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DEFINITIONS

Agreement has the meaning given to it in the Order Form.

Access Credentials means the access credentials issued by us to you and your Users that allow you and your Users to access the Software.

Assigned Training has the meaning given to it in clause 4.2.

Australian Consumer Law means Schedule 2 of the *Competition and Consumer Act 2010* (Cth).

Cancellation Fee means the cancellation fee specified in the Order Form.

Confidential Information means information that is marked, designated or by its nature confidential relating to the business or affairs of a party, and includes in the case of us, the Documentation, and any non-public information relating to the Product (including pricing).

Data Breach means any loss or unauthorised access, modification or disclosure of Your Data hosted on our systems.

Documentation means any materials or information we provide to you in relation to the Product, including the Specification and the Technical Customer Requirements (as referred to in Schedule 2) and electronic training manuals.

End User Contract or **EUC** means these End User Contract Terms and Conditions as updated from time to time and available online at <https://www.lexisnexis.com.au/en/terms-and-conditions> and includes all Schedules to them.

Fault means the failure of the Software to materially provide the functionality contained in the Specification.

Fees means the Licence Fees, Optional Product Fees, Professional Services Fee and any other fees as set out in the Order Form and as varied in accordance with the Agreement from time to time.

First Subscription Term means the period set out in the Order Form, commencing on the Go Live Milestone, or if no period is specified in the Order Form, such period shall be the 12-month period commencing on the Go Live Milestone.

Go Live Milestone means the date specified in your project plan or, if not specified, the date upon which the Software is first made available to you in production mode.

Implementation Services means the Product implementation services provided as standard by LexisNexis to all purchasers of the Product, to the level necessary to assist with implementation of the Product (as reasonably determined by LexisNexis at its sole discretion).

Intellectual Property Rights means rights conferred under statute, common law and equity in relation to inventions, innovations, patents, designs, trade marks, trade names, logos and get-up, circuit layouts, and copyright, existing anywhere in the world, and for the duration of those rights.

LexisCare means the LexisCare support centre at lexiscare.com.au.

Licence Fee means the licence fee specified in the Order Form.

Optional Product means a product specified as an optional product chosen by you in the Order Form.

Optional Product Fee means the fee specified in the Order Form for an Optional Product.

Oracle means Oracle Corporation Australia Pty Limited (ABN 80 003 074 468).

Order Confirmation has the meaning given to it in the Order Form.

Personal Information means information about an identified individual or an individual who is reasonably identifiable, including 'personal information' and 'personal data' as defined in applicable Privacy Law.

Privacy Law means any applicable law governing the Processing of Personal Information, including the *Privacy Act 1988* (Cth).

Process means to collect, store, use, copy, disclose or perform any other set of operations on, information or data.

Product means the Affinity Connect practice management system, comprising the Software, any Optional Products and Documentation, and any content, information or materials comprised in, accessible through, or Processed by the Software (other than Your Data).

Professional Services means the professional services specified in the Order Form as a professional service chosen by you in the Order Form.

Professional Services Fee means the fee specified in the Order Form for Professional Services.

Related Body Corporate has the meaning given to it in the *Corporations Act 2001* (Cth).

Renewal Term has the meaning given to it in clause 2.2.

Software means the Affinity Connect software, any Upgrades, software in any Optional Products, and unless stated to the contrary, includes Third Party Software, that is hosted and maintained by us, and made accessible to you as a service.

Specification means any specification relating to the Software set out in the Agreement or the Documentation.

Subscription Term means the First Subscription Term and each Renewal Term.

Term has the meaning given to it to it in clause 2.1.

Third Party Software means the software comprised in the Product which is licensed to us by Oracle.

Upgrades mean enhancements, workarounds, fixes, patches and new versions of the Software released and implemented by us from time to time after the Go Live Milestone. Upgrades may or may not include modules or software which provide new or additional functionality. Upgrades may, at our discretion, also include third-party software. Upgrades do not include consultancy services.

User means any employees (temporary or permanent), contractors and other persons at your organisation on secondment who can concurrently access the Product in accordance with your licence rights.

Your Data means any data, information or material uploaded to the Software by you or your Users.

