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This licence agreement (**Licence**) is a legal agreement between you (**Licensee** or **you**) and Basemap Ltd, a registered company in the United Kingdom under company number 4121166 (**Licensor, us** or **we**) for the TRACC computer software (**Software**).

We licence use of the Software and Document to you on the basis of this Licence. We do not sell the Software to you. We remain the owners of the Software at all times.

**IMPORTANT NOTICE TO ALL USERS:**

- BY TICKING THE BOX BELOW YOU AGREE TO THE TERMS OF THIS LICENCE WHICH WILL BIND YOU AND YOUR EMPLOYEES. THE TERMS OF THIS LICENCE INCLUDE, IN PARTICULAR, LIMITATIONS ON LIABILITY IN condition 5 AND condition 6.
- IF YOU DO NOT AGREE TO THE TERMS OF THIS LICENCE, WE WILL NOT LICENSE THE SOFTWARE TO YOU AND YOU MUST CANCEL THE INSTALLATION OF THE SOFTWARE AND DELETE THE DOWNLOADED SETUP FILE.

**IMPORTANT NOTICE TO CONSUMERS:**

- AS A CONSUMER, YOU HAVE THE RIGHT TO WITHDRAW FROM YOUR TRANSACTION WITHOUT CHARGE AND WITHOUT ANY REASON BEFORE DOWNLOADING THE SOFTWARE.
- HOWEVER, YOU WILL LOSE THE RIGHT TO CANCEL THE TRANSACTION ONCE YOU BEGIN TO DOWNLOAD THE SOFTWARE.
- THIS DOES NOT AFFECT YOUR CONSUMER RIGHTS FOR DEFECTIVE DOWNLOADED SOFTWARE.

**You should print a copy of this Licence for future reference.**

**1. GRANT AND SCOPE OF LICENCE**

1.1 In consideration of payment by you of the agreed non-refundable licence fee and you agreeing to abide by the terms of this Licence, we hereby grant to you a non-exclusive, non-transferable licence to use the Software on the terms of this Licence.

1.2 You may:

- (a) download, install and use the Software for your personal purposes (if you are a consumer) or your internal business purposes (if you are a business and have paid a non-commercial licence fee per licence or your business purposes (if you are a business and have paid the commercial licence fee per licence) only:
  - (i) on one computer terminal if the Licence is a single-user licence or the Software is for single use; or
  - (ii) if the Licence is a multi-user or network licence, by the number of concurrent users agreed between you and us; and
- (b) receive and use any free supplementary software code or update of the Software incorporating "patches" and corrections of errors as may be provided by us from time to time.

## **2. RESTRICTIONS**

Except as expressly set out in this Licence, you undertake:

- (a) not to copy the Software except where such copying is incidental to normal use of the Software, or where it is necessary for the purpose of back-up or operational security;
- (b) not to rent, lease, sub-license, loan, translate, merge, adapt, vary or modify the Software;
- (c) not to make alterations to, or modifications of, the whole or any part of the Software, nor permit the Software or any part of it to be combined with, or become incorporated in, any other programs;
- (d) not to disassemble, decompile, reverse-engineer or create derivative works based on the whole or any part of the Software nor attempt to do any such thing except to the extent that (by virtue of section 296A of the Copyright, Designs and Patents Act 1988) such actions cannot be prohibited because they are essential for the purpose of achieving inter-operability of the Software with another software program, and provided that the information obtained by you during such activities:
  - (i) is used only for the purpose of achieving inter-operability of the Software with another software program; and
  - (ii) is not unnecessarily disclosed or communicated without our prior written consent to any third party; and
  - (iii) is not used to create any software which is substantially similar to the Software;
- (e) to keep all copies of the Software secure and to maintain accurate and up-to-date records of the number and locations of all copies of the Software;

- (f) to supervise and control use of the Software and ensure that the Software is used by your employees and representatives in accordance with the terms of this Licence;
- (g) to use only in the country of purchase unless otherwise agreed with the Licensor;
- (h) not to provide or otherwise make available the Software in whole or in part (including but not limited to program listings, object and source program listings, object code and source code), in any form to any person other than your employees without prior written consent from us;

### **3. INTELLECTUAL PROPERTY RIGHTS**

- 3.1 You acknowledge that all intellectual property rights in the Software anywhere in the world belong to us, that rights in the Software are licensed (not sold) to you, and that you have no rights in, or to, the Software other than the right to use them in accordance with the terms of this Licence.
- 3.2 You acknowledge that you have no right to have access to the Software in source code form or in unlocked coding or with comments.

