

DEFRA NETWORK: DIGITAL DATA SET LICENCE AGREEMENT – RENEWAL 2022

This Licence Agreement No. **2011/051** is made between:

The Licensor:

United Kingdom Research and Innovation, a body corporate set up by the law of England and Wales, acting through its component institute The British Geological Survey, Environmental Science Centre, Keyworth, Nottingham, NG12 5GG (hereinafter referred to as BGS). BGS has been authorised by United Kingdom Research and Innovation (UKRI) to grant licences for the re-use of geological information originated by BGS and where the copyright rests with UKRI. The authority also extends to geological information where the copyright has been assigned or acquired by UKRI (subject to clause 5 below). The term 'the Licensor' in this Licence shall refer to the BGS.

And The Licensee:

DEFRA (Department for Environment, Food & Rural Affairs) GI Office

1 Licence

In consideration of payment of the Licence Fee (as set out in Schedule 1) and any other ancillary charges specified in Schedule 1, the Licensor agrees to grant, and the Licensee agrees to accept on the following terms and conditions a non-exclusive, non-transferable, non-assignable licence to use the Data Set(s) as described in Schedule 1.

2 Conditions of Use

- 2.1 Except as permitted herein, this Licence authorises the Licensee to make internal business use of the Data Set(s) exclusively for the benefit of the Licensee.
- 2.2 Neither this Licence nor the Data Set(s) to which it applies may be assigned, sub-licensed, rented, lent or otherwise transferred by the Licensee. Where the Licensee appoints a sub-contractor which requires use of information by another person or organisation (the "Contractor"), the Data Set(s) may only be supplied, with the express written consent of the Licensor and will, if given, be subject to the following conditions:
 - a) The Contractor shall be bound by the same obligations as the Licensee under this Licence and enter into a Complementary Digital Data Licence with the Licensor which will enable the Contractor to use the Data Set(s) for the purpose of fulfilling specific undertakings on behalf of the Licensee ("Contractors Purpose");
 - b) The Contractor shall not be granted the right to grant rights in the Data Set(s) to any other person or organisation;
 - c) The Contractor shall have no right to retain or pass to other third parties the information contained within the Data Set(s) once the period of the sub-contract with the Licensee has expired. On completion of the Contractors Purpose, the Licensee will be responsible for confirming to the Licensor that the Contractor has deleted the Data Set(s) from its system;
 - d) The use of the Data Set(s) by the Contractor is strictly limited to fulfilling the Contractors Purpose. The Licensee should make all Contractors aware that the use of the Data Set(s) for anything other than the Contractors Purpose will be subject to prior separate licencing arrangements with the Licensor, for which fees may be applicable;
 - e) Any such other conditions as BGS considers reasonably necessary.
- 2.3 Except as permitted under the terms of this Licence or via separate permission granted by the Licensor, no part of the Data Set(s) (including, but not limited to, the attribution or linework or any substitute for the attribution or linework) may be published (to include being made publicly available and/or placement on the Internet), passed on or in any other way

be made available to any person or organisation other than the Licensee, whether on its own or as part of a value-added commercial product.

- 2.4 Notwithstanding, the restrictions in clause 2.3 any materials that the Licensee derive or develop from the Data Set(s) ("Derived Material") may be used and shared in accordance with the Licensor's policy regarding Derived Materials which is set out in Schedule 2 and paragraph v and vi in Schedule 1.
- 2.5 If there is any change of control of the Licensee as is defined in section 450 of the Corporation Tax Act 2010, a new licence will be required before the Licensee may make use of the Data Set(s) held originally by either company. Based upon the digital Data Set(s) requirement and intended usage, a new fee schedule may apply, including a potential administration fee (as set out in paragraph xi of Schedule 1) and/or a new Licence Fee
- 2.6 The Licensee must ensure that the relevant Licensee personnel who will utilise the Data Set(s) comply at all times with the terms and conditions set out with the Licence.
- 2.7 The Licensee shall take all reasonable, technical, contractual and other security measures to protect the integrity and security of the Data Set(s) and to prevent any use of the Data Set(s) which is not permitted by this Licence.
- 2.8 The Licensee must notify the Licensor if it becomes aware that it is in breach of the Licence or suspects that there has been an infringement of the Licensor's Intellectual Property Rights in the Data Set(s).