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TERM AND SUBSCRIPTION TERM

2.1

The Agreement will commence on the date the Order Confirmation is issued and will continue until the expiry of the Subscription Term unless terminated in accordance with its terms ("**Term**").

2.2

The Agreement is for the minimum period specified in the First Subscription Term and may not be cancelled or terminated during the First Subscription Term (subject to any termination rights granted under the Agreement). The First Subscription Term will automatically renew for further 12-month periods (each a "**Renewal Term**") at our then applicable licence fees and Optional Product fees, unless you notify us in writing that you wish to terminate at least 30 days prior to the expiry of the First Maintenance Term or current Renewal Term (as applicable). The applicable licence fees and Optional Product fees will be notified to you at least 45 days prior to the expiry of the First Maintenance Term or current Renewal Term (as applicable).

2.3

Without prejudice to any other right or remedy we may be entitled to under the Agreement or at law, in the event that:

	(a)	you are entitled to and exercise your right of termination under clause 11.3; or			or equipment, or interferes with the use of the Software by us or any of our customers; or
	(b)	we terminate the Agreement under clause 11.2,		(j)	access or use the Software by any unauthorised means, including by using any bot, script, spider, crawler, scraper, API or automated device not approved by us in writing.
		you must pay the pro rata Cancellation Fee to us. The Cancellation Fee will be recovered by us via direct debit. You acknowledge that the Cancellation Fee is a genuine pre-estimate of the fixed costs and expenses we would incur or be liable for to third parties. The Cancellation Fee may vary each Renewal Term. Changes to the Cancellation Fee will be notified to you 45 days prior to the expiry of the First Maintenance Term or current Renewal Term (as applicable).	4	DOCUMENTATION AND TRAINING	
			4.1		We will provide you with electronic access to the Documentation. The Documentation will explain the functionality of the Software and the Product.
2.4		You may include in the Agreement any new optional product or professional service, from the options specified in Schedule 2, Parts C and D, purchased by you during the Term.	4.2		We may assign training modules, quizzes and materials through the Lexis Learning platform (" Assigned Training "). You must ensure that your Users complete the Assigned Training, each with at least an 80% pass rate prior to the Go Live Milestone.
3		LICENCE	5		THIRD PARTY SOFTWARE
3.1		We grant you, during the Subscription Term, a non-exclusive licence to access and use the Product, and any work product or other output of the Professional Services, solely for your own internal business purposes and subject to the terms of this Agreement. The licence granted under this clause is non-transferable, subject to clause 21.4.	5.1		You acknowledge that the Software utilises Third Party Software. For the avoidance of doubt, Third Party Software is subject to the terms and conditions of the Agreement.
			5.2		You acknowledge and agree that:
3.2		Access to and use of the Product is strictly limited to the number of concurrent Users set out in the Agreement, or as otherwise amended from time to time.		(a)	you may only use the Third Party Software in conjunction with your use of the Software;
