

# LexisNexis® Fixed Multi-year Solution Service Agreement

## Order Form

1. In this Solution Service Agreement Order Form ("Order Form"):
  - (a) "Customer" means the Customer named in Schedule 1.
  - (b) "Fee Payment Date" means the date or dates on which a fee instalment becomes payable.
  - (c) "Fixed Fee" means the fixed fee for the Services for the Price Plan Period set out in Schedule 1.
  - (d) "Price Plan Period" means the period set out in Schedule 1.
  - (e) "Services" means the products, services and/or books listed in Schedule 2 and Service means any one of them as amended from time to time and agreed by both parties.
2. This Order Form once accepted by LexisNexis in accordance with paragraph 3 below, together with the attached General Terms and Conditions and the Terms of Trade including all schedules, annexures and exhibits attached hereto contain the entire agreement ("Agreement") between LexisNexis and the Customer referred to above (hereinafter the Customer) in respect of the Services (defined below). This Order Form shall take precedence over the General Terms and Conditions and the Terms of Trade.
3. The Customer hereby places an order with LexisNexis for the Services under this Order Form. The Customer's order is subject to acceptance by LexisNexis which will be evidenced by the issuance of ID numbers and passwords to the Customer, and/or delivery of the books to the Customer, as applicable.
4. Save in the event of breach or insolvency, this Agreement shall continue for the Price Plan Period.
5. LexisNexis must:
  - (a) not increase the Fixed Fee for the duration of the Price Plan Period;
  - (b) reduce the Fixed Fee on a pro rata basis if it discontinues a Service during the Price Plan Period.
6. Prior to each anniversary of the commencement of this Agreement, the Customer may review the list of Services ('Review') and request to replace certain Services with other products and services of LexisNexis on the following conditions:
  - (a) the request is made by the Customer 60 days prior to the anniversary date;
  - (b) for standalone subscriptions, a change of format to a Service may be requested if it is the same or lesser value of the Service being replaced (the value being based on the recommended retail prices current at the date of the Review);
  - (c) for online packages (other than the following legacy packages: Butterworths Direct, LN/Corporate/Government 15, LN/Corporate/Government 25, LN Select (Direct-6) and LN Select Plus (Direct-10), the Customer may only exchange a Service with another product in the package which is in the same Category. A Category is defined as any of the following:
    - (i) flagship titles which includes Australian Encyclopaedia of Forms and Precedents, Halsbury's Laws of Australia, CaseBase Case Citator, Unreported Judgments, Australian Law Reports and LawNow Legislation;
    - (ii) non-flagship titles excluding the following works: JW Carter, International Content (including News & Business, Risk Products), All ASX publications;
    - (iii) practical guidance modules; and
    - (iv) practice area collection.
  - (d) the Fee will not change as a result of this Review and for the avoidance of doubt LexisNexis will not be required to issue a refund to the extent that the new titles are of lesser value.
7. This Agreement will terminate at the end of the Price Plan Period. Accordingly, the second sentences of clause 5.1 and 5.2 of the General Terms and Conditions are deleted.
8. Customer:
  - (a) may not cancel a subscription or change the delivery or access format for the Services during the Price Plan Period;

- (b) may include in this Agreement any new Service purchased by Customer during the Price Plan Period; and
  - (c) must itself observe and warrant that Authorised Users observe the attached General Terms and Conditions, the LexisNexis Terms of Trade and all schedules, annexures and exhibits attached hereto.
9. Where a Customer is provided with access to materials for free (i.e. materials not specified expressly in this Agreement) LexisNexis has no obligation to continue to provide such material and the Customer has no right to receive the material. Such material may be withdrawn at any time without notice. This right of withdrawal is without prejudice to the rights of LexisNexis referred to at clauses 2.4 and 5.2 of the General Terms and Conditions.
  10. Any discount offered by LexisNexis is at our discretion and subject to any conditions LexisNexis may elect to impose. For example discretionary discounts offered on hard copy products are only valid if Customer has a contemporaneous subscription to the online or digital format of that product. Therefore, if Customer cancels a subscription to one format, then the cost of the other format will revert to the list price as at the anniversary date of the Price Plan Period.
  11. Payment of all invoices shall be made by the Customer in \$AUD within 30 days of the date of the invoice, unless otherwise agreed by us.
  12. LexisNexis may immediately terminate this Agreement if Customer:
    - (a) fails to pay the Fee in accordance with this Agreement; or
    - (b) breaches any other term or condition and fails to remedy the breach within 14 days after receiving written notice to do so.
  13. LexisNexis is a trading name of Reed International Books Australia Pty Limited, Tower 2, 475 Victoria Avenue, Chatswood NSW 2067.
  14. This Agreement is governed by the laws of New South Wales.

## Additional Products

15. Upon payment of the relevant fees, use of the Lexis® Draft or Lexis® Draft Pro product shall be in accordance with the Schedule and Exhibit A. References to 'Order Form' therein are deemed to be references to this Order Form.

## Schedule 1

### Account Information

|  |   |           |      |
|--|---|-----------|------|
| ACCOUNT:                                   | 151889/HC accounts  |           |      |
| NAME OF CUSTOMER (FULL LEGAL ENTITY NAME): | NSW Department of Justice representing the NSW Justice Consortium (comprising the agencies listed in the NSW Justice Consortium Schedule) |           |      |
| ABN:                                       | 11 005 693 553  |           |      |
| TYPE OF BUSINESS:                          | [REDACTED]  |           |      |
| BILLING ADDRESS:                           | Level 15, Law Courts Building, 184 Phillip St, Sydney NSW 2000  |           |      |
| STREET ADDRESS:                            | Level 15, Law Courts Building, 184 Phillip St, Sydney NSW 2000  |           |      |
| CITY:                                      | Sydney  |           |      |
| STATE:                                     | NSW   | POSTCODE: | 2000 |
| TELEPHONE:                                 | 02 9230 8675  |           |      |
| BILLING CONTACT:                           | Vanessa Blackmore   |           |      |
| JOB TITLE:                                 | Manager, Law Courts Library Services  |           |      |
| EMAIL:                                     | vanessa.blackmore@justice.nsw.gov.au  |           |      |

**Delivery Address (if different):**

NAME: \_\_\_\_\_

STREET ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ POSTCODE: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_

DELIVERY CONTACT: \_\_\_\_\_

JOB TITLE: \_\_\_\_\_

EMAIL: \_\_\_\_\_

| SELECT                   | PRODUCT   | ISBN<br>(new sale) | LICENSED USERS | LICENCE FEE<br>(incl. GST) | LICENCE TERM | LICENCE TYPE   | INSTALLATION<br>TYPE   |
|--------------------------|---|--------------------|----------------|----------------------------|--------------|--|--|
| <input type="checkbox"/> | Lexis Draft   | 0001035401         |                | \$                         |              | <input type="checkbox"/> Perpetual<br><input type="checkbox"/> *Annual commencing on | <input type="checkbox"/> Standard<br><input type="checkbox"/> Custom |
| <input type="checkbox"/> | Lexis Draft Pro   | 0001053202         |                | \$                         |              | <input type="checkbox"/> Perpetual<br><input type="checkbox"/> *Annual commencing on | <input type="checkbox"/> Standard<br><input type="checkbox"/> Custom |
| <input type="checkbox"/> | <b>LMO upgrade to Lexis Draft</b><br>Lexis Draft – LMO Upgrade                | 0001035678         |                | \$                         |              | <input type="checkbox"/> Perpetual<br><input type="checkbox"/> *Annual commencing on | <input type="checkbox"/> Standard<br><input type="checkbox"/> Custom |
| <input type="checkbox"/> | <b>LMO upgrade to Lexis Draft Pro</b><br>Lexis Draft Pro – LMO Upgrade        | 0001053224         |                | \$                         |              | <input type="checkbox"/> Perpetual<br><input type="checkbox"/> *Annual commencing on | <input type="checkbox"/> Standard<br><input type="checkbox"/> Custom |
| <input type="checkbox"/> | <b>Lexis Draft upgrade to Lexis Draft Pro</b><br>Lexis Draft Pro – LD Upgrade | 0001053232         |                | \$                         |              | <input type="checkbox"/> Perpetual<br><input type="checkbox"/> *Annual commencing on | <input type="checkbox"/> Standard<br><input type="checkbox"/> Custom |

\*Direct Debit option only

\*Only available with direct debit arrangements for online packages. Please complete Direct Debit Form.

|            |                                    |                                    |
|------------|------------------------------------|------------------------------------|
| ██████████ | ██████████                         | ████████████████████               |
| ██ █████   | ██████████<br>████████████████████ | ████████████████████<br>██████████ |
| ██ █████   | ██████████<br>████████████████████ | ████████████████████<br>██████████ |
| ██ █████   | ██████████<br>████████████████████ | ██████████                         |
| ██ █████   | ██████████<br>████████████████████ | ██████████                         |

The Subscriber should note that this contract is available for acceptance at any date prior to ██████████. The prices contained herein should be considered withdrawn if this Order Form is not signed by an authorised signatory and in the possession of LexisNexis prior to that date.

