

*These Geoscape General Terms of Use apply from:*

- 22 August 2024 for users of our Website and new customers; or
- 22 September 2024 for customers who had a Geoscape Hub or Geoscape Developer account with us before 22 August 2024.

*A copy of our previous Geoscape Developer Terms can be found [here](#).*

*Note: if you had a Geoscape Hub or Geoscape Developer account with us before 22 August 2024, any references in your subscription plan or other agreement to:*

- *the Geoscape Developer Terms, should be read as references to these Geoscape General Terms of Use; and*
- *Geoscape Developer, should be read as references to Geoscape Hub.*

## Geoscape General Terms of Use

These Geoscape General Terms of Use (**these Terms**) set out the terms and conditions that apply to your use of our Website, Geoscape Hub, and the Geoscape products and services available through them. They legally bind you if you:

- access our Website;
- register for a Geoscape Hub account and agree to these Terms when prompted; or
- enter into an agreement with us that incorporates these Terms by reference.

We've included a brief explanation of each part of these Terms in the left column to help you understand them. However, it's the words in the right column that are legally binding.

Please read these Terms carefully and make sure you understand them. If you do have any questions, please email [support@geoscape.com.au](mailto:support@geoscape.com.au) or, if you have a Geoscape customer manager, contact them directly.

In these Terms:

- **Geoscape Australia, we, us** and **our** refer to PSMA Australia Ltd trading as Geoscape Australia ABN 23 089 912 710 of Unit 6, 113 Canberra Avenue, Griffith in the Australian Capital Territory; and
- **You** and **your** refer to the person who accesses our Website, registers for a Geoscape Hub account or enters into an Agreement with Geoscape Australia that incorporates these Terms by reference (as applicable).

**Agreement on behalf of an organisation:** If you are using our Website, Geoscape Hub, or the Geoscape products and services available through them on behalf of an organisation (for example, your employer), you agree to these Terms for and on behalf of that organisation and affirm to us that you have full legal authority to bind that organisation accordingly.

These Terms are comprised of the following parts, which apply according to your use of our Website, Geoscape Hub, or the Geoscape products and services available through them:

- **Part A - Geoscape Hub and Website**
- **Part B - Geoscape APIs**
- **Part C - Geoscape Batch**
- **Part D - Geoscape Clip**
- **Part E - Geoscape Data**
- **Part F - Other general terms**

In the event of any inconsistency between these Terms and other documents which comprise an Agreement, the following order of precedence will apply to the extent of the inconsistency:

1. any order, quote, key terms or other agreement document that incorporates these Terms by reference;
2. any Geoscape Hub subscription plan to;
3. any [specific terms](#) applicable to a Geoscape API used by you;
4. any other additional or custom terms incorporated by reference or that you agree to; and then
5. these Terms.

## Part A - Geoscape Hub and Website

*You need an account to access Geoscape Hub and manage your access to Geoscape Data, Geoscape APIs and other Geoscape products and services.*

*You can allow your team members to use your Geoscape Hub account on your behalf, but you're responsible for their actions.*

*You need to keep your login details secure, and if something goes wrong, fix it and inform us immediately.*

*You mustn't misuse Geoscape Hub. This includes creating fake accounts or sharing credentials.*

*You need to keep your Geoscape Hub information up to date.*

### 1 Your Geoscape Hub Account

- 1.1 You must register for a Geoscape Hub account to access Geoscape Hub. You can register for a Geoscape Hub account by following the directions on the [Geoscape Hub registration page](#).
- 1.2 You may authorise your employees, officers and agents to use your Geoscape Hub account on your behalf. In these Terms, they are called your **Authorised Users**. You are responsible for ensuring that your Authorised Users use your Geoscape Hub account and the products and services available through Geoscape Hub in accordance with these Terms and the terms of any Agreement (as applicable) as though they are you. If an Authorised User ceases to be employed or engaged by you (or is otherwise no longer authorised by you to access Geoscape Hub) you must ensure that they are no longer able use your Geoscape Hub account.
- 1.3 You are responsible for:
  - (a) keeping confidential your Geoscape Hub account usernames, passwords and other Geoscape Hub-related information (such as your Geoscape API keys or tokens);
  - (b) all activity that occurs through your Geoscape Hub account; and
  - (c) all fees associated with that activity.
- 1.4 If the confidentiality of your Geoscape Hub account username, password or any other Geoscape Hub-related information may have been compromised, you must take all reasonable steps to stop any unauthorised access (including by changing your account password) and notify us as soon as practicable by emailing [support@geoscape.com.au](mailto:support@geoscape.com.au).
- 1.5 We reserve the right to change or revoke usernames and passwords at any time. If we do so, we will provide you with notice.
- 1.6 You must not:
  - (a) create fake or unauthorised Geoscape Hub accounts, including by using an automated device, script, bot or other similar means;
  - (b) register multiple Geoscape Hub accounts to unfairly benefit from free subscription plans or trials we offer;
  - (c) transfer Geoscape Hub account usernames and passwords between Authorised Users or other individuals,or allow anyone to do any of the above on your behalf.
- 1.7 You must keep your Geoscape Hub account information (such as your contact details) up to date. If your account information changes, you must update your account information through Geoscape Hub.

*We offer a free subscription plan and you'll be placed on it by default. You can read about it [here](#).*

*You can change your plan through Geoscape Hub or by agreeing to a custom plan we offer you.*

*Your Geoscape Hub subscription commences when you register for an account or agree to a subscription plan or other agreement with us that incorporates these Terms.*

*Your subscription to Geoscape Hub will automatically renew until one of us cancels it.*

*We offer a free subscription plan. You can read about it [here](#).*

*We can change or withdraw the free plan or decide you're not eligible on 14 days' notice.*

*If your free plan is withdrawn or you're no longer eligible, you'll need a paid plan to keep accessing our products and services.*

*Some services require a paid plan. You can read about our standard paid plans [here](#).*

*To subscribe to a paid plan, you need to provide a valid payment method and keep it up to date.*

*Payments are processed through Stripe, and by paying, you agree to [Stripe's terms](#).*

*Fees are charged monthly or yearly in advance based on your selected plan, not your usage.*

*If a payment fails and isn't fixed, your access may be suspended.*

## **2 Your Geoscape Hub Subscription Plan**

- 2.1 You must have a subscription plan to access Geoscape Hub. You will be placed on a free subscription plan by default. You can change your subscription plan through Geoscape Hub or by agreeing to a custom subscription plan that we offer you.
- 2.2 Your subscription plan incorporates these Terms and forms part of your Agreement.
- 2.3 Your Geoscape Hub subscription commences on the date you:
- (a) register for a Geoscape Hub account; or
  - (b) enter into a standard paid or custom subscription plan or other Agreement,
- whichever is earlier. It will continue and automatically renew for further subscription periods equal to the initial subscription period unless your subscription is cancelled in accordance with clause 6.
- 2.4 If your subscription period is longer than one month, we will give you notice at least 30 days before the renewal of your subscription.

## **3 Free Default Subscription Plan**

- 3.1 You will be placed on a free subscription plan by default.
- 3.2 We can withdraw, limit eligibility or change the conditions of free subscription plans on 14 days' notice at our complete discretion.
- 3.3 We can use any information available to us to determine eligibility for free subscription plans.
- 3.4 If we withdraw a free subscription plan that you are subscribed to or determine that you are not eligible for a free subscription plan, you will not be able to access our products and services that were subject to the free subscription plan until you agree to a paid subscription plan for those services.

## **4 Paid Subscription Plans**

- 4.1 Some Geoscape products and services are only available if you have a paid subscription plan. You can enter into a paid subscription plan by subscribing to a standard paid subscription plan through your Geoscape Hub account or by agreeing to a custom subscription plan offered to you by us.
- 4.2 You must provide a valid payment method when you subscribe to a paid plan. You can update your payment method at any time through your Geoscape Hub account settings.
- 4.3 Fees must be paid using payment processing services provided by Stripe Payments Australia Pty Ltd and are subject to the Stripe Services Agreement found [here](#) (**Stripe Terms**). You should review the Stripe Terms before paying, as you will be taken to have agreed to the Stripe Terms and will be bound by them, as modified by Stripe Payments Australia Pty Ltd from time to time, when you do so.
- 4.4 Fees are payable monthly or yearly in advance from the date that you subscribe, depending on the subscription plan you select. If you subscribe to a monthly plan on the 29th, 30th or 31st of a month or a yearly plan on 29 February, we will charge you on the last day of the month when those dates do not arise in a month or year.
- 4.5 You authorise us to charge you your subscription fees for the next subscription period unless your subscription is cancelled in accordance with clause 6.

- 4.6 Subscription fees are based on the usage limits described in your subscription plan, not your actual usage.
- 4.7 You are responsible for ensuring that your nominated payment method is valid and has sufficient funds to pay the subscription fees. If your payment fails and you do not update your payment method and rectify the non-payment, we may immediately suspend your access to Geoscape Hub and Geoscape products and services until we have received the outstanding payment in full.

*Your subscription plan includes limits on usage (like credits or calls), which reset each period. You can read about the limits in our standard plans [here](#).*

*Unused amounts don't carry over.*

*If you hit your limit, we'll notify you, and access may be suspended unless you enable overage, which lets you keep using services for an additional fee.*

*Overage fees are automatically charged in your next billing cycle.*

*You can enable or disable overage in Geoscape Hub unless part of a custom plan.*

*If you need usage limits that are higher than the ones offered in our standard subscription plans, please contact [support@geoscape.com.au](mailto:support@geoscape.com.au) to talk to us about custom subscription plan.*

## **5 Usage Limits and Overage**

- 5.1 Usage limits measured in transactions, credits or calls apply and are set out in your subscription plan. Usage limits will reset at the beginning of each subscription period.
- 5.2 You must use the transactions, credits or calls allocated as part of your subscription plan within the related subscription period. Any unused transactions, credits or calls at the end of the subscription period will not be carried over to subsequent subscription periods or otherwise extended.
- 5.3 If you reach your usage limit, we will notify you by email, and:
- (a) we may suspend your access to Geoscape products and services that require transactions, credits or calls until the beginning of your next subscription period; or
  - (b) if you have enabled overage usage, we will allow you to exceed your usage limits and charge you for any usage above those limits at the rates set out in your subscription plan.
- 5.4 Overage fees are charged automatically and payable in arrears:
- (a) with the fees for your next subscription period or as otherwise specified in your subscription plan or nominated by you through your Geoscape Hub account; or
  - (b) if you cancel your subscription, at the end of your subscription period.
- 5.5 You can enable overage through your Geoscape Hub account or by agreeing to a custom subscription plan that we offer you. If you enable overage through your Geoscape Hub account, you can also disable overage through your account. If you enable overage through a custom subscription plan, you will need to agree any changes to that custom subscription plan with us.

*You need to give us 24 hours' notice to cancel a monthly paid subscription plan and 21 days' notice to cancel a yearly paid subscription plan.*

*Your plan will finish at the end of the subscription period that covers your notice period.*

*If we cancel your plan, we'll give 30 days' notice. You can keep using our services until the end of subscription period during which our 30-day notice period expires.*

*We may cancel your plan on only 7 days' notice if legal changes or supplier issues affect your plan. If*

## **6 Cancellation of Subscription Plans**

- 6.1 You can cancel:
- (a) a monthly paid subscription plan by giving us at least 24 hours' notice; and
  - (b) a yearly paid subscription plan by giving us at least 21 days' notice,
- through your Geoscape Hub account or by notifying us by email at [support@geoscape.com.au](mailto:support@geoscape.com.au). The cancellation will be effective at the end of the subscription period during which your notice period expires. You will then be placed on our default free monthly subscription plan.
- 6.2 Any free subscription plan will be automatically cancelled if you subscribe to a paid subscription plan. You can otherwise cancel a free subscription plan at any time by closing your Geoscape Hub account.

*we do, we'll refund any prepaid fees on a pro-rata basis.*

6.3 We can cancel your subscription plan by giving you at least 30 days' notice. If we cancel your subscription plan under this clause, the cancellation will be effective at the end of the subscription period during which our 30-day notice period expires.

6.4 If there has been a change in any Laws or our arrangements with suppliers affecting your subscription plan, we can cancel your subscription plan by giving you at least 7 days' notice. If we cancel your subscription plan under this clause 6.4:

- (a) the cancellation will be effective at the end of the notice period; and
- (b) we will refund to you any fees you have paid in advance for the period beyond that date on a pro-rata basis.

*You have a number of responsibilities and obligations when you access our Website or Geoscape Hub. You should familiarise yourself with them.*

*For example:*

- *You and your authorised users must comply with these Terms, applicable laws, and respect others' rights.*
- *Don't download, scrape, or harvest data from our Website or Geoscape Hub using automated tools, except where explicitly allowed.*
- *You're prohibited from reverse engineering, modifying, or disrupting our services, and must not bypass security measures.*
- *Do not redistribute any part of Geoscape Hub for commercial purposes or resell access.*
- *Only authorised users should access Geoscape Hub*
- *You must not upload unacceptable content.*

*We may remove any unacceptable content from Geoscape Hub.*

## **7 Your Responsibilities and Obligations**

7.1 You are responsible for ensuring that your use of our Website, Geoscape Hub, and the Geoscape products and services available through them:

- (a) complies with these Terms and your Agreement (as applicable), and all applicable laws, regulations and codes of conduct; and
- (b) does not infringe the Intellectual Property Rights or other rights of any person.

7.2 You must:

- (a) not download (subject to clause 7.3), extract, scrape, screenshot or otherwise harvest Geoscape Data or other information from our Website or Geoscape Hub, including by using any spider, robot or site search and retrieval application;
- (b) not modify, adapt, translate, reverse engineer, de-compile, disassemble or copy all or any part of Geoscape Hub or our Website;
- (c) not interfere with or disrupt Geoscape Hub or our Website, including by transmitting any viruses, spyware, malware or any other code of a destructive or disruptive nature;
- (d) promptly notify us if you become aware of any breach of the provisions of these Terms by you or an Authorised User;
- (e) comply with any Geoscape Documentation made available by us to you from time to time;
- (f) not attempt to circumvent or break any encryption, decryption or other security device or technological protection measure contained in Geoscape Hub or our Website;
- (g) not redistribute any part of Geoscape Hub for commercial purposes or otherwise sublicense or resell access to Geoscape Hub;
- (h) not permit any persons other than your Authorised Users to use Geoscape Hub;
- (i) only use Geoscape Documentation internally within your own business or personally (as applicable) and only for the purposes of helping you understand and use Geoscape Data, Geoscape APIs and other products and services available through Geoscape Hub; and
- (j) not upload any Unacceptable Content to Geoscape Hub.

- 7.3 You may download:
- (a) Sample Data that we explicitly make available for download; and
  - (b) any Geoscape Data you have ordered or licensed from us that we explicitly make available for download.
- 7.4 If we believe that any Unacceptable Content has been uploaded to Geoscape Hub, we may remove it.

*We'll provide support as outlined in your subscription plan, through live chat, email, phone, or our support portal.*

*You're responsible for providing support to your customers.*

*We strive to keep Geoscape Hub and our products and services available, but in certain situations we may need to suspend or limit access. We'll notify you if this happens.*

*You're responsible for downloading and storing your Geoscape Data and any data you upload. We won't remove your access to this data without giving you at least 60 days' notice.*

## **8 Geoscape Support**

- 8.1 We will provide support services remotely via live chat, our support portal, email or telephone as set out in your subscription plan.
- 8.2 We do not provide support to your End Users. You are solely responsible for supporting your End Users.

## **9 Availability**

- 9.1 We use reasonable endeavours to ensure that Geoscape Hub and our products and services available through Geoscape Hub are available to you as set out in these Terms or your Agreement (as applicable).
- 9.2 We may suspend, limit or throttle access to and the availability of Geoscape Hub and our products and services available through Geoscape Hub:
- (a) to address any actual or perceived emergency, misuse or threat to the operation of Geoscape Hub or our products and services available through Geoscape Hub;
  - (b) to comply with any applicable Laws, or to respond to requests or demands of a government entity; or
  - (c) pursuant to a privacy or copyright 'notice and take down' request or other alleged violation of Intellectual Property Rights or other third party rights.

We will notify you as soon as practicable of any such suspension or limitation.

- 9.3 You are responsible for downloading and storing Geoscape Data we make available to you via Geoscape Hub and for storing any User Data you upload to Geoscape Hub. However, we will not remove your access to Geoscape Data or your User Data on less than 60 days' notice (unless we are otherwise restricting or terminating your access to Geoscape Hub in accordance with these Terms or your Agreement, (as applicable)).

*We're always looking to improve our products and services. So, we may monitor and collect data on how you and your customers use our services, including any corrections or suggestions you provide.*

*We may use and share this data to maintain and improve our products, and we might keep related metadata indefinitely for audit purposes.*

*If your data includes personal information, we handle it according to privacy laws and our privacy policy.*

## **10 User Data**

- 10.1 When you and your End Users use our Website, Geoscape Hub, and the Geoscape products and services available through them, we may monitor that use and collect information about it, including information that you or your End Users process through our products and services (for example, addresses verified through the Geoscape Addresses API and input files processed as part of a batch job) (**User Data**). User Data also includes any corrections or improvements you suggest to us.
- 10.2 We may:
- (a) use User Data and disclose it to third parties for the purposes of maintaining or improving our products and services; and
  - (b) retain User Data metadata indefinitely for audit purposes.



*Any data incorporated into our products becomes our property, and we may distribute these products to other customers.*

- 10.3 If User Data includes Personal Information, we will handle it in accordance with Privacy Laws and our privacy policy. We will use reasonable endeavours to de-identify User Data before it is:
- (a) incorporated within our products or services; or
  - (b) disclosed to third parties for the purposes of improving our products and services.
- 10.4 If any User Data is incorporated within our products or services, any Intellectual Property Rights in such User Data as it forms part of our products or services hereby vest in us upon creation. We may distribute our products and services that incorporate User Data to our other customers.

*Geoscape Hub and our Website rely on third party applications for certain features and functionality.*

*These applications are governed by their own terms, which you must follow.*

*Since we can't control them, we don't make any representations or give any warranties about third party applications.*

*Some of the third party services we use include Amazon Web Services, Intercom, Mapbox, Stripe, and others, each with its own terms and conditions.*

## **11 Third Party Applications**

- 11.1 Geoscape Hub and our Website interact with Third Party Applications and require Third Party Applications or Third Party Providers for particular features and functionality.
- 11.2 You acknowledge that these Third Party Applications are subject to the Third Party Provider Terms set out in clause 11.4, and you must ensure that your use of these Third Party Applications complies with the relevant Third Party Provider Terms.
- 11.3 We do not make any representations or provide any warranties or guarantees in relation to Third Party Applications.
- 11.4 The Third Party Applications used by Geoscape Hub and our Website include those listed below, which are subject to the following terms (**Third Party Provider Terms**):
- (a) Amazon Web Services: <https://aws.amazon.com/legal/>;
  - (b) Intercom: <https://www.intercom.com/terms-and-policies#terms>;
  - (c) Mapbox: <https://www.mapbox.com/legal/tos/>;
  - (d) Sentry: <https://sentry.io/terms/>; and
  - (e) Stripe:
    - (i) services agreement: <https://stripe.com/au/legal>; and
    - (ii) privacy policy: <https://stripe.com/au/privacy>.
  - (f) HotJar: <https://www.hotjar.com/legal/policies/terms-of-service/>
  - (g) Stoplight: <https://stoplight.io/terms>
  - (h) Read The Docs: <https://docs.readthedocs.io/en/stable/terms-of-service.html>
  - (i) Jira Service Management: <https://www.atlassian.com/legal/product-terms#pty-products>
  - (j) OpsGenie: <https://www.atlassian.com/legal/product-terms#opsgenie>
  - (k) Posthog - <https://posthog.com/terms>

*We may include links to third party websites for your convenience, but these links are not endorsements.*

*We aren't responsible for the content on any third party websites.*

## **12 Links to Third Party Websites**

- 12.1 Geoscape Hub and our Website may contain links to other websites that are owned and operated by third parties and not under our control (**Third Party Websites**).

- 12.2 Links to Third Party Websites on Geoscape Hub or our Website are provided as a convenience to you and not as an endorsement of the Third Party Websites, their content or their owners and operators.
- 12.3 We are not responsible for the content on any Third Party Website.

*We may offer beta products and services for testing and assessment, but they're still in development, so use them at your own risk.*

*Beta products and services may change or be withdrawn at any time, and you can't use them for commercial purposes without our consent.*

*Standard support doesn't apply to beta products and services, and we're not required to fix issues.*

*If you've been using a beta product or service and we make significant changes it, remove it, or decide not to release it commercially, we'll let you know.*

### **13 Beta Geoscape products and services**

- 13.1 From time to time, we may offer access to beta Geoscape products and services (for example, a beta Geoscape API) that we have not released for commercial use. All such beta Geoscape products and services are clearly marked "beta".
- 13.2 Beta Geoscape products and services are made available for the purposes of testing and assessment only. All beta Geoscape products and services are subject to ongoing development and may not reach the level of performance of commercially released Geoscape products and services. We may decide not to release any beta Geoscape products and services for commercial use in our complete discretion.
- 13.3 Your use of any beta Geoscape products and services is entirely at your own risk.
- 13.4 We can change any version of beta Geoscape products and services or withdraw their availability at any time.
- 13.5 You must not use a beta Geoscape products and services for commercial purposes without our prior written consent.
- 13.6 If you agree to join a beta Geoscape program, you become a beta tester for any beta Geoscape products and services to which you have access and we may ask you to provide comments, suggestions and any other feedback on those beta Geoscape products and services. We may use any information that you provide to us in relation to beta Geoscape products and services for any purpose.
- 13.7 You can leave the beta Geoscape program at any time by notifying us that you wish to do by emailing [beta@geoscape.com.au](mailto:beta@geoscape.com.au).
- 13.8 The support and availability offered under clause 8 does not apply to beta Geoscape products and services. You can contact us at [beta@geoscape.com.au](mailto:beta@geoscape.com.au) for technical support in relation to beta Geoscape products and services. However, we are under no obligation to resolve any faults or errors in beta Geoscape products and services.
- 13.9 In relation to any beta Geoscape products and services to which you have access, we will notify you if we:
- (a) significantly change a version of the beta Geoscape products and services;
  - (b) release an updated version of the beta Geoscape products and services;
  - (c) withdraw the availability to you of a beta Geoscape products and services; or
  - (d) decide to officially release or not to officially release the beta Geoscape products and services.



## Part B - Geoscape APIs

*We offer a range of APIs. These APIs differ and may have specific terms that apply to their use. These specific terms are available [here](#).*

*These terms may grant extra permissions or impose more restrictions on using the Geoscape Data accessed through the API.*

*You must follow these specific terms, which become part of your agreement with us if you use the API.*

*We may offer extra products or services related to Geoscape APIs, like additional support plans. These may have their own terms, which will become part of your agreement with us if we offer them to you and you accept them.*

*If we perform services (like batch processing) on your behalf, the fees will be outlined in a quotation and must be paid in advance, and these Terms will apply to their delivery.*

*You can only use Geoscape APIs for the purposes of creating, maintaining and delivering your Apps while you have an agreement with us.*

*You can only use Geoscape Data (and material created using Geoscape Data) internally within your own business or personally. You can use it for as long as you like, provided you use it only as permitted by your agreement with us.*

*Note: [Specific terms](#) for a Geoscape API may grant additional permissions or impose additional restrictions on the use of Geoscape Data accessible through that API.*

### 14 Specific Terms for Geoscape APIs

- 14.1 Additional specific terms may apply to some Geoscape APIs. These specific terms are available through the [legal terms section](#) of Geoscape Hub. They may grant additional permissions or impose additional restrictions, for example, in relation to the use of Geoscape Data accessible through a Geoscape API.
- 14.2 You must use Geoscape APIs in accordance with any specific terms that apply to them and, if you use a Geoscape API that has specific terms, those additional specific terms form part of our Agreement with you.

### 15 Terms for Additional Products and Services

- 15.1 We may offer you additional products or services related to Geoscape APIs. Additional terms may apply to them and will form part of your Agreement if you accept them.
- 15.2 We may offer to use Geoscape APIs on your behalf. For example, we may offer to undertake batch processing for you. Unless otherwise agreed:
- (a) we will only provide such services once we receive written confirmation (email being sufficient) that you accept our quotation for the services;
  - (b) the fees for any such services will be as set out in our quotation for the services and are payable in advance;
  - (c) to the extent applicable, these Terms apply to such services, including so that:
    - (i) any records that you supply to us for processing will be treated as User Data; and
    - (ii) any data that we return to you will be treated as Geoscape Data accessed through the relevant Geoscape API.

### 16 Permitted Use and Restrictions

- 16.1 We permit you to use:
- (a) Geoscape APIs and the API keys or tokens we provide to you to enable your access to Geoscape APIs internally within your own business or personally (as applicable) and only for the purposes of creating, maintaining and delivering your Apps during your subscription period; and
  - (b) Geoscape Data accessed by you through Geoscape APIs (and any Derived Material you create using such Geoscape Data) in perpetuity only for the Permitted Purpose of use internally within your own business for your day-to-day business operations or your personal use (as applicable), and subject to any [specific terms](#) that apply to the use of Geoscape Data made available through a Geoscape API. For the avoidance of doubt:
    - (i) Geoscape Data accessed by your End Users through your Apps should not be used by you unless you have made your own separate calls to Geoscape APIs to access that Geoscape Data; and
    - (ii) where applicable, Part E of these Terms (on Geoscape Data) applies to Geoscape Data

To protect us and our other customers, conditions apply to your use of Geoscape APIs. For example, you must:

- Only offer access to them through your Apps.
- Only permit use of Geoscape Data (and material created using Geoscape Data) accessed through them for personal or internal business use.
- Not proxy them to offer a competitive service.
- Not allow your Apps to cache their responses for data repositories.
- Not use them in any way that threatens their security, integrity or availability.
- Not use Geoscape Data (or material created using Geoscape Data) to develop capability, products or other material for commercialisation, apart from your Apps.
- Not use them in any Apps that don't have appropriate instructions and warnings.
- Ensure that your Apps use them in a secure way.
- Not use them with other material that would make them subject to open licence terms.
- Not use them for anything illegal, damaging or inappropriate.

You must also ensure your End Users comply with these terms, and provide us with necessary information about your usage when required.

accessed through Geoscape APIs (for example, clause 27 on restrictions on use of Geoscape Data and clause 29 on copyright information).

