

Data Access Sub-Licence Agreement

**Land Services SA Operating Pty Ltd as trustee for the Land Services SA
Operating Trust**

and



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Data Access Sub-Licence Agreement

Date

Parties

Land Services SA Operating Pty Ltd

ACN 618 229 815 as trustee for the Land Services SA Operating Trust
ABN 85 836 650 939 of Level 1, 101 Grenfell Street, Adelaide SA 5000

(Licensor)

[•]

ABN [•] of [•]

(Licensee)

Recitals

- A. The Licensor collects and has access to a range of property sales data in the performance of its obligations under a Land Services Agreement between the Licensor and the Treasurer for and on behalf of the Crown in right of the State of South Australia.
 - B. The Licensee wishes to have access to such data to develop information services about property sales and to provide such services to customers on a commercial basis.
 - C. The Licensor agrees to provide property sales data to the Licensee for those purposes on the terms and conditions set out in this Agreement.
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1. Definitions and Interpretation Clauses

1.1 Definitions

In this Agreement:

Agreement	means this agreement and includes the Schedule.
Annual Escalation Formula	means the annual escalation formula set out in Item 10 of the Schedule.
Audit	has the meaning given to that term in clause 12.4(b).
Audit Report	has the meaning given to that term in clause 12.4(e).
Commercialise	means, in respect of the Data, the distribution, sale, licensing or hire, or offering for distribution, sale, licensing or hire, (whether for remuneration or otherwise), to any person, of anything that embodies the Data (including the Derivative Product), and includes the provision of services based on the Data or any Derivative Product.
Commencement Date	means the date set out in Item 1 of the Schedule.
Confidential information	<p>means information which is disclosed by or on behalf of a party to this Agreement to the other party and which:</p> <ul style="list-style-type: none">(a) is by its nature confidential or by the circumstances in which it is disclosed is confidential; or(b) is designated by the disclosing party as confidential or identified in terms connoting its confidentiality, <p>but does not include information which is or becomes public knowledge other than by breach of this Agreement.</p>
Customer	means a licensee of any Derivative Product pursuant to a Product Licence.
Data	means the compilation of information described in Item 5 of the Schedule, and includes:

- (a) any of that information; and
- (b) any additional information provided by the Licensor which is annexed to, or included with, that information when delivered, for use as an aid in interpreting it.

Derivative Product(s) means any one of the one or more computer programs or information products listed in Item 11 of the Schedule (the details of which the Licensee has designated as Confidential Information under this Agreement), each of which is integrated with the Data and allow users to enquire upon the Data, and which specifically excludes any product which provides, or has the effect of providing, all or a substantial amount of the Data to the Customer.

End Date means the date set out in Item 2 of the Schedule.

Force Majeure means a circumstance beyond the reasonable control of the party seeking to rely on Force Majeure and which results in that party being unable to observe or perform on time an obligation under this Agreement. Such circumstances include, but are not be limited to:

- (a) acts of God, lightning strikes, earthquakes, floods, storms, explosions, fires and any natural disaster; and
- (b) acts of war, acts of public enemies, terrorism, riots, civil commotion, malicious damage, sabotage and revolution.

Geographical Area means the geographical area applying to the Data, as requested by the Licensee, which can either be:

- (a) “whole of State” data, comprised of each Local Government Area; or
- (b) one or a combination of Local Government Areas.

Government means the Government of the State of South Australia.

Government Statement means the statement set out in Item 4 of the Schedule.

GST	means GST as defined in the GST Act or any replacement or other relevant legislation and regulation and includes any interest or penalties charged in relation to the GST.
GST Act	means the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
Independent Auditor	means a partner of an independent chartered accounting firm which is not an auditor or adviser to either party or to a related body corporate (as that term is defined in the <i>Corporations Act 2001</i> (Cth)) of either party.
Intellectual Property Rights	means any patent, copyright, trademark, trade name, design, trade secret, know-how or other form of confidential information or any right to registration or renewal of such rights and any other form of intellectual property right, whether arising before or after the execution of this Agreement.
Invoicing Period	means the invoicing period set out in Item 8 of the Schedule.
Licence Fee	means the licence fee set out in Item 7 of the Schedule.
Licence Year	means a period of 12 months starting on 1 July and during which this Agreement is in force, except that: <ul style="list-style-type: none"> (a) the first Licence Year is the period starting on the Commencement Date and ending on the first 30 June to fall during the Term; and (b) whether or not this Agreement runs for the full Term, the last Licence Year is the period starting on the last 1 July to fall during the Term and ending on the expiry or earlier termination of this Agreement.
Local Government Area	mean, for South Australia, each local government area relevant to a Council constituted under the <i>Local Government Act 1999</i> (SA).
Month	mean a calendar month.
Personal Information	means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about a natural

person whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

Product Licence means a licence agreement of the kind referred to in clause 3.2(a).

Quarter means a period of 3 consecutive calendar months.

Security Audit means a security audit carried out by a suitable qualified independent service provider engaged by the Licensor for that purpose in relation to the Derivative Products and the Licensee's security and other practices and procedures.

Security Audit Report means a report in respect of a Security Audit.

Self-Assessment Compliance Statement means a statement in the form and containing such information as determined by the Licensor (in its sole discretion) in-writing from time to time, and which must include the Licensee's assessment of its performance under this Agreement against the criteria set out in clause 9.1(b).

Term has the meaning given to it in clause 2.1.

Variable Fee means the variable fee set out in Item 7 of the Schedule.

1.2 Interpretation

In this Agreement, the clause headings are for convenient reference only and have no effect in limiting or extending the language of the provisions to which they refer, and, unless the contrary intention appears:

- (a) a cross reference to a clause number is a reference to its subclauses;
- (b) words in the singular number include the plural and vice versa;
- (c) words importing a gender include any other gender;
- (d) a reference to including, includes or include must be read as if it is followed by "without limitation";
- (e) a reference to a person includes a partnership and a body, whether corporate or otherwise;

- (f) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- (g) monetary references are references to Australian currency; and
- (h) a reference to a party includes that party's administrators, successors and permitted assigns.

2. Term

2.1 Initial term

The "**Term**" of this Agreement is the period during which this Agreement remains in operation, being a term commencing on the Commencement Date and ending at the later of:

- (a) the End Date; or
- (b) the expiry of the Extension Term, in the event this Agreement is extended pursuant to clause 2.2(b).

unless terminated earlier in accordance with the provisions of this Agreement.

2.2 Extension of Term

- (a) If the Licensee wishes to agree an extension of the Term under clause 2.2(b), the Licensee must, not less than 3 months before the end of the then-current Term, apply in writing to the Licensor for an extension of the Term.
- (b) The Licensor may, at its absolute discretion, agree with the Licensee in writing an extension of the Term for the period(s) (**Extension Term**) up to those set out in Item 3 of the Schedule.

3. Grant of Licence

3.1 Licence

Subject to this Agreement, including the payment of the applicable Licence Fee, the Licensor grants to the Licensee a non-exclusive, non-transferable licence for the Term, to:

- (a) use the Data for the purposes of creating, developing and maintaining the Derivative Products; and
- (b) Commercialise the Data by licensing the Derivative Products to third parties,

and for those purposes, the Licensee may:

- (c) merge the Data with any products of the Licensee;
- (d) make such copies of the Data as are strictly necessary for delivery of Derivative Products; and
- (e) install any Derivative Product at a Customer's premises.