3 Back-up Copies

The Licensee may make up to three copies of the Data Set(s) for operational security and back-up purposes but shall make no other copies of the Data Set(s) except as permitted herein.

4 Hard Copies

- 4.1 Except as permitted herein, the Licensee may not provide hard copy reports or maps derived from the Data Sets to any person or organisation other than the Licensee, its employees, or its professional advisors, for purposes necessary to the Licensee's internal business.
- 4.2 Hard copies of digital extracts must be accompanied by the following statement:- **Derived from (cite the scale of your data) scale BGS Digital Data under Licence (cite your licence number) British Geological Survey. ©UKRI.**
- 4.3 With the exception of special conditions described in the Schedule 1; hard copies may not be incorporated in any publication or on information to be distributed to members of the public or any other party without prior written approval from the Licensor for which additional copyright fees may be payable.

5 Copyright & Database Right

Unless otherwise stated, Copyright and Database Right in the Data Set(s) is vested in the UKRI and/or BGS and may not be published or transferred to any other party, whether in whole or in part, without the prior written permission of the Licensor. Neither Copyright nor Database Right is transferred to the Licensee by this Licence.

6 Liability

- 6.1 Your use of the Data Set(s) provided by the Licensor is at your own risk. Please read any warnings given about the limitations of the Data Set(s). If the disk or file on which the Data Set(s) is delivered to you is corrupt or is otherwise unusable then the Licensor will replace it provided that the Licensee contacts the Licensor within one month from the date the Licensee receives the data from the Licensor.
- 6.2 Except as stated above, the Licensor gives no warranty as to the quality or accuracy of the Data Set(s) or the medium on which it is provided or its suitability for any use. All implied conditions relating to the quality or suitability of the Data Set(s) and the medium, and all liabilities arising from the supply of the Data Set(s) (including any liability arising in negligence) are excluded to the fullest extent permitted by law.

- 6.3 Except as stated above, the Licensor accepts no liability for any loss or damage which may be caused by the condition of the disk or file in which the Data Set(s) is provided to you, and you are expected to operate suitable anti-virus software before loading it into your computer system.
- 6.4 You are responsible for ensuring that the form of the information you have ordered is compatible with your computer system and any other data with which the information is to be used. With the exception of any other separate contractual undertakings, the Licensor accepts no responsibility for maintenance or technical support.

7 Duration and Termination

- 7.1 This Licence is granted effective from the date on which the Licensee receives the Data Set(s) or the Licence Start Date (set out in Schedule 1), whichever is earlier and shall remain in force until terminated by either party, under the terms set out in this Licence or the Licence End Date (as set out in Schedule 1), whichever is earlier.
- 7.2 Licences may be renewed for a further fixed period of up to 5 years (at the discretion of the Licensor) by payment of the prevailing renewal fee by the Licence End Date, or by the date specified in the renewal invoice issued by the Licensor. The Licensor may charge an Administration Fee as set out in Schedule 1.
- 7.3 The Licensor may terminate this Licence at any time if the Licensee fails to comply with any of the terms of this a Licence or the Licensee fails to pay any fees due under this Licence within 30 days after the fees have become due.
- 7.4 The Licensor reserves the right to terminate this Licence if there is a material breach of any of the terms of the Licence (including but not limited to the Licensee transferring possession of any copy, partial copy, modification or merged portion of the Data Set(s) to another party) and where the breach is capable of remedy, it is not remedied within [28] days of notification of the nature of the breach. Where the breach of the Licensee is not capable of remedy by the Licensor, this Licence will be automatically terminated.
- 7.5 Upon termination of this Licence, the Licensee shall, save as provided for under clause 7.6, immediately cease use of the Data Sets and shall destroy the original and all full or partial copies of the Data Set(s), including portions merged into other programs and provide the Licensor with written confirmation of this. For the avoidance of doubt, following termination of the Licence, the Licensee is not permitted to retain the Data Set(s) for ongoing use or pass the Data Set(s) to any third parties.
- 7.6 The Licensee shall be permitted to retain: (i) one copy of the Data Set(s) for archival purposes, including as reasonably necessary to demonstrate compliance with the terms and conditions of this Licence including in connection with legal proceedings and/or for reference purposes associated with Building Information Modelling 'BIM' processes; and (ii) such additional copies of or any computer records or files containing the licensed Data Set(s) that have been created solely by the Licensee's automatic archiving and back-up procedures, to the extent created and retained in a manner consistent with its standard archiving and back-up procedures, but not for any other use or purpose. The Licensee accepts that BGS will not provide any updates to the licensed Data Set(s) retained by the Licensee under this clause 7.6.

