in the Corporations Act) against any liabilities, damages, losses, expenses, demands, claims, suits or judgements, including solicitors' fees, costs and expenses as a result of any acts or omissions of your Authorised Clients.
- f. You warrant that the contact details you provide us for correspondence are suitable for maintaining the confidentiality of the information we send you and you agree to notify us immediately if you change it.
- g. Each party owns, and will continue to own, all Intellectual Property Rights subsisting in any material it provides or makes available to the other party under or in connection with these Terms and Conditions (**Pre-existing Intellectual Property**).
- h. All Intellectual Property Rights in documents, ideas, equipment, processes and systems which are acquired or created by Equifax in the course of supplying the Services to you are retained by Equifax (**New Intellectual Property**). Equifax grants you a non-transferable perpetual, irrevocable royalty free licence to use the New Intellectual Property for the purposes of these Terms and Conditions.
- i. You further acknowledge and agree that the Services and the information we provide to you are proprietary to us and comprise works of original authorship, including compiled information containing our selection, arrangement, coordination and expression of such information or pre-existing material it has gathered or assembled, confidential and trade secret information, and information that has been created, developed and maintained by us at considerable expense of time and money, such that misappropriation or unauthorised use by you or others for commercial gain would unfairly (and may irreparably) harm us.

5. Variations to the Services Terms

- a. We may from time to time vary these Terms and Conditions at any time by giving at least one month's notice on our website (Notice of Variation). If you do not agree to be bound by the varied Terms and Conditions you can stop placing

orders for the Services. If you continue to place orders for the Services after the Notice of a Variation from us, you agree to be bound by the Terms and Conditions as varied.

- b. Notwithstanding anything contained in this clause 5, we do not need to notify you of variations to these Terms and Conditions to provide for additional Services.

6. Exclusions and Limitations of Liability

- a. Nothing contained in this Agreement excludes, restricts, limits or modifies any:
 - i. implied condition, warranty or other term of these Terms and Conditions where pursuant to applicable Law to do so is unlawful or void; or
 - ii. liability in respect of a default or other breach of these Terms and Conditions where pursuant to applicable Law to do so is unlawful or void.
- b. You acknowledge that the conditions and warranties contained in these Terms and Conditions are the only conditions and warranties in relation to these Terms and Conditions (other than those which cannot be excluded or limited by law) and, except as provided elsewhere in these Terms and Conditions, to the maximum extent permitted by law:
 - i. that the Services are provided “as is” without warranty of any kind;
 - ii. we are not in any way providing advice to you in respect of your obligations under, or your compliance (or otherwise) with, any Law, and we disclaim all responsibility for any use by you of the Services in assisting you to comply with any Law;
 - iii. information delivered to you may not be all the information that we hold on the relevant Individual; and
 - iv. We do not warrant that the provision of the Services will achieve any particular result. The Services are not a replacement for any other information, or for your decision making policies and procedures. Accordingly, Equifax does not accept liability for any employment decision you or your Authorised Clients make using any information provided to you as a part of the Services and you assume all risk in connection with your use of, or reliance on, the Services (including any information obtained or derived through the Services);
 - v. Equifax makes no warranties or representations about information and data, including Personal Information, sourced from third parties that it provides under this Agreement, or its reliability, accuracy, completeness, or currency;
- c. If applicable Law implies any liability in respect of the Services, the liability will be limited to the cost of replacing those services (as paid by you to Equifax) or providing those services again.
- d. Subject only to clause 6(a) above, in no event will Equifax be liable to you or to any third party for:
 - i. any loss, damage, cost or expense of any nature arising or caused directly or indirectly by any breach of your obligations or responsibilities set out in these Terms and Conditions;
 - ii. any and all liability for any loss or damage in relation to any decisions made as a result of the use of the Services;
 - iii. any loss or damage in relation to the accuracy, completeness, currency or quality of information sourced from third parties that is provided as part of the Services;
 - iv. any damages or losses which are not direct or do not flow naturally from the relevant default, even if those damages or losses may reasonably be supposed to have been in the contemplation of both parties as a probable result of the default;
 - v. any indirect, incidental or consequential loss or damage or special, exemplary or punitive damages; or
 - vi. any economic loss (including without limitation any loss of profits, business interruption, loss of revenue, loss of business opportunity, business advantage and/or expectation benefit),

