



Lexis® WinDeed

# End User Licence Agreement

Before consenting to the End User Licence Agreement, please ensure that it is read in full. It is particularly important that the following clauses, which are typed in bold font, are read and understood:

- Clause 4. **Grant of Rights and Services**
- Clause 7. **Undertakings of Compliance by Data Consumer**
- Clause 11. **Liability**
- Clause 12. **Indemnification by the Data Consumer**
- Clause 13. **Entitlement of LNRM**

Please note that you, the consumer, are referred to as the Data Consumer.

## 1. DEFINITIONS

Unless otherwise expressly stated, or the context otherwise requires, the words and expressions listed below shall, when used in this Agreement, bear the following meanings ascribed to them:

- 1.1 "Access Codes" means all user names, passwords, access codes or other devices issued by LNRM to the Data Consumer or any other person whatsoever for the purpose of controlling or providing access to the Website or any Risk Management Product;
- 1.2 "Affiliate" means a subsidiary, holding company or associated company of either of the Parties, together with any subsidiary, holding company or associated company thereof;
- 1.3 "Afiswitch" means the content provider that provides a national automated electronic criminal record check against the South African Police Service criminal fingerprint database;
- 1.4 "Authorisations" means all licenses, permits or approvals of whatsoever nature required by the Parties in terms of any Regulatory Provision to enable them to exercise their respective rights and fulfil their respective obligations under these terms and conditions;
- 1.5 "Competent Authority" means collectively the National, Provincial, Regional and Local government of the Republic of South Africa and/or their successors in title, any court of competent jurisdiction or any agency, authority, body or standard-setting institution appointed by such entities to regulate and/or oversee standards applicable to the Products,

- the Website and/or the Search Data and includes without limitation the National Credit Regulator and the National Credit Tribunal established in terms of the National Credit Act;
- 1.6 “Content Provider” means any person or institution, including the State or an Organ of State, from which LNRM procures Search Data;
- 1.7 “Data Consumer” means any person authorised by LNRM, whether a natural or juristic person, to procure Search Data from LNRM by means of the Website and/or any of the Products or otherwise, whether directly through LNRM;
- 1.8 “Data Protection Laws” means the Protection of Personal Information Act 4 of 2013, South Africa, or any other legislation applicable to the processing of personal data under these terms and conditions;
- 1.9 “Data Enquiry” means a request for the supply of Search Data relating to a Data Subject submitted by a Data Consumer to LNRM by means of the Website, a Risk Management Product or otherwise;
- 1.10 “Data Subject” means a person, whether a natural or juristic person, forming the subject matter of a Data Enquiry;
- 1.11 “Effective Date” means the earlier of the date when the software is accessed, installed, copied and/or used by the Data Consumer for the first time, or the date on which the terms of this EULA are accepted, as contemplated in clause 3;
- 1.12 “EULA” or “Agreement” means these terms and conditions applying to Data Consumers and the use of Website and the Products, as amended and/or published by LNRM from time to time;
- 1.13 “Intellectual Property” shall mean all present and future intellectual property rights, in whole or in part, including but not limited to patents, trademarks (whether registered, pending or unregistered in any form and/or nature whatsoever whether now used or adopted in the future), service marks, designs, design rights, all rights of copyright whether existing now or in the future including initial drawings, sketches, flow charts, designs and computer programs relating thereto, together with all related know-how, source codes, inventions, trade secrets, confidential information and all other rights of a similar character whether registered or capable of registration and all applications and rights to apply for protection of any of the same, and wherever the rights arise in the world;
- 1.14 “LNRM” means LexisNexis Risk Management Proprietary Limited, a company with limited liability duly registered and incorporated in accordance with the laws of the Republic of South Africa with registration number 1990/004046/07, having its main place of business at 215 Peter Mokaba Road, Morningside, Durban, 4001;
- 1.15 “NCA” means the National Credit Act, No. 34 of 2005 together with its Regulations, as amended from time to time;
- 1.16 “Parties” means, collectively, LNRM and the Data Consumer and “Party” means any one of them;
- 1.17 “Products” means all or any part of the electronic Products offered by LNRM for the supply of Search Data, offered by LNRM from time to time including the Lexis RefCheck and Lexis WinDeed products;
- 1.18 “Regulatory Provisions” means, collectively, the prevailing laws, regulations, ordinances, directions, orders, decrees, policy directives and standards of the Government of the Republic of South Africa, any other Competent Authority and the Data Protection Laws which in any

way affect or apply to LNRM, the Data Consumer, the Website, the Products and/or the Search Data

