

DIGITAL 5 - APPLICATION FORM FOR INTELLECTUAL PROPERTY (IP) SUPPLY AND INNOVATOR LICENCE

This Licence is only appropriate to those organisations that have had full and comprehensive discussions with Land & Property Services (LPS) Commercial Development Branch concerning the development of applications/products utilising LPS IP and wish to be supplied with suitable LPS IP.

Development Licence Number:

Please forward your completed application to:
Commercial Development Branch, Land & Property Services,
Lanyon Plaza, 7 Lanyon Place, Town Parks, Belfast, BT1 3LP

E-mail: commercial@finance-ni.gov.uk

Web: www.finance-ni.gov.uk

A Customer Details (BLOCK Capitals)

Name of Licensee

VAT Registration Number

Delivery Address

Post Code

Contact Name

Tel:

Email:

B IP to be Licensed

End of List

Please refer to www.nidirect.gov.uk/campaigns/ordnance-survey-of-northern-ireland for information on products.

The undersigned hereby acknowledges and accepts the terms and conditions upon which this Licence is granted.

Signed by/on behalf of the Licensee

Name (BLOCK CAPITALS)

Date

LPS grants the signatory above a Development Licence for the IP outlined in Section B above subject to LPS IP Development Licensing terms and conditions.

Signed by/on behalf of LPS

Name (BLOCK CAPITALS)

Date

1. DEFINITIONS

1.1 Unless the context otherwise requires, in these terms and conditions:

“Intellectual Property” (“IP”) means the digital data Licensed by Us and supplied to You. It also means databases, utility models, trademarks, trade names, service marks, know-how, designs, drawings, algorithms, computer programs and confidential information;

“Intellectual Property Rights” (“IPR”) means (as appropriate) Copyright, database right, and all other similar proprietary rights (whether registered or not) in the IP owned by the Crown through the Keeper of Public Records as may exist anywhere in the world and licensed under this contract and all applications and rights to apply for the protection of any of the foregoing. It also means patents and any other process or other similar right or assets capable of protection.

“Sales Policy” as posted on our website <https://www.finance-ni.gov.uk/publications/lps-copyright-publications>

“We, Our or Us” means Land & Property Services (LPS);

“You or Your” means the Licensee set out in Box A of this Innovator Licence application form;

1.1.1 References to any statute or statutory provision shall include a reference to any statute or statutory provision which amends or replaces or has amended or replaced it and vice versa and the same shall apply to statutory instruments; and

1.1.2 These terms and conditions shall be binding upon and shall continue for the benefit of Our successors and assigns or the Department of Finance, as the case may be.

2. OWNERSHIP

The Crown owns absolutely, as beneficial owner, all rights in the IP. The IP supplied and the Licence granted under this contract are issued by Our Deputy Secretary who has a delegation of authority from the Keeper of Public Records, in whom is vested by Royal Letters Patent the Crown Copyright in all government information and works.

3. GRANT OF LICENCE

3.1 In consideration of You paying the licence fee and performing Your obligations under these terms and conditions, We grant You a non-exclusive, non-transferable Licence solely for the Licensed Use. If You develop a product which You wish to commercialise You must enter into an appropriate contractual agreement with Us before commercialisation occurs.

3.2 This Licence shall commence on the date of the last signature to this contract and shall continue in force for a period of twelve (12) months. For the avoidance of doubt this Licence is not automatically renewable. If at the end of the Licence period there has been in our opinion no appreciable development or resulting product further discussions will be necessary with Commercial Development Branch. If no extension of Licence period is agreed, at Our option (but at Your expense) You shall either destroy the IP in Your possession, power or control (including any security copy) and procure that an officer or duly authorised executive provides a sworn statement or affidavit verifying the same or You shall return the IP to Us.

3.3 You shall not permit any third party to use the IP nor use the same on behalf of or for the benefit of any third party without Our prior written consent.

4. LICENSED USE

4.1 You may use the IP for:

4.1.1 copying for back-up purposes;

All other uses prohibited.

