

SCHEDULE 3 – APM Terms of Use

These terms and conditions (including the schedules) comprise an agreement entered into between you and Australian Property Monitors Pty Ltd (ABN 42 061 438 006) (**APM**) when you access and use customised research products or services provided by APM to AURIN (**APM Data**).

By accessing APM Data, you acknowledge that you have read, and agree to be bound by the terms and conditions set out in this document, including the terms and conditions of third party licensors set out in the annexures to this document (all such terms, taken together comprising the **APM Terms of Use**).

We reserve the right to withdraw or change APM Data (including format, design, scope, etc) and the APM Terms of Use at any time.

Subject to your strict compliance with the APM Terms of Use, we grant you a non-transferable, non-sublicensable, non-exclusive right to access and use APM Data for the sole purpose of undertaking academic research in your capacity as academic staff or post-graduate student at a tertiary educational institution in Australia (**Permitted Purpose**).

In addition to the limitations inherent in or imposed by the foregoing, the following restrictions and limitations apply to your use of and access to APM Data.

1. You must not commercialise or attempt to commercialise APM Data. Without limitation, this means that you must not use APM Data or information obtained through your access to APM Data for the development, publication or commercial exploitation of a separate information product or service, whether or not distributed or marketed to your customers of your existing business or the general public.
2. You acknowledge and agree that, if combined with other data sets, the APM Data may constitute personal information within the meaning of the Privacy Act 1998 (Cth) (**Privacy Act**). You agree not to combine the APM Data with any other data sets or make other use of APM Data in a manner which would allow identification of an individual (including an individual property owner or property resident). You agree to handle any personal information acquired through or from the APM Data strictly in accordance with the Privacy Act and applicable state privacy legislation, and not to do or omit to do anything with such information which would cause APM to breach the Privacy Act or APM's privacy policy or which would constitute a breach by APM of the Privacy Act or APM's privacy policy if those things were done or omitted to be done by APM directly. You agree to comply with applicable privacy legislation, notify us of any privacy complaints made in connection with the APM Data and comply with any reasonable directions from us or our licensors in relation to any privacy complaint.
3. You must not:
 - a. Use the APM Data in a manner which identifies or allows the identification of any particular property owner or person;
 - b. alter the meaning or substance of any information supplied; or
 - c. change or delete any source attribution or copyright notice on or relevant to APM Data.
4. APM Data uses and features copyright material, trademarks and other proprietary information. You may not assert ownership of all or any part of any works or other subject matter accessed through APM Data. Reproduction, downloading, redistribution or commercial exploitation of any material available through APM Data other than as expressly allowed under this Agreement may infringe the intellectual property rights of APM or our licensors and accordingly is prohibited.
5. Any reproduction, redistribution or publication of any material available through or derived from APM Data must bear the appropriate Copyright Disclaimer as set out in Annexure G.

6. You agree that you will comply with all applicable laws and codes in relation to this Agreement and your use of APM Data.
7. Without limiting our other rights and remedies at law, we may suspend or terminate your access to APM Data if you breach this Agreement. Your use of APM Data is at your sole risk. To the extent permitted by law, we exclude all conditions and warranties relating to APM Data. In particular, we do not make any representations or warranties that APM Data will be error free, or as to the accuracy, reliability or suitability of any information accessible via APM Data. To the extent that our liability for breach of any implied warranty or condition cannot be excluded by law, our liability will be limited, at our option, to: (a) in the case of services supplied or offered by us, the re-supply of those services or the payment of the cost of having those services re-supplied, and (b) in the case of goods supplied or offered by us, the replacement of the goods, the supply of equivalent goods or the payment of the cost of having the goods replaced. In no circumstances will we be liable to you for any indirect, incidental, special and/or consequential losses or damages (inc. loss of profits, goodwill, data or opportunity). For products or services supplied or offered by us, our liability to you will be limited to the amount(s) paid by you (if any) in respect of those products or services. You agree to indemnify and hold us harmless against any expenses, costs, loss or damage that we may suffer or incur as a result of or in connection with your use of APM Data or your conduct in connection with the APM Terms of Use, including any breach of this Agreement by you.
8. This Agreement, together with any terms and conditions it refers to, comprises the entire agreement between you and us.
9. No delay or waiver by us in enforcing any provision of this Agreement will be deemed a waiver of our rights.
10. If a term of this Agreement is or becomes invalid or unenforceable, the validity and enforceability of the remainder of the Agreement will not be affected.
11. These terms and conditions are governed by the laws in force in New South Wales and you submit to the non-exclusive jurisdiction of the courts in that State.

ANNEXURES follow.