- 1.19 “Search Data” means any information relating to a Data Subject, including but not limited to information relating to a Data Subject’s:
- 1.19.1 ownership of immovable property, including the identity, location and value of such immovable property;
  - 1.19.2 identity number, registration number, or other identifying number or mark;
  - 1.19.3 registration as a company, close corporation, trust or other juristic person;
  - 1.19.4 trademark registrations;
  - 1.19.5 participation in any company, close corporation, trust or other juristic person;
  - 1.19.6 ownership of any motor vehicle, including registration details and financing arrangements;
  - 1.19.7 past employment history; including the circumstances of termination of any employment, career, professional or business relationship;
  - 1.19.8 educational qualifications;
  - 1.19.9 driver’s license;
  - 1.19.10 criminal record;
  - 1.19.11 credit information;
  - 1.19.12 potential contact information;
  - 1.19.13 marital status, alive status, children’s identity,
  - 1.19.14 bank account;
  - 1.19.15 VAT numbers.
- 1.20 “Services” means the services provided by LNRM in providing the Products and Search Data to the Data Consumer;
- 1.21 “SLA” means the Service Level Agreement of LNRM as published on the Website in relation to anticipated response times for providing Search Data;
- 1.22 “Subscriber Application Form” means the form which the Data Consumer is required to complete and submit to LNRM on or before the Effective Date;
- 1.23 “User” means any employee, partner in a firm, student, member or other user entitled to bona fide, authorised access to the Products and Services for reasons linked to the activities of the Data Consumer and, in the case of a natural person, the Data Consumer;
- 1.24 “Website” means the website/s of LNRM Products.

## 2. THE LICENCE

LNRM hereby grants to the Data Consumer, subject to the provisions of this EULA, the non-transferable, non-exclusive use and/or access to the Website and the Products and Services.

## 3. DURATION AND APPLICATION

- 3.1 This EULA will come into effect on the Effective Date, and shall remain in force until terminated in accordance with the terms set out in this EULA relating to termination.
- 3.2 Either Party may cancel this Agreement immediately by means of written notice to the other Party.
- 3.3 WHERE THE DATA CONSUMER IS NOT A NATURAL PERSON, THE PERSON SIGNING OR ACCEPTING THIS EULA HEREBY WARRANTS THAT S/HE IS AUTHORISED TO ENTER INTO THE EULA FOR AND ON BEHALF OF THE DATA CONSUMER OR USER, AS THE CASE MAY BE.

#### 4. GRANT OF RIGHTS AND SERVICES

##### 4.1 Permitted activities

- 4.1.1 The Data Consumer acknowledges that the Content Providers shall be selected and used by LNRM at its sole discretion;
- 4.1.2 The Data Consumer may access the Website and the Products electronically;
- 4.1.3 The Data Consumer agrees that the Website, the Products and Search Data will be used solely by the Data Consumer and its Users.

##### 4.2 Prohibited activities

- 4.2.1 The Data Consumer shall not alter, modify, or transmit the Website and/or the Products, except insofar as such alteration, modification, transmission or reproduction has been agreed to by LNRM in writing;
- 4.2.2 The Data Consumer may not use, or allow others to use, (with the exception of its Users), the Services, Products, and/or Search Data. This restriction does not prevent Users from accessing and using the Services, Products, and/or Search Data, or prevent it from being shared with company group members of the Data Consumer. However, Users and company group members must follow the confidentiality, security and liability conditions set out in this Agreement.
- 4.2.3 Where the Data Consumer wishes to do any of the prohibited activities listed in clauses 4.2.1 to 4.2.2 the Data Consumer is required to obtain the express prior written approval of LNRM and to follow strictly any specifications required by LNRM where consent is granted.
- 4.2.4 The Data Consumer is prohibited from using the Website, Search Data or any Services in a manner that compromises or tampers with the security, information, data, resources, accounts or records of any person.

##### 4.3 Access to the Products

- 4.3.1 The Data Consumer will complete a mandatory Subscriber Application Form, either electronically or a hard copy as the case may be, and such form will be submitted to LNRM;
- 4.3.2 LNRM shall as soon after the Effective Date as reasonably possible provide access to the Website and Products, subject to the terms of this EULA;
- 4.3.3 Subject to clause 4.3.1 LNRM shall provide Search Data to the Data Consumer as and when requested by the Data Consumer, and where applicable with service levels measured against the time periods stipulated in the SLA;