3.2 **Restrictions on use**

- (a) The Licensee may permit a person to use a Derivative Product only if that person has entered into a licence agreement with the Licensee that complies with the requirements of this Agreement (**Product Licence**), and that Product Licence has not expired or otherwise terminated.
- (b) The Licensee may not Commercialise or otherwise use the Data except as permitted by clauses 3.1, 3.2(a) and 7.2(b), and then only within Australia.
- (c) The Licensee may not supply the Data to any person or otherwise give any person access to the Data, except in the following circumstances:
 - (i) to permit a person to use a Derivative Product pursuant to a Product Licence granted to that person; or
 - (ii) to a contractor or other person engaged to assist in the development or delivery of a Derivative Product of the Licensee pursuant to, and subject to compliance with, clause 20.

3.3 **Government Statement**

The Licensee must:

- (a) include, and ensure the Customer acknowledges and agrees with, the Government Statement in each Product Licence; and
- (b) ensure that a statement in the following terms appears in each report or other image generated, electronically or otherwise, by a Derivative Product which contains or uses any or all of the Data:

Copyright in this information belongs to the South Australian Government and the South Australian Government does not accept any responsibility for the accuracy or completeness of the information or its suitability for any purpose.

3.4 **Aggregated statistical information**

Except if, and to the extent that, it is directed not to do so by the Licensor, the Licensee may, despite clauses 3.2(b) and 3.2(c), publish aggregated statistical information derived from the Data, but, in doing so, must:

- (a) not include information about individual property sales;
- (b) include with each publication a statement in the following terms:

This information is based on data supplied by the South Australian Government and is published by permission. The South Australian Government does not accept any responsibility for the accuracy, completeness or suitability for any purpose of the published information or the underlying data.

- (c) comply with any other conditions reasonably imposed by the Licensor.

3.5 Other Licensee obligations

- (a) The Licensee must provide to the Licensor on an ongoing basis during the Term for contract management (e.g. licence checks) purposes, and at no charge to the Licensor, a single copy of (or on-line access to) all Derivative Products that access the Data and any new products.
- (b) The Licensee must process all Data files made available to the Licensee by the Licensor.

4. Intellectual Property Rights

4.1 Ownership of Intellectual Property Rights

- (a) The Licensor warrants to the Licensee that the Licensor is entitled to licence the Data under this Agreement.
- (b) All Intellectual-Property Rights (including copyright) in the Data (whether or not incorporated in the Derivative Product) remain with the Government.
- (c) All Intellectual Property Rights in any product of the Licensee used to develop a Derivative Product (whether or not incorporated in the Derivative Product) remain with the Licensee (as between it and the Licensor).
- (d) Subject to clause 4.1(b), the Licensee owns the Derivative Products (as between it and the Licensor).

4.2 Infringement

- (a) The Licensee warrants that no Derivative Product infringes the Intellectual Property Rights of any person.
- (b) The Licensee must notify the Licensor as soon as practicable of any infringement, suspected infringement or alleged infringement by a Derivative Product of the Intellectual Property Rights of any person.
- (c) Without limiting the generality of the preceding parts of this clause 4, if it is determined by any independent tribunal of fact or law or if it is agreed between the parties to the dispute that an infringement of Intellectual Property Rights by a Derivative Product has occurred, the Licensee must at its sole expense:
 - (i) modify the Derivative Product in order to avoid continuing infringement;

- (ii) procure the right to continue the use or possession of the infringing software; or
- (iii) if neither of those solutions can be achieved:
 - (A) cease marketing and distribution of the Derivative Product;
 - (B) terminate any Product Licences; and
 - (C) notwithstanding and in addition to any other obligation arising under this Agreement or at law, indemnify and hold harmless the Licensor in respect of any liability arising to a Customer in respect of the termination of such a licence or the cancellation of an order.

5. Licensee's Acknowledgements

The Licensee acknowledges and agrees that:

- (a) the Data is gathered by the Licensor and the Government solely for purposes related to the Government's functions and that when the Government or Licensor is gathering and processing the Data neither are contemplating any purpose to which the Licensee may put the Data;
- (b) the Data is not guaranteed, warranted or represented by the Licensor or the Government to be accurate, complete, up to date, error free, or suitable for any particular purpose;
- (c) use of the Data is at the Licensee's and the Customers' sole risk;
- (d) the information comprised in the Data may change without notice;
- (e) the Licensee has exercised its independent judgement in acquiring the Data and has not relied on any representation made by the Licensor or the Government which has not been stated expressly in this Agreement or upon any descriptions or illustrations or specifications contained in any document including catalogues or publicity material produced by the Licensor or the Government; and
- (f) for the avoidance of doubt and without limiting the Licensor's rights in relation to the Data, the Licensor may, at any time during the Term, grant a licence to use the Data to any third party on the same or different terms and conditions (at the Licensor's absolute discretion) to this Agreement.

6. Data

6.1 Format of Data

- (a) Subject to clauses 6.1(b) and 6.3, the Licensor will deliver the Data to the Licensee in the format, at the times, and otherwise in accordance with Item 5 of the Schedule.
- (b) The Licensor may change:
 - (i) the format in which the Data is provided to the Licensee; or
 - (ii) the technology or systems on or through which the Data is provided, during the course of this Agreement, and in such circumstances the Licensor will use reasonable endeavours to provide notice of such a change, however the Licensee shall have no claim against the Licensor as a result of any such change.

6.2 Change to Geographical Area

- (a) At any time during the Term, the Licensee may request the Licensor to alter the Data provided by requesting a change in writing to the Geographical Area by either:
 - (i) if, as at the date of the request, the Data contains “whole of State” data, removing Local Government Area(s) from the Data; and
 - (ii) if, as at the date of the request, the Data contains less than “whole of State” data, adding Local Government Area(s) to the Data.
- (b) If the Licensee issues a request, the Licensor must use reasonable endeavours to amend the extract of Data as soon as reasonably possible.
- (c) The Licensee acknowledges that:
 - (i) the Data may only be segregated by Local Government Areas;
 - (ii) for any extract that contains Data less than “whole of State” data, the extract of Data must at all times contain data for at least one Local Government Area;
 - (iii) any change to the Data contemplated by this clause is subject to:
 - (A) the Government providing its consent to the change to the extract of Data; and
 - (B) the Licensee paying the Extract Change Fee;
 - (C) the change to the extract of Data not coming into effect until the next available Invoicing Period for the Variable Fee; and,

otherwise the Licensee not being in breach of this Agreement in any respect.

6.3 Exclusion of information

Without limiting any other right of the Licensor under this Agreement, if, as a result of any change in law (or the interpretation or application of any law), or any change in Government policy, it becomes illegal, or contrary to Government policy, for the Licensor to deliver the Data to the Licensee unless it excludes some of the information comprised in the Data, the Licensor may thereafter exclude that information from the Data it delivers to the Licensee under this Agreement, and the Licensee will not be entitled to any damages or other compensation for the exclusion of the information.

