

8 December 2014

David Burgess

fyi-request-2159-6be46427@requests.fyi.org.nz

Request made under the Official Information Act 1982

Dear David

Thank you for your email of 7 November 2014, concerning a recent online news story about an elderly gentleman who was a victim of identity theft. As a result of this story you have requested information under the Official Information Act 1982 about the use of the NZ Transport Agency services Driver Check and Driver Licence Verification Service (DLVS).

We have interpreted your questions to be about the access and release of information from Driver Check and DLVS. Therefore, our response is confined to the present workings of these services.

Responses to your four questions are detailed below:

1. ***Please provide copies of any contracts, agreements, MOU's etc that the NZTA has with other agencies or individuals for provision of this information.***

We only operate two contracts for these services, therefore please refer to attachments one and two for a copy of the terms and conditions for Driver Check and DLVS.

The authority for the Transport Agency to maintain and administer the Driver Licence Register and release driver licence information to a third party is legislated under section 199(4) and 199(6) of the Land Transport Act 1998.

2. ***Please provide copies of any policies, procedures, quality plans or other systems the NZTA has to track the amount of identity theft that occurs.***

As we have interpreted this as a request for identity theft where Driver Check or DLVS was used, I am declining your request under section 18(e) of the Official Information Act 1982 as the information requested does not exist. This is in part because we only report on identify theft involving a driver licence where it was applied for fraudulently.

It should be noted that the Transport Agency would not necessarily become aware when either a fraudulently manufactured licence or fraudulently obtained licence is used for non-driving purposes.

3. ***Please provide copies of any policies, procedures, quality plans or other systems the NZTA has to reduce or eliminate the amount of identity theft that occurs.***

The terms and conditions supplied detail the requirement for subscribers to protect the information available, such as obtaining consent and having robust anti-virus software and firewalls.

All requests via Driver Check and DLVS require the express consent as per the agreement the Transport Agency has with the subscriber. However, it is the responsibility of the subscriber to ensure they have express consent from the licence holder and that they are able to demonstrate/prove that the licence holder gave consent if requested.

The important distinction to make between Driver Check and DLVS is that Driver Check's purpose is to establish a licence holder's entitlement to drive by advising the full name, driver licence number, classes of licence held and any driving conditions that apply. Whereas, DLVS simply validates the driver licence details supplied, by providing a yes/no answer.

As DLVS is primarily used for financial transactions the terms and conditions clarify that the service does not verify the identity of the person named is correct or true, only that a record exists in that name. They further clarify that a visual check of the driver licence (comparing the image on the licence to the person presenting the licence) will provide a degree of confidence that the licence has not been fraudulently manufactured or are in the hands of a person who should not have the licence.

Auditing of Driver Check subscribers is completed each month, with a small number of subscribers randomly being selected. These subscribers are required to provide evidence of consent for a selection of drivers whose information they have obtained. Although the licence holder's consent is required before performing a search using DLVS, no auditing is undertaken as the service simply authenticates the driver licence details provided.

There are no formal procedures for the auditing of Driver Check subscribers. Depending on the result of an audit the subscriber may be given a warning about the consent requirements, educated further or have their access revoked. Each audit is assessed on a case by case basis and considerations are made for such factors as the type of consent obtained and the length of time the company has been a subscriber to the service.

Please note that all information provided via Driver Check (with the exception of the driver licence number) is information that can legally be disclosed without the licence holder's permission.

4. ***Please provide full data on the cases investigated as above, for the last 5 years.***

We are not able to provide this information as it does not exist and as above, section 18(e) refers.

Under section 28(3) of the Official Information Act 1982, you have the right to apply to an Ombudsman for an investigation and review of the decision to decline part of your request. The address is:

Office of the Ombudsmen
PO Box 10152
Wellington 6143

If you would like to discuss this reply with the Transport Agency, please contact Alex McMinn, Customer Access, by email to info@nzta.govt.nz or by phone on 0800 822 422.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M Charlton', with a horizontal line extending from the end of the signature.

