

DATA LICENCE DEED

- A. **GRIFFITH UNIVERSITY** is a body corporate under the Griffith University Act of Kessels Road, Nathan, Brisbane in the State of Queensland, Australia (the **University**).
- B. The University has the right to grant licences to use certain data (the **Data**).
- C. The person identified as the Licensee in Item 1 of Schedule A to this Deed has requested a licence to use the Data.
- D. The University will grant a licence in accordance with the terms of this Deed.

1. INTERPRETATION

In this Deed:

Data means the data described in Item 2 of Schedule A, and includes reference to any part of the Data and any documentation provided by the University in relation to the Data.

GST means a tax imposed or to be imposed by the GST Act.

GST Act means A New Tax System (Goods and Services Tax) Act 1999 and New Tax System (Goods and Services Tax) Transition Act 1999 and any related tax imposition Act.

(a) **Intellectual Property Rights** means all rights, titles and interests of a person (including all of the rights conferred upon that person by legislation) throughout the world as the creator or developer of or as the owner of any intellectual property, including (but not limited to) concepts, know-how, processes, patents, rights to have confidential information kept confidential, copyright, circuit layouts, trademarks and designs which:

- (i) are in existence at the date of this Deed; or
- (ii) come into existence after the date of this Deed.

(b) **Recipient** has the meaning given to it under the GST Act.

(c) **Supplier** means a party that under the GST Act makes a supply or importation under or in connection with this Deed.

(d) All references to this Deed include the Schedules to this Deed.

2. LICENCE

2.1 For the consideration set out in Item 5 of Schedule A, the University:

- (a) grants to Licensee a non-exclusive licence to use the Data:
 - (i) for the purposes set out in Item 7 of Schedule A; and
 - (ii) in accordance with the terms of this Deed;and
- (b) will provide the Licensee with a copy of the Data in the form specified in Item 3 of Schedule A within 28 days of the Licensee returning this Deed to the University duly executed.

3. TERM

This Deed will commence on the date on which the University despatches the Data to the Licensee and will continue for the period set out in Item 6 of Schedule A.

4. PROHIBITIONS

The Licensee must not:

- (a) use the Data for any purpose other than the purposes set out in Item 7 of Schedule A;
- (b) install the Data in more than one place or for use on more than one computer at any time (unless Item 4 of Schedule A indicates that the University has granted a site licence to the Licensee, in which case the Licensee must only install the Data on the hardware and at the location set out in Item 4 of Schedule A);
- (c) provide the Data or access to the Data to anyone (including, but not limited to, making the Data available on the Internet or any similar service) other than to persons for whom it is reasonably necessary to provide access for the purposes of effectively using the Data as permitted under this Deed (including officers and employees of the Licensee);
- (d) purport to assign, transfer, sub-license or in any way deal with the rights granted to the Licensee under this Deed;
- (e) reverse engineer, decompile or disassemble the Data, or use the Data to create anything which could be used to reproduce or reverse engineer the Data;
- (f) copy, reproduce or duplicate the Data or convert them into any form other than the form in which they are provided to the Licensee including changing the Geographical Information Systems format (except for the Licensee's legitimate use as permitted under this

Deed including converting projections and scales, producing hard copy output, and making back-up copies as are reasonably necessary);

- (g) de-encrypt or attempt to de-encrypt the Data if they were supplied in encrypted form (except for using de-encryption keys or software provided in conjunction with the Data for the licensees legitimate use as provided under this Deed);
- (h) remove, obscure or in any way alter any copyright, proprietary or trademark notice or any notice acknowledging contributions to the Data;
- (i) permit or authorise any other person to do any of the acts referred to in paragraphs (a) to (h),

without the prior written consent of the University, which may be withheld or made subject to conditions at the University's discretion.

5. ACKNOWLEDGEMENTS

The Licensee must, in anything produced or published by the Licensee using the Data as permitted under this Deed, acknowledge the creators and contributors to the Data in accordance with Item 8 of Schedule A.

6. ADDITIONAL TERMS

The Licensor agrees to be bound by the additional terms (if any) set out in Schedule B.

7. DATA UPDATES

The University is not obliged to provide to the Licensee any updated versions of or updated information relevant to the Data.

8. LICENCE FEE

In consideration of the supply of the Data the Licensee agrees to pay the licence fee set out in Item 5 of Schedule A.

9. TERMINATION

9.1 This Deed will terminate immediately if the Licensee breaches clause 4.

9.2 the University may terminate this Deed with immediate effect by giving notice to the Licensee if:

- (a) the Licensee breaches any provision of this Deed and fails to remedy the breach within 30 days after receiving notice requiring it to do so; or

- (b) the University has reason to believe the Licensee has breached clause 4 and the Licensee fails to reasonably satisfy the University that it has not within 30 days after receiving notice requiring it to do so.

9.3 Upon termination of this Deed, the licence granted under this Deed will also terminate and the Licensee must immediately:

- (a) cease using the Data in any way;
- (b) if the Data was provided to the Licensee on any physical media, return the Data to the University or destroy the Data, at the University's option; and
- (c) permanently delete the Data from any hard drives or servers or any other computer storage medium on which it is stored,

and the Licensee must not access or allow any other person to access any Data that may remain on any back-up media.

10. EXCLUSION OF LIABILITY

10.1 The University excludes all implied conditions and warranties except any implied condition or warranty the exclusion of which would contravene any applicable statute (including the *Australian Trade Practices Act 1974*) or cause any part of this clause 9 to be void (**Non-excludable Condition**).

10.2 The University's liability to the Licensee for a breach of any Non-excludable Condition (other than an implied warranty of title) is limited, at the University's option, to refunding the price of the Data.

