

Form G

Commonwealth of Australia
Competition and Consumer Act 2010 — subsection 93 (1)
NOTIFICATION OF EXCLUSIVE DEALING

To the Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with subsection 93 (1) of the *Competition and Consumer Act 2010*, of particulars of conduct or of proposed conduct of a kind referred to subsections 47 (2), (3), (4), (5), (6), (7), (8) or (9) of that Act in which the person giving notice engages or proposes to engage.

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

1. Applicant

(a) Name of person giving notice:

N97512 The State of Queensland, acting through the Department of Natural Resources and Mines (**DNRM**)

(b) Short description of business carried on by that person:

DNRM is the Queensland Government Department which has responsibility for overseeing the productive and sustainable use of the State's natural resources, being its water, land and mineral resources.

DNRM is comprised of four service areas:

1. Land services;
2. Water services;
3. Mine safety and health services; and
4. Mining and petroleum services.

With respect to its management of land services, DNRM administers the Queensland Valuations and Sales Data (**QVAS**) database. The database is used for the storage, update and retrieval of property and sales information and associated valuations of approximately 1.6 million properties. It contains information about properties (i.e. street address), transaction details (e.g. purchase price and type of sale) and other relevant details (i.e. names and service addresses of the vendors and purchasers).

(c) Address in Australia for service of documents on that person:

c/- Barry Dunphy
Partner
Clayton Utz
GPO Box 9806
Brisbane QLD 4001

2. **Notified arrangement**

- (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates:

1. The supply of QVAS data to information brokers; and
2. The supply of membership services by the Value Added Property Information Broker Association Incorporated (**VAPIBA**) to its members.

Please refer to the **enclosed** submission for further details.

- (b) Description of the conduct or proposed conduct:

DNRM proposes to supply the QVAS data to information brokers under a Licence Agreement a condition of which requires that the information broker acquires financial membership as a Personal Identification Information in Property Data (**PIIPD**) Code Subscriber to the PIIPD Code of Conduct (**Code**).

Information brokers are required to maintain financial memberships as a PIIPD Code Subscriber for the duration of the Licence Agreement. If an information brokers fails to obtain, or ceases to remain a PIIPD Code Subscriber, DNRM may terminate its Licence Agreement with the information broker.

Persons wishing to become PIIPD Code Subscribers are required to become members of the VAPIBA, an association incorporated in New South Wales under the *Associations Incorporation Act 1984* (NSW). Annual membership fees are payable as well as other additional payments required under the Code.

3. **Persons, or classes of persons, affected or likely to be affected by the notified conduct**

- (a) Class or classes of persons to which the conduct relates:

Persons wishing to enter into a Licence Agreement with DNRM for the supply of QVAS data. Such persons are likely to include information brokers who value-add the QVAS data and on-supply the information to consumers such as members of the public, small businesses and companies, law firms, real estate agents, land valuers etc.

- (b) Number of those persons:

- (i) At present time:

7 information brokers

- (ii) Estimated within the next year:

No predicted change

(c) Where number of persons stated in item 3(b)(i) is less than 50, their names and addresses:

1. GlobalX Information Pty Ltd
Cathedral Square, West Tower
Level 6, 410 Ann Street
Brisbane QLD 4000
Ph: (07) 3031 3153
2. Property Data Solutions Pty Ltd
Level 7, 140 Ann Street
Brisbane QLD 4000
Ph: (07) 3666 2100
3. Australian Property Monitors Pty Ltd
Level 2, 1 Darling Island Road
Pyrmont NSW 2009
Ph: 1800 817 616
4. onthehouse.com.au Pty Ltd
Level 9, 348 Edward Street
Brisbane QLD 4000
Ph: (07) 3852 6205
5. CITEC Confirm
317 Edward Street
Brisbane QLD 4001
Ph: (07) 3222 2189
6. RP Data Pty Ltd
Level 21, 2 Market Street
Sydney NSW 2000
Ph: 1300 734 318
7. Residex Pty Limited
Level 9, 46-56 Kippax Street
Surry Hills NSW 2010
Ph: 1300 139 775

4. Public benefit claims

(a) Arguments in support of notification:

By requiring prospective licensees to become PIIPD Code Subscribers, those persons will be required to comply with the Code. The Code is designed to protect the personal identification details of Queensland property owners and to stop unsolicited direct marketing using QVAS data.

Requiring prospective licensees to comply with the Code will ensure the proper treatment of personal identification details of Queensland property owners and prevent unsolicited direct marketing.

For further details, please refer to the **enclosed** submission.

- (b) Facts and evidence relied upon in support of these claims:

Please refer to the **enclosed** submission.

5. Market definition

Provide a description of the market(s) in which the goods or services described at 2(a) are supplied or acquired and other affected markets including: significant suppliers and acquirers; substitutes available for the relevant goods or services; any restriction on the supply or acquisition of the relevant goods or services (for example geographic or legal restrictions):

DNRM considers that the relevant markets are the markets for the wholesale and retail supply of Queensland property, sales and valuation information.

6. Public detriments

- (a) Detriments to the public resulting or likely to result from the notification, in particular the likely effect of the notified conduct on the prices of the goods or services described at 2(a) above and the prices of goods or services in other affected markets:

DNRM submits that the public detriment likely to result from the notified conduct, if any, will be minimal.

- (b) Facts and evidence relevant to these detriments:

Please refer to the **enclosed** submission.

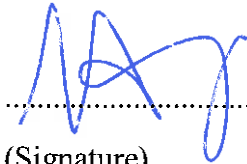
7. Further information

- (a) Name, postal address and contact telephone details of the person authorised to provide additional information in relation to this notification:

Barry Dunphy
Partner
Clayton Utz
GPO Box 9806
Brisbane QLD 4001
Ph: (07) 3292 7000

Dated 16 June 2014

Signed by/on behalf of the applicant



.....
(Signature)

Neil Bray

.....
(Full Name)

Department of Natural Resources and Mines

.....
(Organisation)

Valuer-General

.....
(Position in Organisation)

DIRECTIONS

1. In lodging this form, applicants must include all information, including supporting evidence that they wish the Commission to take into account in assessing their notification.

Where there is insufficient space on this form to furnish the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the applicant.

2. If the notice is given by or on behalf of a corporation, the name of the corporation is to be inserted in item 1 (a), not the name of the person signing the notice, and the notice is to be signed by a person authorised by the corporation to do so.
3. Describe that part of the business of the person giving the notice in the course of the which the conduct is engaged in.
4. If particulars of a condition or of a reason of the type referred to in section 47 of the *Competition and Consumer Act 2010* have been reduced in whole or in part to writing, a copy of the writing is to be provided with the notice.
5. Describe the business or consumers likely to be affected by the conduct.
6. State an estimate of the highest number of persons with whom the entity giving the notice is likely to deal in the course of engaging in the conduct at any time during the next year.
7. Provide details of those public benefits claimed to result or to be likely to result from the proposed conduct including quantification of those benefits where possible.
8. Provide details of the market(s) likely to be affected by the notified conduct, in particular having regard to goods or services that may be substitutes for the good or service that is the subject matter of the notification.
9. Provide details of the detriments to the public which may result from the proposed conduct including quantification of those detriments where possible.

SUBMISSION IN SUPPORT OF NOTIFICATION

1. The Applicant

1.1 The State of Queensland, acting through the Department of Natural Resources and Mines (**DNRM**) is responsible for overseeing the productive and sustainable use of the State's natural resources.

1.2 DNRM is comprised of four service areas, which are:

- (a) Land services;
- (b) Water services;
- (c) Mine safety and health services; and
- (d) Mining and petroleum services.

1.3 It is with respect to the first of these services areas that this notification relates.

2. Background

2.1 As part of its provision of land services, DNRM collects and maintains Queensland real property valuation information pursuant to the *Land Valuation Act 2010* (Qld) (**LV Act**) and Queensland real property title information pursuant to the *Land Title Act 1994* (Qld) (**LT Act**). The LV Act in particular details the role of DNRM, and its duties and obligations in relation to collection and maintenance of real property data.

2.2 The LV Act requires the Valuer-General (who is appointed under the LV Act) to make an annual valuation of all land in a local government area.¹ The LV Act also mandates the making and keeping of a valuation roll for each local government area in the State.² Each valuation roll must include the following information about each valuation of land:³

- (a) its valuation day and day of effect;
- (b) the owner's name and postal address;
- (c) the land's area, location and description;
- (d) a property identification number for each parcel of which the land consists;
- (e) the value decided for the land;
- (f) the amount of any decided site improvement deduction; and
- (g) other unprotected valuation roll information the Valuer-General considers appropriate.

¹ Section 72(1)(a) of the LV Act.

² Section 180 of the LV Act.

³ Section 181(1) of the LV Act.

- 2.3 In fulfilling its various statutory obligations, DNRM administers the Queensland Valuations and Sales Data (**QVAS**) database. The database is used for the storage, update and retrieval of property and sales information and associated valuations of approximately 1.6 million properties. It contains information about properties (i.e. street address), transaction details (e.g. purchase price and type of sale) and other relevant details (i.e. names and postal addresses of the vendors and purchasers).
- 2.4 DNRM generally makes QVAS data available in three different ways:
- (a) searches from DNRM's public counters or through online licensees as a basic formatted print of register information;
 - (b) raw data provided in bulk to information brokers for the creation of their own value added products or to other Government Departments for statutory functions and other purposes; and
 - (c) by a value added product with graphics and colours from DNRM counters or licensees of the SmartMap system.
- 2.5 In respect of paragraph 2.4(b) above, DNRM provides access to QVAS data to information brokers under the terms of a Licence Agreement. DNRM is authorised to enter into contracts for the supply of such information by s 208 of the LV Act.
- 2.6 DNRM is keen to ensure that, in providing access to the QVAS data, personal identification information in that data is adequately protected and not misused, including with respect to unsolicited direct marketing.
- 3. Notified conduct**
- 3.1 DNRM has developed a Licence Agreement (**Licence Agreement**) under which it proposes to supply the QVAS data to information brokers.
- 3.2 The Licence Agreement sets out the terms and conditions upon which DNRM proposes to allow access to the QVAS data to licensees (i.e. information brokers).
- 3.3 The Licence Agreement imposes a number of obligations on licensees. One such obligation is that a licensee, for the duration of the term of the Licence Agreement, must maintain financial membership as a Personal Identification Information in Property Data (**PIIPD**) Code Subscriber to the PIIPD Code of Conduct (**Code**). If a licensee fails to maintain financial membership of the Code, DNRM has a right under the Licence Agreement to terminate the agreement. A copy of the template Licence Agreement is **enclosed** with this submission.
- 3.4 Persons wishing to become PIIPD Code Subscribers are required to become members of the Value Added Property Information Broker Association Incorporated (**VAPIBA**), an association incorporated in New South Wales under the *Associations Incorporation Act 1984* (NSW). Annual membership fees are payable as well as other additional payments required under the Code.
- 3.5 An application may then be made to the Code Oversight Committee of the Code to become a PIIPD Code Subscriber. The Code Oversight Committee is responsible for receiving applications as well as monitoring PIIPD Code Subscribers' compliance with the Code.
- 3.6 The Code was developed in consultation with the information broker industry to ensure that data about property ownership, in particular information which identifies the owners, buyers and sellers of property, is managed responsibly and is used in accordance with government

licences. The Code prohibits the use of personal information for unsolicited direct marketing. Individuals may request that information which identifies them personally be removed from databases used by information brokers (a Suppression Request). The Code also allows members of the public to lodge complaints about the use of data pertaining to them. Such complaints are actioned and investigated where necessary. A copy of the Code is **enclosed** with this submission.