5. SUPPORT AND MAINTENANCE

5.1 We will not be obliged to provide support and maintenance services.

5.2 In the event that We discontinue producing, maintaining or supporting all or any part of the IP, We shall give You three (3) months notice of this decision. Once notice is given to You, We shall not be responsible for supply in support or updates to You or be liable to You for any losses or costs which You may incur as a consequence of Our decision.

6. YOUR OBLIGATIONS

6.1 You will take all reasonable technological and security measures to ensure that all Our IP which You hold or are responsible for is secure from unauthorised use or access.

6.2 You will not use the IP, or allow it to be used by others, in any manner which We reasonably feel is inconsistent with the goodwill in Our name.

7. SUB-LICENCES

7.1 You may grant Sub-Licences solely in the event of You requiring a third party to assist You in the development of the IP. You are required to ensure that a Sub-Licence, using form Digital 5S, is completed, signed and dated by You and the third party and forwarded to Us. The Sub-Licence must not extend beyond the term of this Licence.

7.2 Any Sub-licence You grant shall be with the acknowledgement and acceptance that, without prejudice to LPS rights and remedies, You shall not be relieved of any of Your obligations to LPS under this Licence and that You shall be primarily liable for the acts or omissions of Sub-Licensees as if they were Your acts or omissions.

8. CONFIDENTIALITY

Unless required by law, both parties agree not to disclose the content of these terms and conditions to any third party or to make any public or press announcement regarding these terms and conditions or the transactions contemplated hereunder without obtaining the other party's prior written consent to both the disclosure and the content of the disclosure.

9. LICENCE FEES

9.1 The sum payable by You in consideration of this Contract shall be one pound (£1) only, receipt and sufficiency of which is hereby acknowledged.

9.2 For reference purposes only the value of the IP at the Commencement Date of this Contract is [£XXX] (Commercial Development Branch to edit before issuing)

10. INSPECTION BY OUR STAFF

Upon giving reasonable written notice, You shall at any reasonable time grant to an accredited representative of Ours facilities for checking the observance of the terms and conditions of this Licence.

11. INTELLECTUAL PROPERTY RIGHTS

11.1 You acknowledge the Crown's ownership and proprietary rights in the IP and agree and acknowledge that:

11.1.1 You will not obtain any rights in the IP, except as expressly granted to You under these terms and conditions; and

11.1.2 You will not register or attempt to register any of the IP in any jurisdiction without Our prior written permission.

11.2 You shall immediately give notice in writing to Us if You become aware of any:

11.2.1 Infringement or suspected infringement of any of the IP; or

11.2.2 Claims made or threatened that the IP infringes the rights of any third party.

11.3 In the case of any infringement or suspected infringement by any third party of the IP:

11.3.1 We shall have sole discretion to decide what action if any to take;

11.3.2 We shall have sole control over and conduct of all claims and legal proceedings;

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11.3.3 You will, subject to an indemnity from Us for Your reasonable costs, act in accordance with Our reasonable instructions and provide Us with all assistance as it may reasonably require in the conduct of any claims or legal proceedings;

11.3.4 We will bear the cost of any legal proceedings and shall be entitled to retain all sums recovered in any action for Our own account.

12. LIABILITY

12.1 We will remedy, as soon as reasonably practicable, any error in or omission from the IP of which You notify Us.

12.2 It is the Your responsibility to ensure that the IP is suitable for Your intended purposes. We accept no liability as to the fitness of the IP supplied in meeting Your needs and We exclude to the fullest extent permissible by law all warranties, conditions or terms that may be implied by statute, statutory instrument, common law, custom or otherwise.

12.3 We will indemnify You and hold you harmless against any damages (including costs) that may be awarded or agreed to be paid to any third party in respect of any claim or action that Your possession and / or use of the IP infringes the copyright, trade mark rights or other intellectual property rights of a third party ('Intellectual Property Infringement') provided that:

12.3.1 Your possession and/or use of the IP is pursuant to and in accordance with these terms and conditions;

12.3.2 You give Us notice of any Intellectual Property infringement immediately on becoming aware of it; and

12.3.3 You give Us the sole conduct of the defence to any claim or action in respect to an Intellectual Property Infringement and You do not at any time admit liability or otherwise settle or compromise the said claim or action except upon Our written instructions.

