



**Queensland  
Government**

**Registry, Valuations and Survey Searches**

**Licence Agreement**

**for online access and distribution**

**between the State of Queensland**

**and**

**XXXX**

**RVS OL Licence No: 2010/XXX**

# State Of Queensland (Department of Environment and Resource Management) Licence Agreement for online access to and distribution of Information Products

## 1. Licence

1.1 The Licensor grants a non-exclusive, non-transferable licence to the Licensee, to access and distribute the Information Products 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 Fees** means the periodic fees payable to the Licensor for each online resource the Licensee is licensed to access, as set out in Schedules C, D, E, and/or any additional Schedule, as applicable.
- (b) **Agreement** means this agreement including the attached Schedules.
- (c) **Business Day** means a day that is not a Saturday, a Sunday or a Queensland Public Holiday.
- (d) **Corporations Law** means any legislation enacted by Federal or State agencies in relation to incorporated companies and includes the *Corporations Act 2001* (Cth).
- (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 (including a corporation or organisation) and includes, but is not limited to, telemarketing, bulk email messaging (spam), postal canvassing and list brokering.
- (g) **Electronic Lodgement Form** means the operating and application system which allows the Licensee to provide electronic lodgement to the Licensor and occurs where the Licensee holds a written agreement with the Licensor to enable the electronic lodgement to occur.
- (h) **End User** means any person to whom the Licensee supplies Information Products (excluding a Licensee's Agent).
- (i) **Establishment Fees** means the once off set up fees payable to the Licensor for each online resource the Licensee is licensed to access, as set out in Schedules C, D, E, and/or any additional Schedule, as applicable.
- (j) **Fees** means the fees payable under the licence and includes Access Fees, Establishment Fees and Information Product Fees.
- (k) **Historical Document** means an Information Product stored in a computer or retrieval system to be accessed exclusively by the requesting End-User.
- (l) **Information Products** means the various search types that produce an online product that can be distributed through online access as set out in Schedules C, D, E, and/or any additional Schedule as applicable.
- (m) **Information Product Fees** means the fees payable for each product as set out in Schedules C, D, E, and/or any additional Schedule, as applicable.
- (n) **Intellectual Property Rights** means all copyright, patent application rights, patent rights, design rights, resource rights, database rights, trademark rights (whether registered or unregistered), trade secrets and confidential information, all know-how, and all other rights of intellectual property.
- (o) **Licensee** means the person specified in Schedule A as the Licensee.
- (p) **Licensee's Agent** means a person recommended by the Licensee and approved by the Licensor to channel End User enquiries directly to the Licensee's System via a connection between the Licensee's System and the Licensee's Agent's System.
- (q) **Licensee's Agent's System** means the operating and applications systems in the form of a computerised information retrieval system, which enables the retrieval and distribution of Information Products through the Licensee's System.
- (r) **Licensee's System** means the operating and applications systems in the form of a computerised information retrieval system, which enables the retrieval and distribution of Information Products through the Licensor's System.
- (s) **Licensor** means the State of Queensland as represented by the Department of Environment and Resource Management (DERM) or any successor.
- (t) **Licensor's System** means the operating and applications systems in the form of a computerised information retrieval system that includes all of the following:
  - (i) The Online Information Resource(s).
  - (ii) The Interface(s).
  - (iii) A firewall.
  - (iv) Any modification, inclusion or deletion made to the Licensor's System during the term of this Agreement.
- (u) **Online Information Resource(s)** means the online resource(s) the Licensee is licensed to access, as set out in Schedule A, that produce Information Products made available for distribution by the Licensee under this Agreement.

- (v) **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 Standard 42 – Information Privacy (Qld)*.
- (w) **Records** means all data referred to in clause 5.2 and 5.3 of this Agreement.
- (x) **Trial End User** means a third party acceptable to both the Licensor and the Licensee who is given access to the Licensor's System for the purpose of acceptance testing.

2.2 The following terms have a relevant defining reference in one or more Schedules:

**Commencement Date, Expiry Date, Licensed Address(es), Specific Warranties, Specific Liabilities, Interface(s), Termination Notice Period, Special Conditions, Licensor's Support Officer.**

Where a particular term has more than one defining reference in the Schedules, each defining reference for that term is limited to the subject matter of the Schedule where it is given.

- 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 Reference 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 schedule is a 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).

### 3. Fees & Costs

- 3.1 The Licensee must pay the Establishment Fee, Access Fee and Information Product Fees for each Online Information Resource the Licensee is licensed to access under the conditions of this Agreement.
- 3.2 The Licensee must account for and pay the Information Product Fees required for any Information Product used for the Licensee's own purposes.
- 3.3 The Licensee will be responsible for all costs associated with setting up and maintaining access to the Licensor's System through the applicable Interface(s) defined in Schedules C, D, E and/or any additional Schedule.
- 3.4 At the end of each calendar month, the Licensee must pay to the Licensor the total of Information Product Fees payable during that month.
- 3.5 The Licensor will prepare and dispatch a Tax Invoice for Information Product Fees in arrears and monthly Access Fees in advance to the Licensee. The Licensee must pay the specified amount within 14 days of the date of the Tax Invoice.
- 3.6 Fees payments under this Agreement must be made by cheque, by bank transfer to the account nominated by the Licensor or as otherwise arranged by the Licensor with the Licensee.
- 3.7 The Licensor reserves the right to increase, decrease or modify the Fees for any of the following reasons:
  - (i) End of financial year.
  - (ii) Legislative change.
  - (iii) Direction of the relevant Minister.
  - (iv) CPI.
- 3.8 The Licensor must give the Licensee a minimum of 21 days written notice of any variation in the amount of Fees.
- 3.9 A new Schedule C, D, E, and/or any additional Schedule will be provided when applicable Fees are updated and will form part of this Agreement.
- 3.10 A new Schedule C, D, E and/or any additional Schedule will be provided when licensed access to a corresponding Online Information Resource is added, and will form part of this Agreement.
- 3.11 At the end of each calendar month the Licensee must forward to the Licensor's Support Officer (referred to in Schedules C, D, E and/or any additional Schedule, as applicable) all claims by End Users for refunds or credit of Information Product Fees. These claims are to be in writing and must give reasons for the claim and include the date and time of the incident which gives rise to the claim. The Licensor may in its absolute discretion provide a refund or a credit on the Information Product Fee for each request not completed satisfactorily as a result of faults occurring in the Licensor's System resulting in an incomplete request for an Information Product.
- 3.12 Any invoice amount remaining unpaid after 14 days from the date of invoice will attract interest on any amount outstanding. Interest will be calculated on the daily balance overdue. For all late payments, interest 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.

## 4. Licensee's Obligations and use of Information Products

### 4.1 Ownership

- 4.1.1 This Agreement does not confer on the Licensee any rights of ownership in the Information Products or the Licensor's System and all Intellectual Property Rights including copyright in the Information Products are unaffected by this Agreement.
- 4.1.2 The Licensor (or where relevant, the copyright holder) retains ownership of the Intellectual Property Rights that it has in each of the Information Products, whether in its original form, or as reformatted or converted onto different media by the Licensee.

**4.2 Confidentiality**

- 4.2.1 The Licensee agrees that the Online Information Resource(s) contain the valuable commercial information of the Licensor and the manner in which the Information Products are accessed through the Licensor's System is of a confidential nature.
- 4.2.2 The Licensee must take all reasonable steps within its power and control to maintain and safeguard the security of the Licensor's System. The Licensee must further ensure that its employees and consultants take all reasonable steps within their power and control to maintain the security of the Licensor's System and use the Licensor's System solely for the purposes permitted under this Agreement.
- 4.2.3 The Licensee must include safeguards in the procedures for the operation and administration of the Licensee's System against unauthorised access to the Licensor's System and in particular the Licensee must provide and maintain a firewall between the Licensee's System and the End User.