Please supply me and the agreed Authorised Users with the Services listed above on the terms and conditions set out in this Order Form, the General Terms and Conditions, Terms of Trade and where relevant, the Schedules and Exhibits:

**Price Plan Period:** 30 June 2018 to 29 June 2021

**Fixed Fee:**

\$refer to pricing above \$14,085,361.71(GST Inclusive)

Or \$ \_\_\_\_\_ per month for initial 12 months (GST Inclusive)

**Fee Payment Date:** (Please tick appropriate box)

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██████████

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██████████

**AUTHORISED SIGNATURE**

 \_\_\_\_\_  
 (Authorised Signatory of Customer)

**PRINT NAME**
**POSITION/AUTHORITY**
**DATE**
**LexisNexis Internal Use**
**LexisNexis Sales Representative:** Mary Hallaj  
 (PRINT FULL NAME)



# General Terms and Conditions

## (Global Platform)

For Use of the LexisNexis Services

This Licence Agreement is between Reed International Books Australia Pty Limited trading as LexisNexis ABN 70 001 002 357 (“we”, “us” or “our”) and the individual or company to whom LexisNexis has agreed to supply the online and/or digital services and materials (“you”, “your” or “Customer”). The following terms and conditions govern your use of the online services and/or digital services (such as Lexis Red) supplied by LexisNexis (the “Services”) and the materials and content available therein (“Materials”).

### 1. LICENSE; RESTRICTIONS ON USE

1.1 Your use of specific Materials forming part of the Services (“Specific Materials”) may also be subject to any supplemental third party terms set forth at [www.lexisnexis.com/terms/supp/lngp/au](http://www.lexisnexis.com/terms/supp/lngp/au) in respect of such Specific Materials (“Supplemental Terms”). It is your responsibility to access that LexisNexis link to determine what Supplemental Terms, if any, apply to the Services. Subject to any applicable Supplemental Terms for Specific Materials, you are granted, during the term of this agreement, a non-exclusive, non-transferable, limited licence to access and use the Services and Materials from time to time made available to you for the internal purposes only of (i) research or study, (ii) providing professional services to your clients, and (iii) providing academic services to students. This licence is subject to the following limitations:

- (a) The right to electronically display Materials retrieved from the Services is limited to the display of such Materials primarily to one person at a time, subject to the Supplemental Terms for Specific Materials. This does not limit the number of Authorised Users who may individually access the Services at the same time;
  - (b) The right to obtain a printout of Materials is limited to a printout of a reasonable portion of the Materials obtained using the printing commands of the Services or your web browser software and the creation of a single printout of a reasonable portion of the Materials downloaded via downloading commands of the Services or your web browser software (collectively, “Authorised Printouts”); and
  - (c) Subject to clause 2.7, the right to retrieve and store machine-readable copies of Materials is limited to the retrieval of a single copy of a reasonable portion of the Materials included in any individual file of the Services using the downloading commands of the Services or your web browser software and in respect of Services storage of that copy in machine readable form for no more than 90 days primarily for one person’s exclusive use. Insubstantial electronic copies of the Materials may be stored beyond the time restriction referred to in this clause 1(c) where: (i) the Materials have been incorporated into advice provided to a specific client in respect of a specific matter; and/or (ii) the Material is required to be kept for some legal, regulatory or evidential requirement. This clause is subject to the overriding obligation upon you not to create your own independently searchable database of the Materials. This clause is also restricted to the extent the storage of those Materials is not further limited or prohibited by the Supplemental Terms for Specific Materials.
- 1.2 To the extent expressly permitted by applicable copyright law and not further limited or prohibited by the Supplemental Terms for Specific Materials, you may make copies of Authorised Printouts and distribute Authorised Printouts and copies within your organisation.
- 1.3 Except as specifically provided in clauses 1.1 and 1.2, you are otherwise prohibited from downloading, storing, reproducing, transmitting, displaying, printing, copying, distributing, or using Materials retrieved from the Services. You may not print or download Materials without using the printing or downloading commands of the Services or your web browser software. All access to and use of the Services via mechanical, programmatic, robotic, scripted or any other automated means not provided as part of the Services is strictly prohibited. Use of the Services is permitted only via manually conducted, discrete, individual search and retrieval activities.
- 1.4 All right, title, and interest (including all copyrights and other intellectual property rights) in the Services and Materials (in both print and machine-readable forms) belong to us or our third party suppliers. RELX Group and the RE symbol are trademarks of RELX Intellectual Properties SA, used under license. You acquire no ownership of copyright or other intellectual

property rights or proprietary interest in the Services, Materials, or copies thereof.

- 1.5 Except as specifically provided herein, you may not use the Services or Materials retrieved from the Services in any fashion that infringes the copyright or proprietary interests therein.
- 1.6 You may not remove or obscure the copyright notice or other notices contained in Materials retrieved from the Services.
- 1.7 Other provisions that govern your use of Materials are set forth in the LexisNexis Terms of Trade, your order form, any agreed addendum, the Supplemental Terms for Specific Materials, online descriptions of files, online notices following file selection, and individual documents retrieved from the Services (collectively, the “Additional Terms”), all of which are incorporated by reference into these General Terms and Conditions. References to “Services” in the Terms of Trade shall be references to Services and Materials as defined herein, for the purpose of these General Terms and Conditions. References to “Customer” or “you” in the Terms of Trade shall be references to you or Customer as defined herein, for the purposes of these General Terms and Conditions. To the extent there is any inconsistency between the Additional Terms and General Terms and Conditions, the Additional Terms prevail in the order that they appear above.

### 2. ACCESS TO SERVICES

- 2.1 Only your employees, students, support personnel and barristers within your chamber (as relevant) authorised by both us and you shall be entitled to access and use the Services and Materials (“Authorised Users”).
- 2.2 Except for use incidental to occasional, short-term travel, you may not use an identification number to access the Services and Materials from outside the country for which it was issued. This clause does not apply to digital services.
- 2.3 Your identification number(s) may be restricted from accessing certain Materials otherwise available in the Services for which you have not subscribed.
- 2.4 Materials and features may be added to or withdrawn from the Services and the Services may otherwise be changed without notice.
- 2.5 You must ensure that each person having access to the Services and Materials:
  - (a) is an Authorised User; and
  - (b) is using those Services and Materials only in accordance with these General Terms and Conditions and the Additional Terms. The Customer shall be responsible for use of the Services and Materials by Authorised Users.
- 2.6 For Customers subscribing to **Lexis® Smart**: Use of the LexisNexis Smart software which forms part of the Services (“LexisNexis Smart”) has the additional terms described in this clause 2.6. You must not do any of the following, whether directly or indirectly:
  - (a) install or use LexisNexis Smart on any site other than the location of the Customer where the software (which forms part of the Services) is installed or install on more than the agreed number of workstations
  - (b) use, copy, publish, distribute, communicate, commercialise, import, export or publicly display all or part of the original or any copy of LexisNexis Smart (electronically or otherwise), except as expressly authorised by this Agreement;
  - (c) make any enhancements or other modifications to the Services, or create any derivative works of the same;
  - (d) reverse engineer, decompile, disassemble or otherwise translate the Services or attempt to derive the source code or underlying ideas, structure, organisation, processes or algorithms of the Services, except and only to the extent that such activities cannot be restricted under applicable law;
  - (e) use or access all or part of the Services to the extent you are or plan to become a competitor of the Services, or an employee, contractor or agent of a competitor to the Services;
  - (f) permit any competitor of the Services to access or use any Services or Materials for any purpose, including but not limited to providing any type of consultancy, support or other services to you either directly or indirectly; or
  - (g) use the Services in any manner that is for unlawful purposes or other purposes not permitted by this agreement or which may involve risk of death, personal injury, property damage or environmental damage or in any life support application, device or system.
- 2.7 For Customers subscribing to **Practical Guidance**: in addition to other rights granted under these General Terms and Conditions, you may copy, revise, customise and use the forms, precedents and checklists in the Materials for the purposes of any matter on which you are advising;

and make available to clients, potential clients and others copies of such Materials on a reasonable, non-systematic basis that is not commercially prejudicial to us, subject to crediting third parties where such material is attributed to them.

