

***Journeys Home: Longitudinal Study of
Factors Affecting Housing Stability***

**Individual Deed of Licence for Australian
and Overseas Researchers**

The Commonwealth of Australia as represented by
the Department of Social Services (DSS)

and

the Department of Employment
("The Commonwealth")

and

name of Researcher

.....

Contents

- Application for data3**
- Instructions for completion 3**
- Parties..... 5**
- Background 6**
- Operative provisions 6**
 - 1 Definitions and interpretation..... 6
 - 2 Term of the Deed 9
 - 3 Licence 9
 - 4 Roles, Responsibilities and Access Management 9
 - 5 Administration Fee 10
 - 6 Restrictions on use of the Dataset 11
 - 7 DSS responsibility for the Dataset 12
 - 8 Provision of the Dataset..... 12
 - 9 Security 12
 - 10 User support 14
 - 11 Non-disclosure 14
 - 12 Disclosure as required by law 16
 - 13 Intellectual Property..... 16
 - 14 Acknowledgement and Disclaimer 17
 - 15 Privacy and Protected Information..... 17
 - 16 Handling of Complaints..... 18
 - 17 Conflict of interest 19
 - 18 Legal requirements 19
 - 19 Indemnity 19
 - 20 Applicable law 20
 - 21 No exclusion 20
 - 22 Dispute resolution 20
 - 23 Termination of Deed..... 20
 - 24 Notices 21
 - 25 Miscellaneous 22
- Execution 25**

Application for data from *Journeys Home*: Longitudinal Survey of Factors Affecting Housing Stability

Please tick the dataset you require.

***Journeys Home* General Release**

This file contains the survey data and some confidentialised and derived variables.

(or)

***Journeys Home* Limited Release**

This file is the Unconfidentialised version of *Journeys Home* data which contains the General Release data and additional information from the Research and Evaluation Database (RED) held by the Department of Employment.

Users of the Unconfidentialised datasets need to abide by additional security requirements as stated in the Deed and *Journeys Home* Fact Sheets 1-3. Before the Commonwealth gives approval to use the Unconfidentialised datasets, applicants must demonstrate that they can meet the security requirements and justify the research need for data at this detailed level.

It is preferable that applicants have previous experience in using longitudinal datasets when applying for the Limited Release. Please note that past approval from the Department of Employment does not automatically provide approval to use *Journeys Home* RED data.

(or)

Overseas Release

Overseas researchers may only apply for the survey dataset with an income variable.

Access to the *Journeys Home* datasets is at the discretion of the Branch Manager managing *Journeys Home*, DSS, in conjunction with the Department of Employment.

The mention of Unconfidentialised data throughout the document will refer to the Limited Release file which has a protocol that differs from those of the other DSS Unconfidentialised data files. The main differences are that the Department of Employment needs to approve the use of the data, as well as DSS, and there may be additional limitations on what details can be published.

Applicants must also complete and sign a Deed of Confidentiality.

Unlike other DSS longitudinal studies, organisational licences are not available for *Journeys Home* data.

Instructions for completion

All information should be written clearly or typed. Please take care to ensure email addresses are correct. All **highlighted fields** in the deed must be completed. Further information about completing this form can be found in the [following Fact Sheets](#):

1. Licensing Arrangements *Journeys Home*, Eligibility and Applying for Access.
2. Roles and Responsibilities of Licensees and Supervisors.
3. Providing Research Material to DSS.

When completed, this application can be:

Emailed to: longitudinalsurveys@dss.gov.au

Or faxed to: (02) 6206 9545

Or mailed to: Department of Social Services
PO Box 7576
Canberra Business Centre
ACT 2610
Attn: Longitudinal Surveys Business Owner
Research and Analysis Branch TOP DE4

Note: if you email or fax these forms you do not need to send the originals. Faxes sent to this number will be delivered to the longitudinal surveys inbox and not to a fax machine. Please do not use staples on paper copies. We prefer double sided printing.

Any queries about your application should be sent to:
longitudinalsurveys@dss.gov.au

Once approved by DSS you will be sent an electronic copy of your application form and signed Deed of Licence which you should retain for your records.

