# **APPLICATIONS**

## **Please read these terms and conditions carefully. By completing the application form you agree to be bound by these terms and conditions**.

## Applications and renewal of subscriptions shall be the absolute discretion of ACSWA without giving a reason why. The acceptance of an application does not prevent ACSWA admitting any one or more entities as State Corporate Supporters, irrespective of whether they supply goods and/or services of a similar kind to existing State Corporate Supporters.

# **SUBSCRIPTION PERIOD & FEES**

## Your subscription commences on the day your application is accepted and ends on day the subscription period is terminated in accordance with clause 11.

## If at the time of application your subscription is for a time period less than a full financial year the first subscription will be pro-rata and each subsequent payment will be due at the beginning of the financial year.

## You must pay an annual subscription set by ACSWA from time to time at their sole discretion. The annual subscription is payable in the manner prescribed by ACSWA from time to time.

# **BENEFITS**

## All privileges and benefits associated with being a State Corporate Supporter:

### will be issued to a State Corporate Supporter on or before the date on which their annual subscription is due in any year (unless the privileges and benefits have not been varied since the payment of the last subscription in which case the previous privileges and benefits issued will be taken to have been reissued);

### will remain in force from the date of issue until the issuing of a new statement of privileges and benefits by ACSWA; and

### are subject to the payment in full to ACSWA on the due date of all monies payable by you as a State Corporate Supporter in compliance with these terms and conditions.

## If the privileges and benefits include:

### **Mail out or Listing**

### Participation in any mail out or a listing in the annual report of ACSWA any such listing or participation will be on such terms as ACSWA prescribes from time to time;

### **Right of refusal or early advice**

### A first right of refusal or early advice will be exercisable upon such terms and conditions as ACSWA prescribes from time to time;

### **Special Advertising Rates**

### Advertising will be on such terms as ACSWA prescribes from time to time;

### **Participation in a conference or seminar**

### Participation will be on such terms as ACSWA prescribes from time to time;

### **Inclusion on the ACSWA Website**

### Inclusion will be subject to acceptance of the terms and conditions prescribed by ACSWA from time to time in connection with inclusion on that site; as is set out in clause 10 hereof;

### **Inclusion on or participation in an ACSWA mailing list or other listing or service**

### ACSWA will not be liable for any loss or damage arising directly or indirectly from any omission or error in connection with that list or service, including a failure to include you on that list, or a failure to notify you of that list or service;

### **Sponsor an event or product**

### Opportunities for sponsorship will be on such terms as ACSWA prescribes from time to time;

### **Invitations to attend briefings, meetings, seminars or conferences**

### ACSWA will not be liable for any loss or damage arising directly or indirectly from any omission or error in connection with an invitation, including a failure to provide you with an invitation, or a failure to notify you of the briefing, meeting, seminar or conference.

## ACSWA reserves the right to alter the content, design and frequency of mail outs, listings, reports, briefings, meetings, seminars, conferences and the ACSWA website at any time without notice.

# **ACKNOWLEDGEMENTS**

You confirm and acknowledge that:

## ACSWA has made no representations or warranties as to the fitness and suitability of you being a State Corporate Supporter for any particular purpose;

## ACSWA has made no representations or warranties as to the financial return or income to be derived from being a State Corporate Supporter (if any);

## on submitting an application you are relying entirely upon your own inquiries;

## ACSWA does not endorse or recommend the goods and/or services provided or offered by you;

## you will immediately notify ACSWA of any claim, demand or action made against you that may reasonably be expected to adversely impact upon or damage the reputation of ACSWA in any way what so ever;

## that any business transactions or dealings generated by reason of being a State Corporate Supporter with any third party shall be at your sole risk; and

## ACSWA will not be liable for any losses or damages directly or indirectly connected with any loss, failure or error in connection with any benefits conferred on you by reason of being a State Corporate Supporter.

# **NON ENDORSEMENT OF GOODS AND/OR SERVICES**

You warrant and covenant that you will:

## not make any representation, claim or statement (whether express or implied) that ACSWA endorses goods and/or services provided or offered by you; and

## do all things necessary to ensure that no third party considers or incorrectly assumes that ACSWA endorses goods and/or services provided or offered by you.