**4.3 Permitted Use**

- 4.3.1 The Licensee may supply Information Products to the Licensee's End Users and Licensee's Agents subject to the conditions of this Agreement.
- 4.3.2 The Licensee must access Online Information Resources in accordance with their respective terms of access and specifications detailed in Schedules C, D, E and/or any additional Schedule.
- 4.3.3 The Licensee may use details from an Information Product (A1) to populate an Electronic Lodgement Form for the End User to which the Licensee is supplying that particular Information Product (A1).

**4.4 Prohibited Use**

- 4.4.1 The Licensee must not reformat any Information Product or alter it in any way, except as specified in clauses 4.3.3, 4.5.1, 4.6.4, 4.9.5, 4.12.3 (vi), and 4.12.3 (vii).
- 4.4.2 The Licensee must not use any Information Product for Direct Marketing or with the intention of encroaching upon the privacy of an individual and the Licensee must comply with the Privacy Laws.
- 4.4.3 The Licensee must not produce reports or publications based on any Information Product for sale or distribution without the prior written approval of the Licensor.

**4.5 Copyright Notice**

- 4.5.1 The Licensee must ensure that all copies of the Information Products display the relevant copyright notice (if they do not already bear the Licensor's copyright notice) as specified in the copyright notices in Schedule B.
- 4.5.2 Any alterations to the copyright notices must be in a form approved in writing by the Licensor.

**4.6 Copying and Storage of Information Products**

- 4.6.1 The Licensee must not store all or any part of an Information Product on any computer or retrieval system for a period in excess of 30 Business Days from the day on which it was requested, except as specified in clause 4.6.3.
- 4.6.2 Information Products must not be transmitted to any other End User or used for any other purpose other than to satisfy an original request from an End User.
- 4.6.3 The Licensee may enter into a written agreement with an End User to store Information Products on a computer or retrieval system as Historical Documents for the exclusive use of the End User. The Licensee may store the Historical Documents for the duration that the Licensee has a written agreement with the End User to provide the storage service.
- 4.6.4 The Licensee must ensure access to any Information Products stored as Historical Documents under clause 4.6.3 is restricted to the specific End User which requested their storage. Historical Documents must include the following annotation: "Historical Document stored on behalf of [insert End User name] for exclusive use of [insert End User name]".

**4.7 Marketing**

- 4.7.1 The Licensee must trade under one trading name only in respect of the matters under this Agreement except with the prior written approval of the Licensor.
- 4.7.2 The Licensee will be solely responsible for the development of and associated costs of marketing strategies, promotional materials, seminars, presentations and advertising.

**4.8 Co-operation**

- 4.8.1 The Licensee must notify the Licensor immediately if the Licensee becomes aware of any unauthorised use of the whole or any part of the Licensor's System or an Information Product.
- 4.8.2 The Licensee must use its best efforts to promptly bring to the attention of the Licensor any unethical or dishonest procedure in relation to the marketing or support of the Information Products that the Licensee may discover.
- 4.8.3 The Licensee must provide to the Licensor at no cost, one ongoing access to the Licensee's System (that displays the Information Products like an End User) and provide written notice to the Licensor of any new service before it is provided or offered to End Users including an offer to demonstrate the new service to the

Licensor. Information Products obtained by the Licensor through access to the Licensee's System must not incur any fees or charges to the Licensor. The Licensor will provide to the Licensee, a credit on the Information Product Fee for each of the Licensor's Information Product obtained by the Licensor through such access.

#### 4.9 Licensee's System

- 4.9.1 The Licensee will establish and maintain the Licensee's System at its own expense.
- 4.9.2 The Licensee's System must include the following:
  - (i) A secure link between the Licensor's firewall and Licensee's System; and
  - (ii) A secure link between the Licensee's System and the End User.
- 4.9.3 If the Licensee's System includes intranet or closed networks - End Users of the Licensee must be given an account number, which provides access to the Licensee's System and the Licensee must establish and maintain protocols as approved by the Licensor to maintain a secure environment.
- 4.9.4 If the Licensee's System includes internet or open networks - the Licensee must establish and maintain protocols as approved by the Licensor to maintain a secure environment.
- 4.9.5 The Licensee's System must insert a notification banner at the bottom of each Information Product (excluding Schedule C products listed A1-A10) stating the name of the Licensee and the date and time (Queensland time (AEST) at the point of order) that the Information Product was requested by the End User.
- 4.9.6 The Licensee must carry out acceptance testing as specified in clause 4.10.
- 4.9.7 The Licensee may process requests and access the Licensor's System on any number of terminals.
- 4.9.8 Where there is a recurring enquiry of the same type by the Licensee or the enquiry subsequently relates to a fault within the Licensee's System, the Licensor reserves the right to charge a reasonable fee for the time taken to investigate the enquiry and notify the Licensee of the results of the enquiry.
- 4.9.9 The Licensor will not accept any responsibility for the carriage and delivery of Information Products via the Licensee's System, once an Information Product has successfully left the Licensor's System.

#### 4.10 Acceptance Testing

##### Use

- 4.10.1 Initial access to the Licensor's System and any ongoing access following modification to the Licensor's System is subject to the Licensee passing acceptance testing procedures via the relevant development system as specified by the Licensor, prior to offering the service to End Users (ie. to be used with new Licensees or existing Licensees developing new services).

##### Testing Protocol

- 4.10.2 The Licensee will provide:
  - (i) a standards based interface acceptable to the Licensor to enable the Licensee to connect to the Licensor's System; and
  - (ii) personnel necessary to perform final testing.
- 4.10.3 The Licensor will provide:
  - (i) a standards based interface, to enable the Licensee to connect to the Licensor's System;
  - (ii) access to the relevant development system loaded with suitable data for testing purposes; and
  - (iii) personnel necessary to support final testing.
- 4.10.4 The Licensee will pay all of its own costs relating to the implementation, maintenance and support services associated with acceptance testing.
- 4.10.5 The initial acceptance testing of the Licensee's environment and any subsequent testing required because of modifications or additions to the Licensor's System will be deemed to have been successfully completed upon the Licensee's and the Licensor's nominated representatives joint agreement in writing.
- 4.10.6 Acceptance testing will be completed within the time frame outlined below:
  - (i) in relation to the initial acceptance testing: within 12 months from the date the Licensee signs this Agreement; and
  - (ii) in relation to any subsequent amendment to the Licensor's System: within 3 months from the date of advice of the subsequent amendment by the Licensor.
- 4.10.6 As part of acceptance testing, the Licensee may invite Trial End Users to participate. The Licensee must ensure that the Trial End Users comply with the relevant parts of this Agreement in particular clause 4.2 of the Agreement.
- 4.10.7 Where third parties are invited to participate as Trial End Users, the Licensee will undertake the role of supporting Trial End Users in the same manner as any other End User of the Licensee's System.
- 4.10.8 The Licensor will permit the Licensee to conduct limited tests on the live version of the Licensor's System on the day before the Licensee intends commencing to provide the Information Products to End Users. The Licensee must keep accurate records of the number of interrogations of the Licensor's System that it undertakes and provide those records to the Licensor. No Information Product Fees will be charged for these tests.
- 4.10.9 The tests permitted under clause 4.10.8 are not considered part of the acceptance testing and clauses 4.10.8 and 4.10.9 are not subject to the provisions of clause 4.10.5. Whether the Licensee will commence to provide the Information Products to the End Users on the day following testing under clause 4.10.8 is the decision of the Licensee.

