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DATA SHARING AGREEMENT - PROPERTY TRANSACTIONS BULK DATA

between

The Keeper of the Registers of Scotland

and

**The Assessor and Electoral Registration Officer for Highland & Western Isles
Valuation Joint Board**

Parties

- 1 Keeper of the Registers of Scotland, Meadowbank House, 153 London Road, Edinburgh, EH8 7AU ("Registers of Scotland")
- 2 The Assessor and Electoral Registration Officer (ERO) for Highland & Western Isles Valuation Joint Board, Moray House, 16 - 18 Bank Street, Inverness IV1 1QY ("the Recipient")

Background

- A The Keeper of the Registers of Scotland is a non-Ministerial office-holder in the Scottish Administration responsible for compiling and maintaining public registers relating to property and legal documents in Scotland. Registers of Scotland is a non-ministerial department which operates as a trading fund under the control of the Keeper.
- B The Recipient is the Assessor & ERO for Highland & Western Isles Valuation Joint Board. The Valuation Joint Board was established by the Valuation Joint Boards (Scotland) Order 1995 to carry out the valuation functions of Highland Council and Comhairle nan Eilean Siar (Western Isles Islands Council) and has the following statutory valuation and registration functions: to produce and maintain the Valuation Roll setting out the values of all non-domestic properties for rating purposes; and to produce and maintain the Valuation List which sets out the banding of all dwellings for Council Tax. The Assessor & ERO was appointed under section 27 of the Local Government etc. (Scotland) Act 1994 and section 8(3) of the Representation of the People Act 1983 to carry out the foregoing statutory functions on behalf of the Highland & western Isles Valuation Joint Board and to prepare and maintain the Register of Electors.
- C This Agreement sets out the arrangements that the Parties have agreed to put in place to facilitate the sharing by Registers of Scotland with the Recipient of Bulk Data, including Personal Data, to assist the Recipient in discharging its statutory functions.
- D Registers of Scotland agrees to share the Bulk Data with the Recipient on the terms set out in this Agreement and the Recipient agrees to use the Bulk Data, including the Personal Data, on the terms and for the purpose set out in this Agreement.

1 Definitions

Agreed Purpose means the purpose for which the Recipient may use the Bulk Data as set out in clause 3.2.

Bulk Data means the data relating to property transactions in Scotland obtained by Registers of Scotland from registration applications and shared with the Recipient under the terms of this Agreement, as more particularly described in clause 4 and including Personal Data.

Commencement Date means 1 May 2018

Data Protection Authority means the UK Information Commissioner.

Data Protection Legislation means (i) unless and until it is no longer directly applicable in the UK, the General Data Protection Regulation (Regulation (EU) 2016/679 (GDPR) and any applicable national implementing laws as amended from time to time (ii) the Data Protection Act 2018 (subject to Royal Assent) to the extent that it relates to processing of personal data and privacy; and (iii) any applicable laws relating to processing of personal data and privacy.

Parties means Registers of Scotland and the Recipient.

Personal Data means the personal data to be supplied to the Recipient by Registers of Scotland which comprises the names and addresses of the Granter and Applicant obtained in connection with the registration of a property transaction in the Land Register.

Controller; Data Subject; Subject Access Request; Personal Data Breach and Data Protection Officer shall have the meanings assigned to them in the GDPR.

2 Term

- 2.1 This Agreement will commence on the Commencement Date and will continue in force unless and until it is terminated in accordance with clause 14.
- 2.2 For the avoidance of doubt, any Bulk Data that has been supplied to the Recipient by Registers of Scotland prior to the Commencement Date will continue to be subject to all the terms and conditions of the applicable Licensing Agreement between the Parties, which shall continue in full force and effect in relation to that Bulk Data with the exception of any obligation for Registers of Scotland to supply the Continuing All Sales Data Report, which obligation is superseded by this Agreement from the Commencement Date.