Michelle Charlton
Manager, Customer Information
For Chief Executive

Attachment 1:

Driver Check terms and conditions

General

- These terms and conditions form the contract between you (the user), and the NZ Transport Agency as the provider of these services.
- These terms and conditions are governed by New Zealand law.
- By signing these terms and conditions, you show acknowledgement and acceptance of them.
- If you breach your obligations under this contract, you shall be liable for any loss suffered by the NZ Transport Agency as a result of the breach of contract.
- The NZ Transport Agency reserves the right to withdraw Driver Check services from any user who fails to comply with these terms and conditions or abuses the service in any way.
- The NZ Transport Agency may make inquiries of you or any of your employees, agents or contractors, provided the inquiries are relevant to your obligations under this contract.
- The NZ Transport Agency reserves the right to refuse to offer you credit in order for you to access Driver Check, and to refuse your application if your application is in any way incomplete (including not completing the required direct debit form).

Driver Check service

- Information contained in Driver Check is obtained through or from parties other than the NZ Transport Agency. The NZ Transport Agency does not, and is unable to, guarantee the accuracy of that information.
- There may be interruptions to the Driver Check facility from time to time, as a result of actions taken by internet service providers or the NZ Transport Agency's IT providers. These interruptions to service availability are beyond the control of the NZ Transport Agency, and are part and parcel of having a service provided via the internet.
- The NZ Transport Agency will endeavour to provide a secure and reliable system within which you can carry out your inquiry transactions via the internet. If IT systems are changed substantially, such that the Driver Check service is no longer functional, the NZ Transport Agency will endeavour to provide a replacement Driver Check internet service within two (2) months.
- Under no circumstances will you be compensated for any loss, injury or damage arising directly or indirectly from the supply of Driver Check to you, or the operation of, or failure to operate, Driver Check.
- You are responsible for the maintenance of the accuracy and completeness of employee details provided to the NZ Transport Agency. You must provide, for each driver licence inquiry, either
 - (a) the driver's licence number, version number and driver's name, or
 - (b) the driver's full name and date of birth.
- The NZ Transport Agency will advise you as soon as possible where the licence (or endorsement) expires, or is revoked or is suspended, or where the driver is disqualified, for any of the linked drivers listed. This advice will be by means of an email or online notification via the Driver Check website.

Charges and fees

- The NZ Transport Agency will provide a tax invoice/direct debit notification, detailing charges due and the date the amount will be direct debited from your account.
- You will pay to the NZ Transport Agency the Driver Check charges as detailed:

- annual fee	\$1.55 per driver per annum
- query (internet)	\$1.55 per query
- add driver	\$1.55 per driver
- manual search	\$11.10 per query
- remove driver	\$1.55 per driver
- automatic notification	free of charge



Driver Check terms and conditions continued

- You must pay all charges made, in respect of this contract, by direct debit.
- If you repeat any individual licence inquiry (whether inadvertently or intentionally), you will be required to pay for each inquiry.
- If either party terminates the contract at any time, you will pay any and all outstanding charges.
- The NZ Transport Agency may review the charges at any time. You will be given one month's notice of our intention to vary the charges.
- You are responsible for all internet access charges via your nominated internet service provider.

Access, assignment and termination

- In consideration, and as a condition of you receiving access to Driver Check, you are hereby granted a non-exclusive, non-assignable licence by the NZ Transport Agency to use Driver Check in accordance with these terms and conditions.
- The NZ Transport Agency may assign its rights and responsibilities under this contract to another party, but will give you no less than 30 days' notice in writing of its intention to do so.
- The NZ Transport Agency may terminate or change this contract, or any term or condition, by giving you no less than 30 days' notice in writing. Termination will not release either party in respect of prior breaches and obligations for monies payable for the period up to termination.