3.7 By requiring prospective licensees to acquire membership services from VAPIBA, the notified conduct may constitute exclusive dealing within the meaning of either ss 47(6) or (7) of the *Competition and Consumer Act 2010* (Cth).

4. Public benefits

4.1 DNRM submits that the notified conduct gives rise to a number of public benefits.

4.2 These public benefits, derived from the obligation of information brokers to comply with the Code, include:

- (a) protecting the personal identification details of Queensland property owners by ensuring that information brokers:
 - (i) protect personal information from misuse and loss and from unauthorised access, modification, disclosure and transfer;
 - (ii) maintain and safeguard the security of the QVAS data; and
 - (iii) use the QVAS data solely for purposes permitted under the Code.
- (b) developing a culture of confidence and trust in the services provided by information brokers regarding the collection, use, storage and disclosure of personal information in property transactions;
- (c) demonstrating a commitment to best practices regarding the secure, proper and consistent handling of personal information in property transactions;
- (d) preventing unsolicited direct marketing using QVAS data, including:
 - (i) providing access to a complaint lodgement mechanism whereby persons who believe that their personal identification information has been used for direct marketing purposes can lodge a complaint with the Code Oversight Committee; and
 - (ii) maintaining a Register of Excluded Parties (being a list of entities that have breached the prohibition on direct marketing) to which information brokers are restricted from supplying QVAS data;
- (e) requiring information brokers to reasonably cooperate with all requests to suppress names and service addresses of vendors and purchasers. The Code Oversight Committee must maintain a Register of Request Suppressions; and
- (f) providing a complaint review process including internal review by the information broker, external review by the Code Oversight Committee (if necessary) and, following that, review by an independent arbiter (if necessary) all of which is free of charge to the customer.

5. Public detriment

- 5.1 DNRM submits that the public detriment likely to result from the notified conduct, if any, will be minimal.
- 5.2 The only potential detriment is the cost to licensees of membership of VAPIBA as a PIIPD Code Subscriber to the Code.
- 5.3 It is most unlikely that this cost would be passed on to the customers of information brokers (including members of the public), particularly as annual membership fees are currently in the vicinity of \$5,000. Even if this cost were to be passed on to end consumers, it would have a negligible impact if at all on the cost paid by end consumers.
- 5.4 It is to be noted that there is no requirement that all information brokers must become PIIPD Code Subscribers. Information brokers not requiring access to QVAS data are not required to adhere to the Code.
- 5.5 Consumers may still obtain basic search information directly from DNRM at the statutorily prescribed fee.⁴

6. Conclusion

- 6.1 DNRM submits that any public detriment which may arise under the proposed Licence Agreement is minimal and is far outweighed by the public benefits (outlined in Section 4 of this submission) which arise from the notified conduct.

⁴ Fees are set out in the *Valuation of Land Regulation 2003 (Qld)*.

DEPARTMENT OF NATURAL RESOURCES AND MINES



Queensland
Government

**Licence Agreement
for
value-adding
of
Queensland Valuations and Sales Data – Property
Valuation and Sales Data with personal details**

between the State of Queensland

and

XXXX

Licence No VA:20XX/XXX

State Of Queensland (Department of Natural Resources and Mines)

Licence Agreement for use of Licensed Data

1. Licence

1.1 The Licensor grants a non-exclusive, non-transferable licence to the Licensee, to use the Licensed Data for the purposes specified in this Agreement subject to the terms and conditions set out in this Agreement.

2. Definitions

2.1 In this Agreement, unless the contrary intention appears or the context otherwise requires the following definitions apply:

- (a) **Access Fee** means the fees payable in advance for ongoing access to the Licensed Data. There are two different Access Fee amounts, one for the Flat Fee Package and the other for the Royalty Fee Package.
- (b) **Agreement** means this agreement including the attached Schedules.
- (c) **Corporations Law** means any legislation enacted by Federal or State agencies in relation to incorporated companies and includes the *Corporations Act 2001* (Cth).
- (d) **Code Oversight Committee** is the committee administering the PIIPD Code of Conduct
- (e) **CPI** means the Australian Bureau of Statistics' Brisbane All Groups Consumer Price Index for the State of Queensland.
- (f) **Direct Marketing** means one to one marketing using personal details (eg name, address, email address), normally supported by a database/resource, which uses one or more advertising media to effect a measurable response and/or transaction from a person and includes, but is not limited to, telemarketing, bulk email messaging (spam), postal canvassing and list brokering.
- (g) **Fees** means the fees payable for the Licensed Data and includes Access Fees Licence Fee, Royalty Fee and Royalty Reporting Fee.
- (h) **Flat Fee Package** means a package for access to Licensed Data including an Access Fee.
- (i) **Intellectual Property Rights** means all copyright, patent application rights, patent rights, design rights, database rights, trademark rights (whether registered or unregistered), trade secrets and confidential information, all know-how, and all other rights of intellectual property.
- (j) **Licence Fee** means the fees payable in advance for annual licensing.
- (k) **Licensed Data** means the data identified in a Schedule C. It includes data that has been reformatted or converted on to a different media or translated into another format, and includes any revisions, updates or reissues provided by the Licensor during the term of this Agreement.
- (l) **Licensed Data Product** means any Value Added product derived from or based on the Licensed Data or any Licensed Data Product(s).
- (m) **Licensee** means the person specified in Schedule A as the Licensee.
- (n) **Licensee's Agent** means a person who distributes Licensed Data Products on behalf of the Licensee as recommended by the Licensee and approved by the Licensor.
- (o) **Licensee's Agent's System** means the Licensee's Agent's operating and applications information retrieval systems (which may be computerised) which enable the retrieval of Licensed Data Products by customers.
- (p) **Licensee's Consultant** means any consultant, contractor or business partner of the Licensee engaged for a specific project of the Licensee
- (q) **Licensee's Customer** means any person to whom Licensed Data Products are supplied by the Licensee (excluding a Licensee's Consultant or Licensee's Agent).
- (r) **Licensee's System** means the Licensee's operating and applications information retrieval systems (which may be computerised) which enable the retrieval of Licensed Data Products by Licensee's Customers..
- (s) **Licensor** means the State of Queensland as represented by the Department of Natural Resources and Mines (DNRM) or any successor
- (t) **Licensor's Website** means www.dnrm.qld.gov.au and any successive website of the Licensor.
- (u) **Privacy Laws** means any legislation (or mandatory government policy, where applicable) enacted by Federal or State agencies in relation to privacy and includes the Privacy Act 1988 (Cth) and Information Privacy Act 2009 (Qld).
- (v) **PIIPD Code of Conduct** is the Personal Identification Information in Property Data code of conduct for access to bulk data including identified information in the Queensland Valuation and Sales System (QVAS) database dated 1 June 2009 or any subsequent versions.
- (w) **PIIPD Code Subscriber** is an organisation that has agreed to be bound by the PIIPD Code of Conduct and has been approved by the Code Oversight Committee.
- (x) **Register of Excluded Parties** has the meaning given in the PIIPD Code of Conduct.
- (y) **Royalty Cap** means the maximum annual Royalty Fee payable.
- (z) **Royalty Fee** means a fee payable calculated on sales of Licensed Data Products as specified in Schedule A or a Schedule D.
- (aa) **Royalty Fee Package** means a package for access to Licensed Data including an Access Fee, a Licence Fee, a Royalty Fee and a Royalty Reporting Fee.
- (bb) **Royalty Reporting Fee** means the fee described at 3.1.5(iii) of this Agreement.
- (cc) **SMS** (Short Messaging System) which means a message service offered by a digital cellular telephone system whereby a short alphanumeric message can be displayed on a mobile phone.

(dd) **Value Add/Adding/Added** means any repackaging which irreversibly changes the form of the Licensed Data or any augmenting or incorporation of the Licensed Data with other data. Conversion onto a different media or the translation into a different format (e.g. changing colour and formatting) of Licensed Data is not Value Adding.

2.2 The following terms have a relevant defining reference in Schedule A or a Schedule C:

Commencement Date, Data Type, Expiry Date, Records, Reports, Special Conditions, Specifications – Licensed Data, Specific Restrictions - Licensed Data, Termination Notice Period

- 2.3 The Licensor and the Licensee are the parties to the Agreement. Where the context so admits this includes officers, employees and agents.
- 2.4 A reference to the singular includes the plural and vice versa and each reference to a person includes reference to a legal entity including a corporation or organisation.
- 2.5 Headings are not included in the operative part of the Agreement and should not be used in interpretation of the Agreement.
- 2.6 Unless otherwise specified, a reference to a day means a calendar day.
- 2.7 References to statutes, regulations, ordinances or by-laws are deemed to extend to all statutes, regulations, ordinances or by-laws amending, consolidating or replacing the same.
- 2.8 Unless otherwise specified, a reference to a clause or a schedule is reference to a clause of or a schedule to this Agreement and includes any amendment made to the clause or schedule in accordance with this Agreement.
- 2.9 Unless otherwise specified, a reference to a monetary amount is in Australian Dollars (\$AUD).
- 2.10 For references to quarters or quarterly, the quarters end 30 April, 31 July, 31 October, and 31 January.

