

# Standard Form Contractor Licence

This Standard Form Contractor Licence is made between:

(1) The Scottish Ministers (also known as the Scottish Government) having an office at St. Andrew's House Regent Road Edinburgh EH1 3DG (the **Licensor**);

and

(2) The supplier to which this Standard Form Contractor Licence is issued (the **Contractor**).

## Background:

The Licensor is licensed by OS under the PSGA Member Licence to use Licensed Data for its Licensed Use. This Standard Form Contractor Licence (**Contractor Licence**) is entered into pursuant to the PSGA Member Licence and sets out the terms upon which the Licensor sub-licenses Licensed Data to the Contractor to enable the Contractor to provide Works on the Licensor's behalf.

## Agreed Terms:

### 1 Definitions & interpretations

| Expression   | Meaning   |
|--|---|
| <b>Addressing Multi-Contractor Agreement – Public Sector</b> | means an agreement of the same name between the Contractor and OS.  |
| <b>API Data</b>  | means, in respect of any API Service, any dataset which is owned by OS or which OS licenses from a third party (including the Crown) and is made available to the Contractor via an API Project.  |
| <b>API Service</b>   | means the API services accessed from the On-Line Ordering Service, being the Public Sector API Service and the Open API Service.  |
| <b>Confidential Information</b>                              | means any information disclosed by one party to the other in connection with this Contractor Licence, whether in writing, orally or electronically, and whether identified as confidential or not.  |
| <b>Data</b>  | means any text, graphic, image, audio and/or visual material, software, data, database content or other multimedia content, information and material.   |
| <b>Data Protection Legislation</b>                           | means all applicable data protection and privacy legislation in force from time to time in the UK including: <ol style="list-style-type: none"><li>the Data Protection Act 2018 (and all regulations made under it);</li><li>the UK GDPR (as defined in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018); and</li><li>all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data.</li></ol> |
| <b>IPR</b>   | means intellectual property rights, including but not limited to copyright, patent, trade mark, design right, database rights, trade secrets, know how, rights of confidence and all other similar rights anywhere in the world whether or not registered and including but not limited to applications for registrations of any of them.   |

|                                 |   |
|---------------------------------|---|
| <b>Licensed Data</b>            | means particular OS Data that is both: <ul style="list-style-type: none"> <li>(a) licensed by OS to the Licensor under the PSGA Member Licence; and</li> <li>(b) either: <ul style="list-style-type: none"> <li>(i) provided to the Contractor under Clause 5.1; or</li> <li>(ii) which the Licensor notifies to the Contractor in writing is to be considered as Licensed Data for the purposes of Clause 5.5; or</li> <li>(iii) where applicable, which the Contractor is licensed to use under the Addressing Multi-Contractor Agreement – Public Sector.</li> </ul> </li> </ul> |
| <b>Licensed Use</b>             | means the Licensor’s permitted use of the Licensed Data under the PSGA Member Licence.  |
| <b>Login Details</b>            | means the unique identifiers assigned to the Contractor when it registers for the On-Line Ordering Service, enabling access to such On-Line Ordering Service.   |
| <b>On-Line Ordering Service</b> | means the service currently known as the OS Data Hub, through which the Licensor (and, where applicable, the Contractor) is provided with access to OS Data.  |
| <b>OS</b>                       | means Ordnance Survey Limited, a company registered in England and Wales (company registration number 09121572) whose registered address is at Explorer House, Adanac Drive, SOUTHAMPTON, SO16 0AS.   |
| <b>OS Data</b>                  | means Data (including but not limited to Licensed Data) which OS owns or which OS licenses from a third party (including but not limited to the Crown).   |
| <b>PSGA Member Licence</b>      | means the licence between OS and the Licensor which is entitled PSGA Member Licence.  |
| <b>Style Guide</b>              | means the then current version of the style guide available on OS’s Website including but not limited to electronic artwork and requirements as to the use of acknowledgements of copyright and database right ownership.   |
| <b>Term</b>                     | means the period specified in Clause 2.   |
| <b>Third Party Contractor</b>   | means a third party engaged and licensed by the Licensor pursuant to Clause 2.6 of the PSGA Member Licence.   |
| <b>Third Party Works</b>        | means either: <ul style="list-style-type: none"> <li>(a) a tender by a Third Party Contractor to supply goods or services to the Licensor; or</li> <li>(b) the actual supply of goods or services to the Licensor by a Third Party Contractor.</li> </ul>   |
| <b>Updates</b>                  | means the updates, revisions and modifications to Licensed Data which OS may provide (or provide access to) from time to time.  |
| <b>Website</b>                  | means the website <a href="http://www.os.uk/">http://www.os.uk/</a> or such other website as OS determines from time to time.   |
| <b>Works</b>                    | means either: <ul style="list-style-type: none"> <li>(a) a tender by the Contractor to supply goods or services to the Licensor; or</li> <li>(b) the actual supply of goods or services to the Licensor by the Contractor.</li> </ul>   |

