

DATA LICENCE AGREEMENT FOR SUPPLY OF INFORMATION

In consideration of our mutual undertakings set out herein and in the Schedule below and the Conditions of Agreement overleaf (together referred to as the "**Agreement**") we, the Environment Agency, and you, the recipient of the information and data ("**The User**") agree that:

- 1. We will provide you with the data and information specified under the heading Data in the Schedule.
- 2. You must pay us the charges as required.
- 3. You agree to use the Data in accordance with this Agreement but this does not affect your statutory rights.

SCHEDULE

AGENCY REGION, AREA AND REF:

N/A

DATA (this can include Agency Data and Third Party Data):

Unfiltered and filtered LIDAR data in ArcView ASCII grid and XYZ delimited text formats for order number:

PERMITTED USE (in addition to the uses permitted by the standard conditions):

Data must not be passed on to other parties, or used for any project than that referred to in the order.

CARRIER MEDIUM:

Digital data - supplied via customer webpages and remote download.

APPLICABLE TO FUTURE REQUESTS?

No

CHARGES:

As per the order and associated invoice.

SIGNED BY THE USER: Date.....

Name (Block Capitals):

Position:

Company/Firm:

Address:

.....

You should sign one copy of this Agreement and fax it back to eMapSite.com Limited on 0118 973 0002

CONDITIONS OF AGREEMENT

OWNERSHIP

- 1 We will provide you with the data and information specified under the heading Data in the Schedule (□Data□) on the carrier medium specified in the Schedule. We own intellectual property rights in some of those information and data ("Agency Data") while such rights in other information and data may be owned by others ("Third Party Data"). Subject to this Agreement, we grant you a non-exclusive and non-transferable licence (the licence is only to you) to use the Data beginning on the date upon which we supply you with it. Your rights to use the Data are as set out in these Conditions of Agreement and in the Schedule in the part headed □Permitted Use□.
- 1.2 You must not do anything whatsoever with the Third Party Data, including copying, in excess of your statutory rights. You agree to indemnify us in respect of any breach of this condition 1.2.
- 1.3 You will not remove, suppress or modify, in any way, any trade mark, copyright or other proprietary marking on or in the Data or which are visible during their operation or use (whether electronically or otherwise) or which are on their carrier medium, if any. You will ensure that these proprietary markings are retained in any copies of the Data.
- 1.4 You will notify us immediately if you become aware of any unauthorised access to, use or copying of the Data by anyone.
- 1.5 Whenever possible you shall acknowledge the Environment Agency's ownership of Agency Data, where applicable by use of the words "Copyright □ Environment Agency", in respect of authorised copying of Agency Data..

CHARGES AND SUPPLY

- 2.1 You will pay the Charges specified in the Schedule. Where applicable, you will pay VAT at the then prevailing rate. The Charges unless otherwise specified reflect only our costs of making the Data and Third Party Data available. Payment is due before the Data is supplied by us.
- 2.2 After you have signed and returned to us the duplicate of the Agreement and paid to us the due, we shall provide you with one copy of the Data at the address you provided to us.
- 2.3 We may deliver the Data by whatever means we think appropriate. We shall not be responsible for the installation of the Data.

PERMITTED USE

- 3.1 You may use the Data for the purposes stated in the Agreement provided that you comply with all the terms of the Agreement. We refer you to condition 1.2 in respect of the Third Party Data.
- 3.2 You may use Agency Data and take copies of Agency Data only for your personal use, your internal business purposes or the uses permitted in the Schedule. You will not allow anyone else to transfer, distribute or exploit any part of Agency Data in any way for commercial gain (whether by rental, sale, licence, loan, provision of a service, including a data processing service or otherwise).
- 3.3 You may also make a copy of Agency Data to provide to anyone else, provided that you make no charge and impose no other consideration for doing so. The recipient of the data must either:
 - a) have already entered into an agreement with us directly or
 - b) endorse a copy of the Agreement with the following: "I, [*name and address of recipient*] hereby agree to comply with the terms set out in the Agreement", signing and dating it and returning that copy to us; or
 - c) be supplied with a copy of the Agency's standard notice used when information is supplied.

You must not provide anyone with a copy of Agency Data until one of the above requirements has been met.