If your contact details later change, please email these changes to:
longitudinalsurveys@dss.gov.au

**THIS PAGE MUST BE DELETED PRIOR TO PRINTING
AND/OR SENDING THIS APPLICATION TO DSS**

Parties

The Commonwealth of Australia as represented by the Department of Social Services (**DSS**) and the Department of Employment

And the **Licensee**

Family Name	
First Name	
Title (Prof, Dr, Ms, Mr)	
Name of Organisation	
Position (if student, specify current level e.g. Masters, PhD)	
If a student, Name of Supervisor*	
Contact Details of Supervisor	Email: Business Telephone:
Postal Address (business)	
Address (where data will be used)	
Telephone (business)	
Email (business)	
Indicate how will data be accessed	CD ROM Secure Server Secure Room

Note: If a student - *Supervisors must have independent access to the dataset for which the student is applying.

You will be sent the latest version and release of the nominated datasets.

Background

- A. The Licensee wishes to use a DSS dataset/s for a specific research project that is to be conducted by the Licensee and is of interest to the Commonwealth in meeting its strategic priorities.
- B. The Commonwealth of Australia through DSS offers to provide the Dataset to the Licensee on the terms set out in this Deed and the Licensee accepts the terms.

Operative provisions

1 Definitions and interpretation

Definitions

1.1 In the Deed the following definitions apply:

Approved Research means the research project(s) in relation to which DSS and the Department of Employment have approved the use of the Datasets under this Deed.

Business Day means any day on which all banks are open for business generally in Canberra, Australian Capital Territory.

Business Owner means the Principal Adviser, Homelessness and Analysis Branch, DSS or another officer of DSS formally notified as the person to whom notices to DSS are to be addressed under clause 23.1.

Commencement Date means the date of execution of this Deed by both parties.

Confidential Information means, in relation to the Commonwealth, information that:

- (a) is by its nature confidential
- (b) is designated in writing by the Commonwealth as confidential;
- (c) is Personal Information under the *Privacy Act 1988*,
- (d) is Protected Information under section 23(1) of the *Social Security Act 1991*(see also Division 3 of Part 5 of the *Social Security (Administration) Act 1999*),
- (e) is Protected Information under Division 2 of Part 6 of *A New Tax System (Family Assistance) (Administration) Act 1999*; or
- (f) the Licensee knows or ought to know is confidential,

and includes, but is not limited to:

- (a) the Sample; or

(b) information comprised in or relating to any Intellectual Property of the Commonwealth or third parties;

but does not include information which:

(c) is or becomes public knowledge other than by breach of:

- this Deed; or
- other confidentiality obligations; or
- the *Privacy Act 1988*; or
- the *Social Security Act 1991*; or
- the *Social Security (Administration) Act 1999*; or
- the *A New Tax System (Family Assistance) Act 1999*; or
- *A New Tax System (Family Assistance) (Administration) Act 1999*; or

(d) the Licensee can establish by written evidence has been independently developed or acquired by the Licensee without breach of any obligation of confidence.

Datasets means any or all of the DSS latest General Release, Unconfidentialised Limited Release and survey data from the *Journeys Home* study as indicated by the Licensee at the beginning of the Deed.

Deed of Confidentiality means the Deed of Confidentiality referred to in the Fact Sheets.

Department of Employment means the Commonwealth as represented by the Department of Employment.

Document includes:

- (a) any paper or other material on which there is writing;
- (b) any paper or other material on which there are marks, figures, symbols or perforations having a meaning to persons qualified to interpret them; and
- (c) any article, material or media from which sounds, images or writings are capable of being reproduced with or without the aid of any other article or device.

Fact Sheets means the numbered Fact Sheets prepared by DSS and published on the websites www.dss.gov.au and http://www.melbourneinstitute.com/journeys_home/ as updated from time to time. The Fact Sheets separately contain various requirements for the administration of the Datasets and describe the licensing process, responsibilities of Licensees and Supervisors and publication of research.

DSS means the Commonwealth as represented by the Australian Government Department of Social Services.

FLoSse means the DSS's Longitudinal Surveys Electronic Research repository into which users must directly deposit bibliographic details of research created using the datasets <http://flosse.dss.gov.au>.

General Release means a release of data from which Personal Information such as names, addresses (including postcodes) and date of birth have been removed and other information has been modified by various methods such as top coding and the application of classification codes at a more general level.

Journeys Home refers to the study *Journeys Home: Longitudinal Study of Factors Affecting Housing Stability*.

Intellectual Property means copyright (and all associated rights, including moral rights), and all rights in relation to inventions, registered and unregistered trade marks (including service marks), registered and unregistered designs, and circuit layouts, and any other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.

Licensee means the other party to this Deed, other than the Commonwealth. The Licensee agrees with respect to all Confidential Information made available or provided by the Commonwealth or any other person at any time which comprises Personal Information as defined in the *Australian Privacy Act 1988*.