- 4.3.4 LNRM undertakes to provide the personnel appointed by the Data Consumer with adequate training on the LNRM system to enable such Users to be able to use the system efficiently and effectively. The training shall be provided at the cost and on the terms agreed to between the Parties;
- 4.3.5 LNRM shall be responsible for providing representatives of the Data Consumer with training on how to take the fingerprints of Data Subjects. From time to time LNRM may issue guidelines and written information for reference by the Data Consumer;
- 4.3.6 LNRM shall store a record of all Data Enquiries conducted by the Data Consumer and all Search Data provided to the Data Consumer pursuant to such Data Enquiries. Search Data shall however be deleted or marked as “not to be accessed” by LNRM when required in terms of any Regulatory Provision or by any Competent Authority.
- 4.4 LNRM shall provide the Data Consumer with an Access Code/s. If one of the events mentioned in clause 6 should occur, LNRM shall use its best efforts to replace the relevant Access Code within twenty-four (24) hours after receiving immediate notification from the Data Consumer.

## 5. GENERAL RESPONSIBILITIES OF THE DATA CONSUMER

- 5.1 The Data Consumer shall be solely responsible for all costs and expenses associated with downloading the Search Data by electronic means.
- 5.2 The Data Consumer is responsible for providing the appropriate technical infrastructure to enable such Users to access the Website via the internet, in an effective and efficient manner.
- 5.3 The Data Consumer shall ensure that its representatives complete and understand the requisite training and the Data Consumer shall collect the fingerprints strictly in accordance with the training and any accompanying information and guidelines provided by LNRM.
- 5.4 The Data Consumer is responsible for providing the information, supporting documents and declarations of consent required by LNRM, whether for submission or use of fingerprints, prior to any background check, or otherwise.
- 5.5 The Data Consumer acknowledges that it is responsible for the validity and accuracy of all information provided by it to LNRM. The Data Consumer understands that there are additional risks if it relies on fingerprints not captured by the Data Consumer itself (or its duly appointed agents or staff).
- 5.6 The Data Consumer shall comply with all relevant Regulatory Provisions, as well as any rules and guidelines that apply to the way in which LNRM provides the Services in order to keep the information secure.
- 5.7 The Data Consumer agrees and warrants that it will ensure that:
  - 5.7.1 All Access Codes issued to the Data Consumer shall be used exclusively for the purposes of the Data Consumer;
  - 5.7.2 The Data Consumer shall at all times ensure that the Access Codes are kept secure and shall not release or in any way disclose or release the Access Codes to anyone else. The Data Consumer shall ensure that no unauthorised use is made of the Access Codes;
  - 5.7.3 If for any reason any Access Code is no longer secure, is misused or ends up in the possession of any person other than a Data Consumer or its Users, or unauthorised access is made to the Service, the Data Consumer shall immediately notify LNRM. The Data

Consumer shall immediately give full details to LNRM, prevent further misuse, and use all reasonable efforts to prevent any other unauthorised access to or misuse of the Service.

- 5.8 It is recorded that, and the Data Consumer accepts that it shall be required to accept the terms and conditions of the relevant Credit Bureau each time a credit search is conducted.

## 6. UNDERTAKINGS BY LNRM

- 6.1 LNRM undertakes to ensure that no employee or agent of LNRM shall, without the consent of LNRM, disclose to any third party information relating to the Products, Services and/or Search Data.
- 6.2 LNRM will comply with all applicable Regulatory Provisions. In doing so, and to the extent reasonably possible, LNRM shall assist the Data Consumer with the Data Consumer's obligations to fulfill the rights of Data Subjects.
- 6.3 LNRM shall take appropriate technical and organizational measures to ensure a level of security that is appropriate for the level of risk involved, to ensure compliance with the relevant Regulatory Provisions concerning the processing of personal information (personal information shall have the meaning provided in the Data Protection Laws), and to ensure the protection of the rights of the Data Subject.
- 6.4 Insofar as access to personal information is concerned, LNRM shall:
- 6.4.1 ensure that access to personal information by its employees, Affiliates and Data Providers and any necessary third parties is kept to a necessary minimum;
- 6.4.2 report any breach of personal information, or any reasonably suspected breach, to the Data Consumer and, where applicable, the Information Regulator;
- 6.4.3 deal with any breach, or reasonably suspected breach, of personal information promptly and in accordance with its internal policy;
- 6.4.4 in the case of a breach of personal information: assist in any investigations by the Information Regulator, report on the measures taken to manage and limit the possible damage of a breach of personal information; and
- 6.4.5 ensure that, on termination of the relationship with the Data Consumer, personal information relating to the Data Subjects of the Data Consumer will, on agreement with the Data Consumer, be erased, returned to the Data Consumer or access restricted, unless otherwise required by law.
- 6.5 Personal information provided by the Data Consumer to LNRM may be transferred to countries or organisations outside of South Africa only if there is an appropriate level of protection in place that is consistent with Regulatory Provisions.