7. Data and Privacy Protection

7.1 Security and integrity of Data

- (a) The Licensee must ensure that:
 - (i) neither the security nor the integrity of the Data, nor the privacy of any individual to whom any information included in the Data relates, is compromised, violated or otherwise prejudiced as a result, directly or indirectly, of any act or omission of the Licensee or a Customer; and
 - (ii) no Derivative Product permits a Customer of the Licensee to electronically data match or correlate the data with data from other sources, which will or may diminish the privacy of natural persons.
- (b) The Licensee must comply with, and ensure that its Customers comply with, all applicable laws including those relating to Personal Information in relation to the Data and the Derivative Products.
- (c) Without limiting any of its other obligations under this Agreement, the Licensee must not:
 - (i) use the Data (whether directly or through the medium of a Derivative Product or any report or other thing generated by a Derivative Product) to assist it to compile a personalised contact list; or
 - (ii) use any list of addresses (or other information comprised in the Data) compiled from the Data (and whether generated by a Derivative Product or otherwise) to facilitate the provision by any person of advertising matter or any other information to, or otherwise to facilitate any person contacting, any other person, and whether for marketing purposes or for any other purpose, commercial or otherwise,

and the Licensee must not permit any other person to do such acts.

- (d) The Licensee must establish and maintain throughout the Term, privacy, security and other arrangements for ensuring compliance with its obligations under this Agreement (which may include arrangements for auditing Customers' businesses in order to ensure compliance with the terms of Product Licences). Those arrangements must be acceptable to the Licensor, acting reasonably. If the Licensor reasonably requests any change to the arrangements, the Licensee must promptly implement the change. For the purposes of this clause 7.1(d), the Licensee acknowledges that the Data has a confidentiality classification of "Public" under Government requirements, where "Public" means information authorised for unlimited public access and circulation.
- (e) The Licensee must at all times comply with the AS/NZS ISO/IEC 27001 standard for Information Security Management Systems, as amended from time to time, in relation to the Data and Derivative Products.

7.2 Data storage

- (a) The Licensee must ensure that the Data is stored and retained, electronically or otherwise, including storage on any server or other device, in Australia, and must not be stored, transported, distributed, maintained, accessed or supplied outside of Australia.
- (b) Nothing in the preceding subclause is intended to limit the Licensee's ability to sell its Derivative Products internationally, or to supply information (including Data) through the Derivative Products to internationally based Customers, subject to the other restrictions and limitations on such products and Data provision as set out in this Agreement.

8. Security Audit

8.1 Commission of Security Audit

- (a) Unless the Government directs the Licensor to do so, if, at any stage during the Term, the Licensor knows, suspects or has reason to believe the Licensee is or is likely to be in breach of or not fully compliant with this Agreement, the Licensor may upon giving not less than 5 Business Days' notice in writing to the Licensee, commission a Security Audit in respect of the Licensee and the Derivative Products.
- (b) The Licensor will have the right to commission a Security Audit once in respect of each Licence Year, provided that this clause 8.1(b) will not limit the Licensor's rights to commission a further Security Audit:
 - (i) in accordance with this clause 8 to determine whether the recommendations of a Security Audit Report have been implemented;
 - (ii) if the Licensor becomes aware of any breach by the Licensee of its obligations under clause 7 of this Agreement;

- (iii) for the purposes of clause 10.4(c); or
 - (iv) if the Government directs the Licensor to do so.
- (c) Except if the Government exercises its rights under clause 8.1(b)(iv) or directs the Licensor to commission a Security Audit, in which case the Licensee must pay all costs of the Security Audit reasonably incurred by the Licensor, each party will bear its own costs of a Security Audit commissioned under this clause 8.1 unless the results of the Security Audit determine:
- (i) the recommendations of a Security Audit Report have not been implemented;
 - (ii) the Licensee has breached its obligations under clause 7; or
 - (iii) acting reasonably, the Licensor has required a Security Audit under clause 10.4(c) and the outcome of that Security Audit reveals that the Licensee has breached its obligations under clause 7,

in which case, in addition to its own costs, the Licensee must pay all costs of the Security Audit reasonably incurred by the Licensor.

8.2 Implementation of recommendations

- (a) The Licensor may provide the Licensee with a written notice, containing a copy of the relevant Security Audit Report, requiring that the Licensee implement the recommendations of the Security Audit Report, in which case the Licensee must:
- (i) satisfactorily implement the recommendations classified as "Urgent" within 30 days of the date of that notice, or within such lesser time as required by the Security Audit Report; and
 - (ii) satisfactorily implement the recommendations classified otherwise within the timeframes set out in the Security Audit Report (with such timeframes to be reasonably set by the Licensor and the service provider undertaking the Security Audit having regard to the nature of the recommendation, the likelihood or severity of the risk underlying the recommendation and the time and resources likely to be needed to implement the recommendation); or
 - (iii) otherwise, and with the prior approval of the Government and subject to clause 8.2(b), demonstrate to the Licensor's reasonable satisfaction why it is not reasonable to implement the recommendation including taking into account:
 - (A) the time and cost resources of implementing the recommendation compared with the Data security and integrity risks the recommendation is intended to mitigate or remove;

- (B) whether the Licensee will be able to comply with its obligations under this Agreement (including clause 7) despite the recommendation not being followed; and
 - (C) any other factor the Licensor reasonably considers relevant to the decision.
- (b) The Licensee acknowledges the approval or acceptance by the Licensor of the Licensee not implementing a recommendation is subject to acceptance by the Government and could result in the Licensor suspending the delivery of the Data or suspending the Licensee's rights to use the Data under this Agreement.
- (c) The Licensor may acting reasonably if there is no alternate method to demonstrate to the reasonable satisfaction of the Licensor the implementation of any recommendation pursuant to this clause, at the Licensee's cost, after the expiry of the time periods set out in the preceding subclause, conduct a further audit to determine whether the Licensee has complied with the preceding subclause.
- (d) If the Licensee has not implemented recommendations set out in the Security Audit Report within the required timeframe and otherwise to the reasonable satisfaction of the Licensor, the Licensor may, but has no obligation to do so, allow the Licensee a further time period to implement the recommendations and may, acting reasonably (if there is no alternate method to demonstrate the implementation of any recommendation pursuant to this clause to the reasonable satisfaction of the Licensor) subsequently carry out a further audit, at the Licensee's cost, to determine whether it has implemented the relevant recommendations.
- (e) If the Licensee fails to comply with its obligations under this clause, the Licensor may, without prejudice to any of its other rights under this Agreement, suspend the delivery of the Data or suspend the Licensee's rights to use the Data under this Agreement, without prejudice to any of its other rights under this Agreement.
- (f) For the purposes of this clause 8, the Licensee will be taken to have satisfactorily implemented a recommendation in the Security Audit Report only if the Licensor's security auditor:
 - (i) so determines; or
 - (ii) determines that other action that the Licensee has taken satisfactorily achieves the same result that the recommended action was meant to achieve.
- (g) Once the Licensee has satisfactorily implemented a recommendation in a Security Audit Report, it must ensure that the recommendation continues to be implemented throughout the Term.
- (h) The Licensee must co-operate with the Licensor and/or the Licensor's security auditor to facilitate any audit that the Licensor is entitled to carry out under this clause 8 or clause 10.

8.3 Licensee acknowledgments

The Licensee acknowledges that:

- (a) any Security Audit is carried out solely for the Licensor's own purposes of determining whether the Licensee has complied with, or remains capable of complying with, its obligations under this Agreement; and
- (b) neither the Security Audit, nor compliance with the recommendations resulting from it, limits or otherwise derogates from any of the Licensee's obligations under this Agreement.