3. Fees and Supply of Licensed Data

3.1 Fees

- 3.1.1 The Licensor must publish its current Fees on the Licensor's Website. If the Licensee requests in writing a copy of the Licensor's current Fees, the Licensor must supply a written copy to the Licensee.
- 3.1.2 The Licensor reserves the right to increase, decrease or modify the Fees for any of the following reasons:
- (i) Based on CPI or accumulated CPI.
 - (ii) Legislative change.
 - (iii) Direction of the Valuer-General.
- 3.1.3 The Licensee must elect either the Flat Fee Package or the Royalty Fee Package and the Licensee's election will be recorded in Schedule A.
- 3.1.4 If a Licensee elects to change from a Royalty Fee Package to a Flat Fee Package, or vice versa, the Licensee must provide the Licensor 30 days written notice. The change must be recorded in a Deed of Variation to this Agreement.
- 3.1.5 If the Licensee has elected the Flat Fee Package the Licensee will be invoiced quarterly in advance for the Access Fee. The Licensee must pay the Access Fee within 14 days of the date of invoice from the Licensor.
- 3.1.6 If the Licensee has elected the Royalty Fee Package all the following apply:
- (i) The Licensee will be invoiced quarterly in advance for the Access Fee. The Licensee must pay the Access Fee within 14 days of the date of invoice from the Licensor.
 - (ii) The Licensee will be invoiced quarterly in advance for the License Fee. The Licensee must pay the License Fee within 14 days of the date of invoice from the Licensor.
 - (iii) The Licensee must pay the Royalty Fee on a quarterly basis in arrears. The Licensee must pay the Royalty Fee within 14 days of the date of invoice from the Licensor.
 - (iv) A monthly Royalty Reporting Fee of 10% of the Royalty Fee amount payable for the previous quarter (inclusive of GST) or \$500 whichever is the greater is payable by the Licensee. If a quarterly report is provided within the time specified in Clause 5.1 of Schedule A, the Licensor will waive the monthly Royalty Reporting Fee. If the monthly Royalty Reporting Fee is not waived, the Licensor will send a separate invoice to the Licensee.
 - (v) If the Licensee provides Licensed Data Products to a person in whom the Licensee has an interest or who has an interest in the Licensee, the Licensee must inform the Licensor. Where this occurs, the Licensor reserves the right to assign a value to any transaction for the purposes of calculating a Royalty Fee if the Licensor believes the transaction was undervalued. The Licensor has the final determination in this regard.
 - (vi) If the Licensee provides Licensed Data Products to a Customer as a bundled product or service (eg a subscription service), a Royalty Fee is payable.
 - (vii) The Licensor may agree to a different Royalty Fee for a particular Licensed Data Product. The Licensee must make an application for a Royalty Fee variation including providing compelling reasons for the request. The Licensor has the final determination in this regard. Any Royalty Fee variation for a particular Licensed Data Product will be recorded in a Schedule D, which will form part of this Agreement.
 - (viii) A Royalty Cap applies. The Royalty Cap is the maximum Royalty Fee payable. This Royalty Cap will be increased consistent with the manner described in clause 3.1.2 of this Agreement.

3.2 Interest on Payments

- 3.2.1 Any invoice amount remaining unpaid after 14 days from the date of invoice will attract interest on any amount outstanding. The interest on any unpaid invoice amounts will be calculated with a 4% margin on the current Commonwealth Bank Corporate Overdraft Reference Rate (Monthly Charging Cycle) and will apply (and be payable by the Licensee) on the first day the amount is overdue.

3.3 Supply of Licensed Data

- 3.3.1 The Licensor must supply the requested Licensed Data to the Licensee as soon as is practicable following the execution of this Agreement and the applicable payment.
- 3.3.2 The Licensed Data supplied under this Agreement will be supplied according to the specifications in a Schedule C. The Licensor may change the Specifications of the Licensed Data in a Schedule C, including the format in which Licensed Data is supplied, from time to time. The Licensor will provide as much notice as possible and will provide at least 30 days written notice.

4. Licensee's obligations and use of Licensed Data

4.1 Ownership

- 4.1.1 This Agreement does not confer on the Licensee any rights of ownership in the Licensed Data and all Intellectual Property Rights including copyright in the Licensed Data are unaffected by this Agreement.
- 4.1.2 The Licensor retains ownership of the Intellectual Property Rights that it has in the Licensed Data, whether in its original form or as reformatted or converted onto different media by the Licensee.

4.2 Data Integrity

- 4.2.1 The Licensee must not corrupt or introduce any errors into the Licensed Data.
- 4.2.2 The Licensee must advise the Licensor of any errors in the Licensed Data as they are identified.

4.3 Confidentiality

- 4.3.1 The Licensee agrees that the Licensed Data is the valuable commercial information of the Licensor.
- 4.3.2 The Licensee agrees to provide access to the Licensed Data to only such of its employees and Licensee's Consultants who need such access for the purpose of the Licensee exercising its rights under this Agreement.
- 4.3.3 The Licensee must take all reasonable steps to maintain and safeguard the security of the Licensed Data in its database. The Licensee must further ensure that its employees and Licensee's Consultants maintain the security of the Licensed Data and use this data solely for the purposes permitted under this Agreement.

4.4 Permitted Use

- 4.4.1 The Licensee may combine the Licensed Data with other data owned by or licensed to the Licensee to create Licensed Data Products, provided that nothing will derogate from the ownership of the Licensed Data or Intellectual Property Rights in the Licensed Data.
- 4.4.2 The Licensee may use the Licensed Data or the Licensed Data Products for its own internal business purposes (except as specified in clauses 6.6.5, 6.6.6 and 6.6.7)
- 4.4.3 The Licensee may supply Licensed Data to Licensee's Consultants subject to the conditions of this Agreement.
- 4.4.4 The Licensee may supply Licensed Data Products to the Licensee's Agents, Licensee's Customers and Licensee's Consultants subject to the conditions of this Agreement.
- 4.4.5 The Licensee must ensure that a Licensee's Customer uses the Licensed Data Products that it receives from the Licensee only for its own personal use or in the ordinary course of its business (e.g. solicitor, accountant, valuer etc). The Licensee must ensure that the Licensee's Customer is not a business acting as a reseller in a similar manner to a de facto Licensee or Licensee's Agent.
- 4.4.6 The Licensee may establish a hyperlink with a third party (if the third party is not a Licensee's Agent under this Agreement) where the third party's website provides a hyperlink to the Licensee's website or where the Licensee's website provides a hyperlink to the third party's website provided that the Licensee is responsible for all Licensee's Customer billing, maintaining a secure environment and provided that customers of the service accept the Standard conditions set out in Schedule B by signed agreement or by responding to an "I Agree" button (or similar to the same effect) on the screen prior to gaining access to Licensed Data Products.

4.5 Prohibited Use

- 4.5.1 The Licensee must not supply Licensed Data (except as contained in Licensed Data Products) to a Licensee's Customer, Licensee's Agent or any other third party (except for a Licensee's Consultant).
- 4.5.2 The Licensee must not use, or allow the use of, the Licensed Data or Licensed Data Products for Direct Marketing.
- 4.5.3 The Licensee must comply with the Privacy Laws.
- 4.5.4 Where the Licensee is provided with Licensed Data that contains information relating to suppression of records pursuant to Chapter 6 part 3 of the Land Valuation Act 2010, it is the responsibility of the Licensee to ensure that all the Licensee's historical and current Licensed Data and Licensed Data Products are amended to reflect that suppression when advised by the Licensor.
- 4.5.5 For the avoidance of doubt, under clause 4.5.4, where ownership details of a property have been suppressed by the Licensor in the Queensland Valuations and Sales (QVAS) database under the *Land Valuation Act 2010*, Licensees must not list any personal identifying details (for example name and address) for that property in the Licensee's System or any Licensed Data Product, no matter the source of such personal information (for example a telephone directory).
- 4.5.6 Any specific restrictions for Licensed Data are outlined in a Schedule C in the section Specific Restrictions - Licensed Data and the Licensee acknowledges having read and understood the restrictions and agrees to be bound by the restrictions set out in that section.

4.6 Copyright and Disclaimer Notices

- 4.6.1 The Licensee must ensure that all copies of the Licensed Data and all Licensed Data Products display the relevant notice as specified in Schedule B.

4.7 Copying and storage of Licensed Data

- 4.7.1 The Licensee is permitted to make copies of the Licensed Data for the purpose of this Agreement and for security purposes. The copy for security purposes must not be used for any purpose other than providing security backup against loss of the original Licensed Data.
- 4.7.2 If the Licensee wishes to engage a Licensee's Consultant for off site storage, manipulation or facilities management of the Licensed Data then the Licensee must comply with the conditions in clause 4.8.

4.8 Supply of Licensed Data to Licensee's Consultants

- 4.8.1 The Licensed Data may be supplied to a Licensee's Consultant where the Licensee's Consultant receives no commercial consideration from the use of the Licensed Data except for the fee paid by the Licensee.
- 4.8.2 The Licensee must not provide Licensed Data to a Licensee's Consultant unless the Licensee's Consultant has first entered into a written licence agreement with the Licensee in accordance with clause 4.11.

4.9 Distribution of Licensed Data Products

- 4.9.1 The Licensee must include the Licensee's name (as specified in item 2 of Schedule A or a trading name as recorded and reported in accordance with paragraphs 4.1 and 5.1 of Schedule A) as part of the Licensed Data Product.
- 4.9.2 The Licensee must distribute the Licensed Data Products to Licensee's Customers, Licensee's Agents and Licensee's Consultants in accordance with the following procedures:
 - (i) All Licensed Data Products must display the relevant notice as specified in Schedule B.
 - (ii) The Licensee's Customer, Licensee's Agent or Licensee's Consultant must receive metadata with all Licensed Data Product(s) and the metadata must incorporate as a minimum the metadata supplied with the Licensed Data. If the Licensed Data Product(s) are distributed by SMS, the Licensee is not required to include the metadata in the SMS but the metadata must be available to the Licensee's Customer, Licensee's Agent or Licensee's Consultant on the Licensee's website.
- 4.9.3 The Licensee must not distribute or allow distribution of the Licensed Data Products to a Licensee's Customer unless:
 - (i) the Licensee's Customer has entered into a signed written licence agreement with the Licensee in accordance with clause 4.11 of this Agreement ; or
 - (ii) the Licensee's Customer has entered into a licence agreement by consent via an open network/internet environment in accordance with clause 4.11 of this Agreement and the Licensee's Customer has accepted the terms and conditions by responding affirmatively to an "I Agree" (or similar wording to the same effect) button on the screen.

4.10 Approval and Use of Licensee's Agent

- 4.10.1 The Licensor may, but is not obliged to, allow the Licensee to appoint one or more Licensee's Agents in accordance with the conditions set out in this clause 4.10.
- 4.10.2 The Licensor will only approve the appointment of Licensee's Agents where the Licensee has elected a Flat Fee Package.
- 4.10.3 Any application to establish a Licensee's Agent must be submitted in writing in accordance with clause 4.10.10 of this Agreement by the Licensee for approval by the Licensor. Approval is at the sole discretion of the Licensor.
- 4.10.4 If an application is approved the Licensee may appoint the Licensee's Agent to distribute the Licensee's Licensed Data Products in accordance with the following conditions:
 - (i) The Licensee must not supply Licensed Data Products to a Licensee's Agent unless the Licensee's Agent is an approved PIIPD Code Subscriber, and maintains financial membership to the PIIPD Code of Conduct.
 - (ii) The Licensee must ensure the Licensee's Agent cannot appoint any further resellers or agents to distribute Licensed Data Products.
- 4.10.5 The Licensee's Agent must enter into a written agreement with the Licensee in accordance with clause 4.11 of this Agreement.
- 4.10.6 The Licensee's Agent must provide to the Licensor at no cost, one ongoing access to the Licensee's Agent's System that displays the Licensed Data Products as if viewed by a customer to assist in reviewing compliance with clauses 4.5.4 and 4.5.5 of this Agreement. The Licensor's access to the Licensee's Agent's System must not incur any fees or charges to the Licensor.
- 4.10.7 The Licensor may, at any time, do either of the following:
 - (i) immediately terminate or suspend the approval of a particular Licensee's Agent if that Licensee's Agent does one of the acts specified in clause 6.3 by giving written notice to the Licensee; or
 - (ii) terminate or suspend the approval of a particular Licensee's Agent by giving to the Licensee the amount of written notice specified in Schedule A as Termination Notice Period.
- 4.10.8 If the Licensor's approval of a particular Licensee's Agent is terminated in accordance with clause 4.10.7, the Licensee must discontinue providing Licensed Data Products to that Licensee's Agent at or before the time specified by the Licensor.
- 4.10.9 If the Licensee's Agent is also a Licensee's Consultant, and the Licensee supplies Licensed Data under a consulting agreement, the Licensed Data may only be used for the role of Licensee's Consultant and not for the role of Licensee's Agent.