#### 16.2 You must:

- (a) only make Geoscape APIs, Geoscape Data accessed by you through Geoscape APIs, and Derived Material available to third parties through your Apps (that is, you must not resell, distribute, sublicense, or otherwise make them available on a standalone basis);
- (b) only permit End Users to use Geoscape Data and Derived Material internally within their own business for the purposes of their day-to-day business operations or personally (as applicable), and subject to any specific terms that apply to the use of Geoscape Data made available through a Geoscape API;
- (c) not proxy Geoscape APIs for the purposes of offering a service that is competitive with Geoscape APIs;
- (d) ensure that your Apps do not cache, download or otherwise persistently store Geoscape API responses for the purposes of building a location data repository or scaling one Geoscape API transaction to serve multiple End Users;
- (e) not use Geoscape Hub or Geoscape APIs in any way that threatens their security, integrity or availability (including by exceeding any throughput rates set out in your subscription plan or conducting performance or stress tests) or in any way that works around any of their technical limitations;
- (f) not use Geoscape Data accessed by you through Geoscape APIs or Derived Material to develop capability (including machine learning capability), products, services, outputs or other material (including machine learning algorithms) for commercialisation or potential commercialisation, noting that you are permitted to use Geoscape APIs to create Apps;
- (g) not use Geoscape APIs in Apps that lack any legally required or otherwise appropriate instructions, warnings, notices and safety information;
- (h) use appropriate technological and security measures to ensure that access and use of Geoscape APIs by you and through your Apps is secure;
- (i) not use Geoscape APIs, or Geoscape Data accessed by you through Geoscape APIs or Derived Material, in any manner or with any other material that may make them subject to any open source software, open content or open database licence terms that would:
  - (i) cause their disclosure or distribution in whole or in part;
  - (ii) grant licences to any derivative works of them in whole or in part;
  - (iii) cause their redistribution in whole or in part at no charge, as a condition for use, modification or distribution of the other material; or
  - (iv) otherwise restrict or impact their licensing or other use in whole or in part;
- (j) not use Geoscape APIs, your Apps, Geoscape Data accessed by you through Geoscape APIs or Derived Material for anything that, in our opinion, may be illegal, deceptive, misleading, unethical, incorrect,

offensive, defamatory, or detrimental to our interests or reputation, may infringe any third party rights, or be otherwise inappropriate;

- (k) cooperate with us in relation to matters relating to your subscription and provide us with access to information relating to your use and, where applicable, your End Users' use of, Geoscape APIs, your Apps, and Geoscape Data accessed through Geoscape APIs and Derived Material; and
- (l) comply with all Laws applicable to use of Geoscape APIs, your Apps, Geoscape Data accessed by you through Geoscape APIs and Derived Material.

- 16.3 Where applicable, you must take all reasonable steps to ensure that your End Users comply with clause 16.2 as though they were you.

*When you make an App available to your End Users, you need to have a legally binding agreement with them and meet the requirements of any applicable [specific terms](#).*

*Your agreements with your End Users need to reflect and support your obligations under your agreement with us.*

*You need to make sure your End Users use your Apps (and our products and services available through them) only as permitted.*

*If you find out that your End User is doing something they shouldn't, you need to let us know promptly and cooperate with us to address that. If you don't, we may step into your shoes to take action against the End User.*

## **17 End User Access**

- 17.1 If you make an App available to an End User, you must first put in place a legally binding agreement with the End User that reflects your obligations under these Terms and your Agreement (including the requirements of any [specific terms](#) applicable to the Geoscape APIs used by the App).
- 17.2 Where these Terms or any Agreement requires you to take reasonable steps to do something that requires the cooperation of an End User or to get an End User to do or refrain from doing something, those reasonable steps include incorporating into your agreement with the End User an obligation for the End User to cooperate as required or to either do or refrain from doing that thing.
- 17.3 You must take all reasonable steps to ensure that your End Users comply with their agreements with you and with any other terms required by the [specific terms](#) applicable to the Geoscape APIs used by an App.
- 17.4 If you become aware of any conduct by an End User that is in breach of the terms of their agreement with you or any other terms required by the [specific terms](#) applicable to the Geoscape APIs used by an App, you must promptly notify us and comply with our reasonable directions in relation to the breach, which may include:
- (a) issuing a notice to the End User notifying them of the breach and requiring that it be remedied;
  - (b) suspending the End User's access to your Apps and rights to use Geoscape Data and Derived Material; and
  - (c) terminating the End User's access to your Apps and, where applicable, revoking their rights to use Geoscape Data and Derived Material.
- 17.5 If you breach this clause 17, we may give you notice of the breach and, on the giving of such notice, you irrevocably appoint us as your agent for the purposes of enforcing your rights against an End User as they relate to use of Geoscape APIs, Geoscape Data and Derived Material (as applicable). You must take all reasonable steps to ensure that End Users do not challenge the validity of our appointment.

*Things change and over time that may include some of our products and services.*

*We'll let you know in advance about any significant changes, particularly if any aren't going to be backwards-compatible.*

*You're responsible for making sure that your Apps remain compatible with Geoscape APIs.*

*If we discontinue any products or services, your agreement will be varied accordingly to remove them and any fees payable specifically for them. And we'll refund you any fees you've paid in advance specifically for the discontinued products or services.*

*If you don't want to continue your subscription plan after we've changed or discontinued Geoscape APIs, you can cancel your subscription plan. You'll need to pay your subscription fees up to the cancellation date, but we'll refund you any amounts you've paid for beyond that date.*

## **18 Changes to Geoscape APIs and Discontinuation**

- 18.1 You acknowledge that we may:
- (a) modify the features and functions of Geoscape APIs, including Geoscape Data delivered through them; and
  - (b) discontinue the availability of any Geoscape APIs or Geoscape Data,
- at our discretion (**an API Modification or Discontinuation Event**).
- 18.2 We will give you notice of any significant API Modification or Discontinuation Events in advance where we can reasonably do so. If the changes resulting from an API Modification or Discontinuation Event are not backwards compatible, we will use reasonable efforts to let you know at least 90 days prior to their implementation.
- 18.3 You are responsible for ensuring that your Apps remain compatible with the current Geoscape APIs.
- 18.4 If we discontinue the availability of any Geoscape APIs or Geoscape Data as part of an API Modification or Discontinuation Event, we may by notice to you vary your subscription to remove the relevant Geoscape APIs or Geoscape Data, and any fees payable specifically for the discontinued Geoscape APIs or Geoscape Data. If you have paid any fees in advance specifically for the discontinued Geoscape APIs or Geoscape Data, we will refund you those fees on a pro-rata basis.
- 18.5 If you do not want your subscription plan to continue because of an API Modification or Discontinuation Event, you can cancel your subscription plan by giving us notice within 30 days of receiving our notice under clause 18.2. The cancellation will take effect on the date nominated by you in your notice. You will be liable for your subscription fees up to the date on which your subscription plan is cancelled. However, we will refund to you any fees you have paid in advance for the period beyond that date on a pro-rata basis.
- 18.6 The refunds and right to cancel your subscription under this clause 18 are your sole remedy against us in respect of any API Modification or Discontinuation Event.

## **Part C – Geoscape Batch**

*You're responsible for setting up and configuring the batch jobs you order.*

*We'll give you a cost estimate and try to give you a sample before processing your order.*

*If the batch job is set up incorrectly, you're still responsible for covering the costs. However, if you mistakenly order a batch job, we may cancel it and refund your credits, minus processing fees, at our discretion. If we do cancel it, your right to use the data ordered is revoked, and you must delete any copies.*

## **19 Batch jobs**

- 19.1 You are responsible for setting the parameters of the batch jobs you order through Geoscape Hub and making sure they are configured correctly.
- 19.2 When you order a batch job through Geoscape Hub, we will:
- (a) endeavour to provide you with a sample of the batch job you are ordering to help you confirm that it is configured correctly; and
  - (b) give you a quote that summarises the batch job and estimates the cost of the order,
- before we process your order.
- 19.3 If a batch job is misconfigured, you are responsible for any costs incurred. However, if you mistakenly order a batch job, we may cancel the order and restore your credits (less our processing costs) in our complete discretion. If we do so, your Licence to use the Geoscape Data ordered is revoked and you

*If we can't provide the data you order and your order is set up correctly, we may not charge you at our discretion.*

- 19.4 If we are unable to provide you with any Geoscape Data you have ordered and your order is not misconfigured, we may not charge you for that Geoscape Data in our complete discretion.

*You're allowed to use the data you order as a batch job in the same way you'd use data accessed through Geoscape APIs. For more details, see clause 16.1(b).*

## **20 Permitted Use**

- 20.1 We permit you to use Geoscape Data you order as a batch job in the same manner as Geoscape Data accessed through Geoscape APIs. See clause 16.1(b) for details.

*Geoscape Hub lets you manage both the data you order and your own data related to batch jobs.*

## **21 User Data**

*When you delete a batch job, the related files are permanently deleted.*

- 21.1 Geoscape Hub provides self-service capability for you to manage both Geoscape Data and User Data related to your batch jobs. You can delete your batch jobs in Geoscape Hub and doing so will permanently delete the related input and output files.

*If you provide a location for input and output, we'll only keep your data while processing the job. If you don't provide a location, we'll store your data until you delete the job.*

- 21.2 If you provide us with an input and output location for a batch job, we will only retain your User Data related to the batch job while we process the batch job.

*However, we may keep metadata about your batch jobs indefinitely for audit purposes.*

- 21.3 If you do not provide us with an input and output location for a batch job, we will store your User Data related to the batch job and make it available to you through Geoscape Hub until you delete the batch job.
- 21.4 Notwithstanding the above, we may retain metadata related to your batch jobs indefinitely for audit purposes.

## **Part D – Geoscape Clip**

*You're responsible for setting up and configuring the data clips you order.*

## **22 Geoscape Data Clips**

*We'll give you a quote for the order, which you can pay for with credits or a valid payment method like a credit card. Payments go through Stripe, so make sure you're okay with their [terms](#).*

- 22.1 You are responsible for setting the parameters of the Geoscape Data clips you order through Geoscape Hub and making sure they are configured correctly.

*Our quotes are valid for 5 days. If a quote expires, you'll need a new one.*

- 22.2 When you order a Geoscape Data clip through Geoscape Hub, we will give you a quote that summarises the order and sets out its costs, which you can pay for in credits or via a valid payment method (for example, a credit card). Payments will be processed using payment processing services provided by Stripe Payments Australia Pty Ltd and are subject to the Stripe Terms found [here](#). You should review the Stripe Terms before paying, as you will be taken to have agreed to the Stripe Terms and will be bound by them, as modified by Stripe Payments Australia Pty Ltd from time to time, when you do so.

*If the data clip is set up incorrectly, you're still responsible for covering the costs, but we may cancel the order and refund your credits, minus processing fees, at our discretion. If we do cancel it, your right to use the data ordered is revoked, and you must delete any copies.*

- 22.3 Our quotes are valid for 5 days. If our quote expires, you will need to request another quote.
- 22.4 If a Geoscape Data clip is misconfigured, you are responsible for any costs incurred. However, if you mistakenly order a Geoscape Data clip, we may cancel the order and restore your credits (less our processing costs) in our complete discretion. If we do so, your Licence to use the Geoscape Data ordered is revoked and you must permanently delete any copies of that Geoscape Data in your possession or control and, if requested by us, provide us with a statutory declaration (or other evidence satisfactory to us) that you have permanently deleted this Geoscape Data.

*You can use the data you clip and any material you create from it within your own business or for personal use indefinitely.*

*If you run a professional services business, you can also include the data in reports or models for a client, but only in a way that allows limited access (like in a PDF or JPEG). You can't sell these reports or models as products, especially if you're providing similar ones to multiple clients.*

*Geoscape Hub lets you manage both your and your own data related to your Geoscape Data clips. When you delete a clip, the related files are permanently deleted. However, we may keep metadata about your Geoscape Data clips indefinitely for audit purposes.*

## **23 Permitted Use**

- 23.1 We permit you to use the clips of Geoscape Data you order through Geoscape Hub (and any Derived Material you create using such Geoscape Data) in perpetuity only for the Permitted Purpose of use internally within your own business for your day-to-day business operations or your personal use (as applicable).
- 23.2 Notwithstanding clause 23.1, if you are a professional services business, as part of your professional services, you may supply a physical, hard-copy or static electronic format (for example, PDF, GIF, JPEG or HTML) report or model that:
- (a) only allows Embedded Access to any Geoscape Data or Derived Material it contains; and
  - (b) is created for an individual client,
- to that individual client for their internal business or personal use (as applicable). You must not commercialise any such reports or models as products, including by supplying substantially similar reports or models to multiple clients.

## **24 User Data**

- 24.1 Geoscape Hub provides self-service capability for you to manage both Geoscape Data and User Data related to your Geoscape Data clips. You can delete your Geoscape Data clips in Geoscape Hub and doing so will permanently delete the related input and output files.
- 24.2 Notwithstanding the above, we may retain metadata related to your Geoscape Data clips indefinitely for audit purposes.

# **Part E - Geoscape Data**

*We will provide you access to the Geoscape Data you are licensed to use through Geoscape Hub.*

*You can request access to past Geoscape Data. However, we're not obliged to provide it to you and we may request a fee for doing so, and impose some conditions on how you use it.*

*We're granting you the right to use Geoscape Data and material created using Geoscape Data for the Permitted Purpose set out in these Terms or your other Agreement documents.*

*Remember, there are also restrictions on your right to use Geoscape Data and material created using Geoscape Data.*

## **25 Data Access**

- 25.1 We will provide you with access to the Geoscape Data you are licensed by us to use through Geoscape Hub.
- 25.2 We are only obliged to provide you with access to the latest Geoscape Data. If you request access to past Geoscape Data, we may, in our absolute discretion, agree or decline to provide such access. If we do agree to provide access to past Geoscape Data, we may, in our absolute discretion, charge you a fee for doing so and may impose conditions on its use.

## **26 Geoscape Data Licence**

- 26.1 We grant you a non-exclusive, world-wide, non-transferable licence to use Geoscape Data strictly for the Permitted Purpose and during the licence period set out in these Terms or your Agreement, and subject to the restrictions set out in these Terms or your Agreement (**Licence**). Any rights relating to Geoscape Data not expressly granted to you are reserved to Geoscape Australia.
- 26.2 You may create Derived Material using Geoscape Data, but you may only use Derived Material in the same way as Geoscape Data, that is, strictly for the Permitted Purpose and during the licence period set out in these Terms or your Agreement, and subject to the restrictions set out in these Terms or your Agreement.



*You must not:*

- *Reverse engineer or attempt to uncover the underlying processes or source code of Geoscape Data.*
- *Use Geoscape Data or derived material to develop commercial products or services, including machine learning capabilities.*
- *Share Geoscape Data or derived material with others, including other government entities if you're a government body.*

*We provide access to sample data so that you can assess the data we offer and decide whether it is suitable for you.*

*Sample data is free, but your licence to use it is very limited.*

*You can't use the Sample Data for business operations, commercial purposes, or share it with others without our permission.*

*You can evaluate the sample data for one month, after which you must delete all copies of the Sample Data and derived material.*

*The other terms on Geoscape Data in this Part E also apply to sample data.*

## **27 Standard Restrictions on use of Geoscape Data**

27.1 In addition to any other restrictions on the use of Geoscape Data set out in these Terms or your Agreement, but subject to any express permissions in these Terms or your Agreement, you must not:

- (a) reverse engineer, disassemble, decompile or adapt Geoscape Data, or otherwise attempt to derive any processes, data structures, algorithms or source code used to create Geoscape Data;
- (b) use Geoscape Data or Derived Material to develop capability (including machine learning capability), products, services, outputs or other material (including machine learning algorithms) that is equivalent to, and competitive with, Geoscape Data or for any commercialisation or potential commercialisation; or
- (c) make Geoscape Data or any Derived Material available to any other person or, if you are a government entity, any other government department, agency, authority or corporation.

## **28 Sample Data Licence**

28.1 From time to time, we may make Sample Data available to you through Geoscape Hub, our Website or in some other manner pursuant an Agreement. If we do, we grant you a non-exclusive, world-wide, non-transferrable licence to use the Sample Data strictly for the Permitted Purpose of conducting an internal evaluation of the Sample Data (**Sample Licence**). For the avoidance of doubt, this does not permit you to:

- (a) use Sample Data or Derived Material as part of your general, day-to-day business operations;
- (b) commercially exploit Sample Data or Derived Material in any way; or
- (c) allow any other person (including your customers) to access Sample Data or Derived Material without our prior, written consent (which may be withheld in our absolute discretion).

28.2 Any rights relating to Sample Data not expressly granted to you are reserved to Geoscape Australia.

28.3 The Sample Licence is:

- (a) limited to a period of one month from the date on which you first access the Sample Data; and
- (b) subject to any other restrictions or limitations notified to you by us from time to time.

28.4 At the end of the Sample Licence period set out in clause 28.3(a), you must permanently delete any copies of Sample Data and Derived Material in your possession or control and, if requested by us, provide us with a statutory declaration or other evidence satisfactory to us that you have permanently deleted the Sample Data and Derived Material.

28.5 Where applicable, the rest of Part E of these Terms (on Geoscape Data) applies to Sample Data (for example, clause 27 on restrictions on use of Geoscape Data and clause 29 on copyright information).

*You acknowledge that Geoscape Data is subject to the [Geoscape Copyright Notice and Disclaimer](#).*

*You should read it for yourself, but essentially it says that we use source data from third parties to create Geoscape Data and acknowledges those third parties.*

*You agree to include the [Geoscape Copyright Notice and Disclaimer](#) with Geoscape Data and any material created using Geoscape Data.*

*It's also important that you don't change any names or notices on Geoscape Data to make it less clear who owns it.*

*Some of the source data we use is open and may be licensed directly to you under an open licence.*

*Information about any such open data and its open licence terms is available [here](#).*

*We will provide you with Geoscape Data updates in line with your Agreement.*

*These updates are reliant on the supply of source data from various external parties. We cannot be held responsible if these parties fail to update the source data.*

*Geoscape Data is derived from and incorporates source data from a range of third party providers.*

*Our source data providers do not have any liability to you.*

## **29 Copyright Information**

- 29.1 Geoscape Data and its use are subject to the [Geoscape Copyright Notice and Disclaimer](#).
- 29.2 You must ensure that any reproduction or expression of Geoscape Data or Derived Material bears or appropriately references the copyright and disclaimer information set out in the [Geoscape Copyright Notice and Disclaimer](#) (for example, by including a notice like "Geoscape G-NAF © Geoscape Australia 2024 [Copyright and Disclaimer Notice](#)" or "Created using Geoscape G-NAF © Geoscape Australia 2024 [Copyright and Disclaimer Notice](#)").
- 29.3 You must not remove, deface, change, distort, delete or cover up:
- (a) any name or mark on Geoscape Data which indicates that we or our source data providers are the owner of the Intellectual Property Rights in Geoscape Data; or
  - (b) any copyright or other proprietary notices which appear in writing on or in any part of Geoscape Data.

## **30 Open Data**

- 30.1 You acknowledge and agree that:
- (a) Geoscape Data may be derived from or based on Open Data;
  - (b) notwithstanding any other provision of your Agreement, to the extent that any such Open Data subsists in Geoscape Data, it is licensed directly to you under an open licence and is not licensed or sub-licensable under your Agreement; and
  - (c) information about any such Open Data and its open licence terms is set out in the [Geoscape Copyright Notice and Disclaimer](#).

## **31 Updates**

- 31.1 If your Agreement states that you will receive Geoscape Data updates, then:
- (a) we will provide you with Geoscape Data updates at the frequency set out in your Agreement; and
  - (b) notwithstanding clause 31.1(a), you acknowledge that:
    - (i) our ability to provide updates is dependent upon the supply of updated source data to us from our third party source data providers; and
    - (ii) we will be under no liability to you if we fail to provide a Geoscape Data update due to a lack of supply of updated source data to us by our source data provider.

## **32 Source Data Providers**

- 32.1 You acknowledge and agree that:
- (a) Geoscape Data may include, be derived from or based on source data from third party providers;
  - (b) our source data providers have not provided any representations or warranties about the accuracy or completeness of their source data, or its fitness for any particular purpose;
  - (c) our source data providers may rely on the disclaimers and acknowledgements set out in clause 44 below to

the extent they relate to their source data as it forms part of Geoscape Data; and

- (d) our source data providers will not be liable to you for any error, inaccuracy or incompleteness of their source data as it forms part of Geoscape Data or for any use or misuse by you of their source data as it forms part of Geoscape Data.

*We'll provide you with Geoscape Data in the formats we specify in our product guides and descriptions (available on our Website).*

*If we discontinue a particular format, we will let you know at least three months in advance.*

*Things change and, over time, that may include some of our products and services.*

*We'll do our best to let you know in advance of any significant changes to Geoscape Data or the discontinuation of any Geoscape Data, but sometimes that may not be possible.*

*If you don't want to continue your agreement after we've changed or discontinued Geoscape Data, you just need to let us know in writing within 30 days. You will still need to pay your fees up until your agreement ends, but we will refund you any amounts you have already paid for updates you will not receive.*

*You don't get ownership of any intellectual property (IP) rights in Geoscape Data under your agreement. And any new IP rights created by simply copying, thinning or editing Geoscape Data belong to us.*

*You need our permission to transfer any IP rights in derived materials,*

### **33 Format of Geoscape Data**

- 33.1 We will use reasonable endeavours to make Geoscape Data available to you in the formats set out in the Geoscape Documentation.
- 33.2 We may discontinue making Geoscape Data available to you in any given format on at least three months' notice to you.

### **34 Modification or Discontinuation of Geoscape Data**

- 34.1 You acknowledge that we may:
  - (a) modify Geoscape Data or discontinue the availability of some Geoscape Data as a result of a change to our source data supply arrangements, a requirement imposed on us by law, or a change to our technology or data processing methods; or
  - (b) modify Geoscape Data to improve its richness or quality (in our reasonable opinion),

**(Data Modification or Discontinuation Event).** For example, Modification or Discontinuation Events may include changes to the attributes included in Geoscape Data or how Geoscape Data is structured (its data model).
- 34.2 We will give you notice of any significant Data Modification or Discontinuation Event prior to the event, where we can reasonably do so.
- 34.3 If we discontinue the availability of any Geoscape Data, we may by notice to you vary our Agreement to remove the relevant Geoscape Data and, if applicable, adjust accordingly the amount of fees payable by you. If you have paid any fees in advance for discontinued Geoscape Data, we will refund any amounts you have paid for updates to the discontinued Geoscape Data you will not receive.
- 34.4 If you do not want to continue your Agreement because of a Data Modification or Discontinuation Event, you may within 30 days of receiving our notice under clause 34.2, terminate your Agreement by notice to us, and the termination will take effect on the date set out in your notice. You will be liable for our fees up to the date your Agreement terminates. However, we will refund any amounts you have already paid for updates to Geoscape Data you will not receive.
- 34.5 The refunds and the right to terminate your Agreement under this clause 34 are your sole remedy against us in respect of any Data Modification or Discontinuation Event.

### **35 Geoscape Data Intellectual Property Rights**

- 35.1 There is no transfer of any Intellectual Property Rights in Geoscape Data you under your Agreement. We reserve any Intellectual Property Rights not expressly granted to you under these Terms or your Agreement.
- 35.2 To the extent that any new Intellectual Property Rights arise in any material created by copying, altering, amending, thinning,

*and the transferee must follow the same usage rules as you.*

*We guarantee that we have the right to grant you the licence to use Geoscape Data.*

*If you notice any IP infringement, you must notify us and follow our instructions, which may include stopping the use of Geoscape Data. If that happens, we will try to work around the issues by providing you with replacement data. If we can't do that, we may give you a refund.*

editing or otherwise manipulating Geoscape Data, those new Intellectual Property Rights hereby vest in us upon creation.

- 35.3 To the extent that you own any Intellectual Property Rights in Derived Material, you agree to only transfer those rights with our prior written consent (which we will not unreasonably withhold) and subject to the condition that the transferee must only use the Derived Material in the same way you are permitted to you the Derived Material under clause 26.2.
- 35.4 Subject to clause 30 (regarding Open Data), we warrant that we are entitled to grant you the Licence or Sample Licence (as applicable) and that the grant of the Licence or Sample Licence (as applicable) does not infringe the Intellectual Property Rights of any third parties.
- 35.5 You must notify us as soon as reasonably practicable if you become aware of:
- (a) any actual, suspected or anticipated infringement of our Intellectual Property Rights in Geoscape Data; or
  - (b) any use of Geoscape Data which infringes, is suspected of infringing, or is alleged to infringe, the Intellectual Property Rights of a third party.
- 35.6 Where you notify us in accordance with clause 35.5, you must:
- (a) provide all relevant details regarding the infringement;
  - (b) subsequently provide prompt updates on any developments regarding the infringement; and
  - (c) comply with any reasonable directions from us relating to the infringement, including ceasing use of any Geoscape Data immediately on request by us.
- 35.7 If we direct you to cease using Geoscape Data pursuant to clause 35.6(c), we will use commercially reasonable efforts to obtain replacement data that will perform in a materially similar way to the Geoscape Data which we direct you cease using. If we are unable to obtain such replacement data, we may, in our complete discretion, refund any fees paid by you in respect of Geoscape Data we direct you to stop using.

*Data security is important to us. You must take steps to keep Geoscape Data and any material created using Geoscape Data secure, including by monitoring for potential breaches.*

*If we ask, you need to share information about your security practices.*

*If you suspect a data breach, you must inform us immediately and cooperate with any investigation by providing relevant information and assistance.*

## **36 Security and Data Breaches**

- 36.1 You must take all reasonable steps to ensure you keep Geoscape Data and Derived Material secure from misuse, loss, and unauthorised access or disclosure, including by monitoring any systems you use to hold, store or process Geoscape Data or Derived Material for actual or suspected Data Breaches.
- 36.2 On request by us, you must provide us with information about your information security management practices and systems.
- 36.3 If you become aware or suspect that a Data Breach has occurred, you must promptly notify us of the Data Breach or potential Data Breach.
- 36.4 If you provide us with a notice under clause 36.3 or we become aware or suspect that a Data Breach has occurred, on request by us you must promptly:
- (a) disclose to us all information and records relevant to the actual or suspected Data Breach; and
  - (b) co-operate with us and provide all reasonable assistance in investigating whether a Data Breach has occurred and the circumstances surrounding that Data Breach.

## Part F - Other general terms

*We may adjust your fees by CPI once a year. If we decide to do that, we'll let you know at least 30 days in advance.*

*You agree that you must pay us your fees within 14 days of us providing you with an invoice.*

*Also, we may charge interest on overdue amounts.*

*Finally, tax is important! So, we each agree to pay GST where it is applicable.*

### **37 CPI Adjustments, Payment and GST**

- 37.1 We reserve the right to increase the fees payable by you under these Terms or your Agreement once a year by the percentage increase in CPI for the preceding 12 months. We must give you at least 30 days' notice of any such increase.
- 37.2 Any fees must be paid within 14 days of us supplying you with a valid tax invoice.
- 37.3 If you do not pay us in accordance with clause 37.2, we may impose a late payment fee calculated at 1% of the amount owed to us for each month (or part thereof) in which you are in default of payment.
- 37.4 In this clause, words and expressions which are defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (as amended, varied or replaced from time to time) have the same meaning given to them by that Act. All amounts payable by you in connection with your Agreement do not include an amount for GST, unless otherwise expressly stated. If GST is payable on any supply made by us under your Agreement, you must pay to us, in addition to and at the same time as the payment for the supply, an amount equal to the amount of GST on the supply. Where you are required by your subscription plan or Agreement to reimburse or indemnify us for any Loss or other amount incurred, the amount to be reimbursed or paid will be reduced by the amount of any input tax credit that we will be entitled to claim for the Loss or amount incurred and increased by the amount of any GST payable by us in respect of the reimbursement or payment.