9. Annual Self-Assessment Requirements

9.1 Self-Assessment Compliance Statement

- (a) The Licensee must, by no later than each 30 June during the Term, complete and submit to the Licensor a Self-Assessment Compliance Statement.
- (b) The Self-Assessment Compliance Statement must include the Licensee's assessment of its performance against the criteria determined in writing by the Licensor (at its sole discretion) from time to time, and such criteria must include (unless the Licensor determines otherwise):
 - (i) the Licensee's progress in implementing each recommendation set out in any applicable Security Audit Report;
 - (ii) the Licensee's compliance with the requirements set out in clause 20, including details of any non-compliance with that clause; and
 - (iii) the Licensee's compliance with its obligations in relation to Data protection and privacy, including any such obligations that apply to Derivative Products,

and must be accompanied by a complete list of all Derivative Products which are integrated with the Data and allow users to enquire upon the Data.

9.2 Licensor's rights to terminate

Without limiting the Licensor's rights under clause 17, the Licensor may terminate this Agreement by giving the Licensee written notice to that effect if the Licensee:

- (a) provides an incomplete Self-Assessment Compliance Statement;
- (b) provides a Self-Assessment Compliance Statement that, in the reasonable opinion of the Licensor, contains incorrect or misleading information or assertions; or

- (c) fails to provide a Self-Assessment Compliance Statement within the timeframe set out in this clause, and time is of the essence in this regard,

provided the Licensor has first given the Licensee written notification of the above breach and the Licensee has not remediated that breach within 30 days of receiving that notification.

10. Changes to Derivative Products

10.1 Overview

For the purposes of this clause 10:

- (a) a "**Change**" in a Derivative Product is deemed to have occurred if:
 - (i) the Licensee has implemented a new "Derivative Product"; or
 - (ii) the Licensee has undertaken an upgrade, enhancement or other change to an existing Derivative Product (other than a Minor Change) which alters or enhances the way the Data is used or presented in the Derivative Product or increases the risk of the security or the integrity of the Data, or the privacy of any individual to whom any information included in the Data relates, being compromised, violated or otherwise prejudiced (directly or indirectly); or
 - (iii) the Derivative Product is internet-based and:
 - (A) it is installed on a web site that was not approved by the Licensor in writing for the installation of the Original Version; or
 - (B) a change is made to a web site on which it has been installed, which will or may diminish the protection afforded to the security or the integrity of the Data or the privacy of natural persons; and
- (b) a "**Minor Change**" in a Derivative Product is an upgrade, enhancement or other change to a non-internet-based Derivative Product, which is minor in nature and does not significantly alter the product's functionality, its operation or the manner in which it integrates or uses the Data.

10.2 Licensee warranty

The Licensee warrants to the Licensor that, at the Commencement Date:

- (a) the current versions of the Derivative Products are as set out in Item 11 of the Schedule (each, an "Original Version"); and
- (b) no Change has been made to the Original Version since the Licensor or Government last approved the Licensee's application to obtain access to the Data for the purposes of the Derivative Products.

10.3 Deemed variation

The Licensee acknowledges and agrees that the implementation of any Change in the Derivative Products other than a Minor Change is a variation of this Agreement for the purposes of clause 25.6 and that the Licensee must not implement such Change unless and until the Government has provided its prior written approval in accordance with that clause.

10.4 Changes

- (a) If the Licensee intends to implement a Change in the Derivative Products, it must:
 - (i) promptly provide to the Licensor, at no cost to the Licensor:
 - (A) a single copy of (or on-line access to) the Derivative Product the subject of the Change;
 - (B) full particulars in writing of the Change; and
 - (ii) without derogating from the Licensee's warranty in clause 10.2, the Licensor must give the Licensee notification in writing that it is satisfied that the Change will not cause the Licensee to be in breach of that clause.
- (b) As soon as reasonably possible during the Term before it intends to or after a Minor Change is implemented, the Licensee must notify the Licensor in writing of a Minor Change.
- (c) The Licensor, acting reasonably, may require further information about a Change or any Minor Change in order to satisfy itself of the Licensee's continuing compliance with this Agreement including that any Minor Change is in fact a Minor Change, or require a Security Audit to be performed, at the cost of the Licensee in accordance with clause 8.
- (d) For the purpose of clause 10.4(a), the Licensee must provide the relevant information to the Government, and not the Licensor, for any Change covered by clause 10.1(a)(i).

11. Product Licences

11.1 Termination of Product Licences

- (a) The Licensee must ensure that all Product Licences terminate immediately on the termination of this Agreement.
- (b) If:

- (i) the Government notifies the Licensee that, in its opinion, it would be contrary to public policy for a particular Product Licence to continue; or
- (ii) a Customer uses a Derivative Product, or any report or other thing generated by it, for a purpose not permitted by this Agreement, or does anything else not permitted by this Agreement, and the Licensor so directs the Licensee,

the Licensee must immediately terminate or vary the relevant Product Licence to the extent necessary to give effect to any direction or notification provided by the Government or Licensor in accordance with this clause.

- (c) The Licensee must ensure that, on a Product Licence terminating, or on the occurrence of an event which, under the terms of this Agreement, must result in the termination of a Product Licence, the relevant Customer's access to the Data is immediately and irrevocably terminated.

11.2 **Unauthorised use**

If the Licensee becomes aware that a Customer has used a Derivative Product, or any report or other thing generated by a Derivative Product, for a purpose not permitted by this Agreement, or has done anything else not permitted by this Agreement, the Licensee must immediately notify the Licensor, in writing and in reasonable detail, of the unauthorised use or other act or omission.

12. **Licence Fee**

12.1 **Licence Fee**

- (a) During the Term, the Licensee must pay to the Licensor the Licence Fee.

12.2 **Payment of Invoices**

- (a) The Licensor may issue to the Licensee invoices for the Licence Fee, and the Licensee must pay any invoices, in the manner set out in Item 8 of the Schedule.
- (b) If the Licensee fails to make payment of any invoice as required by the terms of this Agreement, the Licensor may, without further notice to the Licensee and in addition to any other remedy provided by this Agreement or at law:
 - (i) suspend its further obligations to the Licensor pursuant to this Agreement or any other agreement; and
 - (ii) suspend the delivery of the Data or suspend the Licensee's rights to use the Data under this Agreement.

12.3 Review and adjustment of Licence Fee

- (a) On each Review Date until the end of the Term, all components of the Licence Fee will be adjusted in accordance with the Annual Escalation Formula.
- (b) Any adjustment in the Licence Fee takes effect as the new Licence Fee on and from the day immediately following the relevant Review Date.
- (c) Until the new Licence Fee is determined:
 - (i) the Licensee must continue to pay the existing Licence Fee; and
 - (ii) upon determination of the new Licence Fee, the parties must make an appropriate adjustment to reflect the difference between the existing Licence Fee and the new Licence Fee for the period between the relevant Review Date and the date of determination of the new Licence Fee.