ANNEXURE A - QUEENSLAND DEPARTMENT OF ENVIRONMENT AND RESOURCE MANAGEMENT STANDARD TERMS AND CONDITIONS

This ANNEXURE A applies in respect of data supplied by the Queensland Department of Environment and Resource Management.

Definitions

- **Direct Marketing** means one to one marketing using personal details (e.g. name, address, email address or other personal information), 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.
- **Licensed Data** means data that is owned by or licensed to the State of Queensland (Department of Natural Resources, Mines and Energy) and has been licensed to APM under an agreement.
- **Licensed Data Product(s)** means any Value Added product derived from or based on the Licensed Data or any other Licensed Data Products(s).
- **Mail Merge Functionality** means a facility under which a form letter can be sent to many recipients with each letter personalised using a Licensed Data Product. The facility takes each recipient's name and/or address (from a Licensed Data Product) and enters it in its usual place on a form letter, and may also print out mailing labels.
- **PIIPD Code of Conduct** is the Personal Identification Information in Property Data Code of Conduct for access to bulk data including identified information in the Queensland Valuation and Sales System (QVAS) database. More information about the PIIPD Code of Conduct can be found at www.propertydatacodeofconduct.com.au.
- **Privacy Laws** means any legislation (or mandatory government policy, where applicable) enacted by Federal or State agencies in relation to privacy and includes the Privacy Act 1988 (Cth) and Information Privacy Act 2009 (Old).
- **Value Add/Adding/Added** means any repackaging which irreversibly changes the form of the Licensed Data or any augmenting or incorporation of the Licensed Data with other data. Conversion onto a different media or the translation into a different format (e.g. changing colour and formatting) of Licensed Data is not Value Adding.

Ownership

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

Liability

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

Permitted Use

- I agree that I will not use the Licensed Data Product(s) to provide a Mail Merge Functionality, or with the intention of encroaching upon the privacy of an individual or for Direct Marketing and I will comply with the Privacy Laws and the PIIPD Code of Conduct as applicable.

All Licensed Data Products must bear the following notice:

- Based on or contains data provided by the State of Queensland (Department of Natural Resources and Mines) 2019. In consideration of the State permitting use of this data you acknowledge and agree that the State gives no warranty in relation to the data (including accuracy, reliability, completeness, currency or suitability) and accepts no liability (including without limitation, liability in negligence) for any loss, damage or costs (including consequential damage) relating to any use of the data. Data must not be used for direct marketing or be used in breach of the privacy laws; more information at www.propertydatacodeofconduct.com.au.

Permitted Use Terms – Licensee’s Customers

- I agree to use the Licensed Data Products that I receive from APM and/or any customer of APM only for my own personal use or in the ordinary course of my academic research. I am not a business acting as a reseller of Licensed Data Products.

ANNEXURE B - SOUTH AUSTRALIAN NOTICE

This ANNEXURE B applies in respect of data supplied by the State of South Australia.

Warning

The information contained in this dataset is extracted from records of land status and cadastral boundary definition held by the Government of the State of South Australia (the 'State'). The information is not represented to be accurate, current, complete, or suitable for any purpose, at the time of its supply by the State, and may have changed since the date of supply by the State.

The software by which the information is provided is not represented to be error free.

No responsibility is accepted by the State for any reliance placed by any person upon the information, or the software by which it is provided. Persons acquiring or using the information and its associated software must exercise their independent judgment in doing so.

Copyright

Copyright in the information remains with the Crown in right of the State of South Australia. The information is reproduced under licence from the Crown.

Privacy

The information contained in this dataset must not be used for the purpose of compiling contact lists, whether personalised or not.

Liability Statement

Copyright in this information belongs to the South Australian Government and the south Australian Government does not accept any responsibility for the accuracy or completeness of the information or its suitability for any purpose.

ANNEXURE C - STATE OF VICTORIA (LANDATA) CONDITIONS OF ACCESS AND USE

This ANNEXURE C applies in respect of data ('Property Sales Data') supplied by the State of Victoria (LANDATA). For the purposes of this schedule, you are the 'Customer'.