Limited Release in relation to *Journeys Home* means the Unconfidentialised version of *Journeys Home* data which contains additional information from the RED database held by the Department of Employment.

Permitted Geographic Area means any of the areas falling within the geographical area classifications – State and Territory, Greater Capital City Statistical Areas, Statistical Area 4 or Section of State – that are described in the Australian Statistical Geography Standard (ASGS), 2011, released and used by the Australian Bureau of Statistics (ABS) for the collection and dissemination of geographically classified statistics (descriptions of these geographical area classifications are available on the ABS website at [http://www.abs.gov.au/websitedbs/d3310114.nsf/home/australian+statistical+geography+standard+\(asgs\)](http://www.abs.gov.au/websitedbs/d3310114.nsf/home/australian+statistical+geography+standard+(asgs)))

Release means a dataset that differs from another dataset from the same survey in that it contains additional information based on new responses from survey respondents. For the purposes of the Deed, a Release does not include a new version of the data in which changes have been made based on the existing information from respondents.

Research Material means any final research findings based on the analysis of the Dataset created by the Licensee.

Survey Contract Manager means the Melbourne Institute of Applied Economic and Social Research at the University of Melbourne, Australia.

Unauthorised Person means a person who is not authorised in writing by DSS and the Department of Employment to use the Dataset.

Unconfidentialised Data means the Limited Release file which has a protocol that differs from those of the other DSS Unconfidentialised data files. The main differences are that the Department of Employment needs to approve the use of the data, as well as DSS, and there may be additional limitations on what details can be published.

Unit Record Data means records about individual respondents from the Datasets, that is, unaggregated data.

Interpretation

- 1.2 In the Deed, unless the context otherwise requires:
 - 1.2.1 a reference to any law or legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision;
 - 1.2.2 a reference to any agreement or Document is to that agreement or Document as amended, novated, supplemented or replaced from time to time;
 - 1.2.3 words in the singular include the plural and words in the plural include the singular;
 - 1.2.4 all references to clauses are reference to clauses in the Deed;
 - 1.2.5 where any word or phrase has been given a defined meaning, any part of speech or other grammatical form about that word or phrase has a corresponding meaning;
 - 1.2.6 if an example is given of any thing (including a right, obligation or concept), the example does not limit the scope of that thing; and
 - 1.2.7 each party provision of the Deed will be interpreted without disadvantage to the party who (or whose representative) drafted that provision, that is, the *contra proferentum* rule does not apply to the Deed.

2 Term of the Deed

- 2.1 The Deed takes effect on and from the Commencement Date and, unless terminated in accordance with the Deed, will continue in force until the Licensee complies with the conditions set out in clause 9.2 or until __ / __ / __ (three years from date of application), whichever is earlier.

3 Licence

- 3.1 The Commonwealth grant to the Licensee a non-exclusive, non-transferable licence to use, copy, adapt and modify the Datasets on the terms set out in this Deed for the purposes of undertaking Approved Research and for the term of the Deed.

4 Roles, Responsibilities and Access Management

- 4.1 The Licensee agrees to comply with all procedures and requirements as specified in the Fact Sheets located on the [insert name and link] website and current from time to time which form part of the documentation for the administration of the Deed.
- 4.2 The Licensee will check the website regularly and agrees to comply with the

provisions set out in the latest version of those Fact Sheets as they appear on the website from time to time.

- 4.3 If the Licensee is unable or unwilling to comply with the provisions of the latest version of the Fact Sheets, the Licensee must immediately notify DSS and comply with the requirements of clause 9.2.

5 Administration Fee

- 5.1 The Licensee must pay the administration fee of \$77 (GST incl) to the Survey Contract Manager prior to the Dataset being provided.
- 5.2 The administration fee is AUD\$121 for overseas-based Licensees and the Survey Contract Manager will provide a tax invoice as soon as reasonably practicable.

6 Restrictions on use of the Dataset

6.1 The Dataset must only be used for the purposes of undertaking the following research project (**PLEASE PROVIDE SUFFICIENT INFORMATION**):

What are the research aims/ questions or hypotheses for which you will be using the data?

What is your analytical plan or the key variables you will be examining?

What outputs do you intend will result from this research (e.g. journal article, thesis, book chapter, report, conference presentation etc)? *(If you intend to produce more than one article, please include all that you know about at the time of application.)*

If this project is being sponsored or commissioned by an agency other than the organisation listed in this application, please provide the full name of the sponsoring organisation (for administrative purposes only).