*You may allow your contractors to use Geoscape Hub and the products and services available through it on your behalf and so that you can enjoy your rights under your Agreement.*

*You must ensure that your contractors only use our products and services in the same way you're permitted to.*

*You're responsible for your contractor's use of our products and services and you must protect us from any losses that result from their misuse.*

*If your contractor misuses our products or services, then you will be taken to have breached your Agreement.*

*Any termination of your Agreement will also automatically terminate your contractor's rights to use our products and services.*

*You must make sure that your contractors stop using our products and services when they stop working for you and that they don't retain any copies.*

### **38 Contractor use**

- 38.1 Notwithstanding any other terms of these Terms or your Agreement (as applicable), you may allow your contractors working internally within your business and your professional services contractors to use Geoscape Hub, our products and services available through Geoscape Hub, and Derived Material on your behalf and for the sole purpose of you enjoying your rights under these Terms or your Agreement, on the condition that:
- (a) you assume responsibility for your contractors' use being strictly in accordance with these Terms and your Agreement as though they were you (**Contractor Terms**), and indemnify us from and against all Claims and Losses that we reasonably incur as a direct or indirect result of your contractor using Geoscape Hub, our products and services available through Geoscape Hub, or Derived Material in breach of the Contractor Terms;
  - (b) a breach of the Contractor Terms by your contractors will be deemed to be a breach of these Terms and any Agreement by you;
  - (c) any cancellation of your subscription or termination of an Agreement will result in a corresponding termination of any contractors' right to use Geoscape Hub, our products and services available through Geoscape Hub, and Derived Material; and
  - (d) you ensure that your contractors stop using Geoscape Hub, our products and services available through Geoscape Hub, and Derived Material and do not retain any copies of Geoscape Data, Derived Material or

*Intellectual property is important to us, so we always reserve and retain ownership of our Intellectual Property Rights.*

### **39 Intellectual Property Rights**

- 39.1 There is no transfer of any Intellectual Property Rights in our Website, Geoscape Hub, Geoscape APIs, Geoscape Documentation or any other products or services we provide to you under these Terms or your Agreement. We reserve any Intellectual Property Rights not expressly granted to you under these Terms or your Agreement.

*You must use Geoscape products and services (and material created using them) in keeping with Privacy Laws.*

### **40 Privacy Obligations**

*You promise that you have appropriate consent to give us any Personal Information you provide.*

- 40.1 You must comply with all Privacy Laws and any recommendations made or guidelines issued by the Office of the Australian Information Commissioner in relation to your use of our Website, Geoscape Hub, and the Geoscape products and services available through them.
- 40.2 You must:
- (a) take all reasonable steps to protect Personal Information in your possession or control from misuse, loss, unauthorised access, modification or disclosure, including implementing and maintaining appropriate administrative, physical, and technical safeguards and security measures; and
  - (b) not do (or omit to do) anything with respect to Personal Information that causes or is likely to cause us to be in breach of our obligations under any Privacy Laws.
- 40.3 You warrant that you have appropriate consent to disclose any Personal Information that you provide to us in connection with our Website, Geoscape Hub, and the Geoscape products and services available through them.

*We both agree to keep each other's confidential information confidential and only use it for the purposes set out in your agreement or as reasonably contemplated by it.*

### **41 Confidential Information**

*Confidential information can be shared with employees, contractors, or advisors who need to know it and agree to confidentiality, or if required by law.*

*If one of us becomes aware of a confidentiality breach, they must notify the other and take steps to prevent further unauthorised use or disclosure.*

- 41.1 The parties:
- (a) may only use the other party's Confidential Information for the purposes set out in or as reasonably contemplated by these Terms and your Agreement;
  - (b) must keep confidential the other party's Confidential Information; and
  - (c) may disclose the other party's Confidential Information only:
    - (i) to their employees, contractors and professional advisors who:
      - (A) are aware and agree that the Confidential Information must be kept confidential; and
      - (B) have a need to know the Confidential Information (and only to the extent that each has a need to know),
    - (ii) as required by law or securities exchange regulation; and
    - (iii) with the prior written consent of the other party.
- 41.2 Each party must promptly notify the other if they become aware of any breach of confidentiality in respect of the other party's Confidential Information and must take all reasonable steps necessary to prevent further unauthorised use or disclosure of the Confidential Information.



*So, you want to promote the fact that you use our products and services? Fantastic! You can do so provided you acknowledge us properly, cooperate with us and don't do anything that might hurt our reputation.*

*Unless you tell us otherwise, we can also use your trade marks on our website and in other marketing material to indicate that you're our customer.*

*If we think you might not be doing the right thing, we can do one audit per year with on least 10 days' notice.*

*You'll need to give us any documents or access we ask for.*

*If we do find a problem, you have to fix it, and we can pause your rights until you do.*

*If the audit shows a serious breach, you might have to cover the audit costs, and we could do another audit in the same year. And we can still end our agreement if needed.*

*You need to make your own judgements about whether Geoscape Hub and our website, products and services meet your needs, and not rely on any advice from us.*

*We provide these products and services "as is" and "as available," without guarantees about their*

## **42 Publicity**

- 42.1 You may publicise your use of Geoscape Hub and the products and services available through Geoscape Hub provided you do so in a manner that:
- (a) clearly acknowledges Geoscape Australia as the source of Geoscape Hub and the products and services available through Geoscape Hub;
  - (b) does not, in our reasonable opinion, adversely affect our reputation; and
  - (c) is in accordance with our reasonable directions, which may include a direction to discontinue publicising your use of Geoscape Hub and the products and services available through Geoscape Hub if you breach these Terms or your Agreement.
- 42.2 Unless you provide us with written notice stating otherwise, we may display your trade marks (registered or unregistered) on our Website and in other marketing material for the purpose of indicating that you are our customer. We will comply with your reasonable directions regarding the form of your trade marks, for example, in relation to their completeness, scale and colour.

## **43 Audit**

- 43.1 If we reasonably suspect that you are in breach of these Terms or your Agreement (as applicable), we, or an entity nominated by us, may conduct one an audit per year during your normal business hours on no less than 10 Business Days' notice to you. You must, on request by us or our nominee, provide all requested documents and materials that relate to your compliance with these Terms or your Agreement (as applicable) and allow all necessary access to your systems and relevant personnel to ensure compliance with any matters that relate to these Terms or your Agreement (as applicable).
- 43.2 If an audit identifies any non-compliance by you with your obligations under these Terms or your Agreement (as applicable), then:
- (a) you must take all reasonable actions necessary to address the relevant non-compliance to our reasonable satisfaction; and
  - (b) we may suspend your access to Geoscape Hub and your Agreement until such a time as you have taken all reasonable actions in accordance with clause 43.2.
- 43.3 Where an audit reveals that you have materially breached these Terms or your Agreement (as applicable), we may require you to pay the cost of the audit and may conduct an additional audit within the same year.
- 43.4 Nothing in this clause 43 limits our ability to terminate your Agreement.

## **44 Disclaimers**

- 44.1 You acknowledge that you will make your own assessment of our Website, Geoscape Hub, and the Geoscape products and services available through them and will not rely on any information or advice given by us (or any person purporting to represent us) regarding whether they are reasonably fit for any purpose for which they will be used by you.
- 44.2 Our Website, Geoscape Hub, and the Geoscape products and services available through them are provided to you on an 'as is' and 'as available' basis.

*accuracy, completeness, or uninterrupted access.*

*We don't promise they'll be free from errors, viruses, or security issues, or that they'll meet any specific purpose you have in mind.*

- 44.3 Subject to clause 45.1 and any express representations, warranties or guarantees that may be included in these Terms or your Agreement (as applicable), we do not make any representations or provide any warranties or guarantees (express or implied):
- (a) about the accuracy or completeness of our Website, Geoscape Hub, or the Geoscape products and services available through them;
  - (b) that your access to our Website, Geoscape Hub, and the Geoscape products and services available through them will be uninterrupted, error free, or free from corruption, viruses, interference, hacking or other security intrusion; or
  - (c) that our Website, Geoscape Hub, and the Geoscape products and services available through them will be fit for any particular purpose.

*If you're a consumer under Australian Consumer Law, some of your rights are protected and can't be limited by these Terms.*

*Subject to those protections, per standard market practice:*

- *If there's a problem, we may choose to repair, replace, or resupply the product or service, or cover the costs of doing so.*
- *Our liability for any losses you suffer is capped.*
- *Neither of us are responsible for any consequential losses arising from the use of Geoscape products and services.*

## **45 Liability**

- 45.1 If you are a Consumer, nothing in these Terms should be interpreted as attempting to exclude, limit or modify the Consumer Guarantees available to you under the Australian Consumer Law that cannot be excluded, restricted or modified.
- 45.2 Your remedies for any breach of these Terms, the terms of your Agreement or a Consumer Guarantee that cannot be excluded (as applicable), will, to the extent permitted by law, be limited at our option to replacing or repairing products, resupplying services, supplying equivalent products or services, or paying the cost of replacing or repairing products, resupplying services, or supplying equivalent products or services.
- 45.3 Subject to clause 45.1, our maximum aggregate liability to you for any Losses suffered by you in connection with the use of Geoscape products or services, however caused, including by our negligence, is limited to the Liability Cap per event or series of related events.
- 45.4 Subject to clause 45.1, neither party will be liable for any Consequential Losses arising from or in connection with the use of Geoscape products and services.

*You agree to compensate us for losses that result from your breach of these Terms or your agreement, improper use of our products or services, material you create using our data or your apps, your negligence, or you not paying your fees.*

*We'll indemnify you for claims that our products or services infringe someone else's intellectual property rights, except if the issue arises from your modifications, misuse, or failure to follow our instructions. To claim this indemnity, you must let us handle legal proceedings, assist us, and not settle without our consent.*

*We both have to try to mitigate any losses we do suffer.*

## **46 Indemnities**

- 46.1 In addition to any other indemnities set out in your Agreement, you indemnify us from and against all Claims and Losses we reasonably incur as a result of:
- (a) your breach of these Terms or the terms of your Agreement (as applicable), including any use by or through you of Geoscape products or services for a purpose or in a manner that is not permitted by these Terms or your Agreement (as applicable);
  - (b) use of, or inability to use, your Derived Material or your Apps;
  - (c) any negligent act or omission, wilful misconduct or fraud by you, your employees, agents, servants, contractors or others for whom you are legally responsible; or
  - (d) recovering any amounts you owe to us (including any fees paid to a debt collector, legal representative or similar).
- 46.2 Subject to clause 46.3, we agree to indemnify you from and against all Claims and Losses you reasonably incur as result of any claim against you alleging that use of our products or

*If our own negligence contributes to a loss, we can't recover from each other to that extent.*

services infringes the Intellectual Property Rights of any person, except:

- (a) to the extent you make any modifications to our products or services and those modifications contribute to the Claim or Losses;
- (b) where you use our products or services in combination with any hardware, software or other products or services in a manner that causes the actual or alleged infringement;
- (c) where the infringement arises due to your failure to use an update for our products or services that is made available to you by us;
- (d) where you do not comply with any specifications or directions provided by us relating to our products or services; or
- (e) where the actual or alleged infringement arises due to use of our products or services for a purpose or in a manner that is not permitted by these Terms or your Agreement (as applicable).

46.3 To rely on the indemnity in clause 46.2, you must:

- (a) allow us to conduct any legal proceedings;
- (b) provide us with all reasonable assistance to allow us to defend any Claim;
- (c) follow any reasonable direction we give you; and
- (d) not settle or make any admissions of liability without first obtaining our prior written consent.

46.4 Each party has a duty to mitigate any Loss that would otherwise be recoverable from the other party by taking appropriate and commercially reasonable steps to reduce or limit the amount of such Losses.

46.5 Each party's liability to indemnify the other will be reduced proportionally to the extent that any negligent act or omission of the other party contributed to the Loss.

*We can't always predict the future, and sometimes things happen that are beyond control.*

*If such an event happens, neither of us will be responsible for any delay or failure to perform (save that you must still pay your fees).*

*If a delay or failure to perform goes on for more than 30 days, either of us can end your agreement.*

*You must follow any applicable export and economic sanction laws.*

*This means that there may be certain countries, organisations and people that you can't use Geoscape products and services to do business with.*

## **47 Force Majeure**

47.1 Neither party will be liable for any failure to perform or delay in performing their obligations under these Terms or your Agreement if that failure or delay is due to a Force Majeure Event.

47.2 If a delay or failure to perform due to a Force Majeure Event exceeds 30 days, either party may immediately terminate your Agreement by notice to the other party.

47.3 This clause 47 does not relieve you of or suspend your obligation to pay any fees payable to us.

## **48 Export control**

48.1 You acknowledge that export, sanctions and embargo laws may prohibit you from selling, reselling, exporting, re-exporting, trading or otherwise transferring certain Geoscape products and services within certain countries or with certain entities and persons.

48.2 You must comply with any applicable export control laws, rules and regulations.

*Generally, any changes to your agreement should be captured in writing and signed by us both.*

*However, your agreement might need to change to reflect changes in the law or our arrangements with our providers. We will tell you about any such changes at least 7 days before they are made.*

*We may also update these Terms and any other standard terms on our website by giving you 30 days' notice. If we do, this won't change any more specific terms that we've agreed with you in other parts of your agreement.*

*If you're not comfortable with changes we make, you can terminate your Agreement by letting us know within 30 days, and we'll refund any prepaid fees on a pro-rata basis.*

*This is where we explain what can happen if either of us does something we shouldn't.*

*We can immediately suspend your access or terminate your agreement if you:*

- *Allow unauthorised access to our products or services.*
- *Misuse our products or services or breach the terms and fail to fix the breach within 14 days (if fixable).*
- *Violate the law, become insolvent, damage our reputation, or get acquired by one of our competitors.*

*You can terminate your agreement if we breach it and don't fix it within 14 days or if we become insolvent.*

## **49 Variation**

- 49.1 Subject to clauses 49.2 to 49.4, a variation to these Terms or your Agreement is not effective unless it is in writing and signed by both parties.
- 49.2 If there has been a change in any Laws or our arrangements with our suppliers affecting these Terms or your Agreement, we may vary them to reflect the relevant change by giving you 7 days' notice, and the variation will take effect at the end of the 7 day notice period.
- 49.3 We may otherwise vary these Terms and any other standard Geoscape terms made available through our Website by giving you 30 days' notice, and the variation will take effect at the end of the 30 day notice period. For the avoidance of doubt, any such variation will remain subject to more specific terms set out in other documents that comprise your Agreement.
- 49.4 If you do not want your Agreement to continue because of a variation pursuant to clause 49.2 or 49.3, you may terminate your Agreement by notice to us within 30 days of receiving our notice under clause 49.2 or 49.3, and the termination will take effect on the date set out in your notice. You will be liable for our fees up to the date your Agreement terminates. However, we will refund to you any fees you have paid in advance on a pro-rata basis.

## **50 Suspension and termination**

- 50.1 To the extent permitted by law, we may suspend your access to Geoscape Hub or our Website, and suspend or terminate your Agreement (as applicable) with immediate effect by notice to you if we have reasonable grounds to believe that you:
- (a) have allowed unauthorised access to our products or services;
  - (b) have used our products or services, Derived Material or your Apps for a purpose other than the Permitted Purpose;
  - (c) have breached any other part of these Terms or your Agreement and:
    - (i) if the breach is capable of remedy, have not remedied the breach within 14 days of receiving notice requiring the breach to be remedied; or
    - (ii) the breach is not capable of remedy.
  - (d) have contravened or are contravening any Laws;
  - (e) are subject to an Insolvency Event;
  - (f) have caused damage to our reputation, goodwill or other interests by your act or omission; or
  - (g) if you become owned or controlled by a Geoscape Australia competitor.
- 50.2 To the extent permitted by law, you may terminate your Agreement with immediate effect by notice to us if:
- (a) we have breached any other part of these Terms or your Agreement and:
    - (i) if the breach is capable of remedy, we have not remedied the breach within 14 days of receiving notice from you requiring the breach to be remedied; or
    - (ii) the breach is not capable of remedy; or

- (b) we are subject to an Insolvency Event.

*When your agreement ends:*

- *You must permanently delete all Geoscape Data and Derived Material (unless you have a perpetual licence), except for Derived Material that doesn't contain Geoscape Data, which you can continue using internally.*
- *You might need to sign a statutory declaration confirming the deletion.*
- *All unpaid fees are due immediately.*
- *You can no longer identify as a Geoscape user unless you have another agreement with us.*
- *We may act on your behalf to enforce rights against your End Users as they relate to use of Geoscape Data and Derived Material.*

*If the agreement ends because you've done something you shouldn't, all your licenses will be revoked, and we may close your Geoscape Hub account.*

## **51 Effect of Expiry or Termination**

- 51.1 On expiry or termination of your Agreement for any reason:
- (a) unless the Agreement expressly states that your licence period is perpetual, you must permanently delete or destroy Geoscape Data and Derived Material in your possession or control, save for any Derived Material that does not contain any Geoscape Data, which you may continue to use internally within your own business as part of your general day-to-day business operations or for your personal use (as applicable);
  - (b) within 10 Business Days of a request by us, you must sign and return to us a statutory declaration in a form satisfactory to us confirming your compliance with clause 51.1(a);
  - (c) all fees owed by you to us under the Agreement will become immediately due and payable;
  - (d) unless you have another agreement with us, you must not identify yourself in any way as a user of Geoscape Hub or Geoscape products and services;
  - (e) in relation to Geoscape APIs, you irrevocably appoint us as your agent for the purposes of enforcing your rights against your End Users as they relate to use of Geoscape APIs, Geoscape Data and Derived Material and you must take all reasonable steps to ensure that such End Users do not challenge the validity of that appointment;
  - (f) each party retains the rights it had against the other party in respect of any past breach, in addition to any other rights, powers or remedies provided by Law; and
  - (g) you must otherwise comply with our reasonable directions regarding the expiry or termination.
- 51.2 On termination of an Agreement in accordance with clause 50.1
- (a) any Sample Licence or Licence (as applicable) will be revoked with immediate effect and you must permanently delete or destroy Geoscape Data and Derived Material in your possession or control;
  - (b) within 10 Business Days of a request by us, you must sign and return to us a statutory declaration in a form satisfactory to us confirming your compliance with clause 51.2(a); and
  - (c) if the Agreement is a Geoscape Hub subscription plan, we may close your Geoscape Hub account.

*If we have a disagreement, we promise to be fair and reasonable with one another and do our best to resolve it ourselves. If we can't, we may go to mediation before we decide to go to court.*

*If the nature of the dispute urgently requires it, either of us may seek a court order while we're working to resolve the dispute.*

## **52 Dispute Resolution**

- 52.1 If any dispute arises between the parties in connection with these Terms or your Agreement, then both parties will first attempt to resolve the dispute by negotiation in good faith. If the dispute is not resolved within twenty Business Days of the date on which notice of the dispute is given by a party, either party may submit the dispute to mediation in accordance with this clause 52.
- 52.2 The mediation procedure will be:
- (a) a party may start mediation by serving a mediation notice on the other party on expiration of the 20 Business Day period referred to in clause 52.1;

- (b) the notice must state that a dispute has arisen and identify what the dispute is;
  - (c) the parties must jointly appoint a mediator and, if the parties fail to agree on the appointment within five Business Days of service of the mediation notice under clause 52.2(a), either party may apply to the Resolution Institute to appoint a mediator;
  - (d) once the mediator has accepted the appointment the parties must comply with the mediator's instructions;
  - (e) the mediation will be held in Canberra in the Australian Capital Territory of Australia in accordance with the mediation rules of the Resolution Institute; and
  - (f) if the dispute is not resolved within 20 Business Days of the appointment of the mediator, or any other period agreed by the parties in writing, the mediation ceases.
- 52.3 The mediator may fix the costs for mediation which must be paid equally by the parties (including the mediator's costs).
- 52.4 The mediation is confidential and statements made by the mediator or the parties and discussions between the parties to the mediation before, after or during the mediation, cannot be used in legal proceedings.
- 52.5 This clause is without prejudice to or limitation to the rights of a party to:
- (a) seek urgent injunctive relief against the other party at any time; or
  - (b) exercise a right pursuant to the terms of exercise a right pursuant to these Terms or the terms of your Agreement.

*Last are what the lawyers call the 'boilerplates'. Don't worry, you are nearly there!*

*You can't transfer your rights or obligations to someone else without our permission. If you're an organisation, a change in control counts as a transfer, so you'll need to get our approval first.*

*We can assign or subcontract our rights and obligations if it doesn't harm your rights.*

*Waivers are only valid if they're in writing*

*If any part of these Terms or your agreement is found to be unworkable, that part will be severed, and the rest will live on.*

*Speaking of living on, certain terms will still be binding even if your agreement is terminated.*

*Like in any good relationship, each of us will behave in a manner that supports the promises we've given each other.*

*We're independent contractors, not legal partners.*

## **53 Miscellaneous**

### **53.1 In your Agreement:**

- (a) the singular includes the plural and vice versa;
- (b) the word person includes a firm, a body corporate, an unincorporated association, body or organisation established pursuant to international treaty, intergovernmental body, or government authority and other official authority;
- (c) if you are more than one person, your Agreement binds you both separately and jointly;
- (d) if you are a trustee, you are bound both personally and in your capacity as a trustee;
- (e) any obligation, representation or warranty in favour of more than one person is for the benefit of them both separately and jointly;
- (f) a reference to a document or legislation includes a reference to that document or legislation as varied, amended, novated or replaced from time to time;
- (g) the meaning of general words is not limited by specific examples introduced by 'includes', 'including', 'for example' or 'such as' or similar expressions;
- (h) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes (including, but not limited to, persons taking by novation) and permitted assigns; and



*Communication is important! We can reach one another by post or e-mail. It's important to look out for our messages, as they will be deemed to be received six days after delivery (for post) or one hour after delivery (for e-mails).*

*Finally, your agreement is governed by the laws of the Australian Capital Territory.*

- (i) no provision will be construed to the disadvantage of a party merely because that party was responsible for its preparation or inclusion.
- 53.2 You must not assign any of your rights or obligations under these Terms or your Agreement without our prior written consent. We may, to the extent permitted by law, assign or subcontract any of our rights or obligations under these Terms or your Agreement (including any right to be paid or chose in action) at any time in circumstances where, in our opinion acting reasonably, the assignment will not adversely affect your rights.
- 53.3 For the purposes of clause 53.2, a Change in Control of you will be considered an assignment of your rights or obligations under your Agreement.
- 53.4 A failure to exercise or delay in exercising any right under these Terms or your Agreement does not constitute a waiver and any right may be exercised in the future. Waiver of any rights under these Terms or your Agreement must be in writing and is only effective to the extent set out in that written waiver.
- 53.5 If any provision of these Terms or your Agreement is void, unenforceable or illegal and would not be so if words were omitted, then those words are to be severed and if this cannot be done, the entire provision is to be severed from your Agreement without affecting the validity or enforceability of the remaining provisions.
- 53.6 The termination or expiry of your Agreement does not operate to terminate any rights or obligations that by their nature are intended to survive termination, and those rights or obligations remain in full force and binding on the party concerned, including, without limitation, the rights and obligations under clauses 29 (Copyright Information), 35 (Geoscape Data Intellectual Property Rights), 36 (Security and Data Breaches), 39 (Intellectual Property Rights), 40 (Privacy Obligations), 41 (Copyright Information), 43 (Audit), 44 (Disclaimers), 45 (Liability), 46 (Indemnities), 51 (Effect of Expiry or Termination), 52 (Dispute Resolution) and 53 (Miscellaneous).
- 53.7 Each party must:
  - (a) do all acts necessary or desirable to give full effect to these Terms and your Agreement; and
  - (b) refrain from doing anything which might prevent full effect being given to these Terms and your Agreement.
- 53.8 The relationship between the parties is and will remain that of independent contractors, and nothing in your Agreement constitutes the parties as partners or joint venturers or constitutes any party as the agent of another party or gives rise to any other form of fiduciary relationship between the parties.
- 53.9 Notices from a party must be in writing and delivered by hand, prepaid post or email and sent to the address of the receiving party specified in your Geoscape Hub account or your Agreement as updated by the parties from time to time. Notices will be deemed to have been received: by hand on delivery; by post within six Business Days of sending; and by email within one hour of the email being sent (unless the sender knows that the email has failed).
- 53.10 These Terms and any Agreement are governed by the laws in force in the Australian Capital Territory, and the parties agree to submit to the non-exclusive jurisdiction of the courts of the Australian Capital Territory.

## 54 Definitions

In these Terms:

**Agreement** means any agreement you enter into with Geoscape Australia that incorporates these Terms by reference, for example, your Geoscape Hub subscription plan or a Geoscape Data licence agreement.

**App** means any application or integrated solution created by you that uses a Geoscape API and allows access to Geoscape Data or Derived Material.

**Australian Consumer Law** means Schedule 2 of the *Competition and Consumer Act 2010* (Cth) and any equivalent State or Territory legislation.

**Authorised User** has the meaning given in clause 1.2 of these Terms.

**Business Day** means any day except a Saturday, Sunday or public holiday in the place where an act is to be done.

**Change in Control** means, in relation to a party:

- a) the person who Controls the party at the date that party first became bound by these Terms or your Agreement subsequently ceases to have Control of the party;
- b) a person who does not Control the party at the date that the party first became bound by these Terms or your Agreement subsequently obtains Control of the party; or
- c) if the party is Controlled by a group or consortium of persons, or if the group or consortium could Control the party were they to act collectively, any material change in the composition of that group or consortium.

**Claim** means any claim, demand, suit, action or proceeding whether arising under contract (including under your Agreement), in tort (including negligence), at common law, in equity, under statute, indemnity or otherwise.

**Confidential Information** means all information and other content disclosed by one party to the other and includes all information relating to Geoscape Data or your Agreement, but excludes information that is:

- a. in the public domain not by breach of these Terms or your Agreement;
- b. known by the receiving party or its permitted receivers described in clause 41.1(c) at the time of disclosure;
- c. lawfully obtained by the the receiving party or its permitted receivers described in clause 41.1(c) from a third party other than through a breach of confidence;
- d. independently developed by the receiving party; or
- e. expressly indicated by the disclosing party as not confidential.

**Consequential Loss** means any Loss suffered by a party as a result of an act or omission of the other party that cannot reasonably be considered to arise naturally from that act or omission, including any loss of reputation, loss of actual or anticipated savings or loss of bargain, but excluding losses suffered by a third party for which a party becomes liable as a result of the other party's act or omission.

**Consumer** has the meaning provided to it in section 3 of the Australian Consumer Law.

**Consumer Guarantee** means a guarantee provided under Division 1 of Part 3-2 of the Australian Consumer Law.

**Control** has the meaning given in section 50AA of the *Corporations Act 2001* (Cth).

**CPI** means the weighted average of the All Groups Price Index Numbers for the eight capital cities of the states and territories of Australia published by the Australian Bureau of Statistics or, if that index number is no longer published, its substitute as a cumulative indicator of the inflation rate in Australia.

**Data Breach** means any:

- a. loss; or
- b. unauthorised access to, use of, viewing, extraction, copying, transmission, disclosure or modification, of any Geoscape Data, Derived Material or Personal Information related to these Terms or your Agreement.

**Derived Material** means any product, service, output or other material that is created or developed using Geoscape Data, which may or may not contain some Geoscape Data, and includes any product, service, output or other material that is created or developed using Derived Material. For example, a product that is created using Geoscape Data is Derived Material, and so is any secondary product that is created from that first product.

**End User** means any person to whom you distribute your Apps, products or services to.

**Force Majeure Event** means any event arising from, or attributable to, acts, events, omissions or accidents which are beyond the reasonable control of a party.