8 General

- 8.1 This Agreement contains the total understanding between the Licensor and the Licensee regarding the subject matter hereof and replaces all former written and oral communications between the two parties.
- 8.2 Any changes required to the Licence will be subject to the agreement of both the Licensor and the Licensee and any additional administration fees (as set out in paragraph ix in Schedule 1).
- 8.3 When the Licensor's digital data sets are revised any upgrades that apply to the Data Set(s) will be automatically supplied to the Licensee. Because geological map Data Set(s) are revised on a periodic rather than on an annual basis, Licensees will not automatically receive

a new Data Set(s) each year unless changes have been made to the data included within the Data Set(s). Where Data Set(s) have been replaced and/or upgraded, the Licensee shall not continue to use the earlier now defunct version.

- 8.4 Except as otherwise expressly provided by the Licence, all remedies available to either Party for breach of the Licence are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.
- 8.5 The failure of either Party to insist upon strict performance of any provision of the Agreement or the failure of either Party to exercise any right or remedy shall not constitute a waiver of that right or remedy and shall not cause a diminution of the obligations established by the Licence.

9 Governing Laws

This Licence shall be governed by and construed in accordance with the laws of England and Wales and each party agrees to submit to the exclusive jurisdiction of the courts of England and Wales.

DEFRA NETWORK: DIGITAL DATA LICENCE SCHEDULE 1

Licence No: 2011/051

Data Set(s): The digital data provided by BGS is:

Super corporate (unlimited users)

- BGS Geology 50k @ 1:50,000, Whole dataset, 236,085km²
- BGS Geology 250k @ 1:250,000, Whole dataset, 230,841km²
- BGS Geology Marine Bedrock @ 1:250,000, (shapefile supplied by DEFRA), 224,849km²
- BGS Geology Marine Sediments @ 1:250,000, Whole dataset, 682,384km²
- BritPits (full dataset), England and Wales, 11 regions
- GBase UK Sample point data, Whole dataset

Corporate (50 users) - supplied to the Environment Agency and Chiltern Conservation Board only

- BGS Geology superficial thickness @ 1:50,000, England and Wales, 154,610km²

Special conditions:

- i. The Data Set(s) is provided to you by the Licensor under this Licence, solely for the Licensee's use in the fulfilment of its standard operational activities. Any other usage will require additional permission from the Licensor.
- ii. No authorisation for additional digitising or scanning of the above map data/other material is granted under this Licence.
- iii. This Licence covers the use of the Data Set(s) within your organisation only.
- iv. The use of the Data Set(s) (described under iii) extends to the placement of the material on the internal servers and/or Intranet systems and/or hosted (cloud) services, subject to the following conditions:-
 - a) For desktop GIS users, the Data Set(s) will be stored in a password protected area and access will only be granted to named internal user-ids and capped as appropriate to Clause iii of this Schedule.
 - b) For Intranet use, the licensee shall create and maintain an accurate and up-to-date database of internal geological data users and the licensee shall ensure that the number of concurrent users will be capped as appropriate to the number set out in Clause iii of this Schedule.
 - c) For hosted (cloud) services, the service provider must be accredited by the UK Government Digital Marketplace / G-Cloud 7 Framework with Cyber Essentials Plus Accreditation to offer such services for the full term of this licence; and the number of concurrent users will be capped as appropriate to Clause iii of this Schedule.
- v. Non-commercial use of Derived Materials, as set out in Schedule 2: Placement of the Data Set(s) on the internet is prohibited. However, extracts derived from the Data Set(s) supplied under the Licence may be reproduced for internal business purposes, or passed on/made available to third parties, in:
 - Analogue (paper/hardcopy); and/or
 - In any non-queryable electronic format (e.g. within an appropriately secured PDF document) from which it is not possible to: (i) reverse-engineer back to, or to decompile, the Data Set(s); and/or (ii) print or download the reproduced extracts independently from the document;

solely for the following purposes:

 - To meet a public duty or task; and/or to fulfil a statutory requirement; and/or
 - As part of academic or other non-commercial research
- vi. Commercial use of Derived Materials, as set out in Schedule 2: Extracts of up to A3 in size of Derived Materials from the BGS digital data supplied under this Licence may be reproduced in analogue reports or non-queryable electronic format reports (e.g. appropriately secured .PDF format from which it is not possible to: (i) reverse-engineer back to, or to decompile, the Data Set(s); and/or (ii) print or download the reproduced extracts independently from the document), which you have been commissioned to

produce on a commercial basis. Any additional reproduction on a commercial basis of extracts derived from the Data Set(s) supplied under this Licence is not permitted under this Licence and will require separate arrangements to be agreed in writing with the Licensor.

- vii. The reproductions authorised under clause (v) and (vi) above are permitted with the following statement to appear alongside such material:- Licence No. 2011/051 British Geological Survey UKRI. All rights reserved.
- viii. Subject to any changes in requirements/usage, this Licence may be renewed by the mutual agreement of the Licensor and the Licensee and subject to payment by the Licensee of the fees levied by the Licensor at the rate prevailing at the time of renewal.
- ix. The Licensor reserves the right to levy a fee of £50.00 + VAT, as a contribution to its administrative costs, should the Licensee issue instructions to proceed with a new licence or to renew the Licence but then subsequently cancels/changes these instructions.
- x. The Licensee should issue all correspondence regarding the Licence to iprdigital@bgs.ac.uk

Licence type: DEFRA NETWORK: DIGITAL DATA SET LICENCE – RENEWAL 2022

Licence Renewal Start Date: 1st April 2022

Licence End Date: 31st March 2023

Fees payable: Licence Fee as set out below, payable by the Licensee on receipt of an invoice from the Licensor:

[REDACTED]

As the authorised representative of the Licensee named below, I agree to the terms and conditions of the Licence for the Data Set(s) specified above.

Name of Licensee:

Department for Environment, Food & Rural Affairs

Address of Licensee:

[REDACTED]

Name of Licensor:

British Geological Survey

Address of Licensor:

[REDACTED]

Signature of Representative:

[REDACTED]

Signature of Licensor:

[REDACTED]

Name of Representative:

[REDACTED]

[REDACTED]

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[REDACTED]

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DIGITAL DATA LICENCE SCHEDULE 2: POLICY ON MATERIALS DERIVED FROM LICENSOR DATA

Materials derived from BGS Data and Information Products by BGS digital data licensees

The British Geological Survey (BGS) ("we", "us", "our") is committed to ensuring that all the digital data it holds which is released to external parties under licence has been through a robust internal approval process, to ensure that geoscientific standards and corporate quality assurance standards are maintained. Licensees ("you", "your") are able to make internal use of the dataset(s), but must be aware that any changes or alterations made by you to our data may affect the integrity of our materials in whatever form they are published.

As a British Geological Survey (BGS) digital data licensee, 'You' (either as you personally or your organisation as defined in your BGS digital data licence) may use and share materials you derive/develop (hereinafter referred to as 'Derive' or 'Derived') from BGS licensed data, subject to the following restrictions (although Licensees should always refer to their Licence documentation for the full terms and conditions applicable to the Derived materials they have produced in any particular case):

1 Derived images in 'flat' formats (e.g. paper, or non-queryable electronic format).

1.1 Subject to 1.2 below:-

- i. You are permitted to use such images specifically for your own personal or your internal business purposes, which is limited to use within your business, but this right does not extend to advising your external customers with the licensed materials other than as described at (1.1,iii) below, nor to placing any such images on any external facing website; and
- ii. You may share such images with third parties on a non-commercial basis in order to meet any requirement which is part of your official public duty or task, and/or to fulfil a statutory requirement, and/or as part of academic or other non-commercial research; and
- iii. When completing a specific task commissioned on a commercial basis by a third party client, such images may be reproduced in any paper or non-queryable electronic format client report (e.g. appropriately secured .PDF format), up to A3 size derived from the BGS licensed data appearing in the client report (note this does not cover the provision of a general bureau service for multiple clients – this can be catered for under Data Reseller arrangements (as discussed in Section 3,iii); nor does it include placing any such images on any external facing website);

1.2 Provided that you formally acknowledge BGS as the owner of the source BGS digital data when you share Derived images and pass on this requirement to anyone with whom you share the Derived images.

