

# App Terms of Use

## NM Verifier App – TERMS OF USE

(November 22, 2024)

### STATE OF NEW MEXICO TAX AND REVENUE DEPARTMENT

**PLEASE READ THESE TERMS OF USE (“TERMS”) CAREFULLY BEFORE DOWNLOADING OR USING THE NM Verifier APP (COLLECTIVELY, THE “APP” or “APPLICATION”). BY DOWNLOADING, INSTALLING OR USING THE APP, YOU AGREE THAT YOU ARE BOUND BY ALL OF THE TERMS AND CONDITIONS HEREIN AND AS THESE TERMS MAY BE MODIFIED FROM TIME TO TIME.**

These Terms of Use (“Terms”) govern the access or use by you (“User”), an individual, from within the United States and its territories and possessions (the “United States”) of the App operated and made available in the United States by THE STATE OF NEW MEXICO TAX AND REVENUE DEPARTMENT (“TRD”). The App is offered to you conditioned on your acceptance without modification of these Terms.

**1. License Grant.** Subject to User’s compliance with these Terms, TRD hereby grants to User a personal, non-sublicensable, non-transferable and non-exclusive terminable license to install and use the App on a device owned or controlled by User solely in accordance with these Terms. All rights relating to the App that are not expressly granted in these Terms, whether now existing or which may hereafter come into existence are reserved by TRD and its licensors. User shall not remove, obscure, or alter any proprietary rights notices (including without limitation copyright and trademark notices) which may be affixed to or contained within the App.

**2. Data Security.** User acknowledges that when User downloads, installs, accesses, or uses the Application User is accepting the risks and responsibilities associated with preserving the privacy of the digital product holder’s identity and privacy. TRD has taken reasonable precautions in accordance with international standards to protect all mID/mDL data. Furthermore, User acknowledges that allowing someone physical access to User’s device or leaving a device unlocked or unattended creates the opportunity for someone to view the contents of the Application.

In an effort to ensure the highest level of protection provided for digital product holder’s mID/mDL, User is encouraged to:

- a. Establish and maintain a strong passcode for User’s device enabling the APP;
- b. Install all operating system and software updates for mobile platforms in a timely manner; and
- c. Ensure that data and settings on User’s mobile device have been securely erased prior to releasing for sale, trade-in, gift, provider maintenance, etc.

Finally, User acknowledges that any actual or attempted use of the Application from a “Rooted”, “Jailbroken”, or otherwise modified device, exposes the digital product holder’s mID/mDL to being stolen by cyber criminals, hackers, etc. If TRD believes User’s device, account, or online behavior has been compromised, User’s account and services will be suspended until such a time it can be properly reviewed and reinstated.

User is solely responsible and liable for obtaining all necessary rights and permissions to use any data with the App. By accepting these Terms and downloading/installing the App, USER REPRESENTS AND WARRANTS THAT IT HAS ALL NECESSARY PERMISSIONS, RIGHTS AND AUTHORITY TO USE THE DATA AND PERSONAL INFORMATION PROVIDED, AND SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS TRD AND ITS LICENSORS FROM ALL LIABILITY FOR BREACH OF THIS REPRESENTATION AND WARRANTY.

### **3. Use of the App, Content, Trademarks, Ownership, License Restrictions.**

3.1 These Terms are subject to the TRD Privacy Protection Agreement, available on TRD’s website (the “Privacy Statement”). In accordance with the Privacy Statement, TRD will release personal information/data (“Information”) only to those parties authorized to receive such Information (“Relying Party”) or as set forth in the Privacy Statement. Once a digital product holder consents to disclose personal information, TRD does not control the use of such Information and TRD disclaims any liability for any party use or misuse of such Information.

**3. By User’s use of the Application, User hereby agrees to obtain any necessary consent from the digital product holder.** User understands, agrees, and acknowledges this obligation is continuous as long as User continues to use the Application.

3.3 In certain circumstances, the mID/mDL in the Application may be accepted as valid identification or driver’s license information in lieu of a physical identification or driver’s license document. The digital product holder may, however, be required to produce a physical identification or driver’s license document in accord with applicable rules, regulations, and laws, and be subject to any consequences for the failure to produce such identification or license. The digital product holder is solely responsible carrying such physical identification or license document as necessary, and TRD DOES NOT GUARANTEE OR CERTIFY THAT THE APPLICATION’S OPERATION WILL BE FREE FROM INTERRUPTION. IN NO EVENT SHALL TRD OR ANY OF ITS AFFILIATES HAVE ANY LIABILITY ARISING FROM OR RELATED TO USER’S USE OF OR INABILITY TO USE THE APPLICATION, INCLUDING BUT NOT LIMITED TO INABILITY TO ACCESS THE mID/mDL WHEN REQUESTED.

