



This is a legally binding Agreement made between Simon Smith t/as eVestigator® (the "Receiving Party") and its Client (the "Client") named on the last page.

The parties hereby agree as follows:

### 1. Offer

In its sole discretion, the Client will provide to the Receiving Party certain confidential and proprietary information for the purpose of conducting investigations and research and providing services as requested and/or negotiated, in accordance with the following terms and conditions. For the avoidance of doubt if the Client is acting for another party, the Client takes legal responsibility for payment of the services as signatory of this document.

### 2. Definitions

Except to the extent expressly provided otherwise, in this Agreement:

- a. "**Affiliate**" means any person or entity which directly or indirectly controls, is controlled by or is under common control with such person or entity where "control" means the right to control, or actual control of management of such entity, whether by ownership of voting securities, by agreement, or otherwise.
- b. "**Agreement**" means this agreement, and any amendments to this agreement from time to time;
- c. "**Business Day**" means any weekday other than a bank or public holiday in Victoria, Australia;
- d. "**Confidential Information**" shall mean any information disclosed by, or on behalf of, the Client to the Receiving Party during the Term or at any time before the termination of this Agreement (whether disclosed in writing, orally or otherwise) that at the time of disclosure:
  - i. was marked as "confidential"; or
  - ii. was marked as "proprietary"; or
  - iii. should have been reasonably understood by the Recipient to be confidential by,
    1. the terms of this Agreement; and

2. any private details and "Confidential Information" contained in correspondence of the Discloser and its Affiliates.

e. "Effective Date" means the date of execution of this Agreement;

f. "Permitted Purpose" means all reasonable use in the process of sending and receiving mail; and

g. "Term" means the term of this Agreement as negotiated by the parties until terminated.

### 3. Protection and Purpose

All "Confidential Information" shall be maintained in confidence by the Receiving Party, and shall not be disclosed to any third party and shall be protected with the same degree of care as the Receiving Party normally uses in the protection of its own confidential and proprietary information, but in no case with any less degree than reasonable care. The Receiving Party shall not use any "Confidential Information" received from the Client except for the purposes set forth above.

### 4. Restrictions

The restrictions herein provided shall not apply with respect to "Confidential Information" which:

a. is known to the Receiving Party or determined by the Receiving Party before disclosure under this Agreement or as part of its Professional Services and is not subject to any other obligation of confidentiality;

b. is or becomes publicly known through no act or default of the Receiving Party; or

c. is obtained by the Receiving Party from a third party in circumstances where the Recipient has no reason to believe that there has been a breach of an obligation of confidentiality.

d. Is disclosed by the Client to a third party without a commitment of confidentiality by the third party; or

e. Is independently developed by the Receiving Party; or

f. Is disclosed pursuant to judicial action or government regulations, provided the Receiving Party notifies the Client prior to such disclosure and cooperates with the Client in the event the Client elects to legally contest and avoid such disclosure.

## 5. Rights and Licenses

This Agreement and the furnishing of "Confidential Information" as provided herein shall not be construed as establishing, either expressly or by implication, any grant of rights or licenses to the Receiving Party or any relationship between the parties.

## 6. Ownership

All tangible information, including drawings, specifications, letters, documents and other information submitted hereunder by the Client to the Receiving Party, shall remain the property of the Client. If either party elects not to pursue any further business undertaking,

- a. note; all information held by the Receiving Party as per the Receiving Party's policy is returned to the Client or securely destroyed, regardless of business relationship status,
- b. the Client may request return to the Client all tangible information, and all copies thereof, related to "Confidential Information" at any time at conclusion of services, regardless of business relationship status, and
- c. all "Confidential Information" and other information will be securely destroyed after a final three month period once relationship is terminated unless the Client has requested return of that information and documents within those three months.
- d. Subclause (a-c) are void if the ownership of information held by the Receiving Party has been attained by the Receiving Party as part of an investigation until all invoices are paid in full and by the due date, which if unspecified, is strictly 7 days.

## 7. Export

The Receiving Party shall not export any "Confidential Information" without written permission from the Client. If the Receiving Party is permitted to export "Confidential Information", the Receiving Party shall comply with Australian Export Administration Laws and regulations (EAR) and shall not export or re-export any technical data or products received from the Client or the direct product of such technical data to any proscribed country listed in the "EAR" unless properly authorised by the Australian government.



#### 8. Termination

This Agreement is to be construed in accordance with jurisdiction agreed in Victoria, Australia and corresponding laws and shall terminate upon either party providing 7 days' notice of termination of which both parties agree to destroy any document permitted by law (sent or received). Termination can only take place once all accounts outstanding are paid in full, otherwise it is agreed they are a suable accepted merchantable debt for services rendered.

#### 9. Payment of Services

All services invoiced by the Receiving Party must be paid for before being used in any manner. If there is a breach to this clause then the Receiving Party has an immediate right to sue for debt of services, and acceptance of services in full is admitted as merchantable by the Client.

#### 10. Awareness of Legal Consequence

The Client hereby declares that they have sought independent informed legal advice before signing this Contract and did so in its full capacity and understanding of each of its terms, with the right of legal assistance.

#### 11. Acceptance (Signatures)

\_\_\_\_\_  
Receiving Party

eVestigator®

Simon Smith

Executed Date:

\_\_\_\_\_  
Client

Acting Law Firm:

Solicitor Acting:

Company Name:

Client Name:

*or*

Company Name:

Client Name:

(This person or entity is legally responsible for payment of invoices)