3 Purpose

- 3.1 The Bulk Data contains Personal Data. The Recipient has a statutory duty to maintain the Valuation List (Council Tax), Valuation Roll and Register of Electors. The Recipient operates in a rural locality where many properties have the same property address in the same locality and may also have the same property name within the whole area. This may cause incorrect identification of a property for the statutory purposes. The inclusion of the Personal Data (Granter's and Applicant's names and addresses) in the Bulk Data is necessary to assist the Recipient in confirming the correct property so that the Recipient can properly carry out its statutory functions.
- 3.2 The Recipient agrees to use the Bulk Data, including any processing of Personal Data only for the following Agreed Purpose:
- Council Tax Valuation List - electronic records for every house with survey information and sales details. Recent sales information is held in case a Council Tax Revaluation requires to be carried out and to support other Council Tax banding activities.
 - Valuation Roll - a sales database which uses the Bulk Data to support the process of determining Rateable Value on all non-domestic subjects and to ensure that the Valuation Roll contains the correct tenure information.

- Electoral Register – The Bulk Data provided by Registers of Scotland may assist in the maintenance of the Register, in particular in relation to a possible change of occupier. The Bulk Data allows the Recipient to follow up all notifications of changes in ownership by issuing a form to the new occupier.
- Registers of Scotland acknowledges that some of the Bulk Data may relate to areas outwith the geographical area of responsibility of the Recipient. Registers of Scotland consents to the Recipient sharing such Bulk Data with the Assessor/Valuation Joint Board which has responsibility for the relevant geographical area(s) on condition that the Assessor/ Valuation Joint Board is a party to a current data sharing agreement with Registers of Scotland on similar terms to this Agreement. If the Recipient receives Bulk Data from such an Assessor/Valuation Joint Board then that Bulk Data will be subject to all the terms and conditions of this Agreement as though it had been received directly from Registers of Scotland.
- The Bulk Data may be used for internal reporting purposes and to support the formulation of policy within the Scottish Assessors Association. This includes the right to publish reports and hardcopy publications using information contained in the Bulk Data but excluding any Personal Data unless it is effectively anonymised or pseudoanonymised.

3.3 The Agreed Purpose is subject to the following restrictions;

- The Valuation Joint Board website must contain no sales information from the Bulk Data.
- Bulk Data must not be divulged to third parties except as evidence to support Council Tax Valuation and Valuation Roll activities. For example, during appeal discussions, or in presenting cases to either the Valuation Appeal Committee, or the Court of Session, sales or rental evidence may be provided as required.
- The Recipient is expressly prohibited from publishing the names of individuals included within the Report or allowing the download of Bulk Data containing names of individuals.
- The Recipient is expressly prohibited from selling or disclosing the Report or any part of it to third parties other than in strict accordance with this Agreement or allowing the download of Bulk Data from the Report.

3.4 The Parties shall not process the Bulk Data in a way that is incompatible with the Agreed Purpose.

4 Data to be Shared

4.1 The Bulk Data comprises a monthly Continuing All Sales Data Report for the registration counties of Argyll, Caithness, Inverness, Moray, Nairn, Ross & Cromarty and Sutherland containing current data from the Land Register for the preceding calendar month

4.2 The Report comprises 4 CSV files entitled Master, Address, Granter and Applicant. The files will detail all applications to register a transfer of ownership of heritable

property and all applications to register a commercial lease which were lodged with Registers of Scotland for registration in the Land Register within a given calendar month.

4.3 For each registered entry, the following information will be provided:

- Application Date
- Title Number
- Application Number
- Application Type (First Registration, Transfer of Part or Dealing with Whole)
- Price Paid (the “consideration”)
- Value, where the Consideration is a non-monetary value or not the true market value
- Property Address
- Property Easting and Northing and OSAPR
- Land Class (Residential, Commercial, Land or Other – from 8 December 2014 the Report will also include Agriculture and Forestry)
- Date of Entry
- Granter Name (where available)
- Granter Address (where available)
- Applicant Name
- Applicant Address
- Deed Code information listing all deed types contained in the application

5 Delivery

- 5.1 The Continuing All Sales Data Report will be delivered to the Recipient on or around the 25th of the month following the calendar month covered by the Report, via a secure server to which access will be provided via a user name and password.
- 5.2 Registers of Scotland will supply the Recipient with an “All Sales Ongoing Data Corrections” spreadsheet showing amendments and corrections to the Bulk Data within the Report supplied to the Recipient. Registers of Scotland will update this spreadsheet to show additional amendments and corrections to the Bulk Data within the Report on a periodic basis and supply a copy of the updated spreadsheet to the Recipient.
- 5.3 Registers of Scotland reserve the right at any time to suspend the delivery of the Bulk Data for the purposes of repair or maintenance of its systems or for compliance with any statutory obligations.
- 5.4 The Recipient acknowledges that it may be necessary for Registers of Scotland to upgrade or change the format of the Bulk Data. Registers of Scotland will endeavour to provide at least one month’s notice of any proposed format change.