3.3		You and your Users will be issued with Access Credentials to access the Software. You must, and must ensure that your Users, keep such Access Credentials confidential and secure, and not permit any third party to access the Software using your Access Credentials. You are responsible and liable for the acts and omissions of any person (whether or not a User) that accesses the Software using your Access Credentials as if those acts and omissions were your own.		(b)	Oracle or its licensor retains all ownership and intellectual property rights to the Third Party Software;
				(c)	you will not assign, give, or transfer the Third Party Software and/or services ordered or an interest in them to another individual or entity;
3.4		You must ensure that each person having access to the Product:		(d)	you will not pass title to the Product to any of your Users or any third party;
	(a)	is an authorised User; and		(e)	use of the Third Party Software is restricted to the legal entity that executed the Agreement and its Users;
	(b)	uses the Product in accordance with the terms and conditions of the Agreement.		(f)	to the extent permitted by law, Oracle's liability is disclaimed for (i) any damages, whether direct, indirect, incidental, special, punitive or consequential; and (ii) any loss of profits, revenue, data or data use, arising from the use of the programs;
3.5		You must not, and must ensure your Users do not:		(g)	you shall not publish any results of benchmark tests run on the Third Party Software;
	(a)	resell, sublicense, rent, timeshare, host, outsource the Product;		(h)	you do not require Oracle to perform any obligations or incur any liability not previously agreed;
	(b)	use or make the Product available for the purposes of any third party;		(i)	to the extent permitted by law, Oracle may be designated as a third party beneficiary of the Agreement;
	(c)	use the Third Party Software other than in conjunction with the Product;		(j)	some programs may include source code that Oracle may provide as part of its standard shipment of such programs, which source code shall be governed by the terms of the relevant end user licence agreement; and
	(d)	decompile, disassemble, reverse engineer, copy, duplicate, adapt or modify the Product;		(k)	third party technology may be appropriate or necessary for use with the Third Party Software. Such third party technology is licensed to you only for use with the Product.
	(e)	use the Product to operate a service bureau, subscription service or to process data for a third party;	6	SUPPORT SERVICES AND IMPLEMENTATION SERVICES	
	(f)	remove or modify any program markings or notice of any proprietary rights in or on the Product;	6.1		We will provide you with:
	(g)	upload any data or material to the Software that is unlawful, harmful, malicious, threatening, defamatory, obscene, infringing, offensive, sexually explicit, violent or discriminatory. For the avoidance of doubt, this clause 3.5(g) does not apply to data or material uploaded to the Software in the usual course of your business that was provided to you by your clients;		(a)	standard support services in respect of the Product during the Subscription Term, as set out in Schedule 3; and
	(h)	use the Software in contravention of any applicable law, or in any fraudulent, criminal or illegal manner;	6.2	(b)	Implementation Services.
	(i)	access or use the Software in any way that creates a security risk (including the transmission of any virus or malicious code), interferes with or damages the Software or any of our networks, systems	6.3		Without prejudice to clause 20, we may vary the features of support services on reasonable prior notice to you.
					In order for us to perform the Implementation Services, you must provide, in a timely manner, us with certain information we request from you.