## 7. UNDERTAKINGS OF COMPLIANCE BY THE DATA CONSUMER

- 7.1 The Data Consumer undertakes that:
- 7.1.1 it shall obtain the consent of the Data Subject, prior to submitting a Data Enquiry, where such consent is required in terms of the National Credit Act or other applicable Regulatory Provision;

- 7.1.2 it shall obtain Search Data from LNRM and use such Search Data only:
  - 7.1.2.1 for a lawful and legitimate purpose/s; and
  - 7.1.2.2 to the extent permitted or required by one or more applicable Regulatory Provision; or
  - 7.1.2.3 as provided by:
    - 7.1.2.3.1 the consent of the Data Subject; or
    - 7.1.2.3.2 an order of court or the National Consumer Tribunal established in terms of the National Credit Act;
- 7.1.3 it shall ensure that all information provided to LNRM is up-to-date and, where necessary, update the information provided to LNRM;
- 7.1.4 it does and shall at all times continue to comply with all Regulatory Provisions, as well as the conditions, standards and requirements prescribed by any Regulatory Provision, or any Competent Authority, which may be applicable from time to time, in respect of the Products, the Website and/or the Search Data;
- 7.1.5 it shall not do or omit to do anything which may cause LNRM any harm or loss, including but not limited to any injury to the reputation of or goodwill of the business of LNRM;
- 7.1.6 it shall immediately notify LNRM if there is any reason to believe that the Products, the Website and/or Search Data have become compromised or are likely to become known or used by someone not authorised to use one or other of them, or are being or are likely to be used in an unauthorised way;
- 7.1.7 it shall use reasonable effort to provide any assistance as may be requested by LNRM if the event referred to in clause 5.7.3 occurs.
- 7.2 Each undertaking set out in clause 7:
  - 7.2.1 shall be a separate undertaking; and
  - 7.2.2 shall in no way be limited or restricted by reference to or inference from the terms of any other undertaking; and
  - 7.2.3 shall be for the sole benefit of LNRM.

## 8. FEES AND CHARGES

### 8.1 Payment of Fees

- 8.1.1 The Data Consumer shall pay LNRM for Services rendered in accordance with LNRM's pricing schedule, either as published on the Website or by quotation to the Data Consumer as the case may be, as follows:
  - 8.1.1.1 purchase of a pre-paid voucher for immediate credit on a Risk Management Product account; or
  - 8.1.1.2 by Debit Order; or
  - 8.1.1.3 by electronic funds transfer (EFT), subject to the following:
    - 8.1.1.3.1 Payment will be made by the Data Consumer within 30 days of receipt of an invoice issued by LNRM;
    - 8.1.1.3.2 Invoices will be sent to the person designated by the Data Consumer for processing payment;

- 8.1.2 LNRM reserves the right to alter fees.
- 8.1.3 Should the Data Consumer not agree to the altered fees, the Data Consumer has the right to terminate the Agreement.
- 8.1.4 The right to use and to continue using the Website and Products under this Agreement is subject to LNRM receiving full and timeous payment of all amounts due under this Agreement, and notwithstanding provisions to the contrary set out elsewhere in this EULA, LNRM shall have the right to prevent the Data Consumer from using its Website and Products if the Data Consumer is in arrears in regard to its payment obligations to LNRM.

## 8.2 Return or Refund

- 8.2.1 If the Data Consumer applies for a refund, the application for a refund will be considered on its merits, however, charges incurred by LNRM in providing the Services, and a reasonable administrative fee, will be deducted.
- 8.2.2 Notwithstanding clause 8.2.1 , if a Data Consumer purchases a pre-paid voucher , the full amount of the voucher must be used within three years of the date of purchase, failing which any credit balance outstanding on the voucher will not be refunded to the Data Consumer.

## 9. CONFIDENTIALITY

- 9.1 All Search Data and personal information is confidential information and must be treated as such by both Parties.
- 9.2 The Parties shall keep all confidential information confidential and shall not disclose either in any way, except if:
  - 9.2.1 disclosure of the confidential information is necessary to perform an obligation under the Agreement;
  - 9.2.2 a mandatory law or court order requires the Parties to disclose the confidential information, in which case the Party required to reveal it shall first notify the other Party;
  - 9.2.3 disclosure of the confidential information takes place with the prior written consent of the other Party.