10.3 The Licensee releases the University of any liability to the Licensee for any expenses, losses, damages, claims or costs incurred by the Licensee or any other person directly or indirectly arising out of or relating to the supply or use of or any defect in the Data, whether under the law relating to contracts, torts or otherwise.

11. INTELLECTUAL PROPERTY RIGHTS

The Licensee acknowledges that:

- (a) all Intellectual Property Rights in the Data are owned by the University and/or persons from whom the University obtained information incorporated in the Data; and
- (b) nothing in this Deed has the effect of assigning any ownership of the Intellectual Property Rights in the Data to the Licensee.

12. SECURITY

- 12.1 The Licensee must keep the Data under the Licensee's control and secure from use, copying or disclosure not authorised under this Deed.
- 12.2 If the Licensee becomes aware of any suspected or actual infringement of the Intellectual Property Rights in the Data or any suspected or actual use, copying or disclosure of the Data not authorised under this Deed, the Licensee will, at its own expense, immediately:
- (a) notify the University;
 - (b) take all steps to prevent or stop the suspected or actual conduct; and
 - (c) provide the University with any assistance reasonably requested by the University in relation to any proceedings the Licensor may take against any person in relation to the conduct.

13. GOVERNING LAW AND JURISDICTION

This Deed is governed by the law applicable in Queensland, Australia and each party submits to the exclusive jurisdiction of the courts of Queensland, Australia.

14. RESOLUTION OF DISPUTES - MEDIATION

- 14.1 Any dispute or difference whatsoever arising out of or in connection with this Deed ("the Dispute") shall be resolved as follows:
- (a) By agreement between the parties through negotiations in good faith;
 - (b) If the parties fail to resolve the Dispute in accordance with clause 14.1(a) the parties shall refer the Dispute to mediation by a mediator agreed by the parties or, failing agreement, a mediator appointed by the President of the Queensland Law Society, on the terms of the standard mediation agreement approved by the Queensland Law Society. The reference shall commence when any party gives written notice to the other specifying the Dispute and requiring resolution under this clause 14;
 - (c) If the Dispute is not resolved within 21 days of commencement of the reference under clause 14.1(b) either party may then, but not earlier, commence proceedings in any court of competent jurisdiction.
- 14.2 Each party shall continue to perform this Deed, notwithstanding the existence of the Dispute or any proceedings under this clause.

15. GOODS AND SERVICES

- 15.1 The parties acknowledge that no GST will be payable where the licence rights are used outside Australia or the Licensee is not an Australian resident and is outside Australia when the Data is supplied.

- 15.2 Unless otherwise expressly stated, any sum payable or consideration to be provided under or in accordance with this Deed are exclusive of GST.
- 15.3 If a party makes a supply under or in connection with this Deed in respect of which GST is payable, the consideration for the supply but for the application of this clause (GST exclusive consideration) is increased by an amount equal to the GST exclusive consideration multiplied by the rate of GST prevailing at the time the supply is made. Any amount payable on account of GST under this clause will be payable without deduction or setoff or demand (whether that demand is by means of an invoice or otherwise).
- 15.4 Within fourteen (14) days of the payment of the additional amount identified in clause 15.3 above, the Supplier must issue a valid tax invoice to the Recipient.
- 15.5 If the amount on account of GST recovered from the Recipient on any supply made under or in connection with this Deed differs for any reason from the amount of GST paid or payable by the Supplier to the Commissioner of Taxation, the difference between the two amounts will be paid by or to the Recipient as the case may be, provided always that if the Supplier has paid the difference between the two amounts to the Commissioner of Taxation, whether or not as part of a larger sum, no amount will be paid to the Recipient under this clause unless the Supplier is entitled to a refund and has been paid such refund by the Commissioner of Taxation.
- 15.6 If a party must reimburse or indemnify another party for a loss, cost or expense, the amount to be reimbursed or indemnified is first reduced by any input tax credit to which the other party is entitled for the loss, cost or expense and then increased in accordance with clause 15.3.
- 15.7 Despite any other provisions in this Deed to the contrary, this clause 15 will survive termination of this Deed.
- 15.8 In this clause 15, a word or expression defined in the New Tax System (Goods and Services Tax) Act 1999 Cth has the meaning given to it in that Act.

16. WAIVER

The failure of the University at any time to insist on performance of any obligation under this Deed of the Licensee is not a waiver of its right to insist on performance of, or claim damages for breach of, that obligation, or at any other time to insist on performance of that or any other obligation of the Licensee.

17. ENTIRE DEED

This Deed:

- (a) constitutes the entire Deed between the parties as to its subject matter and supersedes all prior representations and Deeds in connection with that subject matter;
- (b) may be altered only in writing executed by the parties; and
- (c) this Deed Poll is made by the Licensee for the benefit of the University and to be relied upon by the University and is binding and enforceable against the Licensee by the University.

By executing this Deed and returning it to the University:

- A. You acknowledge that you have read and understood the Deed.
- B. You represent that you are authorised to bind the Licensee to the terms of the Deed.
- C. You accept, on behalf of the Licensee, the offer of the University to enter into the Deed.
- D. The Licensee agrees to be bound by the terms of the Deed.

If the Licensee is a corporation:

SIGNED for)
.....)
[insert name of Licensee] by an authorised officer in the presence of) Signature of officer

.....)
Signature of witness Name of officer (print)

.....)
Name of witness (print) Office held

If the Licensee is an individual:

SIGNED by)
.....)
[insert name of Licensee] in the presence of)

.....)
Signature of witness The Licensee

.....)
Name of witness (print)