- 6.4 If at any time during the Term you discover any Fault, then:
- (a) your employees who have been trained in operating the Software shall use their best endeavours to resolve the Fault; and
 - (b) only if the issue cannot be resolved by your qualified employees, you must as soon as is reasonably practicable (and in any event within 14 days of such discovery), notify us of the Fault via LexisCare.
- 6.5 Upon receipt of notification of the Fault (the category of Fault being reasonably determined by us), we shall use reasonable endeavours to correct the Fault (at our cost) within a reasonable time.
- 6.6 For the avoidance of doubt, Faults do not include any unavailability of the Software caused by your equipment, networks or network services, or any use of the Software by you or your Users other than in accordance with the Documentation.
- 7 PAYMENT**
- 7.1 You must pay us the applicable Fees in accordance with the payment terms specified on the Order Form. If we do not receive full payment within 30 days of any due date, interest will accrue at the rate of 1.5% per month without prejudice to our rights to (i) suspend access to the Software or cease any further work or services under the Agreement; or (ii) submit your account to a collection agency. If we do submit the account to a collection agency, you agree 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.
- 7.2 We may vary the Fees as specified in the Order Form at any time upon notice to you (or publication on our website), however such varied fees will only take effect upon the commencement of the next Renewal Term (or, if notice of the Fee variation is given to you less than 30 days prior to next Renewal Term, the Renewal Term following the next Renewal Term). If you do not agree with a Fee variation, you may elect not to enter the Renewal Term in accordance with clause 2.2.
- 7.3 If GST is imposed on any supply under the Agreement, you must pay, in addition to any consideration payable or to be provided by you, an additional amount calculated by multiplying the prevailing GST rate by the consideration payable or to be provided, provided always that we will issue a valid tax invoice to you, no later than the time at which the consideration payable must be provided.
- 7.4 You must pay us all applicable Fees and any other amounts owing to us without set-off or deduction or withholding for or on account of any counterclaim or any present or future taxes, levies, duties, charges or fees. For the avoidance of doubt, any finance arrangement you may enter into is your responsibility and will not affect the enforceability of this agreement, nor the rights and obligations of the parties including your obligation to pay us the Fees.
- 7.5 Any Fees or other amounts you pay us under the Agreement are non-refundable, except as otherwise provided herein, even if your circumstances change.
- 7.6 We may receive financial incentives from third parties in relation to referrals to them for integrated services. We will disclose the existence of such arrangements to you prior to making such referrals.
- 7.7 You acknowledge that you may have to pay the difference in our standard charges as your use of the Product increases through the addition of Users. No refund will be given by us if the number of Users is reduced by you.
- 8 WARRANTIES AND GUARANTEES**
- 8.1 We warrant that:
- (a) during the Subscription Term, the Software will materially conform with the functional description in the Specification; and
 - (b) during any period in which Professional Services and/or Implementation Services are performed, the Professional Services and Implementation Services (as applicable) will be performed with reasonable care and skill.
- 8.2 You must give us notice as soon as reasonably practicable upon becoming aware of a breach of a warranty in clauses 8.1(a) or 8.1(b) during the applicable warranty period. Our sole liability and obligation in relation to a breach a warranty during the applicable warranty period under:
- (a) clause 8.1(a), shall be to (at our cost) remedy, repair or replace the Product; and
 - (b) clause 8.1(b), shall be to re-supply the Professional Services or engage a third party to re-supply the Professional Services (or the failing parts thereof),
- in each case, within a reasonable period.
- 8.3 If you are a "consumer" for the purposes of the Australian Consumer Law, we are required to include the following statement as a result of the undertakings described in clauses 8.1 and 8.5.
- 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 clauses 8.1 and 8.5 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 999 906, 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 clause 8.4.
- 8.4 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 for breach of any such guarantee 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 re-supplying the services.
- 8.5 Subject to clause 8.4 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:
- (a) that the operation of the Product (including any procedure in the Software) will be uninterrupted or error free; or
 - (b) that the Software will operate on your existing computer hardware or computer hardware that you may acquire in the future; or
 - (c) that the Software is compatible with other computer programs apart from the Third Party Software (unless otherwise stated in the Agreement); or
 - (d) that the running of other software or processes on your hardware, or interfaced with the Software (excluding Third Party Software) will not adversely affect the

