

1. DEFINITIONS

In this Agreement:

"SEARCHESS Online" means the website, the Programme[s], the Information and the Data. "Company" or "SEARCHESS" means Electronic Search Services T/A SearchESS" Client" means You and Your nominees. "Confidential Information" means all information of a confidential nature acquired by a party in connection with this Agreement and which is not already in the public domain otherwise than by a breach of duty or breach of this Agreement. "Data" means the Data supplied by the Company and all of the Company's right, title and interest in and to any Information, Data and Property of any kind whatsoever, whether tangible or intangible supplied by the Company to the Client and the Information Technology and Software developed by the Company. "Services" means the services requested in the Application. "The Programme[s]" means the Information Technology and Software developed by the Company used to supply the Services and the Information and the Data to the Client. "You" and "Your" means the Client and its nominees.

2. AGREEMENT TO SUPPLY THE SERVICES

SEARCHESS will supply the Services to you on the terms and conditions set out in this Agreement. This Agreement includes:

- (a) the Application;
- (b) SEARCHESS's Products and Services Pricing Schedule;
- (c) these General Conditions of Supply.

3. TERMS OF AGREEMENT

- (a) This Agreement will commence upon SEARCHESS notifying you that it will provide the Services to you and will continue until terminated in accordance with this Agreement.
- (b) All Information and / or Data, whether printed, written or oral, contained in any publication or any other document provided to you by SEARCHESS is Confidential Information for your exclusive use and is accepted as one factor in your credit, insurance, marketing or other business decisions and for no other purpose. All Confidential Information shall be held in strict confidence and shall not be made available in any manner whatever to the persons reported upon or to any other persons.
- (c) All on-line passwords and logon codes issued to you are strictly for your use and must not be passed on or used by any other party.
- (d) If you are an approved reseller you must ensure that your end user complies with this Agreement and the SEARCHESS Terms and Conditions - Subscriber and One Off Access as if they were you.

4. PROVISION OF SERVICES

- (a) SEARCHESS reserves the right to add or withdraw any of its Services, and modify or otherwise improve the Services without notice to you.
- (b) SEARCHESS reserves the right to vary these General Conditions of Supply, its SEARCHESS Terms and Conditions - Subscriber and One Off Access, or its Products and Services Pricing Schedule and all variations will take effect immediately. SEARCHESS will use its best efforts to give reasonable notice to you of any proposed variations.
- (c) You accept that the supply of Services may be delayed or interrupted by circumstances outside SEARCHESS's control. SEARCHESS will use reasonable endeavours to minimise any delays or interruptions.

5. INVOICES AND PAYMENT

- (a) Invoices must be paid within seven (7) days of receipt.
- (b) If you do not pay an amount by the due date for payment then the whole amount outstanding under this Agreement will immediately become due and payable and SEARCHESS may charge you a late fee of 12%

per annum calculated on the daily balance of the unpaid amount from the due date until the date of payment in full. You must also pay SEARCHESS's expenses in recovering payment from you.

(c) Increases in statutory fees will be payable by you from the date of the increase.

(d) Claims for credit must be made in writing to SEARCHESS within 14 days of the date on which the right to claim a credit arose.

(e) You acknowledge that the Products and Services Pricing Schedule is based on predicted annual usage. SEARCHESS reserves the right to increase the cost of providing the Services if the predicted annual usage is not reached. SEARCHESS will carry out a review on a quarterly basis and provide 14 days written notice to you of any increase in costs.

6. ACCURACY AND COPYRIGHT

(a) SEARCHESS is not in the business of providing professional advice and gives no warranty or guarantee and makes no representation as to the completeness or accuracy of any information provided or its fitness for use for any purpose.

(b) You acknowledge that all Information provided to you by SEARCHESS including its report formats are subject to copyright and other property rights of SEARCHESS and/or its Information providers and you agree not to infringe that copyright or those property rights.

(c) You will not disclose, transfer, duplicate, reproduce retain or resupply (unless you are an approved reseller) the Information for a purpose other than that for which it was first acquired regardless of the form in which the Information was supplied.

7. CONFIDENTIALITY

SEARCHESS and you agree to keep confidential the other's Confidential Information. SEARCHESS and you will not use or disclose the other's Confidential Information for any purpose, other than to the extent necessary to perform its obligations or its rights under this Agreement or if disclosure is required by law or is to professional advisors in connection with this Agreement.

8. LIMITATION OF LIABILITY

All express or implied representations, conditions, warranties and terms relating to the Services or this Agreement not contained in this Agreement are excluded to the extent permitted by law.

9. SEARCHESS'S WARRANTIES AND LIABILITY

(a) SEARCHESS does not warrant that:

- * The Services will be uninterrupted or error free;
- * The Services will meet your requirements, other than as expressly set out in this Agreement; or
- * The Services will be free from hackers, virus or worm attack or other persons having unauthorised access to the Services or systems of SEARCHESS.

(b) SEARCHESS will not be liable to you or any third party for any loss or damage (including without limitation any indirect, consequential, special or incidental damage) in respect of the provision of the Services or any act or omission on its part in relation to its obligations under this Agreement.

(c) SEARCHESS's total liability for loss or damage of any kind which cannot be excluded and howsoever caused is limited to providing a resupply of the Services or, at SEARCHESS's option, the cost of supplying the Services.

(d) You acknowledge that the Information provided by SEARCHESS to you may not be the product of independent investigation and that you will rely on your own business judgment in determining whether or not to rely on the Information.

10. YOUR WARRANTIES AND INDEMNITIES

(a) You warrant that you will comply with the provisions of the Privacy Act 1988(Cth) in relation to all Information provided to you by SEARCHESS.

(b) You indemnify SEARCHESS, its officers, employees, agents and suppliers against all costs, expenses, loss or liability which we or they may suffer (directly or indirectly) resulting from your:

- * breach of this Agreement;
- * SEARCHESS Terms and Conditions - Subscriber and One Off Access; or
- * misuse of the Services.

11. TERMINATION

SEARCHESS may terminate this Agreement upon seven (7) days written notice to you, with or without reason, in which event it shall be obliged to refund to you the unearned portion of any payment made by you under this Agreement.

12. OTHER

You acknowledge and agree that you have been given the opportunity to read and retain:

- (a) the Application;
- (b) SEARCHESS's Products and Services Pricing Schedule;
- (c) These General Conditions of Supply.

Where there is any inconsistency between the General Conditions of Supply and SEARCHESS Terms and Conditions - Subscriber and One Off Access, the later shall prevail, to the extent of any such inconsistency