**Geoscape API** means an applicable programming interface service offered by us through Geoscape Hub.

**Geoscape Data** means any Geoscape data products we make available to you through Geoscape Hub or as otherwise specified in your Agreement.

**[Geoscape Data Copyright and Disclaimer](#)** means the webpage available through our Website which sets out the copyright and disclaimer information for Geoscape Data, as updated by us from time to time.

**Geoscape Documentation** means any product descriptions and guides, metadata statements, release reports, pre-release reports, look-up tables, class or method documentation, code snippets, software development kit, API or function specification documents and other developer guide documentation we provide to you through our Website or Geoscape Hub.

**Geoscape Hub** means the portal through which you can access various Geoscape products and services, including Geoscape Data and Geoscape APIs, and Geoscape Documentation.

**Geoscape Hub Account** means the account that you register to be able to access and use Geoscape Hub. Note: Authorised Users must use their organisation's Geoscape Hub Account, they should do not have their own Geoscape Hub Accounts.

**Insolvency Event** means, in relation to a body corporate, a liquidation or winding up or the appointment of a voluntary administrator, receiver, manager or similar insolvency administrator to that body corporate or any substantial part of its assets; in relation to an individual or partnership, the act of bankruptcy, or entering into a scheme or arrangement with creditors; in relation to a trust, the making of an application or order in any court for accounts to be taken in respect of the trust or for any property of the trust to be brought into court or administered by the court under its control; or the occurrence of any event that has substantially the same effect to any of the preceding events.

**Intellectual Property Rights** means any and all intellectual and industrial property rights anywhere in the world including but not limited to the rights comprised in any copyright (including database rights), confidential information (including Confidential Information), trade secrets, know-how and processes.

**Laws** means all laws, statutes, ordinances, rules, regulations, by-laws, decrees, orders and the like, whether of a government or other authority or agency having jurisdiction over a party.

**Liability Cap** means the total amount of the fees payable under your Agreement during the 12 months immediately preceding the first event giving rise to the claim or, in respect of any such event during the first 12 months of your Agreement, the total amount of the fees that would be payable under your Agreement during the first 12 months, calculated on a pro-rata basis based on the fees payable up to the date of the event giving rise to the claim.

**Licence** has the meaning given in clause 26.1.

**Loss** means any loss, liability, cost, expense, damage, charge, penalty, outgoing or payment however arising, whether present, unascertained, immediate, future or contingent.

**Open Data** means any data subject to an open licence and includes any data described in the [Geoscape Data Copyright and Disclaimer](#) as being open data.

**Permitted Purpose** means the permitted purpose described in these Terms or your Agreement (as applicable) for a particular Geoscape product or service.

**Personal Information** has the meaning given in the *Privacy Act 1988* (Cth).

**Privacy Laws** means:

- a. the *Privacy Act 1988* (Cth), including the Australian Privacy Principles in the *Privacy Act 1988* (Cth), as amended or replaced from time to time;
- b. any applicable privacy code approved under the *Privacy Act 1988* (Cth); and
- c. any other applicable laws or codes governing Personal Information.

**Resolution Institute** means the Resolution Institute ACN 008 651 232.

**Sample Data** means any Geoscape Data that we allow you to access for evaluation purposes without payment. For the avoidance of doubt, where applicable, parts of these Terms that relate to Geoscape Data also apply to Sample Data.

**Sample Licence** has the meaning given in clause 28.1.

**Third Party Application** means any product, service, system, application or internet site integrated or interfaced with Geoscape Hub or our Website that is owned or operated by a Third Party Provider.

**Third Party Websites** has the meaning given in clause 12.1.

**Third Party Provider** means any third party that provides products or services that are used by you or an Authorised User in connection with Geoscape Hub or our Website.

**Third Party Provider Terms** has the meaning given in clause 11.4.

**User Data** has the meaning given to it in clause 10.1.

**Unacceptable Content** means:

- (a) content which, in our reasonable opinion, is obscene, offensive, upsetting, defamatory, illegal or inappropriate, infringes or appears to infringe the Intellectual Property Rights of any person or contravenes or appears to contravene any applicable laws, regulations or codes of conduct;
- (b) content which is incorrect, false or misleading; or
- (c) files with any viruses, malicious code or other conditions which could damage or interfere with data, hardware or software.

**We** or **us** means PSMA Australia Limited trading as Geoscape Australia ABN 23 089 912 710 of Unit 6, 113 Canberra Avenue, Griffith in the Australian Capital Territory.

**Website** means the Geoscape website available at [www.geoscape.com.au](http://www.geoscape.com.au) and any associated Geoscape websites.

These Geoscape Developer Terms apply from:

- 1 September 2022 for new Developers or
- 5 October 2022 for Developers who had a Geoscape Developer account with us before 1 September 2022.

A copy of our previous Geoscape Developer Terms can be found [here](#).

## Geoscape Developer Terms

### Welcome to the Geoscape Developer community!

Through Geoscape Developer, you can access our APIs to create apps and develop integrated solutions. You can use these apps and solutions yourself or make them available to your customers.

Our legal relationship with you is governed by your **Geoscape Developer Agreement**. It is made up of:

- these **Geoscape Developer Terms** (these **Terms**);
- your **subscription plan**, which may be one of our [standard plans](#) or a custom plan, such as an enterprise subscription plan;
- any [specific terms applicable to a Geoscape API](#) used by you; and
- any other **additional or custom terms** that are referred to in the documents above or that you agree to from time to time.

Please read each of the documents that form part of your Geoscape Developer Agreement carefully.

You can enter into a Geoscape Developer Agreement by agreeing to these Terms when prompted as part of your registration for a Geoscape Developer account. You can also enter into a Geoscape Developer Agreement by agreeing to a custom subscription plan, such as an enterprise subscription plan.

We've included a summary of the key parts of these Terms on the left side. However, it's the words on the right side that are legally binding.

If you have any questions about your Geoscape Developer Agreement or use of Geoscape APIs, please contact [support@geoscape.com.au](mailto:support@geoscape.com.au).

*These are our company details and who we understand you are.*

*If you'll be using Geoscape APIs on behalf of an organisation (like your employer) you're entering into a Geoscape Developer Agreement on behalf of that organisation. You promise us that you have authority to do that.*

In these Terms:

- **Geoscape Australia, we, us** and **our** refer to PSMA Australia Ltd trading as Geoscape Australia ABN 23 089 912 710 of Unit 6, 113 Canberra Avenue, Griffith in the Australian Capital Territory; and
- **Developer, you** and **your** refer to the individual registering for a Geoscape Developer account, or the organisation in whose name you are registering a Geoscape Developer account or that is described in the custom subscription plan that initiates your Geoscape Developer Agreement.

**Agreement on behalf of an organisation:** If you will be using Geoscape APIs on behalf of an organisation (for example, your employer), you enter into a Geoscape Developer Agreement for and on behalf of that organisation and promise us that you have authority to bind that organisation to the Geoscape Developer Agreement.

*Your agreement with us commences when you register for an account or agree to a custom subscription plan. It will continue until one of us terminates it.*

*Our [free subscription plan](#) applies by default. You can change your subscription plan through your Geoscape Developer account or by agreeing to a custom plan.*

*Your subscription to Geoscape APIs will automatically renew until one of*

## 1 Commencement, term and renewal

1.1 Your Geoscape Developer Agreement commences on the date you:

- (a) register for a Geoscape Developer account; or
- (b) agree to a custom subscription plan,

whichever is earlier. It will continue until it is terminated in accordance with clause 26.

1.2 You must agree to a subscription plan to access Geoscape APIs. If we are offering a free subscription plan, you agree to that plan by default. You can change your subscription plan through Geoscape Developer or by agreeing to a custom

us cancels it.

*We offer a range of APIs. These APIs differ and may have specific terms that apply to their use. These specific terms are available [here](#).*

*You agree to use Geoscape APIs, and our Data accessible through them, in accordance with any applicable specific terms.*

*We have other products and services, like additional support plans. These may have their own terms, which will become part of your agreement with us if we offer them to you and you accept them.*

*If we agree to use Geoscape APIs on your behalf (for example, to do some batch processing), the fees for these services will be set out in our quotation and the terms of your agreement with us will apply to these services.*

*You need a Geoscape Developer account to access Geoscape APIs and manage your use of them.*

*You're responsible for what happens through your account. If something doesn't look right, you need to take steps to address that and tell us straight away.*

*You must use Geoscape Developer responsibly and fairly. For example, you mustn't create fake accounts, allow others to use your account, or*

subscription plan that we offer you.

- 1.3 For each Geoscape API that you subscribe to, your subscription will commence on the date that you agree to the relevant subscription plan and will automatically renew for further subscription periods equal to the initial subscription period, unless your subscription is cancelled in accordance with clause 25.
- 1.4 If your subscription period is longer than one month, we will give you notice at least 30 days before the renewal of your subscription.

## **2 Specific terms for Geoscape APIs**

- 2.1 Specific terms may apply to some Geoscape APIs. These specific terms are available through Geoscape Developer. They may grant additional permissions or impose additional restrictions, for example, in relation to the use of Data accessible through a Geoscape API.
- 2.2 Any such Geoscape API specific terms form part of your Geoscape Developer Agreement, and you agree to use Geoscape APIs in accordance with any specific terms that apply to them.

## **3 Terms for additional products and services**

- 3.1 We may offer you additional products or services related to Geoscape Developer. Additional terms may apply to them and will form part of your Geoscape Developer Agreement if you accept them.
- 3.2 We may offer to use Geoscape APIs on your behalf. For example, we may offer to undertake batch processing for you. Unless otherwise agreed:
  - (a) we will only provide such services once we receive written confirmation (email being sufficient) that you accept our quotation for the services;
  - (b) the fees for any such services will be as set out in our quotation for the services and are payable in advance;
  - (c) to the extent applicable, the terms of your Geoscape Developer Agreement apply to such services, including so that:
    - (i) any records that you supply to us for processing will be treated as User Data; and
    - (ii) any data that we return to you will be treated as Data accessed through the relevant Geoscape API.

## **4 Your account**

- 4.1 You must register for a Geoscape Developer account to access Geoscape APIs. You can do so by following the directions on the Geoscape Developer registration page.
- 4.2 Once your account has been activated, you will be able to:
  - (a) subscribe to Geoscape APIs;
  - (b) obtain API keys or tokens for Geoscape APIs that you subscribe to;
  - (c) request additional API keys or tokens; and



*unfairly take advantage of free plans or trials that we offer.*

*You must keep your account credentials and API keys and tokens confidential and secure.*

*You must also keep your account information up to date.*

*We can suspend or close your account if we suspect that you've used it inappropriately.*

(d) generally manage your use of Geoscape APIs.

- 4.3 You are responsible for all activity that occurs through your Geoscape Developer account and all fees associated with that activity. This includes any use of Geoscape APIs, your API keys and tokens, Developer Documentation, our Data, Derived Material, and your Apps, and the supply of User Data to us through use of Geoscape APIs.
- 4.4 If you think that there has been any unauthorised access to your account username, password or any API keys or tokens, you must take all reasonable steps to stop the unauthorised access (including by changing your account password) and notify us as soon as practicable by emailing [support@geoscape.com.au](mailto:support@geoscape.com.au).
- 4.5 You must:
  - (a) not create fake or unauthorised accounts;
  - (b) not register multiple accounts to unfairly benefit from free plans or trials we offer;
  - (c) not allow third parties to access or use your account or API keys or tokens; and
  - (d) maintain the confidentiality and security of your account credentials and your API keys or tokens.
- 4.6 You must keep your account information up to date. If your account information changes, you must update your account information through Geoscape Developer.
- 4.7 If we reasonably suspect that you do not comply with this clause 4, we may suspend or close your account.

*We offer a free subscription plan. You can read about it [here](#).*

*We can withdraw or change eligibility and conditions for this plan at any time.*

## **5 Free subscription plans**

- 5.1 We offer free subscription plans at our discretion.
- 5.2 We can withdraw, limit eligibility or change the conditions of free subscription plans at any time, considering only our own interests and not the effect of any of these actions on you.
- 5.3 We can use any information available to us to determine eligibility for free subscription plans.
- 5.4 If we withdraw a free subscription plan that you have subscribed to or determine that you are not eligible for a free subscription plan, you will not be able to access Geoscape APIs that were subject to the free subscription plan until you agree to a paid subscription plan for those Geoscape APIs.

*We may offer free trial access to Geoscape APIs from time to time.*

*We can withdraw or change eligibility and conditions for free trial access at any time.*

## **6 Free trial access**

- 6.1 We offer free trial access to Geoscape APIs at our discretion.
- 6.2 We may withdraw, limit eligibility or change the conditions of free trial access at any time, considering only our own interests and not the effect of any of these actions on you.
- 6.3 We may use any information available to us to determine eligibility for free trial access.
- 6.4 After any free trial period has ended, or if we withdraw free trial access or determine that you are not eligible for it, you will not be able to access Geoscape APIs that were subject to the free trial until you agree to a subscription plan for those Geoscape APIs.

We also offer paid subscription plans. You can read about our standard plans [here](#).

To subscribe to a paid plan, you need to provide a valid payment method and keep it up to date.

We use Stripe to process your payments. By making payment, you agree to the [Stripe Services Agreement](#).

Fees are payable monthly or yearly in advance from the date you subscribe.

For example, if you subscribe to a monthly subscription plan on the 30th of a month, you will be charged on the 30th of each subsequent month (except for in February, when you will be charged on the last day of the month).

Fees are based on the usage allowed by your subscription plan, not your actual usage.

If any payment fails and you do not rectify the non-payment, we may suspend your access.

Unless we tell you otherwise, all fees are GST inclusive.

Subscriptions plans have defined usage limits. You can read about the limits in our standard plans [here](#).

If you hit your limit, we will let you know and your access will be suspended until the start of your next subscription period.

Alternatively, you can enable overage so that you can keep using Geoscape APIs. If you do, we will charge you for usage beyond your limit as described in your subscription plan.

Overage fees are automatically charged as part of your next billing cycle.

If you need usage limits that are higher than the ones offered in our standard subscription plans, please contact [support@geoscape.com.au](mailto:support@geoscape.com.au) to talk to us about custom subscription

## **7 Paid subscription plans**

- 7.1 Some Geoscape Developer products and services are only available if you have a paid subscription plan. You can subscribe to a paid plan through your Geoscape Developer account or by agreeing to a custom subscription plan offered to you by us.
- 7.2 When you subscribe to a paid plan, you must provide a valid payment method. You can update your payment method at any time through your Geoscape Developer account settings.
- 7.3 Fees must be paid using payment processing services provided by Stripe Payments Australia Pty Ltd and are subject to the Stripe Services Agreement found [here](#) (**Stripe Terms**). You should review the Stripe Terms before paying, as you will be taken to have agreed to the Stripe Terms and will be bound by them, as modified by Stripe Payments Australia Pty Ltd from time to time, when you do so.
- 7.4 Fees are payable monthly or yearly in advance from the date that you subscribe, depending on the subscription plan you select. If you subscribe to a monthly plan on the 29<sup>th</sup>, 30<sup>th</sup> or 31<sup>st</sup> of a month or a yearly plan on 29 February, we will charge you on the last day of the month when those dates do not arise in a month or year.
- 7.5 You authorise us to charge you your subscription fees for the next subscription period unless you cancel your subscription in accordance with clause 25 prior to the end of your current subscription period.
- 7.6 All fees are based on the usage limits described in your subscription plan, not your actual usage.
- 7.7 You are responsible for ensuring that your nominated payment method is valid and has sufficient funds to pay the subscription fees. If your payment fails and you do not update your payment method and rectify the non-payment, we may immediately suspend your access to Geoscape APIs until we have received the outstanding payment in full.
- 7.8 Unless otherwise stated, all fees include GST and any other taxes, levies or duties payable.

## **8 Usage limits and overage**

- 8.1 Usage limits measured in transactions, credits or API calls apply and are set out in your subscription plan. Usage limits will reset at the beginning of each subscription period.
- 8.2 If you reach your usage limit, we will notify you by email, and:
  - (a) we may suspend your access to Geoscape APIs until the beginning of your next subscription period; or
  - (b) if you have enabled overage usage, we will allow you to exceed your usage limits and charge you for any usage above those limits at the rates set out in your subscription plan.
- 8.3 Overage fees are charged automatically and payable in arrears:
  - (a) with the fees for your next subscription period or as otherwise specified in your subscription plan or nominated by you through your Geoscape Developer account; or
  - (b) if you cancel your subscription, at the end of your

plan.

subscription period.

- 8.4 You can enable overage through your Geoscape Developer account or by agreeing to a custom subscription plan that we offer you. If you enable overage through your Geoscape Developer account, you can also disable overage through your account. If you enable overage through a custom subscription plan, you will need to agree any changes to that custom subscription plan with us.

*You can only use Geoscape APIs and related documentation for the purposes of creating, maintaining and delivering your Apps while you have an agreement with us.*

*You can only use our Data (and material created using our Data) personally or internally within your own business for the purposes of your day-to-day business operations. You can use it for as long as you like, provided you use it only as permitted by your agreement with us.*

*Note: [Specific terms](#) for a Geoscape API may grant additional permissions or impose additional restrictions on the use of our Data accessible through that API.*

*To protect us and our other customers, conditions apply to your use of our products and services. You must:*

- *only offer access to them through your Apps*
- *only permit use of our Data (and material created using our Data) for personal or internal business use*
- *not proxy them to offer a competitive service*
- *not allow your Apps to cache their responses*
- *not use them in any way that threatens their security, integrity or availability*
- *not use our Data (or material created using our Data) to develop capability, products or other material for commercialisation*
- *not reverse engineer or disassemble our Data or attempt to derive any process or source code used to create our Data*
- *not use them in any Apps that don't have appropriate instructions and warnings*
- *ensure that your Apps use them in secure way*

## **9 Permitted use**

- 9.1 We grant you a world-wide, non-exclusive, revocable, non-transferrable licence to use:

- (a) Geoscape Developer, Geoscape APIs, and the API keys or tokens we provide to you to enable your access to Geoscape APIs personally or internally within your own business and only for the purposes of creating, maintaining and delivering your Apps during the term of your Geoscape Developer Agreement;
- (b) Developer Documentation personally or internally within your own business and only for the purposes of helping you understand and use Geoscape APIs and our Data to support your creation, maintenance and delivery of your Apps during the term of your Geoscape Developer Agreement; and
- (c) our Data and Derived Material accessed by you through Geoscape APIs and any further Derived Material created by you personally or internally within your own business and only for the purposes of your day-to-day business operations in perpetuity, subject to any specific terms that apply to the use of Data made available through a Geoscape API. For the avoidance of doubt, Data or Derived Material accessed by your End Users through your Apps should not be used by you unless you have made your own separate calls to Geoscape APIs to access that Data or Derived Material.

- 9.2 You must:

- (a) only make Geoscape APIs, our Data and Derived Material available to third parties through your Apps (that is, you must not resell, distribute, sublicense, or otherwise make them available on a standalone basis);
- (b) only permit End Users to use our Data and Derived Material personally or internally within their own business for the purposes of their day-to-day business operations, subject to any specific terms that apply to the use of Data made available through a Geoscape API;
- (c) not proxy Geoscape APIs for the purposes of offering a service that is competitive with Geoscape APIs;
- (d) ensure that your Apps do not cache, download or persistently store Geoscape API responses;
- (e) not use Geoscape Developer or Geoscape APIs in any way that threatens their security, integrity or availability (including by exceeding any throughput rates set out in your subscription plan or conducting performance or stress tests) or in any way that works around any of their technical limitations;
- (f) not use our Data or Derived Material to develop capability (including machine learning capability), products, services, outputs or other material (including

- *not use them with other material that would make them subject to open licence terms*
- *not use them for anything illegal, damaging or inappropriate*
- *cooperate with us in relation to your use of them and provide us with relevant information*
- *comply with all applicable laws*

*You can allow your contractors to use our products and services on your behalf, but you're responsible for their use and making sure it corresponds with your agreement with us.*

machine learning algorithms) for commercialisation or potential commercialisation, noting that you are permitted to use Geoscape APIs to create Apps;

- (g) not reverse engineer, disassemble, decompile or adapt our Data or Derived Material or otherwise attempt to derive any processes, data structures, algorithms or source code used to create our Data;
- (h) not use Geoscape APIs, our Data or Derived Material in Apps that lack any legally-required or otherwise appropriate instructions, warnings, notices and safety information;
- (i) use appropriate technological and security measures to ensure that access and use of Geoscape APIs by you and through your Apps is secure;
- (j) not use Geoscape APIs, Developer Documentation, our Data or Derived Material in any manner or with any other material that may make them subject to any open source software, open content or open database licence terms that would (A) cause their disclosure or distribution in whole or in part; (B) grant licences to any derivative works of them in whole or in part (C) cause their redistribution in whole or in part at no charge, as a condition for use, modification or distribution of the other material; or (D) otherwise restrict or impact their licensing or other use in whole or in part;
- (k) not use Geoscape Developer, Geoscape APIs, Developer Documentation, your Apps, our Data, or Derived Material for anything that, in our reasonable opinion, may be illegal, deceptive, misleading, unethical, incorrect, offensive, defamatory, or detrimental to our interests or reputation, may infringe any third party rights, or be otherwise inappropriate;
- (l) cooperate with us in relation to matters relating to your Geoscape Developer Agreement and provide us with access to information relating to your use and, where applicable, your End Users' use of Geoscape Developer, Geoscape APIs, Developer Documentation, your Apps, our Data or Derived Material; and
- (m) comply with all Laws applicable to use of Geoscape Developer, Geoscape APIs, Developer Documentation, your Apps, our Data and Derived Material.

9.3 Where applicable, you must take all reasonable steps to ensure that your End Users comply with clause 9.2. as though they were you.

9.4 Notwithstanding the restrictions in clauses 9.1 and 9.2, you may allow your contractors to use Geoscape Developer, Geoscape APIs, Developer Documentation, our Data, and Derived Material on your behalf and exclusively for your benefit on the condition that:

- (a) you are responsible for your contractors' use being in accordance with your Geoscape Developer Agreement as though your contractors are you;
- (b) any use that is not in accordance with your Geoscape Developer Agreement will be deemed to be a breach of your Geoscape Developer Agreement;
- (c) you ensure that your contractors stop using our products and services and do not retain any copies of Geoscape Data or Derived Material when they complete their work for you; and

- (d) you ensure that any termination or revocation of your rights granted under clause 9.1 will result in a corresponding termination or revocation of your contractors' rights.

## 10 End User access

- 10.1 If you make an App available to an End User, you must first put in place a legally binding agreement with the End User that reflects your obligations under your Geoscape Developer Agreement and otherwise meets the requirements of any [specific terms](#) applicable to the Geoscape APIs used by the App.
- 10.2 Where a term of your Geoscape Developer Agreement requires you to take reasonable steps to do something that requires the cooperation of an End User or to get an End User to do or refrain from doing something, those reasonable steps include incorporating into your agreement with the End User an obligation for the End User to cooperate as required or to either do or refrain from doing that thing.
- 10.3 You must take all reasonable steps to ensure that your End Users comply with their agreements with you and with any other terms required by the [specific terms](#) applicable to the Geoscape APIs used by an App.
- 10.4 If you become aware of any conduct by an End User that is in breach of the terms of their agreement with you or any other terms required by the [specific terms](#) applicable to the Geoscape APIs used by an App, you must promptly notify us and comply with our reasonable directions in relation to the breach, which may include:
- (a) issuing a notice to the End User notifying them of the breach and requiring that it be remedied;
  - (b) suspending the End User's access to your Apps and rights to use our Data and Derived Material; and
  - (c) ending the End User's access to your Apps and, where applicable, revoking their rights to use our Data and Derived Material.
- 10.5 If you breach this clause 10, we may give you notice of the breach and, on the giving of such notice, you irrevocably appoint us as your agent for the purposes of enforcing your rights against an End User as they relate to use of Geoscape APIs, our Data or Derived Material. You must take all reasonable steps to ensure that End Users do not challenge the validity of our appointment.

*You must only offer access to Geoscape APIs, our Data and Derived Material through your Apps.*

*When you make an App available to your End Users, you need to have a legally binding agreement with them and meet the requirements of any [specific terms](#) applicable to the Geoscape APIs used by the App.*

*Your agreements with your End Users need to reflect and support your obligations under your agreement with us.*

*You need to make sure your End Users use your Apps (and our products and services available through them) only as permitted.*

*If you find out that your End User is doing something they shouldn't, you need to let us know promptly and cooperate with us to address that. If you don't, we may step into your shoes to take action against the End User.*

*We're always looking to improve our products and services. So, we may collect information about use of Geoscape Developer and Geoscape APIs.*

*We also encourage you to let us know if you identify any errors or have ideas about improvements.*

*We can use and disclose any such information to improve our products and services. And we will handle it in accordance with privacy laws and our [privacy policy](#).*

*If any such information is*

## 11 User Data

- 11.1 When you and your End Users use Geoscape Developer and Geoscape APIs, we may monitor that use and collect information about it, including information that you or your End Users process through Geoscape APIs (for example, addresses to be verified) (**User Data**).
- 11.2 User Data also includes any information you provide to us about errors, suggested corrections or improvements for our products and services.
- 11.3 We may use User Data and disclose it to third parties for the purposes of improving our products and services.
- 11.4 If User Data includes Personal Information, we will handle it in accordance with Privacy Laws and our [privacy policy](#). We will

*incorporated into our products and services, it will belong to us and we can provide it to other customers.*

*Things change and eventually come to an end. Over time, that may include some of our products and services.*

*We'll let you know in advance about any significant changes, particularly if any aren't going to be backwards-compatible.*

*You're responsible for making sure that your Apps remain compatible with Geoscape APIs.*

*If we discontinue any products or services, your agreement will be varied accordingly to remove them and any fees payable specifically for them. And we'll refund you any fees you've paid in advance specifically for the discontinued products or services.*

*If you don't want to continue your subscription plan because we're making changes that reduce the overall functionality of Geoscape APIs for you, you can cancel your subscription plan. You'll need to pay your subscription fees up to the cancellation date, but we'll refund you any amounts you've paid for beyond that date.*

*Intellectual property is important to us and we always reserve our rights.*

*We promise that we're entitled to grant you rights to use our products and services, and that if you use them in accordance with your agreement with us, you won't infringe*

use reasonable endeavours to de-identify User Data before it is:

- (a) incorporated within our products or services; or
- (b) disclosed to third parties for the purposes of improving our products and services.

11.5 If any User Data is incorporated within our products or services, any Intellectual Property Rights in such User Data as it forms part of our products or services vest in us upon creation. The incorporation of User Data does not restrict our rights to distribute our products and services to our other customers.

## 12 **Modification or discontinuation**

12.1 You acknowledge that we may:

- (a) modify the features and functions of Geoscape APIs, including our Data delivered through them; and
- (b) discontinue the availability of any Geoscape APIs or our Data,

at our discretion (**a Modification or Discontinuation Event**).

12.2 We will give you notice of any significant Modification or Discontinuation Events in advance where we can reasonably do so. If the changes resulting from a Modification or Discontinuation Event are not backwards-compatible, we will use reasonable efforts to let you know at least 90 days prior to their implementation.