Terms of use for all Customers

- a. Customers must not use the Licensed Material to:
 - i. prepare mailing lists or to assist in direct marketing;
 - ii. subject to clause (h)) reproduce, repackage or on-supply the Licensed Material;
 - iii. breach the provisions of the Copyright Act 1968 (Cth) in relation to access to and use of the Licensed Material; and
 - iv. must ensure that no other person breaches the above conditions.
- b. Customers must not, access or Use the Licensed Material for marketing or promotional purposes, including compilation or validation of mailing lists, list brokering, data mining or contacting vendors or purchasers. This includes, without limitation, use of or access to the Licensed Material for the creation or validation of marketing or mailing lists or data matching. The Customer must not cause or allow the presentation of the Licensed Material to be linked to other information (by way of reference to a website or otherwise) that may infer in any way that the data may be used or available for marketing or promotional purposes. For the avoidance of doubt, this clause (b) does not prevent the Licensed Material being used for the purpose of general research of the property market.
- c. The Customer acknowledges that if it contravenes any of the requirements of the Customer Agreement or this Agreement its access to the Licensed Material may be terminated immediately.
- d. Upon the expiration or termination of the Agreement or a Customer Agreement, the Customer must immediately delete all Licensed Material from its servers and destroy or return to the Licensee or Licensor (at the election of the Licensor) all other forms (written, electronic or otherwise) of the Licensed Material in the possession or control of the Customer and its employees and agents and provide to the Licensee a certificate by one of its Directors or Company Secretary (or by a partner or the proprietor as appropriate) verifying its deletion, destruction or return.
- e. Before being granted access to the Property Sales Data, a Customer must execute a Customer Agreement.
- f. If a Customer is able to access vendor and purchaser names in accordance with the terms of this Agreement, the Customer must execute a Deed prior to being given access to such details.
- g. A User may only access or Use the Licensed Material for their own personal use and must not distribute any of the Licensed Material to any third party without the prior written permission from the Licensor.
- h. Notwithstanding clause Item 1(a)(ii), a Valuer, Government Agency or Licensed Real Estate Agent is only authorised to access the data for that customer class as detailed in Item 5 of Schedule 1 and the data accessed shall not be shared with any other person or corporation, save for:
 - i. any employee or agent who executes a Confidentiality Deed; and
 - ii. clients of the Valuer or Licensed Real Estate Agent:
 - A. where the client has commissioned the Valuer or Licensed Real Estate Agent to carry out a valuation of real estate or engaged the Valuer or Licensed Real Estate Agent to sell real estate on behalf of the client, such that the Valuer or Licensed Real Estate Agent is required to prepare an estimated selling price of the real estate in accordance with the legislative requirements of a state or territory;
 - B. only to the extent necessary that the data be included in the valuation or estimate report prepared for the client; and
 - C. in any case, details of any vendor or purchaser contained in the data must not be disclosed to the client; and

- D. with the Licensor's prior written consent companies, firms or persons carrying on business by way of a common franchise agreement or a similar common business structure; and
- iii. as permitted by law.

ANNEXURE D - WESTERN AUSTRALIAN LAND INFORMATION AUTHORITY (LANDGATE) TERMS

This ANNEXURE D applies in respect of data ('Land Information Product') supplied by the Western Australian Land Information Authority (Landgate) which is accessible when you use data provided by APM Data.

- You may only use APM Data for research purposes and must not sell, licence, hire, let, trade, expose for sale, or derive revenue from APM Data or part thereof.
- You must not use the APM Data for the purposes of Direct Marketing, being any activity which makes it possible to offer goods or services or to transmit other messages to a third party aimed at informing or soliciting a response from the third party, as well as any service ancillary to the same.
- You acknowledge that the APM Data pertaining to Western Australia is derived from Landgate's location information, © Western Australian Land Information Authority (Landgate) (201_). Landgate owns all copyright in the location information which is protected by the Copyright Act 1968. Apart from any use as permitted under the fair dealing provisions of the Copyright Act 1968, all other rights are reserved and no location information, or part thereof, may be reproduced, distributed, commercialised or re-used for any other purpose without the prior written permission of Landgate.
- You acknowledge that the location information that the APM Data is derived from is provided by Landgate in good faith on an "as is" basis. While Landgate has made every effort to ensure the accuracy, reliability, completeness and suitability of the location information, Landgate does not give any guarantee or take any responsibility or accept any liability (including without limitation, liability in negligence) arising from or connected to any errors or omissions in the location information. Landgate accepts no responsibility and disclaims all liability for any losses, damages or costs as a result of the use or reliance on the location information. Reliance should only be placed on the original source documents such as the certificate of title and survey plan available from Landgate. It is strongly recommended that users exercise their own skill and care with respect to the use of the location information, and before relying on the location information, users should carefully consider its relevance to their purpose and obtain any professional advice appropriate to their particular circumstances.
- You acknowledge that areas and dimensions shown in location information and APM Data may be approximate values only. Refer to official registered documents, survey plans, diagrams etc available from Landgate for accurate area, dimensions and other information.
- You acknowledge that the location information that the APM Data is derived from may be subject to privacy legislation and contractual restriction on its publication. Landgate takes no responsibility for any breach of privacy legislation by any person in relation to the location information.
- You must not change the land co-ordinates or spatial integrity or referencing, of any Land Information Product.
- You must not search APM Data by any restriction imposed by Landgate for reasons relating to privacy legislation or an information suppression notice given to APM by Landgate.
- You agree to be bound by and comply with obligations imposed by APM as required under its agreement with Landgate in relation to the ownership of, access to, use of and dealing with APM Data.
- You must comply with security obligations imposed by APM as required under its agreement with Landgate.
- On receipt of a written notice given to you by APM in relation to the suppression of information, you must delete or amend the land record information that is the subject of the information suppression notice from all copies of APM Data in your possession or under your control.

