

Framework Direct Licence for Ordnance Survey Data

**Restricted – commercial to the Parties to
the Agreement**

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Framework Terms

Background

- A As the national mapping agency of Great Britain, The First Secretary of State acting through Ordnance Survey (**we, Ordnance Survey**) licenses a range of mapping products to businesses, local and central government bodies, and consumers.
- B You wish to use Ordnance Survey Data for Licensed Use as specified in an applicable Product Schedule and as may be further set out in the Contract to which that Product Schedule relates and as defined in the applicable Licensed Use Schedules.
- C We and you agree to enter into this Framework Direct Licence so as to provide for the licence of Ordnance Survey Data under Contracts which the parties will execute from time to time.

Operative Terms:

1 Definitions and interpretations

| Expression | Meaning |
|------------------------------------|--|
| Acceptance Form | means a form entitled Acceptance Form to which these Framework Terms were attached when issued by us, which was signed or accepted online by you and which forms part of a Framework Direct Licence. |
| Agreement | means the Framework Direct Licence together with all Contracts and any Licensed Use Schedules (each as amended or replaced from time to time in accordance with its particular terms). |
| Confidential Information | means any information that relates to the affairs of one party to this Agreement (the Discloser) and is acquired by the other party (the Recipient) in anticipation of or as a result of this Agreement. This excludes information which is in the public domain other than through the breach of any duty of confidentiality. |
| Contract | means either an agreement formed online by our acknowledgement of the accuracy of your acceptance of our conditional Contract Offer or an agreement formed off-line by an Order Form signed by you (as may be amended from time to time in writing). |
| Contract Offer | means an online offer available to be click accepted or downloaded and signed, which sets out the terms of a Contract in relation to Ordnance Survey Data which shall incorporate this Framework Direct Licence and the relevant Product Schedule and may include one or more Licensed Use Schedules. |
| Contractor Licence | means a licence which may be granted by you to any contractor employed by you or tendering to you to provide services in connection with Ordnance Survey Data in the form of the draft set out in the Schedule to these Framework Terms. |
| Data | means any text, graphics, audio, visual (including still visual images) and/or audio visual material, software, applications, data, database content or other multimedia content, information and material. |
| Data Protection Legislation | has the meaning given to it in Clause 19. |
| Effective Date | means the date on which we receive your acceptance of our offer of a Framework Direct Licence which in the case of an acceptance submitted electronically shall be the date of submission, in the case of an acceptance delivered to us by fax or by hand shall be the date of receipt by us and in the case of an acceptance posted to us shall be the next following business day after posting. |
| Framework Direct Licence | means the Acceptance Form, the Framework Terms, a Licensed Use Schedule relating to Standard Licensed Use, any Special Conditions and all documents expressly incorporated in this Agreement by specific reference, except for Product Schedules, Contracts and any other Licensed Use Schedules. |

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|-------------------------------------|---|
| Framework Terms | means the Background and Operative Terms of this document together with any Schedule to it. |
| Intellectual Property Rights | means copyright, patent, trade mark, design right, database rights, trade secrets, know how, rights of confidence, broadcast rights and all other similar rights anywhere in the world whether or not registered and including applications for registration of any of them. |
| Licence Fee or Royalty | means the fees you shall pay for the supply or use of Ordnance Survey Data specified in or calculated pursuant to Clause 10 and the applicable Product Schedules and Contracts. |
| Licensed Use | means the use which we shall permit you to make in respect of Ordnance Survey Data as specified in the Framework Direct Licence, any applicable Contract Offer or Order Form and as described in detail in the applicable Licensed Use Schedule(s). |
| Licensed Use Schedule | means a Schedule defining in detail a specific Licensed Use, including Standard Licensed Use, which is signed or accepted online by you, which may be varied from time to time by our giving you notice. |
| Order Form | means a hard copy form, made available by post or fax, which sets out the terms of a Contract in relation to Ordnance Survey Data which shall incorporate this Framework Direct Licence and the relevant Product Schedule and may include one or more Licensed Use Schedules. |
| Ordnance Survey Data | means Data owned by or licensed to Ordnance Survey, as may be amended from time to time by Ordnance Survey Updates. |
| Ordnance Survey Updates | means the updates, revisions and amendments to Ordnance Survey Data that we may provide or in respect of which we may provide access from time to time pursuant to Contracts. |
| our Representative | means the appropriate customer contact representative and/or an account representative who shall be our representative(s) for this Agreement, as may be changed by us from time to time by a notice to you. |
| Product Schedule | means terms for the licensing to you of a set of Ordnance Survey Data identified by name which shall be incorporated, together with the Framework Direct Licence and any Licensed Use Schedule(s), in one or more Contracts. |
| Review | means a review of this Agreement by you and us pursuant to Clause 6. |
| Special Condition | means any term agreed between you and us in writing in a single document in hard copy form other than Product Schedules, Contracts and Licensed Use Schedules, which is signed by our Representative and your Representative and expressly overrides one or more specific provisions in the Framework Terms or the Licensed Use Schedule relating to Standard Licensed Use. |
| Specification | means the latest current specification of any Ordnance Survey Data products at the date on which they become subject to a Contract as published by us on our web site or provided to you in hard copy form in relation to such products under the title 'Technical Sheet', as may be updated from time to time pursuant to Clause 11, subject to any overriding provisions in an applicable Contract. |
| Standard Licensed Use | means use of Ordnance Survey Data in accordance with the terms of the document named 'Standard Licensed Use' as specified on the Acceptance Form, as may be varied from time to time. |
| Trade marks | means Ordnance Survey trade marks specified in these Framework Terms and the applicable Product Schedule. |
| your Representative | means your representative or his delegate for this Agreement as identified in the most recent Order Form relating to a Contract formed off-line OR as you may advise us in writing for a Contract formed online, as you may change from time to time by giving us notice in writing in either case. |

- 1.1 Unless the context otherwise requires, any reference to a particular Clause or Schedule shall be a reference to a Clause in or a Schedule to these Framework Terms.
- 1.2 Headings are inserted for convenience only and shall not affect the interpretation of any provision of this Agreement.
- 1.3 Unless the contrary intention appears, words importing the masculine gender shall include the feminine and vice versa and words in the singular include the plural and vice versa in this Agreement.
- 1.4 A reference to any statute or statutory provision includes a reference to that statute or statutory provision as amended, extended or re-enacted from time to time in this Agreement.
- 1.5 Any reference to a party shall mean a party to this Agreement.
- 1.6 You acknowledge that, apart from you, no person, firm, company or other organisation (including without limitation any or your subsidiaries or holding companies or any company or organisation which is under common or partly under common ownership with you) shall have any rights whatsoever under this Agreement.

2 This Agreement

2.1 Acceptance of this Agreement

- 2.1.1 This Agreement shall apply to our relationship over all other terms and conditions which you may try to apply and to the extent that any obligations under this Agreement have already been performed by either you or us, then such obligations shall for all purposes be deemed to have been performed in accordance with and subject to the provisions of this Agreement. Your exercise of any of the rights granted to you shall be deemed to be conclusive evidence of your acceptance of this Agreement.
- 2.1.2 It is agreed that the provisions of Regulations 9 and 11 of the *Electronic Commerce (EC Directive) Regulations 2002*, relating to contracts made online, shall not apply to this Agreement or any Contract.

2.2 Term of this Agreement

- 2.2.1 This Agreement shall commence or continue (in the case where this Agreement is already in force) from the Effective Date and shall remain in force thereafter unless and until terminated in accordance with Clause 13.
- 2.2.2 If at any given time, there has been no Contract in force at any time during the preceding six (6) months, either party may give the other thirty (30) days' notice to terminate this Agreement.

- 2.2.3 Unless otherwise stated in any Contract, each Contract shall commence on the date specified for commencement in that Contract and shall continue for the period set out in the relevant Contract, unless earlier terminated in accordance with Clause 13 of this Agreement or the provisions of the relevant Contract.
- 2.2.4 The termination of any Contract shall not affect any other Contract in force except as set out in Clause 13.
- 2.2.5 The termination of this Agreement shall terminate all Contracts in force at the time of termination.

3 Access to Ordnance Survey Data

3.1 Purpose

- 3.1.1 The purpose of this Agreement is to set out your and our obligations and to provide the framework for the delivery, access and use of Ordnance Survey Data supplied by us under this Agreement.
- 3.1.2 Each Contract incorporating a Product Schedule shall amongst other things specify Ordnance Survey Data to which it is applicable, the Specification, the specific rights granted in respect of Ordnance Survey Data, the restrictions and conditions applicable to the delivery of, access to and use of Ordnance Survey Data, the Licence Fee payable, the period of the Product Schedule, the extent of the Licensed Use from the date it is sent to you, the network or distribution delivery and the technology or method we may use and any specific termination rights and obligations.
- 3.1.3 Ordnance Survey Data are supplied to you once, when you request them for the first time. If you have more than one Contract in respect of the same Product Schedule, it is possible that more than one Contract is granting rights in respect of the same Ordnance Survey Data. This does not entitle you to receive more than one copy of any Ordnance Survey Data, unless otherwise specified in a Product Schedule.