- 1.1 In this Contractor Licence, unless the context otherwise requires:
- 1.1.1 words in the singular include the plural and vice versa;
  - 1.1.2 references to: a) a Clause are to a clause of this Contractor Licence; b) a party are to a party to this Contractor Licence; and c) a statute or statutory provision include any amendment, extension or re-enactment of such statute or provision.

## **2 Term**

2.1 This Contractor Licence shall commence on the date on which the Contractor confirms its acceptance of this Contractor Licence by email to the Licensor, and shall, unless terminated earlier in accordance with Clause 6, expire upon the Contractor completing the provision of the Works.

## **3 Grant of sub-licence**

3.1 In consideration of the Contractor providing the Works and the mutual promises described in this Contractor Licence, the Licensor grants the Contractor, for the Term, a non-exclusive, non-transferrable, revocable sub-licence for Licensed Data, to use the Licensed Data for the Licensor's (and not the Contractor's) Licensed Use solely for the purpose of providing the Works. The Licensor shall notify the Contractor in writing of the terms of the Licensor's Licensed Use prior to or at the same time as the commencement of this Contractor Licence.

3.2 Apart from the Contractor, no person, firm or organisation (including without limitation any group company or affiliate) is granted any rights under this Contractor Licence.

3.3 This Contractor Licence does not give the Contractor the right to sub-licence, distribute, sell or otherwise make available the Licensed Data to third parties other than:

3.3.1 as permitted by Clauses 5.5 and 5.6, and

3.3.2 where the Contractor is making the Licensed Data available to a third party on behalf of the Licensor pursuant to the Contractor's appointment by the Licensor as a data management services provider and, for the avoidance of doubt, only in accordance with the Licensor's Licensed Use.

3.4 Where the Contractor is given access by the Licensor to the On-Line Ordering Service, the Contractor shall not (except to the extent it is permitted to under Clause 3.1):

3.4.1 pass or allow access to any API Service (or to any API Data) to any third party;

3.4.2 access all or any part of any API Service for the purpose of building an alternative to such service which does not enable access to any API Data or to reverse engineer or attempt to derive any source code or underlying structure, ideas or algorithms from any such service;

3.4.3 commercially exploit, sell, license or distribute any API Service, or any products and/or services incorporating the results retrieved using an API Service, including where the Contractor has benefitted from, relied upon, or made any use of any API Service or any API Data (including, without limitation, where the Contractor has created its applications and/or products and/or services by consulting, copying, publishing, modifying, re-formatting, analysing or performing searches, look-ups or enquiries using any API Service or any API Data); or

3.4.4 use the API Service for any purpose not expressly permitted by this Contractor Licence.

3.5 To be clear, subject to the archive rights granted to the Contractor under Clause 7.1.2, any use by the Contractor of API Data and API Services shall terminate on expiry of the applicable Public Sector API Plan; the Contractor acknowledges that this Clause 3.5 is only relevant where the Contractor has been granted access to the On-Line Ordering Service.

## **4 Obligations of Contractor**

4.1 The Contractor shall:

4.1.1 not use Licensed Data for any illegal, deceptive, misleading or unethical purpose or otherwise in any manner which may be detrimental to the reputation of Licensed Data or any person;

4.1.2 use its best endeavours to use adequate technological and security measures OS or the Licensor may reasonably recommend from time to time, to ensure that all Licensed Data, Login Details and any other similar information (such as user names and passwords) which the Licensor provides the Contractor and which the Contractor holds or is responsible for are secure from unauthorised use or access;

4.1.3 notify the Licensor and/or OS as soon as it suspects any infringement of OS's IPR or any unauthorised use of Login Details and any other similar information (such as user names and passwords) and give the Licensor and OS all reasonably required assistance in pursuing any potential infringement or remedying any unauthorised use;

4.1.4 ensure that acknowledgements of copyright and database right ownership are included in a conspicuous position in all copies of Licensed Data in compliance with the Style Guide;

- 4.1.5 conform with all relevant Data Protection Legislation;
- 4.1.6 comply with all laws, rules and regulations applicable to the Contractor's use of any API Service accessed via the On-Line Ordering Service;
- 4.1.7 ensure that its network and systems comply with any relevant specifications provided by the Licensor or OS from time to time, including promptly complying with any reasonable requests from the Licensor or OS in connection with the same; and
- 4.1.8 be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to OS's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Contractor's network connections or telecommunications links or caused by the internet.