12.4 We shall have no liability to You in respect of an Intellectual Property Infringement if:

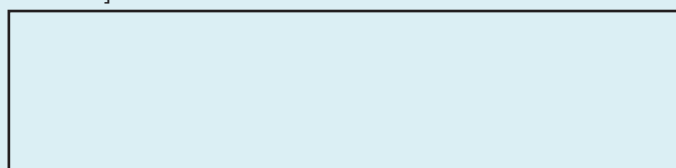
12.4.1 The same results from any use of the IP by You other than in accordance with these terms and conditions;

12.4.2 The same results from any use of the IP for a purpose for which it was not designed;

12.4.3 There is any breach by You of Your obligations under these terms and conditions;

12.4.4 There has been any alteration, modification, adjustment or enhancement made by You to the IP that was not authorised by Us;] or

12.4.5 There has been any combination, connection, operation or use of the IP with any other equipment, software or documentation and such combination, connection, operation or use was not within the contemplation of the parties at the time of delivery of the IP]



12.5 In the event of an Intellectual Property Infringement, We shall be entitled at Our own expense and option either to:

12.5.1 Procure the right for You to continue using the IP;

12.5.2 Make, where relevant, such alterations, modifications or adjustments to the IP so that it becomes non-infringing without incurring a material diminution in performance or function; or

12.5.3 Replace, where relevant, the IP with a non-infringing substitute provided that such substitute does not entail a material diminution in performance or function.

12.6 If We in Our reasonable judgment are not able to exercise any of the options set out in Clause 12.5 within ninety (90) days of the date that We receive notice of the IP Infringement, We will accept the return of the infringing IP

12.7 This Clause 12 sets out Your exclusive remedy and Our sole liability in respect of any breach of warranty concerning any IP Infringement.

12.8 You shall be liable for and will indemnify Us against any and all liability, loss, damages, costs, legal costs, professional and other expenses of any nature whatsoever incurred or suffered by Us whether direct or consequential (including but without limitation any economic loss or other loss of profits, business or goodwill) arising out of any dispute or contractual, tortious or other claim or proceeding brought against Us by reason of the manufacture, use or sale of any goods and services or the use by You of the IP other than in accordance with these terms and conditions except for liability for death or personal injury resulting from Our negligence or the negligence of Our, servants or agents and any other liability which We are expressly prohibited from excluding or limiting by law.

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12.9 Save as otherwise provided in these terms and conditions, We shall be under no liability of any sort (however arising) and without prejudice to the foregoing shall not be liable for any damage, injury, loss (whether direct, consequential or otherwise), loss of profits or costs, charges or expenses, however arising.

12.10 Our total and aggregate liability in connection with these terms and conditions will not at any time exceed an amount equal to the total monies paid by You to Us in the twelve (12) months preceding the date on which the claim arose.

12.11 You warrant that You have not relied on any oral representation made by Us or upon any descriptions, illustrations or specifications contained in catalogues or publicity materials, which are only intended to convey a general idea of the IP mentioned in these terms and conditions.

13. PREVENTION OF CORRUPTION AND BRIBERY ACT 2010

13.1 The parties each warrant and undertake (and each party shall procure that their employees and / or sub-licensees shall undertake) that they comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery, anti-corruption and prevention of fraudulent acts including the Bribery Act 2010;

13.2 Each party shall promptly notify the other party to this Contract of any request or demand for any undue financial or other advantage of any kind offered or received in connection with the performance of this Contract;

13.3 Any breach of this Clause 13 by either party or any of the party's employees and / or Sub-licensees shall entitle the other party, with no liability whatsoever to the other party, to terminate the agreement with immediate effect by notice in writing.

14. PERIOD OF CONTRACT AND TERMINATION

14.1 These terms and conditions shall be effective from the commencement date and subject to the provisions of this Clause 14 shall continue in force for the period of this Licence.