Protection and use of information

- You must take all reasonable security measures, including your own PC anti-virus measures, to prevent unauthorised use of and access to Driver Check services. If you do not keep access to Driver Check secure, you may be liable for any consequential loss suffered by the NZ Transport Agency as a result of a security breach. The NZ Transport Agency reserves the right to determine what constitutes a security breach.
- Information accessed or obtained through Driver Check cannot be used in a court of law as evidence in proceedings.
- You MUST have the signed consent (using the Driver Check consent form on page 16 of the Driver Check registration pack) of the licence holder BEFORE inquiring on their licence record. You must retain that signed consent and provide a copy of that signed consent if requested to do so by the NZ Transport Agency.
- You MUST have the consent of a driver before you may disclose any information supplied through Driver Check to any other party. The information supplied cannot be used by any third party contracted by you in any capacity other than for the work specifically undertaken for your company.

For and on behalf of (company name)

Signature

Position

Date

Witness

Position

Date

For and on behalf of the NZ Transport Agency

Signature

Position

Date

Witness

Position

Date



NZ TRANSPORT AGENCY
WAKA KOTAHI

Attachment 2:

PHOTO DRIVER LICENCE CARD VERIFICATION LICENCE AGREEMENT

AGREEMENT

dated the TH day of 2014

BETWEEN

The New Zealand Transport Agency, a crown entity established under the Land Transport Management Act 2003 ("the Transport Agency").

AND

The Customer, a duly incorporated company having its registered office in Hamilton ("the Customer").

PRODUCT PURPOSE:

- A. To confirm only that a Driver Licence record exists on the Driver Licence Register in the name of the person named on the Photo Driver Licence (PDL). This does not verify that the identity of the person named is correct or true only that a record exists in that name having regard to the requirements outlined in Schedule 3 (Process for Photo Driver Licence Card Verification).
- B. Does not guarantee or verify any association with the person presenting or using that PDL when an in-person comparison between the PDL user and the image on the face of the PDL has not been undertaken i.e. a visual check of the PDL (comparing the image on the PDL to the person presenting the PDL) will provide a degree of confidence that the PDL has not been fraudulently manufactured or is in the hands of a person who should not have the PDL

THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS

In this Agreement, unless the context requires otherwise:

"*Agreement*" means this Agreement

"*Commencement Date*" means 20;

"*Confidential Information*"

- (a) includes Personal Information; and
- (b) means any information which:

(i) is made available to either party by the other party; or

(ii) either party discovers or generates in the course of exercising its rights under this Agreement:

concerning the organisation, methods, business or finances of the other party, its customers or clients, its administration and operation and includes the content but not the existence of this Agreement, and does not include information which, when disclosed to or by either party is generally available to and known by the public, but not because either party or any person under either party's control has already disclosed it, either directly or indirectly.

"*DLR Interface*" means the Transport Agency product that supplies information from the Register, as detailed in Schedule 3, to The Customer on the terms and conditions of this Agreement.

"*Driver Licence*" means a driver licence issued under the Land Transport Act 1998.

"*Force Majeure*" means circumstances beyond the reasonable control of the relevant party including but not limited to: act of God; nuclear fusion; fire; explosions; flood; subsidence; insurrection or civil disorder or military operations; government restraint, legislation, regulation, expropriation, prohibition, intervention, direction or embargo, strikes, lock-outs or other industrial disputes of any kind; failures or fluctuations in electrical power, telecommunications, heat or light.

"*GST*" means Goods and Services Tax or any tax imposed pursuant to the provisions of the Goods and Services Tax Act 1985 and known as Goods and Services Tax.

"*Personal Information*" has the same meaning as under the Privacy Act 1993

"*Register*" means the register of Driver Licences continued under the Land Transport Act 1998.

"*System*" means the products (hardware and software) that enable the recording and recovery of information stored on the Register.