## 10. INTELLECTUAL PROPERTY

- 10.1 All Intellectual Property belongs to LNRM or its Content Providers.
- 10.2 THE DATA CONSUMER ACKNOWLEDGES THAT IT DOES NOT OWN AND DOES NOT ACQUIRE ANY RIGHTS IN RELATION TO ANY AND ALL INTELLECTUAL PROPERTY IN, RELATING TO, USED OR EMBODIED IN, OR IN CONNECTION WITH THE PRODUCTS OR THE WEBSITE.
- 10.3 The Data Consumer shall not reproduce (except those reproductions that may be considered to be fair dealing) or retransmit Website content and/or the Products or any part thereof without first obtaining written consent from LNRM.



10.4 The Data Consumer shall at no time in any way question or dispute the ownership of any Intellectual Property by LNRM or its Content Providers, as the case may be.

## 11. LIABILITY

11.1 LNRM gives only those warranties required by the Consumer Protection Act, Act 68 of 2008 (the "CPA"), or as may be set out elsewhere in this Agreement and no other warranties. All other implied representations and warranties are expressly excluded. The effect of this clause is that other than those warranties provided for in the CPA, LNRM does not represent or warrant that the Services meet any specific standards, characteristics or criteria.

11.2 LNRM's liability to the Data Consumer arising out of a failure by LNRM to perform the Services envisaged in this Agreement shall be limited to the liabilities or remedies provided for in the CPA.

11.3 Section 54 of CPA provides that, should LNRM fail to provide quality service, the Data Consumer may require LNRM to either remedy the defect or pay a reasonable portion of the price paid for the Services. This is subject to the provisions on refunds in clause 8.

11.4 NEITHER THE SERVICE OR ANY PART OF IT HAS BEEN TAILORED TO MEET THE INDIVIDUAL REQUIREMENTS OF THE DATA CONSUMER. FAILURE TO MEET THE REQUIREMENTS OF THE DATA CONSUMER SHALL ENTITLE THE DATA CONSUMER TO MAKE A CLAIM AGAINST LNRM.

11.5 TO THE EXTENT PERMITTED BY LAW, LNRM DISCLAIMS ANY WARRANTY AS TO THE PERFORMANCE OF ITS SOFTWARE.

11.6 THE DATA CONSUMER ACKNOWLEDGES THAT THE SEARCH DATA IS BASED ON INFORMATION PROVIDED TO LNRM BY CONTENT PROVIDERS AND THAT LNRM CANNOT CONTROL THE ACCURACY OF THE SEARCH DATA.

11.6.1 The Data Consumer agrees that it will not make any business decisions based solely on the Search Data provided by LNRM;

11.6.2 THE DATA CONSUMER AGREES THAT LNRM CANNOT BE HELD LIABLE FOR ANY DECISIONS BASED ON THE SEARCH DATA PROVIDED;

11.6.3 THE DATA CONSUMER SHALL MAKE NO CLAIMS AGAINST LNRM REGARDING THE CONTENT OF THE SEARCH DATA.

11.7 THE DATA CONSUMER AGREES THAT LNRM CANNOT BE HELD LIABLE FOR ANY LOSS INCURRED BY THE DATA CONSUMER AS A RESULT OF THE FOLLOWING CONDUCTED IN A MANNER CONTRARY TO THIS EULA:

11.7.1 USE OF THE WEBSITE OR ANY RISK MANAGEMENT PRODUCT;

11.7.2 SUBMISSION OF ANY DATA ENQUIRY;

11.7.3 USE OF ANY SEARCH DATA.

11.8 THE TOTAL LIABILITY OF LNRM TO THE DATA CONSUMER FOR ANY CLAIM FOR NEGLIGENCE, TERMINATING THE AGREEMENT, OR ANY OTHER LIABILITY OR OBLIGATION IS LIMITED TO THE VALUE OF THE FEES AND CHARGES PAID TO LNRM FOR THE PROVISION OF THE PRODUCTS AND SERVICES RELATING SOLELY TO THE

SUBJECT MATTER OF ANY CLAIM AND NOT IN RESPECT OF ANY PREVIOUS OR LINKED PRODUCTS AND SERVICES.

11.9 TO THE EXTENT PERMITTED BY LAW, LNRM SHALL NOT UNDER ANY CIRCUMSTANCES WHATSOEVER BE LIABLE FOR ANY CONSEQUENTIAL DAMAGES SUFFERED BY THE DATA CONSUMER, INCLUDING BUT NOT LIMITED TO LOSS OF PROPERTY, PROFIT, BUSINESS, REVENUE, GOODWILL OR ANTICIPATED SAVINGS.