2.8 For Customers subscribing to **Lexis Red**: In order to access and use Lexis Red titles you must download the Lexis Red mobile digital device software application and accept the Lexis Red mobile digital device software application ("Red App") terms and conditions as may be amended from time to time and which are available through the 'Terms and Conditions' link within the Red App ("Red App Conditions"). In addition to other rights granted under these General Terms and Conditions, titles on Lexis Red that appear in your customer agreement or order form are licensed to you in perpetuity subject to this agreement and the foregoing. Clause 1.1.(c) of the General Terms and Conditions will not be applicable in respect of Lexis Red titles as you will not be required to delete any Red title from your device upon termination. You will be able to maintain the "main work" that you have accumulated onto your device in perpetuity subject to the licence conditions in these General Terms and Conditions and the Red App Conditions. Upon termination of a particular Lexis Red title subscription:

- (a) you and your Authorised Users may continue to use the Lexis Red content purchased as at the date of termination and continue to use the Red mobile App subject to the licence conditions in these General Terms and Conditions and to the Red App Conditions, at your own risk;
- (b) LexisNexis is not obliged to store, maintain, back-up, retrieve or restore any Lexis Red content that is lost or deleted by you;
- (c) you will no longer receive content amendments, access to links within the title, updates to the Lexis Red technology, or support or maintenance from LexisNexis and any annotations you make will not continue to synchronise between devices. As such you acknowledge that this could impact the usability of the Lexis Red content from termination. You may only receive updates in the Red App, as made generally available without fee, from time to time; and
- (d) clauses 1.4, 1.5, 1.6., 4, 5.4, 5.6 and 5.9 of the General Terms and Conditions survive termination.

For the avoidance of doubt, by maintaining each of your LexisRed title subscriptions, you will receive updates to the content on those Lexis Red titles as and when available, as well as access to ongoing legal updates and technological changes to the Red App.

2.9 For Customers Subscribing to **Capital Monitor**, in addition to other rights granted under these General Terms and Conditions, the terms of this clause 2.9 apply and the Customer acknowledges that as the Capital Monitor Services may contain press releases, transcripts, policy papers, court decisions, news stories, draft legislation and all other legislative instruments, government publications, media releases, whether in writing, electronically or through any other medium (including information or materials which may be the subject of any licence agreement between us and a third party) ("**Capital Monitor Materials**"), the Capital Monitor Materials are subject to the terms and conditions of the relevant Commonwealth Government or a State or Territory Government who created and/or released the respective Capital Monitor Materials (as applicable) as well as the terms set out in this Agreement. If there is any inconsistency between such terms, the terms of the Commonwealth Government or a State or Territory Government prevail to the extent of the inconsistency. The Customer also acknowledges and agrees that:

- (a) the Capital Monitor Materials and all intellectual property rights therein are and must remain the exclusive property of the Commonwealth Government or a State or Territory Government, or other relevant bodies, as applicable;
- (b) we are not responsible for any changes to the terms of use of, or any changes to the availability of, Capital Monitor Materials imposed by the Commonwealth Government or a State or Territory Government, or other relevant bodies (as applicable) from time to time

2.10 The Services may contain a feature that will allow your Authorised Users to create work folders or work spaces ("**Folders**") from research sessions that are associated solely with their respective LexisNexis IDs. The Folders are designed to allow your Authorised Users to save copies of Materials made available by us, as well as links to materials. Authorised Users may also share the Folders with third party LexisNexis authorised users, however such third party users will only be permitted to access Materials in the Folders for which they have a current subscription. We represent and warrant that the Folders will be under the exclusive control of your Authorised Users and we will not access or otherwise review the content of Folders without your authorisation. Notwithstanding the foregoing, we

may access or disclose the content of Folders to the extent necessary to facilitate features and functions of the Services and to comply with contractual and legal obligations including, but not limited to, an administrative or judicial proceeding. Authorised Users are solely responsible for the content of their respective Folders. You represent and warrant Authorised Users are prohibited from uploading content to the Folders that is defamatory, libellous, pornographic or obscene, unless such content is reasonably related to professional responsibilities. Access to and use of the Folders may be subject to technical limitations such as storage limits, downtime for maintenance or third party service availability. We are not responsible for backing up, or for any damage to or loss of, any content uploaded to the Folders by you. The Folders are provided AS IS and we make no warranties or guarantees in respect of uptime or accessibility of any content you upload to the Folders, and we do not warrant that access to the Folders will be continuous or error-free. You agree to use the Folders in accordance with any acceptable use limitations and guidelines as may be notified to you from time to time

### 3. WARRANTIES AND GUARANTEES

- 3.1. If you are a "consumer" for the purposes of the Australian Consumer Law, certain guarantees may be conferred on you and certain rights and remedies may be conferred on you which cannot be excluded, restricted or modified. If so, then to the maximum extent permitted by law, our liability to you is limited at our option to:
  - (a) in the case of goods, replacement or repair of the goods or payment of the cost of replacing or repairing the goods; and
  - (b) in the case of services, resupply of the services or payment of the cost of resupplying the services. In this clause, Australian Consumer Law means Schedule 2 of the Competition and Consumer Act 2010 (Cth).
- 3.2. We represent and warrant that we have the right and authority to make the Services available pursuant to our agreement with you.
- 3.3. SUBJECT TO CLAUSES 3.1 AND 3.2 AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE SERVICES ARE PROVIDED ON AN "AS IS", "AS AVAILABLE" BASIS AND, UNLESS EXPRESSLY STATED TO THE CONTRARY IN THIS AGREEMENT, WE EXCLUDE ALL REPRESENTATIONS, WARRANTIES OR GUARANTEES, WHETHER EXPRESS OR IMPLIED, BY STATUTE, TRADE OR OTHERWISE, INCLUDING WITHOUT LIMITATION THAT THE SERVICES AND MATERIALS ARE OR WILL BE COMPLETE OR FREE FROM ERRORS OR THAT INFORMATION WILL CONTINUE TO BE AVAILABLE TO US TO ENABLE US TO KEEP THE SERVICES AND MATERIALS UP-TO-DATE.
- 3.4. Subject to clause 5.9, it is not intended that any contract between us and the Customer for the supply of Services should be enforceable by any third party.
- 3.5. Any waiver by us of any of these terms and conditions shall be limited to the particular instance and shall not operate or be deemed to operate as a future waiver of that or any other term.

### 4. LIMITATION OF LIABILITY

- 4.1. Subject to clause 3.1 and to the maximum extent permitted by law a Covered Party (as defined below) shall not be liable for any loss, injury, claim, liability, or damage of any kind resulting in any way from:
  - (a) any errors in or omissions from the Services or any Materials available or not included therein,
  - (b) the unavailability or interruption to the supply of the Services or any features thereof or any Materials,
  - (c) Customer's use or misuse of the Services or Materials (regardless of whether you received any assistance from a Covered Party in using or misusing the Services),
  - (d) your use of any equipment in connection with the Services,
  - (e) the content of Materials,
  - (f) any delay or failure in performance beyond the reasonable control of a Covered Party, or
  - (g) any negligence of a Covered Party or its employees, contractors or agents in connection with the performance of our obligations under this agreement (other than liability for death or personal injury).
- 4.2. "Covered Party" means (a) us, our affiliates, and any officer, director, employee, subcontractor, agent, successor, or assign of us or our affiliates; and (b) each third party supplier of Materials, their affiliates, and any officer, director, employee, subcontractor, agent, successor, or assign of any third party supplier of Materials or any of their affiliates.
- 4.3. Our liability to you for loss or damage of any kind (including loss or damage caused by negligence) is reduced to the extent that you caused or contributed to that loss or damage.
- 4.4. SUBJECT TO CLAUSE 3.1 AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE AGGREGATE LIABILITY OF THE COVERED PARTIES



WHETHER FOR BREACH OF THIS AGREEMENT OR IN TORT (INCLUDING NEGLIGENCE) OR FOR ANY OTHER COMMON LAW OR STATUTORY CAUSE OF ACTION SHALL NOT EXCEED THE LESSER OF YOUR ACTUAL DIRECT DAMAGES OR THE AMOUNT YOU PAID FOR THE GOODS, OR IN THE CASE OF SERVICES THE AMOUNT YOU PAID FOR THE SERVICES IN THE TWELVE MONTH PERIOD IMMEDIATELY PRECEDING THE DATE THE CLAIM AROSE.