3.4 The information provided to you through the App is made solely for your information purposes. We do not warrant the accuracy, completeness, or usefulness of this information, and nothing in the App is intended to constitute professional legal advice. Any reliance you place on such information is strictly at your own risk. We disclaim any and all liability and responsibility arising from any reliance placed on such materials by you or any other Application user, or by anyone who may be informed of any of its contents.

Additional terms for TRD NM Verifier Users: when User scans or uses the App to attempt to verify an mID/mDL User will receive a portrait and age confirmation of the digital product holder. These notices relate to the mobile credential's public certificates and document signing keys and will provide the User with optical feedback that, subject to the warranty conditions contained in these Terms, such certificates/keys have or have not been validated/verified/cross-referenced with information publicly available through the Issuer or AAMVA's Digital Trust Service (DTS).

3.5 The trademarks, service marks, and logos (the "Trademarks") of TRD that are used and displayed in connection with the App are registered and unregistered trademarks or service marks of TRD, its licensors or partners. Nothing in these Terms shall be construed as granting, by implication, estoppel, or otherwise, any rights to use any Trademark displayed in connection with the App without the prior written consent of TRD for each such use. The Trademarks may not be used to disparage TRD or the applicable third-party's products or services, or in any manner (using commercially reasonable judgment) that may damage any goodwill in the Trademarks. Use of any Trademarks as part of a link to or from any website is prohibited without TRD's prior written consent. All goodwill generated from the use of any TRD-owned Trademark shall inure to TRD's sole benefit.

3.6 TRD reserves and User hereby acknowledges and agrees to the reservation by TRD and its licensors, if applicable, all ownership right, title and interest in and to the App and the intellectual property rights in and to the App, including all right, title and interest in and to any derivative works, translations, or any other modifications thereof. These Terms and the license granted herein are not a sale of a copy of the App and does not render User the owner of a copy of the App. Ownership of the App and all components and copies thereof shall at all times remain with TRD and its licensors, regardless of who may be deemed the owner of the mobile device in or on which the App is downloaded and installed.

3.7 The App contains proprietary intellectual property rights belonging to TRD and its licensors. User shall not directly or indirectly: (a) copy the App; (b) transfer, sublicense, resell, distribute, publicly display or publicly perform the App, or any copy thereof, either in whole or in part, by any means whatsoever, or otherwise make it available for use by others in any sharing, service bureau or similar arrangement; (c) modify, decompile, disassemble, decrypt, extract, reverse engineer or reverse compile the App, or otherwise attempt to discover or derive the source code, confidential algorithms or techniques incorporated in the App, or disclose or use any confidential information of TRD in any manner; (d) use the App for any illegal purpose, in any manner that is inconsistent with these Terms, or to engage in any illegal activity; (e) use any third party licensed component of the App separate and apart from the App; (f) prepare derivative works based on the App or any part thereof; or (g) circumvent, disable or otherwise interfere with security-related features in the App. User may not use the App in any manner which could damage, disable, overburden, or impair TRD's system, services or servers or interfere with any other party's use and enjoyment of the App or related services. User may not obtain or attempt to obtain any materials or information through any means not intentionally made available or provided for through the App.

3.8 The App is for use by Users who are thirteen (13) years of age or older and residents of the United States. Users under the age of thirteen (13) are not permitted to use the App without the consent of a parent or legal guardian. By using the App, User represents that he/she is at least thirteen

(13) years of age, or has the consent of a parent or legal guardian, and is a resident of the United States of America.