11.9 This clause 11 shall survive termination of this Agreement.

## 12. INDEMNIFICATION BY THE DATA CONSUMER

12.1 TO THE EXTENT PERMITTED BY LAW, THE DATA CONSUMER AGREES TO, AND SHALL, INDEMNIFY, DEFEND AND HOLD HARMLESS LNRM, ITS AFFILIATES AND THEIR RESPECTIVE DIRECTORS, SHAREHOLDERS, OFFICERS, AGENTS, EMPLOYEES, SUCCESSORS AND ASSIGNS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, SUITS, ACTIONS, JUDGEMENTS, DAMAGES, COSTS, LOSSES, EXPENSES (INCLUDING ATTORNEY'S FEES AND EXPENSES) AND OTHER LIABILITIES ARISING FROM AND IN CONNECTION WITH OR RELATED IN ANY WAY, WHETHER DIRECTLY OR INDIRECTLY, TO:

12.1.1 THE DATA CONSUMER'S PERFORMANCE OF OR FAILURE TO COMPLY WITH ITS OBLIGATIONS IN TERMS OF THIS EULA AND/OR THE REGULATORY PROVISIONS;

12.1.2 ANY LOSS OR DAMAGE INCURRED IN RESPECT OF ANY DECISION BASED ON THE SEARCH DATA;

12.1.3 ANY CLAIMS, PENALTIES AND/OR MEASURES BY THIRD PARTIES, DATA SUBJECTS AND/OR THE INFORMATION REGULATOR, LODGED AGAINST OR IMPOSED ON LNRM DUE TO A BREACH OF THE EULA AND/OR THE REGULATORY PROVISIONS BY THE DATA CONSUMER;

12.1.4 ANY CLAIM BY A DATA SUBJECT THAT IS CONNECTED IN ANY WAY WITH A DATA ENQUIRY OR SEARCH DATA;

12.1.5 ANY CLAIM BY A THIRD PARTY ARISING FROM ANY CLAIM, INJURY, LOSS OR DAMAGE FOR WHICH LNRM IS EXEMPTED FROM LIABILITY IN TERMS OF CLAUSE 11;

12.1.6 THE EXERCISE BY LNRM OF ANY OF ITS RIGHTS IN TERMS OF THIS EULA, SUBJECT TO ANY LIMITATIONS IMPOSED BY LAW;

12.1.7 ANY THIRD PARTY CLAIM WHICH ARISES OUT OF OR IN CONNECTION WITH A DATA CONSUMER'S USE OF SEARCH DATA (INCLUDING FINGERPRINT DATA) IN A MANNER THAT IS NOT STRICTLY PERMITTED BY THIS AGREEMENT;

1.1.1 THE QUALITY OF FINGERPRINTS CAPTURED AND ANY SEARCH DATA OBTAINED AS A RESULT OF FINGERPRINTS CAPTURED, WHETHER SUCH SEARCH DATA IS DEEMED INCORRECT OR INACCURATE OR NOT.

12.2 LNRM SHALL NOT BE LIABLE TO THE DATA CONSUMER FOR ANY LIABILITIES INCURRED BY THE DATA CONSUMER AS A RESULT OF ANY UNLAWFUL OR UNAUTHORISED ACCESS TO OR USE OF THE SEARCH DATA OR PRODUCTS.

12.3 LNRM SHALL NOT BE LIABLE TO THE DATA CONSUMER FOR ANY SEARCH DATA PROVIDED, OR FOR THE FAILURE TO PROVIDE SEARCH DATA, WHERE THE DATA CONSUMER FAILS TO PROVIDE LNRM WITH INFORMATION THAT IS UP-TO-DATE.

- 12.4 THE DATA CONSUMER SHALL PROMPTLY NOTIFY LNRM OF ANY CLAIM MADE AGAINST THE DATA CONSUMER IN RESPECT OF THE SEARCH DATA, PRODUCTS AND/OR SERVICES. THE DATA CONSUMER SHALL BEAR FULL RESPONSIBILITY FOR DEFENDING SUCH A CLAIM, INCLUDING ANY SETTLEMENTS, PROVIDED, HOWEVER, THAT:
- 12.4.1 THE DATA CONSUMER SHALL KEEP LNRM INFORMED OF AND CONSULT LNRM IN CONNECTION WITH THE PROGRESS OF SUCH LITIGATION OR SETTLEMENT AND FOLLOW THE REASONABLE DIRECTIONS OF LNRM IN THAT REGARD; AND
- 12.4.2 THE DATA CONSUMER SHALL NOT HAVE ANY RIGHT, WITHOUT NOTICE TO THE LNRM, TO SETTLE ANY SUCH CLAIM IF SUCH SETTLEMENT ARISES FROM OR IS PART OF ANY CRIMINAL ACTION, SUIT OR PROCEEDING OR CONTAINS A STIPULATION OR ADMISSION OR ACKNOWLEDGEMENT OF, ANY LIABILITY OR WRONGDOING (WHETHER IN CONTRACT, DELICT OR OTHERWISE) ON THE PART OF LNRM AND/OR ANY OF LNRM'S AFFILIATES.
- 12.5 THIS INDEMNIFICATION APPLIES TO THE EXTENT PERMITTED BY LAW AND DOES NOT INCLUDE ANY GROSS NEGLIGENCE ON THE PART OF LNRM, OR ANY EMPLOYEE OF LNRM ACTING IN THE COURSE AND SCOPE OF EMPLOYMENT.