#### 4.11 Distribution to End Users

- 4.11.1 The Licensee must not distribute any Information Product to an End User unless that End User has either signed a written licence agreement with the Licensee for access via a closed network, or agreed to enter into a licence agreement via an open network/internet environment. Both types of licence agreement with an End User must incorporate the conditions set out in Schedule B.
- 4.11.2 If an End User is entering into a licence agreement via an open network/internet environment the Licensee must ensure that prior to accessing an Information Product the End User accepts the terms and conditions by signed agreement or by responding favourably to an "I Agree" (or similar wording to the same effect) button on the screen, or equivalent response as approved by the Licensor.
- 4.11.3 The Licensee must not delete, modify or otherwise alter the conditions set out in Schedule B without the prior written approval of the Licensor. Such approval is at the absolute discretion of the Licensor.
- 4.11.4 The Licensee must ensure that an End User uses the Information Products that it receives from the Licensee only for its own personal use or in the ordinary course of its business (eg solicitor, accountant, title search firm, etc). The Licensee must ensure that the End User is not a business acting as an electronic online re-supplier in a similar manner to a de facto Licensee or Licensee's Agent.
- 4.11.5 Subject to the provisions of this Agreement, Information Products may only be supplied to an End User in the following ways:
- (i) As a display on the Licensee's computer screen.
  - (ii) As a printout from the screen of the Licensee's computer.
  - (iii) By electronic online supply to any End User.
  - (iv) By email delivery provided the email is completely deleted from the Licensee's System immediately upon successful transmission.
  - (v) By facsimile transmission provided the facsimile is destroyed immediately upon successful transmission. If the Licensee's facsimile machine provides a transmission record that replicates the whole or part of an Information Product, that part of the transmission record must be destroyed immediately.
- 4.11.6 Nothing in the above clauses entitles the Licensee to keep a copy of any portion of an Information Product on any retrieval system (except as provided for in clauses 4.6.1 and 4.6.3).
- 4.11.7 The Licensee must provide to the End User on request, details as to the date, time and Information Product type requested by that particular End User.
- 4.11.8 In relation to End User support, the Licensee must do all of the following things:
- (i) At its own cost undertake the training of End Users to allow access to Information Products from the Licensee's System, sufficient to ensure reasonable proficiency.
  - (ii) Be directly responsible for supporting End Users, including acting as first contact for all queries from End Users.
  - (iii) Consult with the Licensor's Support Officer, as nominated in Schedules C, D, E, and/or any additional Schedule, as applicable, where the Licensee is unable to answer an End User's query.
  - (iv) At its own cost be responsible for the compilation, reviewing, editing, updating, printing and distribution of an End User manual or a help screen.
- 4.11.9 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 End User billing, maintaining a secure environment and provided that End Users 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 Information Products.

#### 4.12 Use of Licensee's Agent

- 4.12.1 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 4.12.
- 4.12.2 Any application to establish a Licensee's Agent must be submitted in writing by the Licensee for approval by the Licensor in accordance with Schedule A. Approval is at the sole discretion of the Licensor.
- 4.12.3 If an application is approved the Licensee may establish a link from the Licensee's Agent's System to the Licensee's System in accordance with the following conditions: -
- (i) The Licensee will be responsible for developing, maintaining and hosting a secure link between the Licensee's Agent's System and the Licensee's System.
  - (ii) The Licensee will be responsible for maintaining a secure environment in this linkage. The Licensee must include safeguards in the procedures for the operation and administration of the Licensee's System against unauthorised access to the Licensor's System and in particular the Licensee must provide a firewall and a secure link between the Licensee's System and the Licensee's Agent's System.
  - (iii) The Licensee is responsible for paying all Information Product Fees generated through the use of the Licensee's Agent.
  - (iv) The Licensee shall ensure that suitable training and help desk services are available to the End Users of the Licensee's Agent.
  - (v) The Licensee shall ensure the Licensee's Agent cannot appoint any further resellers or agents to distribute Information Products.
  - (vi) The Licensee's System must insert the relevant Copyright notices in accordance with clause 4.5.1.

- (vii) The Licensee's System must insert a notification banner at the bottom of each Information Product (excluding Schedule C products listed A1-A10) provided to the Licensee's Agent's System stating the name of the Licensee's Agent and the date and time (Queensland time (AEST) at the point of order) that the Information Product was requested by the End User.

4.12.4 The Licensee must enter into a signed written agreement with the Licensee's Agent that incorporates the following:

- (i) The conditions set out in Schedule B. The Licensee must not delete, modify or otherwise alter the conditions set out in Schedule B without the prior written approval of the Licensor. Such approval is at the absolute discretion of the Licensor.
- (ii) The Licensee's Agent must keep Records as specified in clause 5 (excluding clause 5.2.7) and the Licensee must either keep copies of those Records or have the right to access the Records.
- (iii) On request by the Licensor to the Licensee, the Licensee's Agent must provide to the Licensor at no cost, access to the Licensee's Agent's System (that displays the Information Products like an End User). Information Products obtained by the Licensor through access to the Licensee's Agent's System must not incur any fees or charges to the Licensor. The Licensor will provide to the Licensee, a credit on the Information Product Fee for each of the Licensor's Information Product obtained by the Licensor through such access.

4.12.5 The Licensor may, at any time, do either of the following:

- (i) immediately terminate the approval of a particular Licensee's Agent if that Licensee's Agent does one of the acts specified in clause 7.5 by giving written notice to the Licensee; or
- (ii) terminate the approval of a particular Licensee's Agent by giving 30 days written notice to the Licensee.

4.12.6 If the Licensor's approval of a particular Licensee's Agent is terminated in accordance with clause 4.12.5 the Licensee must discontinue the link between that Licensee's Agent's System and the Licensee's System at or before the time specified by the Licensor.

## **5. Proper Records and right to inspect and audit**

5.1 The Licensee must maintain Records for the Licensor.

5.2 The Licensee must record for audit purposes in electronic form all of the following:

- 5.2.1 The name or contact name of each End User accessing the Licensee's System.
- 5.2.2 Where applicable, the business/company name of the End User referred to above.
- 5.2.3 The address of the End User, e-mail address or computer IP address and terminal identification of the End User.
- 5.2.4 The date and time each Information Product was requested.
- 5.2.5 The total number of each Information Product type requested by End Users during the month.
- 5.2.6 The total amount of Information Product Fees payable for each Information Product type requested during the month.
- 5.2.7 The name of the requesting End-User for each Historical Document.

5.3 The Licensee must also retain all records, accounts and supporting documentation of all transactions by the Licensee applicable to the Information Products.

5.4 The Records must be kept for the duration of this Agreement and then for a minimum of 12 months following the expiry or termination of this Agreement.

5.5 The Licensor at its 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.

5.6 Notwithstanding the provisions of clause 5.5, 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:

- 5.6.1 The Licensor must give a minimum of 7 days notice.
- 5.6.2 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.
- 5.6.3 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 Information Products may be kept.
- 5.6.4 If the audit in this clause 5.6 discloses any underpayment of 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.

5.7 In the event of termination of this Agreement pursuant to clause 7, 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.

5.8 Except for availability to the Licensor, the Licensee must keep the Records private and confidential and only use them for the purposes of the operation and access to the Licensor's System and management of the Licensee's System, and where relevant, the Licensee's Agent's System, and the Licensee must ensure that the data in the Records is collected and dealt with in accordance with the Privacy Laws.