- 4.5. SUBJECT TO CLAUSE 3.1, THE COVERED PARTIES SHALL NOT BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER (INCLUDING, WITHOUT LIMITATION, LEGAL FEES AND LOSS OF PROFITS, CONTRACTS, BUSINESS, REVENUE, GOODWILL, ANTICIPATED SAVINGS, BUSINESS INFORMATION OR DATA) IN ANY WAY DUE TO, RESULTING FROM, OR ARISING IN CONNECTION WITH THE GOODS AND SERVICES, OR THE FAILURE OF ANY COVERED PARTY TO PERFORM ITS OBLIGATIONS, REGARDLESS OF ANY NEGLIGENCE OF ANY COVERED PARTY.
- 4.6. The Materials are provided for reference purposes only and are not intended, nor should they be used, as a substitute for professional advice or judgment or to provide legal advice with respect to particular circumstances.
- 4.7. We do not undertake any obligation to consider whether the information provided to or by us for the purpose of our Materials (including answering a query) is either sufficient, up to date or appropriate for any particular or actual circumstances. Whilst reasonable efforts are made to keep the Materials up to date, you should obtain independent verification or advice before relying upon any piece of information in circumstances where loss or damage may result.
- 4.8. We are not a law firm; we do not represent or advise clients in any matter and are not bound by the professional responsibilities and duties of a practising lawyer. Nothing in the Services, or the Materials or in the Agreement nor any receipt or use of the Services, shall be construed or relied on as advertising or soliciting to provide any legal services, creating any solicitor-client relationship or providing any legal representation, advice or opinion whatsoever on behalf of us or our staff.
- 4.9. Any password / ID number issued by us to an Authorised User is personal and confidential to that Authorised User. If we suspect that any password / ID is being used by an unauthorised User or a different Authorised User to the person to whom it was issued, that password / ID may be cancelled and you may be liable for additional charges, in accordance with our then current price list or catalogue for the applicable Services, in respect of any such unauthorised use.

## 5. MISCELLANEOUS

- 5.1. This agreement is for the minimum period specified in the Price Plan Period. This agreement will automatically renew on the date following the expiration of the Price Plan Period ("Renewal") for additional terms equal in duration to the period specified in the Price Plan Period or where not specified for additional 12 month terms unless you provide us with a notice of termination in accordance with clause 5.2. The price payable for the Services will be the price payable in the immediately preceding Price Plan Period, plus an annual adjustment (or actual usage level for the preceding year, whichever is the higher). A pre-determined annual adjustment may be specified in your written agreement with LexisNexis or customer order form or, if not, will be notified to you by the Renewal date.
- 5.2. Either party may terminate the subscription for access to the Services upon notice to the other for breach. You may terminate this agreement (in whole or in part) by giving us at least 90 days' written notice, to expire the day before the anniversary of the commencement date or last day of the period set forth in the Price Plan Period (whichever is the later) as specified in the Order Form ("Customer Notice Period"). We may terminate this agreement (in whole or in part) by giving at least 60 days' notice. Our only obligation in this event shall be the pro rata refund of any charges paid in advance. We may suspend or discontinue providing the Services to you without notice and pursue any other remedy legally available to us if you fail to comply with any of your obligations hereunder. On termination of this agreement, any licence granted under this agreement, other than any perpetual licence granted hereunder, terminates (including the licence in clause 1.1).
- 5.3. These General Terms and Conditions and the Terms of Trade may be changed by us from time to time, however changes detrimental to you

may only be changed at the expiry of your subscription for access to the Services. All other provisions may be changed by us within 7 days of giving notice to you. If any changes are made to the General Terms and Conditions that are detrimental to you, you may terminate the Agreement upon written notice to us if any such change is unacceptable to you. For termination to be effective under this clause, we must receive your notice of termination within 30 days of the date of the notice. Continued use of the Services following the expiration of 30 days following the date our notice to you of any detrimental change constitutes acceptance of the change but does not affect your other termination rights. Continued use of the Services during the period starting on the effective date of the change until the date of termination by you in accordance with this clause will be subject to the changes notified to you, including any increases in price.

- 5.4. Neither party will disclose to any third party details of this agreement or any of the negotiations undertaken in relation to this agreement, including any pricing or discounting terms, without the prior written consent of the other.
- 5.5. Except as otherwise provided herein, all notices and other communications to you hereunder shall be in writing or displayed electronically in the Services by the provider thereof. Notices to you shall be deemed to have been properly given on the date posted, if posted; on the date first made available, if displayed in the Services; or on the date received, if delivered in any other manner. Notices to us should be sent to your LexisNexis account representative, or if you do not have an account representative to LexisNexis customer services, at LexisNexis, Level 1, Tower 2, 475 Victoria Avenue, Chatswood NSW 2067 with a copy by email to customersupport@lexisnexis.com.au. Notices to you, if sent by email or by post, shall be sent to the postal address or email address LexisNexis has on record.
- 5.6. The failure of us or any third party supplier of Materials to enforce any provision hereof shall not constitute or be construed as a waiver of such provision or of the right to enforce it at a later time.
- 5.7. You may not assign your rights or delegate your duties under these General Terms and Conditions or any Additional Terms without our prior written consent.
- 5.8. These General Terms and Conditions and the Additional Terms shall be governed by and construed in accordance with the laws of New South Wales and each party submits to the non-exclusive jurisdiction of the courts of New South Wales.
- 5.9. Each third party supplier of Materials has the right to assert and enforce these provisions directly on its own behalf as a third party beneficiary.
- 5.10. We will use personal information collected about Authorised Users for the purposes of (a) providing access to and use of the Services to Authorised Users, (b) providing customer support, billing and other similar activities related to the Services, and (c) keeping Authorised Users informed about products, services, offers and upcoming events and to improve our services. We may also provide personal information about Authorised Users to third parties for the purpose of providing Authorised Users with direct marketing offers which we think may be of interest. If you do not wish to receive information about other products, services, offers and events, please notify our privacy officer in writing sent to [privacy@lexisnexis.com.au](mailto:privacy@lexisnexis.com.au).
- 5.11. In accordance with the Privacy Act 1988 (Cth), we will provide and export personal information about Authorised Users to third parties and other members of our company group, including Reed Elsevier Inc. in the United States, for the purposes of (a) providing access to and use of the Services to Authorised Users, and (b) providing customer support, billing and other similar activities related to the Services.
- 5.12. The collection and use of personal information by LexisNexis in the course of providing the Services will be in accordance with our privacy policy, as may be amended from time to time, and which is available at <http://www.lexisnexis.com.au/en-au/privacy-statement.page>.
- 5.13. These General Terms and Conditions will be enforced to the fullest extent permitted by applicable law. If anything in these General Terms and Conditions is unenforceable, illegal or void then it is severed and the rest of these General Terms and Conditions remains in force.
- 5.14. These terms together with any applicable Additional Terms, constitute the entire agreement between the parties concerning the subject matter of these General Terms and Conditions and supersede all previous communications, representations, inducements, undertakings, agreements or arrangements between the parties.

# Terms of Trade

## GENERAL

1. These Terms of Trade are incorporated into all contracts for the supply of goods and services ("Goods & Services") to the Customer (as defined on the "LexisNexis Contract - Online/Print", "Solution Services Agreement" or other order form also referred to herein as "you") by Reed International Books Australia Pty Limited trading as LexisNexis ("LexisNexis", "us", "our" or "we"), other than contracts specified in clause 2. They supersede any previously issued versions of the Terms of Trade.
2. Where there is, in force, a separate written agreement concerning Goods & Services, which has been signed by an authorised LexisNexis representative, the terms of that agreement will, to the extent that there is any conflict between that agreement and these Terms of Trade, prevail over these Terms of Trade.
3. Subject to the warranties and guarantees contained in the LexisNexis General Terms and Conditions, the Customer acknowledges that Goods & Services supplied may differ in nonmaterial respects from those advertised in our catalogue or other promotional material.
4. If the Customer has not previously submitted an order to us, the Customer must also complete and submit with an order a Customer Account Application Form ("Application"). Acceptance of an order is subject to approval of the Application by our head office.