- functioning of the Product (unless otherwise stated in the Agreement); or
- (e) that the Product will have the same functionality or perform as any existing product or other product used or contemplated for use by you.
- 9 LIABILITY**
- 9.1 The Fees are determined on the basis of the limitation and exclusions of liability in the Agreement. You agree that the limitations and exclusions are reasonable. Nothing in the Agreement is intended to exclude or limit either party's liability to the other for liabilities which cannot be limited or excluded by law.
- 9.2 Subject to clause 8.4 and the remainder of this clause 9, and to the maximum extent permitted by law, our total liability under the Agreement (including any indemnity), whether for breach, in tort (including negligence), or for any other common law or statutory cause of action shall be limited at our option to any one or more of the following, as may be appropriate:
- rectification or replacement of the Product;
 - supply of Professional Services to provide rectification of the issue;
 - refund of up to 100% of all money paid by you to us under the Agreement within the 12 months preceding notification of the claim.
- 9.3 Any claim under clause 9.2 must be notified to us within 12 months of the cause of action arising.
- 9.4 Subject to clause 8.4 and to the maximum extent permitted by law, neither party shall in any event be liable to the other for any indirect or consequential loss, loss of profits (without prejudice to your liability to pay the Fees), contracts, business, revenue, goodwill or anticipated savings (whether in each case direct or indirect), or any other indirect, consequential or special losses or damages howsoever caused.
- 9.5 Subject to clause 8.4 and to the maximum extent permitted by law, we will not be liable for:
- any loss or corruption of data, software or database configuration held by you (whether before or after termination of any Agreement), or any problems of any nature;
 - any defects or failures which arise in whole or in part from accident, neglect or misuse of the Product;
 - defects caused by products, equipment or computer programs not provided by us, including integrated third party products and software; or
 - failure of electrical power or circuitry or network outside the Product.
- 9.6 Our liability to you under this clause 9 will be reduced to the extent that the event giving rise to such liability is caused or contributed to by any act or omission of you.
- 9.7 This clause 9 has continuing effect after termination of the Agreement.
- 10 INDEMNITIES**
- 10.1 You must immediately notify us upon becoming aware of a claim by any person that your use of the Software (other than the Third Party Software) in accordance with this Agreement infringes Intellectual Property Rights of a person in Australia ("IP Claim").
- 10.2 Subject to clause 9.2, if you notify us of an IP Claim, we will indemnify you against any final court awarded damages finally awarded against you, or any settlement amounts agreed to by us, in respect of the IP Claim, provided that:
- we are exclusively entitled to contest, defend or settle the IP Claim;
 - you provide us with all reasonable assistance and make no admissions prejudicial to the defence of the IP Claim;
- we are entitled to retain all costs, expenses, damages or other compensation awarded in connection with the resolution or settlement of any the IP Claim;
 - the indemnity shall not apply to the extent that the IP Claim is attributable to a breach by you (or any User) of any of your obligations or warranties under this Agreement; and
 - the indemnity is subject to your duty to mitigate all damages, liabilities, costs and expenses arising out of any such claims.
- 10.3 In the event that an IP Claim is made or in our opinion is likely to be made, we may at our option and cost:
- procure the right for you to continue to use the Software the subject of the IP Claim;
 - change or replace all or any part of the Software so that it is no longer infringing; or
 - terminate this Agreement and provide you with a pro-rata refund of any pre-paid Fees relating to any period after termination.
- 10.4 Clauses 10.2 and 10.3 set out your sole and exclusive remedy, and our sole and exclusive obligation and liability to you, in respect of any IP Claim.
- 10.5 You indemnify us and our Related Bodies Corporate against, and must pay on demand, all loss and damage suffered or incurred by any of them arising out of or in connection with:
- any third party claim against us relating to Your Data, or your (or your Users) use of, or reliance on, the Product or any output of the Product (including any claim by any of your Users or customers);
 - any breach of your obligations in clauses 3, in each case, except to the extent that the claim or breach is caused or contributed to by us.
- 10.6 This clause 10 has continuing effect after termination of this Agreement.
- 11 TERMINATION AND SUSPENSION**
- 11.1 We may terminate the Agreement in whole or in part, upon 90 days written notice to you, in the event that we cease providing the Product generally, or in any particular market segment. If we terminate an agreement under this clause, we will provide you with a refund of any applicable prepaid Fees that relate to any period after the date of termination.
- 11.2 Otherwise, the Agreement may be terminated by notice in writing with immediate effect:
- by us if you fail to pay any part of the applicable Fees within 30 days of the due date;
 - by either party if the other commits a material breach of the Agreement which cannot be remedied or which (in the case of a breach capable of being remedied) has not been remedied within 30 days of a written request to remedy the breach; or
 - by either party if the other party goes into liquidation, or if a receiver, manager or administrator is appointed in respect of the whole or any part of its assets or any similar or analogous insolvency event occurs in relation to the other party in this or any other jurisdiction or if the other party ceases or threatens to cease trading.
- 11.3 In addition to any other termination right in the Agreement, if you are a "consumer" or if the Agreement with you is a "small business contract" under the Australian Consumer Law, at any time after the First Subscription Term, you may terminate the Agreement by providing at least 30 days' written notice. In this event, we will provide you with a refund of any applicable prepaid Fees that relate to any period after the date of termination.
- 11.4 Any termination of the Agreement in accordance with its terms is without prejudice to any other rights