"*Third Parties*" means the persons specified in Schedule 2

"*Working Day*" means any day of the week (other than Sunday or a statutory public holiday observed throughout New Zealand)

2. LICENCE

The Transport Agency grants to The Customer a non-exclusive licence to use the DLR Interface for the purposes and on the terms set out in this Agreement.

3. USE OF SOFTWARE

3.1 Subject to Clauses 3.2 and 3.3, The Customer may:

- (a) use the DLR Interface for training and searching;
- (b) supply to Third Parties, information (in accordance with Schedule 3) from the DLR Interface for the sole purpose of verifying the existence of a Photo Driver Licence Card record on the Driver Licence Register;
- (c) combine information from the DLR Interface with other software which it holds;
- (d) permit agents, consultants or contractors of The Customer to use the DLR Interface strictly for the purposes The Customer itself may use the DLR Interface.

3.2 The Customer shall not, without the written consent of the Transport Agency, do or cause to be done any of the following:

- (a) use the DLR Interface for any other purpose except those purposes outlined in Clause 3.1; and
- (b) remove or obscure any copyright or trademark notices or otherwise infringe any intellectual property right vesting in the Transport Agency.

3.3 The Customer shall not use information from the DLR Interface:

- (a) In any Court of law as evidence in any proceedings, except when required by law; or

- (b) In any manner whatsoever that infringes the laws of New Zealand and in particular the Privacy Act 1993.

4. TERM

This Agreement (including without limit, the licence granted in it) is effective from the Commencement Date and will continue in force for three years unless earlier terminated in accordance with the terms of this Agreement.

5. DLR INTERFACE

The Customer acknowledges that the Transport Agency reserves the right to change or restrict the amount of information made available via the DLR interface or otherwise to change the DLR interface and will endeavour to give The Customer at least 60 days written notice of changes.

The Transport Agency supplies the DLR interface to The Customer, The Customer agrees to pay all actual costs associated to the establishment and ongoing operation of the connection. Such costs to be agreed between the Transport Agency and The Customer prior to commencement of the connection development and implementation.

The Transport Agency reserves the right to make changes to the DLR Interface to ensure the technology platform remains consistent with the Transport Agency Information Systems Strategic Plan (ISSP) and/or where technological advances are identified. Where such changes are planned, The Transport Agency will provide sufficient notification to The Customer to enable changes to be implemented. Costs associated with re-development of the DLR Interface lie with the Transport Agency, and costs associated with changes to The Customer's front end/system that utilises the interface will lie with The Customer.

6. CHARGES AND PAYMENT

- 6.1** The Customer will pay to the Transport Agency an amount equivalent to the charge(s), as set out in Schedule 1.
- 6.2** The Transport Agency reserves the right to review the charges at any time and will give The Customer three months' notice of its intention to vary the charges, provided that the variation to the charges applies to any person who uses the DLR Interface and not just The Customer.
- 6.3** The Customer agrees to pay all charges by Direct Debit. The Transport Agency will provide The Customer with a GST Invoice/Direct Debit Notification on or before the fifteenth working day of each month detailing the charges due from The Customer. The Customer will pay the charges by Direct Debit on the date notified in the Direct Debit Notification.
- 6.4** Interest at a rate of 3% per annum above the overdraft rate which would be chargeable from time to time to the Transport Agency by the Transport Agency's principal banker during any period of any relevant default (as certified by such banker) shall be payable on any moneys outstanding under this Agreement from the date payment was due until the date payment is received by the Transport Agency but without prejudice to the Transport Agency's other rights in respect of the non-payment or late payment.
- 6.5** The Customer will pay all costs including legal costs and expenses on a solicitor/client basis incurred by the Transport Agency in the recovery of any amount outstanding under Clause 6 of this Agreement.
- 6.6** The Customer acknowledges that it is responsible for the payment of all costs and charges associated with the connection, including any establishment or operational costs as mutually agreed as per clause 5.