## PRICE

5. Subject to clauses 7 to 11 below, and except to the extent expressly stated otherwise in any separate written agreement with LexisNexis or in your customer order form, the price payable for Goods & Services shall be the total price specified in our current price list or catalogue, less any discounts agreed in advance in writing by us and plus the applicable cost of packaging, postage and delivery ("Delivery Charges"). Prices and Delivery Charges are subject to change without notice.
6. Pursuant to the Payment Systems (Regulation) Act 1998 (Cth) and the Payment System (Regulation) Regulations 2003, LexisNexis reserves the right to charge Customer a fee which LexisNexis may incur as a result of Customer making a payment in excess of AUD\$10,000 by credit card. Disclosure of this fee amounting to 2% of the total fees paid by the Customer is via these Terms of Trade, and tax invoices issued by LexisNexis to Customer from time to time.
7. Existing discounts agreed by us as at the date of these Terms of Trade shall continue to have effect for the remainder of the Price Plan Period (but will not necessarily apply to any renewal). Subject to clause 8, discounts for hardcopy subscriptions only apply to subscribers to both the online and hardcopy format.
8. Any promotional offer that LexisNexis makes is exclusive of and cannot be used with any other offer, promotion or discount.
9. The price payable for updating material for printed encyclopaedic and loose-leaf publications shall be the price advised by us at the time of publication of any such updated material.
10. The Customer must let us know as soon as practicable if the number of Authorised Users increases or decreases. If there is an increase in this number, the price payable will automatically be adjusted to cover the price of additional licences. If there is a decrease in this number, the price payable will be adjusted effective from the Customer's next renewal.
11. All prices are inclusive of GST.

## CREDIT

12. By submitting the Application, the Customer authorises us to carry out any credit checks with third parties as we may require. The Customer authorises us to make any enquiries and to use, exchange or disclose any information which is disclosed in the Application or is obtained by us from any third party from or to any other credit provider or credit reporting agency: a) Concerning the Customer's credit worthiness; and b) for the purpose of providing or obtaining a reference.
13. We may impose credit limits which may be varied by us from time to time. If the Customer exceeds the credit limit then Goods and Services will be withheld until the account is back to a reasonable level within the credit limit as determined by us.
14. The Customer must pay the amount specified in an invoice in full within 30 days of the date of the invoice (unless we agree otherwise in writing).
15. If the Customer does not pay us the invoiced amount in full within the time stipulated in the invoice, we may, without limitation a) withhold further supplies including Goods & Services which have already been fully paid; or b) charge interest on amounts outstanding at a rate equal to 1.5% per month or the highest rate permitted by law, whichever is lower; or c) submit the Customer's account to a collection agency. If we do submit the account to a collection agency, the Customer agrees that we may recover the outstanding amount specified in the invoice including interest, our legal costs, bank fees and charges and other expenses incurred in attempting to recover the debt and any fees and commissions or other amounts we pay to any collection agency to act on our behalf.

16. Where we make individual deliveries of Goods and Services or deliveries in instalments, the Customer may be invoiced separately for each delivery in which case, the Customer agrees to pay each invoice according to its terms.
17. We reserve the right to charge the Customer a surcharge for payments made by credit card. We reserve the right to make changes to this surcharge from time to time or extend the surcharge to other methods of payment. If we make any changes, we will notify the Customer in writing before the changes take effect in accordance with clause 5.3 of the LexisNexis General Terms and Conditions.

## ONLINE PRODUCTS

18. Online and digital products supplied are also subject to the LexisNexis General Terms and Conditions and to Additional Terms. Customers are required to accept these additional terms and conditions before first using the product.
19. Delivery of online and digital products is made using the World Wide Web, and as such is subject to Customer having internet access and appropriate IT equipment, resources and facilities and meeting any other technical requirements specified by us from time to time.

## SUBSCRIPTIONS

20. Pay As You Go ("PAYG") Subscriptions. a) Updates to printed encyclopaedic and loose-leaf services, journals and reports will be invoiced upon publication. b) Despite any term to the contrary, Customers may terminate PAYG Subscriptions by providing 90 days written notice at any time.
21. Supplements. For hard copy products that are updated by supplements between editions, when purchasing the main work customers will automatically be sent the updating supplement on publication and will be invoiced for these when received by us.

## DELIVERY

22. Orders for printed products are accepted by us subject to availability of stock and may be delivered in two or more instalments. Subject to the warranties and guarantees included in the LexisNexis General Terms and Conditions, and to the maximum extent permitted by law, LexisNexis has no liability for any loss of trade or profit to the Customer as a result of delay in delivery or delivery of incorrect or faulty goods.
23. Delivery will be made to the address specified on the order by the Customer or its agent, or to a carrier designated by the Customer, or to other such addresses as are notified to us from time to time.
24. Risk in Goods & Services passes to the Customer on delivery under clause 22 above. Title to Goods & Services will pass to the Customer on payment in full.
25. Time is not of the essence for delivery of Goods & Services and our liability for incorrect delivery or failure to deliver is limited in accordance with clause 4 of the LexisNexis General Terms and Conditions.

## LOSS OR DAMAGE IN TRANSIT

26. Claims for damage or partial delivery or complete loss of consignment must be notified to us within 30 days of the date of invoice.

## RETURNS

27. Returns of printed Goods & Services other than Goods & Services supplied under PAYG Subscriptions will be accepted for credit provided they are received at our warehouse within 30 days of the date of invoice, are accompanied by a copy of the returns note/invoice, have a valid authorisation code obtained from our Customer Services department before Goods & Services are returned and are in a condition fit for re-sale. Refunds will be given only where the Goods & Services are returned as above and there are no other amounts outstanding and due on the Customer's credit account with us.

## NOTICES

28. Except as otherwise provided herein, all notices and other communications to you hereunder shall be in writing or displayed electronically in the Services by the provider thereof. Notices to you shall be deemed to have been properly given on the date posted, if posted; on the date first made available, if displayed in the Services; or on the date received, if delivered in any other manner. Notices to us should be sent to your LexisNexis account representative, or if you do not have an account representative to LexisNexis customer services, at LexisNexis, Level 1, Tower 2, 475 Victoria Avenue, Chatswood NSW 2067 with a copy by email to customersupport@lexisnexis.com.au. Notices to you, if sent by email or by post, shall be sent to the postal address or email address LexisNexis has on record.
29. Any change to the Customer details, including name, invoice, delivery and site addresses must be notified to us in writing within 30 days of the date of the change.

## UNFORSEEN EVENTS

30. We may cancel or suspend delivery of any ordered product or service in the event of any delay or non-performance due directly or indirectly to wars, terrorism, strikes, lockouts, delays or defaults of manufacturers or suppliers, act of God, or any other cause beyond our reasonable control.

# Schedule

If you have selected to purchase Lexis® Draft or Lexis® Draft Pro (the “Software”) the following terms apply.

## LEXIS® DRAFT and LEXIS® DRAFT PRO AGREEMENT

### 1. Technical Requirements.

The Software includes various third party tools licensed to LexisNexis under the terms and conditions herein. The Software is proprietary software that integrates LexisNexis content directly within the Microsoft Corporation software applications Microsoft Outlook and Microsoft Word. In order to use the Software, Customer must (a) subscribe to Lexis® Draft or Lexis® Draft Pro by ticking the applicable check box on the Order Form; (b) have a paid-up license to use Microsoft® Office 2007 or Microsoft® Office 2010 or Microsoft® Office 2013 from Microsoft Corporation; and (c) meet the other system operating and other requirements as reasonably required by LexisNexis for the proper operation of the Software (collectively, the “Technical Requirements”). The term “Licence Term” shall mean the period specified for the Software in the Order Form.

### 2. License.

Upon payment of the Licence Fee, LexisNexis grants Customer a personal, limited, non-exclusive, non-transferable right to access and use the Software product indicated in the Order Form, during the Licence Term, subject to the terms of the Lexis® Draft and Lexis® Draft Pro End User License Agreement attached hereto as Exhibit A and subject to the LexisNexis General Terms and Conditions and Terms of Trade. LexisNexis (or its third party licensor(s) if applicable) retains all right, title, and interest in and to the Software, and any intellectual property embodied therein. All access to and use of LexisNexis content via the Software shall be subject to the terms of this Schedule. The term “Licence Fee” shall mean the amount so specified for the Software product in the Order Form.