	or remedies a party may be entitled to under the agreement or at law. It does not affect any accrued rights or liabilities of either party nor any provision which is expressly or by implication intended to come into force on, or continue in force after, termination.	13.2	Each party must take all commercial reasonable steps to protect the Confidential Information of the other party from unauthorised access, use or disclosure, such steps to be no less protective than the steps taken by that party to protect its own Confidential Information.
11.5	Without prejudice to our rights to terminate under this Agreement, we may suspend your access to or use of the Software:	13.3	You acknowledge that any Documentation provided by us to you in relation to the Product is our Confidential Information.
	(a) upon reasonable prior notice (which may be posted on our website, through the Software or emailed to you) to conduct scheduled maintenance on the Software; or	13.4	The obligations set out in clause 13.1 do not apply to any information which:
	(b) with as much prior notice as is possible (if at all) to conduct emergency maintenance on the Software; and		(a) is generally known to the public in Australia other than as a result of a breach of this clause;
	(c) upon providing 5 days' prior notice, if you are late in payment of any amount due and payable to us under the Agreement;		(b) is lawfully obtained by a party free of any duty of confidentiality otherwise than directly or indirectly from the other party;
	(d) immediately, if you are, or we reasonably suspect that you are, in breach of any other obligation under the Agreement; or		(c) is disclosed to the professional advisers, lawyers, auditors and bankers of each party under terms of confidentiality and those professional advisers, lawyers, auditors and bankers are bound by a duty of confidence; or
	(e) immediately, if we reasonably suspect that your or your User's access to or use the Software is creating a security risk, or interferes with or damages the Software or any of our networks, systems or equipment, or interferes with the use of the Software by our other customers.		(d) a party is required to disclose by order of a court of competent jurisdiction or pursuant to a statutory or regulatory obligation.
11.6	If we exercise our right to suspend under clause 11.5, we will use reasonable endeavours to reinstate your access to the Software as soon as the reason for the suspension has ceased or been rectified (as applicable).	13.5	The provisions of this clause 13 survive termination of the Agreement.
12	POST TERMINATION	14	PRIVACY AND DATA PROTECTION
12.1	Upon termination or expiry of the Agreement or the Subscription Term:	14.1	"Data protection laws" means all applicable privacy and data protection laws, regulations, orders, and other legal requirements. The terms "personal data" and "processing" will have the meanings ascribed to them in the data protection laws, and where the data protection laws use equivalent or corresponding terms, such as 'personal information' instead of 'personal data', they will be read as the same.
	(a) your licence under clause 3.1 terminates;		14.2 You responsible for ensuring the legality of the personal data that you or your Users provide to us for processing. If and to the extent that you or your Users provide personal data to us for account registration or otherwise, the parties acknowledge that we will process such information in accordance with the data protection laws and the LexisNexis privacy policy applicable to the services at https://www.lexisnexis.com/global/privacy/privacy-policy.page , except where we are processing such information on your behalf, the terms of the LexisNexis Data Processing Addendum at https://www.lexisnexis.com/global/privacy/processing-terms.page will apply.
	(b) you must immediately cease accessing and using the Product;		14.3 If and to the extent that you transfer personal data to us in a territory outside the originating territory, the LexisNexis Data Transfer Terms at https://www.lexisnexis.com/global/privacy/transfer-terms.page will apply as necessary in respect of such transfer.
	(c) you must promptly return to us, or permanently destroy (at our election), all Documentation or other of our Confidential Information within your possession or control, and provide written certification of such return and/or deletion to us; and		14.4 If either party becomes aware of any actual or reasonably confirmed Data Breach affecting Your Data:
	(d) upon your written request (which must be received within 30 days of the date of termination or expiry), we may, for a fee to be determined at our discretion, return to you, or provide you with a means of downloading, a copy of Your Data in a format reasonably determined by us.		(a) that party must promptly notify the other party in writing, including in such notice all known details of that Data Breach;
12.2	You acknowledge and agree that, subject to our compliance with clause 12.1(d), we may delete Your Data from our systems within a reasonable period after termination or expiry of the Agreement or the Subscription Term.		(b) that party shall provide the other party with information and assistance reasonably required by the other party to investigate and assess that Data Breach;
13	CONFIDENTIALITY		(c) you are solely responsible for determining whether that Data Breach is notifiable under data protection laws, subject to clause 14.4(e);
13.1	Each party will keep confidential all Confidential Information of the other party communicated by, acquired from or disclosed by the other party, whether before or during the Agreement, and shall not without the prior written consent of the other party:		(d) you must not reference us or any of our Related Bodies Corporate in any notification or communication relating to that Data Breach without our prior written approval as to the form and content of the reference; and
	(a) disclose such Confidential Information to any third party other than to those of its officers, employees, contractors, or third party service providers who need to know for the purposes of the Agreement, and provided that such persons comply with confidentiality obligations no less restrictive than the provisions of this clause; or		(e) we may make a notification or communication about that Data Breach if
	(b) use such Confidential Information for any purpose other than to perform its obligations under the Agreement.		