6 Price

- 6.1 The following Prices are applicable:
- £112.50 plus VAT per month
- 6.2 The Continuing All Sales Data Report will be invoiced on a monthly basis in arrears and payment shall be due within 30 days of receipt of the invoice.

- 6.3 The Price shall be subject to annual review. Registers of Scotland shall give the Recipient 30 days' notice of any Price increase. The Recipient shall be entitled to terminate the Agreement prior to any Price increase taking effect if it does not wish to accept the Price increase.

7 Data Protection Compliance

- 7.1 A data controller is the person or organisation that determines the purposes for which, and the manner in which, any Personal Data is processed. Registers of Scotland is the Controller of any Personal Data included in the Bulk Data. The Recipient is also a Controller as regards Personal Data contained in the Bulk Data as it is using the Bulk Data to fulfil its own purposes, for example to support its own statutory functions.
- 7.2 Each Party must ensure compliance with the Data Protection Legislation at all times and that it processes the Personal Data fairly and lawfully. The Parties agree that the legal basis for the processing is that the processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller (GDPR Art 6.1(e)).
- 7.3 Each Party shall ensure that it has a valid registration with the Data Protection Authority (unless exempt) which by the Commencement Date will cover the intended data sharing pursuant to this Agreement.
- 7.4 The Recipient agrees that it shall not retain or process the Personal Data for longer than is necessary to carry out the Agreed Purpose.
- 7.5 The Recipient agrees that it shall not disclose or transfer any Personal Data outside the European Economic area (EEA).
- 7.6 Data Subjects have the right to obtain certain information about the processing of their Personal Data through a Subject Access Request. Data Subjects may also request rectification, erasure or blocking of their Personal Data.
- 7.7 The Parties agree that the responsibility for complying with a Subject Access Request falls to Party receiving the Subject Access Request in respect of the Personal Data held by that Party. The Parties agree to provide reasonable and prompt assistance (within 5 Business Days of such a request for assistance) as is necessary to each other to enable them to comply with Subject Access Requests and to respond to any other queries or complaints from Data Subjects.
- 7.8 Notwithstanding clause 7.7 above, the Recipient agrees that it shall notify Registers of Scotland as soon as reasonably practicable after it receives a Subject Access Request or any Data Subject rectification, erasure or blocking request and that it will use its best endeavours to obtain the views of Registers of Scotland before responding to any such request.
- 7.9 Each Party shall ensure that their privacy notices are clear and provide sufficient information to Data Subjects in order for them to understand what Personal Data is being shared and the purpose for which it is being shared.
- 7.10 The Data Protection Officers are responsible for maintaining a record of Subject Access Requests, decisions made and any information disclosed. Any notifications required under this clause 7 shall be to the relevant Data Protection Officer.

The Data Protection Officer for each Party is:

Registers of Scotland:

[REDACTED]: T: [REDACTED] E: [REDACTED]

Recipient:

[REDACTED] T: [REDACTED] E: [REDACTED]

8 Data Security

- 8.1 Registers of Scotland shall be responsible for the secure transmission of the Bulk Data to the Recipient
- 8.2 The Recipient shall implement appropriate technical and organisational measures to protect the Bulk Data in its possession against any unauthorised or unlawful processing and any accidental or unlawful loss, alteration or disclosure.
- 8.3 The Recipient shall notify Registers of Scotland as soon as possible of any potential or actual losses of the Bulk Data or security breaches which may compromise the security of the Bulk Data. With regard to any Personal Data Breach the Recipient shall notify Registers of Scotland's Data Protection Officer within 24 hours of identification of any potential or actual Personal Data Breach