### 3. Renewal.

This Schedule will automatically renew for a further period equal to the initial Licence Term specified herein in accordance with clause 5.1 of the LexisNexis General Terms and Conditions. If you do not wish to renew your licence at the end of the Licence Term, you must provide notice of termination in accordance with clause 5.2 of the LexisNexis General Terms and Conditions. Upon expiry or termination of your licence for any reason, Customer may still have access to the Software however Customer will not be able to access the content and materials which would otherwise be available had the Customer had an active and valid licence.

### 4. Installation.

4.1 In order to access and use the Software, the Software must be installed on Customer’s system via one of the following installation methods:

- (a) Standard Implementation – If the Customer has selected standard installation of the Software the Customer must download the Software from the LexisNexis website and must install the Software on individual users’ desktops or on a network level, as appropriate;
- (b) Custom Installation – If the Customer has selected custom installation of the Software by LexisNexis, installation of the Software will be carried out by LexisNexis in the manner and subject to the fees, terms and conditions described in the Customer’s integration services agreement with LexisNexis

4.2 Notwithstanding the above installation method, each of the Licensed Users of the Customer must register to be able to use the Software, and must accept the end user licence terms set forth at Exhibit A on registration. The term “Licensed User” shall have the same meaning as “Authorised Users” in the LexisNexis General Terms and Conditions.

### 5. Confidentiality.

5.1 In the event that LexisNexis comes into contact with Customer’s Confidential Information in the performance of its obligations under this Schedule, LexisNexis will use the Confidential Information within its organisation on a “need to know” basis and as necessary to perform its obligations under this Schedule, and will protect the Confidential Information from disclosure to any third party. For purposes of this Schedule, “Confidential Information” shall include client or customer names, financial information, work product and other information.

5.2 Notwithstanding Section 5.1, LexisNexis may disclose Confidential Information to a third party as follows: (a) when disclosure is required under applicable law, provided LexisNexis gives Customer notice of the required disclosure and cooperates with Customer, at Customer’s expense, in seeking reasonable protective arrangements (however, LexisNexis is not required to act in a manner contrary to its legal obligation to disclose or which would result in sanctions or other penalties); and (b) to persons who are advisers or subcontractors to LexisNexis to the extent such persons are subject to confidentiality obligations with LexisNexis that protect Customer’s Confidential Information to an extent comparable with this Schedule and have a need to know the Confidential Information. At Customer’s written request, LexisNexis shall return Customer’s Confidential Information to Customer or destroy it and certify its destruction.

5.3 LexisNexis and Customer agree that Confidential Information shall not include information that (i) is already rightfully known to LexisNexis at the time it is obtained from Customer, free from any obligation to keep such information confidential; (ii) is or becomes publicly known or available through no wrongful act of LexisNexis; (iii) is rightfully received from a third party without restriction and without breach of this Schedule; (iv) is contained in, or is capable of being discovered through examination of, publicly available records or products; or (v) is developed by LexisNexis without the use of any proprietary, non-public information provided by Customer under this Schedule.

5.4 Customer agrees that any pricing information and the terms and conditions herein are deemed confidential and must not be shared with any other party.

### 6. Miscellaneous.

6.1 In the event of any conflict between the terms of this Schedule and the attached Exhibit A, the terms of this Schedule shall prevail.

6.2 Customer acknowledges and agrees that the Microsoft Word documents and Microsoft Outlook emails (“Customer’s Work”) that it selects to be analysed using certain features of the Software will momentarily leave its environment and will be sent to LexisNexis to be marked/tagged/indexed. LexisNexis represents and warrants that all such processing of Customer’s Work will happen machine-to-machine, without human intervention and LexisNexis will not store, review, or retain Customer’s Work beyond the time required for processing (i.e., LexisNexis will not store Customer’s Work in any back up logs, server logs, etc.)



**EXHIBIT A**  
**LEXIS® DRAFT AND LEXIS® DRAFT PRO END USER LICENSE AGREEMENT**

**1. LICENSE GRANT.**

- 1.1 Subject to the terms and conditions of this Lexis® Draft and Lexis® Draft Pro End User License Agreement (this "EULA"), LexisNexis grants you a personal, limited, nonexclusive, non-sublicensable, non-transferable license for the agreed Licence Term to access and use the Lexis® Draft or Lexis® Draft Pro software product (the "Software") set forth in your customer order form, solutions service agreement or other agreement with LexisNexis ("Order Form"). Use of the Software is subject to the terms set forth in the Order Form including the number of Licensed Users, the Licence Term and the Licence Fee set forth in the Order Form. Customer must not use the Software in excess of the number of authorised Licensed Users and/or any other restrictions/limitations described herein. Other provisions that govern your use of the Software are set forth in the LexisNexis General Terms and Conditions including any other applicable terms and conditions referenced therein ("Referenced Terms"). This EULA, your Order Form and the Referenced Terms together form your agreement with us in respect of the Software ("Agreement").
- 1.2 Restrictions and Prohibitions on Use. Except as expressly permitted by Section 1.1, or upon the express prior written consent of LexisNexis, you may not, nor permit others to: (1) copy, print, republish, display, transmit, distribute, sublicense, sell, rent, lease, loan, or otherwise make available in any form or by any means (including electronic media now existing or hereafter developed), all or any substantial portion of the Software; (2) provide anyone other than your Licensed Users access to the Software or any portions thereof; (3) use the Software to develop, or as a component of, an information storage or retrieval system, database, info-base, or similar information resource (in any media now existing or hereafter developed), including through sale, license, lease, rental, subscription, or any other commercial distribution mechanism; (4) create compilations or derivative works of the Software; (5) make any portion of the Software available through any timesharing system, service bureau, the Internet, or any other technology now existing or developed in the future; (6) remove, change, or obscure any copyright notice or other proprietary notice or terms of use contained in the Software; (7) remove, disable, or defeat any functionality of the Software; (8) upload content in the Software (through the Notes feature or otherwise) that is defamatory, libellous, pornographic or obscene, unless such content is reasonably related to professional responsibilities; (9) disclose, provide or otherwise make available trade secrets contained within the Software without the prior written approval of LexisNexis; (10) alter or remove any proprietary notices or legends contained on or in the Software; (11) release, publish, and/or otherwise make available to any third party the results of any performance or functional evaluation of the Software without the prior written approval of LexisNexis; or (12) use for illegal purposes.
- 1.3 Electronic Documents. Solely with respect to the electronic documents included with the Software (e.g., the electronic version of the user guide), you may only make as many copies as reasonably necessary for use by each Licensed User (either in hard copy or electronic form), provided that such copies shall be used only for your sole use and are not republished or distributed to any third party.
- 1.4 Third Party Materials. The use of some third-party materials included in the Software may be subject to other terms and conditions typically found in a separate software agreement or "Read Me" file located in or near such materials.
- 1.5 Audit. Customer agrees that LexisNexis (or its third party licensor, if applicable) and its independent accountants reserves the right to examine Customer's books, records and accounts during Customer's normal business hours to verify compliance with these terms. In the event such audit discloses non-compliance with these terms, Customer shall promptly pay the appropriate license fees as advised by LexisNexis, plus the reasonable cost of conducting the audit.
- 1.6 Customers of Lexis® Draft Pro only. In addition to the terms of this Agreement, Customer acknowledges and agrees that:
- (a) some portions of the Software licensed hereunder may make use of one or more aspects of a database of words referred to as WordNet®, from Princeton University. The following copyright notice applies to WordNet®:

WordNet 3.0 Copyright 2006 by Princeton University. All rights reserved. THIS SOFTWARE AND DATABASE IS PROVIDED "AS IS" AND PRINCETON UNIVERSITY MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED. BY WAY OF EXAMPLE, BUT NOT LIMITATION, PRINCETON UNIVERSITY MAKES NO REPRESENTATIONS OR WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR THAT THE USE OF THE LICENSED SOFTWARE, DATABASE OR DOCUMENTATION WILL NOT INFRINGE ANY THIRD PARTY PATENTS, COPYRIGHTS, TRADEMARKS OR OTHER RIGHTS. The name of Princeton University or Princeton may not be used in advertising or publicity pertaining to distribution of the software and/or database. Title to copyright in this software, database and any associated documentation shall at all times remain with Princeton University and Customer agrees to preserve same.