- you fail to do so and we are required to do so under applicable data protection laws.
- 14.5 If you become aware of any information security incident or information security risk reasonably believed to materially impact the security of the Product or Software (including any of our intellectual property therein), you shall notify us of such incident and/or risk and, upon request, shall provide us with information and assistance reasonably required by us to investigate and assess such incident and/or risk.
- 15 INTELLECTUAL PROPERTY**
- 15.1 All right, title, and interest (including all copyrights and other Intellectual Property Rights) in the Product and Documentation (in both print and machine-readable forms), or any work product or other output of the Professional Services belong to us or our licensors. You acquire no ownership of Intellectual Property Rights or proprietary interest in the Product or materials provided as part of any Professional Services, including any copies thereof.
- 15.2 Any Intellectual Property Rights in:
- (a) Your Data; and
 - (b) any software or application owned or licensed by you,
- ("Your IP") shall remain vested in you or your licensors.
- 15.3 You grant us a royalty free, worldwide license to use, Process, adapt, modify, distribute, integrate or interface with Your IP in connection with the performance of our obligations under the Agreement.
- 15.4 To avoid doubt, any new features, functionality or performance of the Product suggested by you that we subsequently incorporate into the Product (including the Intellectual Property Rights therein) shall be the sole and exclusive property of us.
- 16 NO POACHING**
- During the Term and for a period of 12 months after its termination or expiry, you must not, directly or indirectly, take any action to hire or solicit for employment or engagement any person who is an officer, employee or contractor of ours or our Related Bodies Corporate who has knowledge of the Product or Software, without our prior written consent.
- 17 AUDIT**
- We may audit your and your Users' use of the Product. You agree to provide reasonable assistance and access to information, records, systems and personnel in the course of such audit and permit LexisNexis to:
- (a) report the audit results to Oracle;
 - (b) assign its rights to audit your use of the Third Party Software component to Oracle.
- Each party will be responsible for its own costs in relation to the audit under this clause.
- 18 FORCE MAJEURE**
- 18.1 Neither party will be liable under the Agreement for any delay or non-performance of its obligations (other than your obligation to pay the Fees) resulting from an event outside of its reasonable control.
- 18.2 Where such an event continues for 3 months or longer, the party not affected may terminate the Agreement on written notice to the other. Neither party shall have any further liability to the other in respect of termination of the Agreement under this clause, but without prejudice to the accrued rights of the parties at the date of termination.
- 19 DISPUTES**
- 19.1 Where either party disputes any matter with the other which cannot be agreed, before any legal proceedings are initiated, the parties must comply with this clause.
- 19.2 The dispute will first be referred to our Relationship Manager and your Project Manager, who must meet within 14 days of a request being issued by either party. If these parties are unable to reach agreement within 7 days of the meeting, the matter will be referred to each party's managing directors (or their nominee), with a meeting to be held within 14 days of the referral. If the managing directors (or their nominees) do not resolve the dispute within 7 days of their meeting, either party may take such legal action as is open to them.
- 20 PRODUCT AND AGREEMENT CHANGES**
- We reserve the right to:
- (a) make changes to Product from time to time in our sole discretion, including in respect of any workarounds and fixes, any new releases or Upgrades and any additional software which may be incorporated into the Product from time to time; and
 - (b) charge additional fees in respect of new features, functionality or software incorporated into the Product, if you elect to purchase such new features.
- 20.2 Subject to clause 7.2, we may amend the terms of the Agreement at any time upon notice to you (or publication on our website), however changes detrimental to you will only take effect upon the commencement of the next Renewal Period (or, if notice of the detrimental amendment is given to you less than 30 days prior to next Renewal Term, the Renewal Term following the next Renewal Term). If you do not agree with a detrimental amendment, you may elect not to enter the Renewal Term in accordance with clause 2.2.
- 21 MISCELLANEOUS**
- 21.1 If any provisions of the Agreement or any contractual document governed by the Agreement is determined by any court to be wholly or partly unenforceable, that unenforceability shall not affect the rest of the Agreement.
- 21.2 The failure or delay by either party to exercise or enforce any of its rights or to enforce any obligation which the other party is in breach of under the Agreement is not a waiver of that right.
- 21.3 Except as otherwise provided herein, all notices and other communications to you hereunder shall be in writing or displayed electronically at <https://www.lexisnexis.com.au/en/terms-and-conditions> or posted prominently within the Software. Notices to you will be deemed to have been properly given on the date mailed, emailed or displayed online, as applicable; or on the date received, if delivered in any other manner. Notices to us should be sent by email to customersupport@lexisnexis.com.au. Notices to you, if sent by email or by post, shall be sent to your postal address or email address we have on record.
- 21.4 You may not assign, sublicense, mortgage, charge or otherwise dispose of or encumber your rights under the Agreement, or novate or transfer your rights and obligations under this Agreement, without our prior written consent.
- 21.5 The Agreement contains all the terms which the parties have agreed in relation to the subject matter of the Agreement, and supersedes any prior written or oral agreements, representations or understandings between the parties whether express or implied.
- 21.6 You acknowledge that the Agreement has not been entered into wholly or partly in reliance of any warranty, statement, promise or representation made by or on our behalf other than as expressly set out in the Agreement.
- 21.7 The terms of the Agreement shall include any addendum signed by both parties. Terms defined in the Agreement shall have the same meaning in any such addendum.
- 21.8 The Agreement is governed by the laws in force in New South Wales, and the parties submit to the non-exclusive jurisdiction of the courts of New South Wales for determining any dispute concerning any such agreement.