whether such liability is asserted on the basis of any common or civil law, in equity, pursuant to any statute, under any contract, in tort (including negligence or strict liability) or otherwise (and notwithstanding that Equifax has been advised of the possibility of any particular liability, loss or damage).

- e. In respect of any default or other breach of this Agreement by Equifax (but subject always to the exclusion and/or limitation of Equifax’s liability set out elsewhere in these Terms and Conditions), Equifax’s total liability shall be limited to the value of the fees paid or payable by you for Services which are the subject of the default or to which the default relates.

7. Indemnity

- a. You indemnify and hold harmless Equifax and its related bodies corporate, its officers employees and agents (“those indemnified”) against all damages, loss, costs, expenses (including legal costs) or liabilities incurred or suffered by those indemnified arising out of:

- i. any unauthorised disclosure of Confidential Information;
- ii. any act or omission by you in reliance upon the Services;
- iii. any failure to comply with all Laws applicable to these Terms and Conditions; and
- iv. any warranty you provide being incorrect or misleading in any way.

8. Our Fees

- a. You must pay us our current fees for the Equifax Service you request as set out in your invoice portal, including any cancellation fees you have incurred.
- b. Our Agent will send you invoices for all our fees and charges unless you are set up for pre-billing. Payments terms shall be set out on the relevant invoice or if none are specified, then 14 days from the date of the invoice. Interest may be charged at our Bank's current overdraft rate on unpaid accounts. We reserve the right to suspend or cease providing services if our invoices are not paid promptly.
- c. We may change our fees and charges from time to time. We will notify you when the new fees and charges apply from which will be not less than 60 days from notification to you.
- d. You agree to keep confidential the terms of supply including our fees, charges and pricing arrangement with you under this and any other agreement between us.
- e. Pricing under this agreement is confidential and must not be disclosed to third parties.
- f. In addition to the fees at 8(a) above, Equifax will charge additional fees for searches it conducts outside of Australia and New Zealand which are based on the country and type of verification request. Equifax will notify you of these additional fees before commencing the search.
- g. Equifax will also charge any disbursements levied by third party information providers such as academic institutions, agencies, professional bodies etc. These will be charged at cost.
- h. A verification request cannot be cancelled without our express agreement and subject to your payment of the following cancellation fees, expenses and third party costs (if any):

Applicable cancellation fee	Where consent and administration has commenced	Request is cancelled within 5 working days for consent and administration	\$10 + GST
		Request is cancelled between 5 - 15 working days for consent and administration	\$25 + GST
		Request is cancelled after more than 15 working days or Equifax has not received any communication from you with respect to an outstanding request for services for consent and administration	100% fee for the request
	Where checks have commenced	100% fee for each check that has started	
Expenses	All reasonable expenses incurred by Equifax in providing the Services up to the date of cancellation		
Third party costs	As our third party information providers charge us on submission of each verification, you shall also pay Equifax's reasonable and direct costs (on a pass through basis only) of terminating its agreements with any relevant third party suppliers used in relation to the Services		

- i. If you default in performing your obligations under these Terms and Conditions and Equifax incurs expenses in enforcing its rights under these Terms and Conditions (for example and without limitation, expenses incurred by Equifax in recovering any moneys owed by you), you agree to pay those expenses to Equifax on demand, on a full solicitor-client basis.
- j. Where you and Equifax have agreed that a minimum spend or minimum volume applies to one or more Services, notwithstanding if your aggregate expenditure or aggregate use of the relevant Equifax Service is less than the minimum spend or minimum volume, you must pay the minimum spend amount/an amount equivalent to the value of the minimum volume. This agreement will be recorded in your invoice portal or form part of a pricing schedule, such agreement being expressly incorporated into the terms of this Agreement.