### **4. LIMITED WARRANTY**

- 4.1 We warrant that:
  - (a) the Software will, when properly used and on an operating system for which it was designed, perform substantially in accordance with the functions described in the Documents; and
  - (b) that the Documents correctly describe the operation of the Software in all material respects,

for a period of 90 days from the date of installation of the Software (**Warranty Period**).

- 4.2 If, within the Warranty Period, you notify us in writing of any defect or fault in the Software, we will, at our sole option, either repair or replace the Software, provided that you make available all the information that may be necessary to help us to remedy the defect or fault, including sufficient information to enable us to recreate the defect or fault.
- 4.3 The warranty does not apply:
  - (a) if the defect or fault in the Software results from you having amended the Software; and

- (b) if the defect or fault in the Software results from you having used the Software in contravention of the terms of this Licence.

4.4 If you are a consumer, this warranty is in addition to your legal rights in relation to Software that is faulty or not as described. Advice about your legal rights is available from your local Citizens' Advice Bureau or Trading Standards office.

## **5. LIMITATION OF LIABILITY IF YOU ARE A BUSINESS USER**

5.1 You acknowledge that the Software has not been developed to meet your individual requirements, and that it is therefore your responsibility to ensure that the facilities and functions of the Software meet your requirements.

5.2 If you are a business customer and have paid the non-commercial licence fee, we only supply the Software for internal use by your business, and you agree not to use the Software for any re-sale (including but not limited to paid consultancy) purposes.

5.3 We shall not under any circumstances whatever be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Licence for:

- (a) loss of profits, sales, business, or revenue;
- (b) business interruption;
- (c) loss of anticipated savings;
- (d) loss or corruption of data or information;
- (e) loss of business opportunity, goodwill or reputation; or
- (f) any indirect or consequential loss or damage.

5.4 Other than the losses set out in condition 5.3 (for which we are not liable), our maximum aggregate liability under or in connection with this Licence whether in contract, tort (including negligence) or otherwise, shall in all circumstances be limited to a sum equal to 50% of the Licence Fee. This maximum cap does not apply to condition 5.5.

5.5 Nothing in this Licence shall limit or exclude our liability for:

- (a) death or personal injury resulting from our negligence;
- (b) fraud or fraudulent misrepresentation;
- (c) any other liability that cannot be excluded or limited by English law.

5.6 This Licence sets out the full extent of our obligations and liabilities in respect of the supply of the Software. Except as expressly stated in this Licence, there are no conditions, warranties, representations or other terms, express or implied, that are binding on us. Any condition, warranty, representation or other term concerning the supply of the Software which might otherwise be implied into, or incorporated in, this Licence whether by statute, common law or otherwise, is excluded to the fullest extent permitted by law.

## **6. LIMITATION OF LIABILITY IF YOU ARE A CONSUMER USER**

6.1 You acknowledge that the Software has not been developed to meet your individual requirements, and that it is therefore your responsibility to ensure that the facilities and functions of the Software meet your requirements.

6.2 If you are a consumer, we only supply the Software for domestic and private use. You agree not to use the Software for any commercial, business or re-sale purposes, and we have no liability to you for any loss of profit, loss of business, business interruption, or loss of business opportunity.

6.3 We are only responsible for loss or damage you suffer that is a foreseeable result of our breach of this Licence or our negligence up to the amount specified in condition 6.4, but we are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if they were an obvious consequence of our breach or if they were contemplated by you and us at the time we granted you the Licence.

6.4 Our maximum aggregate liability under or in connection with this Licence whether in contract, tort (including negligence) or otherwise, shall in all circumstances be limited to a sum equal to 100% of the Licence Fee. This does not apply to the types of loss set out in condition 6.5.