## **5. DISCLAIMER OF WARRANTIES.**

5.1 TRD, ITS AFFILIATES AND LICENSORS, INCLUDING ITS TECHNOLOGY PARTNER AND AFFILIATES MAKE NO WARRANTIES TO USER ABOUT THE APP OR THE PROVISION OF SERVICES RELATED TO THE APP (INCLUDING PROVISION OF USER'S PERSONAL INFORMATION TO RELYING PARTIES), INCLUDING BUT NOT LIMITED TO THEIR ACCURACY, COMPLETENESS, TIMELINESS OR RELIABILITY. THE TRD AND ITS AFFILIATES AND LICENSORS SHALL NOT BE SUBJECT TO LIABILITY FOR THE ACCURACY OR COMPLETENESS OF ANY CONTENT OR ANY OTHER INFORMATION CONVEYED TO USER OR ANYONE ELSE THROUGH THE APP, OR FOR ERRORS, MISTAKES OR OMISSIONS THEREIN, OR FOR ANY DELAYS, INTERRUPTIONS, OR LOSS OF THE DATA OR INFORMATION STREAM FROM WHATEVER CAUSE. USER AGREES THAT USE OF THE APP AND THE CONTENT IS AT USER'S OWN RISK. TRD DOES NOT WARRANT THAT THE APP WILL OPERATE ERROR FREE OR THAT THE APP IS FREE OF COMPUTER VIRUSES, MALWARE, OTHER VULNERABILITIES OR SIMILAR CONTAMINATION OR DESTRUCTIVE FEATURES. TRD AND ITS AFFILIATES AND LICENSORS ARE NOT LIABLE OR RESPONSIBLE IN ANY WAY FOR ANY LOSSES OR DAMAGES RELATED TO OR ARISING FROM USER'S USE OF THE APP OR ANY PROVISION OF SERVICES RELATED TO THE APP, INCLUDING BUT NOT LIMITED TO THOSE THAT RESULT IN THE NEED FOR SERVICING OR REPLACING EQUIPMENT. THE APP AND CONTENT ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT ANY WARRANTIES OF ANY KIND. ACCORDINGLY, TRD DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE.

5.2 The text, graphics, images, reports, charts, graphics, data and data files made available through the App (collectively, the "Content") is presented in a summary fashion, and is intended to be used for educational and informational purposes only and nothing in the App is intended to constitute professional legal advice.

**6. Consent to Data Use: Privacy.** TRD may anonymously track, collect and report technical data and information that does not personally identify User, including, without limitation, information relating to User's device and User's use of the App, to assist us in improving our products and providing User and other users with updates, support and other services. User hereby consents to TRD's use of this information for these purposes. Through this App, User may have the ability to share certain personally identifiable information or other sensitive Information with Relying Parties or other third parties. Information that may be shared by User with others through these or other means are shared by User at User's own risk. Relying Parties or other third parties who may receive any information from User are not subject to the Privacy Policy, however, they may have their own privacy policy and terms and conditions that will apply to User and such information.

**7. Limitation of Liability.** IN NO EVENT SHALL TRD, ITS AFFILIATES BE LIABLE TO USER FOR ANY DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, INCIDENTAL

AND CONSEQUENTIAL DAMAGES, LOST PROFITS, OR DAMAGES RESULTING FROM DATA BREACH, LOST DATA OR BUSINESS INTERRUPTION) RESULTING FROM THE USE OF OR INABILITY TO USE THE APP AND THE CONTENT, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), OR ANY OTHER LEGAL THEORY, EVEN IF TRD OR ITS AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. Some states do not allow exclusion of implied warranties or limitation of liability for incidental or consequential damages, so the above limitations or exclusions may not apply to User. IN SUCH STATES, THE LIABILITY OF THE TRD OR ITS AFFILIATES PARTIES SHALL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW. You agree to defend, indemnify and hold harmless the TRD or its affiliates from and against any liabilities, costs, damages and expenses (including settlement costs and reasonable attorneys' fees) arising from any claims from anybody that result from or relate to your use, reproduction or distribution of the App or your breach of any representation, warranty or obligation under these Terms.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL THE AGGREGATE LIABILITY OF TRD OR ITS AFFILIATES AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS AND AFFILIATES IN CONNECTION WITH DAMAGES, LOSSES AND CAUSES OF ACTION RELATED TO THE APP EXCEED USD \$100.00. THIS LIABILITY CAP WILL APPLY ONLY WHEN AND TO THE EXTENT THAT APPLICABLE LAW REQUIRES LIABILITY DESPITE THE EXCLUSION AND LIMITATION IN THE PRIOR PARAGRAPH.

THE TRD also maintains its Governmental Immunity as set forth in the United States Constitution, New Mexico Revised Statutes, and the New Mexico Administrative Code.