## 6. Licensor's Obligations

- 6.1 The Licensor will be responsible for the development, maintenance and processing of the Information Products from the Licensor's System.
- 6.2 The Licensor must use its best endeavours to maintain and make available to the Licensee the Information Products in an up-to-date form.
- 6.3 This Agreement does not confer on the Licensor any rights of ownership in the Licensee's System.
- 6.4 The Licensor must in its normal course of business do all of the following things:
  - 6.4.1 Process the relevant data to be included in the Online Information Resource(s) in a prompt and efficient manner.
  - 6.4.2 Use its best endeavours to ensure that the relevant data contained in an Information Product is accurate.
  - 6.4.3 Use its best endeavours to ensure that the Licensor's System is operative and accessible by the Licensee's System during the hours of operation specified in Schedules C, D, E, and/or any additional Schedule, as applicable.
  - 6.4.4 Promptly take such action as is reasonably necessary to correct faults in the Licensor's System, which are notified by the Licensee or which otherwise come to the notice of the Licensor.
  - 6.4.5 Insert a notification banner at the bottom of each Schedule C Information Product, listed A1–A6 & A10, stating the name of the Licensee.
- 6.5 In relation to training and assistance the Licensor must do all of the following things at no cost to the Licensee:
  - 6.5.1 Provide initial training to the appropriate staff of the Licensee, in the method of accessing and retrieval of the Information Products from the Licensor's System, sufficient to ensure reasonable proficiency.
  - 6.5.2 Supply on request by the Licensee information and/or documentation about the Licensor's System to enable the Licensee to prepare training materials, End User manuals and/or help screens.
  - 6.5.3 Update the information and/or documentation supplied as is necessary to maintain the accuracy of training materials, End User manuals and/or help screens.
  - 6.5.4 Make test data available to the Licensee for demonstration purposes by the Licensee to prospective End Users. The test data will be stored on the Licensee's System. The Licensor will not provide access to any part of the Licensor's System for the purpose of demonstrating the Licensee's System.
- 6.6 In relation to End User support, the Licensor's Support Officer will be available to the Licensee during all supported hours as specified in Schedules C, D, E, and/or any additional Schedule, as applicable, and will respond to any call for assistance by the Licensee in regard to an End User's query at no cost to the Licensee except as specified in clause 4.9.8.

## 7. Expiry, termination or suspension

- 7.1 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 7.
- 7.2 Either party may terminate this Agreement by giving the other party the amount of written notice specified in Schedule A as the Termination Notice Period.
- 7.3 Either party may discontinue licensed access to a particular Online Information Resource by giving the other party the amount of written notice specified in Schedule A as the Termination Notice Period.
- 7.4 Upon notice being given under clause 7.3:
  - 7.4.1 licensed access to the online resource is discontinued;
  - 7.4.2 the discontinued licensed access to the online resource is treated in the same manner as if the Agreement had been terminated in relation to the online resource, as set out in clauses 7.7 and 7.8; and
  - 7.4.3 in all other respects the Agreement remains in effect.
- 7.5 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:
  - 7.5.1 The Licensee fails to perform any of its obligations or responsibilities under this Agreement including failing to pay the Fees.
  - 7.5.2 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.
  - 7.5.3 The Licensor becomes aware of any evidence of Direct Marketing involving any of the Information Products. The Licensor must first give written notice to the Licensee and provide the Licensee with 14 days to respond to any allegation by the Licensor that the Direct Marketing provisions of this Agreement have been breached. The Licensor must consider the Licensee's response, however the Licensor has the final determination in this regard.
- 7.6 If the Licensor is entitled to terminate the Agreement under clause 7.5, the Licensor may choose (without prejudice to the Licensor's right to terminate) to suspend, immediately by notice in writing, access to and distribution rights for the Information Products 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.
- 7.7 Upon termination or expiry of this Agreement all of the following things will happen:

- 7.7.1 All rights granted by the Licensor to the Licensee will cease immediately.
  - 7.7.2 The Licensor will not refund any Establishment Fee(s) in whole or in part.
  - 7.7.3 The Licensee must pay any outstanding Information Product Fees owing up to the effective date of termination.
  - 7.7.4 The Licensor will refund the balance of any Access Fees upon termination, however the Licensor is entitled to first deduct its full costs of termination and the Licensor has the final determination in this regard.
  - 7.7.5 Clauses 4.1 (Ownership), 4.2.1 (Confidentiality), 4.6.4, 7.7.7 and 9 (Warranty, Liability and Indemnity) will survive and continue to have full force and effect.
  - 7.7.6 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.
  - 7.7.7 Notwithstanding clause 7.7.1, the Licensee may continue to provide a storage service for Historical Documents to an End-User. In the event that their agreement with the End-User expires or terminates, the Licensee must return all stored Historical Documents held under that agreement to the End-User and erase the Historical Documents from the Licensee's systems. While the Licensee continues to provide a storage service for Historical Documents, the Licensee must abide by all relevant obligations contained in this Agreement.
- 7.8 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 by the Licensee seeking relief in specific performance.
- 7.9 Where agreement cannot be reached on any issues documented by the Licensor in the review pursuant to clause 10.15 this Agreement may be terminated by the Licensor by giving the Licensee 30 days written notice from the date the original request was made. The Licensor has the final determination in this regard.

## **8. Dispute Resolution**

- 8.1 A party must not commence legal proceedings relating to this Agreement unless the party has complied with this clause 8. However, this clause 8 will not apply where a party seeks urgent interlocutory relief from a court.
- 8.2 If a dispute arises between the parties in respect of this Agreement (the 'Dispute') then the following procedure applies:
- 8.2.1 The party alleging the Dispute must notify the existence and nature of the Dispute to the other party involved in the Dispute within 7 days of the dispute arising (the 'Notification').
  - 8.2.2 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.
  - 8.2.3 If the Dispute is not resolved as provided in clause 8.2.2 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 8.2.4 and must do so before initiating proceedings in a court to resolve the Dispute.
  - 8.2.4 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.
  - 8.2.5 The costs of any mediation conducted pursuant to clause 8.2.4 will be shared equally between the parties to the Dispute, unless the mediator determines otherwise.
  - 8.2.6 If the Dispute is not resolved within 14 days of referral to mediation any party may initiate proceedings in a court in respect of the Dispute.

## **9. Warranty, Liability and Indemnity**

### **9.1 Warranty**

- 9.1.1 The Licensor gives the warranties for particular Information Products listed in Schedules C, D, E and/or any additional Schedule, as Specific Warranties.
- 9.1.2 The Licensor supplies the Information Products to the Licensee at the Licensee's own risk. Save for the warranties given in clause 9.1.1, in particular and without limitation the Licensor does not warrant that the Information Products are current, accurate or complete and gives no warranty as to the condition, quality or fitness of the Information Products for the Licensee's requirements.
- 9.1.3 The Licensee acknowledges and agrees that, in entering into this Agreement, it has not relied on any representations made by the Licensor. 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).

### **9.2 Exclusion of liability**

- 9.2.1 The Licensor defines its liability in relation to particular Information Products as listed in Schedules C, D, E and/or any additional Schedule, as applicable, as Specific Liabilities.
- 9.2.2 Except for clause 9.1.1 and 9.2.1, 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 Information Product supplied under this Agreement.
- 9.2.3 Subject to clauses 9.2.1 and 9.2.2, 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, and

sustained by the Licensee in connection with this Agreement or the Information Products or use of the Information Products (except when sustained as a result of negligence or wilful misconduct of the Licensor).

### 9.3 Indemnity

9.3.1 The Licensee will at all times indemnify and keep indemnified the Licensor 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 Information Products or use of the Information Products; and/or
- (ii) any breach of this Agreement by the Licensee,

except to the extent of any negligence by the Licensor.

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.

