

Terms and Conditions for use of the Licensed Material (Landmap Datasets) contained in the NEODC Landmap Archive

1. Definitions

1.1 In these Conditions unless the context otherwise requires the following words shall have the following meanings:

"Aggregate" means to use the Licensed Material (or parts of it) as part of a composite Licensed Material or a collection of Licensed Materials.

"Agreement" means these terms and conditions contained herein.

"Annotate" means to add notations and/or commentaries to the Licensed Material.

"NEODC Landmap Archive" means the Landmap collection of digital materials held by the NERC Earth Observation Data Centre (NEODC) on a network designed for the purpose of Users accessing the materials.

"Commercial Use" means the use of the whole or parts of the Licensed Material primarily intended for or directed towards commercial advantage or for private monetary compensation for any reason which generates a profit.

"Derived Data" means any additional data which are the results of using the Licensed Material.

"Educational Purposes" means the use of the whole or parts of the Licensed Material for the purpose of education, teaching, distance learning, private study or research.

"Excerpt" means to extract (replicate) unchanged parts (or all) of the Licensed Material for re-use into another work.

"Intellectual Property" means patents, trademarks, trade names, design rights, copyright, database rights, rights in know-how and other intellectual property rights, in each case whether registered or unregistered and including applications for the grant of any of the foregoing and all rights or forms of protection having equivalent or similar effect to any of the foregoing which may subsist anywhere in the world.

"Licensor" means the individual or organisation who has produced the Licensed Material and granted NERC the permission to upload the Licensed Material onto the NEODC Archive for use by the Users.

"Licensed Material" means the materials provided to NERC by the Licensor and which are included in the NEODC Landmap Archive for use by the Users.

"Modify" means to alter, add to, delete from, manipulate and or modify parts of the Licensed Material and to adapt parts or the whole of the Licensed Material in accordance with section 21 of the Copyright, Designs and Patents Act 1988.

"Modifications" means alterations, additions to, deletion from, manipulations and/or modifications of parts of the Licensed Material and adaptations of parts or the whole of the Licensed Material in accordance with section 21 of the Copyright, Designs and Patents Act 1988.

"NERC" means the Natural Environment Research Council, a British research council that supports research, training and knowledge transfer activities in the environmental sciences; and any of its servants,

agents and successors.

"NEODC" means the NERC Earth Observation Data Centre, one of NERCs environmental data centres

"Use" means viewing, copying, adaptation, reproduction, manipulation, processing or modification of the Licensed Material to create customised maps and models and derived data and any further use of such customised maps and models by Users.

"Users" means any person who is permitted to access the Digital Repository and is an authorised user in terms of their compliance with these terms and conditions.

"Service" means a service provided by NERC or any datacentre acting on its behalf.

"Secure Network" means a network which is only accessible by Secure Authentication or Internet Protocol IP Blocking.

1.2 Words in the singular shall include the plural and vice versa, references to any gender shall include the others and references to legal persons shall include natural persons and vice versa.

1.3 The headings in these conditions are intended for reference only and shall not affect their construction.

2. Permitted Uses

2.1 The User may use the Licensed Material for Educational Purposes only and may:

2.1.1 access the Licensed Material in order to search, retrieve, display and download, and otherwise use any part or parts thereof;

2.1.2 to Excerpt, Annotate, Aggregate and Modify the Licensed Material;

2.1.3 to electronically save up to 20% of the whole of the Licensed Material and Modifications (applies to Cities Revealed Dataset only);

2.1.4 to print out copies up to 20% of the whole of the Licensed Material and Modifications (applies to Cities Revealed Dataset only);

2.1.5 incorporate up to 20% of the whole of the Licensed Material and Modifications in virtual learning environments, managed learning environments and in any material to be used in the course of instruction provided that by so doing the Licensed Material will not be accessible to persons who are not Users (applies to Cities Revealed Dataset only); Course and study packs in non-electronic non-print perceptible form, such as Braille, may also be compiled;

2.1.6 to display any part or parts of the Licensed Material for the purpose of promotion of the Licensed Material or for training other Users.

2.1.7 to download, and print up to 20% of the whole of the Licensed Material for the purpose of promotion of the Licensed Material or for training other Users. Users who require access to more than 20% of the Digital Repository can do that through services that are made available through the Service and upon compliance with any further requirements requested by Mimas or the Licensor (applies to Cities Revealed Dataset only).

2.1.8 to publicly perform any part or parts of the Licensed Material and Modifications as part of a presentation at a seminar, conference, or workshop, or other such similar activity;

2.1.9 to use the Licensed Material and Modifications for such other uses as may be conducive to the Educational Purposes

2.1.10 make such copies of training material and network on a Secure Network such training material as may be required for the purpose of using the Licensed Material in accordance with this End User Licence;

2.1.11 Publish digital maps, up to 20% of the Licensed Material, on websites created by Users as part of a course or project, or research and development work; hosted and viewed by their institutional network only. Access to these websites shall be through a Secure Network,

2.2 Users shall comply with the terms of the Copyright, Designs and Patents Act 1988 and in particular, but without limitation, shall recognise the rights, including moral right and the rights of attribution, of the Licensor. Each use or Modification of the Licensed Material shall make appropriate acknowledgement of the source, title, and copyright owner.

2.3 To preserve at all times the confidentiality of information pertaining to individuals and/or households in the data collections where the information is not in the public domain. Not to use the data to attempt to obtain or derive information relating specifically to an identifiable individual or household, nor to claim to have obtained or derived such information. This includes the use or attempt to use the data collections to compromise or otherwise infringe the confidentiality of individuals, households or organisations.