3.2 Product Schedules, Licensed Use Schedules and Contracts

- 3.2.1 Each Product Schedule shall specify the processes for your enquiries about Ordnance Survey Data and the terms on which they may be made available to you.
- 3.2.2 In addition, each Product Schedule shall specify the processes by which a Contract may be concluded either online or off-line in respect of particular Ordnance Survey Data under a particular Product Schedule.
- 3.2.3 In addition, each Product Schedule shall specify the initial Licensed Use and how any further Licensed Uses may be added.

3.2.4 Each Contract shall incorporate the Framework Direct Licence and the relevant Product Schedule to it.

3.3 Provision of Ordnance Survey Data

3.3.1 Subject to availability, we will deliver to you and/or provide you with access pursuant to the applicable Contract to Ordnance Survey Data referred to in such Contract to the extent that you do not already have possession of or access to such Ordnance Survey Data.

3.3.2 We will deliver to you or make available Ordnance Survey Updates in accordance with each Contract, subject to availability.

3.3.3 If you fail to pay any sum by the due date, we reserve the right not to supply you with any further Ordnance Survey Data, and to withhold further access to such Ordnance Survey Data, whether or not you have already ordered that Ordnance Survey Data (and shall incur no liability to you by so doing).

3.4 Order of precedence

3.4.1 If there is any conflict or inconsistency between the provisions of a Contract other than this Framework Direct Licence, then the relevant provisions of the Framework Direct Licence will take precedence (to the extent of such conflict or inconsistency) unless the Contract expressly states that the relevant provision is intended to supersede the Framework Direct Licence. Where this Framework Direct Licence expressly requires a Contract to contain specified information, then, to the extent that the Contract does so, the relevant terms of the Contract will prevail even where the corresponding provision of the Framework Direct Licence is not expressly referred to.

3.4.2 If there is any conflict or inconsistency between the Background and Clauses of these Framework Terms and any Special Conditions, the Special Conditions shall prevail and later Special Conditions shall prevail over earlier ones.

4 Your appointment as licensee

4.1 You agree to comply with all applicable requirements of this Agreement and in particular of each Contract.

4.2 You represent that you have the ability and experience to carry out the obligations you assume under this Agreement including without limitation using Ordnance Survey Data.

4.3 We reserve the right to exploit Ordnance Survey Data ourselves by such means as we may think fit including without limitation by licensing.

5 Your obligations

5.1 You shall:

5.1.1 at all times conduct your business in a manner which will not reflect unfavourably on Ordnance Survey Data or on our good name and reputation;

5.1.2 not by yourself or with others participate in any illegal, deceptive, misleading or unethical practices including, but not limited to, disparagement of Ordnance Survey Data or Ordnance Survey or other practices which may be detrimental to Ordnance Survey Data, Ordnance Survey or the public interest;

5.1.3 not describe yourself or allow yourself to be described as Ordnance Survey's agent or representative or to act as such in any way; and

5.1.4 use your best endeavours to ensure that you use all adequate technological and security measures, including without limitation such measures as we may recommend from time to time, to ensure that all Ordnance Survey Data which you hold or are responsible for are secure from unauthorised use or access and are only used in accordance with the terms of this Agreement.

5.2 You shall notify us as soon as you suspect any infringement or any other breach by a third party of our Intellectual Property Rights or the Trade marks, and give us all reasonably required assistance in pursuing any infringement.

5.3 You shall inform us in writing of any change or intended change of Control (as defined in Clause 13.3.7) of your business not more than thirty (30) days after it becomes effective.

6 Review

You and we each agree to undertake a Review at any time one of you or us asks for it. This Review will cover all Licensed Use Schedules and Contracts in effect at that date, and any other Licensed Use Schedules and Contracts which were entered into or terminated since the last Review, regardless of how long each has been in force.

7 Grant of licence

7.1 Under this Agreement, we grant you a non-exclusive, non-transferable, revocable licence to use, copy and adapt Ordnance Survey Data as specified in any Contract solely for, and to the extent permitted by the Licensed Use. You may not use Ordnance Survey Data in any way or for any purpose other than as set out in this Clause 7.

- 7.2 This Agreement does not give you any right to sublicense, distribute, sell or otherwise make Ordnance Survey Data available to third parties other than your own contractors who may use Ordnance Survey Data for your Licensed Use, in which case you shall ensure that they execute a Contractor Licence before making the Ordnance Survey Data available to the contractor. You shall remain liable to us in respect of any act or omission of such contractors and shall enforce the terms of such Contractor Licences.
- 7.3 We further reserve the right to modify, enhance, replace, withdraw or make additions to Ordnance Survey Data in any way whatsoever as we may determine in our discretion, provided that we shall not withdraw any Ordnance Survey Data already delivered to or collected by you. We may decline to provide you with Ordnance Survey Updates in respect of any Ordnance Survey Data for which you have declined to take earlier Ordnance Survey Updates.
- 7.4 We expressly reserve and retain all Intellectual Property Rights in Ordnance Survey Data and any copies you make. Except as expressly stated in Clauses 7 and 8 and in any applicable Contract, you may not make any use of any of our Intellectual Property Rights nor in any form attempt to transfer, rent, lease or sublicense Ordnance Survey Data or any copies of them.

8 Trade Marks and rights acknowledgement

- 8.1 You must ensure that appropriate acknowledgements of copyright and database right ownership are included in a conspicuous position in all copies of Ordnance Survey Data. Any text acknowledgement must be 8 point or larger.
- 8.2 Subject to Clause 8.4, the appropriate notation for all copies of Ordnance Survey Data is:

'Reproduced by permission of Ordnance Survey on behalf of HMSO. © Crown copyright and database right [insert year of supply]. All rights reserved. Ordnance Survey Licence number nnnn.'
- 8.3 The circumstances in which the notation is to be used for copies of Ordnance Survey Data include (but are not limited to):
- 8.3.1 any reproduction of Ordnance Survey Data within reports;
- 8.3.2 within any mapping image presented on-screen;
- 8.3.3 the opening (flash) screen of digital data;
- 8.3.4 the imprint page of a user manual or accompanying documentation for digital data; and

- 8.3.5 the physical media used for delivery of digital data, such as floppy disc or CD-ROM.
- 8.4 Where there is insufficient space to allow the full acknowledgement to be used, an abbreviated notation for copies of Ordnance Survey Data may be used as follows:

'© Crown Copyright [insert year of supply]. All rights reserved. Ordnance Survey Licence number nnnn.'
- 8.5 You will not tamper with or remove any of our trade mark symbols or notices. Trade marks relating to a specific set of Ordnance Survey Data are as listed in the applicable Product Schedule.
- 8.6 You will not under any circumstances use or apply for registration of any trade mark in respect of our trade names or registered or unregistered trade marks or any part of them, nor use or apply to register any trade mark similar to or likely to be confused with any of them, nor register any domain name which is the same as, similar to or likely to be confused with any of our trade names or registered or unregistered trade marks or domain names.

9 Ownership of Ordnance Survey Data

- 9.1 The Crown (or where applicable our suppliers) owns the Intellectual Property Rights in Ordnance Survey Data. All Ordnance Survey Data licensed under this Agreement remain the property of the Crown (or, where applicable, our suppliers) and your use or possession of any Ordnance Survey Data does not give you any ownership of or other interest in any of Ordnance Survey Data. Title to any copies that you make of Ordnance Survey Data shall pass to us on their creation.
- 9.2 You will be responsible for all loss of or damage to Ordnance Survey Data from the time we deliver them or make them available to you for collection.
- 9.3 If you fail to destroy any digital copies of Ordnance Survey Data, when required under this Agreement, we may enter upon any premises you own, occupy or control where Ordnance Survey Data are situated and destroy them.

10 Licence fees or Royalties

- 10.1 We will invoice you for the Licence Fees for Ordnance Survey Data due in accordance with the terms of each Contract.
- 10.2 In addition, you will pay VAT and any other applicable taxes at the rate prevailing at the date of the invoice.

