

**PRIVATE DATA LICENSE AGREEMENT**

**Between**

the “Ministry”

**and**

“You”

**For high level access to sensitive data and related information between agencies**

**Background**

You wish to access sensitive data and information, and the Ministry agrees to make such data and information available to You on the terms set out in this Data License Agreement (“Agreement”).

**It is hereby agreed that:**

**General Terms and Conditions**

**1. Acceptance**

1.1 You agree that your access to and use of the Shared Data is subject to you agreeing and complying with the terms of this Agreement and any other reasonable instructions of the Ministry that may be advised to you from time to time.

1.2 You understand that disclosure of the Shared Data to third parties may be in breach of applicable laws, regulations and public service policies in place in the jurisdiction of the Ministry and the jurisdictions of such third parties.

**2. Definitions and interpretation**

**2.1 Interpretation**

In this Agreement, a reference to;

- (a) a person includes a firm, an unincorporated association, an incorporated association, a corporation and a government or statutory body or authority;
- (b) any legislation includes all regulations and instruments issued under it; and
- (c) an obligation includes a warranty or representation, and a reference to a failure to observe or perform an obligation includes a breach of warranty or representation.

Expressions used in this Agreement have the meanings and interpretations as set out in the Dictionary at the end of this Agreement.

### **3. License to You**

- 3.1 The Ministry grants You a non-exclusive, non-transferable, revocable and royalty free license to access the Shared Data on the terms, and subject to the restrictions, set out in this Agreement.
- 3.2 You acknowledge that the Shared Data, the copyright in the Shared Data and all other present and future intellectual property rights in the Shared Data are and shall remain the property of the Ministry.

### **4. Use of Shared Data**

- 4.1 The Shared Data provided under this Agreement is for the sole purpose of accessing the data to exercise the lawful functions and responsibilities of the office held by You and otherwise in accordance with the terms of this Agreement.
- 4.2 The Shared Data may not be disclosed, including but not limited to copying, transferring, showing or providing in any form, in whole or in part, to any other person.
- 4.3 For the avoidance of doubt, clause 4.2 prevents You from disclosing data derived from the Shared Data.

### **5. Quality and responsibility for the Shared Data**

- 5.1 The Ministry has used reasonable efforts to ensure that the Shared Data

is fit for purposes for which it was created with respect to its accuracy, completeness and quality.

5.2 You acknowledge that the Data may contain omissions and errors. You must rely on your own examination, skill and expertise in determining whether the Shared Data is capable, suitable or safe for a particular application and use, or any application and use at all.

5.3 You are responsible for ensuring the fitness of the Shared Data for Your intended use.

## **6. No Warranty or Guarantee**

You acknowledge that the Shared Data is provided to you on an “as is” basis and that the Ministry makes no guarantee or warranty as to the accuracy, completeness and quality of the Shared Data or whether the Shared Data is fit for use by You. Further you acknowledge that the Ministry is under no obligation to provide updates/upgrades of the Shared Data to You.

## **7. Security arrangements around storage**

You must comply with any policies or guidelines (including the reasonable instructions of the Ministry) in relation to the Shared Data, and must make suitable arrangements to ensure that the Shared Data is secure from any unauthorised use or disclosure. Such arrangements should take into account the confidential nature of the Shared Data, including the existence of Personal Information and Sensitive Information, where applicable.

## **8. Compliance with laws and policy**

You will comply with all laws and policies applicable to You, including those specifically mentioned in this Agreement, and otherwise (including any reasonable instructions of the Ministry in respect to your use of the Shared Data).

## **9. Personal Information**

9.1 You acknowledge and agree that the Shared Data may include and/or comprise Personal Information.

9.2 In respect of such Personal Information, You agree:

- (a) to comply with any laws or policies applicable to You regarding the protection of such information;
- (b) to take all reasonable measures to ensure that the Shared Data is protected against loss and against unauthorised access, use, modification, disclosure or other misuse and that only Authorised Users have access to it, including by the security arrangement under clause 7;
- (c) not to transfer such information outside the country or allow parties outside the country to have access to it, without the prior written approval of the Ministry;
- (d) to immediately notify the Ministry if You become aware of any breach or likely breach of any laws or policies regarding the protection of such information; and
- (e) to notify the Ministry of, and co-operate with, the Ministry in the resolution of, any complaint alleging an interference with privacy.

9.3 You agree that your obligations are in addition to, and do not restrict, any obligations You may have under any applicable law, or any codes of practice or directions or instructions issued by the Ministry.

9.4 The parties acknowledge that this Agreement is not, of itself, a source of authority for collection, retention, use or disclosure of Personal Information.

## **10. Sensitive Information**

10.1 You acknowledge and agree that the Shared Data may include and/or comprise information that is Sensitive Information.

10.2 In respect of such Sensitive Information, You agree:

- (a) not to disclose the Sensitive Information, including but not limited to copying, transferring, showing or providing it in any form, in whole or in part, to any other person;

- (b) to comply with any laws or policies applicable to You regarding the protection of such information;
- (c) to take all reasonable measures to ensure that the Sensitive Information is protected against loss and against unauthorised access, use, modification, disclosure or other misuse;
- (d) to immediately notify the Ministry if You become aware of any breach or likely breach of any laws or policies regarding the protection of such information; and
- (e) to notify the Ministry of, and co-operate with, the Ministry in the resolution of, any complaint alleging an interference with the Sensitive Information.

10.3 You agree that your obligations are in addition to, and do not restrict, any obligations You may have under any applicable law, or any codes of practice or directions or instructions issued by the Ministry.

10.4 The parties acknowledge that this Agreement is not, of itself, a source of authority for collection, retention, use or disclosure of Sensitive Information.

10.5 You acknowledge and agree that disclosure of the Sensitive Information to third parties may be a breach of applicable laws, regulations and public service policies in place in the jurisdiction of the Ministry and the jurisdictions of such third parties.

## **11. Liability**

You hereby release and indemnify the Ministry from and against all liability and loss whatsoever arising out of the use of the Shared Data by You (including any person authorised by You) or otherwise whether for breach of this Agreement by the Ministry, negligence, injury, death, economic loss, loss of reputation or damages incidental or consequential to the provisions of this Agreement.

## **12. Termination**

The Ministry reserves the right to terminate this Agreement in the event of:

- (a) material breach of this Agreement by You; or
- (b) the Ministry becoming aware of any circumstances under which the access and use of the Shared Data by You will place the Ministry in breach of any of its obligations under this Agreement; or
- (c) the Ministry becoming aware of any circumstances under which the access and use of the Shared Data by You will place the Ministry in breach of any law.

## **DICTIONARY**

### **Definitions**

In this Agreement;

**Agreement** means this document as varied, amended, supplemented, novated or replaced from time to time.

**Data** means any information including but not limited to all datasets including maps, reports, statistics, and surveys (including backups, archive copies and derived data) in whatever format they are held (excel, numbers, pages, pdf, word etc) that is in the possession or under the control of the Ministry.

**Personal Information** means information or an opinion about an individual (whether living or dead) whose identity is apparent or can reasonably be ascertained from the information or opinion.

**Related Information** means any information provided by the Ministry in respect to (but not limited to) the interpretation, access, use, storage, record keeping, disclosure of the Data, Shared Data and this Agreement.

**Sensitive Information** comprises information that is commercially sensitive or relates to national security.

**Share** means to disclose.

**Shared Data** means the Data and Related Information that is provided by the Ministry to You under the terms set out in this Agreement.