Who will own the Intellectual Property of the research material for which the data will be used?

Expected Date of Completion of Research ____/ ____ / ____ (dd/mm/yy)

The Licensee must obtain approval from the Commonwealth before using the Dataset for any research topic other than specified in this clause.

6.2 Subject to clause 15 of this deed, the Licensee may copy/reproduce the Dataset for the permitted purpose, but may not copy/reproduce the Dataset for any other reason (e.g. give copies of the Dataset to Unauthorised Persons).

6.3 The Licensee must not:

6.3.1 use the Unconfidentialised dataset for the purpose of reporting on or showing data in relation to a geographic area other than a Permitted Geographic Area; or

6.3.2 perform any matching, sharing, merging or linkage of any of the *Journeys Home* datasets with any non-*Journeys Home* datasets without the prior written consent of the Commonwealth; or

6.3.3 attempt to identify any individuals in the Dataset; or

6.3.4 publish, in any form, any part of the Dataset.

7 DSS responsibility for the Dataset

7.1 The Dataset is provided to the Licensee on an "as is" basis and the Commonwealth is not responsible for its accuracy, quality or fitness for purpose.

8 Provision of the Dataset

8.1 Subject to clause 5.1 DSS and the Survey Contract Manager will use its best endeavours to arrange the provision of the Dataset to the Licensee as soon as possible after the date of signature of this Deed.

8.2 The Melbourne Institute must notify the Licensee immediately in writing of any delay in the arrangement of the provision of the Dataset in accordance with clause 8.1 and in this event the parties will agree on a revised delivery date and appropriate changes to other timing obligations included in the Deed.

9 Security

9.1 The Licensee must comply at all times with any security requirements notified by the Commonwealth and with the following security requirements in relation to the Datasets:

9.1.1 comply with the minimum standards for the protection of 'Protected' information in accordance with the Security-In-Confidence *Protective Security Policy Framework* (PSPF) and the *Information Security Manual* (ISM) as notified by the Commonwealth from time to time;

9.1.2 have signed a Deed of Confidentiality in the form referred to in the Fact Sheets, which must be provided to the Commonwealth, prior to the Data being accessed by that person;

9.1.3 only allow the Unit Record Data from the Datasets to be viewed by Licensees as set out in Fact Sheet 2;

9.1.4 store all complete or partial **General Release** dataset/s, either on a

password protected stand alone computer (not networked) or on a password protected drive with a correctly configured server;

- 9.1.5 store all complete or partial **Unconfidentialised** dataset/s, either on a password protected stand alone computer (not networked) or on a password protected drive on a computer network that has an intruder-resistant firewall, of Defence Signals Directorate approved standard;
- 9.1.6 the password should be at least seven characters long, and contain a mix of upper and lower case characters, and numerics or symbols;
- 9.1.7 access to the password protected drive is only by Licensees as defined in Fact Sheet 2 and the password must only be known to Licensees of the Datasets;
- 9.1.8 where the Licensee does not have access to the **General Release** dataset via a password protected server, Licensees may arrange with the Data Manager to provide them with a **password protected** copy of the Dataset via CD ROM or DVD that is to be kept and used only on the Organisation's premises. Each CD ROM or DVD will be given a serial number by the Data Manager and will be the responsibility of the Licensee to whom it was given;
- 9.1.9 where the Licensee does not have access to the **Unconfidentialised** dataset via a password protected server, Licensees may arrange with the Data Manager to download the Dataset onto a password protected stand alone computer (clauses 6, 7, 9, and 10, apply only in this case);
- 9.1.10 there must be an effective means of limiting entry during both operational and non-operational hours to the dedicated lockable room/s in which the **Unconfidentialised or General Release** datasets are used or stored. The room must be locked when a Licensee is not there ;
- 9.1.11 removable hard drives, CD ROMs, DVDs or other formats containing the Datasets must be stored in a locked commercial grade filing cabinet when not in use;
- 9.1.12 the keys or combinations to lockable containers in which Datasets are kept must be kept secure and not be given to any Unauthorised Person;
- 9.1.13 a record must be kept of all people who have been issued with keys and/or combinations to containers in which the Datasets are used or stored;
- 9.1.14 any unit record output from the Datasets must not be left unsecured for more than 15 minutes, and must be stored in a locked commercial grade container and disposed of using a crosscut shredder when no longer required;
- 9.1.15 when using the Datasets, users must lock their screen when they are away from their workstation and must have a password protected screen saver set to be activated after no more than 10 minutes;
- 9.1.16 the Business Owner or their nominated representative may with at least three Business Days' notice and during normal business hours make a physical inspection of the premises in which the Datasets are stored or used to ensure the security measures are in place, subject to the Business Owner

