

## **PART A - PRINCIPAL TERMS**

*Terms specific to the service provided are included here within each licence.*

## PART B – STANDARD TERMS

### 1. The Grant

- 1.1. This Contract shall commence on the Signing Date and shall continue for the Term.
- 1.2. In consideration of the mutual promises described in the Contract, RoS grants to the Customer a non-exclusive, non-transferable licence to the Rights (revocable pursuant to the terms of the Rights).
- 1.3. The use of the Delivered Data is limited specifically to the Rights and subject to the obligations on the Customer set out in the remainder of the Contract. All rights not expressly granted with respect to the Delivered Data are otherwise reserved to RoS, and if applicable, any Interested Party.
- 1.4. The Contract allows the Customer personally (not any affiliated body or group) to use the Delivered Data in accordance with the Rights granted.
- 1.5. From the Signing Date, the Contract also applies to Previous Data and supersedes the Previous Contract. For the avoidance of doubt, from the Signing Date, this Contract applies to Previous Data (if there is any) and Delivered Data.

### 2. The Service

- 2.1. Registers of Scotland shall provide the Service to the Customer during the Service Period in exchange for payment of the Price. The Customer acknowledges and agrees that the Service is subject to the Limitations.
- 2.2. RoS will deliver the Report to the Customer on the Delivery Date in accordance with the Delivery Method provided that the Customer has paid the Price on the relevant Payment Date and complied with any other terms of the Contract.
- 2.3. The Customer accepts that RoS's primary function is to perform statutory duties to maintain a public register and that RoS reserves the right to:
  - 2.3.1. suspend the Service for the purposes of repair, maintenance or support in RoS systems;
  - 2.3.2. review, update and revise the Service;
  - 2.3.3. upgrade or change the format of delivery of the Service.

No compensation or damages shall be due to the Customer under such circumstances and RoS will endeavour, where practicable, to provide at least one (1) month's notice of any proposed format change. If any such suspension or delay exceeds 5 days then the Customer may at its option terminate the Contract by notice in writing to that effect.

### 3. Prices and Payment Arrangement

- 3.1. The Customer will pay the Administration Fee, if any, to RoS on or prior to the Start Date.

- 3.2. The Customer will pay the Price, in advance, to RoS by the Payment Date. If the Contract is a Regular Contract RoS will calculate the Balancing Payment on each Payment Date. The Customer and RoS agree that the Balancing Payment, if any, (and whether a negative or positive value) will be added to the Price due on the same Payment Date that the Balancing Payment was calculated on, subject to Clause 5.3 (Suspension and Termination).
- 3.3. Registers of Scotland will issue the Customer the invoice for the Price prior to the Payment Date.
- 3.4. If the Contract is a Regular Contract, during the Service Period the Rate may change (increase or decrease). If the Rate changes RoS will issue a Rate Amendment Notice. In the event that the Customer does not want to pay the Price calculated on the basis of the Rate (Amended) after the Rate Amendment Date, the Customer's only remedy will be to end the Contract in accordance with Clause 5.3 (Suspension and Termination – Either Party). If the Customer does not serve notice to end the Contract within 30 days of the date of the Rate Amendment Notice, the Customer will be deemed to have accepted the Rate has been amended from the relevant Rate Amendment Date.
- 3.5. Payment will be made in accordance with the payment method requested on the invoice issued by RoS.
- 3.6. The Customer shall be liable to pay interest in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 on any payment or amount overdue.

#### **4. Customer Obligations**

##### **4.1. The Customer shall**

- 4.1.1. use the Delivered Data exclusively in accordance with the Permitted Use and for no other use without the agreement of RoS and any Interested Party, subject always to the Customer's other obligations in the Contract;
- 4.1.2. use best endeavours to ensure there are adequate technology and security measures in place that RoS may reasonably recommend from time to time to safeguard the Delivered Data and Service from unauthorised access to the Service or unauthorised use of the Delivered Data by any person;
- 4.1.3. notify RoS as soon as it suspects or learns of any unauthorised use of the Delivered Data and/or Service by anyone, or of any actual or potential infringement of the Intellectual Property Rights in the Delivered Data and/or Service;
- 4.1.4. give all reasonable assistance, including access to all relevant records and files to enable RoS and any Interested Party to obtain, defend and enforce the proprietary and Intellectual Property Rights in the Delivered Data and the Service; and
- 4.1.5. keep RoS fully informed of any changes to the Approved Party Contact Details or Customer Contact Details.