12.3 You are responsible for ensuring that your Apps remain compatible with the current Geoscape APIs.

12.4 If we discontinue the availability of any Geoscape APIs or Data as part of a Modification or Discontinuation Event, we may by notice to you vary your Geoscape Developer Agreement to remove the relevant Geoscape APIs or Data and any fees payable specifically for the discontinued Geoscape APIs or Data. If you have paid any fees in advance specifically for the discontinued Geoscape APIs or Data, we will refund you those fees on a pro-rata basis.

12.5 If you do not want your subscription plan to continue because a Modification or Discontinuation Event materially decreases the overall functionality for you of Geoscape APIs, you can cancel your subscription plan by demonstrating that impact to us and giving us notice within 30 days of receiving our notice under clause 12.2. The cancellation will take effect on the date nominated by you in your notice. You will be liable for your subscription fees up to the date on which your subscription plan is cancelled. However, we will refund to you any fees you have paid in advance for the period beyond that date on a pro-rata basis.

12.6 The refunds and right to cancel your subscription under this clause 12 are your sole remedy against us in respect of any Modification or Discontinuation Event.

## 13 **Intellectual Property**

13.1 There is no transfer of any Intellectual Property Rights in Geoscape Developer, Geoscape APIs, our Data, the Developer Documentation or any other products or services we provide to you under your Geoscape Developer Agreement. We reserve any Intellectual Property Rights not expressly granted to you



*anyone else's rights.*

*You must let us know if someone may be infringing our rights or if anyone alleges that use of our products and services or any User Data infringes their rights.*

*You must cooperate with us to address any such infringement, including by keeping us informed and complying with our reasonable directions relating to the infringement.*

*Some of the source data we use is open and may be licensed directly to you under an open licence.*

*Information about any such open data and its open licence terms is available [here](#).*

*Our Data is subject to the [Geoscape Copyright Notice and Disclaimer](#).*

*You should read it for yourself, but in summary it:*

- *acknowledges our copyright in our Data and the copyright of our data providers*
- *explains that our Data is provided*

under your Geoscape Developer Agreement.

- 13.2 Subject to clause 14, we warrant that we are entitled to grant you the licence in clause 9.1 and that the grant of that licence does not infringe the Intellectual Property Rights of any third parties.
- 13.3 You must notify us as soon as practicable if you become aware of any:
- (a) actual, suspected or anticipated infringement of our Intellectual Property Rights in Geoscape Developer, Geoscape APIs, Developer Documentation or our Data; or
  - (b) use of Geoscape Developer, Geoscape APIs, Developer Documentation, our Data, Derived Material or User Data that infringes, or is alleged to infringe, the Intellectual Property Rights or other third party rights.
- 13.4 Where you notify us in accordance with clause 13.3 or we otherwise become aware of any such rights infringement, you must:
- (a) provide us with all relevant details regarding the infringement;
  - (b) provide us with prompt updates on any developments regarding the infringement; and
  - (c) comply with any reasonable directions from us relating to the infringement, including ceasing use of Geoscape Developer, Geoscape APIs, Developer Documentation or Data immediately on request from us.
- 13.5 If we direct you to cease using Geoscape Developer, Geoscape APIs, Developer Documentation or Data pursuant to clause 13.4(c), we may at our discretion:
- (a) refund you your subscription fees in respect of the affected products or services; or
  - (b) obtain replacement products or services for you.

## **14 Open Data**

- 14.1 You acknowledge that:
- (a) our Data may be derived from or based upon Open Data;
  - (b) notwithstanding any other term of your Geoscape Developer Agreement, to the extent that any such Open Data subsists in our Data, it is licensed directly to you under its open licence terms and is not licensed or sub-licensable under your Geoscape Developer Agreement; and
  - (c) information about any such Open Data and its open licence terms is set out in the [Geoscape Copyright Notice and Disclaimer](#).

## **15 Copyright notices**

- 15.1 Our Data is subject to the [Geoscape Copyright Notice and Disclaimer](#).
- 15.2 You must take all reasonable steps to ensure that your Apps, our Data and any Derived Material, bear or appropriately reference the copyright and disclaimer information set out in the [Geoscape Copyright Notice and Disclaimer](#). This information must be no less prominent than any other

'as is'

- excludes liability for losses arising from using our Data.

You must include the [Geoscape Copyright Notice and Disclaimer](#) with your Apps and copies of our Data (and any material created using it).

You mustn't remove copyright and disclaimer information embedded in Geoscape API responses.

copyright information provided.

- 15.3 For clarity, referencing the information set out in the [Geoscape Copyright Notice and Disclaimer](#) in the following manner is appropriate:

- (a) for your Apps or any Derived Material:

"Incorporates or developed using [insert name of Data used] © Geoscape Australia [insert year of the App or Derived Material] Copyright and Disclaimer Notice"; or

"Incorporates or developed using [insert name of Data used] © Geoscape Australia [insert year of the App or Derived Material] for Copyright and Disclaimer Notice see [geoscape.com.au/legal/data-copyright-and-disclaimer](https://geoscape.com.au/legal/data-copyright-and-disclaimer)"; and

- (b) for our Data obtained through your Apps:

"[insert name of Data] © Geoscape Australia [insert year Data is obtained] Copyright and Disclaimer Notice"; or

"[insert name of Data] © Geoscape Australia [insert year Data is obtained] for Copyright and Disclaimer Notice see [geoscape.com.au/legal/data-copyright-and-disclaimer](https://geoscape.com.au/legal/data-copyright-and-disclaimer)".

- 15.4 Where a reference to the [Geoscape Copyright Notice and Disclaimer](#) is embedded in Geoscape API responses, you must not remove those references or allow them to be removed.

- 15.5 You must comply with our additional reasonable directions about the form and content of the copyright and disclaimer information described in this clause 15.

## 16 Disclaimers

- 16.1 You acknowledge that you have made your own assessment of Geoscape Developer, Geoscape APIs, Developer Documentation and our Data and have not relied on any information or advice given by us, or any person purporting to represent us, regarding these products and services and whether they are reasonably fit for any purpose for which they will be used by you or your End Users.

- 16.2 Geoscape Developer, Geoscape APIs, Developer Documentation and our Data are provided 'as is' and we do not make any representations or provide any warranties (express or implied) about their accuracy or completeness, their fitness for any particular purpose or that they are without errors or faults. Any availability guarantees will be as specified in your Geoscape Developer support plan.

- 16.3 Notwithstanding the above, if you are a Consumer, nothing in your Geoscape Developer Agreement should be interpreted as attempting to exclude, limit or modify Consumer Guarantees available to you under the Australian Consumer Law that cannot be excluded, restricted or modified. Your remedies for any breach of a Consumer Guarantee that cannot be excluded, will, to the extent permitted by law, be limited at our option to replacing or repairing products, resupplying services, supplying equivalent products or services, or paying the cost of replacing or repairing products, resupplying services, or supplying equivalent products or services.

*We think our products and services are valuable. But you acknowledge that you need to make up your own mind about that, and not rely on what anyone else says they can do for you or others.*

*We provide our products and services 'as is'. This means that we don't make any promises about how accurate, complete, fit for purpose or reliable they are.*

*All this is subject to any rights you may have under the Australian Consumer Law.*



*Our Data is created using source data from a range of providers.*

*Our source data providers have not provided any representations or warranties about their data and do not have any liability to you.*

*Support is the bedrock of any good relationship. We will support you as described in your support plan.*

*You are responsible for supporting your End Users.*

*We can suspend, limit or throttle the availability of our products and services to address any emergency or misuse, comply with applicable laws, and in response to privacy or copyright 'notice and take down' requests. We will promptly notify you if we do so.*

*We may offer you access to beta Geoscape APIs that are still in development for the purpose of testing and assessment only.*

*Your use of any beta Geoscape APIs is at your own risk.*

*We can change or withdraw beta Geoscape APIs at any time.*

*You must not use beta Geoscape APIs for commercial purposes.*

*Our support plans do not apply to beta Geoscape APIs.*

## **17 Source data providers**

17.1 You acknowledge and agree that:

- (a) our Data may include, be derived from or based on source data from third party providers;
- (b) our source data providers have not provided any representations or warranties about the accuracy or completeness of their source data or our Data, or their fitness for any particular purpose; and
- (c) our source data providers may rely on the acknowledgements and disclaimers set out in clause 16 to the extent that they relate to their source data; and
- (d) our source data providers will not be liable to you or your End Users for any inaccuracy or incompleteness of their source data or our Data, or any use of our Data by you or your End Users.

## **18 Support and availability**

18.1 We will provide support services and use reasonable endeavours to ensure that Geoscape Developer and Geoscape APIs are available to you as set out in your support plan, or other additional or custom terms agreed with us.

18.2 We do not provide support to your End Users. You are solely responsible for supporting your End Users.

18.3 We may suspend, limit or throttle access to and the availability of Geoscape Developer and Geoscape APIs:

- (a) to address any emergency, misuse or threat to the operation of Geoscape Developer and Geoscape APIs, actual or perceived;
- (b) to comply with any applicable Laws, or to respond to requests or demands of a government entity; or
- (c) pursuant to a privacy or copyright 'notice and take down' request or other alleged violation of Intellectual Property Rights or other third party rights.

We will notify you as soon as practicable of any such suspension or limitation.

## **19 Beta Geoscape APIs**

19.1 From time to time, we may offer access to beta Geoscape APIs that we have not officially released for commercial use. Beta Geoscape APIs are made available for the purposes of testing and assessment only. All beta Geoscape APIs are subject to ongoing development and may not reach the level of performance of an officially released Geoscape API. We may decide not to officially release any beta Geoscape API for commercial use at our discretion.

19.2 Your use of any beta Geoscape API is entirely at your own risk.

19.3 We can change any version of a beta Geoscape API or withdraw its availability at any time.

19.4 You must not use a beta Geoscape API for commercial purposes (that is, purposes intended to generate profit or monetary compensation) without our prior written consent.

19.5 If you agree to join our beta Geoscape API program, you become a beta tester for any beta Geoscape APIs to which you have access and we may ask you to provide comments,

suggestions and any other feedback on those beta Geoscape APIs. We may use any information that you provide to us in relation to a beta Geoscape API for any purpose.

- 19.6 You can leave the beta Geoscape API program at any time by notifying us.
- 19.7 The support and availability offered under clause 18 does not apply to beta Geoscape APIs. You can contact us at [beta@geoscape.com.au](mailto:beta@geoscape.com.au) for technical support in relation to beta Geoscape API. However, we are under no obligation to resolve any faults or errors in a beta Geoscape API.
- 19.8 In relation to any beta Geoscape API to which you have access, we will notify you if we:
- (a) significantly change a version of the beta Geoscape API;
  - (b) release a new version of the beta Geoscape API;
  - (c) withdraw the availability to you of a beta Geoscape API; or
  - (d) decide to officially release or not to officially release the beta Geoscape API.

*So, you want to use the fact that you use our products and services to promote your App? Fantastic! You can do so provided you acknowledge us properly, cooperate with us and don't do anything that might hurt our reputation.*

*Unless you tell us otherwise, we can also use your trade marks on our website and in other marketing material to acknowledge that you are a Geoscape API customer.*

## **20 Publicity**

- 20.1 If you publicise your use of Geoscape APIs or our Data, you must do so in a manner that:
- (a) acknowledges us as the source of Geoscape APIs or our Data;
  - (b) does not, in our reasonable opinion, adversely affect our reputation; and
  - (c) is in accordance with our reasonable directions, which may include a direction to discontinue publicising your use of Geoscape APIs or our Data if you breach your Geoscape Developer Agreement.
- 20.2 Unless you provide us with written notice stating otherwise, we may display your trade marks (registered or unregistered) on our website and in other marketing material for the purpose of indicating that you are a Geoscape API customer. We will comply with your reasonable directions regarding the form of your trade marks, for example, in relation their completeness, scale and colour.

*You mustn't breach any Privacy Laws or do anything that might cause us to breach our obligations under Privacy Laws.*

*You must protect Personal Information by setting up appropriate safeguards and security measures.*

*You promise that you have consent to give us any Personal Information that you provide and will try to make sure that your End Users also have consent to give us any Personal Information that they provide through their use of your Apps.*

## **21 Privacy**

- 21.1 You must comply (and ensure that your personnel are aware of and comply) with all Privacy Laws and any recommendations made or guidelines issued by the Office of the Australian Information Commissioner.
- 21.2 You must:
- (a) take all reasonable steps to protect Personal Information in your possession or control from misuse, loss, unauthorised access, modification or disclosure, including implementing and maintaining appropriate administrative, physical, and technical safeguards and security measures; and
  - (b) not do (or omit to do) anything with respect to Personal Information that causes or is likely to cause us to be in breach of our obligations under any Privacy Laws.
- 21.3 You warrant that you have consent to disclose any Personal

Information that you provide to us in connection with your Geoscape Developer Agreement, and that you will use reasonable endeavours to ensure that your End Users also have consent to disclose any Personal Information that they disclose to us in the course of their use of your Apps.

*You must use our products and services securely and keep any copies safe from unauthorised access.*

*You need to monitor your devices and systems for Data Breaches. If you become aware of a Data Breach or that one may occur, you need to tell us as soon as you can.*

*You must try to contain any Data Breach and remedy or limit any damage caused. You also need to provide us with a report about what happened, cooperate with us and take action to make sure that kind of Data Breach doesn't happen again.*

*We both agree to keep each other's confidence and only use each other's Confidential Information for the purposes contemplated by your agreement with us.*

*If either of us suspects a breach of the other's confidentiality, we must immediately let each other know and try to stop any further unauthorised use or disclosure.*

## **22 Security**

- 22.1 You must take all reasonable steps to ensure you keep Geoscape Developer, Geoscape APIs, Developer Documentation, our Data and Derived Material secure from misuse, loss, unauthorised access, modification or disclosure.
- 22.2 You must, in accordance with your industry best practice, monitor any systems used by you to access, process, hold or store Geoscape Developer, Geoscape APIs, Developer Documentation, our Data or Derived Material for actual or suspected Data Breaches.
- 22.3 If you become aware of a Data Breach or potential Data Breach, you must:
  - (a) notify us as soon as practicable;
  - (b) use your best endeavours to promptly identify the cause of the Data Breach or potential Data Breach;
  - (c) use your best endeavours to prevent any potential Data Breach from becoming an actual Data Breach;
  - (d) promptly take all reasonable steps to contain a Data Breach and remedy or limit any damage caused;
  - (e) promptly provide us with a written report that covers the cause (or suspected cause) cause of the Data Breach or potential Data Breach, your procedure for containing it, any damage caused and the steps taken to remedy or limit any damage; and
  - (f) promptly disclose to us any information relevant to a Data Breach or potential Data Breach as reasonably requested by us; and
  - (g) co-operate with us and provide us with all reasonable assistance in investigating a Data Breach or potential Data Breach; and
  - (h) take all necessary steps to prevent any recurrence of a Data Breach or potential Data Breach.

## **23 Confidentiality**

- 23.1 Both parties:
  - (a) may use each other's Confidential Information solely for the purposes reasonably contemplated by your Geoscape Developer Agreement;
  - (b) subject to 23.1(c) must keep confidential each other's Confidential Information; and
  - (c) may disclose each other's Confidential Information only to:
    - (i) their employees, contractors and professional advisors who:
      - (A) are aware and agree that the Confidential Information must be kept confidential; and
      - (B) have a need to know the Confidential

Information (and only to the extent that each has a need to know);

- (ii) as required by law or securities exchange regulation; and
- (iii) with the prior written consent of the other party.

23.2 Each party must notify the other immediately if they become aware of any breach of confidentiality in respect of the other's Confidential Information and must take all reasonable steps necessary to prevent further unauthorised use or disclosure of the Confidential Information.

*We can audit you if we give you at least 5 Business Days' notice. You must cooperate and give us the information and access we need to do so.*

*If an audit reveals that you haven't met your obligations, you'll need to fix that, and we can suspend your access until you do.*

*If you've seriously breached your agreement with us, you'll need to pay the audit cost.*

## **24 Audit**

24.1 We may conduct an audit at any time on not less than 5 Business Days' notice to you.

24.2 You must, on request by us or our nominee, provide all requested documents and materials that relate to your Geoscape Developer Agreement and allow all necessary access to your systems and relevant employees, officers, agents, contractors and other representatives to verify compliance with your Geoscape Developer Agreement (including your privacy and data security obligations).

24.3 If an audit identifies any breach of your obligations under your Geoscape Developer Agreement:

- (a) you must take all reasonable actions necessary to address the breach to our reasonable satisfaction; and
- (b) we may suspend your Geoscape Developer Agreement (including access to our Geoscape APIs) until such a time as you take all reasonable actions in accordance with clause 24.3(a).

24.4 Where an audit reveals that you have materially breached your Geoscape Developer Agreement, you must pay for the cost of the audit.

24.5 Nothing in this clause 24 limits our ability to terminate your Geoscape Developer Agreement.

*You need to give us 24 hours' notice to cancel a monthly paid subscription plan and 21 days' notice to cancel a yearly paid subscription plan. Your cancellation of a paid plan will be effective at the end of the subscription period that covers your notice. For example, if you give 21 days' notice on 15 March to cancel a paid yearly plan that started on 1 April, your cancellation will be effective on 31 March of the following year.*

*If you cancel your subscription, you won't be entitled to any refunds.*

*We can cancel your subscription on 30 days' notice. If we do, you can continue to use our APIs until the end of subscription period during which the 30 day notice period expires.*

*We can also cancel your subscription on 7 days' notice if your subscription*

## **25 Cancellation of subscription plans**

25.1 You can cancel:

- (a) a monthly paid subscription plan by giving us at least 24 hours' notice; and
- (b) a yearly paid subscription plan by giving us at least 21 days' notice,

through your Geoscape Developer account or by notifying us by email. The cancellation will be effective at the end of the subscription period during which your notice period expires. If we are offering a free subscription plan at that time, you will then agree to that free subscription plan by default.

25.2 You will not receive any refund of fees or other amounts paid to us if you cancel a paid subscription plan.

25.3 Any free subscription plan for a Geoscape API will be automatically cancelled if you subscribe to a paid subscription plan for that Geoscape API. You can otherwise cancel a free subscription plan at any time by closing your Geoscape Developer account.

25.4 We can cancel your subscription plan by giving you at least 30

*plan is affected by changes in the law, your business or our arrangements with our providers. If we do that, we'll refund any fees you've paid in advance on a pro-rata basis.*

*You can terminate your agreement if we:*

- *breach our agreement, and don't fix it within 14 days of you asking us to;*
- *breach our agreement and that breach can't be fixed*
- *become insolvent.*

*We can terminate or suspend your agreement if you:*

- *use our products or services for a purpose that is not permitted under your agreement with us*
- *allow unauthorised access to or use of our products or services*
- *breach your agreement, and don't fix it within 14 days of us asking you to*
- *breach our agreement and that breach can't be fixed*
- *become insolvent*
- *have done something against the law*
- *otherwise damage our reputation or other interests*

*We can also terminate your agreement if all your subscription plans are cancelled or expire.*

*If you terminate your agreement under this clause (or we terminate under clause 33 because you've rejected our proposed variation) we'll refund any fees you've paid in advance on a pro-rata basis.*

days' notice. If we cancel your subscription plan under this clause, the cancellation will be effective at the end of the subscription period during which our 30 day notice period expires.

25.5 If there has been a change in any Laws, your business or our arrangements with providers affecting your subscription plan, we can cancel your subscription plan by giving you at least 7 days' notice. If we cancel your subscription plan under this clause:

- (a) the cancellation will be effective at the end of the notice period; and
- (b) we will refund to you any fees you have paid in advance for the period beyond that date on a pro-rata basis.

## **26 Termination**

26.1 Without limiting your other rights under your Geoscape Developer Agreement, and to the extent permitted by law, you can terminate your Geoscape Developer Agreement with immediate effect by written notice to us:

- (a) if we have breached any term of your Geoscape Developer Agreement and:
  - (i) if the breach is capable of remedy, we have not remedied the breach within 14 days of receiving notice from you requiring the breach to be remedied; or
  - (ii) the breach is not capable of remedy; or
- (b) if we are subject to an Insolvency Event.

26.2 Without limiting our other rights under your Geoscape Developer Agreement, and to the extent permitted by Law, we may terminate or suspend your Geoscape Developer Agreement, or any part of it, with immediate effect by written notice to you if we have reasonable grounds to suspect that you:

- (a) have used Geoscape Developer, Geoscape APIs, Developer Documentation, our Data or Derived Material for a purpose that is not permitted by your Geoscape Developer Agreement;
- (b) have allowed unauthorised access to or use of Geoscape Developer, Geoscape APIs, Developer Documentation, our Data or Derived Material;
- (c) have breached any other term of your Geoscape Developer Agreement and:
  - (i) if the breach is capable of remedy, have not remedied the breach within 14 days of receiving notice from us requiring the breach to be remedied; or
  - (ii) the breach is not capable of remedy;
- (d) are subject to an Insolvency Event;
- (e) have contravened any Laws; or
- (f) have otherwise caused damage to our reputation, goodwill or other interests by your act or omission.

26.3 We may also terminate your Geoscape Developer Agreement if all your subscription plans are cancelled or expire for any reason.

- 26.4 Where your Geoscape Developer Agreement terminates in accordance with clauses 26.1 or 33.3, we will refund to you any fees you have paid in advance on a pro-rata basis.

*When your agreement ends, so do your subscription plans and your rights to use our services. Your Geoscape Developer account will be closed.*

*If you owe us any money, it becomes payable immediately.*

*You allow us to step into your shoes to take action against End Users in relation their use of our Data (or material created using it).*

*You must stop identifying yourself as a user of our products and services.*

*If we terminate your agreement because of your default, we may also end your rights to use our Data and material created using our Data. If we do, we may also require you to permanently delete it all.*

*As is standard market practice, we limit our liability to you and neither of us will be liable to each other for consequential losses.*

*We agree to cover each other's losses in certain circumstances.*

*You agree to cover our losses that result from any misuse of our products or services by or through you, or any use of your Apps or material created using our Data.*

*We agree to cover your losses that result from claim that our products or services infringe someone else's rights except in certain*

## **27 Effect of termination**

- 27.1 On termination of your Geoscape Developer Agreement for any reason:
- (a) all your subscription plans will be cancelled and your Geoscape Developer account will be closed;
  - (b) you must immediately pay any fees or other amounts due to be paid to us;
  - (c) you irrevocably appoint us as your agent for the purposes of enforcing your rights against your End Users as they relate to use of Geoscape APIs, our Data and Derived Material and you must take all reasonable steps to ensure that such End Users do not challenge the validity of that appointment;
  - (d) you must not identify yourself in any way as a user of Geoscape APIs or our Data;
  - (e) each party retains the rights it had against the other party in respect of any past breach, in addition to any other rights, powers or remedies provided by Law; and
  - (f) you must comply with our reasonable directions regarding the termination.
- 27.2 On termination of your Geoscape Developer Agreement in accordance with clause 26.2, we may revoke your licence to use our Data and Derived Material by notice to you. If this occurs, you must within 14 days of a request by us:
- (a) promptly and permanently delete any Data and Derived Material in your control or possession; and
  - (b) sign and return to us a statutory declaration confirming your compliance with this clause 27.2, in a form that is satisfactory to us.

## **28 Limitation of liability**

- 28.1 Our maximum aggregate liability to you for any Losses suffered by you in connection with your Geoscape Developer Agreement, however caused, including by our negligence, is limited to the Liability Cap per event or series of related events.
- 28.2 Neither party will be liable for any Consequential Losses arising from or in connection with your Geoscape Developer Agreement.

## **29 Indemnities**

- 29.1 You agree to indemnify us and our directors, officers, employees, agents, and contractors from and against all Claims and Losses reasonably incurred as a result of any use:
- (a) by or through you of Geoscape Developer, Geoscape APIs, Developer Documentation, our Data or Derived Material for a purpose or in a manner that is not permitted by your Geoscape Developer Agreement; or
  - (b) of, or inability to use, your Apps or any other Derived Material created pursuant to your Geoscape Developer

*circumstances, like where you've changed our products or services and those changes contribute to the claim or where you don't use the updates we supply. If you want us to cover these types of losses, you have to cooperate with us in relation to any claim and let us handle the legal proceedings.*

*We both have to try to mitigate any losses we do suffer.*

*If our own negligence contributes to a loss, we can't recover from each other to that extent.*

Agreement.

29.2 We agree to indemnify you from and against all Claims and Losses reasonably incurred as a result of a third party claim against you alleging that use of Geoscape Developer, Geoscape APIs, Developer Documentation or our Data infringes the Intellectual Property Rights of any person. However, we will not indemnify you:

- (a) to the extent you make any modifications to our products or services and those modifications contribute to the Claim or Losses;
- (b) where you use our products or services in combination with any hardware, software or other products or services in a manner that causes the actual or alleged infringement;
- (c) where the infringement arises due to your failure to use an update for our products or services that is made available to you by us;
- (d) where you do not comply with any specifications or directions provided by us relating to our products or services; or
- (e) where the actual or alleged infringement arises due to use of our products or services for a purpose or in a manner that is not permitted by your Geoscape Developer Agreement.

29.3 To rely on the indemnity in clause 29.2, you must:

- (a) allow us to conduct any legal proceedings;
- (b) provide us with all reasonable assistance to allow us to defend any Claim;
- (c) follow any reasonable direction we give you; and
- (d) not settle or make any admissions of liability without first obtaining our prior written consent.

29.4 Each party must mitigate its Losses that would otherwise be recoverable from the other party under your Geoscape Developer Agreement by taking appropriate and commercially reasonable steps to reduce or limit the amount of such Losses.

29.5 Each party's liability to indemnify the other party under this clause 29 will be reduced proportionally to the extent that any negligent act or omission of the indemnified party contributed to the Claim or Loss.

## **30 Dispute Resolution**

30.1 If any dispute arises between the parties in connection with your Geoscape Developer Agreement, then both parties will first attempt to resolve the dispute by negotiation in good faith. If the dispute is not resolved within 20 Business Days of the date on which notice of the dispute is given by a party, either party may submit the dispute to mediation in accordance with this clause 30.

30.2 The mediation procedure will be:

- (a) either party may start mediation by serving a mediation notice on the other party on expiration of the 20 Business Day period referred to in clause 30.1;
- (b) the notice must state that a dispute has arisen and identify what the dispute is;
- (c) the parties should jointly appoint a mediator but if the

*If we have a disagreement, we promise to be fair and reasonable with one another and do our best to resolve any dispute ourselves. If we can't, we may go to mediation before we decide to go to court.*

*If the nature of the dispute urgently requires it, either of us may seek a court order while we're working to resolve the dispute.*

parties fail to agree on the appointment within five Business Days of service of the mediation notice under clause 30.2(a), either party may apply to the Resolution Institute to appoint a mediator;

- (d) once a mediator has accepted their appointment, the parties must comply with the mediator's instructions;
- (e) the mediation will be held in Canberra, Australian Capital Territory, Australia in accordance with the mediation rules of the Resolution Institute; and
- (f) if the dispute is not resolved within 20 Business Days of the appointment of the mediator, or any other period agreed by the parties in writing, the mediation ceases.

30.3 The mediator may fix the costs for mediation, including the mediator's costs, which must be paid equally by the parties.

30.4 The mediation is confidential and statements made by the mediator or the parties, and discussions between the parties before, after or during the mediation, cannot be used in legal proceedings.