9. Term and Termination

- a. This agreement begins on the Commencement Date and continues for the Initial Term, unless terminated earlier in accordance with these Terms and Conditions.
- b. At least 30 days before the Initial Term or any Renewal Term is due to end either party may notify the other that it does not wish to extend the Term. If neither party has given notice, then the Term automatically extends for a further 12 months ("Renewal Term") on the existing terms and conditions (including pricing) or on any amended terms and conditions agreed by you and Equifax.

- c. You may terminate this Agreement, in whole or in part, by notice to Equifax:
 - i. if Equifax breaches a provision of this Agreement and fails to remedy it within 30 days of receiving a notice from you detailing the breach and requesting that it be rectified;
 - ii. Equifax becomes Insolvent.
- d. Equifax may terminate this Agreement, in whole or in part, by notice to you:
 - i. if you breach a provision of this Agreement and fails to remedy it within 30 days of receiving a notice from Equifax detailing the breach and requesting that it be rectified;
 - ii. You become Insolvent;
 - iii. You have a Change in Control;
 - iv. Under clause 2g.
- e. In addition to its other rights of termination, where Equifax holds a reasonable belief that you are in breach of any of the conditions set out in this Agreement Equifax may suspend provision of the whole or any part of the Services until such time as the breach is remedied.
- f. The termination of this agreement does not affect any remedies which either party may have under this agreement or otherwise.
- g. Equifax may set off, or recover as a debt, any loss or damage suffered or incurred by Equifax as a consequence of the termination of this Agreement, whether or not the loss or damage arose from one or more breaches that gave rise to the right to terminate or from the termination itself.

10. General

- a. This agreement is governed by the laws of New Zealand and you submit to the non-exclusive jurisdiction of the courts of that country.
- b. If there is any inconsistency between these Terms and Conditions or a Schedule, the following order of priority shall apply (in descending order): terms of the Schedule, these Terms and Conditions.
- c. Each indemnity is a continuing obligation separate and independent from any other obligations and survives termination of this Agreement.
- d. It is not necessary for a party to incur expense or make payment before enforcing a right of indemnity conferred by this Agreement.
- e. Equifax may cancel or suspend delivery of any Services in the event of any delay or non-performance due directly or indirectly to operational requirements, wars, terrorism, strikes, lockouts, act of God, governmental or quasi-governmental restraint, unavailability or delay in availability of equipment, inability or delay in obtaining governmental or quasi-governmental approvals consents permits licenses authorities or allocations or any other cause beyond our reasonable control..
- f. Equifax will act in its own right and as the agent of each Related Company (as that term is used in the Companies Act 1993) of Equifax with respect to the enforcement of any rights and remedies under this Agreement.
- g. Where you have provided us with an email contact address or mobile phone number, you consent to receiving electronic correspondence concerning the Services from us at the email address or mobile phone number provided, unless you notify us otherwise.
- h. You acknowledge and agree that the agreement formed by these Terms and Conditions is particular to you. If you wish to obtain the Services on behalf of a Related Company (as that term is used in the Companies Act 1993) you must first obtain Equifax's consent, such consent to be given in Equifax's absolute discretion and on such terms as Equifax determines. If Equifax consents you will act in your own right and as the agent of each Related Company with respect to the obligations of each Related Company under these Terms and Conditions and you:
 - i. warrant that you have the authority to act as agent for that Related Company ; and
 - ii. will continue to be liable for the obligations of that related body corporate, despite the relationship of agency. Nothing in the agreement shall prevent Equifax from enforcing its rights against any Related Company to whom Equifax provides the Services and for whom you act as agent.