

PARTIES

- (1) **FACTS AND DIMENSIONS LIMITED**, a company incorporated and registered in England and Wales with company number 5952144 whose registered office is at Ross Building, Adastral Park, Martlesham Heath, IP5 3RE (“**Licensor**”)
- (2) An organisation which has downloaded/accessed the Database or the Data from within the Database and which is identified by the username and password created for this purpose (“**Licensee**”)

1. BACKGROUND

- 1.1 The Licensor is the sole owner of the Database and the Intellectual Property and has the right to use the Data.
- 1.2 The Licensor has the right to grant licences of the Database and the Intellectual Property.
- 1.3 The Licensee has requested a licence to use the Database and the Intellectual Property and to receive and use the Data.
- 1.4 The Licensor has agreed to grant such a licence to the Licensee on the terms set out in this licence.
- 1.5 The Data is derived from data supplied by various data suppliers to the Licensor who has the right to copy the data into the Database either by express grant or by way of an Open Government Licence for use by organisations who already have the right to use the data. Please refer to the Licences table within the database.

AGREED TERMS

2. DEFINITIONS

- 2.1 The definitions and rules of interpretation in this clause apply in this licence.
 - 1.1.1 “**Assets**” means the Database, the Intellectual Property and the Data
 - 1.1.2 “**Data**” means the Data and any part of it held in the Database from time to time. The Data has been derived from publicly available sources of data and

collated by the Licensor for use by the Licensor's customers on the terms of this Licence. The Licensor has acquired the right from such external sources to insert the data in the Database, and notwithstanding the Licensor does not own the data, the Licensor owns the Data.

The Licensor has made and continues to make a substantial investment in obtaining, identifying, collating and presenting the Data and accordingly the Licensor asserts copyright and database right in the Data together with all other rights available to the Licensor. The fact that the Data has been derived from publicly available data sources does not render it public domain material and accordingly any use of the Data whatsoever (including its reproduction in any media or its re-use in any way) by any person or entity other than in accordance with the terms of this Licence will be a breach of one or more of the Licensor's rights. For the avoidance of doubt, at all times the Data is the intellectual property of the Licensor.

- 1.1.3 **“Database”** means a database proprietary to the Licensor for easy and efficient use of the Data.
- 1.1.4 **“Intellectual Property”** means the patents, rights to inventions, copyright and related rights, moral rights, trademarks and service marks, trade names and domain names, the style [Country]_[Sector]_[Facts/Dimensions], (eg “UK Health Facts”, or “UKHF”, or “UK Health Dimensions”, or “UKHD”, or “Malaysian Education Dimensions”, or “MED”. Etc), or “Facts & Dimensions”, rights in get-up, rights to goodwill or to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world and which belong to the Licensor.
- 1.1.5 **“Manual”** means the operating and user instructions explaining the structure of the Database, how to use it (including how to detach and attach the Database

updates and/or how to connect to the cloud copy), and detailing the contents of the Database tables and how they are updated, and any related technical literature.

1.1.6 **“Quotation”** means a quotation supplied by the Licensor to the Licensee.

1.1.7 **“Release”** means an update of the Data and/or of the Database structure.

1.1.8 **“Term”** means the duration of the Licence as stated on the Quotation.

2.1 The headings in this licence do not affect its interpretation. Save where the context otherwise requires, references to clauses and schedules are to clauses and schedules of this licence.

2.2 Unless the context otherwise requires:

- (a) references to the Licensor and the Licensee include their permitted successors and assigns;
- (b) references to statutory provisions include those statutory provisions as amended or re-enacted; and
- (c) references to any gender include all genders.

2.3 Words in the singular include the plural and in the plural include the singular.

2.4 Where the Licensee for the time being comprises two or more persons, obligations expressed or implied to be made by or with the Licensee are deemed to be made by or with the persons comprising the Licensee jointly and severally.

2.5 Any covenant or obligation by the Licensee not to do anything includes an obligation not to permit or suffer that thing to be done by another person.

2.6 Unless the context otherwise requires:

- 2.6.1 references to the Licensor and Licensee include permitted successors and assigns if any;
- 2.6.2 references to statutory provisions include those statutory provisions as amended or re-enacted; and
- 2.6.3 references to any gender include all genders.

2.7 Words in the singular include the plural and in the plural include the singular.

3 GRANT

In consideration of the obligations undertaken by the Licensee under this licence the Licensor grants to the Licensee a non-exclusive licence to use the Assets for the Term in connection with the Licensee's performance of their own objectives and reporting and administration requirements on the terms of this licence.

4 RESERVATION

The Licensor reserves the right to grant licences of the Database and the Intellectual Property to other licensees on such terms as it wishes from time to time.

5 PRICE AND PAYMENT TERMS

5.1 The price for this licence is the sum stated on the Quotation.

5.2 The Licensor will deliver to the Licensee an invoice for the price stated on the Quotation (and for the avoidance of doubt, where the Licensee is granted a free licence the invoice will be for £nil, and otherwise will be for the sum stated on or referred to in the Quotation) and which price (if applicable) is payable by the Licensee forthwith on receipt of the said invoice.

6 LICENSOR'S OBLIGATIONS

The Licensor agrees:

6.1 to supply Releases to the Licensee at regular intervals by publishing a zipped copy (or other format if the Licensor deems it appropriate) of the updated Database file (in the case of SQL this will be MDF and LDF file format) for the Licensee to download or supply access to the Data via the cloud. The Database includes detailed release notes so that the Licensee knows what has changed and will also contain the latest Data and , where appropriate, will preserve historical data; and

6.2 to provide the Licensee with a copy of the Manual; and

6.3 to provide Email and Telephone Support for the Database aiming to answer 90% of queries within one working day; and

6.4 to supply and maintain a user group for the Licensee and other licensees to give feedback to the Licensor for the Licensor to use to work on future releases.

7 LICENSEE'S OBLIGATIONS

In consideration of the rights granted by the Licensor the Licensee agrees:

7.1 not to place copies of the Database or the Data or Database structure or source code anywhere other than on the Licensee's legally owned or leased secure servers to which only the Licensee and authorised personnel have access; and

7.2 not to let any unauthorised third party access the Database or the Data; and

7.3 to ensure that any copyright identification applied by the Licensor to any of the Assets such as "*© Facts and Dimensions Ltd*" (or any attributing copyright statements) are preserved and not defaced or removed; and

7.4 not to alter any of the Assets; and

7.5 not to use any of the Assets for any purpose other than those envisaged by this licence; and

7.6 not to grant nor agree to grant sub-licences of or otherwise purport in any way to dispose of any of the Assets or to create any interest therein; and

7.7 where the Licensee requires a third party (e.g. another software supplier) to have access to the Database for software development for the Licensee's benefit the Licensee must ensure that such third party contacts the Licensor in order to obtain their own Developer Licence (on such commercial terms as are acceptable to the Licensor) to enable such third party to access the Database for the purpose of accessing, linking to, and using the Database or organising the Data or other data of the Licensee; and

7.8 not at any time during the subsistence of this licence or at any future time to register or use any of the Intellectual Property in its own name as proprietor; and

7.9 to promptly call to the attention of the Licensor the use of any part of the Intellectual Property by any third party or any activity of any third party which might in the opinion of the Licensee amount to infringement or passing off; and

- 7.10 not to assign the benefit of this licence or grant any sub-licence without the prior written consent of the Licensor which consent the Licensor may give or withhold in their sole and absolute discretion/acting reasonably; and
- 7.11 to hold all goodwill generated by its operations under this licence as bare trustee for the benefit of the Licensor; and
- 7.12 any designs or other works derived by the Licensee from the Intellectual Property or any part of it shall be held by it as bare trustee for the Licensor and at the Licensor's request shall be assigned to it without compensation; and
- 7.13 not except with the prior written consent of the Licensor to make use of the name of the Licensor in any connection otherwise than as expressly permitted by this Agreement; and
- 7.14 the Licensor having the sole right to take action against third parties in respect of the Intellectual Property and the Database, if required to do so by the Licensor the Licensee shall co-operate fully with the Licensor in any such action the Licensee's expenses thereof being borne by the Licensor. All damages recovered from third parties are the exclusive property of the Licensor; and
- 7.15 the Licensee shall permit the Licensor or his agent at all reasonable times to inspect premises, computer hardware, software, source code and any other records or items to enable the Licensor to satisfy himself that the Licensee is complying with its obligations in accordance with this licence.
- 7.16 the Licensee agrees to abide by the terms of the data supplier licences. Links to the data supplier licences are provided in a table in the Database.

8 TERMINATION

8.1 Termination for breach

The following breaches are fundamental and entitle the Licensor forthwith to give Notice terminating this licence and thereupon this licence shall absolutely terminate and cease to have effect but without prejudice to the rights and remedies of the Licensor in respect of any prior breach by the Licensee of any of its obligations under this licence:

8.1.1 failure on the part of the Licensee to perform any of its obligations under this licence, or

8.1.2 the administration of or voluntary or compulsory liquidation of the Licensee or the appointment of a receiver of its assets or such other restructuring arising by reason of the Licensee's insolvency.

8.2 Termination on ending of rights

If at any time the Licensor ceases to have the right to grant licences of the Data the Licensor may forthwith terminate this licence by giving Notice to the Licensee and the Licensee shall have no claim against the Licensor in respect of such termination.

8.3 Post termination

On expiry or termination of the licence the Licensee shall forthwith discontinue all use of the Database and shall not create any new works using the Data or the Database. For the avoidance of doubt, the termination or expiration of the licence shall not remove Licensee's right to continue its use of any works developed by Licensee using the Data or Database during the term of the licence.

9 LIABILITY

9.1 The Licensee shall indemnify the Licensor against all actions claims costs damages and expenses which it may suffer or sustain as a result of the actions of the Licensee.

9.2 Save that the Licensor agrees to use their best endeavours to ensure the accuracy of the Data (and the Licensee acknowledges that this Data is procured by the Licensor from third parties such that it may contain errors) and will correct mistakes as soon as they come to the Licensor's attention, the Licensee agrees that to the maximum extent permitted by law the Licensor is not liable to the Licensee for any loss (including without limitation direct or indirect loss, loss of business, revenue or profits, wasted expenditure, corruption or destruction of data or for any other indirect or consequential loss whatsoever arising from the Licensee's use of the Data) or damage costs or expenses which the Licensee may suffer in connection with this licence.

9.3 To the maximum extent permitted by law the Licensor accepts no liability for any loss (including without limitation direct or indirect loss, loss of business, revenue or profits,

wasted expenditure, corruption or destruction of data or for any other indirect or consequential loss whatsoever) arising from the Licensee's use of the Database.

10 GENERAL

10.1 No waiver by the Licensor of any of the Licensee's obligations under this licence is effective unless made by the Licensor in writing, nor shall any waiver by the Licensor in respect of any breach be deemed to constitute a waiver of or consent to any subsequent breach by the Licensee of its obligations.

10.2 In the event that any provision of this licence is declared by any judicial or other competent authority to be void voidable or illegal the remaining provision shall continue to apply unless the Licensor at the Licensor's discretion decides that the effect is to defeat the original intentions of the parties in which case it shall be entitled to terminate the licence on 28 days Notice in which case the provisions of clause 8.3 apply.

10.3 The parties are not partners or joint venturers nor is the Licensee entitled to act as the Licensor's agent nor shall the Licensor be liable in respect of any representation act or omission of the Licensee of whatever nature.

10.4 Any Notice to be served by either party on the other shall be in writing and sent by pre-paid recorded delivery or registered post or by email to the address stated above and is deemed to have been received by the addressee within 72 hours of posting or 24 hours if sent by email to the correct address of the addressee.

10.5 This licence has been made within England and Wales and is governed by the law of England and Wales in every respect including formation and interpretation and each party hereby submits to the exclusive jurisdiction of the English courts.

10.6 This licence is binding upon and enures to the benefit of the Licensor and their successors and assigns.

10.7 The Licensee must not assign or sublicense this licence or the whole or any part of the Assets which are licensed personally to the Licensee.

10.8 This agreement does not create any right enforceable by any person not a party to it. The persons identified as parties to this licence may enforce its terms. No term of this licence is intended to confer a benefit on, or to be enforceable by, any person who is not a party to this licence.

10.9 Any variation of this licence is effective only if confirmed in writing by the parties (including by email).

This licence and the documents referred to herein contain the whole agreement between the parties relating to the subject matter hereof and supersede all prior agreements, arrangements and understandings between the parties relating to that subject matter.