- 10.3 Unless otherwise agreed you will pay all invoices immediately. At our discretion, we may require payment of Licence Fees prior to delivery to you of Ordnance Survey Data to which they relate. Subject to any specific arrangement in a Contract or Product Schedule, if and so long as we grant you credit, you will pay all invoices within thirty (30) days of the invoice date.
- 10.4 Payment should be made in pounds sterling without deduction or set-off. We reserve the right to charge interest at two per cent (2%) per annum above the base rate of National Westminster Bank plc, calculated and applied daily on any outstanding balances until payment is received, whether before or after judgment.
- 10.5 If you fail to pay any sum by the due date, the provisions of Clause 3.3.3 shall apply.
- 10.6 Any credit arrangements offered by us to you may be terminated by us immediately on giving notice to you, and all outstanding sums shall become immediately payable.
- 10.7 We may set off any amount or amounts which would otherwise be payable or owing by us to you under or pursuant to this Agreement against all monies, debts or liabilities that you owe or are due from you to us under or pursuant to this Agreement.

11 Variation

11.1 Variation of Framework Direct Licence and Contracts

- 11.1.1 We reserve the right at any time to change the Framework Direct Licence, the Product Schedules, any Licensed Use Schedules, the Specification and any Contracts (including without limitation any royalties, fees, multipliers or other methods used to calculate the Licence Fee and any price list by reference to which the Licence Fee is calculated). All such changes shall become incorporated into this Agreement on the date which we shall specify in a written notice to you. We shall provide you with at least thirty (30) days' notice of any such change (provided always that such notice may be less than thirty (30) days where such change is required by law).
- 11.1.2 If you do not find the changes made in accordance with Clause 11.1.1 acceptable, you may, within thirty (30) days of such notice, terminate this Agreement or any affected Product Schedule or Contract by giving us notice in writing. In such event, you will be entitled to a rebate of a fair and reasonable proportion of any Licence Fee paid in advance if the licence period to which the Licence Fee relates has not fully expired as at the date of termination. Otherwise, all such changes shall be binding on you and us.

- 11.1.3 Any such changes which may be made to the form of Contractor Licences shall be incorporated without delay into any Contractor Licences executed by your contractors and enforced by you.

11.2 Variation of applicable Ordnance Survey Data

- 11.2.1 You may ask to change any particular Ordnance Survey Data held by you at any time. If you wish to add further Ordnance Survey Data during a licence period in respect of a Product Schedule, you may either add such Ordnance Survey Data to an existing Contract for an additional Licence Fee and subject to Ordnance Survey's approval, or enter into a separate Contract, as may be specified in an existing Contract. If you wish to remove some Ordnance Survey Data during a licence period in respect of a Product Schedule (whether an initial period or an extended period) and if we agree to this, the applicable Product Schedule will provide the relevant terms.
- 11.2.2 Any continued use of Ordnance Survey Data after any change or variation of this Agreement confirmed to you pursuant to this Clause 11 shall be deemed conclusive evidence of your acceptance of the change or variation.

11.3 Destroying unused Ordnance Survey Data

You shall within thirty (30) days of a variation to remove any Ordnance Survey Data destroy all such Ordnance Survey Data in your possession (including any Ordnance Survey Data embedded in any other material, but excluding paper copies, whether or not derived from digital copies, provided that any such paper copies shall only be used for archive purposes or in accordance with the applicable Licensed Use) which you hold or are responsible for, or, at Ordnance Survey's option, return all such Ordnance Survey Data to us, and provide, at our request, a sworn statement by a duly authorised executive that you no longer hold such Ordnance Survey Data.

12 Auditing

- 12.1 You shall provide evidence of compliance with any of your obligations under this Agreement, including without limitation in connection with the measures set out under Clause 12, if we so request.

- 12.2 You will maintain accurate, complete and detailed records related to all transactions arising out of this Agreement. To meet our auditors' and business requirements, upon giving reasonable notice, we and/or the National Audit Office, and our or their representatives have the right on reasonable notice during business hours to enter your premises and to inspect and audit your books of account and all supporting documentation to ensure your compliance with the security, financial and Intellectual Property Rights aspects of this Agreement and to take copies of any necessary records. Without prejudice to Clause 12.3 you shall, at your expense, make appropriate employees and facilities available to provide us with all reasonable assistance to enable such inspection, auditing and copying to take place.
- 12.3 If the audit (or any other periodic inspection not being a full audit) shows that your accounting as to the calculation of the payments due under this Agreement, and/or any other financial matter, is incorrect, you hereby undertake promptly to rectify the defect in the amount accounted for and/or the accounting system defect as the case may be. We will bear the costs of any such audit except where the audit indicates that the calculation of the Licence Fee due to us under this Agreement is inaccurate by five per cent (5%) or more, in which case you will bear the costs of the audit. Any sum payable shall be subject to interest at two per cent (2%) over the base rate from time to time of National Westminster Bank plc from the date this sum was originally due up to the date of payment (whether before or after judgment).
- 12.4 You will comply with any reasonable measures stipulated by us as a result of any audit by which we can ensure your compliance with your obligations under this Agreement.

13 Termination

13.1 Suspending this Agreement or Contracts

We may at any time suspend the provision and licensing of Ordnance Survey Data or Ordnance Survey Updates under any Contract or this Agreement by serving you with a notice with immediate effect if you are in breach of any of your obligations including without limitation non-payment of any Licence Fee or unauthorised disclosure of Confidential Information or unauthorised licensing or use of Ordnance Survey Data, until any breach entitling us to give such notice has been remedied. This right is without prejudice to any other rights we have under this Agreement or under general law.

13.2 General termination rights

This Agreement or any Contract may be terminated immediately by one party on giving notice:

- 13.2.1 if the other party is in material breach of any of the terms of this Agreement or the Contract (as the case may be) and such breach is incapable of being remedied;
- 13.2.2 if the other party is in material breach of any of the terms of this Agreement or the Contract (as the case may be) and the breach, being remediable, is not remedied within thirty (30) days from the date of a written request to do so, and for the avoidance of doubt any failure to pay a sum by the due date shall be a material breach;
- 13.2.3 if the other party commits three (3) successive or concurrent breaches of this Agreement or Contract (as the case may be) during any twelve (12) month period, whether or not such breaches are remedied within any required period;
- 13.2.4 if the other party discloses Confidential Information of the first party or authorises use of the first party's Intellectual Property Rights to an unauthorised third party;
- 13.2.5 if the parties are in dispute over any rights in or use of Intellectual Property Rights or Confidential Information;
- 13.2.6 at any time Ordnance Survey loses the right to administer Crown copyright (as defined in section 163 of the *Copyright, Designs and Patents Act 1988*) in respect of Ordnance Survey Data which it has been accustomed to supply to you;
- 13.2.7 if there has been no Contract in force for the preceding six (6) months pursuant to Clause 2.2.2.

13.3 Termination rights without notice period

We may terminate this Agreement or any Contract with immediate effect by giving you notice in the event that you:

- 13.3.1 are unable to pay your debts within the meaning of Section 123 of the *Insolvency Act 1986*;
- 13.3.2 cease to carry on business;
- 13.3.3 have a receiver, administrative receiver, administrator or similar officer appointed over all or any part of your assets or undertaking;
- 13.3.4 make an assignment for the benefit of, or a composition with, your creditors generally or another arrangement of similar import;

- 13.3.5 commit an act of bankruptcy or go into liquidation or are the subject of a petition for bankruptcy or a winding-up order otherwise than for the purposes of a bona fide amalgamation or reconstruction;
- 13.3.6 undergo any process similar to the matters referred to in Clauses 13.3.3 and 13.3.5 in any jurisdiction other than that of the UK;
- 13.3.7 undergo a change of Control of your business, where Control shall mean the power (directly or indirectly) whether by holding of securities, voting control, contract or otherwise, to appoint or remove a majority of the directors of a company and includes the power to appoint or remove a majority of the directors of a company if exercisable through any number of intermediate bodies corporate prior to its possible exercise over the company in question; or
- 13.3.8 have breached the provisions of Clause 5.1.

13.4 Termination with ninety (90) days' notice period

We may terminate this Agreement or any Contract by giving you ninety (90) days' notice (or, where we are prevented by legal or other constraint from giving you such length of notice, such period of notice as we are able to give) in the event that there is any change in legislation, regulations or administrative practice or a decision by any competent court which shall in our opinion adversely affect our right to receive payment of all or any Licence Fees or other remuneration by whatever means payable to us, or our ability to supply Ordnance Survey Data or our ability to conduct our business. In such event, you will be entitled to a rebate of a fair and reasonable proportion of any Licence Fee paid in advance if the licence period to which the Licence Fee relates has not fully expired as at the date of termination. Otherwise, all such changes shall be binding on you and us.

13.5 Effects of termination of this Agreement

In the event of termination or expiry of this Agreement:

- 13.5.1 your and our accrued rights and remedies will not be affected;
- 13.5.2 all Contracts applicable to this Agreement will terminate automatically with immediate effect;

- 13.5.3 subject to any provision to the contrary in any applicable Contract you shall within thirty (30) days of such termination destroy (or arrange for the destruction of) all Confidential Information and Ordnance Survey Data (including any Ordnance Survey Data embedded in any other material but excluding any paper copies of such Ordnance Survey Data whether or not derived from digital copies, provided that any such paper copies shall only be used for archive purposes or in accordance with the applicable Licensed Use) which you hold or are responsible for, or, at Ordnance Survey's option, return (or arrange for the return of) all Ordnance Survey Data and Ordnance Survey Confidential Information to us, and provide, at our request, a sworn statement by a duly authorised executive that you no longer hold any such Ordnance Survey Data or Confidential Information;

- 13.5.4 you shall comply with each of your obligations in relation to termination set out in each Contract;

- 13.5.5 you shall terminate any Contractor Licence which is in force with immediate effect and ensure that any provisions relating to the termination of such Contractor Licences are enforced; and

- 13.5.6 the provisions of those Clauses intended to survive termination or expiry, including without limitation, Clauses 1, 5, 8, 9, 12, 13.5, 15, 17, 18, 19, 21, 26, 27 and 28 shall continue in full force and effect, notwithstanding such termination or expiry.

13.6 Effects of termination of a Contract

In the event of termination or expiry of a Contract:

- 13.6.1 your and our accrued rights and remedies will not be affected;
- 13.6.2 subject to any provision to the contrary in the Contract you shall within thirty (30) days of such termination destroy (or arrange for the destruction of) all our Confidential Information and Ordnance Survey Data which are the subject of the Contract and not of any other Contract (including any Ordnance Survey Data embedded in any other material but excluding any paper copies of such Ordnance Survey Data whether or not derived from digital copies, provided that any such paper copies shall only be used for archive purposes or in accordance with the applicable Licensed Use) which you hold or are responsible for, or, at Ordnance Survey's option, return (or arrange for the return of) all such Ordnance Survey Data and Confidential Information to us, and provide, at our request, a sworn statement by a duly authorised executive that you no longer hold any such Ordnance Survey Data or Confidential Information;

- 13.6.3 you shall comply with your obligations (if any) in relation to termination set out in the Contract; and
- 13.6.4 any provisions of the Contract which are intended to survive termination or expiry shall continue in full force and effect, notwithstanding such termination or expiry.

14 Warranties

- 14.1 We shall use our reasonable endeavours to ensure that Ordnance Survey Data substantially conforms to the relevant Specification. If within thirty (30) days of receipt you find it does not so conform and you notify us then we will use reasonable endeavours to rectify any problem which exists provided that it has not been caused by any modification, variation or addition not performed or authorised by us, and has not been caused by any computer software or equipment with which it is incompatible. We may not complete this until the next update of Ordnance Survey Data. Such supply of substitute Ordnance Survey Data shall be your sole and exclusive remedy and our sole and exclusive liability for supplying faulty or incomplete Ordnance Survey Data or Ordnance Survey Data which do not conform to the relevant Specification. If we are unable to rectify the problem you and we may terminate the Contract under which such faulty or incomplete Ordnance Survey Data was supplied by notice with immediate effect.
- 14.2 We warrant that we are authorised by the Controller of Her Majesty's Stationery Office, who holds and exercises Crown copyright and other copyrights owned by Her Majesty, to grant licences to use such copyrights on the terms of this Agreement but we do not warrant that the Intellectual Property Rights subsist in, or that Her Majesty owns (either at all or free from encumbrances or licences), all Ordnance Survey Data and any condition, warranty or representation, whether express or implied, to the contrary is hereby excluded to the maximum extent permissible by law.
- 14.3 Ordnance Survey Data has not been created for your or any particular customer's requirements, whether operationally, functionally, technically, accurately or otherwise. It is your responsibility to ensure that Ordnance Survey Data are fit for your intended use or purpose. You acknowledge that if you do not take Ordnance Survey Updates then, over time, the operation, technology, functionality and accuracy of Ordnance Survey Data are likely to degrade and fail to meet the current relevant Specification.

- 14.4 We exclude, to the fullest extent permissible by law and except as expressly stated in this Clause 14, all warranties, conditions, representations or terms, whether express or implied by common law, statute or otherwise including, but not limited to, any regarding the accuracy, compatibility, fitness for purpose, performance, satisfactory quality or use of Ordnance Survey Data, Ordnance Survey Updates and any services we provide to you under or in connection with Agreement.

15 Liabilities

- 15.1 We accept no responsibility or liability whether in contract, tort (including negligence) or otherwise for any loss or damage of whatsoever nature arising from any use of the Ordnance Survey web site or from any interruption or failure of any electronic transmission of Ordnance Survey Data. We give no warranty or undertaking as to the uninterrupted continuity of our web site.
- 15.2 Nothing in this Agreement shall have the effect of excluding or limiting the liability of either party for:
- 15.2.1 death or personal injury to the extent it results from negligence, or that of your or our employees or agents in the course of their engagement hereunder; or
- 15.2.2 fraud.
- 15.3 Neither you nor we will be liable to the other in contract, tort (including negligence) or otherwise for any loss of profits (except for Ordnance Survey's loss of profit in respect of the Agreement or any part of it), loss of business or loss of contracts or for any special, indirect or consequential losses or damages, provided that neither this Clause 15.3 nor any other provision of this Agreement shall prevent Ordnance Survey from recovering from you all amounts lawfully due in respect of all infringements and breaches of Intellectual Property Rights or relating to our Confidential Information by you or any other party which has obtained Ordnance Survey Data from you.
- 15.4 Subject to Clause 15.3:
- 15.4.1 where a claim arises under or in connection with the terms of this Agreement and is not related to a Contract the total and aggregate liability of each of you and us for all claims made (whether in contract, tort (including negligence) or otherwise) under or in connection with this Agreement will not at any time exceed an amount equal to the total Licence Fee payable under this Agreement in respect of the twelve (12) month period immediately prior to the cause of action for the latest such claim or where less than twelve (12) months have passed by that time, in respect of the first twelve (12) month period of the Agreement; and

15.4.2 the total liability for each of you and us for all claims made (whether in contract, tort (including negligence) or otherwise) under or in connection with each Contract will not at any time exceed an amount equal to the total Licence Fee payable under such Contract in respect of the twelve (12) month period immediately prior to the cause of action for the latest such claim or where less than twelve (12) months have passed by that time, in respect of the first twelve (12) month period of such Contract.

16 Events outside anyone's control

Neither party will be responsible for any delay or failure in carrying out obligations under this Agreement if the delay or failure is caused by circumstances beyond the reasonable control of the affected party. In such circumstances the affected party will notify the other of any such likelihood as soon as possible. The affected party (or parties) shall be allowed a reasonable extension of time to carry out its obligations in these circumstances.

17 Construction of this Agreement

No rule of construction will apply in the interpretation of this Agreement to the disadvantage of one party on the basis that such party put forward or drafted this Agreement or any provision of this Agreement.

18 Confidentiality

18.1 Both you and we agree (as Recipient):

18.1.1 to use Confidential information only for the purposes of discussions between both of us relating to our business relationship, and for performing the Recipient's obligations and in accordance with the Recipient's rights under this Agreement;

18.1.2 to keep all Confidential Information secure, and to disclose it only to those employees, consultants, directors and professional advisers who are directly involved in this Agreement and who are subject to at least the same obligations of confidentiality in relation to the Confidential Information as the Recipient or to contractors in the terms specified in Clause 7.2;

18.1.3 to notify the Discloser without delay of any unauthorised use, copying or disclosure of the Confidential Information of which it becomes aware and provide all reasonable assistance to the Discloser to stop such unauthorised use and/or disclosure;

18.1.4 that Confidential Information shall at all times remain the property of the Discloser. Other than as set out elsewhere in this Agreement, no licence of Intellectual Property Rights is granted by any disclosure of Confidential Information. Confidential Information may not be copied or reproduced by the Recipient without the Discloser's prior written consent, and any permitted copies are also Confidential Information;

18.1.5 except as required by law or by governmental or regulatory requirements, not to disclose Confidential Information to any third parties without the Discloser's prior written consent.

18.2 The obligations in this Clause 18 do not apply to any information which the Recipient can demonstrate was previously known to it (unless acquired directly from the Discloser or in breach of any obligation of confidentiality) or independently developed by it without the use of any Confidential Information.

18.3 Neither you nor we may divulge directly or indirectly to the press or any other third party, other than professional advisers and where required by law to do so, details of this Agreement or of any dispute between you and us or between a third party and you or us.

19 Data protection

19.1 You shall comply in all respects with all current data protection legislation, including (without limitation) the *Data Protection Act 1998* and any orders made or codes of practice issued under it and the *Telecommunications (Data Protection and Privacy) Regulations 1999* (the **Data Protection Legislation**).

19.2 If you provide us with any personal data (as defined in the Data Protection Legislation), you warrant that such data was obtained and is supplied to us in compliance with the Data Protection Legislation.

19.3 We shall retain any such personal data which you provide to us to enable us to meet our obligations under the Agreement and/or to offer you other Ordnance Survey goods and services. In addition, we may pass such personal data to organisations working with us to enable them to perform services for us and to offer you their own goods and services. You acknowledge that we and such parties may make such offers, unless you notify us in writing to the contrary, which you may do at any time.

20 Assignment, subcontracting and sublicensing

20.1 Except as provided in the Agreement, you are not entitled to license, assign, transfer or novate rights and/or obligations under this Agreement.

20.2 We shall be entitled to assign, transfer or novate the benefits and obligations of this Agreement to any government body or nominated subcontractor or, in the event of the transfer of all or any of our activities or functions to any other entity, to the entity to which our activities or functions have been transferred. You expressly agree to the assumption of our obligations under this Agreement by that entity.

21 Partnership, joint venture and agency excluded

Nothing in this Agreement or any circumstances associated with it or its performance gives rise to any relationship of agency, partnership or employer and employee between you and us.

22 Entire agreement

The parties agree that this Agreement and any documents referred to in it constitute the entire agreement and understanding between the parties concerning the subject matter of this Agreement. This Agreement supersedes all understandings, representations and agreements made between the parties concerning such subject matter. Without prejudice to any other clause in this Agreement, any attempt by you to submit alternate terms and conditions, either as part of a purchase order or otherwise, subsequent to the parties entering into this Agreement, is hereby rejected. However, neither party seeks to exclude or limit liability for any fraudulent misrepresentations.

23 Waiver

23.1 The waiving (which must be in writing and signed by an authorised representative of the relevant party) on a particular occasion by either party of rights under this Agreement does not imply that other rights will be waived.

23.2 If a party has a right arising from the other party's failure to comply with an obligation under this Agreement and delays in exercising or does not exercise that right, such delay in exercising or failure to exercise is not a waiver of that right or any other right.

24 Severability

Each term of this Agreement is a separate term and is intended to stand alone. Should any provision of this Agreement be held to be invalid or unenforceable, such provision shall be severed from the remainder of this Agreement, which will continue to be valid and enforceable to the fullest extent permitted by law.

25 Further assurance

The parties shall do and execute all such further acts and things as are reasonably required to give full effect to the rights given and the transactions contemplated by this Agreement.

26 Notices

26.1 Any notice required to be given for the purposes of this Agreement shall be given in writing by sending the notice by either:

- 26.1.1 prepaid first-class post;
- 26.1.2 recorded delivery;
- 26.1.3 email (in the case of a notice by us only);
- 26.1.4 facsimile; or
- 26.1.5 delivery by hand.

26.2 Any notice shall be sent to the following address/fax number or other contact details:

- 26.2.1 for us:
 - a) Contact: our Representative;
 - b) Address: Romsey Road, SOUTHAMPTON, United Kingdom, SO16 4GU;
 - c) Telephone: 023 8030 5030;
 - d) Facsimile: 023 8079 2615;

26.2.2 for your Representative at the address, telephone, email and facsimile contact details which you have submitted to us;

26.2.3 or such other contact details as either party shall notify to the other in writing.

26.3 Any notice sent by prepaid first-class post or recorded delivery shall be deemed to have been served two (2) business days after posting. Any notice sent by facsimile shall be deemed to have been served on the next business day following sending, provided that electronic confirmation of transmission has been received. Any notice sent by email shall be deemed to have been served on the next business day following sending, provided that electronic confirmation of the email having been opened has been received. Any notice delivered by hand shall be deemed to have been served on the same day if received before 4 pm on a business day, or on the next business day if received after 4 pm.

26.4 Any notice given under this Clause 26 (except as provided in Clause 26.5) shall not be valid unless it is expressly stated to be a notice pursuant to this Clause 26.

26.5 Notwithstanding the provisions in this Clause 26 regarding notices, the parties may communicate by email and otherwise on non-contractual matters.

27 *Contracts (Rights of Third Parties) Act 1999*

Apart from the Controller of Her Majesty's Stationery Office a person who is not a party to this Agreement has no right under the *Contracts (Rights of Third Parties) Act 1999* to enforce or enjoy the benefit of any terms of this Agreement, but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

28 Jurisdiction and governing law

28.1 Subject to Clause 28.2, the parties agree that any disputes or disagreements will be resolved in the following way:

28.1.1 by discussion between our Representative and your Representative;

28.1.2 if no agreement is reached within ten (10) business days, the dispute shall be escalated to the appropriate Ordnance Survey director and a director or equivalent of yours; and

28.1.3 if no agreement is reached within a total of thirty (30) business days after the first request for a discussion referred to in Clause 28.1.1, the dispute may be referred to the English courts.

28.2 We reserve the right to refer disputes involving Confidential Information, Intellectual Property Rights and debt to the English courts immediately.

28.3 This Agreement will be governed by and construed in accordance with English law.

28.4 Both parties submit to the exclusive jurisdiction of the English courts in respect of any proceedings issued by either party in connection with this Agreement.

28.5 Where you are based outside the United Kingdom, you shall appoint an agent for service in England and Wales to receive service of all documents and notices under this Agreement, including without limitation those in connection with any court proceedings. You shall notify us in writing of the details relating to such agent. Alternatively, for a Contract formed off-line, the agent for service may be named on an Order Form.

Schedule to Framework Terms

Contractor Licence of Ordnance Survey Data

This **Contractor Licence** is made this day of 200

Between: (1)

of (the **Sub-licensor**);

and (2)

of (the **Contractor**).

Background

- A The Sub-licensor has acquired a licence from Ordnance Survey to use certain Ordnance Survey Data for its own Licensed Use.
- B The Sub-licensor wishes to provide such Ordnance Survey Data to the Contractor to enable the Contractor to provide a Tender or to carry out the Works.
- C The Sub-licensor has authority from Ordnance Survey to grant a licence to the Contractor in respect of any Ordnance Survey Data provided to the Contractor on the limited terms of this Contractor Licence.

Operative Terms:

1 Definitions and interpretations

1.1 Expression Meaning

| | |
|-------------------------------------|--|
| Confidential Information | means any information that relates to the affairs of the Sub-licensor and Ordnance Survey and that is acquired by the Contractor in anticipation of or as a result of this Contractor Licence. This excludes information which is in the public domain other than through the breach of any duty of confidentiality; |
| Data | means any text, graphics, audio, visual (including still visual images) and/or audio-visual material, software, applications, data, database content or other multimedia content, information and material; |
| Intellectual Property Rights | means copyright, patent, trade mark, design right, database rights, trade secrets, know-how, rights of confidence, broadcast rights and all other similar rights anywhere in the world whether or not registered and including applications for registration of any of them; |
| Licensed Use | means such use which has been licensed to the Sub-licensor by Ordnance Survey; |
| Ordnance Survey Data | means Data owned by or licensed to Ordnance Survey, as amended from time to time by Ordnance Survey Updates; |

| | |
|--------------------------------|--|
| Ordnance Survey Updates | means the updates, revisions and amendments to Ordnance Survey Data which Ordnance Survey may provide or in respect of which Ordnance Survey may provide access from time to time for the benefit of the Sub-licensor; |
| Tender | means a proposal by the Contractor for the supply to the Sub-licensor of goods and/or services; |
| Works | means the works, goods or services the Contractor is engaged to provide to the Sub-licensor. |

- 1.2 Unless the context otherwise requires, each reference to a particular Clause shall be a reference to that Clause contained in this Contractor Licence.
- 1.3 Headings are inserted for convenience only and shall not affect the interpretation of any provision of this Contractor Licence.
- 1.4 Unless the contrary intention appears, words importing the masculine gender shall include the feminine and vice versa and words in the singular include the plural and vice versa in this Contractor Licence.
- 1.5 A reference to any statute or statutory provision includes a reference to that statute or statutory provision as amended, extended or re-enacted from time to time in this Contractor Licence.
- 1.6 The Contractor acknowledges that, apart from the Contractor, no person, firm, company or organisation (including without limitation any subsidiary or holding company of the Contractor or any company or organisation which is under common or partly under common ownership with the Contractor) shall have any rights whatsoever under this Agreement.

2 Consideration and Term

In consideration for the Contractor's agreement to provide services to the Sub-licensor as specified elsewhere, the Sub-licensor hereby agrees to grant such licence terms as are specified in this Contractor Licence in respect of Ordnance Survey Data for as long as the Contractor shall require use of such Ordnance Survey Data in order to meet its obligations to the Sub-licensor, subject to other termination provisions contained in this Contractor Licence.

3 Grant of Licence

- 3.1 If the Sub-licensor delivers to the Contractor and/or provides the Contractor with any access to Ordnance Survey Data, then under this Contractor Licence the Sub-licensor, as a licensee of Ordnance Survey, grants the Contractor a non-exclusive, non-transferrable, revocable licence to copy and adapt Ordnance Survey Data solely for the purposes of providing the Tender or the Works to the Sub-licensor to the extent and subject to the restrictions of the Sub-licensor's Licensed Use which shall be notified to the Contractor. The Contractor may not use Ordnance Survey Data in any way or for any purpose other than as set out in this Contractor Licence.
- 3.2 Except as provided in Clause 3.3, the Contractor acknowledges that the licence of particular Ordnance Survey Data shall terminate immediately the Contractor has delivered the Tender or completed the Works for which such Ordnance Survey Data are required.
- 3.3 The Contractor shall be entitled to retain Ordnance Survey Data to the limited extent provided in Clause 11.3.
- 3.4 This Contractor Licence does not give the Contractor any right to sublicense, distribute, sell or otherwise make Ordnance Survey Data available to third parties.
- 3.5 The Contractor acknowledges that Ordnance Survey has expressly reserved and retained all Intellectual Property Rights in Ordnance Survey Data and any copies made by the Sub-licensor or the Contractor.

4 Obligations of Contractor

- 4.1 The Contractor acknowledges that it shall:
 - 4.1.1 at all times conduct its business in a manner which will not reflect unfavourably on Ordnance Survey Data or on the name and reputation of Ordnance Survey;

- 4.1.2 not by itself or with others participate in any illegal, deceptive, misleading or unethical practices including, but not limited to, disparagement of Ordnance Survey Data or Ordnance Survey or other practices which may be detrimental to Ordnance Survey Data, Ordnance Survey or the public interest;
- 4.1.3 not describe itself or allow itself to be described as Ordnance Survey's agent or representative or to act in any such way; and
- 4.1.4 use its best endeavours to ensure that it shall use all adequate technological and security measures including, without limitation, such measures as Ordnance Survey or the Sub-licensor may recommend from time to time, to ensure that all Ordnance Survey Data which it holds or is responsible for are secure from unauthorised use or access and are only used in accordance with the terms of this Contractor Licence.
- 4.2 The Contractor shall notify the Sub-licensor as soon as it suspects any infringement or any other breach by a third party of any Intellectual Property Rights which may exist in Ordnance Survey Data, and give the Sub-licensor and Ordnance Survey all reasonably required assistance in pursuing any infringement.
- 4.3 The Contractor acknowledges the following instructions with regard to Ordnance Survey Data:
 - 4.3.1 Any Ordnance Survey Data provided by the Sub-licensor shall only be that which is appropriate and necessary for the Contractor to carry out its obligations;
 - 4.3.2 Any information relating to Ordnance Survey Data can only be used by the Contractor in connection with its specific obligations to the Sub-licensor;
 - 4.3.3 Any further copies of Ordnance Survey Data made by the Contractor must carry acknowledgements identical to those on the originals first provided to the Contractor;
 - 4.3.4 Where digital data are involved, any computer systems holding such data must be password protected by the Contractor. In addition, only authorised staff should have access to Ordnance Survey Data. All original and back-up media and hard copies produced from such Ordnance Survey Data must be kept in a secure environment.

5 Ownership of Ordnance Survey Data

- 5.1 The Crown (or where applicable Ordnance Survey's suppliers) owns the Intellectual Property Rights in Ordnance Survey Data. All Ordnance Survey Data licensed under this Contractor Licence remain the property of the Crown (or, where applicable, Ordnance Survey's suppliers) and the Contractor's use or possession of any Ordnance Survey Data does not give the Contractor any ownership of or any interest in any of Ordnance Survey Data. Title to any copies that the Contractor makes of Ordnance Survey Data shall pass to Ordnance Survey on their creation.
- 5.2 The Contractor shall be responsible for all loss of or damage to Ordnance Survey Data from the time they are delivered to the Contractor or made available to the Contractor for collection.
- 5.3 If the Contractor fails to destroy any copies of Ordnance Survey Data when required under this Contractor Licence or required by Ordnance Survey, the Contractor acknowledges that Ordnance Survey and/or the Sub-licensor shall have the right to enter upon any premises owned, occupied or controlled by the Contractor where Ordnance Survey Data are situated and it may destroy them.

6 Variation

- 6.1 The Sub-licensor reserves the right to amend at any time the terms of this Contractor Licence upon thirty (30) days' prior notice. All such amendments shall become incorporated into this Contractor Licence upon the effective date of such notice. If the Contractor does not find the changes made in accordance with this Clause 6.1 acceptable, the Contractor may, within thirty (30) days of such notice, terminate this Contractor Licence by giving notice in writing to the Sub-licensor.
- 6.2 The Contractor shall, within thirty (30) days of any variation by which any Ordnance Survey Data are removed from the terms of this Contractor Licence, destroy all such Ordnance Survey Data in its possession in all media (including any Ordnance Survey Data embedded in any other material) which are held by the Contractor or for which the Contractor is responsible, or, at the Sub-licensor's option, return all such Ordnance Survey Data to the Sub-licensor, and provide, at the Sub-licensor's request, a sworn statement by a duly authorised executive that the Contractor no longer holds such Ordnance Survey Data.

7 Auditing

- 7.1 The Contractor shall provide evidence of compliance with any of its obligations under this Contractor Licence to the Sub-licensor, including without limitation in connection with the measures set out in this Clause 7.
- 7.2 The Contractor will maintain accurate, complete and detailed records relating to all transactions arising out of this Contractor Licence. To meet the requirements of the National Audit Office and Ordnance Survey's own business requirements, the representatives of the National Audit Office and Ordnance Survey shall have the right on reasonable notice during business hours to enter the Contractor's premises and to inspect and audit its books of account and all supporting documentation to ensure its compliance with the security and intellectual property aspects of this Contractor Licence and to take copies of any necessary records. The Contractor shall, at its own expense, make appropriate employees and facilities available to provide Ordnance Survey and/or the National Audit Office with all reasonable assistance to enable such inspection, auditing and copying to take place.
- 7.3 Ordnance Survey may stipulate a range of reasonable measures arising from the findings of any audit by which it can ensure the compliance of the Contractor with its obligations under this Contractor Licence.

8 Confidential information

- 8.1 The Contractor agrees:
- 8.1.1 to use Confidential information only for performing its obligations and in accordance with its rights under this Contractor Licence;
- 8.1.2 to keep all Confidential Information secure, and to disclose it only to those employees, consultants, directors and professional advisers who are directly involved in this Contractor Licence and who are subject to at least the same obligations of confidentiality in relation to the Confidential Information as the Contractor;
- 8.1.3 to notify the Sub-licensor without delay of any unauthorised use, copying or disclosure of the Confidential Information of which it becomes aware and provide all reasonable assistance to the Sub-licensor to stop such unauthorised use and/or disclosure;

- 8.1.4 that Confidential Information shall at all times remain the property of the Sub-licensor or Ordnance Survey, as the case may be. Other than as set out elsewhere in this Contractor Licence, no licence of Intellectual Property Rights is granted by any disclosure of Confidential Information. Confidential Information may not be copied or reproduced by the Contractor without the Sub-licensor's prior written consent, and any permitted copies are also Confidential Information;
- 8.1.5 except as required by law or by governmental or regulatory requirements, not to disclose Confidential Information to any third parties without the Sub-licensor's and Ordnance Survey's prior written consent.
- 8.2 The obligations in this Clause 8 do not apply to any information which the Contractor can demonstrate was previously known to it (unless acquired directly from the Sub-licensor or in breach of any obligation of confidentiality) or independently developed by it without the use of any Confidential Information.
- 8.3 The Contractor may not divulge directly or indirectly to the press or any other third party, other than to its professional advisers and Ordnance Survey and where it is required by law to do so, details of this Agreement and any dispute between it and the Sub-licensor or involving Ordnance Survey.

9 Warranties

- 9.1 The Sub-licensor gives no warranty with regard to the quality or description of Ordnance Survey Data but, on receipt of any notice from the Contractor with regard to any apparent defect, the Sub-licensor's sole liability, and the Contractor's sole remedy, shall be to the effect that the Sub-licensor shall report such matter to Ordnance Survey.
- 9.2 The Contractor acknowledges that the Sub-licensor has received a warranty to the effect that Ordnance Survey is authorised by the Controller of Her Majesty's Stationery Office, which holds and exercises Crown copyright (as defined in section 163 of the *Copyright, Designs and Patents Act 1988*) and other copyrights owned by Her Majesty, to grant licences to use such copyrights on the terms of this Contractor Licence. However, the Contractor acknowledges that no warranty is given that Intellectual Property Rights subsist in or that Her Majesty owns (either at all or free from encumbrances or licences) all of Ordnance Survey Data and any condition, warranty or representation, whether express or implied, to the contrary is hereby excluded to the maximum extent permissible by law.

9.3 The Sub-licensor excludes, to the fullest extent permissible by law and except as expressly stated in this Clause 9, all warranties, conditions, representations or terms, whether express or implied by common law, statute or otherwise, including, but not limited to, any regarding the accuracy, compatibility, fitness for purpose, performance, satisfactory quality or use of Ordnance Survey Data or Ordnance Survey Updates.

10 Liabilities

10.1 The parties acknowledge that any limits and exclusions of liability in relation to each other under this Contractor Licence shall be governed by the terms and conditions of other contracts between them.

10.2 It is further acknowledged by the parties that Ordnance Survey shall have no liability whatsoever to the Contractor in respect of Ordnance Survey Data or any matter or thing in connection with this Contractor Licence.

11 Termination

11.1 Either party may terminate this Contractor Licence with immediate effect at any time by giving notice to the other party.

11.2 Except as provided in Clause 11.3, as soon as this Contractor Licence is terminated or the Contractor has ceased to need to have access to Ordnance Survey Data for the Tender or the Works, the Contractor shall immediately either destroy (or arrange for the destruction of) all Confidential Information and Ordnance Survey Data in all media (including without limitation any Ordnance Survey Data embedded in any paper copies and any other material) which the Contractor holds or is responsible for or, at the Sub-licensor's option, return (or arrange for the return of) all Ordnance Survey Data and Confidential Information to the Sub-licensor or (if required by Ordnance Survey) Ordnance Survey, and provide, at the request of the Sub-licensor or Ordnance Survey, a sworn statement by a duly authorised executive that the Contractor no longer holds any Ordnance Survey Data or Confidential Information.

11.3 The Contractor shall be entitled to retain, for archive purposes only, one paper based copy of any Ordnance Survey Data which is relevant and necessary to document the Tender or the Works, as the case may be.

11.4 Notwithstanding the termination of this Contractor Licence, those Clauses intended to survive termination, including without limitation, Clauses 1, 5, 7, 8, 10, 11.2 11.3, 17 and 19 shall continue in full force and effect.

12 Assignment, subcontracting and sublicensing

The Contractor shall only be entitled to subcontract, assign, transfer or novate rights and/or obligations under this Contractor Licence with the prior written consent of both the Sub-licensor and Ordnance Survey.

13 Entire agreement

The parties agree that this Contractor Licence and any documents referred to in it constitute the entire agreement with regard to the Contractor's right to have access to Ordnance Survey Data. This Contractor Licence supersedes all understandings, representations and agreements made between the parties concerning such matters. However, neither party seeks to exclude liability for any fraudulent misrepresentations.

14 Waiver

14.1 The waiving (which must be in writing and signed by an authorised representative of the relevant party) on a particular occasion by either party of rights under this Contractor Licence does not imply that other rights will be waived.

14.2 If a party has a right arising from the other party's failure to comply with an obligation under this Contractor Licence and delays in exercising or does not exercise that right, such delay in exercising or failure to exercise is not a waiver of that right or any other right.

15 Severability

Each term of this Contractor Licence is a separate term and is intended to stand alone. Should any provision of this Contractor Licence be held to be invalid or unenforceable, such provision shall be severed from the remainder of this Contractor Licence, which will continue to be valid and enforceable to the fullest extent permitted by law.

16 Further assurance

The parties shall do and execute all such further acts and things as are reasonably required to give full effect to the rights given and the transactions contemplated by this Contractor Licence.

17 Notices

17.1 Any notice required to be given for the purposes of this Contractor Licence shall be given in writing by sending the notice by either:

- (a) prepaid first-class post;
- (b) recorded delivery;
- (c) facsimile; or
- (d) delivery by hand.

17.2 Any notice shall be sent to the following address/fax number or other contact details:

(a) for the Sub-licensor:

Contact

Address

.....

Telephone

Facsimile

(b) for the Contractor:

Contact

Address

.....

Telephone

Facsimile

or such other contact details as either party shall notify to the other in writing.

17.3 Any notice sent by prepaid first-class post or recorded delivery shall be deemed to have been served two (2) business days after posting. Any notice sent by facsimile shall be deemed to have been served on the next business day following sending, provided that electronic confirmation of transmission has been received. Any notice delivered by hand shall be deemed to have been served on the same day if received before 4.00 pm on a business day or on the next business day if received after 4.00 pm.

18 Contracts (Rights of Third Parties) Act 1999

Apart from Ordnance Survey and the Controller of Her Majesty’s Stationery Office, a person who is not a party to this Contractor Licence has no right under the *Contracts (Rights of Third Parties) Act 1999* to enforce or enjoy the benefit of any terms of this Contractor Licence, but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

19 Jurisdiction and governing law

This Contractor Licence will be governed by and construed in accordance with English law. Both parties submit to the exclusive jurisdiction of the English courts in respect of any proceedings issued by either party in connection with this Contractor Licence.

In witness whereof the hands of the duly authorised representatives the day and year first above written.

For Sub-licensor

For Contractor

Signature

Signature

Name

Name

Position

Position

Company

Company

Date

Date

Trade marks

Ordnance Survey and the OS Symbol are registered trade marks of Ordnance Survey, the national mapping agency of Great Britain.

Framework Direct Licence

Licensed Use Schedule

Standard Licensed Use

Important notice

Any use of Ordnance Survey Data which is not expressly addressed in this Licensed Use Schedule under the definition of ‘Standard Licensed Use’ or which is not otherwise expressly permitted by Ordnance Survey is prohibited. Any other use of Ordnance Survey Data may be made only with the express written agreement of Ordnance Survey in a form of a licence for the commercial use of such data, the terms and conditions for which are available on request.

1 Definitions

Unless expressly stated to the contrary, all words and expressions defined in the Framework Direct Licence shall have the same meanings in this Schedule. For the purposes of this Schedule:

| Definition | Explanation |
|----------------------------|--|
| Commercial Purposes | means any purposes which seek to exploit the Ordnance Survey Data for Financial Gain or any purpose which is or is likely to place the use of the Ordnance Survey Data in competition with a third party who is seeking to exploit data licensed from Ordnance Survey for Financial Gain or for any other purpose. |
| Customer | means You, a party who has entered into a Framework Direct Licence with Ordnance Survey. |
| Display | means a single, static image with no size restriction, for example on display boards or on the Internet. |
| Financial Gain | means a benefit accruing where the Customer or any third party used by, or connected to, the Customer receives any revenue or credit for the publication or use of any Ordnance Survey Data in any format. |
| Promotion(al) | means bringing any product or service to the attention of actual or potential customers and where multiple copies are made in any media, the total map area at scale must not exceed A3 or 1250 square centimetres size. |
| Excluded Bodies | means any of the following: <ul style="list-style-type: none"> (i) Central government departments, Crown bodies and non-departmental public bodies; (ii) Local authorities; (iii) Other public sector organisations (including companies in public ownership); (iv) Utility companies managing fixed assets as follows: <ul style="list-style-type: none"> - Gas companies - Electricity companies - Water companies - Cable operators - Oil companies - Fixed line telecommunications companies. |