4.10.10 The Licensee is required to submit information in support of any application to appoint a Licensee's Agent to distribute Licensed Data Products. At a minimum this information must include all of the following details of the proposed Licensee's Agent:

- (i) Name (legal entity plus any trading name(s)), ABN, ACN (if applicable) and website together with a company profile.
- (ii) Recent full company searches for both Licensee's Agent and the Licensee.
- (iii) Certification that the Licensee's Agent contract will contain the Standard Terms and Licensee's Agent Terms from Schedule B.
- (iii) Certification that all Licensed Data Products supplied to customers by the Agent will be unchanged from the Licensed Data Products provided by the Licensee to the Licensee's Agent. For the avoidance of doubt, where a product produced and sold by a Licensee's Agent contains other material but contains an unchanged Licensed Data Product as a discretely identifiable part of that product (including copyright and disclaimer notice and metadata) that product is not a changed Licensed Data Product.
- (iv) Certification either that the Licensee's Agent is an approved PIIPD Code Subscriber and maintains financial membership to the PIIPD Code of Conduct or that the Licensee's Agent is prepared to apply to become an approved PIIPD Code Subscriber if appointment as a Licensee's Agent is approved by the Licensor.

4.11 Terms for agreements

4.11.1 Agreements entered into between the Licensee and the Licensee's Agents, Licensee's Consultants and Licensee's Customers must contain the appropriate terms specified in Schedule B and must not be inconsistent with the terms and conditions of this Agreement.

4.11.2 Any amendments or changes to the terms specified in Schedule B made by the Licensee must not alter the meaning and effect of the terms specified in Schedule B in any way whatsoever.

4.11.3 The Licensee must not waive any obligation, specified in Schedule B, required in agreements entered into between the Licensee and the Licensee's Agent's, Licensee's Consultants or Licensee's Customers.

4.11.4 All terms in Schedule B have the same meaning and effect as the definitions at clause 2.1.

4.12 Membership of the PIIPD Code of Conduct

4.12.1 The Licensee must maintain financial membership as a PIIPD Code Subscriber to the PIIPD Code of Conduct for the duration of this Agreement and, if requested, present evidence to the Licensor that they are and continue to be an approved PIIPD Code Subscriber.

4.12.2 The Licensee agrees to be bound by the terms of the PIIPD Code of Conduct.

4.13 Provision of access to Licensee's System

4.13.1 The Licensee must provide to the Licensor at no cost, one ongoing access to the Licensee's System(s) that display Licensed Data Products as if viewed by a Licensee's Customer to assist in reviewing compliance with clauses 4.5.4 and 4.5.5 of this Agreement. The Licensor's access to the Licensee's System must not incur any fees or charges to the Licensor.

4.14 Enforcement

4.14.1 The Licensee must take all reasonable steps to enforce the terms and conditions specified in this clause 4.

5. Proper Records, right to inspect and audit

5.1 The Licensee must maintain Records for the Licensor. The Records must contain the details specified in Schedule A and the Licensee must provide Reports as specified in Schedule A to the Licensor within the timeframe specified in Schedule A.

5.2 The Licensor at its own expense may inspect and copy all Records, and any other information held by the Licensee in relation to this Agreement, and the Licensee must make such information available for inspection and copying given 7 day's written notice.

5.3 Notwithstanding the provisions of clause 5.2, the Licensor may, at its own expense, appoint an independent auditor to inspect the Records and any other information held by the Licensee in relation to this Agreement on an annual basis in accordance with the following conditions:

5.3.1 The Licensor must give a minimum of 7 days notice.

5.3.2 The Licensee must use its best endeavours to co-operate with the Licensor, its agents or authorised representatives during any inspection and the Licensee must make all information available for inspection.

5.3.3 During the audit the Licensor acting through its agents or authorised representatives may at any time and without notice enter any premises where the Licensor reasonably believes copies of Records or documents relating to Licensed Data may be kept.

5.3.4 If the audit in this clause 5.3 discloses any underpayment of Royalty Fees the Licensee must pay any amount due within 14 days of the completion of the audit. If the audit discloses an underpayment by the Licensee of more than 5% of the amount due to be paid to the Licensor then in addition to paying the amount due the Licensee must pay either the cost of the audit or one half of the amount of the underpayment whichever is the lesser.

5.4 In the event of expiry or termination of this Agreement pursuant to clause 6, the Licensor has a right upon the giving of 1 day's written notice to the Licensee, to inspect and copy at its expense, all such Records and any other information held by the Licensee in relation to this Agreement.

6. Expiry or termination

- 6.1 The licence granted under this Agreement will take effect on and from the Commencement Date and will remain current until the Expiry Date unless terminated under this clause 6.
- 6.2 Either party may terminate this Agreement by giving the other party the amount of written notice specified in Schedule A as Termination Notice Period.
- 6.3 Without limiting the effect of any other clause in this Agreement, the Licensor may terminate this Agreement immediately by notice in writing in any of the following circumstances:
 - 6.3.1 The Licensee fails to perform any of its obligations or responsibilities under this Agreement including;
 - (i) failing to pay the Fees
 - (ii) failing to maintain financial membership of the PIIPD Code of Conduct.
 - 6.3.2 The Licensee does any of the following: suspends payment of its debts; or is unable to pay its debts within the meaning in the Corporations Law; or becomes, threatens or resolves to become or is in jeopardy of becoming subject to any form of insolvency or administration including but not limited to an order or resolution for winding up or dissolution or appointment of a receiver, controller, administrator or liquidator; or ceases or threatens to cease conducting its business in the normal manner; being a partnership, dissolves, threatens or resolves to dissolve or is in jeopardy of dissolving; being a natural person, dies or becomes legally incompetent.
 - 6.3.3 The Licensee is permanently placed on the Register of Excluded Parties by the Code Oversight Committee under the PIIPD Code of Conduct.
- 6.4 If the Licensor is entitled to terminate the Agreement under clause 6.3 the Licensor may choose (without prejudice to the Licensor's right to terminate) to suspend access to and use of the Licensed Data until the Licensor is satisfied that any breach of the Agreement has been remedied. The Licensor has the final determination in this regard. All other aspects of this Agreement will remain operative including payment of Fees.
- 6.5 Where the Code Oversight Committee has imposed a sanction that involves suspension from membership of the PIIPD Code of Conduct for a period of time the Licensor will suspend access to and use of the Licensed Data for that period. All other aspects of this Agreement will remain operative including payment of Fees.
- 6.6 Upon termination or expiry of this Agreement all of the following things will happen:
 - 6.6.1 All rights granted by the Licensor to the Licensee will cease immediately
 - 6.6.2 Upon termination of this Agreement by either party under clause 6.2 above.
 - (i) if an Access Fee has been paid past the date of termination the Licensor must refund the balance of the Access Fee pro-rata for that period after the date the termination takes effect. The Licensor will refund any balance of the Access Fee within 14 days of the date the termination taking effect.; or
 - (ii) if an Access Fee has not been paid up to the date of termination, the Licensee must pay a pro-rata Access Fee up to the date that the termination takes effect. The Licensee must pay the pro-rata Access Fee within 14 days of issue of the Licensor's invoice.
 - 6.6.3 The Licensor will refund the balance of any Access Fee if termination is made under clause 6.3 above, however the Licensor is entitled to first deduct its full costs of termination and the Licensor has the final determination in this regard.
 - 6.6.4 If the Licensee has elected a Royalty Fee Package the Licensee must pay any outstanding Royalty Fee and Royalty Reporting Fee, if applicable, to the Licensor. The Licensor will not refund any Licence Fee, wholly or partially.
 - 6.6.5 The Licensee must erase all copies of Licensed Data from all forms of storage (including any copies that Licensee's Consultants hold) and provide a written certificate to the Licensor confirming this action.
 - 6.6.6 The Licensee may store a copy of Licensed Data Products in a data archive for records purposes. The Licensee must not create or distribute any further Licensed Data Products and must ensure all Licensee's Agents no longer distribute Licensed Data Products without the specific written permission of the Licensor.
 - 6.6.7 Clauses 4.1 (Ownership), 4.3 (Confidentiality), 4.5.2 in relation to Licensed Data Products (Prohibited Use), 8 (Warranty, Liability and Indemnity) and Paragraph 3 of Schedule C Specific Restrictions – Licensed Data will survive and continue to have full force and effect.
 - 6.6.8 Any other rights the parties have against the other in respect of anything done or omitted by the parties under this Agreement will not be affected.
- 6.7 Notwithstanding anything contained in this Agreement, the Licensee's sole remedy in the event of termination or purported termination of this Agreement by the Licensor (whether or not the Licensor has the right to terminate) is for damages (including interest) and the Licensee agrees that the Licensor may plead this provision as a bar to any action.

7. Dispute Resolution

- 7.1 A party must not commence legal proceedings relating to this Agreement unless the party has complied with this clause 7. However, this clause 7 will not apply where a party seeks urgent interlocutory relief from a court.
- 7.2 If a dispute arises between the parties in respect of this Agreement (the 'Dispute') then the following procedure applies:
 - 7.2.1 The party alleging the Dispute must notify in writing the existence and nature of the Dispute to the other party involved in the Dispute within 7 days of the dispute arising (the 'Notification').
 - 7.2.2 Upon receipt of a Notification, each party involved in the Dispute must appoint a senior representative with authority to resolve the Dispute, and those senior representatives must attempt in good faith to resolve the Dispute.
 - 7.2.3 If the Dispute is not resolved as provided in clause 7.2.2 within 7 days of receipt of the Notification, then any party involved in the Dispute may refer the Dispute to mediation as provided in clause 7.2.4 and must do so before initiating proceedings in a court to resolve the Dispute.