9. TERMINATION

- 9.1** A party may terminate this Agreement if the other breaches any of its material obligations under this Agreement and such breach remains unremedied for one month after written notice of the breach has been given to that other party. Termination of this Agreement will not release either party in respect of prior breaches and obligations for monies payable for the period up to termination.
- 9.2** Either party may terminate this Agreement with one months written notice to the other party if there is a change in any law (statute or common law) which in the terminating parties reasonable opinion adversely affects this Agreement or the terminating party's ability to grant the Licence on the terms and conditions of this Agreement:
- 9.3** Either party may terminate this agreement on one months written notice if the negotiations undertaken by the party's under clause 17.5 in relation to a Force Majeure event are unsuccessful within a reasonable time
- 9.4** When the Agreement terminates or expires:
- 9.4.1** The Customer must immediately cease using the DLR Interface for any purpose whatsoever; and
- 9.4.2** The Transport Agency will remove/cancel access to the DLR Interface connection which will terminate access.

10. WARRANTY

- 10.1** The Transport Agency warrants that it has collected the information contained in the Register in accordance with statute and has taken all reasonable care in so doing. However, The Customer acknowledges and agrees that the information contained in the Register is obtained from or through parties other than the Transport Agency and that accordingly the Transport Agency does not warrant that the information is accurate to the extent that any inaccuracy is in fact due to inaccurate information obtained from or through parties other than the Transport Agency.
- 10.2** The Transport Agency warrants for a period of 90 days from the Commencement Date or the date that the Transport Agency implements any changes to the DLR Interface in accordance with clause 5 (whichever is the later) that the Transport Agency will use its best endeavours to ensure that:
- (a) the DLR Interface will in all material respects operate in terms of and/or comply with the Transport Agency's specification
- (b) the DLR Interface is reasonably fit for purpose.
- 10.2.1** The warranty excludes any liability in respect of the Secretary for Transport or the Crown whether express or implied. All other warranties in respect of the DLR Interface are hereby excluded to the extent permitted by law. Without limitation to the foregoing, the Transport Agency does not warrant that the programmes will be uninterrupted in the following circumstances:
- 10.2.2** Interruption caused by the System being unavailable;
- 10.2.3** Interruption caused by the internet service provider.
- 10.2.4** Interruption caused by the host-to-host connection provider.

- 10.3** The Customer warrants and undertakes that it will not under any circumstances make any representations or hold itself out as acting as an agent for the Transport Agency with respect to the supply of information from the Register. Without limiting the foregoing, The Customer warrants and undertakes that on any report or written communication produced by it which contains information obtained from the Register, there will be in easily readable form a statement which provides:

"The Customer acts independently from (and not on behalf of) the New Zealand Transport Agency in the provision of Driver Licence information. As a result, The Customer (not the New Zealand Transport Agency) is responsible for The Customer's conduct and actions in the provision of Driver Licence information.

Furthermore the New Zealand Transport Agency does not (and cannot) guarantee that by The Customer's provision of Driver Licence Information that there is a confirmation of the identity of the individual holding or using the driver licence. Information provided by the New Zealand Transport Agency to The Customer merely confirms that a driver licence record exists.

The New Zealand Transport Agency does not accept any liability, now or in the future, in respect of any reliance that any client of The Customer places on the accuracy of the Driver Licence information - irrespective of the purpose the client uses that information for (including, but not limited to, establishing a client-customer relationship).

11 LIABILITY

- 11.1** The Transport Agency shall only be liable to replace the DLR Interface materials and documentation herewith which are found within the warranty period specified in clause 10.2 to contain defects which reduce The Customer's ability to reasonably use the DLR Interface.
- 11.2** The Transport Agency and their employees or agents shall under no circumstances be liable in contract, tort or otherwise to compensate The Customer for any loss, injury or damage arising indirectly from the supply of the DLR Interface to The Customer or the operation of or failure to operate the DLR Interface except to the extent set out in clause 10.2.
- 11.3** In any event, under no circumstances whatsoever will the Transport Agency, or their employees or agents be liable to The Customer in contract, tort (including negligence (or to the extent permitted by law) breach of statutory duty) or otherwise for loss either direct or indirect) of profits, business or anticipated savings or for any direct or consequential loss whatsoever arising from the supply of the DLR Interface to The Customer.