12.4 Records and audit

- (a) The Licensee must maintain true and accurate records (including audited balance sheets, profit and loss and cashflow statements, prepared in accordance with generally accepted accounting principles) relating to its use and Commercialisation of the Data including:
 - (i) details of all Product Licences, including expired or terminated ones; and
 - (ii) its compliance with the requirements of this Agreement.
- (b) The Licensor has the right, upon giving not less than 10 Business Day's notice to the Licensee, to commission an Independent Auditor to audit the Licensee's accounts and records pertaining to any matter relating to this Agreement to determine whether the Licensee is in compliance with its obligations under this Agreement (**Audit**).
- (c) The Licensor will have the right to have an Audit conducted under clause 12.4(b) once in respect of each year during the Term, provided that this clause 12.4(c) will not limit the Licensor's right to have an Audit conducted at a later time, or to conduct a further Audit, if the Licensor becomes aware of, or is provided, new information in respect to the performance by the Licensee of its obligations under this Agreement.
- (d) The Licensee must cooperate with the Independent Auditor and provide all information reasonably required by the Independent Auditor to allow it to undertake and deliver the Audit.
- (e) The Licensor must instruct the Independent Auditor to prepare a written report (**Audit Report**) of the results of the Audit and provide it to the Licensor and Licensee within a reasonable time (and, in any event, within 30 days) of the notice given under clause 12.4(b).

- (f) The costs of the Independent Auditor are to be borne and paid for by the Licensor unless the Independent Auditor determines that the Licensee is in material breach of its obligations under this Agreement.

13. GST

13.1 Preliminary

Words or expressions used in this clause that are defined in the GST Act have the same meaning given to them in the GST Act.

13.2 Consideration does not include GST

Unless otherwise stated, any consideration specified in this Agreement does not include any amount for GST.

13.3 Recovery of GST

If a supply under this Agreement is subject to GST, the recipient of the supply must pay to the supplier an additional amount equal to the amount of consideration multiplied by the applicable GST rate.

13.4 Time of payment

The additional amount is payable at the same time as the consideration for the supply is payable or is to be provided. However, the additional amount need not be paid until the supplier gives the recipient a Tax Invoice.

13.5 Adjustment of additional amount

If the additional amount differs from the amount of GST payable by the supplier, the parties must adjust the additional amount accordingly.

13.6 Reimbursement

If a party is entitled to be reimbursed or indemnified under this Agreement, the amount to be reimbursed or indemnified does not include any amount for GST for which the party is entitled to an Input Tax Credit.

14. Release and Indemnity

14.1 Release

The Licensee releases the Licensor and the Government, and each of their respective officers, employees and agents in respect of all liability for loss, damage or injury which

may be suffered by the Licensee arising from its use of the Data or any Derivative Product except to the extent such loss, damage or injury was caused by the Licensor or the Government.

14.2 Indemnity

- (a) The Licensee continually indemnifies the Licensor and the Government, and each of their respective officers, employees and agents (**those indemnified**) from and against any loss, damage or injury (including reasonable legal costs and expenses) howsoever arising that those indemnified may suffer as a result of:
- (i) the exercise by the Licensee of any rights granted to it in relation to the Data;
 - (ii) any person's use or reliance on the Data, any Derivative Product, or any report or other thing, using the Data or generated by any Derivative Product;
 - (iii) any wilful, unlawful or negligent act or omission of the Licensee; or
 - (iv) any allegation that a Derivative Product infringes any Intellectual Property Rights,
- except to the extent such loss, damage or injury was directly caused by the Licensor or the Government.
- (b) The Licensee's obligation to indemnify in this clause 14.2 arises whether or not legal proceedings are instituted and, if such proceedings are instituted, irrespective of the means, manner or nature of any settlement, compromise or determination.
- (c) The Licensor holds on trust for those indemnified the benefit of the releases and indemnities set out in clause 14.2(a).

15. Implied Terms

- (a) Subject to clause 15(b), any condition or warranty which would otherwise be implied in this Agreement is excluded.
- (b) Where legislation implies in this Agreement any condition or warranty, and that legislation avoids or prohibits provisions in a contract excluding or modifying the application of or exercise of or liability under such condition or warranty, the condition or warranty is deemed to be included in this Agreement.
- (c) However, if permitted by the relevant legislation, the liability of the Licensor for any breach of such condition or warranty is limited, at the option of the Licensor, to one or more of the following:
- (i) if the breach relates to goods:

- (A) the replacement of the goods or the supply of equivalent goods;
 - (B) the repair of the goods;
 - (C) the payment of the cost of replacing the goods or of acquiring equivalent goods; or
 - (D) the payment of the cost of having the goods repaired; and
- (ii) if the breach relates to services:
- (A) the supplying of the services again; or
 - (B) the payment of the cost of having the services supplied again.

16. Notification Requirements

The Licensee must notify the Licensor in writing if any of the following events occur:

- (a) if any director, secretary or officer of the Licensee is convicted of a criminal offence;
- (b) if the Licensee is or is likely to become insolvent or subject to insolvency proceedings;
- (c) if there is a change in control of the Licensee (whether by a change in majority shareholding or otherwise),

and such a notice must include such details of the event as the Licensor may consider sufficient to enable the Licensor to make an informed decision as to whether the Licensee will be able to continue to comply with the terms and conditions of this Agreement.

17. Termination

17.1 Termination for cause

The Licensor may terminate this Agreement by giving the Licensee written notice to that effect if:

- (a) the Licensor's rights to licence the Data to the Licensee are terminated;
- (b) the Licensee is in breach of any term of this Agreement and such breach is not remedied within 30 days of written notification by the Licensor of the breach;
- (c) without derogating from the preceding subclause, the Licensee is in breach of clause 7, in which case the Licensor may not allow the Licensee a period in which to remedy the breach;

- (d) the Licensee becomes the subject of insolvency proceedings;
- (e) the Licensee has breached the same provision of this Agreement on 3 or more occasions, irrespective of whether or not the Licensee has remedied the breaches;
- (f) control of the Licensee (whether by a change in majority shareholding or otherwise) changes whereby control is determined by the capacity to determine the outcome of decisions of the Licensee's financial and operating policies and for the purpose of this clause another entity may control the Licensee even if it does so as trustee; or
- (g) any director, secretary or officer of the Licensee is convicted of a criminal offence and the Licensee fails to remove such person from his or her office immediately after a conviction is made, delivered or recorded.

17.2 Termination by Licensee

The Licensee may terminate this Agreement by notification in writing to the Licensor.

17.3 Rights and obligations on Termination

- (a) Upon termination of this Agreement (including, for removal of doubt, by the passage of time) the Licensee must destroy any remaining copies of the Data and any documentation associated with it or otherwise return or dispose of such material in the manner directed by the Licensor.
- (b) Termination pursuant to this clause does not prejudice any other rights accruing to the Licensor prior to the date of termination, including the right to pursue all remedies available at law or in equity.
- (c) If notice is given by the Licensee pursuant to clause 17.2, the Licensor may:
 - (i) repossess any copies of the Data in the possession, custody or control of the Licensee or any Customer;
 - (ii) retain any moneys paid;
 - (iii) charge a reasonable sum for work performed for the purposes of this Agreement in respect of which work no sum has been previously charged;
 - (iv) be regarded as discharged from any further obligations under this Agreement; and
 - (v) pursue any additional or alternative remedies provided by law.

18. Consequential Loss

- (a) The extent permitted by law, under no circumstances will either party be liable to the other party for any loss of profit, loss of revenue, loss of anticipated savings, loss of contract, loss of business opportunity, loss of reputation or goodwill, loss of data or any special, exemplary, indirect or consequential loss arising in connection with this Agreement.
- (b) Clause 18(a) does not apply to exclude loss which has occurred or is suffered by the Licensee as a result of a breach by the Licensor of clauses 6 or 21 of this Agreement.