30.5 This clause is without prejudice to and does not limit the rights of a party to:

- (a) seek urgent injunctive relief against the other party at any time; or
- (b) exercise any right pursuant to the terms of your Geoscape Developer Agreement.

*Uncontrollable events can happen. If they do, neither of us will be responsible for any delay or failure to perform. This doesn't include your obligation to pay your fees.*

*If a delay or failure to perform continues for more than 30 days, either of us can end your agreement with us.*

*We do our best, but sometimes things might not align perfectly across all of our documents.*

*If this happens, you should follow the documents that make up your agreement with us in the order of this list.*

*Your agreement with us might need to change to reflect changes in the law, your business or our arrangements with our providers. We will tell you about any of those changes at least 7 days before they*

### **31 Force Majeure**

31.1 A party will not be liable for any failure to perform or delay in performing its obligations under your Geoscape Developer Agreement if that failure or delay is due to a Force Majeure Event.

31.2 If that delay or failure to perform exceeds 30 days, either party may immediately terminate your Geoscape Developer Agreement by written notice to the other party.

31.3 This clause 31 does not relieve you of or suspend your obligation to pay any Fees owed to us.

### **32 Inconsistency**

32.1 In the event of any inconsistency between these Terms and other documents which comprise your Geoscape Developer Agreement, the following order of precedence will apply to the extent of the inconsistency:

- (a) any subscription plan that you agree to;
- (b) any specific terms applicable to a Geoscape API used by you;
- (c) any other additional or custom terms incorporated by reference or that you agree to; and then
- (d) these Terms.

### **33 Changes to your Geoscape Developer Agreement**

33.1 If there has been a change in any Laws, your business or our arrangements with providers affecting your Geoscape Developer Agreement, we may give you 7 days' notice that your Geoscape Developer Agreement will be varied to reflect



are made.

*If we want to make any other changes to the terms of your agreement, we will let you know at least 30 days beforehand.*

*You're allowed to say "no" to our proposed changes. But if you do, we're allowed to end your agreement with us on 30 days' notice. If we do that, we'll refund any fees you've paid in advance on a pro-rata basis.*

*You must follow any applicable export and sanctions laws.*

*This means that there may be certain countries, organisations and people that you can't use our products and services to do business with.*

*Last are what the lawyers call the 'boilerplates'. Don't worry, you are nearly there!*

*You can't transfer any promises you make us or rights you have to someone else without our permission.*

*If we don't think it will adversely affect your rights, we can assign, subcontract and deal with our rights and obligations.*

*We both agree that we only waive our rights if we let one another know in writing that we're doing so.*

*If parts of your agreement with us are considered to be invalid or unenforceable, those parts will be severed, and the rest of your agreement will live on.*

*Speaking of living on, even after your agreement with us ends, you must make sure you still comply with some obligations.*

*Like in any good relationship, each of us will behave in a manner that supports the promises we've given to each other.*

*Your agreement with us doesn't make us legal partners. We're independent contractors to each other.*

*We should give each other notice by email where possible. When we give*

the relevant change, and the variation will take effect at the end of the 7 day notice period.

- 33.2 Subject to clause 33.3 and where clause 33.1 does not apply, we may give you 30 days' notice that your Geoscape Developer Agreement will be varied (the **Proposed Variation**).
- 33.3 Within the 30 day notice period, you can reject any part of the Proposed Variation. If you reject any part of the Proposed Variation, you acknowledge that we may terminate your Geoscape Developer Agreement on 30 days' notice to you. If we do so, we will refund to you any fees you have paid in advance on a pro-rata basis.
- 33.4 Any parts of a Proposed Variation that you do not reject in accordance with clause 33.3 will take effect at the end of the 30 day notice period.

## **34 Export control**

- 34.1 You acknowledge that export control and sanctions laws may prohibit you from selling, reselling, exporting, re-exporting, trading or otherwise transferring certain products and services within certain countries or with certain persons and organisations.
- 34.2 You must comply with all applicable export control and sanctions laws, rules and regulations during the term of your Geoscape Developer Agreement.

## **35 Miscellaneous**

- 35.1 In your Geoscape Developer Agreement:
- (a) the singular includes the plural and vice versa;
  - (b) the word person includes a firm, a body corporate, an unincorporated association, body or organisation established pursuant to international treaty, intergovernmental body, or government authority and other official authority;
  - (c) a reference to a document or legislation includes a reference to that document or legislation as varied, amended, novated or replaced from time to time;
  - (d) dollars (\$) means Australian dollars unless otherwise explicitly stated;
  - (e) the meaning of general words is not limited by specific examples introduced by 'includes', 'including', 'for example' or 'such as' or similar expressions;
  - (f) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes (including, but not limited to, persons taking by novation) and permitted assigns;
  - (g) no term will be construed to the disadvantage of a party merely because that party was responsible for its preparation or inclusion.
- 35.2 You must not assign any of your rights or obligations under your Geoscape Developer Agreement without our prior written consent. We may, to the extent permitted by law, assign or subcontract any of our rights or obligations under your Geoscape Developer Agreement at any time in circumstances where, in our opinion acting reasonably, the assignment will

*each other notice, we can consider it received on delivery if by hand, and within one hour if by email.*

*Finally, your agreement is governed by the laws of the Australian Capital Territory.*

not adversely affect your rights.

- 35.3 A failure to exercise or delay in exercising any right under your Geoscape Developer Agreement does not constitute a waiver and any right may be exercised in the future. Waiver of any rights under your Geoscape Developer Agreement must be in writing and is only effective to the extent set out in that written waiver.
- 35.4 If any term of your Geoscape Developer Agreement is void, unenforceable or illegal and would not be so if words were omitted, then those words are severed or, if this cannot be done, the entire term is severed from your Geoscape Developer Agreement without affecting the validity or enforceability of the remaining terms.
- 35.5 The termination of your Geoscape Developer Agreement does not operate to terminate any rights or obligations that by their nature are intended to survive termination or expiration, and those rights or obligations remain in full force and binding on the party concerned including without limitation the rights and obligations under clauses 9, 10, 11, 13, 14, 15, 16, 17, 21, 22, 23, 24, 27, 28, 29, 30, 32, 34, and 35.
- 35.6 Each party must:
- (a) do all acts necessary or desirable to give full effect to your Geoscape Developer Agreement; and
  - (b) refrain from doing anything which might prevent full effect being given to your Geoscape Developer Agreement.
- 35.7 The relationship between the parties is and will remain that of independent contractors, and nothing in your Geoscape Developer Agreement constitutes the parties as partners or joint venturers or constitutes any party as the agent of another party or gives rise to any other form of fiduciary relationship between the parties, except where expressed stated otherwise.
- 35.8 Other than where notices are required to be hand delivered by law, notices from a party must be delivered electronically and sent to the following email addresses:
- (a) where you send notice to us, our contact email address available through Geoscape Developer from time to time: and
  - (b) where we send notice to you, the contact email address you provide in your Geoscape Developer account.
- 35.9 Notices will be deemed to have been received:
- (a) by hand on delivery; and
  - (b) by email within one hour of the email being sent (unless the sender knows that the email has failed).
- 35.10 Your Geoscape Developer Agreement is governed by the laws in force in the Australian Capital Territory, and the parties agree to submit to the non-exclusive jurisdiction of the courts of the Australian Capital Territory.

## 36 Dictionary

In your Geoscape Developer Agreement, the words below have the following meanings:

**Australian Consumer Law** means Schedule 2 of the *Competition and Consumer Act 2010* (Cth) and any equivalent State or Territory legislation.

**App** means any application or integrated solution created by you that uses a Geoscape API and allows access

to our Data or Derived Material.

**Business Day** means any day except a Saturday, Sunday or public holiday in the place in which an act is to be done.

**Claim** means any claim, demand, suit, action or proceeding whether arising under contract (including under this agreement), in tort (including negligence), at common law, in equity, under statute, indemnity or otherwise.

**Confidential Information** means all information and other content disclosed by the parties to each other in connection with your Geoscape Developer Agreement and includes all information relating to Geoscape Developer, Geoscape APIs, Developer Documentation and our Data, but excludes information that:

- (a) is public knowledge or becomes available to a party from a source other than the other party (otherwise than as a result of a breach of confidentiality); or
- (b) is rightfully known to, or in the possession or control of a party and not subject to an obligation of confidentiality in accordance with the terms of your Geoscape Developer Agreement.

**Consequential Loss** means any Loss suffered by a party as a result of an act or omission of the other party that cannot reasonably be considered to arise naturally from that act or omission, including any loss of reputation, loss of actual or anticipated savings or loss of bargain, but excluding losses suffered by a third party for which a party becomes liable as a result of the other party's act or omission.

**Consumer** has the meaning provided to it in section 3 of the Australian Consumer Law.

**Consumer Guarantee** means a guarantee provided under Division 1 of Part 3-2 of the Australian Consumer Law.

**Data** means any data product that we make available through Geoscape APIs from time to time.

**Data Breach** means any:

- (a) loss of; or
- (b) unauthorised access to, use of, viewing, extraction, copying, transmission, disclosure or modification of,

Geoscape Developer, Geoscape APIs, Developer Documentation, our Data, Derived Material, Personal Information or Confidential Information.

**Developer Documentation** means any look-up tables, class or method documentation, code snippets, software development kit, API or function specification documents and other developer guide documentation we provide to you in connection with Geoscape Developer.

**Derived Material** means any product, service, output or other material that is created or developed using our Data, that may or may not contain our Data, and includes any product, service, output or other material that is created or developed using Derived Material. For example, a product that is created using our Data is Derived Material, and so is any secondary product that is created from that first product.

**End User** means any person to whom your App is distributed.

**Force Majeure Event** means any event arising from, or attributable to, acts, events, omissions or accidents which are beyond the reasonable control of a party.

**Geoscape Developer** means the portal through which developers can access Geoscape Developer APIs and Developer Documentation.

**Geoscape API** means an applicable programming interface service offered by us through Geoscape Developer.

**Geoscape Copyright Notice and Disclaimer** means the webpage available through the Geoscape Australia website that sets out the copyright and disclaimer information for our Data, as updated by us from time to time.

**Insolvency Event** means, in relation to a body corporate, a liquidation or winding up or the appointment of a voluntary administrator, receiver, manager or similar insolvency administrator to that body corporate or any substantial part of its assets; in relation to an individual or partnership, the act of bankruptcy, or entering into a scheme or arrangement with creditors; in relation to a trust, the making of an application or order in any court for accounts to be taken in respect of the trust or for any property of the trust to be brought into court or administered by the court under its control; or the occurrence of any event that has substantially the same effect to any of the preceding events.

**Intellectual Property Rights** means any and all intellectual and industrial property rights anywhere in the world including, but not limited, to the rights comprised in any copyright (including database rights), trade marks, patents, confidential information (including Confidential Information) and trade secrets, know-how and processes.

**Laws** means all laws, statutes, ordinances, rules, regulations, by-laws, decrees, orders and the like, whether of

a government or other authority or agency having jurisdiction over a party.

**Liability Cap** means an amount equal to the total amount of fees paid by you to us under your Geoscape Developer Agreement during the 12 months immediately preceding the first event giving rise to any Loss.

**Loss** means any loss, liability, cost (including all legal costs and other associated fees and costs), expense, damage, charge, penalty, outgoing or payment however arising, whether present, unascertained, immediate, future or contingent.

**Open Data** means any data subject to an open licence and includes the data described in the Geoscape Copyright Notice and Disclaimer as being open data.

**Personal Information** has the meaning given in the *Privacy Act 1988* (Cth).

**Privacy Laws** means:

- (c) the *Privacy Act 1988* (Cth), including the Australian Privacy Principles;
- (d) any applicable privacy code approved under *the Privacy Act 1988* (Cth); and
- (e) any other applicable laws or codes governing Personal Information;

as amended or replaced from time to time.

**Resolution Institute** means the Resolution Institute ACN 008 651 232.

**User Data** has the meaning given to it in clause 11.

All other terms have their plain English meaning. If you are unsure about the meaning of any terms used, please contact [support@geoscape.com.au](mailto:support@geoscape.com.au).

# Geoscape Developer

These Geoscape Developer Terms apply from:

- 22 October 2021 for new Developers or
- 27 November 2021 for Developers who had a Geoscape Developer account with us before 27 October 2021.

## Geoscape Developer Terms

### Welcome to the Geoscape Developer community!

Through Geoscape Developer, you can access our APIs to create apps and develop integrated solutions. You can use these apps and solutions yourself or make them available to your customers.

Our legal relationship with you is governed by your **Geoscape Developer Agreement**. It is made up of:

- these **Geoscape Developer Terms** (these **Terms**);
- your **subscription plan**, which may be one of our [standard plans](#) or a custom plan, such as an enterprise subscription plan;
- any [specific terms applicable to a Geoscape API](#) used by you; and
- any other **additional or custom terms** that are referred to in the documents above or that you agree to from time to time.

Please read each of the documents that form part of your Geoscape Developer Agreement carefully.

You can enter into a Geoscape Developer Agreement by agreeing to these Terms when prompted as part of your registration for a Geoscape Developer account. You can also enter into a Geoscape Developer Agreement by agreeing to a custom subscription plan, such as an enterprise subscription plan.

We've included a summary of the key parts of these Terms on the left side. However, it's the words on the right side that are legally binding.

If you have any questions about your Geoscape Developer Agreement or use of Geoscape APIs, please contact [support@geoscape.com.au](mailto:support@geoscape.com.au).

*These are our company details and who we understand you are.*

*If you'll be using Geoscape APIs on behalf of an organisation (like your employer) you're entering into a Geoscape Developer Agreement on behalf of that organisation. You promise us that you have authority to do that.*

In these Terms:

- **Geoscape Australia, we, us** and **our** refer to PSMA Australia Ltd trading as Geoscape Australia ABN 23 089 912 710 of Unit 6, 113 Canberra Avenue, Griffith in the Australian Capital Territory; and
- **Developer, you** and **your** refer to the individual registering for a Geoscape Developer account, or the organisation in whose name you are registering a Geoscape Developer account or that is described in the custom subscription plan that initiates your Geoscape Developer Agreement.

**Agreement on behalf of an organisation:** If you will be using Geoscape APIs on behalf of an organisation (for example, your employer), you enter into a Geoscape Developer Agreement for and on behalf of that organisation and promise us that you have authority to bind that organisation to the Geoscape Developer Agreement.

*Your agreement with us commences when you register for an account or agree to a custom subscription plan. It will continue until one of us terminates it.*

### 1 Commencement, term and renewal

- 1.1 Your Geoscape Developer Agreement commences on the date you:
  - (a) register for a Geoscape Developer account; or

Our [free subscription plan](#) applies by default. You can change your subscription plan through your Geoscape Developer account or by agreeing to a custom plan.

Your subscription to Geoscape APIs will automatically renew until one of us cancels it.

We offer a range of APIs. These APIs differ and may have specific terms that apply to their use. These specific terms are available [here](#).

You agree to use Geoscape APIs, and our Data accessible through them, in accordance with any applicable specific terms.

We have other products and services, like additional support plans. These may have their own terms, which will become part of your agreement with us if we offer them to you and you accept them.

If we agree to use Geoscape APIs on your behalf (for example, to do some batch processing), the fees for these services will be set out in our quotation and the terms of your agreement with us will apply to these services.

(b) agree to a custom subscription plan, whichever is earlier. It will continue until it is terminated in accordance with clause 26.

- 1.2 You must agree to a subscription plan to access Geoscape APIs. If we are offering a free subscription plan, you agree to that plan by default. You can change your subscription plan through Geoscape Developer or by agreeing to a custom subscription plan that we offer you.
- 1.3 For each Geoscape API that you subscribe to, your subscription will commence on the date that you agree to the relevant subscription plan and will automatically renew for further subscription periods equal to the initial subscription period, unless your subscription is cancelled in accordance with clause 25.
- 1.4 If your subscription period is longer than one month, we will give you notice at least 30 days before the renewal of your subscription.

## **2 Specific terms for Geoscape APIs**

- 2.1 Specific terms may apply to some Geoscape APIs. These specific terms are available through Geoscape Developer. They may grant additional permissions or impose additional restrictions, for example, in relation to the use of Data accessible through a Geoscape API.
- 2.2 Any such Geoscape API specific terms form part of your Geoscape Developer Agreement, and you agree to use Geoscape APIs in accordance with any specific terms that apply to them.

## **3 Terms for additional products and services**

- 3.1 We may offer you additional products or services related to Geoscape Developer. Additional terms may apply to them and will form part of your Geoscape Developer Agreement if you accept them.
- 3.2 We may offer to use Geoscape APIs on your behalf. For example, we may offer to undertake batch processing for you. Unless otherwise agreed:
  - (a) we will only provide such services once we receive written confirmation (email being sufficient) that you accept our quotation for the services;
  - (b) the fees for any such services will be as set out in our quotation for the services and are payable in advance;
  - (c) to the extent applicable, the terms of your Geoscape Developer Agreement apply to such services, including so that:
    - (i) any records that you supply to us for processing will be treated as User Data; and
    - (ii) any data that we return to you will be treated as Data accessed through the relevant Geoscape API.

*You need a Geoscape Developer account to access Geoscape APIs and manage your use of them.*

*You're responsible for what happens through your account. If something doesn't look right, you need to take steps to address that and tell us straight away.*

*You must use Geoscape Developer responsibly and fairly. For example, you mustn't create fake accounts, allow others to use your account, or unfairly take advantage of free plans or trials that we offer.*

*You must keep your account credentials and API keys and tokens confidential and secure.*

*You must also keep your account information up to date.*

*We can suspend or close your account if we suspect that you've used it inappropriately.*

*We offer a free subscription plan. You can read about it [here](#).*

*We can withdraw or change eligibility and conditions for this plan at any time.*

## **4 Your account**

- 4.1 You must register for a Geoscape Developer account to access Geoscape APIs. You can do so by following the directions on the Geoscape Developer registration page.
- 4.2 Once your account has been activated, you will be able to:
  - (a) subscribe to Geoscape APIs;
  - (b) obtain API keys or tokens for Geoscape APIs that you subscribe to;
  - (c) request additional API keys or tokens; and
  - (d) generally manage your use of Geoscape APIs.
- 4.3 You are responsible for all activity that occurs through your Geoscape Developer account and all fees associated with that activity. This includes any use of Geoscape APIs, your API keys and tokens, Developer Documentation, our Data, Derived Material, and your Apps, and the supply of User Data to us through use of Geoscape APIs.
- 4.4 If you think that there has been any unauthorised access to your account username, password or any API keys or tokens, you must take all reasonable steps to stop the unauthorised access (including by changing your account password) and notify us as soon as practicable by emailing [support@geoscape.com.au](mailto:support@geoscape.com.au).
- 4.5 You must:
  - (a) not create fake or unauthorised accounts;
  - (b) not register multiple accounts to unfairly benefit from free plans or trials we offer;
  - (c) not allow third parties to access or use your account or API keys or tokens; and
  - (d) maintain the confidentiality and security of your account credentials and your API keys or tokens.
- 4.6 You must keep your account information up to date. If your account information changes, you must update your account information through Geoscape Developer.
- 4.7 If we reasonably suspect that you do not comply with this clause 4, we may suspend or close your account.

## **5 Free subscription plans**

- 5.1 We offer free subscription plans at our discretion.
- 5.2 We can withdraw, limit eligibility or change the conditions of free subscription plans at any time, considering only our own interests and not the effect of any of these actions on you.
- 5.3 We can use any information available to us to determine eligibility for free subscription plans.
- 5.4 If we withdraw a free subscription plan that you have subscribed to or determine that you are not eligible for a free subscription plan, you will not be able to access Geoscape APIs that were subject to the free subscription



plan until you agree to a paid subscription plan for those Geoscape APIs.

*We may offer free trial access to Geoscape APIs from time to time.*

*We can withdraw or change eligibility and conditions for free trial access at any time.*

*We also offer paid subscription plans. You can read about our standard plans [here](#).*

*To subscribe to a paid plan, you need to provide a valid payment method and keep it up to date.*

*We use Stripe to process your payments. By making payment, you agree to the [Stripe Services Agreement](#).*

*Fees are payable monthly or yearly in advance from the date you subscribe.*

*For example, if you subscribe to a monthly subscription plan on the 30th of a month, you will be charged on the 30th of each subsequent month (except for in February, when you will be charged on the last day of the month).*

*Fees are based on the usage allowed by your subscription plan, not your actual usage.*

*If any payment fails and you do not rectify the non-payment, we may suspend your access.*

*Unless we tell you otherwise, all fees are GST inclusive.*

## **6 Free trial access**

- 6.1 We offer free trial access to Geoscape APIs at our discretion.
- 6.2 We may withdraw, limit eligibility or change the conditions of free trial access at any time, considering only our own interests and not the effect of any of these actions on you.
- 6.3 We may use any information available to us to determine eligibility for free trial access.
- 6.4 After any free trial period has ended, or if we withdraw free trial access or determine that you are not eligible for it, you will not be able to access Geoscape APIs that were subject to the free trial until you agree to a subscription plan for those Geoscape APIs.

## **7 Paid subscription plans**

- 7.1 Some Geoscape Developer products and services are only available if you have a paid subscription plan. You can subscribe to a paid plan through your Geoscape Developer account or by agreeing to a custom subscription plan offered to you by us.
- 7.2 When you subscribe to a paid plan, you must provide a valid payment method. You can update your payment method at any time through your Geoscape Developer account settings.
- 7.3 Fees must be paid using payment processing services provided by Stripe Payments Australia Pty Ltd and are subject to the Stripe Services Agreement found [here](#) (**Stripe Terms**). You should review the Stripe Terms before paying, as you will be taken to have agreed to the Stripe Terms and will be bound by them, as modified by Stripe Payments Australia Pty Ltd from time to time, when you do so.
- 7.4 Fees are payable monthly or yearly in advance from the date that you subscribe, depending on the subscription plan you select. If you subscribe to a monthly plan on the 29<sup>th</sup>, 30<sup>th</sup> or 31<sup>st</sup> of a month or a yearly plan on 29 February, we will charge you on the last day of the month when those dates do not arise in a month or year.
- 7.5 You authorise us to charge you your subscription fees for the next subscription period unless you cancel your subscription in accordance with clause 25 prior to the end of your current subscription period.
- 7.6 All fees are based on the usage limits described in your subscription plan, not your actual usage.
- 7.7 You are responsible for ensuring that your nominated payment method is valid and has sufficient funds to pay the subscription fees. If your payment fails and you do not update your payment method and rectify the non-payment, we may immediately suspend your access to



Geoscape APIs until we have received the outstanding payment in full.

- 7.8 Unless otherwise stated, all fees include GST and any other taxes, levies or duties payable.

*Subscriptions plans have defined usage limits. You can read about the limits in our standard plans [here](#).*

*If you hit your limit, we will let you know and your access will be suspended until the start of your next subscription period.*

*Alternatively, you can enable overage so that you can keep using Geoscape APIs. If you do, we will charge you for usage beyond your limit as described in your subscription plan.*

*Overage fees are automatically charged as part of your next billing cycle.*

*If you need usage limits that are higher than the ones offered in our standard subscription plans, please contact [support@geoscape.com.au](mailto:support@geoscape.com.au) to talk to us about custom subscription plan.*

*You can only use Geoscape APIs and related documentation for the purposes of creating, maintaining and delivering your Apps while you have an agreement with us.*

*You can only use our Data (and material created using our Data) personally or internally within your own business for the purposes of your day-to-day business operations. You can use it for as long as you like, provided you use it only as permitted by your agreement with us.*

*Note: [Specific terms](#) for a Geoscape API may grant additional permissions or impose additional restrictions on the use*

## **8 Usage limits and overage**

- 8.1 Usage limits measured in transactions, credits or API calls apply and are set out in your subscription plan. Usage limits will reset at the beginning of each subscription period.
- 8.2 If you reach your usage limit, we will notify you by email, and:
- (a) we may suspend your access to Geoscape APIs until the beginning of your next subscription period; or
  - (b) if you have enabled overage usage, we will allow you to exceed your usage limits and charge you for any usage above those limits at the rates set out in your subscription plan.
- 8.3 Overage fees are charged automatically and payable in arrears:
- (a) with the fees for your next subscription period or as otherwise specified in your subscription plan or nominated by you through your Geoscape Developer account; or
  - (b) if you cancel your subscription, at the end of your subscription period.
- 8.4 You can enable overage through your Geoscape Developer account or by agreeing to a custom subscription plan that we offer you. If you enable overage through your Geoscape Developer account, you can also disable overage through your account. If you enable overage through a custom subscription plan, you will need to agree any changes to that custom subscription plan with us.

## **9 Permitted use**

- 9.1 We grant you a world-wide, non-exclusive, revocable, non-transferrable licence to use:
- (a) Geoscape Developer, Geoscape APIs, and the API keys or tokens we provide to you to enable your access to Geoscape APIs personally or internally within your own business and only for the purposes of creating, maintaining and delivering your Apps during the term of your Geoscape Developer Agreement;
  - (b) Developer Documentation personally or internally within your own business and only for the purposes of helping you understand and use Geoscape APIs and our Data to support your creation, maintenance and delivery of your Apps during the term of your Geoscape Developer Agreement; and
  - (c) our Data and Derived Material accessed by you

*of our Data accessible through that API.*

*To protect us and our other customers, conditions apply to your use of our products and services. You must:*

- *only offer access to them through your Apps*
- *only permit use of our Data (and material created using our Data) for personal or internal business use*
- *not proxy them to offer a competitive service*
- *not allow your Apps to cache their responses*
- *not use them in any way that threatens their security, integrity or availability*
- *not use our Data (or material created using our Data) to develop capability, products or other material for commercialisation*
- *not reverse engineer or disassemble our Data or attempt to derive any process or source code used to create our Data*
- *not use them in any Apps that don't have appropriate instructions and warnings*
- *ensure that your Apps use them in secure way*
- *not use them with other material that would make them subject to open licence terms*
- *not use them for anything illegal, damaging or inappropriate*
- *cooperate with us in relation to your use of them and provide us with relevant information*
- *comply with all applicable laws*

*You can allow your contractors to use our products and services on your behalf, but you're responsible for their use and making sure it corresponds with your agreement with us.*

through Geoscape APIs and any further Derived Material created by you personally or internally within your own business and only for the purposes of your day-to-day business operations in perpetuity, subject to any specific terms that apply to the use of Data made available through a Geoscape API. For the avoidance of doubt, Data or Derived Material accessed by your End Users through your Apps should not be used by you unless you have made your own separate calls to Geoscape APIs to access that Data or Derived Material.