9 Crown copyright

- 9.1 Material produced by officers or servants of the Crown in the course of their duties is protected by Crown copyright. The Keeper of the Registers of Scotland has received delegated authority from the Queen's Printer for Scotland, enabling her to authorise the reproduction of Crown copyright material produced by her or by the Registers of Scotland.
- 9.2 Registers of Scotland grants to the Recipient a non-exclusive, non-transferable, irrevocable licence to reproduce material which is protected by Crown Copyright supplied under this Agreement in accordance with the terms of this Agreement on condition that the Recipient:
- reproduces it accurately;
 - does not use it in a misleading context;
 - ensures that the following acknowledgement appears in a prominent position on the reproduced material:

"© Crown copyright. Material is reproduced with the permission of the Keeper of the Registers of Scotland".

10 Disputes

- 10.1 In the event of a dispute or claim brought by a Data Subject or the Data Protection Authority concerning the processing of Personal Data against either or both Parties, the Parties will inform each other about any such disputes or claims, and will cooperate with a view to settling them amicably in a timely fashion.
- 10.2 If either Party has any issues, concerns or complaints in connection with the provision of the Bulk Data, or any other matter arising from this Agreement, that Party shall notify the other Party in writing and the Parties shall then seek to resolve the issue by a process of consultation. If the issue cannot be resolved within a reasonable period of time, the matter shall be escalated to Janet Egdell, Operations

Director and Accountable Officer, for Registers of Scotland and William J Gillies for the Recipient, who shall decide on the appropriate course of action to take.

11 Indemnity

- 11.1 Each Party undertakes to indemnify the other Party against all liabilities, losses, damages, costs or expenses which they cause each other as a result of their breach of any of the provisions of this Agreement.

12 Freedom of Information

- 12.1 The Parties acknowledge that they are both subject to the requirements of the Freedom of Information (Scotland) Act 2002 (FOISA) and the Environmental Information (Scotland) Regulations 2004 (EIRS) and will provide reasonable assistance and co-operation to each other to enable to compliance with these information disclosure obligations in respect of the Bulk Data.
- 12.2 Registers of Scotland acknowledges that, where the Recipient receives a request for information under FOISA or EIRS, the Recipient is responsible for determining in its absolute discretion whether such information is exempt under FOISA or EIRS and may disclose such information without consulting any relevant third party.
- 12.3 Notwithstanding the legal position detailed above, the Recipient agree that in the event that it receives a request under FOISA or EIRS for Bulk Data information supplied under this Agreement, the Recipient will notify Registers of Scotland of the request as soon as reasonably practicable after receipt thereof and will allow Registers of Scotland a period of five working days to make representations which will include details of any exemption which Registers of Scotland believes may apply under FOISA or EIRS as appropriate.

13 Review and Variation

- 13.1 This Agreement shall be reviewed annually by Registers of Scotland or on request by either Party, to ensure that the purposes, aims and objectives of the Bulk Data sharing remain appropriate and compliant with Data Protection Legislation. The Parties may continue, vary, or terminate the Agreement depending on the outcome of the review.
- 13.2 No variation of this Agreement shall be effective unless it is in writing and signed by the Parties.

14 Termination

- 14.1 This Agreement shall continue in force unless and until it is terminated by either Party serving 3 months' written notice on the other Party.
- 14.2 Registers of Scotland may terminate this Agreement with immediate effect if the Recipient materially breaches of any of its obligations under this Agreement and fails to remedy such breach (if capable of remedy) within 7 days of receipt of notice from Registers of Scotland requesting that the breach is remedied.

15 No Partnership or Agency

- 15.1 Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the Parties, constitute any Party the agent of

another Party, or authorise any Party to make or enter into any commitments for or on behalf of any other Party

16 Jurisdiction

- 16.1 This Agreement shall be governed by and interpreted in accordance with Scots Law and the Parties hereby submit to the exclusive jurisdiction of the Scottish Courts.

Signed on behalf of Registers of Scotland by:

Full Name (In Capitals)

Title

Date

Signed by the Assessor & ERO for Highland & Western Isles Valuation Joint Board

by: ..

Full Name (In Capitals) ..

Title ..

Date ..

Assessor & ERO

28/9/18