9.3.2 The indemnities provided for in clause 9.3.1 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.

## 10. General conditions

- 10.1 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.
- 10.2 No agreement or understanding that varies or amends this Agreement will bind either party unless and until agreed to in writing by both parties.
- 10.3 This Agreement will be governed by and construed in accordance with the law of the State of Queensland.
- 10.4 The parties must give each other such assistance and cooperation as is reasonably required for the performance of this Agreement.
- 10.5 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.
- 10.6 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 written consent of the Licensor.
- 10.7 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).
- 10.8 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 Agent, End User 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.
- 10.9 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 five (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.
- 10.10 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.
- 10.11 The Licensor reserves the right to exclude future supply of certain particulars forming part of an Information Product if the Chief Executive of the Licensor is satisfied, on reasonable grounds, that inclusion of those particulars may result in inappropriate use or disclosure.
- 10.12 If any restrictions or limitations on the supply or use of Information 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 Information Products to any Licensee's Agent, End User or any other third party. In this event the Licensor may, at its discretion do all or any of the following:
  - 10.12.1 Modify the Information Product to conform to limitations or restrictions of disclosure or other limitations imposed.
  - 10.12.2 Withhold any data fields that are in breach of legislation or expose the Licensor to any sanctions.
  - 10.12.3 Adjust the Access Fees or Information Product Fees on a pro-rata basis to take into account the loss of any part of the Information Product.
- 10.13 In the event of any delay in the supply of Information Products by the Licensor caused by factors beyond the reasonable control of the Licensor:
  - 10.13.1 The Licensor will notify the other party as soon as reasonably possible.

10.13.2 The Licensor must use its best endeavours to rectify the cause of the delay as soon as reasonably possible.

10.13.3 The delay in supply is not a breach of any obligation under this Agreement.

10.14 The Licensor may change the specifications of the Information Products in Schedules C, D, E, and/or any additional Schedule, as applicable, including the format in which the Information Products are supplied and the specifications of the Interface(s), from time to time.

10.15 The Licensor may at its discretion review the performance of the Licensee under this Agreement. Subject to such review, the Licensee may be required by the Licensor to vary business practices in order to comply with requirements and obligations contained in the Agreement, within a 30 day period. Where agreement cannot be reached on any issues documented by the Licensor in the review, the Licensor may terminate this Agreement in accordance with clause 7.9.

10.16 Special Conditions to this Agreement (if any) are contained in Schedule A.

SAMPLE

## Execution

### Licensor:

Signed on behalf of the **State of Queensland** as represented )  
by the **Department of Environment and Resource Management** by )  
[Name of DERM officer] )  
[Position of DERM officer], a delegated officer ) \_\_\_\_\_  
 ) (signature)  
 )  
this \_\_\_\_\_ day of \_\_\_\_\_ 201\_ )  
in the presence of: )  
 )  
Witness: \_\_\_\_\_ )  
(print name) ) \_\_\_\_\_  
(signature)

---

### Licensee: (use one signing block only)

#### [Company]

Executed for and on behalf of )  
[Company Name] )  
 )  
(ACN: \_\_\_\_\_) )  
in accordance with s127 of the *Corporations Act 2001* )  
 )  
this \_\_\_\_\_ day of \_\_\_\_\_ 201\_ )  
 )  
 )  
Name – Sole Director/Director (print name) ) \_\_\_\_\_  
 ) (signature)  
 )  
 )  
Name – Director/Secretary (print name) ) \_\_\_\_\_  
 ) (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 DERM.
- A witness is not required in any case, except for an attorney or other agent where the source of authority requires a witness.

#### [Government Entity]

Signed for and on behalf of )  
 )  
\_\_\_\_\_ )  
 )  
ABN \_\_\_\_\_ )  
 )  
by \_\_\_\_\_ )  
(print name) )  
a Delegated Officer who warrants that he/she )  
has the authority to sign this Agreement ) \_\_\_\_\_  
 ) (signature)  
 )  
this \_\_\_\_\_ day of \_\_\_\_\_ 201\_ )  
in the presence of: )  
 )  
 )  
Witness \_\_\_\_\_ )  
(print name) ) \_\_\_\_\_  
(signature)

## Schedule A – Licensee, Dates, Licence Number, and Specifications

### 1. Licence Number

Licence Agreement Number: RVS OL:2010/XXX

### 2. Licensee

Name: XXX  
Address (for service of notices): XXX  
XXX  
ABN: xxx xxx xxx  
ACN (if applicable) xx xxx xxx xxx  
Fax (for service of notices): (07) XXX  
Email Address (for service of notices): XXX@XXX.com.au  
Phone Number: XXX XXX XXX  
Licensee's Contact Officer (for Licence Agreement and Information Product issues): XXX

### 3. Licensor

Licensor's Contact Officer: (for all Licence Agreement and Information Product issues):  
Dirk Van Til, Manager, Product Delivery  
Phone (07) 3896 3999  
Fax (07) 3896 3165  
Mobile 0407 139 094  
Dirk.VanTil@derm.qld.gov.au

(for service of notices):

Manager- Product Delivery, Spatial Information  
Department of Environment and Resource Management  
GPO Box 2454  
BRISBANE QLD 4001  
Fax (for service of notices): (07) 3896 3165  
Email Address (for service of notices): [productdelivery@derm.qld.gov.au](mailto:productdelivery@derm.qld.gov.au)

### 4. Dates

Commencement Date: XXXX  
Expiry Date: 30 June 2013  
Termination Notice Period 6 months

### 5. Licensed Resources

Licensed Online Information Resources: XXX [Insert licensed Resources ie Registry Searches (Schedule C), Valuation Searches (Schedule D), Survey Searches (Schedule E) and any additional Resource (& Schedule)]

### 6. Information Product and Online Information Resource(s) Specifications

- 6.1 The Licensor will provide the Information Products from the Online Information Resources via the Licensor's System.
- 6.2 The Online Information Resources may include but are not limited to the components, which when searched will generate Information Products as displayed in Schedules C, D, E, and/or any additional Schedule, as applicable.
- 6.3 Some variations (including additions or deletions) to the existing fields may be necessary from time to time, and 21 days written notice will be provided to the Licensee in the event that these variations may affect the Licensee's use of the Information Products.
- 6.4 The Licensor may refuse to make information contained in the Online Information Resources available to the Licensee if the Licensor reasonably believes such information to be inaccurate or misleading.

### Licensee's Agent

#### 7. Agent Information

- 7.1 The Licensee is required to submit information in support of any application to appoint a Licensee's Agent to distribute Information Products sourced via the Licensee's System.
- 7.2 At a minimum this information must include all of the following details of the proposed Licensee's Agent:
  - 7.2.1 Name (legal entity plus any trading name), ABN, ACN (if applicable) and website together with a Company Profile.
  - 7.2.2 To confirm that no ownership relationship exists between the proposed Licensee's Agent and the Licensee, the application needs to attach recent Company searches for both parties.
  - 7.2.3 Certification that the Licensee's Agent contract will contain the Standard Terms and Licensee's Agent Terms from Schedule B.

- 7.2.4 Certification that all Information Products supplied to End Users by the Agent will be unchanged from the Information Products provided by the Licensee to the Licensee's Agent.
- 7.2.5 Certification that the Licensee's System will insert the relevant Copyright notices as necessary and will insert a notification banner at the bottom of each Information Product (excluding Schedule C products listed A1-A10) provided to the Licensee's Agent's System stating the name of the Licensee's Agent and the date and time (Queensland time (AEST) at the point of order) that the Information Product was requested by the End User.
- 7.2.6 Details of the Licensee's Agent's System and how it is capable of ensuring:
  - (i) Security of information;
  - (ii) Identifying, tracking and recording requests;
  - (iii) Proficient End User training and support; and

## 8. Special Conditions

Option:

- 8.1 Despite clauses 5.1 and 6.1 of both Schedules D & E, where the Licensee has licensed access to the Registry Searches online resource, the Licensee will have licensed access to Valuations and Survey Products online resources, and the Establishment Fees and Access Fees for Valuations and Survey Products online resources will be waived by the Licensor.
- 8.2 Where the Licensee has paid Establishment Fees for licensed access to an online resource, and following that payment has maintained continuous licensed access to that online resource, the Establishment Fees for licensed access to that online resource payable under this Agreement will be waived by the Licensor.