## 9.2 You must:

- (a) only make Geoscape APIs, our Data and Derived Material available to third parties through your Apps (that is, you must not resell, distribute, sublicense, or otherwise make them available on a standalone basis);
- (b) only permit End Users to use our Data and Derived Material personally or internally within their own business for the purposes of their day-to-day business operations, subject to any specific terms that apply to the use of Data made available through a Geoscape API;
- (c) not proxy Geoscape APIs for the purposes of offering a service that is competitive with Geoscape APIs;
- (d) ensure that your Apps do not cache, download or persistently store Geoscape API responses;
- (e) not use Geoscape Developer or Geoscape APIs in any way that threatens their security, integrity or availability (including by exceeding any throughput rates set out in your subscription plan or conducting performance or stress tests) or in any way that works around any of their technical limitations;
- (f) not use our Data or Derived Material to develop capability (including machine learning capability), products, services, outputs or other material (including machine learning algorithms) for commercialisation or potential commercialisation, noting that you are permitted to use Geoscape APIs to create Apps;
- (g) not reverse engineer, disassemble, decompile or adapt our Data or Derived Material or otherwise attempt to derive any processes, data structures, algorithms or source code used to create our Data;
- (h) not use Geoscape APIs, our Data or Derived Material in Apps that lack any legally-required or otherwise appropriate instructions, warnings, notices and safety information;
- (i) use appropriate technological and security measures to ensure that access and use of Geoscape APIs by you and through your Apps is secure;
- (j) not use Geoscape APIs, Developer Documentation, our Data or Derived Material in any manner or with

any other material that may make them subject to any open source software, open content or open database licence terms that would (A) cause their disclosure or distribution in whole or in part; (B) grant licences to any derivative works of them in whole or in part (C) cause their redistribution in whole or in part at no charge, as a condition for use, modification or distribution of the other material; or (D) otherwise restrict or impact their licensing or other use in whole or in part;

- (k) not use Geoscape Developer, Geoscape APIs, Developer Documentation, your Apps, our Data, or Derived Material for anything that, in our reasonable opinion, may be illegal, deceptive, misleading, unethical, incorrect, offensive, defamatory, or detrimental to our interests or reputation, may infringe any third party rights, or be otherwise inappropriate;
- (l) cooperate with us in relation to matters relating to your Geoscape Developer Agreement and provide us with access to information relating to your use and, where applicable, your End Users' use of Geoscape Developer, Geoscape APIs, Developer Documentation, your Apps, our Data or Derived Material; and
- (m) comply with all Laws applicable to use of Geoscape Developer, Geoscape APIs, Developer Documentation, your Apps, our Data and Derived Material.

9.3 Where applicable, you must take all reasonable steps to ensure that your End Users comply with clause 9.2. as though they were you.

9.4 Notwithstanding the restrictions in clauses 9.1 and 9.2, you may allow your contractors to use Geoscape Developer, Geoscape APIs, Developer Documentation, our Data, and Derived Material on your behalf and exclusively for your benefit on the condition that:

- (a) you are responsible for your contractors' use being in accordance with your Geoscape Developer Agreement as though your contractors are you;
- (b) any use that is not in accordance with your Geoscape Developer Agreement will be deemed to be a breach of your Geoscape Developer Agreement;
- (c) you ensure that your contractors stop using our products and services and do not retain any copies of Geoscape Data or Derived Material when they complete their work for you; and
- (d) you ensure that any termination or revocation of your rights granted under clause 9.1 will result in a corresponding termination or revocation of your contractors' rights.

*You must only offer access to Geoscape APIs, our Data and*

## **10 End User access**

10.1 If you make an App available to an End User, you must

*Derived Material through your Apps.*

*When you make an App available to your End Users, you need to have a legally binding agreement with them and meet the requirements of any [specific terms](#) applicable to the Geoscape APIs used by the App.*

*Your agreements with your End Users need to reflect and support your obligations under your agreement with us.*

*You need to make sure your End Users use your Apps (and our products and services available through them) only as permitted.*

*If you find out that your End User is doing something they shouldn't, you need to let us know promptly and cooperate with us to address that. If you don't, we may step into your shoes to take action against the End User.*

*We're always looking to improve our products and services. So, we may collect information about use of Geoscape Developer and Geoscape APIs.*

*We also encourage you to let us know if you identify any errors or have ideas about improvements.*

*We can use and disclose any such information to improve our products and services. And we will handle it in accordance with privacy laws and our [privacy policy](#).*

*If any such information is incorporated into our products and services, it will belong to us*

first put in place a legally binding agreement with the End User that reflects your obligations under your Geoscape Developer Agreement and otherwise meets the requirements of any [specific terms](#) applicable to the Geoscape APIs used by the App.

- 10.2 Where a term of your Geoscape Developer Agreement requires you to take reasonable steps to do something that requires the cooperation of an End User or to get an End User to do or refrain from doing something, those reasonable steps include incorporating into your agreement with the End User an obligation for the End User to cooperate as required or to either do or refrain from doing that thing.
- 10.3 You must take all reasonable steps to ensure that your End Users comply with their agreements with you and with any other terms required by the [specific terms](#) applicable to the Geoscape APIs used by an App.
- 10.4 If you become aware of any conduct by an End User that is in breach of the terms of their agreement with you or any other terms required by the [specific terms](#) applicable to the Geoscape APIs used by an App, you must promptly notify us and comply with our reasonable directions in relation to the breach, which may include:
  - (a) issuing a notice to the End User notifying them of the breach and requiring that it be remedied;
  - (b) suspending the End User's access to your Apps and rights to use our Data and Derived Material; and
  - (c) ending the End User's access to your Apps and, where applicable, revoking their rights to use our Data and Derived Material.
- 10.5 If you breach this clause 10, we may give you notice of the breach and, on the giving of such notice, you irrevocably appoint us as your agent for the purposes of enforcing your rights against an End User as they relate to use of Geoscape APIs, our Data or Derived Material. You must take all reasonable steps to ensure that End Users do not challenge the validity of our appointment.

## **11 User Data**

- 11.1 When you and your End Users use Geoscape Developer and Geoscape APIs, we may monitor that use and collect information about it, including information that you or your End Users process through Geoscape APIs (for example, addresses to be verified) (**User Data**).
- 11.2 User Data also includes any information you provide to us about errors, suggested corrections or improvements for our products and services.
- 11.3 We may use User Data and disclose it to third parties for the purposes of improving our products and services.
- 11.4 If User Data includes Personal Information, we will handle it in accordance with Privacy Laws and our [privacy policy](#). We will use reasonable endeavours to de-identify User Data before it is:

*and we can provide it to other customers.*

*Things change and eventually come to an end. Over time, that may include some of our products and services.*

*We'll let you know in advance about any significant changes, particularly if any aren't going to be backwards-compatible.*

*You're responsible for making sure that your Apps remain compatible with Geoscape APIs.*

*If we discontinue any products or services, your agreement will be varied accordingly to remove them and any fees payable specifically for them. And we'll refund you any fees you've paid in advance specifically for the discontinued products or services.*

*If you don't want to continue your subscription plan because we're making changes that reduce the overall functionality of Geoscape APIs for you, you can cancel your subscription plan. You'll need to pay your subscription fees up to the cancellation date, but we'll refund you any amounts you've paid for beyond that date.*

*Intellectual property is important to us and we always reserve our*

- (a) incorporated within our products or services; or
- (b) disclosed to third parties for the purposes of improving our products and services.

11.5 If any User Data is incorporated within our products or services, any Intellectual Property Rights in such User Data as it forms part of our products or services vest in us upon creation. The incorporation of User Data does not restrict our rights to distribute our products and services to our other customers.

## 12 **Modification or discontinuation**

12.1 You acknowledge that we may:

- (a) modify the features and functions of Geoscape APIs, including our Data delivered through them; and
- (b) discontinue the availability of any Geoscape APIs or our Data,

at our discretion (**a Modification or Discontinuation Event**).

12.2 We will give you notice of any significant Modification or Discontinuation Events in advance where we can reasonably do so. If the changes resulting from a Modification or Discontinuation Event are not backwards-compatible, we will use reasonable efforts to let you know at least 90 days prior to their implementation.

12.3 You are responsible for ensuring that your Apps remain compatible with the current Geoscape APIs.

12.4 If we discontinue the availability of any Geoscape APIs or Data as part of a Modification or Discontinuation Event, we may by notice to you vary your Geoscape Developer Agreement to remove the relevant Geoscape APIs or Data and any fees payable specifically for the discontinued Geoscape APIs or Data. If you have paid any fees in advance specifically for the discontinued Geoscape APIs or Data, we will refund you those fees on a pro-rata basis.

12.5 If you do not want your subscription plan to continue because a Modification or Discontinuation Event materially decreases the overall functionality for you of Geoscape APIs, you can cancel your subscription plan by demonstrating that impact to us and giving us notice within 30 days of receiving our notice under clause 12.2. The cancellation will take effect on the date nominated by you in your notice. You will be liable for your subscription fees up to the date on which your subscription plan is cancelled. However, we will refund to you any fees you have paid in advance for the period beyond that date on a pro-rata basis.

12.6 The refunds and right to cancel your subscription under this clause 12 are your sole remedy against us in respect of any Modification or Discontinuation Event.

## 13 **Intellectual Property**

rights.

*We promise that we're entitled to grant you rights to use our products and services, and that if you use them in accordance with your agreement with us, you won't infringe anyone else's rights.*

*You must let us know if someone may be infringing our rights or if anyone alleges that use of our products and services or any User Data infringes their rights.*

*You must cooperate with us to address any such infringement, including by keeping us informed and complying with our reasonable directions relating to the infringement.*

*Some of the source data we use is open and may be licensed directly to you under an open licence.*

*Information about any such open data and its open licence terms is available [here](#).*

13.1 There is no transfer of any Intellectual Property Rights in Geoscape Developer, Geoscape APIs, our Data, the Developer Documentation or any other products or services we provide to you under your Geoscape Developer Agreement. We reserve any Intellectual Property Rights not expressly granted to you under your Geoscape Developer Agreement.

13.2 Subject to clause 14, we warrant that we are entitled to grant you the licence in clause 9.1 and that the grant of that licence does not infringe the Intellectual Property Rights of any third parties.

13.3 You must notify us as soon as practicable if you become aware of any:

- (a) actual, suspected or anticipated infringement of our Intellectual Property Rights in Geoscape Developer, Geoscape APIs, Developer Documentation or our Data; or
- (b) use of Geoscape Developer, Geoscape APIs, Developer Documentation, our Data, Derived Material or User Data that infringes, or is alleged to infringe, the Intellectual Property Rights or other third party rights.

13.4 Where you notify us in accordance with clause 13.3 or we otherwise become aware of any such rights infringement, you must:

- (a) provide us with all relevant details regarding the infringement;
- (b) provide us with prompt updates on any developments regarding the infringement; and
- (c) comply with any reasonable directions from us relating to the infringement, including ceasing use of Geoscape Developer, Geoscape APIs, Developer Documentation or Data immediately on request from us.

13.5 If we direct you to cease using Geoscape Developer, Geoscape APIs, Developer Documentation or Data pursuant to clause 13.4(c), we may at our discretion:

- (a) refund you your subscription fees in respect of the affected products or services; or
- (b) obtain replacement products or services for you.

## **14 Open Data**

14.1 You acknowledge that:

- (a) our Data may be derived from or based upon Open Data;
- (b) notwithstanding any other term of your Geoscape Developer Agreement, to the extent that any such Open Data subsists in our Data, it is licensed directly to you under its open licence terms and is not licensed or sub-licensable under your Geoscape Developer Agreement; and
- (c) information about any such Open Data and its



open licence terms is set out in the [Geoscape Copyright Notice and Disclaimer](#).

*Our Data is subject to the [Geoscape Copyright Notice and Disclaimer](#).*

*You should read it for yourself, but in summary it:*

- *acknowledges our copyright in our Data and the copyright of our data providers*
- *explains that our Data is provided 'as is'*
- *excludes liability for losses arising from using our Data.*

*You must include the [Geoscape Copyright Notice and Disclaimer](#) with your Apps and copies of our Data (and any material created using it).*

*You mustn't remove copyright and disclaimer information embedded in Geoscape API responses.*

*We think our products and services are valuable. But you acknowledge that you need to make up your own mind about that, and not rely on what anyone else says they can do for you or others.*

*We provide our products and services 'as is'. This means that we don't make any promises about how accurate, complete, fit*

## **15 Copyright notices**

- 15.1 Our Data is subject to the [Geoscape Copyright Notice and Disclaimer](#).
- 15.2 You must take all reasonable steps to ensure that your Apps, our Data and any Derived Material, bear or appropriately reference the copyright and disclaimer information set out in the [Geoscape Copyright Notice and Disclaimer](#). This information must be no less prominent than any other copyright information provided.
- 15.3 For clarity, referencing the information set out in the [Geoscape Copyright Notice and Disclaimer](#) in the following manner is appropriate:
  - (a) for your Apps or any Derived Material:

"Incorporates or developed using [insert name of Data used] © Geoscape Australia [insert year of the App or Derived Material] Copyright and Disclaimer Notice"; or

"Incorporates or developed using [insert name of Data used] © Geoscape Australia [insert year of the App or Derived Material] for Copyright and Disclaimer Notice see [geoscape.com.au/legal/data-copyright-and-disclaimer](https://geoscape.com.au/legal/data-copyright-and-disclaimer)"; and
  - (b) for our Data obtained through your Apps:

"[insert name of Data] © Geoscape Australia [insert year Data is obtained] Copyright and Disclaimer Notice"; or

"[insert name of Data] © Geoscape Australia [insert year Data is obtained] for Copyright and Disclaimer Notice see [geoscape.com.au/legal/data-copyright-and-disclaimer](https://geoscape.com.au/legal/data-copyright-and-disclaimer)".
- 15.4 Where a reference to the [Geoscape Copyright Notice and Disclaimer](#) is embedded in Geoscape API responses, you must not remove those references or allow them to be removed.
- 15.5 You must comply with our additional reasonable directions about the form and content of the copyright and disclaimer information described in this clause 15.

## **16 Disclaimers**

- 16.1 You acknowledge that you have made your own assessment of Geoscape Developer, Geoscape APIs, Developer Documentation and our Data and have not relied on any information or advice given by us, or any person purporting to represent us, regarding these products and services and whether they are reasonably fit for any purpose for which they will be used by you or your End Users.
- 16.2 Geoscape Developer, Geoscape APIs, Developer Documentation and our Data are provided 'as is' and we

*for purpose or reliable they are.  
All this is subject to any rights  
you may have under the  
Australian Consumer Law.*

do not make any representations or provide any warranties (express or implied) about their accuracy or completeness, their fitness for any particular purpose or that they are without errors or faults. Any availability guarantees will be as specified in your Geoscape Developer support plan.

- 16.3 Notwithstanding the above, if you are a Consumer, nothing in your Geoscape Developer Agreement should be interpreted as attempting to exclude, limit or modify Consumer Guarantees available to you under the Australian Consumer Law that cannot be excluded, restricted or modified. Your remedies for any breach of a Consumer Guarantee that cannot be excluded, will, to the extent permitted by law, be limited at our option to replacing or repairing products, resupplying services, supplying equivalent products or services, or paying the cost of replacing or repairing products, resupplying services, or supplying equivalent products or services.

*Our Data is created using source  
data from a range of providers.*

*Our source data providers have  
not provided any representations  
or warranties about their data  
and do not have any liability to  
you.*

## **17 Source data providers**

17.1 You acknowledge and agree that:

- (a) our Data may include, be derived from or based on source data from third party providers;
- (b) our source data providers have not provided any representations or warranties about the accuracy or completeness of their source data or our Data, or their fitness for any particular purpose; and
- (c) our source data providers may rely on the acknowledgements and disclaimers set out in clause 16 to the extent that they relate to their source data; and
- (d) our source data providers will not be liable to you or your End Users for any inaccuracy or incompleteness of their source data or our Data, or any use of our Data by you or your End Users.

*Support is the bedrock of any  
good relationship. We will support  
you as described in your support  
plan.*

*You are responsible for  
supporting your End Users.*

*We can suspend, limit or throttle  
the availability of our products  
and services to address any  
emergency or misuse, comply  
with applicable laws, and in  
response to privacy or copyright  
'notice and take down' requests.  
We will promptly notify you if we  
do so.*

## **18 Support and availability**

- 18.1 We will provide support services and use reasonable endeavours to ensure that Geoscape Developer and Geoscape APIs are available to you as set out in your support plan, or other additional or custom terms agreed with us.
- 18.2 We do not provide support to your End Users. You are solely responsible for supporting your End Users.
- 18.3 We may suspend, limit or throttle access to and the availability of Geoscape Developer and Geoscape APIs:
- (a) to address any emergency, misuse or threat to the operation of Geoscape Developer and Geoscape APIs, actual or perceived;
  - (b) to comply with any applicable Laws, or to respond to requests or demands of a government entity; or
  - (c) pursuant to a privacy or copyright 'notice and take down' request or other alleged violation of



Intellectual Property Rights or other third party rights.

We will notify you as soon as practicable of any such suspension or limitation.

## **19 Beta Geoscape APIs**

- 19.1 From time to time, we may offer access to beta Geoscape APIs that we have not officially released for commercial use. Beta Geoscape APIs are made available for the purposes of testing and assessment only. All beta Geoscape APIs are subject to ongoing development and may not reach the level of performance of an officially released Geoscape API. We may decide not to officially release any beta Geoscape API for commercial use at our discretion.
- 19.2 Your use of any beta Geoscape API is entirely at your own risk.
- 19.3 We can change any version of a beta Geoscape API or withdraw its availability at any time.
- 19.4 You must not use a beta Geoscape API for commercial purposes (that is, purposes intended to generate profit or monetary compensation) without our prior written consent.
- 19.5 If you agree to join our beta Geoscape API program, you become a beta tester for any beta Geoscape APIs to which you have access and we may ask you to provide comments, suggestions and any other feedback on those beta Geoscape APIs. We may use any information that you provide to us in relation to a beta Geoscape API for any purpose.
- 19.6 You can leave the beta Geoscape API program at any time by notifying us.
- 19.7 The support and availability offered under clause 18 does not apply to beta Geoscape APIs. You can contact us at [beta@geoscape.com.au](mailto:beta@geoscape.com.au) for technical support in relation to beta Geoscape API. However, we are under no obligation to resolve any faults or errors in a beta Geoscape API.
- 19.8 In relation to any beta Geoscape API to which you have access, we will notify you if we:
- (a) significantly change a version of the beta Geoscape API;
  - (b) release a new version of the beta Geoscape API;
  - (c) withdraw the availability to you of a beta Geoscape API; or
  - (d) decide to officially release or not to officially release the beta Geoscape API.

*We may offer you access to beta Geoscape APIs that are still in development for the purpose of testing and assessment only.*

*Your use of any beta Geoscape APIs is at your own risk.*

*We can change or withdraw beta Geoscape APIs at any time.*

*You must not use beta Geoscape APIs for commercial purposes.*

*Our support plans do not apply to beta Geoscape APIs.*

*So, you want to use the fact that you use our products and services to promote your App? Fantastic! You can do so provided you acknowledge us properly,*

## **20 Publicity**

- 20.1 You must comply (and ensure that your personnel are aware of and comply) with all Privacy Laws and any recommendations made or guidelines issued by the Office

*cooperate with us and don't do anything that might hurt our reputation.*

*Unless you tell us otherwise, we can also use your trade marks on our website and in other marketing material to acknowledge that you are a Geoscape API customer.*

*You mustn't breach any Privacy Laws or do anything that might cause us to breach our obligations under Privacy Laws.*

*You must protect Personal Information by setting up appropriate safeguards and security measures.*

*You promise that you have consent to give us any Personal Information that you provide and will try to make sure that your End Users also have consent to give us any Personal Information that they provide through their use of your Apps.*

*You must use our products and services securely and keep any copies safe from unauthorised access.*

*You need to monitor your devices and systems for Data Breaches. If you become aware of a Data Breach or that one may occur, you need to tell us as soon as you can.*

of the Australian Information Commissioner.

20.2 You must:

- (a) take all reasonable steps to protect Personal Information in your possession or control from misuse, loss, unauthorised access, modification or disclosure, including implementing and maintaining appropriate administrative, physical, and technical safeguards and security measures; and
- (b) not do (or omit to do) anything with respect to Personal Information that causes or is likely to cause us to be in breach of our obligations under any Privacy Laws.

21.3 You warrant that you have consent to disclose any Personal Information that you provide to us in connection with your Geoscape Developer Agreement, and that you will use reasonable endeavours to ensure that your End Users also have consent to disclose any Personal Information that they disclose to us in the course of their use of your Apps.

## **21 Privacy**

21.1 You must comply (and ensure that your personnel are aware of and comply) with all Privacy Laws and any recommendations made or guidelines issued by the Office of the Australian Information Commissioner.

21.2 You must:

- (a) take all reasonable steps to protect Personal Information in your possession or control from misuse, loss, unauthorised access, modification or disclosure, including implementing and maintaining appropriate administrative, physical, and technical safeguards and security measures; and
- (b) not do (or omit to do) anything with respect to Personal Information that causes or is likely to cause us to be in breach of our obligations under any Privacy Laws.

21.3 You warrant that you have consent to disclose any Personal Information that you provide to us in connection with your Geoscape Developer Agreement, and that you will use reasonable endeavours to ensure that your End Users also have consent to disclose any Personal Information that they disclose to us in the course of their use of your Apps.

## **22 Security**

22.1 You must take all reasonable steps to ensure you keep Geoscape Developer, Geoscape APIs, Developer Documentation, our Data and Derived Material secure from misuse, loss, unauthorised access, modification or disclosure.

22.2 You must, in accordance with your industry best practice, monitor any systems used by you to access, process, hold or store Geoscape Developer, Geoscape APIs, Developer Documentation, our Data or Derived

*You must try to contain any Data Breach and remedy or limit any damage caused. You also need to provide us with a report about what happened, cooperate with us and take action to make sure that kind of Data Breach doesn't happen again.*

*We both agree to keep each other's confidence and only use each other's Confidential Information for the purposes contemplated by your agreement with us.*

*If either of us suspects a breach of the other's confidentiality, we must immediately let each other know and try to stop any further unauthorised use or disclosure.*

Material for actual or suspected Data Breaches.

- 22.3 If you become aware of a Data Breach or potential Data Breach, you must:
- (a) notify us as soon as practicable;
  - (b) use your best endeavours to promptly identify the cause of the Data Breach or potential Data Breach;
  - (c) use your best endeavours to prevent any potential Data Breach from becoming an actual Data Breach;
  - (d) promptly take all reasonable steps to contain a Data Breach and remedy or limit any damage caused;
  - (e) promptly provide us with a written report that covers the cause (or suspected cause) cause of the Data Breach or potential Data Breach, your procedure for containing it, any damage caused and the steps taken to remedy or limit any damage; and
  - (f) promptly disclose to us any information relevant to a Data Breach or potential Data Breach as reasonably requested by us; and
  - (g) co-operate with us and provide us with all reasonable assistance in investigating a Data Breach or potential Data Breach; and
  - (h) take all necessary steps to prevent any recurrence of a Data Breach or potential Data Breach.

## **23 Confidentiality**

### **23.1 Both parties:**

- (a) may use each other's Confidential Information solely for the purposes reasonably contemplated by your Geoscape Developer Agreement;
- (b) subject to 23.1(c) must keep confidential each other's Confidential Information; and
- (c) may disclose each other's Confidential Information only to:
  - (i) their employees, contractors and professional advisors who:
    - (A) are aware and agree that the Confidential Information must be kept confidential; and
    - (B) have a need to know the Confidential Information (and only to the extent that each has a need to know);
  - (ii) as required by law or securities exchange regulation; and
  - (iii) with the prior written consent of the other party.

- 23.2 Each party must notify the other immediately if they become aware of any breach of confidentiality in respect of the other's Confidential Information and must take all

reasonable steps necessary to prevent further unauthorised use or disclosure of the Confidential Information.

*We can audit you if we give you at least 5 Business Days' notice. You must cooperate and give us the information and access we need to do so.*

*If an audit reveals that you haven't met your obligations, you'll need to fix that, and we can suspend your access until you do.*

*If you've seriously breached your agreement with us, you'll need to pay the audit cost.*

*You need to give us 24 hours' notice to cancel a monthly paid subscription plan and 21 days' notice to cancel a yearly paid subscription plan. Your cancellation of a paid plan will be effective at the end of the subscription period that covers your notice. For example, if you give 21 days' notice on 15 March to cancel a paid yearly plan that started on 1 April, your cancellation will be effective on 31 March of the following year.*

*If you cancel your subscription, you won't be entitled to any refunds.*

*We can cancel your subscription on 30 days' notice. If we do, you can continue to use our APIs until the end of subscription period during which the 30 day notice period expires.*

*We can also cancel your subscription on 7 days' notice if*

## **24 Audit**

- 24.1 We may conduct an audit at any time on not less than 5 Business Days' notice to you.
- 24.2 You must, on request by us or our nominee, provide all requested documents and materials that relate to your Geoscape Developer Agreement and allow all necessary access to your systems and relevant employees, officers, agents, contractors and other representatives to verify compliance with your Geoscape Developer Agreement (including your privacy and data security obligations).
- 24.3 If an audit identifies any breach of your obligations under your Geoscape Developer Agreement:
  - (a) you must take all reasonable actions necessary to address the breach to our reasonable satisfaction; and
  - (b) we may suspend your Geoscape Developer Agreement (including access to our Geoscape APIs) until such a time as you take all reasonable actions in accordance with clause 24.3(a).
- 24.4 Where an audit reveals that you have materially breached your Geoscape Developer Agreement, you must pay for the cost of the audit.
- 24.5 Nothing in this clause 24 limits our ability to terminate your Geoscape Developer Agreement.

## **25 Cancellation of subscription plans**

- 25.1 You can cancel:
  - (a) a monthly paid subscription plan by giving us at least 24 hours' notice; and
  - (b) a yearly paid subscription plan by giving us at least 21 days' notice,through your Geoscape Developer account or by notifying us by email. The cancellation will be effective at the end of the subscription period during which your notice period expires. If we are offering a free subscription plan at that time, you will then agree to that free subscription plan by default.
- 25.2 You will not receive any refund of fees or other amounts paid to us if you cancel a paid subscription plan.
- 25.3 Any free subscription plan for a Geoscape API will be automatically cancelled if you subscribe to a paid subscription plan for that Geoscape API. You can otherwise cancel a free subscription plan at any time by closing your Geoscape Developer account.
- 25.4 We can cancel your subscription plan by giving you at least 30 days' notice. If we cancel your subscription plan under this clause, the cancellation will be effective at the end of the subscription period during which our 30 day

*your subscription plan is affected by changes in the law, your business or our arrangements with our providers. If we do that, we'll refund any fees you've paid in advance on a pro-rata basis.*

*You can terminate your agreement if we:*

- *breach our agreement, and don't fix it within 14 days of you asking us to;*
- *breach our agreement and that breach can't be fixed*
- *become insolvent.*

*We can terminate or suspend your agreement if you:*

- *use our products or services for a purpose that is not permitted under your agreement with us*
- *allow unauthorised access to or use of our products or services*
- *breach your agreement, and don't fix it within 14 days of us asking you to*
- *breach our agreement and that breach can't be fixed*
- *become insolvent*
- *have done something against the law*
- *otherwise damage our reputation or other interests*

*We can also terminate your agreement if all your subscription plans are cancelled or expire.*

*If you terminate your agreement under this clause (or we terminate under clause 33 because you've rejected our proposed variation) we'll refund any fees you've paid in advance on a pro-rata basis.*

notice period expires.

25.5 If there has been a change in any Laws, your business or our arrangements with providers affecting your subscription plan, we can cancel your subscription plan by giving you at least 7 days' notice. If we cancel your subscription plan under this clause:

- (a) the cancellation will be effective at the end of the notice period; and
- (b) we will refund to you any fees you have paid in advance for the period beyond that date on a pro-rata basis.