4.2. The Customer shall not

- 4.2.1. present out-of-date Delivered Data as being current nor present Delivered Data in any manner which might mislead the reader;
- 4.2.2. use the Delivered Data for any illegal, deceptive, misleading or unethical purpose or otherwise in any manner which may be detrimental to the reputation of the Delivered Data or any person;
- 4.2.3. except as expressly set out in the Contract, use the Delivered Data for the purpose of direct marketing, advertising or promoting a particular product or service;
- 4.2.4. use the Delivered Data in a way which could imply endorsement by RoS or any government department, or to represent to the public that the Customer has an arrangement or official partnership with RoS in relation to the Service or the Delivered Data or supply of it;
- 4.2.5. use the Delivered Data in any possible way which could affect the integrity of the Registers kept by RoS or RoS's reputation or any of RoS's existing services and any existing contractual commitment or generally in a manner which is likely to mislead others;
- 4.2.6. alter or remove any of the copyright/database right notices, watermarks and/or licence numbers which are shown on the Delivered Data;
- 4.2.7. use the Delivered Data in any way which infringes RoS's or any Interested Party's Intellectual Property Rights;
- 4.2.8. use the Delivered Data to reproduce or provide the Service or a similar service to it comprising Delivered Data extracted from the Report;
- 4.2.9. publish the Report or, save where expressly permitted, any part of it externally; or
- 4.2.10. sell the Report or, save where expressly permitted, any part of it to a third party.

**5. Suspension and Termination**

5.1. Suspension and Termination – Automatic

- 5.1.1. If the Customer uses the Restricted Data otherwise than for the Purpose and in accordance with the Permitted Use the Contract will end automatically without notice.
- 5.1.2. Unless otherwise terminated, the Contract will end automatically without notice on the date the Purpose is fulfilled.

5.2. Suspension and Termination – RoS

- 5.2.1. Notwithstanding anything else contained in the Contract RoS may, at their option, either suspend or terminate the Service immediately if

- 5.2.1.1. the Customer:
  - 5.2.1.1.1. fails to pay any amount which is due for payment under the Contract;
  - 5.2.1.1.2. commits any other breach of the Contract and in RoS's opinion such breach is not capable of remedy;
  - 5.2.1.1.3. is in breach of the Contract (and where in RoS's opinion it is capable of remedy), this breach has not been put right within 14 days of RoS requesting this;
  - 5.2.1.1.4. in respect of a Regular Contract, suffers an Insolvency Event;
- 5.2.1.2. in respect of a Regular Contract, the Information Commissioner or other competent authority notifies RoS that the Delivered Data should not be provided in its current form. In that event, RoS will use reasonable endeavours to provide the Delivered Data in an alternative form acceptable to either the Information Commissioner or other competent authority;
- 5.2.1.3. RoS no longer holds any necessary licence or delegation from an Interested Party to enable RoS to supply the Delivered Data to the Customer.

5.2.2. Any suspension of the Service will not prejudice RoS's right to terminate the Service for the same or different reasons.

### 5.3. Suspension and Termination – Either Party

5.3.1. In respect of a Regular Contract, either party may terminate the Contract on the Service Termination (Standard) Date by giving at least 30 days' notice in writing to the other party. Both RoS and the Customer agree that any Balancing Payment calculated at the Service Termination (Standard) Date

- 5.3.1.1. if a negative value will be due and payable by RoS to the Customer;
- 5.3.1.2. if a positive value will be due and payable by the Customer to RoS;
- 5.3.1.3. is payable by either party to the other within 30 days of the Service Termination (Standard) Date; and
- 5.3.1.4. is only payable if each Party has also complied with all other payment obligations in terms of this Contract

### 5.4. Suspension and Termination – Automatic, RoS or Either Party

5.4.1. In the event of termination of the Contract for whatever reason the Customer will remain liable to pay any portion of the Price that remains unpaid, together with any expenses RoS has reasonably incurred or has agreed to incur in connection with any work requested by the Customer. Save where expressly stated, termination or expiry of the Service for any reason will not entitle the Customer to any refund of the Price.

5.4.2. The Customer must destroy all Restricted Data in any media which it holds or for which it is responsible (including but not limited to any Restricted Data embedded in any other material) on or prior to the Destruction Date and provide at RoS's request a sworn statement by a duly authorised person (such person to be approved by RoS at its absolute discretion) that it no longer holds any Restricted Data.

5.4.3. The clauses intended to survive the End Date shall continue in full force and effect, including without limitation clauses:- 4.1.3 and 4.1.4 (Customer Obligations); 5.3.1, 5.4.1, 5.4.2 and 5.4.3 (Suspension and Termination); 6 (Data Quality); 9.2 and 9.3 (Legislative Compliance); 10 (Auditing); 11 (Liability); 14.2 (Third Party Rights); 16 (Waiver) and 18 (Governing Law), Part C (Definitions).

## **6. Data Quality**

6.1. RoS and any Interested Party do not represent or warrant that the Delivered Data will be fit for the Customer's particular purpose nor do RoS nor any Interested Party warrant the completeness or accuracy or error free nature of any Delivered Data, or the continued supply of the Delivered Data.

6.2. The Customer accepts that RoS and any Interested Party, excludes to the fullest extent permissible by law all express or implied warranties.

## **7. Proprietary rights**

7.1. No Intellectual Property Right in the Delivered Data is conferred or granted to the Customer or to any third party users of the Delivered Data. The Customer acknowledges that the Delivered Data may include Intellectual Property Rights which are owned and licenced to RoS by an Interested Party.

## **8. Crown Copyright**

8.1. The Customer will add the following attribution statement when using or (if permitted in terms of the Contract) publishing the Delivered Data

"The [*insert details of material being used by the Customer*] is Crown copyright [and/or Crown database material] reproduced with the permission of the Registers of Scotland and Chief Executive under delegated authority from the Keeper of Public Records"

8.2. Where space is restricted the following source acknowledgement should appear on or within the product or service:

"© Crown copyright. Registers of Scotland"

and/or

"Crown database rights Registers of Scotland"

For further information, please contact [data@ros.gov.uk](mailto:data@ros.gov.uk).”

## **9. Legislative Compliance**

- 9.1. In addition to any specific provisions in the Contract the Customer will only use the Delivered Data in a way which is compliant with Scottish Law including, without restriction, the provisions of the Data Protection Legislation and the Human Rights Act 1998.
- 9.2. The Customer acknowledges and accepts that RoS may require to disclose information in relation to the Contract without the Customer’s consent to comply with statutory obligations, including but not limited to the Freedom of Information (Scotland) Act 2002.
- 9.3. The Customer accepts and acknowledges that any processing of Delivered Data which the Customer carries out is their own and is not carried out under the instruction or on behalf of RoS.

## **10. Auditing**

- 10.1. The Customer will permit RoS, or any Interested Party, to check on reasonable notice that the access and use of the Delivered Data or Service is in accordance with the Contract.
- 10.2. The Customer will, if requested, provide RoS, or any Interested Party, with examples of, or specifications of the Customer’s products or services which utilise the Delivered Data and a user name and password to allow access to the Customer’s website(s) at no charge. This access will only be used for the purpose of checking compliance with the Contract.
- 10.3. The Customer shall for the Term and for a period of seven (7) years following expiry or termination of the Contract:-
  - 10.3.1. maintain accurate and complete records of its use of the Delivered Data;
  - 10.3.2. allow RoS, or any Interested Party, or their nominated representative the right on reasonable notice during business hours to enter the Customer’s premises and to inspect and audit its systems and operation and all supporting documentation to ensure the Customer’s compliance with the Contract, and to take copies of any necessary records and the Customer shall at its expense make appropriate employees and facilities available to provide RoS, or any Interested Party, or their nominated representative with all reasonable assistance to enable such inspection, auditing and copying to take place; and
  - 10.3.3. comply with reasonable measures stipulated by RoS or any Interested Party, as a result of any audit.

## **11. Liability**

- 11.1. Nothing in this Contract shall exclude or limit liability of either party to this Contract for death or personal injury resulting from the negligence of that party or for fraud or fraudulent misrepresentation.
- 11.2. Subject to Clause 11.1 above, RoS do not accept any liability of any losses incurred by the Customer or any third party as a result of their reliance on the Delivered Data including (and without limitation), RoS will not be liable in contract, delict or otherwise for any losses arising out of or in connection with the Contract for:-
- 11.2.1. any economic losses (including without limitation loss of revenues, profits, contracts, business or anticipated savings);
  - 11.2.2. any loss of goodwill or reputation;
  - 11.2.3. any loss of or corruption of Delivered Data or information; or
  - 11.2.4. any special, indirect or consequential losses,
- in all cases whether or not such losses were within the contemplation of the parties at the date of the Contract and whether or not RoS were notified of or knew of the likelihood of that loss or type of loss arising.
- 11.3. The Customer shall indemnify and keep indemnified RoS and/or any Interested Party against all their liabilities and losses and all demands, liabilities, claims made, or proceedings brought, against RoS and/or any Interested Party in respect of any loss or damage and against all costs and expenses reasonably incurred in dealing with or in settling such demands, liabilities, claims or proceedings arising from the acts, omissions or defaults of the Customer relating to this Contract or from the breach of any provision of this Contract by the Customer, except to the extent that any such liability is directly attributable to any negligent act of RoS.

## **12. Assignment and sublicensing**

- 12.1. Except in accordance with the Sharing Rights (where these specifically allow sharing of the Delivered Data) the Customer may not assign, license, transfer, novate or sub-licence in any way the Contract nor the Rights granted in it.
- 12.2. RoS shall be entitled to assign, transfer or novate the benefits and obligations of the Contract or any part thereof
- 12.2.1. to any government body or any other body established by the Crown or under statute;
  - 12.2.2. in the event of the transfer of all or any of RoS's activities or function to any other entity to the entity to which RoS's functions have been transferred; or
  - 12.2.3. to any private sector body which substantially performs the function of RoS.



### 13. Privacy

#### 13.1. RoS may collect and use information about the Customer

- 13.1.1. to allow RoS to check the Customer's financial standing;
- 13.1.2. to enable RoS to ensure that the Customer uses the Delivered Data in an appropriate manner;
- 13.1.3. for reporting and statistical purposes; and
- 13.1.4. for any other appropriate purpose or use including sharing, checking and verifying the information with other government departments and agencies, law enforcement agencies or other relevant organisations and bodies.

For further details please see the privacy notice on the RoS Website.

#### 13.2 Data Protection

13.2.1 This clause 13.2 is applicable only for Contract designated a **Personal Data Contract** and any definitions within this clause will be within either the Contract or the Data Protection Legislation.

13.2.2 The Customer and Registers of Scotland both acknowledge that the Delivered Data, and any Request may contain Personal Data. The parties acknowledge that they are both acting as Data Controllers in respect of Personal Data contained in the Delivered Data. The Customer is the Data Controller in respect of Personal Data contained in the Request and Registers of Scotland is the Data Processor.

13.2.2.1 The Customer and Registers of Scotland must both ensure compliance with the Data Protection Legislation at all times and that it processes the Personal Data fairly and lawfully.

13.2.2.2 Registers of Scotland shall, in relation to any Personal Data contained in the Request and processed by Registers of Scotland in connection with the Service, comply with the following Processing Obligations:-

13.2.2.2.1 Process Personal Data only as necessary and in accordance with the Customer's documented instructions;

13.2.2.2.2 Ensure appropriate technical and organisational measures are in place to protect against unauthorised or unlawful processing of the Personal Data;

13.2.2.2.3 Not transfer the Personal Data outside the UK unless (i) to the EEA; or (ii) the processing will take place in a territory which is subject to adequacy regulations under the Data Protection Legislation; or (iii) the processing is done under Standard Contractual Clauses that comply with the Data Protection Legislation;

- 13.2.2.2.4 Notify any Personal Data breach to the Customer without undue delay; and
- 13.2.2.2.5 On completion of the Service, delete or return to the Customer the Request and delete any existing copies.