## **5 Access to Licensed Data**

- 5.1 Nothing in this Contractor Licence shall oblige the Licensor to provide the Contractor with Licensed Data (including but not limited to any part or Update thereof). If, at the Licensor's discretion, it does provide (or provide access to, e.g. by arranging for the Contractor to have access to the On-Line Ordering Service) such Licensed Data, it shall only provide such Licensed Data necessary for the Contractor to provide the Works and shall do so at a time, frequency and on a medium of the Licensor's choosing.
- 5.2 Prior to or upon the Contractor receiving Licensed Data (whether from the Licensor or a Third Party Contractor pursuant to Clause 5.5), the Licensor will inform the Contractor in writing of the scope of the Licensor's Licensed Use.
- 5.3 Where the Contractor is given access by the Licensor to the On-Line Ordering Service, the Licensor is entitled to assume that any access to the On-Line Ordering Service (including to any API Service accessed thereby) using the Contractor's Login Details is authorised by the Contractor. As between the Licensor and the Contractor, the Licensor is not responsible for any unauthorised access to or use of the Contractor's account.
- 5.4 The Licensor may share the Contractor's personal data, such as its name, address and email addresses collected at account registration, with OS for the purposes of the Contractor using the On-Line Ordering Service, monitoring the Contractor's compliance with this Licence and otherwise use the Contractor's personal data in accordance with OS's privacy policy available on the OS Website and to perform the Licensor's obligations under this licence, the PSGA Member Licence and as otherwise necessary for its legitimate interests. The Licensor is a controller independent from OS with respect to the Contractor's personal data and shall comply with its respective obligations under laws applicable to the privacy of the Contractor's personal data including (without limitation) the *General Data Protection Regulation* ((EU) 2016/679) (GDPR) and the *Data Protection Act 2018*.
- 5.5 The Contractor shall be entitled to supply and receive copies of the Licensed Data in a digital form to and from Third Party Contractors provided that:
  - 5.5.1 both the Contractor and the Third Party Contractor are licensed by the Licensor for the Licensed Data being supplied and/or received;
  - 5.5.2 the Works and the Third Party Works shall each form part of a larger project or related series of works required by the Licensor;
  - 5.5.3 the Contractor uses the copies of the Licensed Data supplied by the Third Party Contractor solely for the purpose of providing the Works to the Licensor as part of the Licensor's Licensed Use;
  - 5.5.4 the use by the Contractor of the Licensed Data supplied by the Third Party Contractor shall be governed by this Contractor Licence;
  - 5.5.5 the Contractor shall not receive any direct or indirect payment, credit or money's worth for the supply of the Licensed Data to a Third Party Contractor; and
  - 5.5.6 the Contractor shall, prior to supplying any Licensed Data to a Third Party Contractor, obtain written confirmation from the Licensor that (a) the Third Party Contractor is licensed by the Licensor for the Licensed Data being supplied, and (b) the Works and the Third Party Works each form part of a larger project or related series of works required by the Licensor.
- 5.6 The Contractor shall be entitled to supply paper copies of the Licensed Data (to which it has access) (referred to in this Clause as 'Paper Copies') to any third party provided that the Contractor ensures that:
  - 5.6.1 such third party is engaged to provide:

- a) all or part of the Works;
  - b) part of a larger project (which also includes the Works); or
  - c) works which, together with the Works, are part of a series of works required by the Licensor;
- and uses the Paper Copies solely for the purpose of providing a) b) or c) above to the Licensor for its Licensed Use;
- 5.6.2 the Paper Copies supplied only cover an area that is proportionate to the amount of the Works that the third party is engaged to provide;
  - 5.6.3 such third party is not permitted to and shall not copy, sub-license, distribute, sell or otherwise make available the Paper Copies to third parties in any form;
  - 5.6.4 the Contractor recovers or procures the destruction of all such Paper Copies immediately upon (a) completion of the works provided by the third party as referred to in Clause 5.6.1 or (b) expiry or termination of this Contractor Licence, whichever is the sooner, and the Contractor shall provide, at the Licensor's request, a sworn statement by a duly authorised person that it has complied with this Clause;
  - 5.6.5 the Contractor shall not receive any direct or indirect payment, credit or money's worth for the supply of Paper Copies; and
  - 5.6.6 the Paper Copies supplied by the Contractor are clearly marked in accordance with Clause 4.1.4 and contain a statement stipulating that the recipient is permitted to use the Paper Copies solely for the purpose of assisting them with the delivery to the Licensor of the works they are engaged to deliver (as referred to in Clause 5.6.1 above).