19. Force Majeure

- (a) Neither party is liable for any delay in performing, or failure to perform, its obligations pursuant to this Agreement (other than an obligation to pay money). If the delay or failure is due to Force Majeure.
- (b) If a party is delayed in performing, or fails to perform, its obligations (other than an obligation to pay money) due to Force Majeure, the performance of that party's obligations will be suspended.
- (c) If a delay or failure by a party to perform its obligations due to Force Majeure exceeds 60 days, either party may immediately terminate the Agreement on providing notice in writing to the other party.

20. Licensee's Contractors

20.1 Supply of Data to Contractors

The Licensee may, during the Term, disclose, distribute or supply the Data to a contractor (**Contractor**) engaged by the Licensee to carry out a task for or on behalf of the Licensee for the purposes set out in clauses 3.1(a) or 3.1(b), solely in relation to the Licensee's own Derivative Product, provided:

- (a) the Licensee seeks and obtains the Licensor's consent prior to any disclosure, distribution or supply of the Data to the Contractor;
- (b) the Licensee provides to the Licensor all relevant details of the Contractor to the reasonable satisfaction of the Licensor, including the task to be carried out by the Contractor;
- (c) the Licensee ensures that the Contractor is aware of all the terms of this Agreement relevant to the Contractor;
- (d) the Licensee enters into a contract with the Contractor on terms and conditions which reflect the terms and conditions of this Agreement, and protect the

Licensor's rights under this Agreement and in the Data, to the satisfaction of the Licensor;

- (e) the Licensee, if requested by the Licensor, provides the Licensor with a copy of the contract which has, or is proposed to be, entered into with the Contractor;
- (f) the Licensee enforces the obligations in this Agreement between the Licensee and the Contractor; and
- (g) the Licensee immediately advises the Licensor in writing if the Licensee becomes aware that the Contractor has breached any of those obligations.

20.2 Licensee remains responsible

- (a) If the Licensor consents to the disclosure, distribution or supply of the Data to a contractor pursuant to clause 20.1, the Licensee is not relieved of any of its liabilities or obligations under this Agreement, and the Licensee is liable to the Licensor for the acts, defaults and neglects of any Contractor or any employee or agent of the Contractor as if they were the acts, defaults or neglects of the Licensee.
- (b) The Licensee is responsible for ensuring the suitability of all Contractors and for ensuring that the work performed by the Contractor meets the requirements of this Agreement.

21. Confidentiality

21.1 Disclosure generally

- (a) Neither party may, without the prior written approval of the other party, disclose the other party's Confidential Information.
- (b) A party does not breach clause 21.1(a) where it is legally compelled to disclose the other party's Confidential Information.

21.2 Disclosure by Licensor

The Licensor does not breach clause 21.1(a) by making a disclosure to the Government, including:

- (a) to Parliament, the Governor, Cabinet; any Minister of the Crown or Parliamentary or cabinet committee or sub-committee; or
- (b) disclosures which must be made by the Licensor to Government as a consequence of the Licensor's contractual obligations to the Government; or
- (c) for the purpose of prosecuting or defending any legal proceedings.

21.3 Use by Licensor

The Licensor must not use any Confidential Information of the Licensee for any purpose other than performing its obligations under this Agreement.

21.4 Disclosure to or by employees, agents and subcontractors

- (a) Each party must take all reasonable steps to ensure that its employees and agents, and any subcontractors engaged for the purposes of this Agreement, do not make public or disclose the other party's Confidential Information.
- (b) The Licensor may at any time require the Licensee to arrange for its employees, agents or sub-contractors engaged in the performance of this Agreement to execute a suitable confidentiality deed. The Licensee must arrange for all such deeds to be executed within the timeframe reasonably proposed by the Licensor.

21.5 Return of documents

The Licensee must on demand return to the Licensor any documents supplied by the Licensor to the Licensee in connection with this Agreement.

21.6 Survival

This clause 21 will survive the expiry or termination of this Agreement.

22. Contract Administration

- (a) For the purposes of administering this Agreement, each party appoints as its Contract Manager (**Contract Manager**), the person so designated in Item 12 of the Schedule.
- (b) The Licensor's Contract Manager and the Licensee's Contract Manager each has authority to:
 - (i) exercise all of the powers and functions of his or her party under this Agreement, other than the power to renew or amend this Agreement; and
 - (ii) bind his or her party in relation to any matter arising out of or in connection with this Agreement.
- (c) The Licensee must comply with all reasonable instructions given by the Licensor's Contract Manager.
- (d) Either party may by 14 days written notice to the other change its Contract Manager.

23. Resolution of Disputes

- (a) Subject to clause 23(b), disputes in relation to this Agreement must be resolved in accordance with this clause before clause 25.8 is triggered.
- (b) Either party may, in a case of genuine urgency, seek immediate interlocutory relief or an interim remedy.
- (c) Subject to clause 23(b), all disputes must be resolved as follows:
 - (i) Each party must within 14 days of the dispute arising, submit the dispute:
 - (A) in the case of the Licensor, to the Contract Manager; and
 - (B) in the case of the Licensee, to the Contract Manager,
(Negotiators).
 - (ii) The Negotiators must discuss the dispute as soon as practicable to resolve it.
 - (iii) If the Negotiators cannot resolve the dispute within 14 days of its reference to them, each Negotiator must prepare a written summary of his or her attempts to resolve the dispute and immediately refer that summary to the "Executive Negotiators" nominated in Item 13 of the Schedule which may be changed by a party by written notice to the other).
- (d) The Executive Negotiators must discuss the dispute as soon as practicable to resolve it, but in any case within 14 days of its reference to them. Each party must authorise and inform its Executive Negotiator sufficiently so that he or she can undertake that discussion without detailed reference to another person.
- (e) Notwithstanding the existence of a dispute each party must continue to perform its obligations under this Agreement.
- (f) This clause survives any expiry or termination of this Agreement.

24. Trustee Capacity

24.1 Trustee Capacity

Subject to clause 24.3:

- (a) the Licensor enters into this Agreement in its capacity as trustee of the Trust and in no other capacity;
- (b) the Licensee will not be entitled to:

- (i) claim from or commence proceedings against the Licensor in respect of any loss, liability, cost or expense under or in connection with this Agreement in any capacity other than as the trustee of the Trust;
 - (ii) seek to appoint a receiver, liquidator, administrator (or person performing a similar function) or prove in any liquidation, administration or arrangement of or affecting the Licensor; or
 - (iii) enforce or seek to enforce any judgment in respect of a loss, liability, cost or expense under or in connection with this Agreement against the Licensor in any capacity other than as trustee of the Trust; and
- (c) the Licensor's liability (despite any other clause to the contrary) under or in connection with this Agreement is limited to the extent to which the Licensor is entitled to be indemnified for that liability out of assets of the Trust.

24.2 Licensor Acknowledgement

The Licensor acknowledges and agrees that it will exercise its rights of indemnification in order to satisfy its obligations under this document.