2.4 Derived Data shall be subject to restriction through this licence for academic use only,

2.5 Where a substantial portion of the Derived Data is an extract of the Licensed Material then the rules in clause 3 shall apply. For the avoidance of doubt the meaning of 'substantial' shall be regarded in the same context as "Fair dealing", namely 'the proportion of the Data used has not otherwise damaged the legitimate interests of the copyright owner(s)'

3. Restrictions

3.1 The User may not and may not authorise any other third party to:

3.1.1 sell or resell or otherwise make the information contained in the Licensed Material or Modifications available in any manner except as provided in these terms and conditions;

3.1.2 remove, obscure or modify copyright notices, text acknowledging or other means of identification or disclaimers as they may appear without prior written permission of the Licensor;

3.1.3 use all or any part of the Licensed Material for any Commercial Use or for any purpose other than Educational Purposes unless with the consent of the Licensor.

3.1.4 display or distribute any part of the Licensed Material on any electronic network, including without limitation the Internet, and the World Wide Web, and any other distribution medium now in existence or hereinafter created.

3.2 This Clause 3 shall survive termination of this Agreement for any reason.

4. Acknowledgement and Protection of Intellectual Property Rights

4.1 The User acknowledges that all Intellectual Property Rights relating to the Licensed Material, are the property of the Licensor or duly licensed to the Licensor and that this Agreement does not assign or transfer to the User any right, title or interest therein except for the right to use the Licensed Material in accordance with the terms and conditions of this Agreement.

5. Representation, Warranties and Indemnification

5.1 NERC makes no representation or warranty, and expressly disclaims any liability with respect to the Licensed Material including, but not limited to, errors or omissions contained therein, libel, defamation, infringements of rights of publicity, privacy, trademark rights, infringements of third party Intellectual

Property Rights, moral rights, or the disclosure of confidential information. It is expressly agreed that any use by the Users of the Licensed Material is at the User's sole risk.

5.2 The Licensed Material is provided on an 'as is' basis and NERC disclaims any and all other warranties, conditions, or representations (express, implied, oral or written), relating to the Licensed Material or any part thereof, including, without limitation, any and all implied warranties of title, quality, performance, merchantability or fitness for a particular purpose. NERC further expressly disclaims any warranty or representation to Users, or to any third party. NERC accepts no liability and gives no indemnity to the User for losses suffered or incurred by the User or any third party as a result of their reliance on the Licensed Material.

5.3 It is the sole responsibility of the User to ensure that he has obtained any relevant third party permissions for any Modifications of the Licensed Material made by the User and the User shall be responsible for any and all damages, liabilities, claims, causes of action, legal fees and costs incurred by the User in defending against any third party claim of Intellectual Property Rights infringements or threats of claims thereof with respect of the use of the Licensed Material containing any Modifications.

5.4 The User agrees to indemnify NERC against any costs, claims, damages or expenses that NERC incurs to third parties directly or indirectly in connection with any negligent or other wrongful acts, omissions or defaults of the User.

6. Consequential Loss

6.1 Neither party shall be liable to the other for any costs, claims, damages or expenses arising out of any act or omission or any breach of contract or statutory duty or in tort calculated by reference to profits, income, production or accruals or loss of such profits, income, production or accruals or by reference to accrual or such costs, claims, damages or expenses calculated on a time basis which shall include indirect and consequential losses.

7. Termination

7.1 NERC shall have the right to terminate this Agreement forthwith if the User shall have materially breached any of its obligations under this Agreement or in the event of a breach capable of remedy fails to remedy the same within thirty (30) days of the giving of notice by NERC to the User of the alleged breach and of the action required to remedy the same.

8. General

8.1 Delay in exercising, or a failure to exercise, any right or remedy in connection with this Agreement shall not operate as a subsequent waiver of that right or remedy. A single or partial exercise of any right or remedy shall not preclude any other or further exercise of that right or remedy, or the exercise of any other right or remedy. A waiver of a breach of this Agreement shall not constitute a waiver of any subsequent breach.

8.2 Each of the parties acknowledges that it is not entering into this Agreement in reliance upon any representation, warranty, collateral contract or other assurance (except those set out in this Agreement and the documents referred to in it) made by or on behalf of any other party before the execution of this Agreement. Each of the parties waives all rights and remedies which, but for this clause, might otherwise be available to it in respect to any such representation, warranty, collateral contract or other assurance, provided that nothing in this Clause 8.2 shall limit or exclude any liability for fraud.

8.3 Neither party may assign or sub-contract all or any part of any benefit of or interest, right or licence in or arising under this Agreement without the prior consent of the other party.

8.4 Nothing in this Agreement shall constitute or be deemed to constitute a partnership or other form of joint venture between the parties or constitute or be deemed to constitute either party the agent or

employee of the other for any purpose whatsoever.

8.5 No person who is not a party to this Agreement is entitled to enforce any of its terms, whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

8.6 The parties intend each provision of this Agreement to be severable and distinct from the others. If a provision of this Agreement is held to be illegal, invalid or unenforceable, in whole or in part, the parties intend that the legality, validity and enforceability of the remainder of this Agreement shall not be affected.

8.7 This Agreement sets out the entire agreement between the parties relating to its subject matter and overrides any prior correspondence or representations and any previous agreements (if any) between the University and the User.

9. Governing Law and Jurisdiction

9.1 This Agreement is governed by, and shall be interpreted in accordance with, English law and each party irrevocably submits to the non-exclusive jurisdiction of the English Courts in relation to all matters arising out of or in connection with this Agreement.