complying with the security measures of the Organisation; and

9.1.17 If the security arrangements are at any time below the standards required by the Deed, the Business Owner will provide a written notice to the Licensee. The Licensee will be given 14 days from the date of such notice to increase the security standards to meet the requirements of the Deed before the next inspection. If the Licensee fails to meet security standards by the end of the 14-day notice period, the Commonwealth may, without further written notice, immediately terminate the Deed.

9.2 The Licensee is responsible for the Datasets until all of the following conditions have been complied with:

9.2.1 destruction of all CD/DVDs containing the Datasets by breaking each disc into at least four pieces;

9.2.2 cancellation of access to the password protected drive on a computer network;

9.2.3 destruction of all paper copies of unit record data in accordance with clause 9.1.10; and

9.2.4 provision of written confirmation to DSS that clauses 9.2.1, 9.2.2 and 9.2.3 have been complied with.

10 User support

10.1 DSS will use its best endeavours to provide the Licensee, through the Survey Contract Manager, with technical assistance in the use of the Dataset in accordance with this Deed.

10.2 The Commonwealth's responsibility to provide technical assistance under this clause is subject to the availability of resources and competing work demands as well as the nature of the assistance requested.

11 Non-disclosure

11.1 In consideration of the Commonwealth disclosing certain Confidential Information to the Licensee pursuant to the terms of this Deed, the Licensee acknowledges and agrees with the Commonwealth:

11.1.1 that all Confidential Information is secret and confidential, is the property of the Commonwealth, and is of value to the Commonwealth, and that any Confidential Information disclosed to the Licensee is only disclosed pursuant to the terms of this Deed;

11.1.2 to keep Confidential Information secret and confidential at all times;

11.1.3 that it must not, other than with the prior written approval of the Commonwealth (which may be granted or withheld in the Commonwealth's absolute discretion);

- (a) use, disclose, divulge, make a digital or any other copy of, transmit electronically (including via e-mail) or deal with any Confidential Information; or
- (b) allow any act, matter or thing to be done or occur whereby any Confidential Information may be ascertained or used by, or disclosed or communicated to, any other person, except in accordance with the terms of this Deed; and

11.1.4 that it must observe and be bound by the provisions of this Deed.

11.2 For the avoidance of doubt, the Licensee acknowledges and agrees that it must not in any circumstances disclose or communicate Confidential Information on the internet.

11.3 Subject to clause 12 (Disclosure as required by law), the Licensee must:

- 11.3.1 take all reasonable steps and do all reasonable things necessary, and do all things that may be reasonably required by the Commonwealth to keep the Confidential Information, including all Documents, and all other things recording, containing, setting out or referred to any Confidential Information, under effective control of the Licensee;
- 11.3.2 immediately notify the Commonwealth if the Licensee becomes aware of any unauthorised access to, or use or disclosure of, any Confidential Information;
- 11.3.3 not use, copy or reproduce any Document or any other thing, nor allow any other person to use or reproduce any such thing, recording, containing, setting out or referring to any Confidential Information otherwise than for the purposes of this Deed;
- 11.3.4 take all reasonable steps to ensure that the Confidential Information, including all Documents and all other things recording, containing, setting out or referred to the Confidential Information, are protected at all times from any unauthorised use or access;
- 11.3.5 subject to clause 11.4, upon expiration or termination of this Deed, or if otherwise required at any time by the Commonwealth to do so, deliver up to the Commonwealth, or at the option of the Commonwealth destroy, all Confidential Information in all forms and media, including without limitation all Documents containing, setting out or referring to any Confidential Information in the possession, custody or control of the Licensee; and
- 11.3.6 if required by the Commonwealth:
 - (a) permit the Commonwealth or any nominees of the Commonwealth reasonable access to the premises and records of the Licensee, (including without limitation, access to any of the Licensee's computer hard drive and computer disks) to ensure or check compliance with this Deed; and/or

- (b) provide to the Commonwealth a statutory declaration signed by the Licensee stating that clause 11.3.5 has been complied with.

11.4 The Licensee may retain a copy of the Confidential Information if, and only to the extent to which and for the purpose for which, the Licensee is required by law to do so but subject to compliance with this clause.

