

## Terms of Agreement

### 1. Introductory

1.1 By logging on to this site, you agree to be bound by all of the terms of this Agreement. Michael Edwards & Co. ("we") reserve the right to change the terms of this Agreement at any time. By subscribing to Fragrances of the World.Info ("the Database") and/or continuing to access the Database after the posting of Notices regarding such changes, you agree to be bound by such changes.

### 2. Recitals

2.1 Michael Edwards is the owner and proprietor of a unique and original system of classification pertaining to fragrances and perfumes which is known and identified by the title "FRAGRANCES OF THE WORLD" and which provides the means for the categorisation and ready comparison of fragrances ("the System").

2.2 Michael Edwards has appointed the company Michael Edwards and Company Pty. Limited (A.C.N. 002 639 241) ("Michael Edwards & Co") as his authorised representative and agent and he has granted to that company the exclusive licensing rights in respect of the System and throughout the world.

2.3 Utilising the System, we have attended to the classification of an extensive number of individual perfumes and fragrance products which collectively provide a valuable resource and to which new perfumes and fragrances are added upon their release onto the marketplace.

2.4 We are the publisher of a printed reference work entitled the "FRAGRANCES OF THE WORLD Guidebook" which is a presentation in hard-copy form of known and existing perfumes and fragrances classified and arranged according to the System and which is regularly revised and updated.

2.5 As well as the Guidebook, we attend to the management of a software version of the System and embodying a comprehensive computerised database ("the Database") classifying individual fragrances and providing relevant information pertaining to each listed fragrance.

2.6 Michael Edwards & Co is willing to grant the right, permission and licence to third parties to access and utilise the Database for proper purposes and in consideration of the observance of those terms and conditions which are herein set out and provided.

### 3. Rights

3.1 The Database is an original literary work in respect of which copyright subsists. All rights of ownership (including copyright) subsisting in respect of the Database are held in the name of the author Michael Edwards as the owner of same. We also have rights by virtue of being appointed as the exclusive licensee of the Owner throughout the world together with the right to grant sub-licences in respect of same to approved third parties.

#### **4. Grant of Licence**

4.1 This Agreement grants to you on a non-exclusive and non-transferable basis the following rights by way of licence:

(a) the right, licence, permission and consent to obtain access to the Database. Each login credit will allow you or your colleagues up to 8 hours in which to use the Database;

(b) the right to utilise the materials and the information stored on the Database but only for the specific purposes as provided herein; and

(c) the right to receive the benefit of upgrades, enhancements, improvements, additions and modifications to the Database.

4.2 This Agreement does not grant to you the right to reproduce or copy the Database or any part or portion of it without consent.

4.3 You may not license, lease, rent, communicate, provide or furnish the Database thereof to any third party.

#### **5. Title**

5.1 All right, title and interest in respect of the Database always remains with the copyright owner or with us as the exclusive licensee of the copyright owner.

#### **6. Unauthorised reproduction prohibited**

6.1 The Fragrances of the World.Info database (and the materials embodied in it) is a work which has taken many years to collect, research, collate and check. It is unique, valuable and protected by international copyright law.

6.2 You agree not to reproduce, copy, distribute, publish, sell, enter into a database, create derivative works, modify, vary or transmit in any form or by any means any part of the copyright materials embodied in the Database.

6.3 The Database together with all materials, information, images, artwork, drawings, data, documentation, listings, the software, programs, source code or object code embodied or subsisting therein or which we may from time to time impart to you in relation to the Database, are proprietary and confidential in nature. You agree that you shall use the same solely in accordance with the provisions of this Agreement and that you shall not at any time either during or after expiry of this Agreement disclose the same either directly or indirectly to any third party without prior consent or attempt to appropriate same for yourself.

#### **7. Intellectual Property Rights**

7.1 The Database is known and identified by the title "FRAGRANCES OF THE WORLD.INFO", and trademark rights are claimed by us in respect of same. You acknowledge that all or any trademarks, copyright and other intellectual property rights pertaining to the Database or used in conjunction with it (and including all documentation,

books and manuals pertaining to same) are and shall remain the property of the Owner or of us as exclusive licensee. During this Agreement or at any time after the expiry of same you shall not in any way question, challenge or dispute the ownership of such rights nor act in a manner which is inconsistent with those rights.