## **6 Termination**

- 6.1 Either party may terminate this Contractor Licence with immediate effect at any time by giving notice to the other party in writing.
- 6.2 This Contractor Licence will terminate automatically with immediate effect in the event that the PSGA Member Licence is terminated or expires.  
The Licensor will inform the Contractor of such termination as soon as practicable following such termination.
- 6.3 Where the Contractor is given access by the Licensor to the On-Line Ordering Service under this Contractor Licence, such access shall terminate with immediate effect in the event that:
  - 6.3.1 the PSGA Member Licence is terminated or expires, and/or
  - 6.3.2 the Licensor's OS API Service Terms (between OS and the Licensor, which provide access to OS Data to the Licensor via the Public Sector API Service) terminate or expire.

## **7 Effect of Termination or Expiry**

- 7.1 In the event of termination or expiry of this Contractor Licence:
  - 7.1.1 the Contractor shall within 30 days of such termination or expiry destroy (or at OS's or the Licensor's option return) all the Licensed Data in any media which it holds or for which it is responsible (including but not limited to any Licensed Data embedded in any other material) and provide, at OS's or the Licensor's request, a sworn statement by a duly authorised person that it no longer holds any Licensed Data (or Login Details or similar details) other than in accordance with Clause 7.1.2;
  - 7.1.2 subject to Clauses 7.2 and 7.3, the Contractor may retain Licensed Data in an archive following termination or expiry of this Contractor Licence for the sole purpose of addressing a complaint or challenge from a regulator or other third party regarding the Contractor's use of such Licensed Data during the Term; and
  - 7.1.3 the Contractor shall cease to be entitled to access the On-Line Ordering Service (or to access any other on-line ordering service made available from time to time by OS).
- 7.2 The Contractor's rights under Clause 7.1.2 are on condition that:
  - 7.2.1 they do not apply to Licensed Data including but not limited to third party IPR;

- 7.2.2 the Contractor shall not disclose Licensed Data retained under Clause 7.1.2 to any regulator or other third party except to the extent necessary for the relevant purpose and in paper or read-only electronic format only;
- 7.2.3 the Contractor must store such Licensed Data separately from any other OS Data which the Contractor holds;
- 7.2.4 subject to Clause 11, neither the Licensor nor OS shall have any liability in respect of the Contractor's use of such Licensed Data following termination or expiry of this Contractor Licence; and
- 7.2.5 no archive rights shall be granted under Clause 7.1.2 if, on termination / expiry of this Contractor Licence:
  - a) the Contractor is in breach of the Contractor Licence;
  - b) the Contractor has ceased to carry on business;
  - c) the Contractor is insolvent or threatened with insolvency or has undergone a change of control of its business other than for the purpose of a bona fide internal group restructuring; or
  - d) OS has lost the right to administer Crown copyright and/or Crown database right in respect of Licensed Data.

7.3 The Licensor and/or OS may terminate the Contractor's right under Clause 7.1.2 at any time in the event that the Contractor:

- 7.3.1 uses or discloses the relevant Licensed Data other than strictly in accordance with this Clause 7; or
- 7.3.2 breaches any surviving term of this Contractor Licence,
  - in which event the Contractor shall comply with an obligation equivalent to Clause 7.1.1 in respect of such Licensed Data.

7.4 Those Clauses intended to survive termination or expiry (including, without limitation, Clauses 1, 4.1.2, 4.1.3, 5.6.4, 6.2, 7, 9, 10, and 11 to 16) shall continue in full force and effect notwithstanding such termination or expiry.

## **8 Variation**

- 8.1 The Licensor shall be entitled to vary this Contractor Licence with immediate effect by giving notice in writing to the Contractor.
- 8.2 If the Contractor is not entitled to use specific Licensed Data as a result of the variation of this Contractor Licence in accordance with Clause 8.1, then this shall be treated as a termination in part in relation to that specific Licensed Data and the Contractor shall comply with an obligation equivalent to Clause 7.1.1 with respect to such Licensed Data.