# **INTELLECTUAL PROPERTY**

## Nothing contained in these terms and conditions should be interpreted or construed as granting you any licence or rights to use or distribute any registered or unregistered trademarks, trade names, brand names, copyrights, processes, registered designs, operation manuals, or advertising and promotional materials of which ACSWA is the author, proprietor, owner or licensee.

## No licence or any other right or rights either expressed or implied is granted to use or display the ACSWA name, or any trademark, logo or design of ACSWA in any promotions or materials you may distribute from time to time.

# **RELATIONSHIP OF THE PARTIES**

## Nothing contained in these terms and conditions will be interpreted to create a relationship of partnership, employer and employee, agency or joint venture between you and ACSWA.

## You do not have any authority or power to enter into contracts, to pledge any credit, to incur any liabilities, to assume any obligations or to make any warranties or representations on behalf of ACSWA whatsoever.

# **INDEMNITY & LIMITATION OF LIABILITY**

## You must indemnify, keep indemnified and hold harmless ACSWA and its officers and staff from and against all actions, claims, losses, damages, penalties, demands or costs (including, without limitation, all legal costs on a full indemnity basis) consequent upon, occasioned by or arising from:

### any acts or omissions of you or your officers, sub-contractors, agents and employees;

### your performance, purported performance or failure to perform your obligations under these terms and conditions; and

### communications or business transactions in connection with you being a State Corporate Supporter, including without limitation all claims and demands resulting from any accident, damage, death or injury occurring in connection with the goods and/or services offered or provided by you to a third party or by inclusion on The Website as is referred to in clause 10.1.6 hereof;

## You indemnify and agree to keep indemnified ACSWA against all costs and damages arising out of your obligations under these terms and conditions, including any failure to comply with these terms and conditions.

# **PRIVACY**

## ACSWA’s privacy policy applies to information collected from or in connection with you being a State Corporate Supporter.

## In addition to the use of information described in ACSWA’s privacy policy, ACSWA may use the personal information it collects from you for the purpose of:

### ACSWA fulfilling its obligations to you and other State Corporate Supporters;

### marketing and promoting its services to State Corporate Supporters and others; and

### marketing and promoting the services of State Corporate Supporters to members of ACSWA and other persons.

### This means that from time to time ACSWA may disclose your personal information to third parties, including persons who provide or operate services for or on behalf of ACSWA. ACSWA may also disclose your personal information if permitted or required by law to do so by completing the application form you consent to the above.

## If your details change, or you would like to update or access your personal information, or obtain a copy of ACSWA’s privacy policy, you should contact ACSWA on (08) 9244 8233.

# **INCLUSION ON THE ACSWA WEBSITE**

## If the privileges and benefits include inclusion on the ACSWA website then subject to ACSWA issuing any other terms and conditions in relation to inclusion on the ACSWA website by way of a hypertext link, any inclusion will be on the following basis:

### the position, form and substance of all links will be at the sole discretion of ACSWA;

### ACSWA reserves the right to reject and remove inappropriate links at any time (eg language and lists etc). What is deemed as inappropriate is solely at the discretion of ACSWA. The contents of links are subject to approval or rejection at any time;

### links are accepted upon the representation and warranty that you have the right to publish the contents of the link without infringement of any rights of ACSWA or any third party (including intellectual property rights and copyright);

### you agree and acknowledge that any communications or business transactions generated through any link on the website shall be at your sole risk;

### the service is provided on an “as is” and “as available” basis without warranties of any kind either expressed or implied;

### the indemnity under clause 8 extends to:

#### the use of the link by any person;

#### the publication of the link (including without limitation any claim of trademark or copyright or other intellectual property infringement, libel, defamation or breach of confidentiality or privacy) and/or any material to which users link through the website; and

#### your reliance on the website, or mistakes, errors, defects, delays in operations, non-deliverables, mis-deliveries or transmissions in or relating to the website, or any other failure of performance of the website, or the termination of the website;

### without limitation, you confirm and acknowledge that ACSWA has made no representations or warranties:

#### as to the fitness and suitability of the website or a link for any particular purpose;

#### that the website will operate uninterrupted or error free;

#### that the Website and its servers are free from computer viruses and other harmful data, components or materials; and