## **8. Exclusion of Liability**

8.1 The information contained in the Fragrances of the World.Info database is supplied "as is" with no guarantees, warranties or representations of any kind, either express or implied. We disclaim all warranties including any implied warranty of merchantability or fitness for a particular purpose with respect to the Database or any accompanying documentation.

8.2 Exhaustive efforts are taken to ensure the accuracy of the information contained in the Database, but neither Michael Edwards nor Michael Edwards & Co accepts any responsibility or obligation whatsoever for any error or omission arising from any of the information contained in the Database, or for any consequence which might be said to result from reliance upon that information. Both Michael Edwards and Michael Edwards & Co expressly exclude any such liability.

8.3 Although we take reasonable steps to prevent the introduction of bugs, viruses, worms, "Trojan horses" or other potentially damaging occurrences, we do not guarantee or warrant that such features may not be introduced during the transmission of the service and we do not therefore accept any liability for such damages or harm as may be attributable to such features.

8.4 We do not accept any obligation or liability in respect of lost or corrupted data or in relation to disrupted on-line connections.

8.5 We do not accept any liability whatsoever for any loss or damage however caused and whether arising directly or indirectly in connection with this Agreement or with the Database, its use, support or otherwise except to the extent to which it is unlawful to exclude such liability.

8.6 We expressly exclude liability for consequential or incidental loss or damage or for loss of profits, business, revenue and goodwill or for unexpected costs and expenses which may arise in respect of the Database or the use of same.

8.7 We do not provide any indemnity or obligation to you against any claim or suit which may be brought by a third party alleging that the Database, the materials embodied in it, any accompanying documentation, or any use of same may infringe the intellectual property rights of any such third party.

## **9. Changes to the Fragrances of the World.Info database**

9.1 We reserve the right to correct any errors or omissions in the Database, to edit, upgrade, revise, move or delete any data or information provided, and to make any modifications, amendments, adaptations, changes or alterations to the Database and the contents of same which we consider to be necessary or appropriate and to do so at any time, at our entire discretion, and with or without the giving of notice either in advance or arrears.

9.2 It is expressly provided that you may not modify, alter, reverse engineer, decompile or disassemble the Database or any part thereof except and only to the extent that such activity may be required by applicable law notwithstanding this limitation.

9.3 You also agree to indemnify Michael Edwards & Co., its directors, employees, representatives and any third-party service providers, and to defend and hold each of them harmless, from any and all claims and liabilities (including legal fees), that may arise from your unauthorised use of information or images obtained from Fragrances of the World.Info or from other third-party sources.

## **10. Use of Password**

10.1 Upon subscribing to the Database you will be allocated an individual password (“the Password”) for the purpose of accessing the Database. You, the subscriber, may log into Fragrances of the World.Info using your email ID and your Password. You may share your Password with a colleague, but please note that if he or she uses your ID and Password to log into the database while you are also logged in, you will be cut off. Your colleague will then take over your session.

10.2 To help maintain the security of your Password, each time your e-mail ID and Password is used to log into Fragrances of the World.Info, you agree to allow us to record the date, time of the visit and the IP address of the computer used to access the Database.

10.3 Should you have an individual subscription and suspect or discover that another person is using your Password without your authority, please e-mail us for a new Password.

## **11. Subscription payment**

11.1 You agree to pay in advance the agreed individual or corporate subscription fee for access to the Database.

11.2 If full payment is not received within 10 working days of the commencement of your subscription, we reserve the right either to suspend or to terminate your subscription and your rights and obligations under this Agreement.

11.3 All subscription packages are valid for 12 months from the date of registration. Any login credits not used by the end of the 12-month period will lapse. No refund will be applicable for unused credits.