## 14. Third Party Rights

- 14.1. Except as expressly stated in the Contract, nothing in the Contract shall confer on any third party any:
  - 14.1.1. benefit or right to enforce any of the terms; or
  - 14.1.2. third party rights nor Intellectual Property Right in the Delivered Data.
- 14.2. Notwithstanding clause 14.1 above an Interested Party shall be entitled to the benefit of the terms of the Contract and the rights to enforce such terms under the Contracts (Third Party Rights) (Scotland) Act 2017.

## 15. Notices

- 15.1. Except as otherwise expressly provided within the Contract all notices to be given under the Contract shall be in writing and shall either be delivered personally or sent by first class prepaid post or electronic mail and shall be deemed duly served:-
  - 15.1.1. In the case of notice delivered personally at the time of delivery;
  - 15.1.2. In the case of a notice sent by first class prepaid post 2 clear working days after the date of dispatch;
  - 15.1.3. In the case of electronic mail containing the notice, if sent during normal working hours, then at the time of transmission and if sent outside normal working hours then on the next following working day.
- 15.2. For the purposes of notification by email RoS will use the email address provided by the Customer Contact Details. It will be the responsibility of the Customer to (i) ensure the correct email address is provided to RoS for this purpose and (ii) update RoS of any changes to this during the Contract.
- 15.3. Except where otherwise provided, notices to RoS should be sent for the attention of:

Land & Property Data Team, Registers of Scotland, Meadowbank House, 153 London Road, EDINBURGH, EH8 7AU

Or by email to: [data@ros.gov.uk](mailto:data@ros.gov.uk)

## **16. Waiver**

- 16.1. RoS's failure to exercise or enforce any rights under the provisions of the Contract shall not be deemed to be a waiver of such rights at any time or times thereafter.

## **17. Variation**

- 17.1. RoS reserves the right to vary the Contract by giving 30 days' notice to the Customer. If the Customer does not wish to be bound by the Contract as so varied the Customer must serve notice to terminate the Contract prior to the expiry of such 30 days' notice period, failing which, the Customer will be deemed to have accepted the Contract as varied and be bound by its terms.
- 17.2. RoS may notify the Customer of the variation by posting the details on the RoS Website. For Regular Contracts only, RoS will email the Customer during the Service Period, using the Customer Contact Details, of the posting of such variations on the RoS Website.
- 17.3. It will be the responsibility of the Customer to (a) ensure the correct Customer Contact Details are provided to RoS for this purpose and (b) regularly check the RoS website for updates.

## **18. Governing law**

- 18.1. The Contract is made under the Laws of Scotland and comes under the exclusive jurisdiction of the courts of Scotland.

## **PART C DEFINITIONS**

### **SECTION 1 – SPECIFIC DEFINITIONS FOR THE SERVICE**

*Definitions specific to the service provided are included here within each licence.*

## SECTION 2 – STANDARD TERMS DEFINITIONS

Expression	Meaning
<b>Contract</b>	means Part A (Principal Terms), Part B (Standard Terms), Part C (Definitions) and Part D (Delivered Data Summary) which together form the contract
<b>Contract Termination (Automatic) Date</b>	means the date the contract ends under Clause 5.1.1 (Suspension and Termination – Automatic) in (Part B) Standard Terms
<b>Contract Termination (Fault) Date</b>	means the day following the date of the Service Termination (Fault) Notice
<b>Contract Termination (Purpose) Date</b>	means the date the contract ends under Clause 5.1.2 (Suspension and Termination – Automatic in (Part B) Standard Terms
<b>Data Protection Legislation</b>	means all applicable laws, regulations and statutes relating to processing of personal data and privacy in force from time to time in the UK including without limitation the UK GDPR and the Data Protection Act 2018
<b>Destruction Date</b>	means either (i) the Contract Termination (Automatic) Date (ii) the Contract Termination (Fault) Date or (iii) 30 days from the Contract Termination (Purpose) Date
<b>End Date</b>	means the earlier of (i) the Contract Termination (Automatic) Date (ii) the Contract Termination (Fault) Date (iii) Contract Termination (Purpose) Date
<b>Insolvency Event</b>	means appointment of a receiver or administrative receiver or liquidator or trustee in bankruptcy over the Customer or any part of its undertaking or assets, or a resolution for its winding up is passed, if a court of competent jurisdiction makes an order to that effect, or if the Customer becomes insolvent or subject to an administration order, or if the Customer enters into any voluntary arrangement with creditors, or if the Customer ceases or intend to cease to carry on business