### 13. ENTITLEMENT OF LNRM

- 13.1 To the extent permitted by law, LNRM shall be entitled, on reasonable notice to the Data Consumer, to:
- 13.1.1 change the make-up or the technical specification of the Website or any Risk Management Product;
- 13.1.2 suspend the Data Consumer's access to the Website for operational reasons such as repair, maintenance or improvement, or because of an emergency, on reasonable written notice at the least possible inconvenience to the Data Consumer;
- 13.1.3 require the Data Consumer to provide LNRM with written proof of any consent required to be procured from a Data Subject pursuant to the National Credit Act or any applicable Regulatory Provision, prior to releasing Search Data to the Data Consumer or as part of an audit review process;
- 13.1.4 suspend the Data Consumer's access to the Website and/or any Risk Management Product if the Data Consumer has breached this EULA, subject to the provisions of clause 14 below;
- 13.1.5 to schedule maintenance of its network and Website. This may mean that there will be downtime where the Data Consumer is unable to transmit and receive information. LNRM will keep such downtime to a minimum and LNRM will not be liable to the Data Consumer for any compensation in respect of any downtime of the Website or the Risk Management Product, where applicable.
- 13.2 LNRM reserves the right to temporarily suspend the Data Consumer's access to the Website and/or the Products at any time if there is a serious risk of compromise to the integrity of the Website, any Risk Management Product, the Search Data or otherwise.
- 13.3 The Data Consumer grants LNRM a royalty-free, non-transferrable, continuous licence to use the information supplied by it to LNRM. LNRM is entitled to use the information supplied to it to improve the Service and any of its databases to provide similar services.

## 14. BREACH AND TERMINATION

14.1 Notwithstanding any other provision of this EULA, if either Party is in any way in breach of this EULA, the aggrieved Party may, without prejudice to any of its other rights and remedies, terminate this EULA by giving the other Party written notice to that effect in the event of the other Party's failure to remedy the breach within 14 (fourteen) days of its receipt from the aggrieved Party of a written notice requiring the other Party to do so.

14.2 If any of the following should occur, LNRM shall be entitled to terminate the Data Consumer's access to the Website and/or the relevant Risk Management Product or portion thereof on no less than 30 (thirty) days written notice to that effect:

14.2.1 any Content Provider:

14.2.1.1 terminates any agreement with LNRM;

14.2.1.2 is unable or unwilling to provide any Search Data to LNRM;

14.2.1.3 is unavailable, or becomes unavailable, to provide Search Data to LNRM; or

14.2.2 LNRM elects:

14.2.2.1 to modify the Website subject to the provisions of clause 13.1.1;

14.2.2.2 to modify or discontinue a Risk Management Product; or

14.2.2.3 not to continue supplying Search Data or any form or category of Search Data.

## 15. AMENDMENT

15.1 LNRM reserves the right to amend the EULA, Price Lists and SLAs from time to time, which amendments will be posted on the Website or provided to the Data Consumer as the case may be, and shall be binding on the Data Consumer.

15.2 LNRM will use its reasonable efforts to give the Data Consumer reasonable notice of such changes by posting notification on the Website, Software, or sending formal client communications regarding such amendments.

