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Australian Government
**Department of Agriculture,
Fisheries and Forestry**

NEXDOC

VIP06 – User Terms and Conditions



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Overview

Background

NEXDOC is the Department of Agriculture, Water and the Environment's new export documentation system. It will replace EXDOC and streamlines the way our clients:

- register as an export establishment;
- apply for a meat export licence;
- receive export permits and health certificates;
- request supporting export documentation;
- request certificates as to condition;
- lodge phytosanitary certificates to export; and
- receive additional certificates and letters.

The current export systems are more than 20 years old and while they are fit for purpose, and continue to support exporters, the technology is aging. Upgrading these legacy export systems makes us more flexible and responsive to changes in trade. The new system will be more efficient and reduce unnecessary processes and red tape.

Commodities will be moved to NEXDOC in phases, with the transition happening throughout 2020 and 2021.

There will be a transition period where EXDOC and NEXDOC will continue to function in parallel to ensure that export trade is not disrupted. Manual documents will continue to be available during the transition period.

Purpose

This document describes the legal terms and conditions that users must agree to, and continue to comply with, in order to use NEXDOC and the programs, services and systems provided by the Department to allow users to generate and request export documentation, either directly through the portal or indirectly through third party software.

User Terms and Conditions

IMPORTANT

Please read the following terms and conditions carefully. By clicking on the "I agree" button, You agree that You:

- have read and understood the terms and conditions; and
- are legally bound by the terms and conditions.

If You do not agree to these terms and conditions, You must not use this Site and You will not be able to access services provided by it.

Any questions regarding these terms and conditions or other user enquiries can be directed to the Department of Agriculture, Water and the Environment by contacting NEXDOC -

EnhancedTraceabilityProject@agriculture.gov.au

Department of Agriculture, Fisheries and Forestry

1. What this Agreement covers

This is a legally binding agreement between You and the Commonwealth of Australia, represented by the Department of Agriculture, Water and the Environment ("Department", "We", "Our" or "Us"). As used throughout this Agreement, "You" and "Your" refer collectively to You, and (except where the context otherwise requires) each of Your employees, agents, contractors, related bodies corporate or other third parties who access the Site on Your behalf.

As a user of the Site, You must also comply with the documents, policies and notices referenced within this Agreement.

Those documents, policies and notices are incorporated into this Agreement. By accepting the terms and conditions of this Agreement You agree to be bound by those statements and notices.

2. Changes to this Agreement

We may modify any of the terms and conditions of this Agreement, as well as any document, policy or notice (whether web based or otherwise) referred to within this Agreement at any time ("Agreement Documents") with notice to you. The amended Agreement Documents will be posted on the Site. Unless We notify You in writing otherwise, modifications to the Agreement Documents are effective immediately they are notified and posted on the Site. You agree to check the Site regularly for modifications and other notices. Your continued use of the Site following a modification constitutes Your acceptance of all modifications posted on the Site.

3. Definitions

Words that are capitalised in this Agreement have specific meanings within this Agreement as set out below.

Agreement means this document.

Authorised Purpose has the meaning given to that term in clause 8.1.

Content means any information, data, material or document which is submitted or uploaded by, or on behalf of, You through the Site or in connection with an Export Documentation request.

Export Control Laws means:

- a) the Export Control Act 1982 (Cth);
- b) the Export Control Act 2020 (Cth);
- c) any other applicable Commonwealth Laws (including transitional arrangements) in force in relation to export control; and
- d) any rules or Orders made or issued under the Laws referenced in paragraphs a), b) or c), as may be amended, consolidated or replaced from time to time.

Export Documentation means export documentation for primary produce as required under the Export Control Laws and the authorities of importing countries, including export permits, export certificates, letters of facilitation and re-export certification.

Harmful Code means any computer virus, malware or other code that is harmful, malicious, disabling or which is designed to enable any denial of service or any unauthorised access to, or disclosure, modification or loss of data.