## **9 Auditing**

- 9.1 Upon OS's or the Licensor's written request, the Contractor shall provide written evidence of compliance with its obligations under this Contractor Licence.
- 9.2 The Contractor shall maintain accurate and complete records of its use of the Licensed Data. OS and/or the Licensor (and their respective representatives) have the right on reasonable notice during business hours to enter the Contractor's premises and to inspect and audit its systems, operations and all supporting documentation to ensure the Contractor's compliance with this Contractor Licence and to take copies of any necessary records. The Contractor shall, at its expense, make appropriate employees and facilities available to provide OS and/or the Licensor with all reasonable assistance to enable such inspection, auditing and copying to take place.
- 9.3 The Contractor will comply with reasonable measures stipulated by OS or the Licensor as a result of any audit.

## **10 Warranties**

- 10.1 The Licensor and OS exclude to the fullest extent permissible by law all express or implied warranties.

## **11 Liabilities**

- 11.1 Nothing in this Contractor Licence shall exclude or limit either party's (or, if applicable, OS's) liability for:

- 11.1.1 death or personal injury to the extent it results from its negligence, or that of its employees or agents;  
or
- 11.1.2 fraud or fraudulent misrepresentation.
- 11.2 The Contractor acknowledges that OS shall have no liability whatsoever in respect of:
- 11.2.1 its use of the Licensed Data; and or
- 11.2.2 the On-Line Ordering Service (including the API Service accessed thereby).
- 11.3 Subject to Clause 11.1, the Contractor will indemnify the Licensor against all and any loss, liability, costs (including without limitation legal costs), claims, damages or expenses for which the Licensor may become liable to OS arising out of any breach by the Contractor of any of the provisions of this Contractor Licence or the use by the Contractor of the Licensed Data. Nothing in this Contractor Licence shall exclude or limit the Contractor's liability under this indemnity.
- 11.4 Subject to Clauses 11.1 and 11.3, the total aggregate liability of either party in respect of any loss or damage suffered by the other party and arising out of or in connection with this Contractor Licence, whether in contract, tort or delict (including but not limited to negligence) or for breach of statutory duty or in any other way, shall not exceed £250.
- 12 Assignment, subcontracting and sublicensing**
- 12.1 Except as agreed in writing by OS, neither party is entitled to assign, license, transfer or novate any of their rights and/or obligations under this Contractor Licence.
- 13 Confidentiality**
- 13.1 To the extent that this Contractor Licence involves the provision of Confidential Information (for instance, the provision to the Contractor of Login Details), the parties shall ensure that:
- 13.1.1 all Confidential Information is kept secure and confidential and only disclosed to staff and professional advisers on a need-to-know basis only;
- 13.1.2 they implement appropriate measures and systems to prevent the unauthorised disclosure of Confidential Information; and
- 13.1.3 they notify the other party without delay of any unauthorised use, copying or disclosure of the other's Confidential Information of which they become aware and provide all reasonable assistance to the other to stop such unauthorised use, copying and/or disclosure.
- 13.2 Nothing in this Agreement shall prevent either party (the **disclosing party**) disclosing the other party's Confidential Information which:
- 13.2.1 was previously known to the disclosing party without obligation of confidence;
- 13.2.2 was independently developed by or for the disclosing party;
- 13.2.3 was acquired by the disclosing party from a third party which is not, to the disclosing party's knowledge, under an obligation of confidence with respect to such information;
- 13.2.4 is or becomes publicly available through no breach of this Contractor Licence; or
- 13.2.5 the disclosing party is required to disclose by order of a court of competent jurisdiction or by a government body or agency or pursuant to any law or any governmental or regulatory requirements (which, for the avoidance of doubt, shall include any requirements for disclosure under the *Freedom of Information Act 2000* and/or the *Environmental Information Regulations 2004*).
- 13.3 On termination or expiry of this Contractor Licence, each party will promptly destroy or (at the other party's request) return all copies of the other party's Confidential Information in its possession, custody or control.
- 14 Waiver**
- 14.1 The waiver on a particular occasion by either party of rights under this Contractor Licence does not imply that other rights will be waived.
- 14.2 No delay in exercising any right under this Contractor Licence shall constitute a waiver of such right.

**15 Third party rights**

15.1 Subject to Clause 15.2, a person who is not a party to this Contractor Licence has no right under the *Contracts (Rights of Third Parties) Act 1999* or the *Contracts (Third Party Rights)(Scotland) Act 2017* (as applicable) to enforce or enjoy the benefit of any term of this Contractor Licence.

15.2 OS shall be entitled to the benefit of the terms of this Contractor Licence and the rights to enforce such terms under the *Contracts (Rights of Third Parties) Act 1999* or the *Contracts (Third Party Rights)(Scotland) Act 2017* (as applicable).

**16 Governing Law and Jurisdiction**

16.1 This Contractor Licence is governed by the laws of Scotland and both parties submit to the exclusive jurisdiction of the Scottish courts.