15.3 LNRM will bring to the Data Consumers' attention any significant or material changes.

15.4 Data Consumers are advised to check the prevailing EULA, Price Lists and SLAs.

## 16. EVENTS BEYOND OUR CONTROL

LNRM SHALL NOT BE LIABLE TO THE DATA CONSUMER FOR ANY DEFAULT OR DELAY IN THE PERFORMANCE OF ANY OF ITS OBLIGATIONS IF, AND TO THE EXTENT THAT, SUCH DEFAULT OR DELAY IS CAUSED BY ANY ACT OF GOD, WAR OR CIVIL DISTURBANCE, COURT ORDER, ANY DELAY IN ANY PERFORMANCE DUE FROM ANOTHER PARTY OR ANY OTHER CIRCUMSTANCE BEYOND ITS REASONABLE CONTROL, INCLUDING WITHOUT LIMITATION, FAILURES AND FLUCTUATIONS IN ELECTRICAL POWER OR COMMUNICATIONS, PROVIDED THAT THE DEFAULTING PARTY IS WITHOUT FAULT IN CAUSING SUCH DEFAULT OR DELAY. FOR CLARITY IT IS RECORDED AND AGREED THAT A FAILURE TO MAKE PAYMENT SHALL NOT EXCLUDE LIABILITY IN TERMS OF THIS CLAUSE 16.

## 17. TRANSFERRING RIGHTS

Neither Party shall be entitled to assign, cede, delegate nor transfer any rights or obligations acquired in terms of this EULA, in whole or in part, to any other party or person without the prior written consent of the other Party.

## 18. CONFLICTS AND AMBIGUITIES

If there is any conflict between this EULA and any other terms, rules or regulations of the Products, this EULA shall prevail.

## 19. STATUS OF THE RELATIONSHIP BETWEEN THE PARTIES

19.1 This EULA shall not operate to constitute the Data Consumer as a partner, employee and/or agent of LNRM and the Data Consumer shall not represent itself as such.

19.2 Nothing contained in the EULA shall authorise or empower one Party to enter into any contracts or other commitments on behalf of the other Party.

## 20. DISPUTE RESOLUTION

20.1 If any unresolved dispute arises between the Parties, the Parties agree to resolve the dispute through the framework created in terms of the CPA.

20.2 It is agreed that the Parties will first attempt to resolve a dispute by means of alternative dispute resolution such as mediation and/or arbitration:

20.2.1 Any alternative dispute resolution process shall be held in Johannesburg or Durban, as determined by LNRM in its sole discretion;

20.2.2 The proceedings and decision of any alternative dispute resolution shall be confidential to the Parties and their advisers.

20.3 This clause shall not preclude LNRM or the Data Consumer from seeking urgent relief in a court of appropriate jurisdiction.

## 21. GOVERNING LAW

The law governing this EULA, including without limitation its interpretation and all disputes arising out of this EULA, is the law of South Africa. The Parties submit to the exclusive jurisdiction of the South African courts in respect of any matter arising from or in connection with this EULA, including its termination. The Parties further consent to the non-exclusive jurisdiction of the Gauteng High Court.

## 22. NOTICES AND LEGAL PROCESS

22.1 Each Party chooses as its address for all purposes under this EULA ("chosen address"), whether for serving any court process or documents, giving any notice, or making any other communications of whatsoever nature and for any other purpose arising from this EULA ("notice"), the address specified by LNRM in clause 1 and the Data Consumer the address completed by the Data Consumer on the online form submitted by the Data Consumer to LNRM to subscribe to access the Website and the Products and Services.

- 22.2 Any notice required or permitted under this EULA shall be valid and effective only if in writing.
- 22.3 Any Party may by notice to the other Party change its chosen address to another physical address in the Republic of South Africa and such change shall take effect on the seventh day after the date of receipt by the Party who last receives the notice.
- 22.4 Any notice to a Party contained in a correctly addressed envelope and delivered by hand to a responsible person during ordinary business hours at its chosen address, shall be deemed to have been received on the date of delivery.
- 22.5 Notwithstanding anything to the contrary herein, a written notice actually received by a Party, including a notice sent by email, shall be an adequate notice to it.

### 23. GENERAL AND MISCELLANEOUS

- 23.1 This EULA constitutes the sole record of the agreement between the Parties with regard to the subject matter hereof. Neither Party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein.
- 23.2 No relaxation or indulgence by either Party may constitute a waiver of the rights of such Party and shall not preclude such Party from exercising any rights which may have arisen in the past or which might arise in future.
- 23.3 Any provision of this EULA which contemplates performance or observance subsequent to any termination or expiration of this EULA shall survive any termination or expiration of this EULA and continue in full force and effect.
- 23.4 No addition to, variation of, or agreed cancellation of, this EULA shall be of any force or effect unless in writing and signed in handwriting by or on behalf of both the Parties.
- 23.5 If any provision of this Agreement is found to be unenforceable, invalid or contrary to law, this shall not affect any other part or aspect of this Agreement which shall remain in force and effect pursuant to its terms minus the challenged provision unless such severance would invalidate the principal purposes of this Agreement. If any provision is so severed the Parties agree to use best efforts to achieve the same result as was intended by such provision.