2 Internal Business Use

- 2.1 Internal Business Use is defined as the use of Ordnance Survey Data in the ordinary day-to-day activities involved in the internal administration and running of the Customer's business or organisation.
- 2.2 Such use of Ordnance Survey Data is **only** permitted in the following circumstances:
- 2.2.1 solely and explicitly for the administration and operation of the Customer's business or organisation (which excludes its supply to any third party unless expressly permitted in this Schedule);
- 2.2.2 in reports and submissions to third parties (where such activities relate to the internal administration and running of the Customer's business or organisation and the Customer shall advise such third parties that such Ordnance Survey Data shall not be used for any other purpose), provided such reports and submissions do not carry paid for advertising in respect of third parties. Such use shall include electronic transmission of a graphic image that is a raster data file produced solely for the purposes of allowing such third party to view and print one copy;
- 2.2.3 by the Customer's contractors and agents when undertaking any activity for the Customer which the Customer is permitted to undertake itself under this Schedule but solely and explicitly to provide the Ordnance Survey Data for the purpose of enabling them to provide goods or services to the Customer or to tender for the provision of such goods or services. The Customer must require such contractor or agent to sign a contractor licence with the Customer in the form of the Contractor Licence. The Customer must enforce the provision in such Contractor Licence which requires the contractor or agent to erase all copies of Ordnance Survey Data on or before termination of such Contractor Licence. This must include those held in paper based or any electronic format, provided that the Customer may permit such contractor or agent to retain, for archive purposes only, one paper based copy of Ordnance Survey Data which is relevant and necessary to document the goods or services delivered to the Customer;
- 2.2.4 where Ordnance Survey Data are available on an internal network or on a remotely accessible server operated by an electronic hosting service, the Customer must either take steps itself or enter into a written agreement in relation to the facilities provided by the electronic hosting service to provide for appropriate industry standard safeguards restricting third party access to any data of the Customer's which include or incorporate any Ordnance Survey Data;

- 2.2.5 within any professional services provided by the Customer to its clients, provided that:
- (a) the provision of Ordnance Survey Data is not a service in itself and does not form a significant part of any service offered by the Customer;
- (b) Ordnance Survey Data may be provided only in paper form or by electronic transmission of a graphic image that is a raster data file produced solely for the purposes of allowing the recipient to view and print one copy;
- (c) only such amounts of Ordnance Survey Data may be used as are necessary to meet the specific need for which they are used; and
- (d) the use to which such clients shall put the Ordnance Survey Data shall be personal (in the case of a consumer client) or for the administration and operation of its business (in the case of a business client);

provided that the rights referred to in this Section 2.2.5 shall not apply where the Customer is an Excluded Body.

- 2.3 For the avoidance of doubt the permission of Ordnance Survey for such supply of Ordnance Survey Data to third parties as specified in Section 2.2.3 above is given on the basis that the Customer remains responsible and primarily liable to Ordnance Survey for the acts and omissions of such contractors and agents.
- 2.4 Such use does **not** extend to use of the Ordnance Survey Data:
- 2.4.1 by any associated undertaking of the Customer, including associated, subsidiary, affiliated, holding or any parent or group companies or any other undertaking (save to the extent such associated undertaking is acting as a contractor or agent providing services pursuant to Section 2.2.3 or is a client for professional services pursuant to Section 2.2.5); or
- 2.4.2 save in the case of contractors and agents providing services pursuant to Section 2.2.3 or provision of professional services pursuant to Section 2.2.5, for any Financial Gain or commercial purposes of the Customer, whether the Ordnance Survey Data are used on their own or in combination with any products or services of the Customer or which convey any financial gain for the benefit of any person other than the Customer or its employees.

3 Conditions of use for publishing for display and/or promotional purposes

- 3.1 Subject to the restrictions in Section 3.2 below, Ordnance Survey Data may be published for Display and/or Promotional purposes provided there is no Financial Gain but only:
 - 3.1.1 as a background to display information specific to the Customer's activities; or
 - 3.1.2 to promote the Customer's commercial or public services, provided that the use of Ordnance Survey Data is secondary to the Customer's services or business activities and is not a service or business activity in itself; or
 - 3.1.3 in order to provide directional guidelines on how to locate the Customer's premises or a location relevant to the Customer's day-to-day business activities.
- 3.2 The following conditions apply to the publishing of the Ordnance Survey Data for Display and/or Promotional purposes by the Customer:
 - 3.2.1 the correct database right, copyright, trade mark acknowledgements and licence number must be used. Acknowledgements are always required and each individual image using Ordnance Survey Data must contain the appropriate acknowledgement(s). Non-compliance will be regarded as a breach of your obligations under this Schedule and, without prejudice to any other rights, may incur royalties at our normal commercial use rates;
 - 3.2.2 the Customer must overlay outputs generated using the Ordnance Survey Data with information that is specifically relevant to the purpose of the Display and/or Promotion. Use of Ordnance Survey Data in this manner must only be to demonstrate the services or activities to which the Ordnance Survey Data makes a significant contribution. Ordnance Survey Data must not be published on their own or in any format or as the primary or dominant part of any Display and/or Promotion and must always be combined with appropriate additional information relating to the Customer;
 - 3.2.3 a visible background watermark to identify the source of the publication may be required by Ordnance Survey. This is a mandatory requirement when publishing Ordnance Survey Data electronically. The Customer shall choose its own method of applying a watermark from suitable alternatives. The purpose of the watermark is not to obscure or change the meaning of the Customer's message, but to establish the source of the material and to deter its use for other purposes;

- 3.2.4 when using the Ordnance Survey Data, whether in paper or electronic format, the Customer is to include a brief statement of the purpose of the publication and the reason why mapping information is included together with limitations for its further use. This can be placed anywhere within the document;
- 3.2.5 the Customer shall use all reasonable endeavours to prevent the improper use of the Ordnance Survey Data by its staff or any third parties;
- 3.2.6 only such amounts of Ordnance Survey Data may be used as are necessary to meet the specific need for which they are used;
- 3.2.7 Ordnance Survey Data must not be published in their original condition either in paper or electronic form. Any publication, both paper and electronically, must feature such additional elements or content as are specifically relevant to the purpose to which they are put. Such additional content must be provided by the Customer and unless otherwise agreed with Ordnance Survey must be sufficiently significant to render the underlying Ordnance Survey Data unusable for any other purpose. When published electronically this additional content must be incorporated into the Ordnance Survey Data in a manner which does not allow them to be separated from each other unless expressly agreed in writing by Ordnance Survey; and
- 3.2.8 Ordnance Survey Data must not be published electronically in a manner which will allow vector map data to be extracted from the published materials. For the avoidance of doubt, this means in whole, part or derived vector data.

4 Statutory Use

- 4.1 For the purpose of this Schedule:
 - 4.1.1 **Statutory Obligation** means an express written obligation imposed by an Enactment upon the Customer, which requires the use of the Ordnance Survey Data to meet that obligation. This does not include a general obligation which does not specifically refer to a product or service which is to be delivered by the Customer; and
 - 4.1.2 **Enactment** means a statute or act of the Parliament of Great Britain and Northern Ireland or of the Scottish Parliament or of the National Assembly for Wales or a statutory instrument or other delegated legislation, including without limitation any such enactment made after the date of this Agreement.
- 4.2 The Customer is permitted to use Ordnance Survey Data to meet a Statutory Obligation.

- 4.3 The Customer is **not** permitted to exploit the Ordnance Survey Data in any way for commercial purposes or for Financial Gain other than as expressly provided in this Schedule, except pursuant to a separate licence agreement from Ordnance Survey permitting such activities.
- 4.4 Only such amounts of Ordnance Survey Data may be used as are necessary to meet the specific need for which they are used;
- 4.5 Ordnance Survey Data must not be published in their original condition either in paper or electronic form. Any publication, both paper and electronically, must feature such additional elements or content as are specifically relevant to the purpose to which it is put. Such additional content must be provided by the Customer and must be sufficiently significant to render the underlying Ordnance Survey Data unusable for any other purpose. When published electronically this additional content must be incorporated into the Ordnance Survey Data in a manner which does not allow them to be separated from each other.
- 4.6 Ordnance Survey Data must not be published electronically in a manner which will allow vector map data to be extracted from the published materials. For the avoidance of doubt, this means in whole, part or derived vector data.
- 4.7 The Customer may provide copies of Ordnance Survey Data to any other customer of Ordnance Survey which has a Statutory Obligation and which is a party to an agreement with Ordnance Survey by which such customer is licensed on specific terms to use Ordnance Survey Data, provided that:
- 4.7.1 it shall advise such customer that any such Ordnance Survey Data shall only be used under the terms of such customer's agreement with Ordnance Survey in relation to such customer's right to meet what in this Agreement is described as a Statutory Obligation;
- 4.7.2 within thirty (30) days of the end of each quarter, it shall advise Ordnance Survey in writing of the names and addresses of each such customer to which it has supplied Ordnance Survey Data during such quarter. For these purposes, a **quarter** shall be a period of three (3) months commencing on the first day of January, April, July or October in each year; and
- 4.7.3 it shall include with the media embodying such Ordnance Survey Data a notice in terms approved by Ordnance Survey stating that the media contains mapping data which are the property of the Crown and that any unlawful use or copying other than for the purposes of viewing and printing is prohibited.

Trade marks

Ordnance Survey and the OS Symbol are registered trade marks of Ordnance Survey, the national mapping agency of Great Britain.