**8.No Relationship with Issuer.** THIS APPLICATION IS LICENSED TO YOU AND MADE AVAILABLE TO YOU THROUGH TRD ALONE. THIS AGREEMENT, THE TERMS OF USE, PRIVACY POLICY, AND OTHER TERMS AND CONDITIONS GOVERNING THE USE OF THIS APPLICATION DO NOT CREATE A CONTRACTUAL RELATIONSHIP BETWEEN YOU AND THE ISSUER. IN NO EVENT WILL ISSUER OR ANY SUBDIVISION THEREOF HAVE ANY LIABILITY ARISING FROM OR RELATED TO YOUR USE OF OR INABILITY TO USE THE APPLICATION. TO THE EXTENT THAT ANY LIABILITY COULD BE IMPARTED TO ISSUER, YOU HEREBY AGREE TO HOLD ISSUER AND ANY SUBDIVISION THEREOF HARMLESS FOR ANY DAMAGES ARISING FROM OR RELATED TO YOUR USE OR INABILITY TO USE THE APPLICATION, INCLUDING TRD'S PROVISION OF SERVICES AS PART OF THE APPLICATION.

**9.Term and Termination.** These Terms are effective until terminated by TRD or User. TRD reserves the right, in its sole discretion, to terminate your access to the App and related services or any portion thereof at any time, for any reason or no reason, without notice. User's rights under these Terms will terminate automatically without notice if User fails to comply with any term or condition of these Terms. Upon termination, User shall immediately cease all use of the App, and destroy all copies, full or partial, of the App. Sections 2, 3, 5, 7, 9, 12, and 13 shall survive the termination.

**10. User Must Comply with Applicable Laws.** User may not use or otherwise export or re-export the App except as authorized by United States law and the laws of the jurisdiction in which the App was obtained. In particular, but without limitation, the App may not be exported or re-exported (a) into any U.S. embargoed countries or any country that has been designated by the U.S. Government as a “terrorist supporting” country or (b) to anyone on the U.S. Treasury Department’s list of Specially Designated Nationals or the U.S. Department of Commerce Denied Person’s List or Entity List or any other U.S. Government list of prohibited or restricted parties. By using the App, User represents and warrants that User is not located in any such country or on any such list. User also agrees that User will not use the App for any purposes prohibited by United States law, including, without limitation, the development, design, manufacture or production of nuclear, missiles, or chemical or biological weapons.

**11. U.S. Government Restricted Rights.** The App is provided with “RESTRICTED RIGHTS.” Use, duplication, or disclosure by the Government is subject to the restrictions contained in 48 CFR 52.227-19 and 48 CFR 252.227-7013 et seq. or its successor. Use of the App by the Government constitutes acknowledgement of TRD’s proprietary rights in the App as commercial computer software.

**12. Third Party Licensors – Intended Third Party Beneficiaries.** Portions of the App may include certain software programs owned by and licensed from third parties. User acknowledges and agrees that such third party licensors are intended third party beneficiaries under these Terms. Accordingly, in the event of any breach of these Terms by User that would violate any agreement between TRD and such third party licensors, such third party licensor shall have an independent cause of action and standing against User for breach of such Terms.

### **13. Miscellaneous.**

13.1 These Terms are governed by the laws of the State of New Mexico, without respect to its conflict of laws provisions (and specifically excluding the U.N. Convention for the International Sale of Goods). To the maximum extent permitted by applicable law, the parties agree that the provisions of the United Nations Convention on Contracts for the International Sale of Goods, as amended, and of the Uniform Computer Information Transactions Act, as it may have been or hereafter may be in effect in any jurisdiction, shall not apply to these Terms.

13.2 New Mexico Law Prevails. All disputes and claims arising out of or relating to these Terms shall be brought in a state or federal court of competent jurisdiction in New Mexico. The governing law of this Agreement is set forth in Section 13.1.

13.3 If any provision of these Terms is found to be invalid by an arbitrator or any court having competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions of these Terms, which shall remain in full force and effect. Failure of TRD to act on or enforce any provision of these Terms shall not be construed as a waiver of that provision or any other provision in these Terms. No waiver shall be effective against TRD unless made in writing, and no such waiver shall be construed as a waiver in any other or subsequent instance.

13.4 These Terms constitute the entire agreement between User and TRD with respect to the App, and supersede all previous or contemporaneous agreements, whether written or oral, between the parties with respect to the subject matter herein. The section headings are provided merely for convenience and shall not be given any legal import. TRD may revise these Terms at any time by updating these Terms and posting it on its website. Accordingly, you should visit TRD's website and review the Terms of Use for the App periodically to determine if any changes have been made. Your continued use of the App after any changes have been made to these Terms signifies and confirms your acceptance of any such changes or amendments to these Terms.

13.5 These Terms will inure to the benefit of TRD's successors and assigns. TRD is not liable for protection of privacy of electronic mail or other information transferred through the Internet or any other network that User may use.

13.6 User questions may refer to [the New Mexico Mobile Driver License Program](#)