

Schedule 5 Deed for LANDATA® Conditions of Use - Customers

This Deed is made on the _____ day of _____ 20____

By the person or entity whose name and address are contained in the Schedule (**You**)

in favour of

the State of Victoria

Why You are required to enter into this Deed:

- A. The State provides electronic access to the Licensed Material which includes amongst other things the Land Index through Licensees.
- B. You have entered into the Customer Agreement with a Licensee for electronic access to the Licensed Material.
- C. The Licensee with whom You have entered into the Customer Agreement is authorised by the State to provide You with access to the Land Index provided that You comply with the terms and conditions contained in this Deed.

You agree with the State as follows:**1. What are your obligations regarding confidentiality and copying?**

1.1 You agree that where information contained in the Land Index has been disclosed to You under the Customer Agreement (by means of providing electronic access or by any other means) then (subject to this Deed):

- (a) You will treat that information as confidential; and
- (b) You will not disclose that information other than for Authorised Purposes.

Provided that nothing in this Deed will be interpreted to restrict You in the use of information which has not been derived from the Land Index. Such information not derived from the Land Index can only be used in accordance with the Customer Agreement.

1.2 You also agree that:

- (a) You will not copy or reproduce any information disclosed to You under clause 1.1, unless:
 - (i) the copying or reproduction is for Authorised Purposes;
 - (ii) the State has approved in writing the copying or reproduction; or
 - (iii) all persons in respect of whom the information is Personal Information, consent to such copying or reproduction; and
- (b) You will take all reasonable precautions to prevent your employees or agents from accessing or copying the information disclosed to You under clause 1.1 unless:
 - (i) the access or copying is for Authorised Purposes;
 - (ii) the State has approved in writing the access or copying; or

- (iii) all persons in respect of whom the information is Personal Information, consent to such access or copying.

2. What if there is a breach of this Deed?

- 2.1 If there is a breach of any provision of this Deed and the State or the Licensee with whom You have entered into the Customer Agreement provides You with written notice of that breach, You must remedy that breach within fourteen days of receipt of the notice.
- 2.2 If the breach is not remedied within the period set out in clause 2.1, the State or the Licensee with whom You have entered into the Customer Agreement may by written notice terminate your rights of access to and use of the Land Index, but your obligations under clause 1 will continue to apply.
- 2.3 You acknowledge and agree that the State may alter the scope and/or nature of information available for disclosure to You under clause 1.1 to the extent necessary to comply with any decision (including any order, direction or compliance notice) of the Commissioner or any determination, direction or order of the Victorian Civil and Administrative Tribunal, under the Act.

3. Applicable Laws

This Deed is governed by the laws of Victoria.

4. How are certain words defined and how is this document interpreted?

In this document, the following defined words have the following meanings:

- (a) **Act** means the *Information Privacy Act 2000* (Vic);
- (b) **Agreement** means the LANDATA® Licensing Agreement between the Licensee and the State;
- (c) **Authorised Purpose** means:
 - (i) dealings with interests in land authorised by law;
 - (ii) a purpose directly related to such dealing provided the purpose is not contrary to any law; or
 - (iii) an enquiry relating to land or the ownership of land recorded in the Register provided the enquiry or the purpose of the enquiry is not contrary to any law,but does not mean:
 - (iv) data aggregation, data matching, marketing, compilation of mailing lists; list brokering or any related purpose except to the extent that such data aggregation, data matching, marketing, compilation of mailing lists; list brokering or related purpose is required by law (including any obligation under a court order).
- (d) **Commissioner** means the Privacy Commissioner appointed under the Act;
- (e) **Customer Agreement** means the agreement You have entered into with a Licensee for access to the Licensed Material which includes amongst other things the Land Index;

- (f) **Deed** means this document and includes the Schedule and if you represent the State this document including the Schedule shall be regarded as a memorandum of understanding;
- (g) **Department** means the Department of Sustainability and Environment of the State (and its successor under any machinery of Government changes as may be implemented) and any reference to the Department shall be read and construed as a reference to the State;
- (h) **Land Index** means the electronic cross reference table listing registered proprietors, title particulars, parcel and property identifiers available as part of the LANDATA[®] System;
- (i) **LANDATA[®] System** means the computerised system, as varied from time to time which currently provides access to the Licensed Material;
- (j) **Licensed Material** means the material identified in Schedule 1 of the Agreement and any update or new release of that material;
- (k) **Licensee** means the Licensee to the Agreement;
- (l) **Personal Information** has the same meaning as in the Act;
- (m) **Register** has the same meaning as is in section 4 of the *Transfer of Land Act 1958* (Vic);
- (n) **State** means the Crown in right of the State of Victoria; and
- (o) **You** means the person named in the Schedule and includes your successors and assigns.

In this document, the following rules of interpretation apply:

- (p) the singular includes the plural and vice versa and words importing a gender include other genders;
- (q) terms importing natural persons include partnerships and bodies corporate;
- (r) other grammatical forms of defined words or phrases have corresponding meanings;
- (s) where You comprises two or more persons, the provisions of this document bind each party individually as well as together; and
- (t) where a word is not defined in this document, but is defined in the Act, that definition forms part of this document as if it were expressly included within this document.

Delete the execution clause that is not applicable.

Executed as a Deed.

[Sole Trader]

Signed Sealed and Delivered)
by the person named in the)
Schedule in the presence of:)
(Signature)

.....
(Signature of Witness)

.....
(Name of Witness)

OR

[Company]

Signed Sealed and Delivered by)
.....)
in accordance with s127 of the)
Corporations Act 2001)

.....Director Name.....
(Signature) (Block letters)

.....Director/Secretary Name.....
(Signature) (Block letters)

OR

[Partnership]

Signed Sealed and Delivered)
by [])
trading as [])
in the presence of:)
(Signature)

.....
(Signature of Witness)

.....
(Name of Witness)

OR

[Government Department]

Signed Sealed and Delivered by)
)
a duly authorised officer of the)
Department of [])
for and on behalf of the)
[insert state] in the presence of:)

.....
(Signature of Witness)

.....
(Signature)

.....
(Name of Witness)

SCHEDULE

A. You:

B. Address: