

END USER LICENSE

This Agreement is made between You (Hereinafter referred to as the “*End User*”) and the Human Sciences Research Council (HSRC) (Hereinafter referred to as the “*Data Service Provider*”) to provide the End User with the right to use the Data provided by the Data Service Provider according to the terms stipulated below.

1. Definitions:

In this agreement, unless inconsistent with or otherwise indicated by the context, the following words shall have the following meanings assigned to them, namely:

“**Agreement**” means this Agreement entered into between the Parties together with any annexure or schedule attached hereto;

“**Data**” means any digital object accessed from the HSRC’s web site, containing qualitative or quantitative micro or aggregated information;

“**Data Collection**” means any Data that has been grouped in accordance with its characteristics;

“**Data Service Provider**” means the organisation that directly provides the End User with the Data Collections and is responsible for the system that registers End Users and issues them with End User Licenses;

“**Data Team**” means the Data Service Provider, the Service Funders, Data Collection Funders, Original Data Creators or Depositors and/or the Data Owners in relation to a particular Data Collection;

“**End User**” means the individual who accesses data related digital objects from the HSRC’s web site;

“**Metadata**” means any additional or bibliographic information about one or more of the Data Collections, as notified to the End User from time to time. Metadata may be supplied by electronic means;

“**License**” shall mean the right to download and analyse data for scientific research and/or educational purposes;

“**Parties**” means HSRC and the End User individually or collectively as the case may be;

“**Party**” will refer to either one of the Parties as the context requires;

“**Research Subject**” means a person or organisation observed for purposes of research - also called a respondent. A respondent is generally a survey respondent or informant, experimental or observational subject, focus group participant, or any other person providing information to a study or on whose behalf a proxy provides information;

“**Special Conditions**” means any further conditions applicable to the use of one or more Data Collections by an End User as notified to the End User in accordance with Clause 2.6 below; and

“**Right Holders**” means the Individual and/or Institution in whom the Intellectual Property Rights vest, be it the Data Service Provider and/or any other entity on whose behalf the Data Service Provider may be acting.

2. Terms and Conditions:

The End User hereby agrees to the following terms and conditions of use in consideration of the Data Collections being made available to the End User through the various contributions of each member of the Data Team:

- 2.1 To use the Data Collections only in accordance with this End User License and to promptly notify the Data Service Provider of any breach of its terms in writing or of any infringements of the Data Collections of which it becomes aware.
- 2.2 To use the Data strictly for the purpose for which it has been acquired and specified, and to notify the Data Service Provider of any anticipated change in use.
- 2.3 To use and/or to make personal copies of any part of the Data Collections only for the purposes of not-for-profit research, teaching and/or personal educational development. To obtain permission prior to using part and/or all of the Data

Collections for commercial purposes by contacting the Data Service Provider in order to obtain an appropriate license from the rights holder in question and/or their permitted licensee if one is available.

- 2.4 That this License does not operate to transfer any interest in intellectual property from the rights holders to the End User. That any rights subsisting in materials derived now and/or in the future from the Data Collections, which are the intellectual property of the End User, are hereby assigned (by way of assignment of present and future intellectual property) to the applicable rights holder by this License to the extent not already vested in the rights holder and to take all steps necessary to give effect to this Clause (including executing further written documentation where necessary).
- 2.5 That the License and the Data Collections shall be provided by the Data Team on an "as is" basis and without any warranty or liability of any kind. Any representations or warranties given by any member of the Data Team relating to this license, express or implied are excluded to the maximum extent permitted by law.
- 2.6 To abide by any further terms or conditions notified to the End User from time to time by the Data Service Provider that may apply to the access to, or use of, specific materials within the Data Collections or particular Data Collections. Notice of further conditions under this clause may be given to the End User either by electronic means, for example by way of a pop-up window upon the End User ordering one or more Data Collections, or via electronic mail. The End User's acceptance of all further terms and conditions shall be required prior to the End User gaining access to the Data Collections in question. In this Agreement such further conditions are referred to as Special Conditions.
- 2.7 Not to redistribute Data and/or other related materials without the prior written approval of the Data Service Provider.
- 2.8 To ensure that the means of access to the Data (such as passwords) is kept secure and not disclosed to third parties except by special written permission and/or the necessary license obtained from the Data Service Provider.
- 2.9 To delete all copies of Data either at the end of the research process for which it was acquired or when IT equipment housing the Data are loaned to a third party, re-sold or disposed of.
- 2.10 To preserve at all times the confidentiality of information pertaining to research subjects represented in the Data Collections where the information is not in the public domain. Not to use the Data to attempt to obtain and/or derive information relating specifically to an identifiable Research Subject nor to claim to have obtained or derived such information. This includes the use or attempt to use the Data Collections to compromise or otherwise infringe the confidentiality of research subjects. In addition, the End User undertakes to preserve the confidentiality of information relating to, and/or supplied and recorded in the Data Collections.
- 2.11 Not to make use of the identity of any research subject discovered inadvertently, and to advise the Data Service Provider of any such discovery at the earliest possible opportunity.
- 2.12 To acknowledge, in any publication, whether printed, electronic or broadcast, based wholly or in part on the Data Collections, the Original Data Creators, Depositors or Copyright Holders in the form specified in the accompanying metadata received with the dataset or notified to the End User, and without prejudice to clause 2.6 above, to comply with any restrictions on the End User's use of the Data Collections referred to or referenced therein or otherwise notified to the End User from time to time. To cite, in any publication, whether printed, electronic or broadcast, based wholly or in part on the Data Collections, the Data Collections used in the form specified in the accompanying metadata received with the dataset or notified to the End User.
- 2.13 To supply the relevant Data Service Provider at the earliest possible opportunity with the bibliographic details of any published work based wholly or in part on the Data Collections.
- 2.14 That the members of the Data Team may hold and process any personal data submitted by the End User for validation and statistical purposes, and/or for the purposes of the management of the service or for any other lawful purpose notified to the End User and to which the End User has consented to under this Agreement in relation to a particular Data Collection and the Data Team may pass the information on to other parties such as: (i) Depositors and distributors of material contained in or accessed via the Data Service Provider; (ii) Copyright and other intellectual property rights owners whose material is held by the Data Service Provider; as well as (iii) each member of the Data Team's organisation and (iv) the End User's Organization.
- 2.15 To notify the Data Service Provider at the earliest possible opportunity of any errors discovered in the Data Collections.
- 2.16 That any personal data submitted by the End User shall be accurate and that any changes in personal data shall be made known to the Data Service Provider at the earliest possible opportunity.

- 2.17 To meet any charges that may from time to time be levied by any member of the Data Team for the supply of the Data Collections including, where relevant, annual service fees and royalty fees.
- 2.18 That at the conclusion of the End User's research (or earlier at the request of a member of the Data Team), to offer for deposit in the Data Collection(s) on a suitable medium and at the End User's expense any new Data Collections which have been derived from the materials supplied and/or which have been created by the combination of the Data supplied with other data. The deposit of the derived Data Collection(s) will include sufficient explanatory documentation to enable the new Data Collection(s) to be accessible to others.
- 2.19 That breach of any of the provisions of this Agreement may, at the discretion of a member of the Data Team, lead to immediate termination of the End User's access to all services provided by the Data Team, either permanently or temporarily, and may result in legal action being taken against the End User. The Data Service Provider may revoke the existing Agreement, demand the return of the Data in question, and deny all future access to Data. The End User understands that where there is no breach of this License, it may be terminated, or its terms altered, by a member of the Data Team either after 30 days notice, or, if a service charge has been paid in advance, at the end of the period for which payment has been made, whichever is the longer. The failure to exercise and/or a delay in exercising a right or remedy provided by this Agreement, or by law, does not constitute a waiver of the right or remedy or a waiver of other rights or remedies.

3. Disclaimers:

To the extent that the applicable law permits:

- 3.1 The members of the Data Team accept no liability for, and the End User will not be entitled to claim against them in respect of, any direct, indirect, consequential or incidental damages or losses arising from use of the Data Collections, or from the unavailability of, or break in access to, the service, for whatever reason.
- 3.3 Whilst steps have been taken to ensure all licenses, authorisations and permissions required for the granting of this License have been obtained, this may not have been possible in all cases, and no warranties or assurance are given in this regard. To the extent that additional licenses, authorisations and permissions are required to use the Data Collections in accordance with this License, it is the End User's responsibility to obtain same.
- 3.4 The End User hereby indemnifies and shall keep indemnified each member of the Data Team against any costs, actions, claims, demands, liabilities, expenses, damages or losses (including without limitation consequential losses and loss of profit, and all interest, penalties and legal and other professional costs and expenses) arising from or in connection with any third party claim made against any member of the Data Team relating to the End User's use of the Data Collections or any other activities in relation to the Data where such use is in breach of this license.

4. General:

- 4.1 If the whole or any part of a provision of this Agreement is void, unenforceable or illegal for any reason, that provision will be severed and the remainder of the provisions of this Agreement will continue in full force and effect as if this Agreement had been executed with the invalid provision eliminated.
- 4.2 This Agreement may be enforced separately in relation to each Data Collection provided to the End User by any member of the Data Team. No other persons may enforce this Agreement.
- 4.3 This Agreement (which is the entire Agreement between the Parties and supersedes any previous agreement between them) may be varied in writing by agreement of the relevant Service Funders and/or the Data Service Provider and the End User (who may give its consent to such variations by electronic means). No consent from any other party is required to vary or rescind this Agreement.
- 4.4 This Agreement and any documents to be entered into pursuant to it shall be governed by and construed in accordance with the laws of South Africa and each Party irrevocably submits to the exclusive jurisdiction of the courts of South Africa over any claim or matter arising under or in connection with this Agreement and the documents entered into pursuant thereto.