11.4 The proliferation of new fragrances which takes place each year, with more than 2,100 becoming available in 2015, makes it ever more expensive and difficult to identify, source, evaluate, classify, and check the new launches and imposes serious demands upon available resources and rising costs. With this practical difficulty in mind, and in order to keep the level of annual subscriptions as affordable as possible, we are proceeding to implement as a requirement the condition that each and every subscriber of the Database who either develops or markets fragrances, including established oil-houses and the established brands, agrees that it shall brief Michael Edwards or his designated associates or affiliates at least once in each yearly period either in person or by email or other form of correspondence disclosing relevant details and information in respect of its new fragrance launches and bringing those new launches to the attention of Michael Edwards. Should you not agree to so brief us, or should you decline, omit or fail to provide or furnish the requested briefing where it is appropriate that you should do so, in addition to your subscription we reserve the right to impose a charge or fee calculated at the rate of 30 per cent of the value of your annual subscription.

## **12. Content of other sites**

12.1 We are not responsible for the contents of any other site to which you might have access via any of the fragrance brand and/or corporate web links contained in the Database.

## **13. Assignment**

13.1 This Agreement is expressed to be personal to the parties hereto and your rights and obligations hereunder shall not be assigned or transferred by you without our prior written consent having been obtained.

## **14. Commencement and Termination**

14.1 This Agreement is effective upon the accessing and logging on to the [www.fragrancesoftheworld.info](http://www.fragrancesoftheworld.info) web site by you, being the agreed date of commencement hereof, and it remains in effect until such time as it is terminated.

14.2 We may terminate this Agreement in the event that any of the following should occur, namely:

- (a) the failure by you to make payment of the annual subscription fee or to effect any renewal of same;
- (b) the failure on your part to observe or comply with any of the terms of this Agreement; and
- (c) if you should commit any act of bankruptcy or insolvency or if you should enter into administration, winding-up, receivership, liquidation or scheme of arrangement.

14.3 Upon termination the entitlement on your part to access the Database and to make use of it shall cease and be at an end. As well, your Password shall be cancelled forthwith by us.

## **15. Force Majeure**

15.1 Under this Agreement, we shall be under no liability to you in respect of any event or occurrence which, while it may be said to constitute a breach of this Agreement or a failure to perform, arises by reason of force majeure, that is, circumstances beyond our control which (without limitation) may include acts of God; perils of the sea or air; fire, flood, storm, tempest or drought; explosion; sabotage; accident; embargo; riot or civil commotion; acts of war; acts of government or parliamentary authority; inability to supply or make available the Database due to equipment failure, breakdown or disruption; labour disputes and strikes; and other events or causes which are reasonably beyond our control.

## **16. Severability**

16.1 In the event that any of the terms, conditions or provisions contained in this Agreement shall be determined to be invalid, unlawful or unenforceable to any extent, such term, condition or provision shall be severed from the remaining terms, conditions and provisions which shall continue to be valid to the fullest extent permitted by law.

## **17. Jurisdiction**

17.1 You agree that this Agreement, for all purposes, shall be governed by and interpreted according to the laws, including conflict of laws, applicable in the State of New South Wales, Commonwealth of Australia. You also consent to and accept the exclusive jurisdiction of the Courts of New South Wales in respect of any dispute relating to this Agreement.

## **18. Acknowledgment**

18.1 By logging on to this site and providing us with your relevant details and particulars, including your name, identity and address as requested, you acknowledge that you have read and understood this Agreement and that you agree to accept and be bound by its terms and conditions as and from the date of the first access to the Database by you.

18.2 You also agree that this Agreement is the complete and exclusive statement of agreement between you and us concerning the subject-matter hereof and that it supersedes all proposals, communications or prior agreements either verbal or written between you and us relating to the subject-matter hereof.

18.3 No amendment or variation to this Agreement and no fresh provision, condition or understanding not expressly provided for herein shall be effective or binding unless stated in writing and signed or authorised by both parties or their duly authorised representatives.

This and the above six pages collectively constitute the understanding and the agreement which exists between you and us as setting out the provisions and conditions of the Terms of Agreement which are intended to be applicable, and it provides you with legal notice as to those provisions and conditions.