- 7.2.4 Any Dispute that is referred to mediation must be mediated by a mediator appointed by the parties in accordance with rules agreed by the parties or, if the parties cannot agree on the appointment of a mediator or rules of mediation, a mediator appointed by and rules determined by the President, Queensland Law Society. The parties must attempt in good faith to resolve the Dispute at mediation.
- 7.2.5 The costs of any mediation conducted pursuant to clause 7.2.4 will be shared equally between the parties to the Dispute, unless the mediator determines otherwise.
- 7.2.6 If the Dispute is not resolved within 14 days of referral to mediation any party is free to initiate proceedings in a court in respect of the Dispute.

8. Warranty, liability and indemnity

8.1 Warranty

- 8.1.1 The Licensor supplies the Licensed Data to the Licensee at the Licensee's own risk. In particular, and without limitation, the Licensor does not warrant that the Licensed Data is current, accurate or complete and gives no warranty as to the condition, quality or fitness of the Licensed Data for the Licensee's requirements.
- 8.1.2 The Licensee acknowledges and agrees that, in entering into this Agreement, it has not relied on any representations made by the Licensor (or its officers, employees or agents). In particular, and without limitation, the Licensee has not relied on any descriptions, illustrations or specifications contained in any document (including any catalogues or publicity material produced by the Licensor).

8.2 Exclusion of liability

- 8.2.1 Except for warranties expressly made in this Agreement, all conditions, warranties, undertakings or representations express or implied and whether arising by statute, general law or otherwise are, to the extent permitted by law, expressly excluded and the terms of this Agreement are the only terms and conditions applying. Where the law implies a warranty, the Licensor expressly limits its liability under any such warranty to the replacement, or re-supply of any Licensed Data supplied under this Agreement.
- 8.2.2 Subject to clause 8.2.1, under no circumstances is the Licensor (or its officers, employees or agents) liable to the Licensee for any direct, indirect or consequential loss or damage, howsoever caused (including, without limitation, sustained as a result of negligence), and sustained by the Licensee in connection with this Agreement or the Licensed Data or use of the Licensed Data, except when sustained as a result of negligence or wilful misconduct of the Licensor (or its officers, employees or agents).

8.3 Indemnity

- 8.3.1 The Licensee will at all times indemnify and keep indemnified the Licensor (and its officers, employees and agents) from and against any loss or liability (including reasonable legal costs and expenses) incurred by any of those indemnified arising from any claim, demand, suit, action or proceeding (including a claim for a breach of a person's Intellectual Property Rights) by any person against any of those indemnified where the loss or liability arose out of, in connection with, or in respect of:
 - (i) the Licensed Data or use of the Licensed Data;
 - (ii) the Licensed Data Products; or
 - (iii) any breach of this Agreement by the Licensee.
 This indemnity will be granted irrespective of whether legal proceedings are instituted and the means, manner or nature of any settlement, compromise or determination. The Licensor may recover a payment from the Licensee under this indemnity before it makes the payment in respect of which the indemnity is given.
- 8.3.2 The indemnities provided for in this clause 8.3 will apply in any of the following circumstances:
 - (i) The Licensee has been in breach of this Agreement including non-compliance with its obligations under clause 4.
 - (ii) The Licensee has been negligent.
 - (iii) The Licensee has committed a wrongful act or omission.

9. General conditions

- 9.1 None of the conditions of this Agreement will be waived or deemed waived, except by notice in writing signed by the party waiving the right
- 9.2 No agreement or understanding that varies or amends this Agreement will bind either party unless and until agreed to in writing by both parties.
- 9.3 This Agreement will be governed by and construed in accordance with the law of the State of Queensland.
- 9.4 The parties must give each other such assistance and cooperation as is reasonably required for the performance of this Agreement.
- 9.5 This Agreement constitutes the entire agreement between the parties and supersedes all communications, negotiations, arrangements and agreements either oral or written between the parties with respect to the subject matter referred to in this Agreement.
- 9.6 Subject to the terms and conditions of this Agreement, neither this Agreement nor any rights granted under it may be assigned or sub-licensed in any manner whatsoever by the Licensee, without the prior written consent of the Licensor.
- 9.7 Any provision, or part of a provision of this Agreement that is illegal, unenforceable or partly unenforceable is, where possible to be severed to the minimum extent necessary to make this Agreement enforceable (unless this would materially change the intended effect of this Agreement).
- 9.8 The Licensee is not and does not become a partner, employee or agent of the Licensor under this Agreement and must not allow itself to be represented as such. Further, the Licensee does not have the power or authority, directly or indirectly or

through its employees or agents, to bind the Licensor to any agreement with a Licensee's Consultant, Licensee's Agents, Licensee's Customer or other third party or otherwise to contract, negotiate or enter into a binding relationship for or on behalf of the Licensor, or to make any representation on behalf of the Licensor.

- 9.9 Notices under this Agreement may be delivered by prepaid postage or certified mail, by hand, by fax transmission or by email transmission. Notices are deemed given 5 days after deposit in the mail with postage prepaid or certified, when delivered by hand, or if sent by fax or email transmission upon completion as evidenced by a fax or email transmission record. Where notice is given by fax or email the original document must be posted on the same day as the transmission is sent. The addresses for service of notices are listed in Schedule A.
- 9.10 Where the Licensor and the Licensee are not separate legal entities (eg where both are State Government Departments) these licence conditions operate as a memorandum of understanding. Notwithstanding that these licence conditions are not legally enforceable; both parties must perform their respective obligations and receive their respective benefits in good faith.
- 9.11 The Licensor reserves the right to exclude future supply of certain particulars forming part of the Licensed Data if the Valuer-General of the Licensor is satisfied on reasonable grounds that inclusion of the data may result in inappropriate use or disclosure. Furthermore the Licensor may prohibit disclosure or limit distribution of certain particulars forming part of the Licensed Data.
- 9.12 If any restrictions or limitations on the supply or use of Licensed Data or Licensed Data Products are imposed by any future legislation or Government policy then the Licensee agrees to comply with any such restrictions or limitations, including any restrictions or limitations relating to supply of Licensed Data or Licensed Data Products to any Licensee's Consultants, Licensee's Agents or Licensee's Customers. In this event the Licensor may, at its discretion do all or any of the following:
 - 9.12.1 Modify the Licensed Data to conform to limitations or restrictions of disclosure or other limitations imposed.
 - 9.12.2 Withhold any data fields that are in breach of legislation or expose the Licensor to any sanctions.
 - 9.12.3 Adjust the Fees on a pro-rata basis to take into account the loss of any part of the Licensed Data.
- 9.13 In the event of any delay in the supply of Licensed Data by the Licensor caused by factors beyond the reasonable control of the Licensor:
 - 9.13.1 The Licensor will notify the other party as soon as reasonably possible
 - 9.13.2 The Licensor must use its best endeavours to rectify the cause of the delay as soon as reasonably possible.
 - 9.13.3 The delay in supply is not a breach of any obligation under this Agreement.
- 9.14 Special Conditions to this agreement (if any) are contained in Schedule A.

Execution

Licensors:

SIGNED for and on behalf of the **STATE OF QUEENSLAND**
as represented by the DEPARTMENT OF NATURAL
RESOURCES AND MINES by

_____)
a Delegated Officer (print name and position)

this _____ day of _____ 200__)
in the presence of:

_____)
Witness (print name)

(signature)

(signature)

Licensee: (use one signing block only and delete the remainder)

[Government]

Signed for and on behalf of)
_____)

(ABN _____)

by _____)
a Delegated Officer (print name)

this _____ day of _____ 200__)
in the presence of:

_____)
Witness (print name)

(signature)

(signature)

(OR) [Company]

Signed for and on behalf of)
_____)

ACN _____)
in accordance with s127 of the *Corporations Act 2001*

this _____ day of _____ 200__)

_____)
Name – Sole Director/Director (print name)

_____)
Name – Director/Secretary (print name)

(signature)

(signature)

Notes for companies signing agreements:

- Seal is not required – but may be used.
- Sole director companies simply insert name and sign as **sole director** (striking out director).
- Other companies sign by **two directors** or by a **director and secretary**, striking out the inapplicable title.
- Where an **attorney or other agent** executes this Agreement on behalf of a company, the form of execution must indicate the source of this authority and a certified copy of the authority must be provided to the Licensor.
- A witness is not required in any case, except for an attorney or other agent where the source of authority requires a witness.

Schedule A – Licensee, Licence Number & Licensing Issues

1. Licence Number

Licence Agreement Number: VA: 20XX/XXXX

2. Licensee

Name: XXXX
ABN: XXXX
ACN (if applicable): XXXX
Address (for service of notices): XXXX
Email Address (for service of notices): XXXX
Contact Name: XXXX
Phone Number: XXXX

3. Dates / Termination & Renewal and Fee type election

Commencement Date XX/XX/XXXX
Expiry Date: XX/XX/XXXX
Termination Notice Period: 6 months
Fee type election [Flat Fee Package / Royalty Fee Package [select one]]

4. Records

4.1 The Licensee must record details of each trading name under which the Licensee trades.

4.2 The Licensee must record:

- (a) For each Licensee's Consultant to whom Licensed Data is provided:
 - (i) The business name (and ACN / ABN if applicable) of the Consultant.
 - (ii) Contact details.
 - (iii) What Licensed Data was provided.
- (b) For each Licensed Data Product:
 - (i) A description of the Licensed Data Product.
 - (ii) What Licensed Data was utilised.

4.2 If the Licensee has elected a Royalty Fee Package, the Licensee must record

- (a) For audit purposes in electronic form all of the following
 - (i) Copies of all invoices including tax invoices.
 - (ii) Appropriate records to allow reports (by Licensed Data Product) to be generated on a quarterly basis.

5. Reports required and Timeframe

5.1 The Licensee must provide a report of all the Records in paragraph 4.1 within 14 days of a change to the Records or within 14 days of a written request from the Licensor.

5.2 The Licensee must provide a report of all the Records in paragraph 4.2 of this Schedule within 14 days of a written request from the Licensor.

5.3 If the Licensee has elected a Royalty Fee Package the Licensee must supply the Licensor with a report, within 7 business days after the end of each quarter (the quarters end 30 April, 31 July, 31 October, and 31 January), showing the following things:

- (a) For each Licensed Data Product distributed or sold:
 - (i) The date of sale or distribution.
 - (ii) The value associated with distribution if no Tax Invoice (if applicable) or revenue generated to offset free distribution.
 - (iii) Tax Invoice number of sale and the sale value as recorded on Tax Invoice (if applicable).
 - (iv) Royalty payable
- (b) If the report is for a nil return, a report showing same must be submitted.

6. Royalty

The Royalty Fee will be calculated as 20% of the total value (GST exclusive) of the components of a tax invoice (data and/or service) to the Licensee's Customer(s) that is based on or contains the Licensed Data and / or any revenue generated to offset free distribution (eg: advertising/sponsorship). Any Royalty Fee variation for a particular Licensed Data Product will be recorded in a Schedule D.