11.5 This clause 11 will survive the expiration or termination of this Deed.

12 Disclosure as required by law

12.1 The Licensee may disclose any Confidential Information which the Licensee is required by law to disclose, but only if the extent and the manner of the disclosure is strictly limited to what is required by law.

12.2 The Licensee undertakes to provide the Commonwealth with sufficient notice to enable the Commonwealth to seek a protective order or other relief from disclosure and to provide all assistance and co-operation which the Commonwealth reasonably considers necessary for that purpose.

12.3 Where the Licensee discloses Confidential Information to another person required by law, the Licensee must notify the receiving person that the information is Confidential Information.

12.4 This clause will survive the expiration or termination of this Deed.

13 Intellectual Property

13.1 The Licensee acknowledges and agrees that the Commonwealth owns all Intellectual Property rights in the Dataset.

13.2 Except where specified under a separate agreement, the Commonwealth will not own the Intellectual Property rights in any Research Material created using the Dataset to the extent the Research Material does not include the Unit Record Data.

13.3 The Licensee must enter into FLoSse, bibliographic details of any final Research Material produced by the Licensee using the Datasets within 30 days of completion.

13.4 The Licensee is exempt from the requirements in clause 13.3 if the Research Material is for internal administration of Australian Government agencies or for confidential business purposes for the Australian Government.

13.5 Where the Licensee has ownership of the Intellectual Property, the Licensee grants a perpetual licence to the Commonwealth to use, reproduce, adapt and modify the Research Material for any of the Commonwealth's Internal Purposes.

13.6 The Licensee must provide copies of any research papers or any other Documents produced by the Licensee based on the Datasets at least 28 days before they are to be made public through presentation (in any form) and at least 28 days in

advance of publication for the Licensee's approval to publish to the Commonwealth (in order to give effect to clause 13.5).

13.7 For the purposes of this clause 13, the Commonwealth's Internal Purposes means:

13.7.1 use of the Research Material by DSS or the Department of Employment to understand the extent to which the Datasets are being used; and

13.7.2 ready access by the Commonwealth to information and research to support internal policy development and evaluation.

13.8 Where the Licensee is not the owner of the Intellectual Property of the Research Material, the Licensee warrants that he or she will procure a sub-licence from a third party for the Research Material on the same terms as the Licensee grants to DSS under clause 13.5.

13.9 If the Commonwealth wishes to make any part of the Research Material publicly available, the Commonwealth will first obtain the written consent of the owner of the Intellectual Property.

13.10 This clause 13 will survive the expiration or termination of the Deed.

14 Acknowledgement and Disclaimer

14.1 The Licensee agrees to acknowledge DSS, the Department of Employment and the Survey Contract Manager for the use of the Dataset and assistance provided in using the Dataset in any reports and publications that use the Dataset.

14.2 The Licensee agrees that any of the material produced by the Licensee and made publicly available will include the acknowledgment in *Journeys Home* Fact Sheet 2 or any variation of the acknowledgement approved in writing by the Commonwealth in any reports and publications.

14.3 The Licensee will include a statement in any reports and publications based on the Data that states that the research findings are made by the Licensee and the views expressed by the Licensee should not be attributed to the Commonwealth.

15 Privacy and Protected Information

15.1 The Licensee agrees with respect to all Confidential Information made available or provided by the Commonwealth or any other person at any time which comprises Personal Information as defined in the *Australian Privacy Act 1988* (the Act):

15.1.1 to comply as if they were an agency bound by the Act with those provisions of the Act concerning the security, use and disclosure of information;

15.1.2 to co-operate with any reasonable demands or enquiries made by the Privacy Commissioner;

15.1.3 to ensure that any person who has an access level which would enable that person to obtain access to any information in respect of which the Commonwealth has obligations under the Act is made aware of, and undertakes in writing, to observe the provisions referred to in clause 15.1.1 above;

- 15.1.4 to take all reasonable measures to ensure that such information is protected against loss and against unauthorised access, use, modification, disclosure or other misuse and that only Approved Individuals have access to it;
- 15.1.5 not to transfer such information outside Australia, or allow parties outside Australia to have access to it, without the prior written approval of the Commonwealth;
- 15.1.6 to immediately notify the Commonwealth when the Licensee becomes aware of a breach of security by any Individual; and
- 15.1.7 to notify the Commonwealth of, and co-operate with the Commonwealth in the resolution of, any complaint alleging an interference with privacy.