Laws means all legally binding laws, including applicable common law and principles of equity, as well as any other applicable statute, regulation, by-law, ordinance or subordinate legislation in force from time to time in Australia.

Loss means liability, damage, loss, cost (including all legal and other professional costs on a full indemnity basis), charge, expense, demand, claim or payment of any nature.

NEXDOC means the Department's "Next Export Documentation System" (or any replacement system). NEXDOC is a web-based system that allows users to request and obtain Export Documentation.

Personal Information means information or an opinion about an identified individual, or an individual who is reasonably identifiable (whether the information is recorded in a material form or not).

Privacy Act means the Privacy Act 1988 (Cth).

Protected Information has the same meaning as in section 12 of the Export Control Act 2020 (Cth).

Security Incident means any incident or breach (whether accidental or deliberate) that causes or has the intent to cause any:

- a) unauthorised or unlawful access to, or use of, the Site;
- b) unauthorised or unlawful access to, or use, disclosure, modification or loss of, Protected Information, Personal Information, the Department's confidential information or any data stored within or accessible from the Site; or
- c) privacy breach in connection with the Agreement or the use of the Site, including an "eligible data breach" as defined in section 6 of the Privacy Act.

Site means "NEXDOC" and the programs, services and systems provided by Us to allow You to generate and request export documentation.

4. Electronic Communications

When You use the Department's online services, You are communicating with Us electronically. You consent to receive communications from Us electronically. We may communicate with You by e-mail and through notices on the Department's website. You agree that all agreements, notices, disclosures and other communications that We provide to You electronically satisfy any legal requirement that such communications be in writing.

5. Confidential Information

Information available to You on the Site should be treated as confidential information and must not be disclosed to anyone outside Your organisation without permission from the Department.

6. Protected Information

In the event that You obtain any Protected Information from Your use of the Site, notwithstanding the exceptions contained under the Export Control Laws, You must not under any circumstances make a record of, disclose or otherwise use Protected Information unless You obtain prior written consent from Us.

7. Privacy

- a) You must comply with all applicable privacy Laws in connection with Your use of the Site and any request for Export Documentation.
- b) In submitting any Personal Information through the Site or in connection with a request for Export Documentation, You acknowledge and agree that You are authorised to do so.
- c) The Department collects certain Personal Information from You through the Site for the purposes of assessing and processing Your request for Export Documentation and related purposes, and in accordance with the Privacy Act and the Department's Privacy Policy available at [Privacy - DAFF \(agriculture.gov.au\)](https://www.agriculture.gov.au/privacy) (or such other link as may be updated and notified by the Department to You from time to time). You acknowledge and agree that:
 - i. the Department is authorised under the Export Control (Prescribed Goods-General) Order 2005 to collect Your Personal Information in relation to the export of goods described in that Order;
 - ii. the Department will only collect, use and disclose Your Personal Information in accordance with its obligations at Law, including under the Privacy Act;
 - iii. if You fail to provide some or all of the Personal Information, the Department will be unable to process Your Export Documentation request;
 - iv. the Department may disclose Your Personal Information to Australian Government agencies, including the Department of Home Affairs or to other third parties as specified in Our Privacy Policy, provided the disclosure is consistent with relevant laws, including the Privacy Act; and
 - v. Your Personal Information may also be disclosed to overseas governments and relevant authorities in an importing country where this is required for importing country requirements. Overseas authorities in the importing country may not be subject to any privacy obligations or to any principles similar to the Australian Privacy Principles under the Privacy Act.

8. Use and Security

8.1. Authorised Purpose

You must only use the Site for the sole purpose of requesting and obtaining Export Documentation in accordance with this Agreement ("Authorised Purpose").