- (b) The third party licensor may amend its terms of use at any time on reasonable notice, including without limitation by posting revised terms on its website at <http://www.wordrake.com/wordrake2eula.html> which amended terms you shall be binding on you.

- 2. COPYRIGHT.** LexisNexis and its third party licensors and developers hold exclusive ownership of the Software and all intellectual property rights embodied therein, including copyrights and valuable trade secrets incorporated in the Software's design and coding methodology including any documentation, user manuals, specifications or derivative works thereof. The Software is protected by United States and international copyright laws and international treaty provisions. This EULA does not grant you any ownership or intellectual property rights in the Software. All suggestions or feedback provided by the Customer to LexisNexis, its employees, agents or third party licensors with respect to the Software shall be the property of LexisNexis and/or its third party licensors and Customer hereby assigns the same to LexisNexis and/or its third party licensors. You may make one copy of the machine-readable form of the Software for backup or archive purposes and as such you must reproduce the original copyright notice with that copy.

- 3. REVERSE ENGINEERING.** You agree that you will not, nor will you permit others to attempt to: (i) modify or translate the Software; (ii) decompile, decrypt or disassemble the Software or reduce the Software to human-readable form, (iii) create derivative works based on the Software; (iv) merge the Software with or into another product not approved for use by LexisNexis (excluding Microsoft Office); or (v) copy the Software except as expressly permitted by this EULA.

**4. SOFTWARE SUPPORT**

- 4.1 As part of your licence of the Software, LexisNexis will provide the following support and maintenance for the Software in the first year commencing on the date you purchase the Software licence ("Support Services"):
- (a) Product Support. LexisNexis will provide support services for the Software according to the support centre;
- (b) Software Problem Resolution. If you report to LexisNexis that the Software does not function according to the user-level documentation for the Software ("Software Problem") and otherwise comply with Section 5, LexisNexis will investigate the Software Problem within a reasonable time after receiving proper notice from you, and sufficient information to identify the problem. LexisNexis will work to correct the Software Problem(s) that can be verified based on the information provided by you utilizing a system that meets the system requirements for the Software. If the investigation confirms the existence of a Software Problem, LexisNexis will use reasonable efforts to correct the Software Problem which may include implementing a temporary work-around. If LexisNexis, in good faith, determines that the Software Problem results from an error in the applicable user-level documentation, LexisNexis may correct the Software Problem by correcting that documentation.
- (c) Software Updates and Upgrades. The license granted herein is only to the Software product offering specified on your Order Form. This license does not entitle you to have access or use of any other Lexis® Draft software module or product. In order to ensure the proper operation of the Software in accordance with its written documentation, LexisNexis will provide you with patches, bug fixes, corrections and minor enhancements during the first 12 months from the date of purchase of the Software ("Updates"). Updates will be provided free of charge as they become commercially available from LexisNexis in the first 12 months. Thereafter, LexisNexis may continue to provide Updates free of charge at its discretion.

LexisNexis may also provide you with feature or functionality enhancements to the Software (an "Upgrade") as such Upgrades become commercially available from LexisNexis and which may be chargeable. LexisNexis's distribution of Upgrades and/or Updates to you does not entitle you to use more copies of the Software than the number of Licensed Users for which you have a valid licence. This license, including the release of any Update or Upgrade to the Software, does not entitle you to have access to or use of any other Lexis® Draft software product. If you wish to use any other Lexis® Draft software product, you may be required to execute an

agreement with LexisNexis which contains the appropriate terms of use and charges for the applicable Lexis® Draft software module/product. Your use of an Upgrade or Update is licensed in accordance with the terms and conditions of this EULA.

- 4.2 LexisNexis is not obligated to provide Support Services for any Software (a) that has been provided to you free of charge, (b) that has been altered other than by LexisNexis or at LexisNexis's direction, (c) that is more than one version out of date or (d) that has been discontinued.
- 4.3 LexisNexis retains the right to change or modify the Support Services offered herein at any time and from time to time upon thirty (30) days' written notice to you.

#### 5. YOUR RESPONSIBILITIES.

- 5.1 The Support Services do not include, and you must provide at your expense unless otherwise expressly agreed by you and LexisNexis in writing: (a) installation, testing, and operation of the Software and all Upgrade and/or Updates; (b) isolation and documentation of Software Problems; (c) intranet resources, backup and restoration of your systems; and (d) modems and Internet access for LexisNexis's remote access and diagnosis of Software Problems, when necessary.
- 5.2 LexisNexis is not responsible for products provided to you by third parties, whether or not LexisNexis recommended them or assisted in their evaluation, selection, or supervision. The failure of those products or their respective suppliers to meet your requirements will not affect either party's obligations under this EULA.

#### 6. WARRANTY.

- 6.1 LexisNexis warrants that at the time of installation, the Software will operate substantially in accordance with the documentation provided with the Software on delivery as at the date of installation, unless performance problems are the result of hardware failure, improper use, or modification by you or your agents or contractors or due to your failure to install Updates. If the Software does not so operate substantially in accordance with this clause, your exclusive remedy and LexisNexis's sole obligation under this warranty shall be, in LexisNexis's sole discretion, either to replace the Software, to provide you with a bug fix or patch, or to refund the Licence Fee.
- 6.2 LexisNexis further warrants that Software Support will be performed in a professional manner, consistent with industry standards.
- 6.3 If you are a "consumer" for the purposes of Australian Consumer Law, we are required to include the following statement as a result of the undertakings described in Section 4.1, 6.1 and 6.2. Our goods and services come with guarantees that cannot be excluded under the Australian Consumer Law. Under the Australian Consumer Law, you are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure. The benefits to you described in Sections 4.1, 6.1 and 6.2 are in addition to other rights and remedies you have under the Australian Consumer Law and other laws. Our warranties are provided by Reed International Books Australia Pty Limited trading as LexisNexis, Address: Tower 2, 475 Victoria Avenue, Chatswood NSW 2067, Telephone Number: 1800 772 772 Email: customersupport@lexisnexis.com.au.

However, please be aware that the Australian Consumer Law permits us to limit our liability in respect of the guarantees referred to above in accordance with the limitation in Section 6.4.

- 6.4 If you are a "consumer" for purposes of the Australian Consumer Law, certain guarantees may be conferred on you and certain rights and remedies may be conferred on you which cannot be excluded, restricted or modified. If so, then to the maximum extent permitted by law, our liability to you is limited at our option to:
- (a) In the case of goods, replacement or repair of goods or payment of the cost of replacing or repairing the goods; and
- (b) In the case of services, re-supply of the services or payment of the cost of re-supplying the services.
- 6.5 Subject to Section 6.4 and to the maximum extent permitted by law, we hereby exclude all other conditions, warranties, guarantees or representations, express or implied, by statute, trade or otherwise, including without limitation: LEXISNEXIS DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE SOFTWARE, UPGRADE OR UPDATE WILL MEET ANY PARTICULAR REQUIREMENTS OR NEEDS YOU MAY HAVE, THAT THE SOFTWARE, UPGRADE OR UPDATE (INCLUDING SOFTWARE WHICH LEXISNEXIS CREATES OR MODIFIES FOR YOU) WILL OPERATE UNINTERRUPTED OR BUG/ERROR-FREE, OR THAT THE SOFTWARE, UPGRADE OR UPDATE IS COMPATIBLE WITH ANY PARTICULAR PLATFORM, SYSTEM OR APPLICATION. PORTIONS OF THE SOFTWARE HAVE BEEN DEVELOPED BY THIRD PARTIES AND SUCH PORTIONS ARE PROVIDED "AS IS." ADDITIONALLY, IF YOU RECEIVED THE SOFTWARE FREE OF CHARGE, THE SOFTWARE IS PROVIDED TO YOU "AS IS" WITHOUT WARRANTY OF ANY KIND. ALL WARRANTY DISCLAIMERS AND LIMITATIONS OF LIABILITY SET FORTH HEREIN APPLY TO LEXISNEXIS'S SOFTWARE DEVELOPERS, SUBCONTRACTORS AND SUPPLIERS. IT IS THE MAXIMUM FOR WHICH THEY AND LEXISNEXIS ARE COLLECTIVELY RESPONSIBLE.