12. INDEMNITY

- 12.1** Notwithstanding anything else in the Agreement, The Customer, by this Agreement, indemnifies, the Transport Agency and their officers, employees and agents against all claims, debts, accounts, expenses, costs, liens, actions and proceedings of any nature whatsoever whether known or unknown by any person, arising from any actual or potential breach by The Customer of the Privacy Act 1993 in relation to the supply, procurement, storage or handling of information obtained or procured from or through the Register except where such claims, debts, accounts, expenses, costs, liens, actions and proceedings of any nature whatsoever arise by virtue of incorrect information obtained or procured from or through the Register.

13. ACCESS

- 13.1** The Customer must at all times adopt security procedures and policies to govern access to the DLR Interface. In particular, The Customer will adopt appropriate anti-virus measures and security precautions to prevent unauthorised use of and access to the DLR Interface services.

14. ACKNOWLEDGEMENT

- 14.1** The Customer acknowledges that the Transport Agency may make reasonable enquiries of The Customer with respect to The Customer's obligations to the Transport Agency in accordance with this Agreement.
- 14.2** This acknowledgement extends to The Customer providing to the Transport Agency on request with a list of third party users of the service(s) that The Customer has developed utilising the information sourced from the Driver Licence Register via the DLR Interface.
- 14.3** The Customer acknowledges that the Transport Agency will undertake audits of The Customer and the third party users of the service to ensure compliance with the expectations and requirements of this agreement. Any identified breach of these expectations and requirements may result in an instruction to terminate that third party relationship.

15. PRIVACY ACT 1993

- 15.1** Each party must use all reasonable efforts to comply with the Information Privacy Principles set out in section 6 of the Privacy Act 1993 and the Public Registry Privacy Principles set out in section 59 of the Privacy Act 1993 and to otherwise prevent any contravention of the Privacy Act 1993.

16. ASSIGNMENT

- 16.1** The Transport Agency may assign its rights and obligations under this Agreement by giving The Customer one month's written notice of its intention to do so.
- 16.2** The Customer shall not assign its rights and obligations under this Agreement without first obtaining the written consent of the Transport Agency (such consent is not to be unreasonably withheld) and provided The Customer first proves to the satisfaction of the Transport Agency that the proposed assignee is respectable, responsible and has the financial resources to meet The Customer's commitments under this agreement and further provided that all moneys payable under this agreement have been paid and there is no subsisting breach by The Customer of this Agreement.
- 16.3** Any change in the effective management or control of The Customer, through whatever means, will be deemed to be an assignment of this Agreement requiring the prior written consent of the Transport Agency

17. FORCE MAJEURE

- 17.1** Neither party will be liable to the other for any delays or non-performance of any obligation in this Agreement caused by Force Majeure.
- 17.2** If either party is unable to perform its duties and obligations under this Agreement because of Force Majeure such party must give written notice to the other of such inability and state the reason.
- 17.3** The operation of this Agreement shall be suspended during the period in which the Force Majeure continues, but only during the period and only to the extent that the party relying on the Force Majeure is unable to comply with this Agreement.
- 17.4** Immediately upon the Force Majeure ceasing to exist, the party relying on it must give written notice to the other of this fact.
- 17.5** If the Force Majeure continues for a period of more than 90 days and substantially affects the commercial basis of this Agreement, the parties agree to negotiate in good faith and co-operatively for the purposes of agreeing what action should be taken in the circumstances.
- 17.6** If the negotiations referred to in Clause 17.5 are unsuccessful, either party has the right to terminate this Agreement under Clause 9.3.