15.2 The Licensee agrees to:

- (a) use Protected Information held or controlled by it in connection with this Deed only for the purposes of fulfilling its obligations under this Deed;
- (b) comply with Part 6 – Division 2 of *A New Tax System (Family Assistance) (Administration) Act 1999*; and
- (c) comply with Part 5 – Division 3 of the *Social Security (Administration) Act 1999*.

15.3 The Licensee's obligations in this clause 15 are in addition to, and do not restrict, any obligations it may have under:

15.3.1 the Act; or

15.3.2 any:

- (a) privacy codes; or
- (b) privacy principles contained in, authorised by or registered under any law,

including any such privacy codes or principles that would apply to the Licensee but for the application of the other provisions of this clause 15.

15.4 This clause 15 will survive the expiration or termination of this Deed.

16 Handling of complaints

16.1 A complaint to a party (First Party) alleging an interference with the privacy of an individual in respect of work performed under this Deed will be handled by the First Party in accordance with the following procedures:

- (a) the First Party must immediately notify the other parties of only those details of the complaint necessary to minimise any breach or prevent further breaches of the privacy provisions of the Act;

- (b) after the other parties have provided or been provided with notice in accordance with clause [above], it must keep the First Party informed if the other party (or its representative) decides to conduct enquiries or any investigation into the alleged interference with privacy; and
- (c) the First Party agrees to keep the other party informed, where appropriate, of all progress with the complaint as related to the actions of the First Party in connection with the allegation of an interference with the privacy of an individual.

16.2 Where required, the other party will co-operate with the First Party during the course of the First Party's enquiries and/or investigation. DSS, as the main Australian Government department administering the release of *Journeys Home* data, will form the First Party.

17 Conflict of interest

17.1 The Licensee warrants that no conflict of interest exists or is likely to arise while in receipt of Confidential Information.

17.2 The Licensee warrants that it will not permit any situation to arise or engage in any activity that may result in a conflict of interest with the Licensee's receipt of Confidential Information.

18 Legal requirements

18.1 Each party acknowledges and agrees to comply with the law in force in the Australian Capital Territory (Australia), including but not limited to the:

18.1.1 *Social Security Act 1991*;

18.1.2 *Privacy Act 1988*; and

18.1.3 *Criminal Code Act 1995*.

18.2 The Licensee acknowledges that unauthorised disclosure of information held by the Commonwealth is subject to the sanction of criminal law under sections 70 and 79 of the *Crimes Act 1914* and section 91.1 of the *Criminal Code Act 1995*.

19 Indemnity

19.1 The Licensee agrees to indemnify the Commonwealth from and against any:

19.1.1 cost or liability incurred by the Commonwealth;

19.1.2 loss of or damage to property of the Commonwealth; or

19.1.3 loss or expense incurred by the Commonwealth in dealing with any claim against it including reasonable legal costs and expenses on a solicitor/own client basis;

arising from:

- 19.1.4 any negligent act or omission by the Licensee in connection with the use of the Dataset;
- 19.1.5 any breach by the Licensee of its obligations or warranties under this Deed;
- 19.1.6 any use or disclosure by the Licensee of Confidential or Personal Information held or controlled in connection with this Deed; or
- 19.1.7 the use by the Commonwealth of the Research Material as intended under this Deed but only to the extent that the Research Material has not been misquoted or taken out of context.
- 19.2 The Licensee's liability to indemnify the Commonwealth under clause 19.1 will be reduced proportionately to the extent that any negligent act or omission of DSS contributed to the relevant liability, loss or damage, or loss or expense.
- 19.3 The right of the Commonwealth to be indemnified under this clause 19 is in addition to, and not exclusive of, any other right, power or remedy provided by law, but the Commonwealth is not entitled to be compensated in excess of the amount of the relevant liability, loss or damage, or loss or expense.
- 19.4 This clause 19 will survive the expiration or termination of this Deed.

20 Applicable law

- 20.1 This Deed will be governed by and construed in accordance with the laws of the Australian Capital Territory (Australia) and the Licensee agrees to submit to the non-exclusive jurisdiction of the courts of the Australian Capital Territory in respect of all matters arising under, or in relation to, this Deed.

21 No exclusion

- 21.1 This Deed does not exclude the operation of any principle of law or equity intended to protect and preserve the confidentiality of the Confidential Information.
- 21.2 The rights and remedies provided under this Deed are cumulative and not exclusive of any rights or remedies provided by law.

22 Dispute resolution

- 22.1 The Commonwealth and the Licensee will attempt in good faith to resolve through negotiation any disputes, claim or controversy arising out of or relating to this agreement.