#### that ACSWA will prevent any harmful, illegal or inappropriate use, modification or alteration of the Website, or give notice of such use, modification or alteration;

### ACSWA may without liability or without participants prior notice suspend, cancel or vary any link if:

#### ACSWA’s service provider or any competent authority requires or orders ACSWA to cease the provision of the link or any part of it;

#### (b) the link materially disrupts the provision of services to other persons; and

#### (c) ACSWA suspends, cancels or varies links from the website.

## For the purposes of clause 10.1, if ACSWA issues any other terms and condition in relation to inclusion on the ACSWA website by way of a hypertext link, these terms and conditions must be read in conjunction with the issued terms of the hypertext links and in the case of any inconsistency the issued terms will apply to the extent of the inconsistency.

# **TERMINATION**

## The subscription period shall continue until the sooner of:

### The turn of a financial year prior to a full 12 month period

### 12 months from the date of the commencement of the subscription period, unless the subscription period is renewed by way of:

#### you paying the successive annual subscription;

#### you agreeing to the terms and conditions prescribed by ACSWA at that time; and

#### ACSWA accepting the application for renewal;

### you failing to comply with any provision of these terms and conditions;

### you giving ACSWA 30 days written notice that you wish to terminate the subscription period;

### you engage in, or are involved in conduct which is deemed by ACSWA to be detrimental to ACSWA, or unbecoming to ACSWA or its members;

### in respect of a State Corporate Supporter that is a corporation:

#### any order or effective resolution is passed for the liquidation, winding up or dissolution of the party;

#### the party enters into any Agreement or composition with its creditors or convenes a meeting of its creditors for this purpose;

#### an administrator under Part 5.3A of the *Corporations Act 2001* (Cth) is appointed;

#### a receiver, receiver and manager or other controller (as defined in section 9 of the *Corporations Act 2001* (Cth)) is appointed of any assets of the party; or

#### the party is unable to pay its debts as they fall due; or

### if a State Corporate Supporter is a natural person, that individual dies or becomes of unsound mind, bankrupt or enters into any arrangement or composition with his or her creditors or proposes to do so.

## Upon termination of the subscription period or upon early termination of all of your rights, benefits and privileges as a State Corporate Supporter will be at an immediate end.

## The termination of the subscription period does affect any accrued rights or of any obligations of any party.

## Without limitation, on termination of the subscription period:

### all monies paid by you to ACSWA will be deemed to be forfeited without any claim against or recompense from ACSWA; and

### you will be liable to pay any monies you owe to ACSWA, including any unpaid subscription fees and any liability you may have incurred in any manner as a result of your subscription shall continue.

# **GST**

## Except where these terms and conditions state otherwise, each amount, of whatever description, payable by a party under these terms and conditions in respect of a taxable supply by the other party is expressed as a GST exclusive amount.

## In addition to any amount payable by a party in relation to a taxable supply that party must pay a sum equivalent to the GST payable, if any, in respect of that amount, at the same time and in the same manner as the relevant amount is payable.

# **GOVERNING LAW**

**This agreement shall be governed by the laws in force in the State of Western Australia and each party hereto submits to the exclusive jurisdiction of the Courts of this State.**

# **WAIVER**

A failure of a party at any time to require performance of any obligation under these terms and conditions is not a waiver of that party’s right to claim damages for breach of that obligation or at any time to require performance of that or any other obligation under this Agreement.

# **SEVERANCE**

If any provision or part of this agreement shall be for any reason unlawful, invalid or unenforceable then the offending provision or part thereof shall be severed from this agreement without affecting the validity or enforceability of the remainder of this agreement.

# **GENERAL**

## **Alteration**

These terms and conditions may only be altered in writing signed by the parties.

## **Interpretation**

These terms and conditions must be read in conjunction with any other terms and conditions in place between the State Corporate Supporter and ACSWA from time to time, and in the case of any inconsistency these terms will apply to the extent of the inconsistency. (subject to clause 10.2).

## **No Delegation or Assignment**

### The rights and privileges of being a State Corporate Supporter are personal to you and you must not and can not assign or delegate any of your rights, duties, responsibilities or obligations under these terms and conditions without the prior written consent of ACSWA.