18. DISPUTE RESOLUTION

- 18.1** The parties shall use their best endeavours to resolve between themselves any dispute that arises out of or in connection with this Agreement, within 14 days of a party serving written notice on the other party stating the subject matter and details of the dispute.
- 18.2** If a dispute fails to be resolved by direct negotiation or discussion under Clause 18.1, then all doubts and differences between the parties hereto touching on the construction of this Agreement or on any matter arising hereunder or in any way touching or concerning the terms and conditions set forth herein are to be determined by arbitration in accordance with the provisions of the Arbitration Act 1996 (or any amendment thereof or any statutory provision then relating to arbitration).
- 18.3** If the parties are unable to agree on a single arbitrator then:
 - 18.3.1** Each party shall appoint an arbitrator and give written notice of the appointment to the other party within 14 days of either party notifying the other party that a doubt or difference is to be referred to arbitration in accordance with Clause 18.2;
 - 18.3.2** If either party fails to appoint an arbitrator within the 14 day period referred to in Clause 18.3.1 then the arbitrator appointed by the other party shall determine the dispute and such determination shall be binding on both parties;
 - 18.3.3** The arbitrators appointed before commencing their determination shall appoint an umpire;
 - 18.3.4** Each party shall be given the opportunity to make written or verbal representations to the arbitrator or the umpire subject to such reasonable time and other limits as the arbitrators or the umpire may describe and they shall have regard to any such representations but not be bound thereby;

- 6.7** The Customer acknowledges that it is responsible for all internet access charges via The Customer's internet service provider.

7. CONFIDENTIALITY

- 7.1** The Customer may not make a public communication or announcement at any time to any other person (including any section of the media) in respect of this Agreement without the prior written approval of the Transport Agency, such approval not to be unreasonably withheld. Notwithstanding the above, The Customer for promotional purposes may promote The Customer access to the DLR Interface to its clients and potential clients.
- 7.2** The Transport Agency and The Customer undertake during and after the term of this Agreement to:
- 7.2.1** use Confidential Information only for purposes for which it was disclosed; and
- 7.2.2** keep confidential all information that is not freely available to the public and not divulge the existence of such information to any person, except to the extent necessary to comply with their obligations and to provide the services under this Agreement.
- 7.3** Clauses 7.1 and 7.2 do not apply to:
- 7.3.1** information or terms which are or become generally available to the public otherwise than as a result of this Agreement;
- 7.3.2** the disclosure of information which is required by law or by the New Zealand Stock Exchange or Australian Stock Exchange;
- 7.3.3** the disclosure of information or terms to a party's professional advisors;
- 7.3.4** the disclosure of information that both parties agree to in writing; and
- 7.3.5** the disclosure of information which is reasonably necessary for either party to enforce or attempt to enforce this Agreement.

8. INTELLECTUAL PROPERTY

- 8.1** The parties agree that all intellectual property rights in the DLR Interface shall (as between The Customer and the Transport Agency) remain in the ownership of the Transport Agency and under no circumstances shall The Customer claim such rights against the Transport Agency. Nothing in this Agreement shall constitute an assignment to The Customer or creation of any intellectual property rights for The Customer in relation to the DLR Interface except to the extent consistent with the limited use licence set out in this Agreement.
- 8.2** The Transport Agency agrees that The Customer retains ownership and rights in any intellectual property created or developed by The Customer, regardless of whether the intellectual property was created or developed during the course of this Agreement.

18.3.5 When the dispute has been determined the arbitrators or the umpire shall give written notice to the parties. The notice shall provide as to how the costs of the determination shall be borne and such provision shall be binding on the parties.

19. MISCELLANEOUS CLAUSES

19.1 No merger

The parties acknowledge that the warranties, representations, Agreements and covenants in this Agreement shall not merge upon termination of this Agreement.

19.2 Notices

19.2.1 All notices provided for or permitted under this Agreement may be sent by registered mail with postage prepaid or by hand delivery or by facsimile or by e-mail to the party concerned at their usual business address.