14.2 We shall be entitled forthwith to terminate this Licence by written notice to You if:

14.2.1 You commit any continuing or material breach of any of the provisions of these terms and conditions and

in the case of such a breach which is capable of remedy fail to remedy the same within thirty (30) days after receipt of a written notice giving full particulars of the breach and requiring it to be remedied;

14.2.2 An encumbrancer takes possession or a receiver is appointed over any of Your property or assets;

14.2.3 You make any voluntary arrangement with its creditors or becomes subject to an administration order;

14.2.4 You go into liquidation (except for the purposes of an amalgamation, reconstruction or other reorganisation and in such manner that the company resulting from the reorganisation effectively agrees to be bound by or to assume the obligations imposed on that other party under these terms and conditions);

14.2.5 You cease, or threaten to cease, to carry on business; or

14.2.6 There is a change of control of You within the meaning of Section 719 of the Corporation Tax Act 2010.

14.3 For the purpose of Clause 14.2.1, a breach shall be considered capable of remedy if the party in breach can comply with the provision in question in all respects other than as to the time of performance (provided that time of performance is not of the essence).

14.4 Termination or expiry of the Licence shall not affect the parties' accrued rights and remedies.

14.5 In the event of termination:

14.5.1 Any licence granted to You shall immediately cease; and

14.5.2 At Our option (but at Your expense) You shall either destroy the IP in Your possession, power or control (including any security copy) and procure that an officer or duly authorised executive provides a sworn statement or affidavit verifying the same or You shall return the IP to Us.

15. EVENTS BEYOND THE CONTROL OF EITHER PARTY

15.1 Neither party shall be liable for any delay in performing or failure to perform its obligations (other than a payment obligation) under these terms and conditions due to events beyond their control. Such delay or failure shall not constitute a breach of these terms and conditions and the time for performance of the affected obligation shall be extended by such period as is reasonable.

15.2 The party claiming events beyond their control shall notify the other party in writing of the reasons for such an event (and the likely duration, which should not be in excess of three (3) months) promptly after the occurrence of the same and should use their reasonable endeavours to minimise the effect and duration of the event.

16. ASSIGNMENT

16.1 You shall not be entitled to assign, novate or transfer the whole or any part of the benefit of these terms and conditions or any obligation under it to any party.

16.2 We are part of the Crown and shall be entitled to specifically assign, novate or transfer the whole or any part of these terms and conditions or any obligation under it to any part of the Crown or to change any aspect of its presentation or construction without affecting its rights under these terms and conditions.

17. EXCLUSIVITY

These terms and conditions are not exclusive. We may continue to supply the IP to any other party for their use and application and may authorise the use of the IP in the production of products and services similar to Your products and / or services.

18. SEVERABILITY

If any provision of these terms and conditions is held to be unenforceable, invalid or illegal that shall not affect the enforceability, validity or legality of any other provision.

19. WAIVER

No failure or delay by any party in exercising any right, power or privilege under these terms and conditions shall impair such right, power or privilege or be construed as a waiver thereof. The rights and remedies of any party herein provided are cumulative and not exclusive of any rights and remedies provided by law.

20. NOTICES

All notices under this contract shall be in writing (including by email) and shall be sent to the address of the recipients set out on page one (1).

21. ENTIRE CONTRACT

These terms and conditions represent the entire contract and understanding between the parties. The IP shall be supplied in accordance with the Sales Policy except to the extent that any provision of those terms and conditions of supply is inconsistent with any provision of this Licence, in which event the latter shall prevail.

22. LAW

These terms and conditions shall be governed by and construed in accordance with the laws of Northern Ireland but with liberty for the parties hereto to have resort to the courts of any competent jurisdiction.

23. DATA PROTECTION

23.1 None of the IP set out in Part B of this agreement contains Personal Data (for the benefit of any doubt “Personal Data” shall have the same meaning as is set out in s. 3(2) Data Protection Act 2018.

23.2 If You incorporate or combine any Personal Data with the IP set out in Part B during Your development of potential applications and/or products and/ or Services You acknowledge and accept that You shall:

23.2.1 Be solely responsible for ensuring all Data Protection legislation is adhered to and complied with; and

23.2.2 Keep Us harmless from any and all claims or liability for any breach of Data Protection legislation arising from any datasets You incorporate or combine with the IP

23.3 Any Personal Data You provide to Us in the course of this Contract will only be used for the performance of Your Contract with Us as set out in the LPS privacy statement found at: <https://www.finance-ni.gov.uk/publications/lps-privacy-notice>