## Schedule B - Notices

### 1. Copyright Notices

1.1 All reproductions of the Information Products numbers A1 to A6, A8 to A10 in paragraph 5.1 of Schedule C, B1 to B3 in paragraph 5.1 of Schedule D, and C1 to C5 in paragraph 5.1 of Schedule E must bear the following notice:

© The State of Queensland (Department of Environment and Resource Management) [year of publication]

1.2 All reproductions of Information Product number A7 in paragraph 5.1 of Schedule C must bear the following notice embedded into the image:

Copyright protects the plan/s being ordered by you. Unauthorised reproduction or amendments are not permitted.

### 2. Agreement Compositions

#### 2.1 End User

Any End User 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
- Any other terms the Licensee deems necessary that are not in conflict with this 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
- Licensee's Agent Terms
- Terms to implement clause 4.12.4(ii) and 4.12.4(iii) of this Agreement
- Any other terms the Licensee deems necessary that are not in conflict with this Agreement.

### 3. Notice Texts

#### Standard Terms

##### Definitions

- **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 (including a corporation or organisation) and includes, but is not limited to, telemarketing, bulk email messaging (spam), postal canvassing and list brokering.
- **Information Product** means an online product supplied through online access search types.
- **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 Standard 42 – Information Privacy (Qld).

##### Ownership

- I acknowledge that I have no rights of ownership in the Information Products and all intellectual property rights including copyright in the Information Products that the State of Queensland (Department of Environment & Resource Management) or the copyright owner has are retained by the State of Queensland (Department of Environment & Resource Management) or the copyright owner.

##### Liability

- I acknowledge that, except for the section Statutory Compensation below, the State of Queensland (Department of Environment & Resource Management) does not guarantee the accuracy or completeness of the Information Products, and does not make any warranty about the Information Products.
- I agree that, except for the section Statutory Compensation below, the State of Queensland (Department of Environment & Resource Management) is not under any liability to me for any loss or damage (including consequential loss or damage) from my use of the Information Products.

##### Statutory Compensation

- The provisions of the Liability paragraphs above are subject to the provision that the State of Queensland through the Department of Environment & Resource Management will be liable to compensate me in accordance with the provisions of Subdivision C of Division 2 of Part 9 of *the Land Title Act 1994* (as amended) if I suffer deprivation of a lot, interest in a lot or loss or damage in accordance with the *Land Title Act*. Where I am entitled to compensation against the State of Queensland through the Department of Environment & Resource Management pursuant to the above-mentioned provisions of the *Land Title Act*, I agree that I will seek compensation in accordance with the provisions of the *Land Title Act*.

##### Privacy

- I agree that I will not use the Information Products with the intention of encroaching upon the privacy of an individual and I will comply with the Privacy Laws.
- I agree that I will not use the Information Products for Direct Marketing.

##### Permitted Use

I accept that the use of the Information Products by me will be limited to my own personal use or for use in the ordinary course of my business. I will not on-sell or distribute the Information Products to any other third party, nor will I produce any products incorporating the Information Products except with the prior written approval of the State of Queensland (Department of Environment & Resource Management).

## Licensee's Agent Terms

I agree to the terms specified in the section titled Standard Terms and this section titled Licensee's Agents Terms.

### Definitions

- **End User** means any person to whom I supply Information Products.
- **Licensee** means the person (a legal entity including a corporation or organisation) who is entering into this Agreement with me and who has a licence agreement with DERM.
- **DERM** means the State of Queensland (Department of Environment and Resource Management)
- **DERM's System** means the operating and applications systems and online information resources in the form of a computerised information retrieval system, which enables the retrieval and distribution of Information Products.
- **Licensee's System** means the operating and applications systems in the form of a computerised information retrieval system, which enables the retrieval and distribution of Information Products through DERM's System.
- **Licensee's Agent's System** means my operating and applications systems in the form of a computerised information retrieval system, which enables the retrieval and distribution of Information Products through the Licensee's System.

### Ownership

- This Agreement does not confer on me any rights of ownership in DERM's System and/or the Licensee's System.
- DERM (or the copyright owner ) retains ownership of the intellectual property rights that it has in each of the Information Products, whether in its original form, or as reformatted or converted onto different media by the Licensee or by me.

### Confidentiality

- DERM's information resources contain the valuable commercial information of DERM and the manner in which the Information Products are accessed through DERM's System and/or the Licensee's System is of a confidential nature.
- I will take all reasonable steps within my power and control to maintain and safeguard the security of DERM's System and the Licensee's System. I further agree to ensure that my employees and consultants take all reasonable steps within their power and control to maintain the security of DERM's System and the Licensee's System and use DERM's System and the Licensee's System solely for the purposes permitted under this Agreement.
- I will include safeguards in the procedures for the operation and administration of the Licensee's Agents System against unauthorised access to DERM's System and/or the Licensee's System and in particular I agree to provide and maintain a firewall between the Licensee's Agent's System and the End User.

### Prohibited Use

- I will not reformat any Information Product or alter it in any way.
- I will not produce reports or publications based on any Information Product for public sale or distribution without the prior written approval of DERM.
- I am not and do not become a partner, employee or agent of DERM under this Agreement and will not allow myself to be represented as such.

### Copying and Storage of Information Products

- I will not store all or any part of an Information Product on any computer or retrieval system for a period in excess of 30 Business Days from the day on which it was requested.
- Information Products must not be transmitted to any other End User or used for any other purpose other than to satisfy an original request from an End User.

### Marketing

- I will trade under one trading name only in respect of the matters under this Agreement.

### Distribution to End Users

- I will not distribute any Information Product to an End User unless that End User has either signed a written licence agreement with me for access via a closed network, or agreed to enter into a licence agreement via an open network/internet environment. Both types of licence agreement with an End User must incorporate the conditions set out in the Standard Terms.
- If an End User is entering into a licence agreement via an open network/internet environment I will ensure that prior to accessing an Information Product the End User accepts the terms and conditions in the Standard Terms by having to respond to an "I agree" (or similar wording to the same effect) button that must be clicked.
- I will not delete, modify or otherwise alter the conditions set out in the Standard Terms.
- I will ensure that an End User uses the Information Products that it receives from me only for its own personal use or in the ordinary course of its business (eg solicitor, accountant, title search firm, etc). I will ensure that the End User is not a business acting as an electronic online re-supplier in a similar manner to the Licensee or me.
- Information Products may only be supplied to an End User in the following ways:
  - (i) As a display on the Licensee's Agent's System computer screen.
  - (ii) As a printout from the screen of the Licensee's Agent's System computer.
  - (iii) By electronic online supply to an End User.
  - (iv) By email delivery provided the email is completely deleted from the Licensee's Agent's System immediately upon successful transmission.
  - (v) By facsimile transmission provided the facsimile is destroyed immediately upon successful transmission. If the facsimile machine provides a transmission record that replicates the whole or part of an Information Product, that part of the transmission record must be destroyed immediately.
- Nothing in the above clauses entitles me to keep a copy of any portion of an Information Product on any retrieval system (except as provided for in "Copying and Storage of Information Products" above).
- I will provide to the End User on request, non-confidential details as to the date, time and Information Product type requested by that particular End User.

## Schedule C - Licence Fees and Information Product Fees – Registry Searches

1. **Licence Number** RVS OL:2010/XXX
  
2. **Licensee's Support Officers (for technical issues):**

Name xxx  
 Phone xxx  
 Email xxx

**(for account issues):**  
 Name xxx  
 Phone xxx  
 Fax xxx  
 Email xxx
  
3. **Licensor's Support Officers (for technical issues):**

Name Michael Droder, Systems Manager, Titles Automation  
 Phone (07) 3227 8265  
 Fax (07) 3405 6874  
 Mobile 0438 566 342  
 Email [Michael.Droder@derm.qld.gov.au](mailto:Michael.Droder@derm.qld.gov.au)

**(for account issues):**  
 Name Peter French, Senior Program Officer, Titles Automation  
 Phone (07) 3227 7756  
 Fax (07) 3227 7764  
 Mobile 0438 566 342  
 Email [Peter.French@derm.qld.gov.au](mailto:Peter.French@derm.qld.gov.au)
  
4. **Fee Date: 1 August 2010** (in accordance with clause 3.9 of the Agreement a new Schedule C with Fee Date will be provided when Fees are updated and will form part of this Agreement).
  