NZ Transport Agency
Private Bag 11777
Palmerston North 4442

Fax: (06) 953 6282
Attention: Manager, Service Supply Management

Email: agentops@nzta.govt.nz

The Customer
Address
Address
Address

Attention: The Customer, Managing Director

19.2.2 All such notices shall be deemed to have been given or made:

- (a) three working days following deposit in the mail with postage prepaid by registered mail;
- (b) on delivery when delivered by hand;
- (c) if sent by facsimile, when a completed transmission report is received by the sender unless a verifiable query as to material legibility is promptly raised;
- (d) if sent by e-mail, on receipt by the sender of an e-mail message indicating that the e-mail has been opened at the recipient's terminal -

but if a notice is served by hand or received by facsimile or e-mail after 5.00pm on a working day that notice shall be deemed to have been duly received by the recipient at 9.00am on the first working day after that day.

19.2.3 The parties may from time to time notify any change in their usual business address to the other party in writing prior to that change of address taking place.

19.3 No Waiver

No failure, delay or indulgence by any party in exercising any power or right conferred on that party by this Agreement shall operate as a waiver of such

power or right. Nor shall a single exercise of any such power or right preclude further exercise of any other power or right under this Agreement.

19.4 No Partnership

Nothing in this Agreement shall be deemed to create or construed as creating the relationship of partnership, employment, principal and agent or joint venture between the parties.

19.5 Variation of this Licence

The parties may agree at any time to vary the terms of this Agreement. Any such variation should be recorded in writing and may take the form of an exchange of letters.

19.6 Severability

If any provision of this Agreement is unlawful, void or for any reason unenforceable, it is severable from this Agreement and in no way affects the validity of the remaining provisions.

19.7 Entire Agreement

This Agreement embodies the whole of the Agreement between the parties in regard to its subject matter.

19.8 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of New Zealand and the parties hereby agree to submit to the non-exclusive jurisdiction of the courts of New Zealand.

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

SIGNED by the authorised
delegate of
**The NEW ZEALAND TRANSPORT
AGENCY**
in the presence of:

Witness' signature

Delegate's signature

Print witness' name

Print Delegate's name & title

Date: _____

SIGNED by the authorised
delegate of
The Customer
in the presence of:

Witness' signature

Delegate's signature

Print witness' name

Print Delegate's name & title

Date: _____

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Schedule 1

PHOTO DRIVER LICENCE CARD VERIFICATION CHARGES

Query Type	Information Requested	Rate per Inquiry (GST inclusive)
Query	DL Card Verification Service (as per Schedule 3)	\$0.14

Effective

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Schedule 2

THIRD PARTIES

For the purposes of this Agreement, "Third Parties" means:

Any client of The Customer , who on each application for a driver licence verification to The Customer and prior to The Customer releasing driver licence verification information to that client:

1. Confirms to The Customer that they have the express consent of the PDL holder to verify the Driver Licence record.

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Schedule 3

PROCESS FOR PHOTO DRIVER LICENCE CARD VERIFICATION

Verification or otherwise of a Photo Driver Licence Card shall occur by the following process:

1. Obtaining confirmation of express consent from the Third Party in accordance with Schedule 2, and
2. Submitting the full name, date of birth, driver licence number and driver licence version number as shown on the PDL being accepted by the Third Party to the DLR Interface
3. The response from the DLR Interface will be "Yes" for each independent piece of licence holder information submitted, driver licence holder's full name, date of birth, driver licence number and driver licence version number, provided the detail submitted matches that held on the record on the DLR Interface.
4. The response from the DLR Interface will be "No" for each piece of independent licence holder information submitted, driver licence holder's full name, date of birth, driver licence number and driver licence version number, if the detail submitted does not match that held on the record on the DLR Interface except where if the version number is wrong "No" will be provided for each piece of information submitted.

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