PART A - INTRODUCTION

Please refer to the Specification document previously provided by us, for information about the Product.

We may from time to time provide you with specifications of the Product, and samples of forms and reports produced by us and other descriptive material. Such material is indicative only. You acknowledge that these specifications and materials may be varied by us without notice.

PART B - CUSTOMER REQUIREMENTS

Please refer to the Technical Customer Requirements document previously provided by us, for information on customer requirements.

PART C - OPTIONAL PRODUCTS

The following additional products are available for use with Affinity Connect, upon payment by you of the relevant fee as set out in LexisNexis current price list and subject to the terms contained in the End User Contract and any additional terms incorporated by reference in the product description, or otherwise notified to you, in respect of such product or products.

LexisNexis Searches Integration

LexisNexis Searches integration via Dye & Durham or InfoTrack for all your property, business and consumer regulatory information. Integration allows you to order searches from within Affinity Connect to avoid re-keying matter details with automated saving of documents and posting of disbursements. This optional product is the integration only. To use the search functionality, you will need to enter into a separate agreement with LexisNexis, and use will be subject to the terms contained within that agreement.

PEXA Integration

Integration with PEXA for real-time online lodgement and settlement of property matters. Link and access your PEXA workspace from within your Affinity matters. This optional product is the integration only. To use the functionality of the integration, you will need to have a PEXA workspace.

PART D – PROFESSIONAL SERVICES**Standard Data Migration**

Standard data migration is available to customers moving to Affinity Connect from LEAP, PC Law, FilePro ActionStep and Open Practice. Migration includes your clients and contacts, matters and documents to Affinity Connect. You must provide your data as per our specifications.

SCHEDULE 3**SUPPORT SERVICES**

LexisNexis provides the following support services for Products:

Software Upgrades

When LexisNexis creates an Upgrade to the Product (or any aspect of the Product) it may upgrade your hosted instance of the Software. However, this does not oblige LexisNexis to develop Upgrades to the Product.

Customer support

Unless otherwise notified to you, LexisNexis will provide Product customer support from 8am to 6pm, Monday to Friday AEST (excluding Public Holidays). You will be required to log support requests online via LexisCare unless you are experiencing a complete or partial system outage, in which case you may call us on 1800 772 772 (option 3). Limited support is available between 6pm to 8pm Monday to Friday AEST (excluding Public Holidays).

Customer support provides assistance and advice to Users who have been trained to use the Product. The customer support will not provide training for Users who have not completed the assigned online training courses, or advice in relation to technical problems existing outside the Product.

The customer support is designed to provide a basic level of support in relation to use of the Product. If you or your Users require support which LexisNexis deems to exceed a basic level of support (whether because of the subject matter, or the amount of time you or your Users spend using the online support), LexisNexis may charge you for such additional use.

LexisNexis will have the right to limit or suspend support and maintenance services if, in LexisNexis' reasonable opinion, the services are being used for trivial and/or frivolous requests which can or ought to be reasonably dealt with by you or where the demands on the services made by you or your Users are having a detrimental effect on the services provided to LexisNexis' other clients.

To assist in the resolution of issues logged online it may be necessary for LexisNexis to connect to your hosted instance of the Software. You agree to allow LexisNexis to remotely access your hosted instance of the Software to resolve issues as necessary.

Further Information

Please refer to LexisCare for further details of support services.