24.3 Limitation of liability exclusion for Licensor

The provisions of clause 24.1 do not apply to any obligation or liability of the Licensor to the extent that it is not satisfied because there is (under the Trust Deed or by operation of law) a reduction in the extent, or an extinguishment, of the Licensor's indemnification out of the assets of the Trust as a result of:

- (a) the Licensor's fraud, negligence or breach of trust;
- (b) the Licensor having acted beyond power or improperly in relation to the Trust; or
- (c) any act intended to reduce or extinguish the Licensor's indemnification out of the assets of the Trust.

24.4 Licensor representations and warranties

The Licensor represents to the Licensee that each of the following statements is correct and not misleading as at the date of this Agreement and will be correct and not misleading as at the Commencement Date:

- (a) the Trust is duly constituted and has not been terminated, nor has the date passed or any event occurred for the vesting of the Trust's assets;
- (b) it is the sole trustee of the Trust, it has not given any notice of resignation and no action has been taken to remove it or to appoint an additional trustee of the Trust;
- (c) the Trust Deed complies with all applicable laws;

- (d) it has complied with its obligations and duties under the Trust Deed and at law;
- (e) no property of the Trust has been re-settled, set aside or transferred to any other trust;
- (f) it has full legal capacity and power under the Trust Deed to:
 - (i) own the Trust's assets and carry on the business of the Trust as it is now being conducted; and
 - (ii) enter into this Agreement and to carry out the transactions that this Agreement contemplates, as trustee of the Trust;
- (g) all action that is necessary or desirable under the Trust Deed or at law has been taken to:
 - (i) authorise entry into this Agreement and the carrying out by the Licensor of the transactions that this Agreement contemplates;
 - (ii) ensure that this Agreement is legal, valid and binding on the Licensor as trustee of the Trust and admissible in evidence against it in that capacity; and
 - (iii) enable it to properly carry on the business of the Trust;
- (h) it has carefully considered the purpose of this Agreement and considers that entering into this Agreement is part of the proper administration of the Trust, for the commercial benefit of the Trust and for the benefit of the beneficiaries of the Trust, and considers that the terms of this Agreement are fair and reasonable;
- (i) it has the right to be fully indemnified out of the Trust's assets in relation to the obligations and liabilities incurred by it under this Agreement, that right has not been modified, released or diminished in any way, and the Trust's assets are sufficient to satisfy that right of indemnity and all other obligations and liabilities in respect of which the Licensor has a right to be indemnified out of the Trust's assets; and
- (j) it has not released or disposed of its equitable lien over the Trust's assets.

24.5 **Relevant definitions**

For the purposes of this clause 24:

- (a) **Trust** means the Land Services SA Operating Trust; and
- (b) **Trust Deed** means the deed under which the Licensor is appointed as trustee of the Trust.

25. Miscellaneous

25.1 Assignment

The Licensee must not assign this Agreement or any rights under this Agreement, in whole or in part, without the prior written consent of the Licensor and the Government.

25.2 Survival of Agreement

- (a) Subject to any provision to the contrary, this Agreement ensures to the benefit of, and is binding upon, the parties and their successors, trustees, administrators, permitted assigns or receivers, but does not ensure to the benefit of any other persons.
- (b) The terms and conditions of this Agreement that are capable of having effect after the expiration or earlier termination of the Agreement remain in full force and effect following such expiration or earlier termination.

25.3 Status of Licensee

- (a) The Licensee is not a partner or agent of the Licensor and does not have the power or authority, directly or indirectly or through its servants or agents, to bind the Licensor to any person except as provided by this Agreement.
- (b) The Licensee must observe fiduciary obligations to the Licensor in relation to:
 - (i) all property of the Licensor in the Licensee's possession;
 - (ii) all moneys owing by the Licensee to the Licensor; and
 - (iii) Confidential Information of the Licensor.

25.4 Waiver

- (a) A waiver of any provision of this Agreement must be in writing.
- (b) No forbearance, delay or indulgence by either party in enforcing any provision of this Agreement prejudices or restricts the rights of that party, nor does a waiver of any right operate as a waiver of any subsequent breach.

25.5 Severability

Each provision of this Agreement is individually severable. If any provision is or becomes illegal, unenforceable or invalid in any jurisdiction it is to be treated as being severed from this Agreement in the relevant jurisdiction, but the rest of this Agreement will not be affected. The legality, validity and enforceability of the provision in any other jurisdiction will not be affected.

25.6 Variation

- (a) The parties must not vary or purport to vary any provision of this Agreement unless the prior written approval of the Government is obtained.
- (b) If the parties wish to vary this Agreement, the Licensor must seek the approval of the Government by providing full particulars of the proposed variation to the Government.
- (c) Any variation of this Agreement must be in writing, signed by each party to this Agreement and in the form approved by the Government in accordance with clause 25.6(a).

25.7 Governing Law

This Agreement is governed by, and must be construed in accordance with, the laws of the State of South Australia.

25.8 Jurisdiction of Courts

- (a) The courts of South Australia have exclusive jurisdiction to determine any proceeding in relation to this Agreement.
- (b) Any proceeding brought in a Federal Court must be instituted in the Adelaide Registry of that Federal Court.
- (c) The Licensee undertakes not to apply to transfer any proceedings to another registry of the Federal Court.

25.9 Notices

- (a) Any notice to be given or made pursuant to the terms of this Agreement must be in writing and may be served by delivery, mail or facsimile transmission to the addresses and numbers of the intended recipient as specified in clause 25.9(c).
- (b) Notice will be effective and be deemed to have been received as follows:
 - (i) if delivered, upon delivery; or
 - (ii) if sent by post, the 2nd business day after posting; or
 - (iii) if sent by facsimile transmission, upon the sender's facsimile machine producing a transmission report that the facsimile has been sent to the recipient's facsimile number.
- (c) The address and facsimile number of a party for the purposes of this clause are as set out in Item 14 of the Schedule.
- (d) A party may modify either its address or facsimile number, from time to time, by a written notice served on the other party.

25.10 **Entire Agreement**

- (a) No amendment of, or addition to, the provisions of this Agreement is binding unless it is in writing and signed by the parties to the Agreement.
- (b) This Agreement constitutes the complete agreement between the parties and supersedes all previous agreements, understandings and negotiations, written or oral, in respect of the matters dealt with in this Agreement.

25.11 **Rights**

Any express statement of a right of a party under this Agreement is without prejudice to any other right of that party expressly stated in this Agreement or arising at law or in equity,

Signing page

Executed by **LAND SERVICES SA OPERATING PTY LTD ACN 618 229 815 AS TRUSTEE FOR THE LAND SERVICES SA OPERATING TRUST (ABN 86 836 650 939)** by its duly appointed attorneys, who by their execution warrant their authority to execute this document:

Signature of attorney

Signature of attorney

Position (print)

Position (print)

Full name (print)

Full name (print)

Executed by [●] in accordance with section 127 of the *Corporations Act 2001* (Cth) by:

Signature of Director

Signature of Director/Company Secretary

Full name (print)

Full name (print)

Schedule Details

Item 1 Commencement Date (clause 1.1) This Agreement commences on 1 July 2019.

Item 2 End Date (clause 1.1) [●] [Note: 30 June end date]

Item 3 Extension Term(s) (clause 2.2(a)) Subject to agreement in writing between the parties, the Term of this Agreement may be extended for the following Extension Terms:

- (a) a period of up to 3 years commencing on the End Date; and
- (b) a period of up to 3 years commencing on the date of expiry of the preceding Extension Term.