- 3.4 The original data and all copies of the data made under made under condition 3.2 or 3.3 will be, and should be treated as, our property.
- 3.5 You must keep written records of all copies of Agency Data you provide under condition 3.3 and will allow us, on request, to inspect those records from time to time.
- 3.6 Apart from the above you will not yourself, nor will you allow anyone else:
 - a) to create any product which is derived from Agency Data;
 - b) to combine Agency Data with, or incorporate it into, anything;
 - c) to reformat or otherwise Agency Data; or
 - d) to do any other thing to Agency Data so that they cease to be readily identifiable as Agency Data,

without our written approval beforehand.

SECURITY AND AUDITING

- 4.1 You will maintain adequate security measures to safeguard the Data from unauthorised access, or use.
- 4.2 You will allow us to check your use of the Data at all reasonable times. You irrevocably consent to our representatives entering any of your premises, after giving reasonable notice, to verify compliance with the Agreement.

LIABILITY

- 5.1 We do not promise that the Data will provide any particular facilities or functions. You must ensure that the Data meet your needs. You are entirely responsible for the consequences of any use of the Data and subject to condition 5.6, we give you no warranty about the fitness for purpose or performance of any part of the Data.
- 5.2 If an electronic format has been used, we do not promise that the media on which the Data are provided will always be free from defects, computer viruses, software locks or other similar code or that the operation of the Data will be uninterrupted or error-free. You should carry out all necessary virus checks prior to loading the Data on to your computer system.
- 5.3 As much of the data is provided us by third parties or by predecessor bodies, and you have simply requested a copy of the Data in our possession we do not guarantee that the Data will always be accurate, correct, complete, up to date or valid. We give you no warranty about the condition, satisfactory quality or merchantability of any part of the Data.
- 5.4 You accept that we are providing the Data to you because we must do so by law, or in pursuance of our general policy of openness. Accordingly we are only able to undertake to use reasonable endeavours to ensure that we are providing you with an accurate a copy from our records.
- 5.5 We are not in any circumstances (including without limitation if we have been negligent) liable for any indirect or consequential loss or damage at all or any loss of business capital, profit, reputation or goodwill arising out of or in connection with this Agreement or its subject matter.
- 5.6 We confirm that we have used reasonable endeavours to ensure that use by you of the Data in accordance with the terms of the Agreement will not infringe any third party's rights.
- 5.7 We do not exclude or limit our liability to you for death or personal injury to the extent that it results from our negligence and that of our employees.
- 5.8 You accept that, except as specifically stated in this condition 5, we shall not be under any liability to you of any kind arising directly or indirectly in connection with the Agreement and that all conditions, warranties, undertakings or representations of any kind, express or implied, statutory or otherwise, relating to the Data are excluded.

TERMINATION

- 6.1 You may terminate the Agreement at any time by one month□s written notice to us. We may terminate the Agreement at any time by one month□s written notice to you if:
 - a) you are in material breach of the terms of the Agreement or
 - b) if you become subject to the law of bankruptcy or insolvency or
 - c) for any reason if we wish to stop this Agreement applying to future supplies of information to you.
- 6.2 On termination of the Agreement under condition 6.1.a) or b), our permission to you to use the Data will automatically end and you will cease to use the Data other than in accordance with your legal rights that apply in the absence of this Agreement.
- 6.3 Termination of the Agreement will not affect either your statutory or other rights or our rights under the Agreement which may have accrued up to and including the date of termination.

GENERAL

- 7.1 Neither of us will be liable to the other for any delay or failure to perform our obligations (other than payment) under the Agreement because of any cause outside our reasonable control. Such delay or failure will not constitute a breach of the Agreement and the time for performance of the affected obligation will be extended by a reasonable period.
- 7.2 If any part of the Agreement is found by a court of competent jurisdiction or other competent authority to be unenforceable, then that part will be severed from the remainder of the Agreement which will continue to be valid and enforceable to the fullest extent permitted by law.
- 7.3 No waiver of any breach of the Agreement will be treated as a waiver of any other breach of the Agreement or other term of the Agreement and no waiver will be effective unless made in writing.
- 7.4 The Agreement contains the whole agreement between you and us relating to the provision of the Data and supersedes all previous communications, representations and arrangements, written or oral.
- 7.5 No change to the Agreement will be effective unless it is in writing and signed by those authorised for the purpose by you and us.
- 7.6 The Agreement will be governed by and interpreted in accordance with English law and we and you agree to submit to the jurisdiction of the English courts in connection with the Agreement.
- 7.7 Nothing in this agreement shall create a partnership or joint venture between the parties, nor shall this agreement constitute one party the agent of the other or confer or purport to confer on any third party any benefit or rights in respect of the terms of this agreement.
(Version 4.5)