2 Derived data sets (any data [i.e. materials other than in paper or non-queryable electronic formats] that have been created, derived, or developed either in part or in whole, from BGS licensed materials).

2.1 Subject to 2.2 below:-

- i. You may use such Derived data sets specifically for your own personal or your internal business purposes, which is limited to use within your business but this does not extend to advising your external customers with the licensed materials nor does it include placing any part of the Derived data sets on any public facing websites; and
- ii. You may share such Derived data sets with third parties on the following basis:
 - a) Where the Derived dataset does not contain a copy of the original information as a whole or substantial part of it, and cannot be reverse engineered to create a copy of the original information; and
 - b) Where the Derived dataset is not substitutable (defined as serving substantially the same purpose or effectively imparting the same or substantially the same knowledge*) for any part of BGS's licensable data or services, to include being substitutable for any BGS

Reseller's data or services (see 'Note' below on substitutability and becoming a BGS Reseller);

2.2 You may only have the benefits afforded by clause 2.1 if you agree to the following:

- i. To inform BGS of any intention to share Derived data set(s) and do not share them until BGS confirms in writing its agreement that the sharing would comply with the provisions described at 2.1,ii.,a and b. (such agreement not to be unreasonably withheld by BGS);
- ii. That any such Derived materials will be used on a non-commercial basis (i.e. not for financial gain);
- iii. You will ensure that any sharing you permit of Derived data sets is subject to terms and conditions that are substantially similar to and not inconsistent with these terms and conditions or any terms and conditions of your licence with us;
- iv. You will provide BGS, on request, with a copy of any Derived Data you propose to share with third parties under the provisions of this licence, for BGS's records and internal business usage **.

* Note on substitutable activities: If BGS reasonably judges that your Derived data set is substitutable for BGS's licensable data, as described at 2.1,ii.,b, BGS will work with you in negotiating separate terms and conditions permitting use of your Derived data set under a BGS Data Reseller Agreement (see Comment 3,ii below).

** Should we wish to use any of your Derived materials which you have provided to us commercially, we will contact you and agree commercial terms. Derived outputs deposited with us will be treated as confidential information, however you should bear in mind that we are subject to the Freedom of Information Act and related legislation, so may be required to release such outputs though requirements of the law.

3 Comments

If you are in any doubt about how far our permissions extend, please contact us direct at (email: [REDACTED]), to discuss this, or the additional or alternative arrangements that BGS offers, for example:

- i. An 'Innovation Agreement' covers the internal evaluation of BGS digital materials to ascertain whether a commercial offering based on/incorporating the BGS materials is viable. Such agreements are offered for a limited period of time (typically 90 days) but at no charge. If a viable commercial opportunity is identified, it can then be taken forward via the formalisation of a BGS 'Data Reseller Agreement';
- ii. BGS encourages innovation and development of its data sets, particularly for commercial applications. A 'Data Reseller Agreement' covers commercial offerings based on, or derived from, source BGS digital materials. Unlike under a BGS digital data licence, no licence fee is payable up front, with BGS expecting a commercial return from the Data Reseller, such as a royalty sharing provision on product sales.

4 Using Derived outputs of our Materials – Liability

For any use of outputs derived from our materials the responsibility will rest with you, as we will be unable to verify whether the use to which you are putting our derived materials meets our usual standards in terms of quality suitability for use – such as any error, misreading or distortion in any final output. As such, we exclude any responsibility or liability for the use of such Derived outputs to the fullest extent of the law.

5 Updating our Derived Data Policy

BGS's Derived data policy will be changed from time to time, sometimes to reflect changes to our Services, other times when there are changes in HM Government policy.