23 Termination of Deed

- 23.1 This Deed may be terminated by either party providing at least 14 days prior notice in writing.
- 23.2 Subject to clause 9.2, the Commonwealth may terminate this Deed by notice in writing, with effect from the date in the notice, if the Licensee fails to remedy a breach of the Deed within 30 days of being given notice by the Commonwealth requiring the breach to be remedied.

23.3 On expiration or termination of this Deed in accordance with clause 22.1 or clause 23.2, the Licensee must immediately follow the process described in clause 9.2 or take such other steps as agreed with the Commonwealth.

24 Notices

Giving notices

24.1 A notice, consent, information, application or request that must or may be given or made to a party under the Deed is only given or made if it is in writing and:

24.1.1 delivered or posted to that party at its address set out below;

24.1.2 emailed to that party at its email address set out below; or

24.1.3 faxed to that party at its fax number set out below.

If a party gives the other party 5 Business Days' notice of a change of its email or postal address, a notice, consent, information, application or request is only given or made by that other party if it is delivered, posted or emailed to the latest address.

The Commonwealth

Name: Department of Social Services
Business Owner Longitudinal Surveys
Research and Analysis Branch TOP DE4

Postal Address: PO Box 7576
Canberra Business Centre ACT 2610

Email: longitudinalsurveys@dss.gov.au

Fax: 02 6206 9545

Licensee

Name:

Position:

Address:

Email:

Fax Number:

I understand that I must provide the Commonwealth with any changes to the above information.

Signature of the Licensee **Date**.....

Time notice is given

24.2 A notice, consent, information, application or request is to be treated as given or made at the following time:

24.2.1 if it is delivered, when it is left at the relevant address;

24.2.2 if it is sent by post, 5 Business Days after it is posted; or

24.2.3 if it is sent by email or fax, upon actual receipt by the addressee.

If a notice, consent, information, application or request is delivered after the normal business hours of the party to whom it is sent, it is to be treated as having been given or made at the beginning of the next Business Day.

25 Miscellaneous

Assignment

25.1 Except as expressly permitted by the Deed, the Licensee must not assign any of their rights under this Deed without the prior written consent of the Commonwealth. That consent may be given or withheld at the Commonwealth's absolute discretion.

Costs

25.2 Each party will bear its own costs in relation to this Deed, including the exercise of rights and performance of obligations specified in the Deed.

Entire agreement

25.3 This document contains everything the parties have agreed on in relation to the matters it deals with. No party can rely on an earlier document, or anything said or done by another party, or by a director, officer, agent or employee of that party, before the Deed was executed, save as permitted by law.

No agency or partnership

25.4 No party is an agent, representative, partner of any other party by virtue of the Deed.

No authority to act

25.5 No party has any power or authority to act for or to assume any obligation or responsibility on behalf of another party, to bind another party to any agreement, negotiate or enter into any binding relationship for or on behalf of another party or pledge the credit of another party except as specifically provided in the Deed or by express agreement between the parties.

Severability

25.6 If a clause or part of a clause of the Deed can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from the Deed, but the rest of the Deed is not affected.

Time for action

25.7 If the day on or by which something is required to be done or may be done is not a Business Day, that thing must be done on or by the next Business Day.

Variation

25.8 No variation of the Deed will be of any force or effect unless it is in writing and signed by the parties to the Deed.

Waiver

25.9 The fact that a party fails to do, or delays in doing, something the party is entitled to do under the Deed, does not amount to a waiver of any obligation of, or breach of obligation by, another party. A waiver by a party is only effective if it is in writing. A written waiver by a party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

Execution

Date:/...../..... (this is the date of signature by the **last delegate to sign**)

Signed, sealed and delivered for and on behalf of **THE COMMONWEALTH OF AUSTRALIA as represented by the Department of Social Services** by

.....
Name of authorised officer (print)

.....
Signature of authorised officer

In the presence of

.....
Name of witness (print)

.....
Signature of witness

Signed, sealed and delivered for and on behalf of **THE COMMONWEALTH OF AUSTRALIA as represented by the Department of Employment** by

.....
Name of authorised officer (print)

.....
Signature of authorised officer

In the presence of

.....
Name of witness (print)

.....
Signature of witness

Signed, sealed and delivered by

.....
Name of Licensee (Researcher) (print)

.....
Signature of Licensee (Researcher)

In the presence of

.....
Name of witness (print)

.....
Signature of witness