#### 7. FEES AND PAYMENT FOR LICENCE.

- 7.1 Applicable fees and charges for the Software and the support services are set forth in your Order Form. Unless otherwise stated, the fees for the licence do not include any taxes, such as sales, use, or excise taxes and are non-refundable.
- 7.2 In the event LexisNexis sends you an invoice for the Licence Fees, you shall pay LexisNexis the net amount of each invoice in Australian dollars within 30 days after the date of the invoice. If you fail to pay any invoiced amount when due, LexisNexis may charge you interest on the unpaid balance from the date of the invoice until the date paid at a rate equal to 1.5% per month or the highest rate permitted by law, whichever is lower.

8. **TERMINATION.** The Agreement may be terminated in accordance with the LexisNexis General Terms and Conditions. Upon termination of the Agreement, you will promptly cease all use of the Software and will return all copies of the Software and documentation to LexisNexis or, at the option of LexisNexis, certify to LexisNexis in writing, signed by an executive officer, that all copies of the Software and documentation have been destroyed. Termination of the Agreement will not be an exclusive remedy and all other remedies will be available to either party whether or not the Agreement is terminated.

9. **LIMITATIONS OF LIABILITY.** SUBJECT TO SECTION 6.4, NOTWITHSTANDING THE TERMS CONTAINED IN THIS EULA, IN NO EVENT AND UNDER NO LEGAL THEORY, INCLUDING WITHOUT LIMITATION, TORT, CONTRACT, OR STRICT PRODUCTS LIABILITY, SHALL LEXISNEXIS, ITS PARENT, AFFILIATES, OR ANY OF ITS SOFTWARE DEVELOPERS, SUPPLIERS OR SUBCONTRACTORS BE LIABLE TO YOU OR ANY OTHER PERSON FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOSS OF GOODWILL, BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION OR DATA, COMPUTER MALFUNCTION, OR ANY OTHER KIND OF COMMERCIAL DAMAGE, EVEN IF LEXISNEXIS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. UNDER LOCAL LAW, CERTAIN LIMITATIONS MAY NOT APPLY, AND YOU MAY HAVE ADDITIONAL RIGHTS WHICH VARY FROM STATE TO STATE. SUBJECT TO SECTION 6.4 AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL LEXISNEXIS'S LIABILITY FOR ACTUAL DAMAGES FOR ANY CAUSE WHATSOEVER, AND REGARDLESS OF THE FORM OF ACTION, EXCEED THE AMOUNT OF THE LICENCE FEE PAID BY YOU FOR THE PRECEDING TERM.

You agree that a material breach of the terms and conditions herein adversely affect the intellectual property rights of LexisNexis (or its third party licensor, if applicable) in the Software or confidential information and may cause irreparable injury for which monetary damages would not be an adequate remedy and as such LexisNexis shall be entitled to equitable relief (without a requirement to post a bond) in addition to any remedies it may have hereunder or at law. In addition, you shall defend, indemnify and hold harmless LexisNexis (and/or its third party licensor, if applicable) and their officers, directors, employees, agents, affiliates, representatives, and distributors, from and against any and all suits, actions, claims, costs, damages, losses, liabilities and expenses (including legal fees) they may suffer or incur in connection with your breach of the licence terms in Sections 1 – 3 of this Agreement.

10. **INDEMNITY.** Subject to the terms herein, LexisNexis (or its third party licensor, if applicable), at its expense, shall defend Customer from any and all third party claims that the Software infringes or violates any third party intellectual property right in the country that the Customer purchased a license to the Software and shall indemnify Customer from any amounts assessed against Customer in a resulting judgment or amounts to settle such claims, provided that Customer: (a) gives prompt written notice of any such claim; (b) permits LexisNexis to control and direct the defense or settlement of any such claim; and (c) provide all reasonable assistance in connection with the defense or settlement of any such claim, at its expense. If Customer's use of the Software is (or in LexisNexis' opinion is likely to be) enjoined, then, at its expense and in its sole discretion, may: (i) procure the right to allow Customer to continue to use the Software, or (ii) modify or replace the Software or

infringing portions thereof to become non-infringing, or (iii) if neither (i) nor (ii) is commercially feasible, terminate Customer's right to use the affected portion of the Software.

To the extent any infringement claim is based upon or arises out of: (i) any modification or alteration to the Software not made by LexisNexis or its third party licensors; (ii) any combination or use of the Software with products or services not approved by LexisNexis in writing; (iii) Customer's continuance of allegedly infringing activity after being notified thereof; (iv) Customer's failure to use any Updates made available by LexisNexis; and/or (v) use of the Software not in accordance with the applicable documentation or outside the scope of the license granted under this Schedule. The remedies set forth in this Section constitute Customer's sole and exclusive remedies, and LexisNexis' entire liability, with respect to infringement or misappropriation of third party intellectual property.

11. **EXPORT RESTRICTIONS.** You agree that you will not permit use of or export, directly or indirectly, re-export, divert or transfer the Software in violation of any applicable export control law or regulation, including without limitation, the U.S. Export Administration Regulations ("Export Controls").
12. **MISCELLANEOUS.**
  - 12.1 LexisNexis (or its third party licensor, if applicable) retains sole title to and ownership of the Software and all components, all related information furnished to you under this Schedule, and all related copyrights, trade secrets, and other intellectual property.
  - 12.2 LexisNexis furnishes products and services to you under this EULA on a non-exclusive basis. LexisNexis may directly or indirectly furnish the same or similar products and services to other parties doing business within or outside the vertical, horizontal, or geographic markets in which you do business.
  - 12.3 Except as otherwise provided herein, all notices and other communications to you hereunder shall be in writing or displayed electronically in the Software. Notices to you shall be deemed to have been properly given on the date posted, if posted; on the date first made available, if displayed in the Software; or on the date received, if delivered in any other manner. Notices to us should be sent to your LexisNexis account representative, or if you do not have an account representative to LexisNexis customer services, at LexisNexis, Level 1, Tower 2, 475 Victoria Avenue, Chatswood NSW 2067 with a copy by email to customersupport@lexisnexis.com.au. Notices to you, if sent by email or by post, shall be sent to the postal address or email address LexisNexis has on record.
  - 12.4 Any change to the customer details, including name, invoice, delivery and site addresses must be notified to us in writing within 30 days of the date of the change.
  - 12.5 Each party shall submit requests for approvals, consents, and waivers to the other party in writing in a timely manner. No approval, consent, or waiver under this EULA shall be enforceable unless set forth in a writing signed by an Authorised representative of the granting party. A waiver of a default of any term of this EULA shall not be construed as a waiver of any succeeding default of that term or as a waiver of the term itself. A party's performance after the other party's default shall not be construed as a waiver of that default. No approval, consent, or waiver shall be deemed to have been given by implication and neither party shall be liable for delays in responding to, failures to respond to, or denials of those requests.
  - 12.6 LexisNexis acknowledges and agrees that (i) all documents and communications sent by you to the Lexis® Draft or Lexis® Draft Pro server are confidential; and (ii) legal professional privilege may attach to them. LexisNexis will use reasonable endeavours to maintain the confidential nature of such documents and communications, including ensuring proper and secure storage for documents and communications whilst in its control. Whilst LexisNexis strives to maintain the security and integrity of its IT systems and databases in accordance with good industry practice, no IT system or telecommunication network can be guaranteed.
  - 12.7 LexisNexis excludes all liability for breach of confidentiality or security if the breach is caused other than by a negligent act or omission of LexisNexis.
  - 12.8 You acknowledge that the Software contains confidential and proprietary information and trade secrets belonging to LexisNexis or its third party licensors and that such information and trade secrets are being provided to you on a confidential basis. You shall maintain the confidential nature of the Software and any documentation which is provided for your own internal use under this license in the same manner you would protect your own confidential material.
  - 12.9 Each term of this EULA is severable. If a court, agency, or arbitrator having jurisdiction determines that any term is unenforceable under applicable law, that determination shall not affect the enforceability of the other terms of this EULA.
  - 12.10 This EULA, together with the Order Form and any Referenced Terms, constitutes the complete agreement between the parties concerning this subject, and supersedes all earlier oral and written communications between the parties with respect to this subject.
  - 12.11 Neither party shall assign its rights or delegate its duties under this EULA without the prior written consent of the other party, except that LexisNexis may assign this EULA to an affiliate or to its successor by merger or to the transferee of substantially all of its stock or assets without your prior consent. Any assignee or delegatee shall be subject to the same obligations, restrictions, and limitations to which the assignor or delegator is subject, and no assignor or delegator shall be released from liability under this EULA by reason of any such assignment or delegation. This EULA shall be binding on and inure to the benefit of the parties and their respective successors and permitted assigns.

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