7. Licensing Issues (including service of notices to Licensor)

Manager

Product Delivery

Department of Natural Resources and Mines

GPO Box 2454

BRISBANE QLD 4001

Phone (07) 3896 3999

Email: siproductdelivery@dnrm.qld.gov.au

8. Special Conditions

Nil.

SAMPLE

Schedule B - Notices

1. Copyright Notices

All **Licensed Data** must bear the following notice:

© State of Queensland (Department of Natural Resources and Mines) [year]. In consideration of the State permitting use of this data you acknowledge and agree that the State gives no warranty in relation to the data (including accuracy, reliability, completeness, currency or suitability) and accepts no liability (including without limitation, liability in negligence) for any loss, damage or costs (including consequential damage) relating to any use of the data. Data must not be used for direct marketing or be used in breach of the privacy laws.

All **Licensed Data Products** (with the exception of those sent by SMS) must bear the following notice:

Based on or contains data provided by the State of Queensland (Department of Natural Resources and Mines) [year]. In consideration of the State permitting use of this data you acknowledge and agree that the State gives no warranty in relation to the data (including accuracy, reliability, completeness, currency or suitability) and accepts no liability (including without limitation, liability in negligence) for any loss, damage or costs (including consequential damage) relating to any use of the data. Data must not be used for direct marketing or be used in breach of the privacy laws.

Licensed Data Products sent by SMS must bear the following notice:

Subject to disclaimer at [www.licenseewebsite.com.au/disclaimer].

And the website [www.licenseewebsite.com.au/disclaimer] must bear the following notice:

Based on or contains data provided by the State of Queensland (Department of Natural Resources and Mines) [year]. In consideration of the State permitting use of this data you acknowledge and agree that the State gives no warranty in relation to the data (including accuracy, reliability, completeness, currency or suitability) and accepts no liability (including without limitation, liability in negligence) for any loss, damage or costs (including consequential damage) relating to any use of the data. Data must not be used for direct marketing or be used in breach of the privacy laws.

2. Agreement composition

2.1 Licensee's Consultant

Any Licensee's Consultant's agreement must be in writing and signed and must contain the following Notice Texts:

- Standard Terms (retain the title 'Standard Terms' in the agreement)
- Permitted Use Terms – Consultants (retain the title 'Permitted Use Terms - Consultants' in the agreement)

2.2 Licensee's Agent

Any Licensee's Agent's agreement must be in writing and signed and must contain the following Notice Texts:

- Standard Terms (retain the title 'Standard Terms' in the agreement)
- Permitted Use Terms – Licensee's Agent

2.3 Licensee's Customer

Any Licensee's Customer licence agreement must be in writing and signed or in electronic form with an "I agree" (or similar wording to the same effect) button that must be clicked and must contain the following Notice Texts:

- Standard Terms (retain the title 'Standard Terms' in the agreement)
- Permitted Use Terms – Licensee's Customers

Standard Terms

Definitions

- **Direct Marketing** means one to one marketing using personal details (e.g. name, address, email address), normally supported by a database/resource, which uses one or more advertising media to effect a measurable response and/or transaction from a person and includes, but is not limited to, telemarketing, bulk email messaging (spam), postal canvassing and list brokering.
- **Licensed Data** means data that is owned by or licensed to the State of Queensland (Department of Natural Resources and Mines) and has been licensed to [XXXX Licensee] under an agreement.
- **Licensed Data Product(s)** means any Value Added product derived from or based on the Licensed Data.
- **Privacy Laws** means any legislation (or mandatory government policy, where applicable) enacted by Federal or State agencies in relation to privacy and includes the Privacy Act 1988 (Cth) and Information Privacy Act 2009 (Qld).
- **Value Add/Adding/Added** means any repackaging which irreversibly changes the form of the Licensed Data or any augmenting or incorporation of the Licensed Data with other data. Conversion onto a different media or the translation into a different format (e.g. changing colour and formatting) of Licensed Data is not Value Adding.

Ownership

I acknowledge that I have no rights of ownership in the Licensed Data. The State of Queensland (Department of Natural Resources and Mines) is the owner of the intellectual property rights including copyright in and to the Licensed Data or has the right to make it available under licence arrangements, and has made a licence arrangement with [XXXX Licensee].

Liability

I acknowledge that the State of Queensland (Department of Natural Resources and Mines) gives no warranty in relation to the data (including accuracy, reliability, completeness, currency or suitability) and accepts no liability (including without limitation, liability in negligence) for any loss, damage or costs (including consequential damage) relating to any use of the data.

Permitted Use

- I agree that I will not use the Licensed Data Product(s) with the intention of encroaching upon the privacy of an individual or for Direct Marketing and I will comply with the Privacy Laws
- All Licensed Data Products must bear the following notice
Based on or contains data provided by the State of Queensland (Department of Natural Resources and Mines) [year]. In consideration of the State permitting use of this data you acknowledge and agree that the State gives no warranty in relation to the data (including accuracy, reliability, completeness, currency or suitability) and accepts no liability (including without limitation, liability in negligence) for any loss, damage or costs (including consequential damage) relating to any use of the data. Data must not be used for direct marketing or be used in breach of the privacy laws.

Permitted Use Terms – Licensee's Customers

- I agree to use the Licensed Data Products that I receive from [XXXX Licensee] only for my own personal use or in the ordinary course of my business (e.g. solicitor, accountant, valuer etc). I am not a business acting as a reseller of Licensed Data Products.

Permitted Use Terms – Consultants

- I will not use the Licensed Data for any purposes whatsoever other than the specific consultancy project that it was provided for.
- I will not use the Licensed Data with the intention of encroaching upon the privacy of an individual or for Direct Marketing and I will comply with the Privacy Laws.
- I will not distribute any Licensed Data supplied to me to any third party with the exception of subcontractors, provided that my subcontractors sign a written agreement with me that includes the 'Standard Terms' and the 'Permitted Use Terms – Consultants terms' in this agreement.
- Upon expiration or earlier termination of my consultancy agreement or if required to do so by the party I am consulting for I will return or destroy any copies of the Licensed Data in my possession.
- I agree to display the following notice on all reproductions of the Licensed Data, however altered, reformatted or redisplayed:

© State of Queensland (Department of Natural Resources and Mines) [year]. In consideration of the State permitting use of this data you acknowledge and agree that the State gives no warranty in relation to the data (including accuracy, reliability, completeness, currency or suitability) and accepts no liability (including without limitation, liability in negligence) for any loss, damage or costs (including consequential damage) relating to any use of the data. Data must not be used for direct marketing or be used in breach of the privacy laws.

Permitted Use Terms – Licensee's Agents

- I accept that as an Agent for the Licensee I am permitted to distribute Licensed Data Products to customers on behalf of the Licensee providing a licence agreement has been entered into with the customer and this agreement must:
 - incorporate the 'Standard Terms' terms from this agreement and the term 'I agree to use the Licensed Data Products that I receive from [XXXX Licensee's Agent] only for my own personal use or in the ordinary course of my business (e.g. solicitor, accountant, valuer etc). I am not a business acting as a reseller of Licensed Data Products.'; and
 - be either in writing or with an "I agree" (or similar wording to the same effect) button that must be clicked if such agreement is in electronic form.
- I will not value add, enhance, alter or change the Licensed Data Products. For the avoidance of doubt, where a product produced and sold by me contains other material but contains an unchanged Licensed Data Product as a discretely identifiable part of that product (including copyright and disclaimer notice and metadata) that product is not a changed Licensed Data Product.
- I agree that I must provide to the Department of Natural Resources and Mines at no cost, one ongoing access to my Systems (my operating and applications information retrieval systems (which may be computerised) which enable the retrieval of Licensed Data Products by customers) that displays the Licensed Data Products as if viewed by a customer to assist in reviewing compliance. This access to my System must not incur any fees or charges to the Department of Natural Resources and Mines.
- I agree that Licensed Data Products sent by SMS must bear the following notice:

Subject to disclaimer at [www.licenseeagentwebsite.com.au/disclaimer].

And the website [www.licenseeagentwebsite.com.au/disclaimer] must bear the following notice:

Based on or contains data provided by the State of Queensland (Department of Natural Resources and Mines) [data type: year]. In consideration of the State permitting use of this data you acknowledge and agree that the State gives no warranty in relation to the data (including accuracy, reliability, completeness, currency or suitability) and accepts no liability (including without limitation, liability in negligence) for any loss, damage or costs (including consequential damage) relating to any use of the data. Data must not be used for direct marketing or be used in breach of the privacy laws.

Schedule C.XX – Licensed Data and Specifications

1. Licence Details

Licence Agreement Number: VA:20XX/XXXX

2. Licensed Data

Data Type: Queensland Valuations and Sales Data – Property Valuation and Sales Data with personal details.

Coverage	Supply media	Format
Whole of State	[default: DDX]	[default: ASCII (non delimited fixed length fields)]

3. Specific Restrictions - Licensed Data

As per Agreement.

4. Specifications – Licensed Data

4.1 The Licensed Data may include but is not limited to the following components:

4.1.1 Administrative Records

- (a) General Property Information
- (b) Property description (Lot/Plan)
- (c) Valuation Detail (Unimproved Value [UV])

4.1.2 Sales Records

- (a) Current and historical sales details
- (b) Property Vendor / Purchaser details
- (c) Sale date, price and type

4.2 The Licensor will only provide updates to the sales records twice a month. Updates to the administrative records are supplied on a weekly rolling basis; most local governments are issued on fortnightly basis and the remainder on a 28-day cycle.

4.3 The information (excluding valuation) is entered into the system by data entry from information provided to the Licensor, by State and Local Government agencies and the public. The accuracy is dependent on the currency of the data, the quality of data provided to the system and the validation checks provided in the data entry system.

5. Licensed Data Contacts

Licensor

Contact Name: Dirk Van Til, Manager, Product Delivery
 Address: Department of Natural Resources and Mines
 GPO Box 2454
 BRISBANE QLD 4001
 Phone: (07) 3896 3999
 Email: siproductdelivery@dnrm.qld.gov.au

Licensee

Contact Name: XXXX
 Address: XXXX
 XXXX
 Phone: (XX) XXXX
 Email: XXXX

6. Signatures for Schedule C [for changes to Schedule C subsequent to initial execution of Agreement]

Licensor

Signature: _____

Signatory Name: _____

Date: _____

Licensee

Signature: _____

Signatory Name: _____

Date: _____

Schedule D.XX – Licensed Data Product Royalty Fee (Deed of Variation)

1. Licence Details

Licence Agreement Number: VA:20XX/XXXX

2. Licensed Data Product

Description including Licensed Data utilised: XXXX

3. Agreed Royalty Variation

XXXX% or \$XXXX

4. Execution [for Schedules D subsequent to initial execution of Agreement]

Licensor:

SIGNED for and on behalf of the **STATE OF QUEENSLAND**)
 as represented by the DEPARTMENT OF NATURAL)
 RESOURCES AND MINES by)

_____)
 a Delegated Officer (print name and position))

this _____ day of _____ 201__)
 in the presence of:)

_____)
 Witness (print name))

 (signature)

 (signature)

Licensee: (use one signing block only and delete the remainder)

[Government]

Signed for and on behalf of)
 _____)

(ABN _____)

by _____)
 a Delegated Officer (print name))

this _____ day of _____ 201__)
 in the presence of:)

_____)
 Witness (print name))

 (signature)

 (signature)

(OR) [Company]

Signed for and on behalf of)
 _____)

ACN _____)
 in accordance with s127 of the *Corporations Act 2001*)

this _____ day of _____ 201__)

_____)
 Name – Sole Director/Director (print name))

_____)
 Name – Director/Secretary (print name))

 (signature)

 (signature)

Notes for companies signing agreements:

- Seal is not required – but may be used.
- Sole director companies simply insert name and sign as **sole director** (striking out director).
- Other companies sign by **two directors** or by a **director and secretary**, striking out the inapplicable title.
- Where an **attorney or other agent** executes this Agreement on behalf of a company, the form of execution must indicate the source of this authority and a certified copy of the authority must be provided to the Licensor.
- A witness is not required in any case, except for an attorney or other agent where the source of authority requires a witness.

Personal Identification Information in Property Data Code of Conduct



Table of Contents

Code of Conduct	3
1. Title	3
2. Objectives	3
3. Definitions.....	3
4. Code membership	4
5. Code Oversight Committee.....	4
6. Prohibition on Direct Marketing.....	6
7. Data security	6
8. Identification and logging of access	6
9. Suppression of data.....	7
10. Referral of complaints.....	7
11. Internal complaints.....	7
12. External complaints	8
13. Independent Arbiter	9
14. Breaches.....	9
15. Serious or systemic breaches	9
16. Sanctions	10
17. Register of Excluded Parties.....	10
18. Code annual report, three year review and amendment.....	11
19. Reserve powers of Minister	11

Code of Conduct

1. Title

- 1.1 This is the Code of Conduct for bulk data access to identified information in the Queensland Valuation and Sales System (QVAS) database.
- 1.2 The short title is the Personal Identification Information in Property Data Code of Conduct (the Code).

2. Objectives

- 2.1 The aims of this Code are to:
 - 2.1.1 Mandate a high degree of privacy protection for bulk data access to QVAS Identified Information;
 - 2.1.2 Develop a culture of confidence and trust in the services provided by Code Subscribers regarding the collection, use, storage and disclosure of all Personal Information; and
 - 2.1.3 Demonstrate a commitment to best practices regarding the secure, proper and consistent handling of all Personal Information.

3. Definitions

— Code Subscriber

An organisation that has agreed to be bound by the Code and has been approved as a member by the Code Oversight Committee.

— Code Subscriber Customer

An individual or organisation that purchases or otherwise obtains QVAS Identified Information from a Code Subscriber.

— Code Oversight Committee

The committee administering the Code as described in section 5 of the Code.

— Consumer

An individual whose Personal Information appears in any field in the QVAS Database.

— Department

The Department of Natural Resources and Mines (DNRM) and any successor agency that takes responsibility for the management of the QVAS Database.

— Direct Marketing

One to one marketing, normally supported by a database, which uses one or more advertising media to affect a measurable response and / or transaction from a person and includes, but is not limited to, telemarketing, bulk email messaging, postal canvassing and list brokering.

— Independent Arbiter

An independent person with expertise in dispute resolution, appointed by the Code Oversight Committee.

— Personal Information

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 an

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

— **Prohibition on Direct Marketing**

Not using or distributing QVAS Identified Information for Direct Marketing or with the intention of encroaching upon the privacy of a Consumer.

— **QVAS Database**

The Queensland Valuation And Sales System (QVAS) database administered by the Department.

— **QVAS Identified Information**

The details of any identified Consumer in the QVAS Database limited to the name and service address of the vendor and / or purchaser. For the avoidance of doubt QVAS Identified Information does not include the property address and transaction details.

4. Code membership

- 4.1 Membership of the Code is open to all information broker organisations. An information broker organisation becomes a Code Subscriber by submitting an application for membership to the Code Oversight Committee agreeing to be bound to the provisions of the Code, and receiving the approval of the Code Oversight Committee.
- 4.2 Membership of the Code is mandatory for information broker organisations seeking to obtain and / or retain a bulk data access licence that includes QVAS Identified Information from the Department. The information broker organisation must also comply with any other relevant terms of the licence and, if inconsistent, the terms of the licence take precedence over the terms of the Code.
- 4.3 The State of Queensland (through the Department) is the owner of the intellectual property rights including copyright in and to the QVAS Database. The Code does not confer on the Code Oversight Committee, Code Subscribers or Code Subscriber Customers any rights of ownership in the QVAS Database and all intellectual property rights including copyright in the QVAS Database are unaffected by the Code.

5. Code Oversight Committee

- 5.1 The Code is administered by a Code Oversight Committee, comprising:
 - 5.1.1 One independent chairperson – a person with experience in industry, commerce, public administration or government service. This person will be appointed for a maximum three-year term, and may be reappointed for further terms. The chairperson will be nominated by the Minister for the Department.
 - 5.1.2 One industry representative – a person with relevant experience at a senior level in the information broking industry nominated by a simple majority of the Code Subscribers. This person will be appointed for a maximum three-year term, and may be reappointed for further terms.
 - 5.1.3 One consumer representative – a person with experience in consumer advocacy. The consumer representative will be nominated by the Commissioner for Fair Trading and may be from a consumer advocacy organisation. This person will be appointed for a maximum three-year term, and may be reappointed for further terms.

- 5.2 The Code Oversight Committee will be funded by levying membership fees and / or complaint administration fees on Code Subscribers. These fees will include the following:
 - 5.2.1 The Code Oversight Committee chairperson is to be remunerated at the rate set out for a chair for meetings in the Remuneration of Part-time Chairs and Members of Government Boards, Committees and Statutory Authorities Category C1.
 - 5.2.2 The Code Oversight Committee industry representative is to be remunerated at the rate set out for a member for meetings in the Remuneration of Part-time Chairs and Members of Government Boards, Committees and Statutory Authorities Category C1.
 - 5.2.3 The Code Oversight Committee consumer representative is to be remunerated at the rate set out for a member for meetings in the Remuneration of Part-time Chairs and Members of Government Boards, Committees and Statutory Authorities Category C1.
 - 5.2.4 The Code Oversight Committee may organise and pay for administrative and systems support and maintenance of registers (including third party maintenance of registers) as necessary.
 - 5.2.5 For the avoidance of doubt, the Code Oversight Committee is not a Government board, committee or statutory authority.
- 5.3 The roles of the Code Oversight Committee shall include:
 - 5.3.1 To monitor compliance under the Code;
 - 5.3.2 To manage the registration of Code Subscribers and maintain an accurate and up to date Register of Code Subscribers;
 - 5.3.3 To investigate, and to make a determination on, any complaints regarding breaches of the Code that have not been resolved by internal complaints processes;
 - 5.3.4 To investigate and to make a determination on, any matter that otherwise comes to the attention of the Code Oversight Committee regarding breaches of the Code;
 - 5.3.5 To appoint and manage an Independent Arbiter as required from time to time;
 - 5.3.6 To impose sanctions on Code Subscribers who breach the Code;
 - 5.3.7 To prepare and publish an annual report on Code administration and compliance;
 - 5.3.8 To commission, manage and publish an independent review of the Code every three years;
 - 5.3.9 To implement, manage and maintain an accurate and up to date Register of Excluded Parties;
 - 5.3.10 To implement, manage and maintain an accurate and up to date Register of Request Suppressions;
 - 5.3.11 To, if necessary, audit Code Subscribers' compliance with the Code; and
 - 5.3.12 To perform such other tasks necessary or desirable for the effective operation of the Code.

6. Prohibition on Direct Marketing

- 6.1 A Code Subscriber must not use QVAS Identified Information for Direct Marketing or with the intention of encroaching upon the privacy of a Consumer.
- 6.2 A Code Subscriber must not distribute QVAS Identified Information to any Code Subscriber Customer or any third party for the purpose of Direct Marketing or with the intention of encroaching upon the privacy of a Consumer.
- 6.3 A Code Subscriber must ensure that the Prohibition on Direct Marketing extends to Code Subscriber Customers and any third parties who gain access to QVAS Identified Information. This requires, as a minimum, the following steps:
 - 6.3.1 A Code Subscriber must establish a binding legal agreement with all Code Subscriber Customers and any third parties who gain access to QVAS Identified Information. This binding legal agreement may be established by a Code Subscriber Customer indicating their acceptance of terms and conditions that are presented to them in an electronic format. This binding legal agreement must incorporate the Code definition of Direct Marketing and the Code Prohibition on Direct Marketing;
 - 6.3.2 This binding legal agreement must include an obligation on the Code Subscriber Customer to assist the Code Oversight Committee with any investigation and notice that a person or organisation in breach of the Prohibition on Direct Marketing or who refuses to assist the Code Oversight Committee with an investigation may be added to the Register of Excluded Parties (set out in Clause 17 of the Code);
 - 6.3.3 A Code Subscriber must promote the Code and the Prohibition on Direct Marketing in relevant Code Subscriber Customer marketing literature and online material; and
 - 6.3.4 A Code Subscriber must prominently display the Prohibition on Direct Marketing in the terms and conditions of use of its products.

7. Data security

- 7.1 A Code Subscriber must not provide access to any QVAS Identified Information to an organisation or individual who appears on the Register of Excluded Parties (set out in Clause 17 of the Code).
- 7.2 A Code Subscriber must take reasonable steps to protect any Personal Information that it holds from misuse and loss and from unauthorised access, modification, disclosure and transfer.
- 7.3 A Code Subscriber must take all reasonable steps to maintain and safeguard the security of the QVAS Identified Information in its database.
- 7.4 A Code Subscriber must ensure that its employees and consultants maintain the security of QVAS Identified Information and use this data solely for purposes permitted under the Code.

8. Identification and logging of access

- 8.1. A Code Subscriber must take all reasonable steps to identify and log Code Subscriber Customer and other third party access to QVAS Identified Information.
- 8.2. A Code Subscriber must retain access logs for a period of at least 12 months.

- 8.3 A Code Subscriber must provide one free access login to its system to the Code Oversight Committee to assist with investigation and audit.