8.2. Content

By submitting or uploading any information or other Content through the Site or in making a request for Export Documentation, You:

- a) warrant and declare that the Content is true and accurate as at the date it is submitted or uploaded; and
- b) acknowledge that it is a criminal offence under the Criminal Code Act 1995 (Cth) to knowingly give false or misleading information to a Commonwealth officer exercising powers under Commonwealth law. This offence carries a maximum penalty of 12 months imprisonment.

8.3. Acceptable Use

You must not use, or allow another person to use, the Site or the Department's information systems in a manner that breaches this Agreement or that:

- a) infringes upon intellectual property rights or any licence agreements, third party rights or contracts;
- b) interferes with or impedes the intended use of information resources provided through the Site;
- c) uses any computer, network or software to attempt to gain unauthorised access or devises or executes any scheme to defraud or obtain money, or other things of value by false pretences or misrepresentation;
- d) transmits, or causes to be transmitted, communications which may invade the privacy of another individual or be construed as harassment or disparagement of others based on antidiscrimination legislation or Department policy;
- e) violates relevant Laws pertaining to the use of computing resources or networks;
- f) accesses, stores, disseminates or publishes any information, data, material or document that:
 - i. is false or misleading; or
 - ii. may be offensive, obscene or in violation of anti-discrimination or workplace health and safety legislation;
- g) invades the privacy of another individual or causes a Security Incident;
- h) interferes with the Site or introduces any Harmful Code into the Site or the Department's information systems; or
- i) breaches any other applicable laws.

8.4. Printing Requirements

- a) If You print any Export Documentation at Your own site, You must:
 - i. have a software package to communicate with the Site that has been registered by the Department;
 - ii. have a duplex laser printer which supports at least 600 dots per inch (dpi);
 - iii. only print export documentation at sites within Australia; and
 - iv. only print one set of export documentation for each consignment.
- b) You must not alter, vary or in any way change any Export Documentation generated from the Site once it has been printed.
- c) Inability to demonstrate valid and legitimate use of the printed Export Documentation may result in the Department revoking the option to print export documentation through the remote print function or exercising any of the Department's other rights and remedies under this Agreement or at Law.
- d) You acknowledge and agree that there are a number of criminal offences under the Criminal Code Act 1995 (Cth) relating to the making and use of a false Commonwealth document.

8.5. Reporting Security Incidents

- a) You must report any suspected or actual Security Incidents to the NEXDOC help desk as soon as practicable and within 24 hours of becoming aware of the suspected or actual Security Incident.
- b) The NEXDOC help desk can be contacted by telephone on +61 6272 3933 or email at EnhancedTraceabilityProject@agriculture.gov.au, or at such other contact details as advised by the Department from time to time.
- c) In reporting the Security Incident, You must provide particulars of the Security Incident, including its cause and such other information as required by the Department.
- d) You must co-operate fully with the Department and its authorised nominee in relation to the investigation and diagnosis of Security Incidents. Where the Security Incident is caused or contributed to by You or Your personnel, You must also take immediate action to contain and mitigate the Security Incident.

8.6. System monitoring and audits

- a) You must:
 - i. have sufficient practices and procedures in place to monitor all access to and use of the Site by You and Your personnel; and
 - ii. keep and maintain, or have access to, complete and up-to-date records and other evidence of Your compliance with Your obligations under this Agreement and Your and Your personnel's use of, and interactions with, the Site, including all supporting information and documentation to validate the Content entered into the Site.
- b) You acknowledge and agree that Your usage of, and any interactions that You have had with, the Site and the Department's information systems is monitored and regularly audited by the Department or its authorised nominee, including for any atypical or unauthorised use. Logs and other audit mechanisms may be used to detect any unauthorised, atypical or illegal activities or as evidence of a breach of this Agreement, Department policy or criminal activity.
- c) All records and other evidence required to be kept under this clause (including to substantiate Your Use of, and interactions with, the Site) must be retained for a period of 7 years from the date of creation and must be promptly provided to the Department or its nominee on the Department's request.