<b>Intellectual Property Rights</b>	means Intellectual Property Rights including but not limited to copyright, patent, trademark, design right, database rights, trade secrets, knowhow, rights of confidence, broadcast rights, and all other similar rights anywhere in the world, whether or not registered, including but not limited to applications for registration for any of them
<b>Interested Party</b>	means any third party from whom RoS obtains the Delivered Data under licence or delegation (as the case may be), including without limitation Royal Mail and Ordnance Survey Limited
<b>Part</b>	means the relevant part of this Contract meaning Part A, Part B, Part C or Part D as specified
<b>Previous Data</b>	means any data delivered under the Previous Contract which is still held or used by the Customer at the Signing Date
<b>Registers</b>	means the Land Register of Scotland, the Sasine Register and The Books of Council and Session
<b>Rights</b>	means the Delivered Data Rights and the Sharing Rights
<b>RoS Website</b>	means the Registers of Scotland <a href="#">website</a>
<b>RoS/Registers of Scotland</b>	means the Keeper of the Registers of Scotland, Meadowbank House, 153 London Road, Edinburgh, EH8 7AU
<b>Signing Date</b>	means the last date of signature of the Contract
<b>Term</b>	means the period from and including the Signing Date to the End Date
<b>Service Period</b>	means the period from the Start Date to the Service Termination Date
<b>Service Termination (Fault) Notice</b>	means a notice to terminate the Service issued by RoS in accordance with Clause 5.2 (Suspension and Termination – Fault) in (Part B) Standard Terms
<b>Service Termination (Standard) Notice</b>	means a notice to terminate the Service issued by either party in accordance with Clause 5.3 (Suspension and Termination – Either Party) in (Part B) Standard Terms

<b>Service Termination (Standard) Date</b>	means the last date of the month which falls immediately after expiry of the notice period under the Service Termination (Standard) Notice
<b>Service Termination Date</b>	means the earlier of either (a) the date of delivery of the Report for a One Off Contract or the Service Termination (Standard) Date for an Ongoing Contract or (b) the date of the Service Termination (Fault) Notice
<b>UK GDPR</b>	means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act of 2018

- 1.2 The headings are for ease of reference only, and do not affect the interpretation or construction of the Contract.
- 1.3 Any reference to a statutory provision shall be interpreted as including a reference to any statutory modification or re-enactment thereof (whether before or after the date hereof) for the time being in force.
- 1.4 Unless the context otherwise requires, words importing the singular shall include the plural and *vice versa*, words importing the masculine gender shall import the feminine and neuter genders and *vice versa*.
- 1.5 If any provision in the Contract shall in whole or in part be held to be illegal or unenforceable that term or provision to the extent required may be severed from and deemed not to form part of the Contract and the enforceability of the remainder of the Contract shall not be affected.

## PART D – DELIVERED DATA SUMMARY

**This Part D sets out a summary of the Delivered Data for information purposes only and should be read with the remainder of the Contract to understand its context**

*A delivered data summary specific to the service provided is included here within each licence.*

**IN WITNESS WHEREOF this Contract consisting of this and the preceding [INSERT NO=total minus 1] pages forming Part A (Principal Terms); Part B (Standard Terms); Part C (Definitions) and Part D (Delivered Data Summary) is signed by the Parties hereto as follows:-**

[Signed on behalf of Registers of Scotland by: .....

Full Name (In Capitals): [            ]

Title: [    ]

Date: [    ]

[Signed on behalf of [Company Name] by: .....

Full Name (In Capitals): [            ]

Title/Authorisation: [    ], [Delete as applicable] Director/Company Secretary/Authorised Signatory

Date: [    ]