6.5 Nothing in this Licence shall limit or exclude our liability for:

- (a) death or personal injury resulting from our negligence;
- (b) fraud or fraudulent misrepresentation; or
- (c) any other liability that cannot be excluded or limited by English law.

## **7. TERMINATION**

7.1 We may terminate this Licence immediately by written notice to you if you commit a material or persistent breach of this Licence which you fail to remedy (if remediable) within 14 days after the service of written notice requiring you to do so.

- 7.2 Upon termination for any reason:
- (a) all rights granted to you under this Licence shall cease;
  - (b) you must immediately cease all activities authorised by this Licence;  
and
  - (c) you must immediately delete or remove the Software from all computer equipment in your possession, and immediately destroy or return to us (at our option) all copies of the Software then in your possession, custody or control and, in the case of destruction, certify to us that you have done so.

## **8. COMMUNICATIONS BETWEEN US**

- 8.1 If you are a consumer, if you wish to contact us in writing, or if any condition in this Licence requires you to give us notice in writing, you can send this to us by e-mail to [TraccSupport@basemap.co.uk](mailto:TraccSupport@basemap.co.uk) or by pre-paid post to Basemap Limited at Basemap Limited, Surrey Technology Centre, 49 Occam Road, Guildford, Surrey, GU2 7YG. We will confirm receipt of this by contacting you in writing, normally by e-mail.
- 8.2 If we have to contact you or give you notice in writing, we will do so by e-mail or by pre-paid post to the address you provide to us in your order for the Software.
- 8.3 If you are a business customer, please note that any notice given by you to us, or by us to you, will be deemed received and properly served immediately when posted on our website, 24 hours after an e-mail is sent, or three days after the date of posting of any letter. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an e-mail, that such e-mail was sent to the specified e-mail address of the addressee.

## **9. EVENTS OUTSIDE OUR CONTROL**

- 9.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under this Licence that is caused by an Event Outside Our Control. An Event Outside Our Control is defined below in condition 9.2.
- 9.2 An **Event Outside Our Control** means any act or event beyond our reasonable control, including without limitation failure of public or private telecommunications networks.

- 9.3 If an Event Outside Our Control takes place that affects the performance of our obligations under this Licence:
- (a) our obligations under this Licence will be suspended and the time for performance of our obligations will be extended for the duration of the Event Outside Our Control; and
  - (b) we will use our reasonable endeavours to find a solution by which our obligations under this Licence may be performed despite the Event Outside Our Control.

## **10. OTHER IMPORTANT TERMS**

- 10.1 We may transfer our rights and obligations under this Licence to another organisation, but this will not affect your rights or our obligations under this Licence.
- 10.2 You may only transfer your rights or your obligations under this Licence to another person if we agree in writing.
- 10.3 If you are a business customer, this Licence constitutes the entire agreement between you and us. You acknowledge that you have not relied on any statement, promise or representation made or given by or on behalf of us which is not set out in this Licence.
- 10.4 If we fail to insist that you perform any of your obligations under this Licence, or if we do not enforce our rights against you, or if we delay in doing so, that will not mean that we have waived our rights against you and will not mean that you do not have to comply with those obligations. If we do waive a default by you, we will only do so in writing, and that will not mean that we will automatically waive any later default by you.
- 10.5 Each of the conditions of this Licence operates separately. If any court or competent authority decides that any of them are unlawful or unenforceable, the remaining conditions will remain in full force and effect.
- 10.6 If you are a consumer, please note that this Licence, its subject matter and its formation, are governed by English law. You and we both agree to that the courts of England and Wales will have non-exclusive jurisdiction. However, if you are a resident of Northern Ireland you may also bring proceedings in Northern Ireland, and if you are resident of Scotland, you may also bring proceedings in Scotland.
- 10.7 If you are a business customer, this Licence, its subject matter and its formation (and any non-contractual disputes or claims) are governed by

English law. We both agree to the exclusive jurisdiction of the courts of England and Wales.