Item 4 Government Statement (clause 1.1) **WARNING**

The information contained in this dataset is extracted from records of land status and cadastral boundary definition held by the Government of the State of South Australia (the "State"). The information is not represented to be accurate, current, complete, or suitable for any purpose, at the time of its supply by the State, and may have changed since the date of supply by the State.

The software by which the information is provided is not represented to be error free.

No responsibility is accepted by the State for any reliance placed by any person upon the information, or the software by which it is provided. Persons acquiring or using the information and its associated software must exercise their independent judgement in doing so.

COPYRIGHT

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PRIVACY

The information contained in this dataset must not be used for the purposes of compiling contact lists, whether personalised or not.

Item 5 Dataset

1. Content

The Data content will comprise, with the exception of those records excluded or limited in this item, the following:

- (a) data on all property sales recorded by the South Australian Registrar-General, from 1 January 1993 to the Commencement Date, comprising the data attributes set out in Annexure A; and
- (b) data on each new property sale recorded by or on behalf of the South Australian Registrar-General during the Term, comprising the data attributes set out in Annexure B,

for the Geographical Area.

2. Data limitations

- 2.1 Prior to registration of the transfer document, an interim sales record will be released in the first available update file. These interim sale records are subject to review and possible change. Without limiting the other provisions of this Agreement, the Licensee is reminded that these records may contain incomplete or incorrect information. After registration of the transfer document, an updated sales record will be released in the first available update file.
- 2.2 In some instances, the sale consideration is not disclosed to the Licensor and in such instances will not be available to the Licensee under this Agreement,

3. Data exclusions

The data is restricted to those records where a sale results in a change of ownership being recorded against a valuation assessment. State Valuation Office special purpose administrative sale records will not be provided to the Licensee under this Agreement:-

4. Format

The data will be supplied in a compressed file (using a ZIP utility) that contains an ASCII text file with tilde H delimited fields within each record.

5. Media for delivery

Electronic transfer or by such other means as notified by the Licensor to the Licensee.

6. Frequency of delivery

Generally, data is to be updated, by extract on a weekly basis. The extract will generally be run on the weekend, but the day on which the extract is run may vary, depending on system and processing requirements. The Licensor will use reasonable endeavours to notify the Licensee of any delays to delivery of data files.

7. Method of delivery

7.1 Data files will be placed in the Licensee's account on a file server nominated by the Licensor Details to enable connection to the server, including user-code and password, will be provided by the Licensor to the Licensee. Data files will normally be available on the first Business Day after each weekend. The Licensor will use reasonable endeavours to notify the Licensee of any delay in file availability.

7.2 Data files are archived from a Licensee's account after 42 days. It is the Licensee's responsibility to retrieve data files from the server prior to archiving. The Licensor may impose additional charges on the Licensee to replace data files not retrieved by the Licensee prior to archiving.

Item 6 Geographical Area **[Whole of State of South Australia] /**

[The following Local Government Area(s):

- **[●];**
- **[●].]**

Item 7 Licence Fee The Licence Fee comprises:

- a once-off Establishment Fee of \$5,000 (**Establishment Fee**); and
- \$5.251 per each new property sale for the Geographical Area during the Term (**Variable Fee**); and
- where applicable, a fee to change the Geographical Area for the Dataset of \$5,000 (**Extract Change Fee**).

The Variable Fee listed above is current as at 1 July 2018.

Item 8 Invoicing and Invoice Period

During the Term, the Licensor may issue invoices to the Licensee as follows:

- for the Establishment Fee, within 5 Business Days of execution of this Agreement;
- for the Variable Fee, [Quarterly / Monthly] in arrears calculated as follows:

the Variable Fee multiplied by the number of new property sales for the Geographical Area (as determined by item 5, part 1(b) [Content] of the Schedule),

for the relevant invoicing period; and

- for the Extract Change Fee, prior to the Licensor undertaking the change to the dataset giving effect to the change to the Geographical Area.

The Licensee must pay any invoice issued by the Licensor under this Agreement in full and without set-off, counterclaim or deduction within 30 days after the date of the applicable invoice.

Item 9 Review Date

Each 30 June during the Term.

Item 10 Annual Escalation Formula

The Annual Escalation Formula will be the **Treasury Indexation Rate**.

The Treasury Indexation Rate means the indexation rate calculated in June each year in accordance the following formula and rounded to the nearest tenth of a percent:

$$\text{TIR} = [0.4 \times (\text{CPI}_2 - \text{CPI}_1)/\text{CPI}_1] + [0.6 \times (\text{WPI}_2 - \text{WPI}_1)/\text{WPI}_1]$$

Where:

TIR is the Treasury Indexation Rate;

CPI₁ is the All Groups CPI Index Number for Adelaide in respect of the quarter ended 31 December in the calendar year two years prior to current year (as published in the Consumer Price Index, Australia (Australian Bureau of Statistics Catalogue Number 6401.0) by the Australian Bureau of Statistics available at <http://www.abs.gov.au/Price-Indexes-and-Inflation> or at such replacement or successor website or communication means as may be made available from time to time);

CPI₂ is the All Groups CPI Index Number for Adelaide in respect of the quarter ended 31 December in the previous calendar year (as published in the Consumer Price Index, Australia (Australian Bureau of Statistics Catalogue Number 6401.0) by the Australian Bureau of Statistics available at <http://www.abs.gov.au/Price-Indexes-and-Inflation> or at such replacement or successor website or communication means as may be made available from time to time);

WPI₁ is the Wage Price Index: Total Hourly Rates of Pay Excluding Bonuses: Public Sector: Original Index Number for South Australia in respect of the quarter ended 30 September in the calendar year two years prior to current year (as published in the Wage Price Index, Australia (Australian Bureau of Statistics Catalogue Number 6345.0) by the Australian Bureau of Statistics available at <http://www.abs.gov.au/Price-Indexes-and-Inflation> or at such replacement or successor website or communication means as may be made available from time to time); and

WPI₂ is the Wage Price Index: Total Hourly Rates of Pay Excluding Bonuses: Public Sector: Original Index Number for South Australia in respect of the quarter ended 30 September in the previous calendar year (as published in the Wage Price Index, Australia (Australian Bureau of Statistics Catalogue Number 6345.0) by the Australian Bureau of Statistics available at <http://www.abs.gov.au/Price-Indexes-and-Inflation> or at such replacement or successor website or communication means as may be made available from time to time).

Item 11	Original Version of Derivative Products	See Annexure C
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Item 12 Contract Managers
(clause 22)

The Licensor
General Counsel

Level 1, 101 Grenfell Street
Adelaide SA 5000

Phone: (08) 8423 5000

The Licensee

[●]

[●]

Phone: [●]

Fax: [●]

Item 13 Executive
Negotiators
(clause 23)

The Licensor
Chief Executive Officer

Level 1, 101 Grenfell Street
Adelaide SA 5000

Phone: (08) 8423 5000

The Licensee

[●]

[●]

Phone: [●]

Fax: [●]

Item 14 Notices

The Licensor
General Counsel

Level 1, 101 Grenfell Street
Adelaide SA 5000

Phone: (08) 8423 5000

The Licensee

[●]

[●]

Phone: [●]

Fax: [●]

Annexure A Initial Data Attributes

Annexure B Weekly Extract Data Attributes

Annexure C Original Version of Derivative Products