5. **Establishment Fee**  
 5.1 The Licensee must pay a once only Establishment Fee of \$45,073.00 (GST inclusive) upon the signing of this Agreement. This fee covers the cost to the Licensor of establishing links, firewall etc for the Licensee.
  
6. **Access Fees**  
 6.1 The Licensee must pay the following Access Fees to the Licensor:
  - (i) An amount of \$2,544.00 (GST inclusive) per calendar month in advance.
  - (ii) For the period to the end of the first calendar month, a pro rata amount will be calculated from the day after acceptance testing was initially successfully completed (see clause 4.10.5 of the Agreement).
  
7. **Information Product Fees at Fee Date**  
 7.1 The Licensee must pay to the Licensor the following Information Product Fees for each Information Product requested by an End User through the Licensee's System or via a Licensee's Agent's System.

No	Information Products	Value	GST as applicable	Fee at 01 August 2010
A1	Freehold Land Title Search	\$10.85	N/A	\$10.85
A2	Title Search (other than Freehold Land Title)	\$10.85	N/A	\$10.85
A3	Community Title Scheme Statement	\$2.65	N/A	\$2.65
A4	Search Statement of a Dealing or Administrative Advice	\$2.65	N/A	\$2.65
A5	BUP-GTP Search	\$2.65	N/A	\$2.65
A6	Power of Attorney Search	\$2.65	N/A	\$2.65
A7	Image of Plan of Survey	\$10.85	N/A	\$10.85
A8	Image of a Title, Lease or Permit to Occupy	\$10.85	N/A	\$10.85
A9	Image of all other Instruments	\$27.50	N/A	\$27.50
A10	Historical Title Search	\$17.75	N/A	\$17.75

No	Information Products	Value	GST as applicable	Fee at 01 August 2010
D1	Titles Plus product:	\$27.06	\$0.54	\$27.60
	Consisting of: <ul style="list-style-type: none"> <li>• Titles Search</li> <li>• Survey Plan</li> <li>• A4 Cadastre Smartmap</li> </ul>	\$10.85	n/a	
		\$10.85	n/a	
		\$5.36	\$0.54	

## 8 Licensor's System Specifications

### 8.1 Access Hours

8.1.1 For Schedule C products (Registry Searches) the Licensor's system may be accessed by the Licensee during the hours of 7.00 am to 10.00 pm (Australian Eastern Standard Time) on business days and during the hours of 7.00 am to 5.00 pm on Saturdays, as a minimum.

8.1.2 The Licensor will provide support to the Licensee during the hours of 8.00 am - 5.00 pm (Australian Eastern Standard Time) on Business Days.

### 8.2 System Modifications

8.2.1 Where the Licensor proposes to implement modifications to the technical specifications or operations of the Licensor's System, which will impact upon the operation of the Licensee's System, the Licensor will provide as much advance notice as possible and at least 30 days written notice prior to implementation.

8.2.2 Where the Licensor's System is to be modified pursuant to paragraph 8.2.1 of this Schedule C, the Licensee will at its own cost undertake all necessary corresponding modifications to the Licensee's System. The Licensor reserves the right to utilise the amended Licensor's System on the date previously advised to the Licensee, whether the Licensee has completed the modifications or not.

### 8.3 System performance & downtime

8.3.1 The Licensor will not be responsible for any delay in response time caused by factors beyond the Licensor's reasonable control.

8.3.2 The Licensor will use its best endeavours to rectify any fault in the Licensor's System or any problems with the availability of the Licensor's System as soon as reasonably possible.

8.3.3 If there is a breakdown of the Licensor's System which adversely affects the ability of the Licensee to enjoy the benefit of this Agreement, the Licensor will notify the Licensee as soon as practicable and will use its best endeavours to reconstruct lost or destroyed data at no additional charge to the Licensee.

8.3.4 The Licensor will immediately notify the Licensee upon becoming aware of any scheduled downtime of the Licensor's System during the hours of access specified in paragraph 8.1.1 of this Schedule C. The Licensee will be responsible for notifying End Users.

### 8.4 Technology changes

8.4.1 As communication technologies evolve, they may be evaluated for use in the delivery of DERM products. Notification of technology direction changes will be announced to all Licensees with time for comment and feedback.

## 9. Interface(s)

### 9.1 Registry Development System

9.1.1 The Registry Development System (RDS) is a "mirrored environment" that is consistent with the Online Information Resource for Registry Searches and may be used in the development and testing of the operations and linkages between the Licensee's System and the Licensor's System.

## 10. Warranty and Liability

### 10.1 Specific Warranties

10.1.1 The Licensor warrants that the data in relation to Freehold Land Title Searches (Information Product A1 in paragraph 7.1 of Schedule C) is accurate at the time of the transmission to the Licensee's System.

### 10.2 Specific Liabilities

10.2.1 Pursuant to Subdivision C of Division 2 or Part 9 of the *Land Title Act* 1994, the Licensee acknowledges that the Licensor will compensate an End User who suffers damage through the provision of incorrect Information Products in accordance with the provisions of the *Land Title Act* 1994 (as amended).

10.2.2 No compensation will be payable by the Licensor to an End User where the Licensee has distributed an Information Product that has been corrupted or rendered incorrect by the Licensee.

## Schedule D - Licence Fees and Information Product Fees – Valuation Searches

1. **Licence Number** RVS OL: **2010/XXX**
  
2. **Licensee's Support Officers (for technical issues):**
  - Name xxx
  - Phone xxx
  - Email xxx

**(for account issues):**

  - Name xxx
  - Phone xxx
  - Fax xxx
  - Email xxx
  
3. **Licensor's Support Officers (for technical issues):**
  - Name Ron Dent, Principal Advisor, State Valuation Services
  - Phone (07) 3225 1685
  - Fax (07) 3225 1687
  - Mobile 0408 075 210
  - Email [Ron.Dent@derm.qld.gov.au](mailto:Ron.Dent@derm.qld.gov.au)

**(for account issues):**

  - Name Eric Rimmelt
  - Phone (07) 3227 6647
  - Fax (07) 3225 1687
  - Email [Eric.Rimmelt@derm.qld.gov.au](mailto:Eric.Rimmelt@derm.qld.gov.au)
  
4. **Fee Date: 1 August 2010** (in accordance with clause 3.9 of the Agreement a new Schedule D with Fee Date will be provided when Fees are updated and will form part of this Agreement).
  
5. **Establishment Fee**
  - 5.1 The Licensee must pay a once only Establishment Fee of \$22,536.00 upon the signing of this Agreement. This fee covers the cost to the Licensor of establishing links, firewall etc for the Licensee.
  
6. **Access Fees**
  - 6.1 The Licensee must pay the following Access Fees to the Licensor:
    - (i) An amount of \$1,272.00 per calendar month in advance.
    - (ii) For the period to the end of the first calendar month, a pro rata amount will be calculated from the day after acceptance testing was initially successfully completed (see clause 4.10.5 of the Agreement).
  
7. **Information Product Fees at Fee Date**
  - 7.1 The Licensee must pay to the Licensor the following Information Product Fees for each Information Product requested by an End User through the Licensee's System or via a Licensee's Agent's System.