ANNEXURE E – NEW SOUTH WALES

This ANNEXURE E applies in respect of APM Data regarding New South Wales which APM obtain **(Property Sales Information)**.

When dealing with APM Data, you must:

- comply with Privacy Legislation and to notify the APM and LPMA of any privacy complaints made in connection with the Property Sales Information;
- act in accordance with the reasonable directions of LPMA in relation to any privacy complaint; and
- where reasonably practicable ensure that all products and services which include Property Sales Information (whether or not combined with other data) or data derived from Property Sales Information identifies LPMA as the source of the Property Sales Information and display the following notice: *"Contains property sales information provided under licence from Land and Property Management Authority"*.

ANNEXURE F – NORTHERN TERRITORY AND AUSTRALIAN CAPITAL TERRITORY

This ANNEXURE F applies in respect of APM Data regarding the Northern Territory or the ACT (**Territory Data**).

You must not:

- (a) use the Territory Data to produce any promotional material which would enable a reader or user of the promotional material to identify an individual as presently holding or as having held an interest of any kind in land identified in the Territory Data; or
- (b) sell, assign, transfer or sub-licence the Territory Data.

ANNEXURE G – COPYRIGHT DISCLAIMERS

For data pertaining to NSW:

Contains property sales information provided under licence from the Department of Finance and Services, Land and Property Information.

For data pertaining to Victoria:

The State of Victoria owns the copyright in the Property Sales Data and reproduction of that data in any way without the consent of the State of Victoria will constitute a breach of the Copyright Act 1968 (Cth). The State of Victoria does not warrant the accuracy or completeness of the Property Sales Data and any person using or relying upon such information does so on the basis that the State of Victoria accepts no responsibility or liability whatsoever for any errors, faults, defects or omissions in the information supplied.

For data pertaining to Queensland

COPYRIGHT NOTICES

© State of Queensland (Department of Natural Resources and Mines) 2018. In consideration of the State permitting use of this data you acknowledge and agree that the State gives no warranty in relation to the data (including accuracy, reliability, completeness, currency or suitability) and accepts no liability (including without limitation, liability in negligence) for any loss, damage or costs (including consequential damage) relating to any use of the data. Data must not be used for direct marketing or be used in breach of the privacy laws.

For data pertaining to South Australia:

Warning

The information contained in this dataset is extracted from records of land status and cadastral boundary definition held by the Government of South Australia (the 'State'). The information is not represented to be accurate, current, complete, or suitable for any purpose, at the time of its supply by the State, and may have changed since the date of supply by the State. The software by which the information is provided is not represented to be error free. No responsibility is accepted by the State for any reliance placed by any person upon the information, or the software by which it is provided. Persons acquiring or using the information and its associated software must exercise their independent judgement in doing so.

Copyright

Copyright in this information belongs to the South Australian Government and the South Australian Government does not accept any responsibility for the accuracy or completeness of the information or its suitability for any purpose.

Privacy

The information contained in this dataset must not be used for the purposes of compiling contact lists, whether personalised or not.

For data pertaining to Tasmania:

This product incorporates data that is copyright ownership of which is vested in the Crown in Right of Tasmania. The data has been used in the product with the permission of the Crown in Right of Tasmania.

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- a. give no warranty regarding the data's accuracy, completeness, currency, or suitability for any particular purpose; and
- b. do not accept liability howsoever arising including but not limited to negligence for any loss resulting from the use of or reliance upon the data.

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For data pertaining to the Australian Capital Territory:

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Manager

Customer Services

Environment and Planning Directorate

GPO Box 158

CANBERRA ACT 2601.

For data pertaining to the Northern Territory:

Copyright in the underlying data for the Northern Territory is owned by the Northern Territory of Australia represented by the Department of Infrastructure, Planning and Environment for which no responsibility is accepted.

For data pertaining to Western Australia:

Western Australian Land Information Authority (Landgate)

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