9. Compliance with Laws

You must, in using the Site, comply with the Export Control Laws and all other applicable Laws.

10. Intellectual property

- a) All intellectual property rights in the Site and its content belong to the Department or its licensors.
- b) You are provided a non-exclusive and revocable licence to use the Site and its content for the Authorised Purpose.
- c) Except to the extent expressly set out in this Agreement, You must not copy, adapt, reverse engineer or communicate any information, data or intellectual property subsisting in the Site or its content.

11. Acknowledgments

You acknowledge and agree that:

- a) the disclaimer available at <https://www.agriculture.gov.au/about/disclaimer> (or such other link as may be updated and notified by the Department to You from time to time) applies to Your access and use of the Site and nothing in this Agreement is intended to restrict that disclaimer;
- b) the Site and its functionality may change over time;
- c) the Department does not guarantee that access to the Site will be uninterrupted or that the Site will be free from Harmful Code. You must have all necessary systems and procedures in place to check for Harmful Code; and
- d) the Site may contain links to third party websites. These are independent websites and the content may not have been checked by Us for accuracy. In accessing any third party websites, You do so at Your sole risk.

12. Approved Export Permit Issuer

If You are registered as an Approved Export Permit Issuer ("AEPI"), You acknowledge that doing so comes with conditions and additional obligations as published at [Approving export permits in EXDOC - DAFF \(agriculture.gov.au\)](#) (or such other link as may be updated and notified by the Department to You from time to time), which You must comply with, including compliance with the matters set out in the "Export Eligibility Checklist".

Nothing in this Agreement is intended to limit Your obligations as an AEPI.

13. Disclaimer of liability

- a) We disclaim and exclude, to the maximum extent permissible by Law, all warranties, express or implied, in relation to the Site and its content, including in relation to its reliability, quality, availability and fitness for purpose.
- b) To the maximum extent permissible by Law, You agree to release Us from all Loss that You may suffer or incur under or in connection this Agreement or Your access and use of the Site, and whether or not that Loss was reasonably foreseeable.

14. Indemnity

You agree to indemnify Us and Our officers, employees, agents and contractors (including subcontractors) ("those indemnified") from and against all actions, proceedings and Losses, including those arising out of the terms of any settlement, which:

- a) may be brought against or made upon those indemnified; and
- b) those indemnified may incur on their own behalf or sustain as a result of a claim arising out of or as a consequence of:
 - i. any breach of this Agreement by You; or
 - ii. any wilful, unlawful, or negligent act or omission by You relating in any way to the Site.

You acknowledge that this indemnity will continue to take effect after this Agreement has been terminated.

15. Suspension and Termination

- a) If You fail to comply with this Agreement, We may immediately, and without notice to You, suspend or terminate Your access to, and use of, the Site.
- b) If We suspend or terminate Your access to, or use of, the Site, You must discontinue all access and use of the Site and make no further attempt to access or use the Site, unless otherwise notified by Us in writing.

16. Governing Law

This Agreement shall be governed by and interpreted in accordance with the Laws of the Australian Capital Territory. You submit to the jurisdiction of the courts of the Australian Capital Territory and the courts entitled to hear appeals from those courts.

17. Entire Agreement

This Agreement records the entire agreement between You and Us and supersedes any prior agreements, understandings or representations in relation to its subject matter.

18. Waiver

Any failure or delay by Us to exercise or enforce a right or remedy under this Agreement does not operate as a waiver or prevent further exercise of that or any other right or remedy.

19. Severability

If any term or condition of this Agreement is found to be void or unenforceable, the validity and enforceability of the remaining provisions will not be affected.

20. No exclusion

Except to the extent expressly set out in this Agreement, nothing in this Agreement is intended to exclude or restrict:

- a) any other right or remedy provided by Law; or
- b) if You are a software developer for the Site, any of the obligations that You have under the NEXDOC Vendor Terms and Conditions.