No	Valuations Searches	Value	GST applicable	as	Fee at 01 August 2010
B1	Full Sales Report	\$10.85	N/A		\$10.85
B2	Abbreviated Sales Report	\$6.80	N/A		\$6.80
B3	Full Property Report	\$10.85	N/A		\$10.85

8. **Licensor's System Specifications**
  - 8.1 Access Hours
    - 8.1.1 Subject to the availability of the data communications carrier service, the Licensor's System may be accessed by the Licensee during the hours of 7.00 am - 7.00 pm (Australian Eastern Standard Time) on Business Days for Schedule D products listed as B1 to B3, as a minimum.
    - 8.1.2 The Licensor will provide support to the Licensee during the hours of 8.00 am - 5.00 pm (Australian Eastern Standard Time) on Business Days.
  - 8.2 System Modifications

- 8.2.1 Where the Licensor proposes to implement modifications to the technical specifications or operations of the Licensor's System, which will impact upon the operation of the Licensee's System, the Licensor will provide as much advance notice as possible and at least 30 days written notice prior to implementation.
- 8.2.2 Where the Licensor's System is to be modified pursuant to paragraph 8.2.1 of this Schedule D, the Licensee will at its own cost undertake all necessary corresponding modifications to the Licensee's System. The Licensor reserves the right to utilise the amended Licensor's System on the date previously advised to the Licensee, whether the Licensee has completed the modifications or not.
- 8.3 System performance & downtime
- 8.3.1 The Licensor will not be responsible for any delay in response time caused by factors beyond the Licensor's reasonable control.
- 8.3.2 The Licensor will use its best endeavours to rectify any fault in the Licensor's System or any problems with the availability of the Licensor's System as soon as reasonably possible.
- 8.3.3 If there is a breakdown of the Licensor's System which adversely affects the ability of the Licensee to enjoy the benefit of this Agreement, the Licensor will notify the Licensee as soon as practicable and will use its best endeavours to reconstruct lost or destroyed data at no additional charge to the Licensee.
- 8.3.4 The Licensor will immediately notify the Licensee upon becoming aware of any scheduled downtime of the Licensor's System during the hours of access specified in paragraph 8.1.1 of this Schedule D. The Licensee will be responsible for notifying End Users.
- 8.4 Technology changes
- 8.4.1 As communication technologies evolve, they may be evaluated for use in the delivery of DERM products. Notification of technology direction changes will be announced to all Licensees with time for comment and feedback.
- 9. Interface(s)**
- 9.1 Access Management Environment
- 9.1.1 The Access Management Environment (AME) is an applications environment, which will monitor the Licensee's access to specific Online Information Resources.
- 9.1.2 The Licensor may during the term of this Agreement upgrade, modify or replace the AME.
- 9.1.3 The cost of any upgrading or alteration to the Licensee's System as result of the introduction, upgrade, modification or replacement of the AME will be borne by the Licensee.
- 10. Warranty and Liability**
- 10.1 No compensation will be payable by the Licensor to an End User where the Licensee has distributed an Information Product that has been corrupted or rendered incorrect by the Licensee.

## Schedule E - Licence Fees and Information Product Fees – Survey Searches

1. Licence Number RVS OL: 2010/XXX

2. Licensee's Support Officers (for technical issues):

Name            xxx  
 Phone           xxx  
 Email            xxx

(for account issues):

Name            xxx  
 Phone           xxx  
 Fax              xxx  
 Email            xxx

3. Licensor's Support Officers (for technical issues):

Name            Rob Duffy, Business System Manager, Spatial and Scientific Systems  
 Phone           (07) 3896 3205  
 Fax              (07) 3406 2361  
 Email:           [Rob.duffy@derm.qld.gov.au](mailto:Rob.duffy@derm.qld.gov.au)

(for account issues):

Name            Carmen Sternberg, Senior Products Officer, Product Delivery  
 Phone           (07) 3896 3997  
 Fax              (07) 3896 3165  
 Email:           [Carmen.sternberg@derm.qld.gov.au](mailto:Carmen.sternberg@derm.qld.gov.au)

4. **Fee Date: 1 August 2010** (in accordance with clause 3.9 of the Agreement a new Schedule E with Fee Date will be provided when Fees are updated and will form part of this Agreement).

5. **Establishment Fee**

5.1 The Licensee must pay a once only Establishment Fee of \$11,268.00 upon the signing of this Agreement. This fee covers the cost to the Licensor of establishing links, firewall etc for the Licensee.

6. **Access Fees**

6.1 The Licensee must pay the following Access Fees to the Licensor:

- (i) An amount of \$1,272.00 per calendar month in advance.
- (ii) For the period to the end of the first calendar month, a pro rata amount will be calculated from the day after acceptance testing was initially successfully completed (see clause 4.10.5 of the Agreement).

7. **Information Product Fees at Fee Date**

7.1 The Licensee must pay to the Licensor the following Information Product Fees for each Information Product requested by an End User through the Licensee's System or via a Licensee's Agent's System.

No	Survey Searches	Value	GST as applicable	Fee at 01 August 2010
C1	Plan Detail Enquiry	\$2.68	\$0.27	\$2.95
C2	Lot on Plan Enquiry	\$2.68	\$0.27	\$2.95
C3	Plan Status Enquiry	\$2.68	\$0.27	\$2.95
C4	All Plans affecting a Parcel	\$9.59	\$0.96	\$10.55
C5	Customised Plan Enquiry (Area Search)	\$20.36	\$2.04	\$22.40

8. **Licensor's System Specifications**

8.1 Access Hours

8.1.1 Subject to the availability of the data communications carrier service, the Licensor's System may be accessed by the Licensee during the hours of 7.00 am - 7.00 pm (Australian Eastern Standard Time) on Business Days. (as a minimum).

8.1.2 The Licensor will provide support to the Licensee during the hours of 8.00 am - 5.00 pm (Australian Eastern Standard Time) on Business Days.

8.2 System Modifications

8.2.1 Where the Licensor proposes to implement modifications to the technical specifications or operations of the Licensor's System, which will impact upon the operation of the Licensee's System, the Licensor will provide as much advance notice as possible and at least 30 days written notice prior to implementation.

8.2.2 Where the Licensor's System is to be modified pursuant to paragraph 8.2.1 of this Schedule E, the Licensee will at its own cost undertake all necessary corresponding modifications to the Licensee's System. The Licensor reserves the right to utilise the amended Licensor's System on the date previously advised to the Licensee, whether the Licensee has completed the modifications or not.

### 8.3 System performance & downtime

8.3.1 The Licensor will not be responsible for any delay in response time caused by factors beyond the Licensor's reasonable control.

8.3.2 The Licensor will use its best endeavours to rectify any fault in the Licensor's System or any problems with the availability of the Licensor's System as soon as reasonably possible.

8.3.3 If there is a breakdown of the Licensor's System which adversely affects the ability of the Licensee to enjoy the benefit of this Agreement, the Licensor will notify the Licensee as soon as practicable and will use its best endeavours to reconstruct lost or destroyed data at no additional charge to the Licensee.

8.3.4 The Licensor will immediately notify the Licensee upon becoming aware of any scheduled downtime of the Licensor's System during the hours of access specified in paragraph 8.1.1 of this Schedule E. The Licensee will be responsible for notifying End Users.

### 8.4 Technology changes

8.4.1 As communication technologies evolve, they may be evaluated for use in the delivery of DERM products. Notification of technology direction changes will be announced to all Licensees with time for comment and feedback.

## 9. Interface(s)

### 9.1 Access Management Environment

9.1.1 The Access Management Environment (AME) is an applications environment, which will monitor the Licensee's access to specific Online Information Resources.

9.1.2 The Licensor may during the term of this Agreement upgrade, modify or replace the AME.

9.1.3 The cost of any upgrading or alteration to the Licensee's System as result of the introduction, upgrade, modification or replacement of the AME will be borne by the Licensee.

## 10. Warranty and Liability

10.1 No compensation will be payable by the Licensor to an End User where the Licensee has distributed an Information Product that has been corrupted or rendered incorrect by the Licensee.