9. Suppression of data

- 9.1. A Code Subscriber must reasonably cooperate with all requests to suppress QVAS Identified Information.
- 9.2. Where a request to suppress QVAS Identified Information comes to a Code Subscriber directly from a Consumer the Code Subscriber must inform the Consumer of the existence of the Code and the Register of Request Suppressions.
- 9.3 The Code Oversight Committee must maintain a Register of Request Suppressions. The management and maintenance of this register, which may be website based, may be delegated to a third party service provider.
- 9.3.1 The Code Oversight Committee may, upon receipt of a written request from a Consumer, add the Consumer's QVAS Identified Information to the Register of Request Suppressions.
- 9.3.2 Code Subscribers must be informed at regular intervals of any additions to or removals from the Register of Request Suppressions and must reasonably ensure that all the Code Subscriber's relevant data is amended to reflect that suppression within 30 days of notification.
- 9.4 The Department will continue to manage statutory orders for suppression under Part 8 of the *Valuation of Land Act 1944 (Qld)*. Where an order to suppress QVAS Identified Information comes from the Department pursuant to Part 8 of the *Valuation of Land Act 1944 (Qld)*, the Code Subscriber must ensure that all the Code Subscriber's relevant historical and current data are amended to reflect that suppression.

10. Referral of complaints

- 10.1 Where a complaint is received directly by the Code Oversight Committee it will first be referred to the relevant Code Subscriber for the purpose of resolution through the internal complaints process. The complainant must be informed immediately regarding this referral.
- 10.2 Where a complaint is received by a Code Subscriber that would clearly be more appropriately directed to another Code Subscriber it may be referred to the Code Oversight Committee to identify and refer to the relevant Code Subscriber for the purpose of resolution through that Code Subscriber's internal complaints process. The complainant must be informed immediately by the first Code Subscriber that their complaint has been referred to the Code Oversight Committee as it may be more appropriately directed to another Code Subscriber. The Code Oversight Committee must inform the complainant immediately regarding referral to the other Code Subscriber.
- 10.3 Where a complaint is received directly by the Department it may refer the complaint to the Code Oversight Committee for resolution.

11. Internal complaints

- 11.1 A Code Subscriber must provide an internal complaints process for Consumers. The internal complaints process must be free of charge.

- 11.2 Upon receipt of an internal complaint (either directly from a Consumer or by referral from the Code Oversight Committee, the Department or another Code Subscriber), the following information must be provided to the complainant:
 - 11.2.1 A copy of the Code (if it has not already been provided);
 - 11.2.2 Full contact details for the management of the complaint; and
 - 11.2.3 An acknowledgment that the complaint has been accepted and notification that the Code Subscriber has 30 days to resolve the complaint.
- 11.3 A Code Subscriber must endeavour to resolve all internal complaints promptly, but at least within 30 days of receipt.
- 11.4 Complainants must be provided with written reasons for any decisions made under the internal complaints process. Appropriate remedies and sanctions for the internal complaints process are at the discretion of the Code Subscriber.
- 11.5 Where a complaint is not resolved to the satisfaction of the Consumer or where the 30 day period is exceeded, a Code Subscriber must inform the complainant immediately of the external complaints process established by the Code (set out in Clause 12), including the provision of contact details for the Code Oversight Committee.
- 11.6 Where an internal complaint identifies a breach by a Code Subscriber Customer or third party of the Prohibition on Direct Marketing (set out in Clause 6), the Code Subscriber must inform the Code Oversight Committee, so that the Code Oversight Committee can determine whether an addition should be made to the Register of Excluded Parties (set out in Clause 17).

12. External complaints

- 12.1 The external complaints process under the Code will apply in the following circumstances:
 - 12.1.1 Where a complaint cannot be resolved through the internal complaints process of a Code Subscriber;
 - 12.1.2 Where a complaint cannot be resolved within 30 days of receipt by a Code Subscriber;
 - 12.1.3 Where a complaint has been received and / or referred but it is unclear which Code Subscriber should be responsible for management of the complaint;
 - 12.1.4 Where the Department requests that a complaint be treated directly as an external complaint (including, but not limited to, circumstances where there is a requirement for urgent resolution); and / or
 - 12.1.5 Where a complaint involves a dispute between Code Subscribers.
- 12.2 External complaints must be made to the Code Oversight Committee in writing (electronic communication is acceptable). External complaints will be assessed at regular meetings of the Code Oversight Committee and are not subject to any specific timeline. The Code Oversight Committee must inform the Consumer in writing of the date that their external complaint will be assessed. The Code Oversight Committee may assess urgent matters out of session, at its discretion.
- 12.3 The external complaints process will be free of charge to Consumers and the Department. However, the Code Oversight Committee may levy a complaints

administration charge on Code Subscribers to offset the costs of the external complaints process. The rates of any such charges will be notified in advance.

- 12.4 While there is no right to a formal hearing, the Code Oversight Committee will endeavour to consult both parties during the external complaints process. Written reasons for any decisions made in the external complaints process will be provided to both parties.

13. Independent Arbiter

- 13.1 If either party is not satisfied with the outcome of the external complaints process, they may elect to have the complaint referred to an Independent Arbiter.
- 13.2 The Independent Arbiter will be appointed by the Code Oversight Committee. Appointments may be on an 'as required' basis.
- 13.3 The Independent Arbiter process will be free of charge to Consumers and the Department. However, the Code Oversight Committee may levy a complaints administration charge on Code Subscribers to offset the costs of the Independent Arbiter. Any such charges will be notified in advance.
- 13.4 Decisions of the Independent Arbiter are binding on Code Subscribers.

14. Breaches

- 14.1 A breach of the Code can be found by the Code Oversight Committee following the assessment of an external complaint, or following their own investigation, or following advice from the Independent Arbiter. A determination that a breach has occurred must be provided to the Code Subscriber in writing (electronic communication is acceptable).
- 14.2 The following actions constitute a breach of the Code:
- 14.2.1 The Code Subscriber fails to comply with its obligations under the Code;
- 14.2.2 The Code Subscriber acts or engages or repeats a practice that is contrary to or inconsistent with the Code;
- 14.2.3 The Code Subscriber fails to respond to a complaint by a Consumer; and / or
- 14.2.4 The Code Subscriber fails to pay a levy.

15. Serious or systemic breaches

- 15.1 A serious or systemic breach of the Code can be found by the Code Oversight Committee following the assessment of an external complaint, or following their own investigation, or following advice from the Independent Arbiter. A determination that a serious or systemic breach has occurred must be provided to the Code Subscriber in writing (electronic communication is acceptable).
- 15.2 The following actions constitute a serious or systemic breach of the Code:
- 15.2.1 The Code Subscriber is responsible for a breach of the Code resulting in substantial harm to Consumers and / or damage to the reputation of the industry;
- 15.2.2 The Code Subscriber has engaged in repetitive or ongoing non-compliance;
- 15.2.3 The Code Subscriber has ignored the Code Oversight Committee's request to remedy a breach or failed to do so within a reasonable time; and / or

- 15.2.4 The Code Subscriber has breached an undertaking given to the Code Oversight Committee.

16. Sanctions

- 16.1 Where the Code Oversight Committee has made a finding that there has been a breach (see Clause 14) by a Code Subscriber of the Code, they may impose any of the following sanctions:
- 16.1.1 Require the Code Subscriber to undertake immediate remedial action including, but not limited to, changes to documentation, changes to business processes and / or corrective advertising;
 - 16.1.2 Require the Code Subscriber to remove QVAS Identified Information from its data;
 - 16.1.3 Require the Code Subscriber to remove specified Personal Information from its data;
 - 16.1.4 Require the Code Subscriber to cease providing data and / or services to a Code Subscriber Customer or other third party;
 - 16.1.5 Require the Code Subscriber to apologise to affected parties;
 - 16.1.6 Require the Code Subscriber to undertake privacy training; and / or
 - 16.1.8 Issue a warning to a Code Subscriber regarding the impact of any further breaches on future sanctions.
- 16.2 Where the Code Oversight Committee has made a finding that there has been a serious or systemic breach (see Clause 15) by a Code Subscriber of the Code, they may impose any of the following sanctions:
- 16.2.1 Publication of the name of the Code Subscriber and the nature of the serious or systemic breach in the annual code compliance report or in other publications;
 - 16.2.2 Suspension from membership of the Code for a period of between one and six months, at the discretion of the Code Oversight Committee; and / or
 - 16.2.3 Permanent suspension from membership of the Code and listing on the Register of Excluded Parties.
- 16.3 Where the Code Oversight Committee has determined to impose a sanction that involves suspension from membership of the Code, the Code Oversight Committee must advise the Department (so that the Department knows to suspend provision of Personal Information under the licence).

17. Register of Excluded Parties

- 17.1 The Code Oversight Committee must maintain a Register of Excluded Parties. The management and maintenance of this register may be delegated to a third party service provider.
- 17.2 Code Subscribers must add Code Subscriber Customers or other third parties to the Register of Excluded Parties where they have breached the Prohibition on direct marketing established in Section 6.3 of this Code.
- 17.3 Code Subscribers must check the Register of Excluded Parties before allowing access to QVAS Identified Information by a new Code Subscriber Customer or other third party.

- 17.4 The Code Oversight Committee may, upon receipt of a written request, remove a party from the Register of Excluded Parties, where a reasonable period has expired, and/or the Code Oversight Committee is satisfied that the removal does not represent a significant risk of further breaches.
- 17.5 Code Subscribers must be informed immediately of any additions to or removals from the Register of Excluded Parties and must exclude access to QVAS Identified Information immediately for a Code Subscriber Customer or other third party who is on the Register of Excluded Parties.

18. Code annual report, three year review and amendment

- 18.1 By 31 August 2010, and annually thereafter, the Code Oversight Committee must prepare and publish an annual report.
- 18.2 By 31 August 2012, and once every three years thereafter, the Code Oversight Committee must commission and publish an independent review on the operation and effectiveness of the Code. The review may include an analysis of changes in industry practice, privacy regulation and best practice. The review may recommend necessary changes and amendments to the Code.
- 18.3 The review must be conducted by an impartial, independent third party, with expertise in best practice self-regulation. Sufficient resources for the review process will be allocated. If necessary, Code Subscribers may be levied for the costs of the review.
- 18.4 Where major changes and amendments to the Code are proposed, the Code Oversight Committee must undertake adequate consultation with the Government, public, Code Subscribers and other interested parties and provide a report on the result of the consultation process, before finalising any proposed amendments.
- 18.5 The agreement of a simple majority of Code Subscribers must be sought before making any changes and amendments to the Code.

19. Reserve powers of Minister

- 19.1 The Minister may direct the Code Oversight Committee to permanently list an entity on the Register of Excluded Parties should the Minister, in exceptional circumstances, consider it necessary.
- 19.2 The Minister may direct the Code Oversight Committee to permanently suspend a Code Subscriber from membership of the Code and list the Code Subscriber on the Register of Excluded Parties should the Minister, in exceptional circumstances, consider it necessary.
- 19.3 For the avoidance of doubt, it is not expected that the Minister or the Department will have a role in the day to day administration or review of complaints or will have occasion to exercise the reserve powers except in exceptional circumstances.