## **26 Termination**

26.1 Without limiting your other rights under your Geoscape Developer Agreement, and to the extent permitted by law, you can terminate your Geoscape Developer Agreement with immediate effect by written notice to us:

- (a) if we have breached any term of your Geoscape Developer Agreement and:
  - (i) if the breach is capable of remedy, we have not remedied the breach within 14 days of receiving notice from you requiring the breach to be remedied; or
  - (ii) the breach is not capable of remedy; or
- (b) if we are subject to an Insolvency Event.

26.2 Without limiting our other rights under your Geoscape Developer Agreement, and to the extent permitted by Law, we may terminate or suspend your Geoscape Developer Agreement, or any part of it, with immediate effect by written notice to you if we have reasonable grounds to suspect that you:

- (a) have used Geoscape Developer, Geoscape APIs, Developer Documentation, our Data or Derived Material for a purpose that is not permitted by your Geoscape Developer Agreement;
- (b) have allowed unauthorised access to or use of Geoscape Developer, Geoscape APIs, Developer Documentation, our Data or Derived Material;
- (c) have breached any other term of your Geoscape Developer Agreement and:
  - (i) if the breach is capable of remedy, have not remedied the breach within 14 days of receiving notice from us requiring the breach to be remedied; or
  - (ii) the breach is not capable of remedy;
- (d) are subject to an Insolvency Event;
- (e) have contravened any Laws; or
- (f) have otherwise caused damage to our reputation, goodwill or other interests by your act or omission.

26.3 We may also terminate your Geoscape Developer

Agreement if all your subscription plans are cancelled or expire for any reason.

- 26.4 Where your Geoscape Developer Agreement terminates in accordance with clauses 26.1 or 33.3, we will refund to you any fees you have paid in advance on a pro-rata basis.

*When your agreement ends, so do your subscription plans and your rights to use our services. Your Geoscape Developer account will be closed.*

*If you owe us any money, it becomes payable immediately.*

*You allow us to step into your shoes to take action against End Users in relation their use of our Data (or material created using it).*

*You must stop identifying yourself as a user of our products and services.*

*If we terminate your agreement because of your default, we may also end your rights to use our Data and material created using our Data. If we do, we may also require you to permanently delete it all.*

*As is standard market practice, we limit our liability to you and neither of us will be liable to each other for consequential losses.*

*We agree to cover each other's losses in certain circumstances.*

## **27 Effect of termination**

- 27.1 On termination of your Geoscape Developer Agreement for any reason:
- (a) all your subscription plans will be cancelled and your Geoscape Developer account will be closed;
  - (b) you must immediately pay any fees or other amounts due to be paid to us;
  - (c) you irrevocably appoint us as your agent for the purposes of enforcing your rights against your End Users as they relate to use of Geoscape APIs, our Data and Derived Material and you must take all reasonable steps to ensure that such End Users do not challenge the validity of that appointment;
  - (d) you must not identify yourself in any way as a user of Geoscape APIs or our Data;
  - (e) each party retains the rights it had against the other party in respect of any past breach, in addition to any other rights, powers or remedies provided by Law; and
  - (f) you must comply with our reasonable directions regarding the termination.
- 27.2 On termination of your Geoscape Developer Agreement in accordance with clause 26.2, we may revoke your licence to use our Data and Derived Material by notice to you. If this occurs, you must within 14 days of a request by us:
- (a) promptly and permanently delete any Data and Derived Material in your control or possession; and
  - (b) sign and return to us a statutory declaration confirming your compliance with this clause 27.2, in a form that is satisfactory to us.

## **28 Limitation of liability**

- 28.1 Our maximum aggregate liability to you for any Losses suffered by you in connection with your Geoscape Developer Agreement, however caused, including by our negligence, is limited to the Liability Cap per event or series of related events.
- 28.2 Neither party will be liable for any Consequential Losses arising from or in connection with your Geoscape Developer Agreement.

## **29 Indemnities**

- 29.1 You agree to indemnify us and our directors, officers,

*You agree to cover our losses that result from any misuse of our products or services by or through you, or any use of your Apps or material created using our Data.*

*We agree to cover your losses that result from claim that our products or services infringe someone else's rights except in certain circumstances, like where you've changed our products or services and those changes contribute to the claim or where you don't use the updates we supply. If you want us to cover these types of losses, you have to cooperate with us in relation to any claim and let us handle the legal proceedings.*

*We both have to try to mitigate any losses we do suffer.*

*If our own negligence contributes to a loss, we can't recover from each other to that extent.*

employees, agents, and contractors from and against all Claims and Losses reasonably incurred as a result of any use:

- (a) by or through you of Geoscape Developer, Geoscape APIs, Developer Documentation, our Data or Derived Material for a purpose or in a manner that is not permitted by your Geoscape Developer Agreement; or
- (b) of, or inability to use, your Apps or any other Derived Material created pursuant to your Geoscape Developer Agreement.

29.2 We agree to indemnify you from and against all Claims and Losses reasonably incurred as a result of a third party claim against you alleging that use of Geoscape Developer, Geoscape APIs, Developer Documentation or our Data infringes the Intellectual Property Rights of any person. However, we will not indemnify you:

- (a) to the extent you make any modifications to our products or services and those modifications contribute to the Claim or Losses;
- (b) where you use our products or services in combination with any hardware, software or other products or services in a manner that causes the actual or alleged infringement;
- (c) where the infringement arises due to your failure to use an update for our products or services that is made available to you by us;
- (d) where you do not comply with any specifications or directions provided by us relating to our products or services; or
- (e) where the actual or alleged infringement arises due to use of our products or services for a purpose or in a manner that is not permitted by your Geoscape Developer Agreement.

29.3 To rely on the indemnity in clause 29.2, you must:

- (a) allow us to conduct any legal proceedings;
- (b) provide us with all reasonable assistance to allow us to defend any Claim;
- (c) follow any reasonable direction we give you; and
- (d) not settle or make any admissions of liability without first obtaining our prior written consent.

29.4 Each party must mitigate its Losses that would otherwise be recoverable from the other party under your Geoscape Developer Agreement by taking appropriate and commercially reasonable steps to reduce or limit the amount of such Losses.

29.5 Each party's liability to indemnify the other party under this clause 29 will be reduced proportionally to the extent that any negligent act or omission of the indemnified party contributed to the Claim or Loss.

*If we have a disagreement, we*

## **30 Dispute Resolution**

*promise to be fair and reasonable with one another and do our best to resolve any dispute ourselves. If we can't, we may go to mediation before we decide to go to court.*

*If the nature of the dispute urgently requires it, either of us may seek a court order while we're working to resolve the dispute.*

30.1 If any dispute arises between the parties in connection with your Geoscape Developer Agreement, then both parties will first attempt to resolve the dispute by negotiation in good faith. If the dispute is not resolved within 20 Business Days of the date on which notice of the dispute is given by a party, either party may submit the dispute to mediation in accordance with this clause 30.

30.2 The mediation procedure will be:

- (a) either party may start mediation by serving a mediation notice on the other party on expiration of the 20 Business Day period referred to in clause 30.1;
- (b) the notice must state that a dispute has arisen and identify what the dispute is;
- (c) the parties should jointly appoint a mediator but if the parties fail to agree on the appointment within five Business Days of service of the mediation notice under clause 30.2(a), either party may apply to the Resolution Institute to appoint a mediator;
- (d) once a mediator has accepted their appointment, the parties must comply with the mediator's instructions;
- (e) the mediation will be held in Canberra, Australian Capital Territory, Australia in accordance with the mediation rules of the Resolution Institute; and
- (f) if the dispute is not resolved within 20 Business Days of the appointment of the mediator, or any other period agreed by the parties in writing, the mediation ceases.

30.3 The mediator may fix the costs for mediation, including the mediator's costs, which must be paid equally by the parties.

30.4 The mediation is confidential and statements made by the mediator or the parties, and discussions between the parties before, after or during the mediation, cannot be used in legal proceedings.

30.5 This clause is without prejudice to and does not limit the rights of a party to:

- (a) seek urgent injunctive relief against the other party at any time; or
- (b) exercise any right pursuant to the terms of your Geoscape Developer Agreement.

*Uncontrollable events can happen. If they do, neither of us will be responsible for any delay or failure to perform. This doesn't include your obligation to pay your fees.*

*If a delay or failure to perform continues for more than 30 days,*

## **31 Force Majeure**

31.1 A party will not be liable for any failure to perform or delay in performing its obligations under your Geoscape Developer Agreement if that failure or delay is due to a Force Majeure Event.

31.2 If that delay or failure to perform exceeds 30 days, either party may immediately terminate your Geoscape Developer Agreement by written notice to the other



*either of us can end your agreement with us.*

*We do our best, but sometimes things might not align perfectly across all of our documents.*

*If this happens, you should follow the documents that make up your agreement with us in the order of this list.*

*Your agreement with us might need to change to reflect changes in the law, your business or our arrangements with our providers. We will tell you about any of those changes at least 7 days before they are made.*

*If we want to make any other changes to the terms of your agreement, we will let you know at least 30 days beforehand.*

*You're allowed to say "no" to our proposed changes. But if you do, we're allowed to end your agreement with us on 30 days' notice. If we do that, we'll refund any fees you've paid in advance on a pro-rata basis.*

*You must follow any applicable export and sanctions laws.*

*This means that there may be certain countries, organisations and people that you can't use our products and services to do business with.*

*Last are what the lawyers call the 'boilerplates'. Don't worry, you are nearly there!*

party.

- 31.3 This clause 31 does not relieve you of or suspend your obligation to pay any Fees owed to us.

## **32 Inconsistency**

- 32.1 In the event of any inconsistency between these Terms and other documents which comprise your Geoscape Developer Agreement, the following order of precedence will apply to the extent of the inconsistency:
- (a) any subscription plan that you agree to;
  - (b) any specific terms applicable to a Geoscape API used by you;
  - (c) any other additional or custom terms incorporated by reference or that you agree to; and then
  - (d) these Terms.

## **33 Changes to your Geoscape Developer Agreement**

- 33.1 If there has been a change in any Laws, your business or our arrangements with providers affecting your Geoscape Developer Agreement, we may give you 7 days' notice that your Geoscape Developer Agreement will be varied to reflect the relevant change, and the variation will take effect at the end of the 7 day notice period.
- 33.2 Subject to clause 33.3 and where clause 33.1 does not apply, we may give you 30 days' notice that your Geoscape Developer Agreement will be varied (the **Proposed Variation**).
- 33.3 Within the 30 day notice period, you can reject any part of the Proposed Variation. If you reject any part of the Proposed Variation, you acknowledge that we may terminate your Geoscape Developer Agreement on 30 days' notice to you. If we do so, we will refund to you any fees you have paid in advance on a pro-rata basis.
- 33.4 Any parts of a Proposed Variation that you do not reject in accordance with clause 33.3 will take effect at the end of the 30 day notice period.

## **34 Export control**

- 34.1 You acknowledge that export control and sanctions laws may prohibit you from selling, reselling, exporting, re-exporting, trading or otherwise transferring certain products and services within certain countries or with certain persons and organisations.
- 34.2 You must comply with all applicable export control and sanctions laws, rules and regulations during the term of your Geoscape Developer Agreement.

## **35 Miscellaneous**

- 35.1 In your Geoscape Developer Agreement:

*You can't transfer any promises you make us or rights you have to someone else without our permission.*

*If we don't think it will adversely affect your rights, we can assign, subcontract and deal with our rights and obligations.*

*We both agree that we only waive our rights if we let one another know in writing that we're doing so.*

*If parts of your agreement with us are considered to be invalid or unenforceable, those parts will be severed, and the rest of your agreement will live on.*

*Speaking of living on, even after your agreement with us ends, you must make sure you still comply with some obligations.*

*Like in any good relationship, each of us will behave in a manner that supports the promises we've given to each other.*

*Your agreement with us doesn't make us legal partners. We're independent contractors to each other.*

*We should give each other notice by email where possible. When we give each other notice, we can consider it received on delivery if by hand, and within one hour if by email.*

*Finally, your agreement is governed by the laws of the Australian Capital Territory.*

- (a) the singular includes the plural and vice versa;
- (b) the word person includes a firm, a body corporate, an unincorporated association, body or organisation established pursuant to international treaty, intergovernmental body, or government authority and other official authority;
- (c) a reference to a document or legislation includes a reference to that document or legislation as varied, amended, novated or replaced from time to time;
- (d) dollars (\$) means Australian dollars unless otherwise explicitly stated;
- (e) the meaning of general words is not limited by specific examples introduced by 'includes', 'including', 'for example' or 'such as' or similar expressions;
- (f) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes (including, but not limited to, persons taking by novation) and permitted assigns;
- (g) no term will be construed to the disadvantage of a party merely because that party was responsible for its preparation or inclusion.

35.2 You must not assign any of your rights or obligations under your Geoscape Developer Agreement without our prior written consent. We may, to the extent permitted by law, assign or subcontract any of our rights or obligations under your Geoscape Developer Agreement at any time in circumstances where, in our opinion acting reasonably, the assignment will not adversely affect your rights.

35.3 A failure to exercise or delay in exercising any right under your Geoscape Developer Agreement does not constitute a waiver and any right may be exercised in the future. Waiver of any rights under your Geoscape Developer Agreement must be in writing and is only effective to the extent set out in that written waiver.

35.4 If any term of your Geoscape Developer Agreement is void, unenforceable or illegal and would not be so if words were omitted, then those words are severed or, if this cannot be done, the entire term is severed from your Geoscape Developer Agreement without affecting the validity or enforceability of the remaining terms.

35.5 The termination of your Geoscape Developer Agreement does not operate to terminate any rights or obligations that by their nature are intended to survive termination or expiration, and those rights or obligations remain in full force and binding on the party concerned including without limitation the rights and obligations under clauses 9, 10, 11, 13, 14, 15, 16, 17, 21, 22, 23, 24, 27, 28, 29, 30, 32, 34, and 35.

35.6 Each party must:

- (a) do all acts necessary or desirable to give full effect to your Geoscape Developer Agreement; and
- (b) refrain from doing anything which might prevent

full effect being given to your Geoscape Developer Agreement.

- 35.7 The relationship between the parties is and will remain that of independent contractors, and nothing in your Geoscape Developer Agreement constitutes the parties as partners or joint venturers or constitutes any party as the agent of another party or gives rise to any other form of fiduciary relationship between the parties, except where expressed stated otherwise.
- 35.8 Other than where notices are required to be hand delivered by law, notices from a party must be delivered electronically and sent to the following email addresses:
- (a) where you send notice to us, our contact email address available through Geoscape Developer from time to time: and
  - (b) where we send notice to you, the contact email address you provide in your Geoscape Developer account.
- 35.9 Notices will be deemed to have been received:
- (a) by hand on delivery; and
  - (b) by email within one hour of the email being sent (unless the sender knows that the email has failed).
- 35.10 Your Geoscape Developer Agreement is governed by the laws in force in the Australian Capital Territory, and the parties agree to submit to the non-exclusive jurisdiction of the courts of the Australian Capital Territory.

## 36 Dictionary

In your Geoscape Developer Agreement, the words below have the following meanings:

**Australian Consumer Law** means Schedule 2 of the *Competition and Consumer Act 2010* (Cth) and any equivalent State or Territory legislation.

**App** means any application or integrated solution created by you that uses a Geoscape API and allows access to our Data or Derived Material.

**Business Day** means any day except a Saturday, Sunday or public holiday in the place in which an act is to be done.

**Claim** means any claim, demand, suit, action or proceeding whether arising under contract (including under this agreement), in tort (including negligence), at common law, in equity, under statute, indemnity or otherwise.

**Confidential Information** means all information and other content disclosed by the parties to each other in connection with your Geoscape Developer Agreement and includes all information relating to Geoscape Developer, Geoscape APIs, Developer Documentation and our Data, but excludes information that:

- (a) is public knowledge or becomes available to a party from a source other than the other party (otherwise than as a result of a breach of confidentiality); or
- (b) is rightfully known to, or in the possession or control of a party and not subject to an obligation of confidentiality in accordance with the terms of your Geoscape Developer Agreement.

**Consequential Loss** means any Loss suffered by a party as a result of an act or omission of the other party that cannot reasonably be considered to arise naturally from that act or omission,

including any loss of reputation, loss of actual or anticipated savings or loss of bargain, but excluding losses suffered by a third party for which a party becomes liable as a result of the other party's act or omission.

**Consumer** has the meaning provided to it in section 3 of the Australian Consumer Law.

**Consumer Guarantee** means a guarantee provided under Division 1 of Part 3-2 of the Australian Consumer Law.

**Data** means any data product that we make available through Geoscape APIs from time to time.

**Data Breach** means any:

- (a) loss of; or
- (b) unauthorised access to, use of, viewing, extraction, copying, transmission, disclosure or modification of,

Geoscape Developer, Geoscape APIs, Developer Documentation, our Data, Derived Material, Personal Information or Confidential Information.

**Developer Documentation** means any look-up tables, class or method documentation, code snippets, software development kit, API or function specification documents and other developer guide documentation we provide to you in connection with Geoscape Developer.

**Derived Material** means any product, service, output or other material that is created or developed using our Data, that may or may not contain our Data, and includes any product, service, output or other material that is created or developed using Derived Material. For example, a product that is created using our Data is Derived Material, and so is any secondary product that is created from that first product.

**End User** means any person to whom your App is distributed.

**Force Majeure Event** means any event arising from, or attributable to, acts, events, omissions or accidents which are beyond the reasonable control of a party.

**Geoscape Developer** means the portal through which developers can access Geoscape Developer APIs and Developer Documentation.

**Geoscape API** means an applicable programming interface service offered by us through Geoscape Developer.

**Geoscape Copyright Notice and Disclaimer** means the webpage available through the Geoscape Australia website that sets out the copyright and disclaimer information for our Data, as updated by us from time to time.

**Insolvency Event** means, in relation to a body corporate, a liquidation or winding up or the appointment of a voluntary administrator, receiver, manager or similar insolvency administrator to that body corporate or any substantial part of its assets; in relation to an individual or partnership, the act of bankruptcy, or entering into a scheme or arrangement with creditors; in relation to a trust, the making of an application or order in any court for accounts to be taken in respect of the trust or for any property of the trust to be brought into court or administered by the court under its control; or the occurrence of any event that has substantially the same effect to any of the preceding events.

**Intellectual Property Rights** means any and all intellectual and industrial property rights anywhere in the world including, but not limited, to the rights comprised in any copyright (including database rights), trade marks, patents, confidential information (including Confidential Information) and trade secrets, know-how and processes.

**Laws** means all laws, statutes, ordinances, rules, regulations, by-laws, decrees, orders and the like, whether of a government or other authority or agency having jurisdiction over a party.

**Liability Cap** means an amount equal to the total amount of fees paid by you to us under your Geoscape Developer Agreement during the 12 months immediately preceding the first event giving rise to any Loss.

**Loss** means any loss, liability, cost (including all legal costs and other associated fees and costs), expense, damage, charge, penalty, outgoing or payment however arising, whether present,

unascertained, immediate, future or contingent.

**Open Data** means any data subject to an open licence and includes the data described in the Geoscape Copyright Notice and Disclaimer as being open data.

**Personal Information** has the meaning given in the *Privacy Act 1988* (Cth).

**Privacy Laws** means:

- (c) the *Privacy Act 1988* (Cth), including the Australian Privacy Principles;
- (d) any applicable privacy code approved under *the Privacy Act 1988* (Cth); and
- (e) any other applicable laws or codes governing Personal Information;

as amended or replaced from time to time.

**Resolution Institute** means the Resolution Institute ACN 008 651 232.

**User Data** has the meaning given to it in clause 11.

All other terms have their plain English meaning. If you are unsure about the meaning of any terms used, please contact [support@geoscape.com.au](mailto:support@geoscape.com.au).

# Geoscape Terms of Use

These Geoscape Terms of Use (**these Terms**) set out the terms and conditions on which you can use our Geoscape website (**our Website**) and Geoscape Data on Demand.

These Terms legally bind you where you:

- access our Website; or
- register for a Geoscape Account to access Geoscape Data on Demand and agree to these Terms when prompted.

You agree that when you register a Geoscape Account or access our Website, you do so on behalf of your organisation, unless you are clearly registering an account or accessing our Website as an individual.

Where you register a Geoscape Account or access our Website on behalf of your organisation (as its employee, officer, agent, contractor or other representative), you warrant to us that you have full legal authority to bind your organisation to these Terms.

We've included a brief explanation of each part of these Terms on the left side to help you understand them. However, it's the words on the right side that legally bind you.

*We provide access Sample Data so that you can assess the data we offer and decide whether it is suitable for your business.*

*Sample Data is free, but your licence to use it is very limited. You must only use it to evaluate its suitability. You must not use it in any commercial way.*

*It's also important that you don't change any names or notices on our Sample Data to make it less clear who owns it.*

*At the end of any period we have set for you to evaluate the Sample Data, you must permanently delete it.*

*We make no representation or warranties regarding this Sample Data, except that we are allowed to give it to you and that your evaluation of it won't breach anyone else's rights.*

*You can download Sample Data that we explicitly make available for download, but you mustn't download, extract, scrape or otherwise harvest any other data from Geoscape Data on Demand or our Website.*

## Evaluating our Sample Data

- 1.1 From time to time we may make Sample Data available through Geoscape Data on Demand or our Website.
- 1.2 We grant you a limited, worldwide, non-exclusive, non-sublicensable, non-transferrable licence to use Sample Data strictly for the purpose of internally evaluating the suitability of the Sample Data and Geoscape Data on Demand for your business needs (the **Permitted Purpose**) in accordance with these Terms.
- 1.3 You must not commercially exploit Sample Data in any way, including by using it to develop capability (including machine learning capability), products, services, outputs or other material (including machine learning algorithms) for commercialisation or potential commercialisation.
- 1.4 You must not remove, deface, change, distort, delete or cover up:
  - (a) any name or mark on the Sample Data which indicates that we are the owner of the Data; or
  - (b) any copyright or other proprietary notices which appear in writing on or in any part of the Sample Data.
- 1.5 Your licence to use Sample Data may be:
  - (a) limited to a trial period nominated by us, which we may change by notice to you; and
  - (b) subject to other restrictions or limitations notified to you by us from time to time.
- 1.6 At the end of any trial period nominated by us under clause 1.5(a), you must permanently delete any copies of Sample Data in your possession or control and, if requested by us, provide us with evidence or a statutory declaration satisfactory to us that you have permanently deleted the Sample Data.
- 1.7 The Sample Data is provided 'as is' and neither we, nor our source data providers make any representations or give any warranties regarding the accuracy or completeness of the

Sample Data, or that the Sample Data is suitable for your particular business needs.

1.8 We warrant that we are entitled to grant you the licence to use the Sample Data pursuant to clause 1.2 and that the grant of that licence does not infringe the Intellectual Property Rights of any third party.

1.9 You may download Sample Data that we explicitly make available for download. However, you must not otherwise download, extract, scrape or otherwise harvest data from Geoscape Data on Demand or our Website.

*If you're an organisation, you can authorise people within your organisation to use your Geoscape Account on the organisation's behalf. We call them your Authorised Users.*

*However, you're responsible for what your Authorised Users do and you must make sure they comply with these Terms on behalf of your organisation.*

## 2. **Authorised Users**

2.1 You may authorise your employees, officers, agents, contractors and other representatives to use your Geoscape Account on your behalf and exclusively for your benefit. In these Terms, they are known as your Authorised Users.

2.2 You are responsible for ensuring that your Authorised Users use your Geoscape Account in accordance with these Terms, as though they are you.

*We may change the features or functions of Geoscape Data on Demand and our Website from time to time without notice. We're not obliged to make any changes for you.*

*We may also change these Terms from time to time. If you have a Geoscape Account with us, we will let you know about these changes in advance.*

*If you don't want your Geoscape Account to continue because of changes to these Terms, you should close your Geoscape Account. You may also terminate any Subscription Agreement you have with us. If you do terminate your Subscription Agreement because we've changed these Terms, we'll give you a refund for any unused data credits.*

## 3. **Change**

3.1 We may vary the features, functions, content and other benefits available to you and your Authorised Users as part of Geoscape Data on Demand and our Website from time to time, without providing prior notice of the variation to you.

3.2 Nothing in these Terms imposes any obligation on us to develop, release or install for you any content, updates, upgrades, patches, bug fixes, new releases or new versions in relation to Geoscape Data on Demand or our Website.

3.3 You agree that we may vary these Terms from time to time. If you have a Geoscape Account, we will give you notice of any changes to these Terms, and these changes will take effect 30 days from the date on which we give you notice. If you do not want your Geoscape Account to continue after we have changed these Terms, you should close your Geoscape Account and terminate any Subscription Agreement you have with us. If you do terminate a Subscription Agreement under this clause, we will refund to you any amounts you have already paid for Data Credits (as defined in your Subscription Agreement) that you will not use.

*Not everything on Geoscape Data on Demand or our Website is ours. You acknowledge that we may use third parties for some features and functionality, and that additional third party terms apply when we*

## 4. **Third Party Applications**

4.1 Geoscape Data on Demand and our Website interact with Third Party Applications, and require Third Party Applications or Third Party Providers to be used for particular features or functionality.

do.	
<i>Since we can't control them, we don't make any representations or give any warranties about Third Party Applications.</i>	
	4.2 You acknowledge that these Third Party Applications are subject to the Third Party Provider Terms set out in clause 4.4, and you must ensure that your use (including use by any Authorised User) of these Third Party Applications complies with the relevant Third Party Provider Terms.
	4.3 We do not make any representations or give any warranties regarding Third Party Applications.
	4.4 The Third Party Applications used by Geoscape Data on Demand and our Website include those listed below, which are subject to the following terms ( <b>Third Party Provider Terms</b> ):
	(a) Apollo Graph Manager:
	(i) terms of service: <a href="https://www.apollographql.com/Apollo-Terms-of-Service.pdf">https://www.apollographql.com/Apollo-Terms-of-Service.pdf</a> ;
	(ii) privacy policy: <a href="https://www.apollographql.com/Apollo-Privacy-Policy.pdf">https://www.apollographql.com/Apollo-Privacy-Policy.pdf</a> ;
	(b) Amazon Web Services: <a href="https://aws.amazon.com/legal/">https://aws.amazon.com/legal/</a> ;
	(c) Intercom: <a href="https://www.intercom.com/terms-and-policies#terms">https://www.intercom.com/terms-and-policies#terms</a> ;
	(d) HelpHero:
	(i) terms of service: <a href="https://helphero.co/terms">https://helphero.co/terms</a> ;
	(ii) privacy policy: <a href="https://helphero.co/privacy/">https://helphero.co/privacy/</a> ;
	(e) Mapbox: <a href="https://www.mapbox.com/legal/tos/">https://www.mapbox.com/legal/tos/</a> ;
	(f) Sentry: <a href="https://sentry.io/terms/">https://sentry.io/terms/</a> ; and
	(g) Stripe:
	(i) services agreement: <a href="https://stripe.com/au/legal">https://stripe.com/au/legal</a> ; and
	(ii) privacy policy: <a href="https://stripe.com/au/privacy">https://stripe.com/au/privacy</a> .
<i>We may provide links to Third Party Websites. Their inclusion is for your convenience and is not an endorsement by us.</i>	5. <b>Links to Third Party Websites</b>
<i>We're not responsible for any content on Third Party Websites.</i>	5.1 Geoscape Data on Demand and our Website may contain links to other websites that are owned and operated by third parties and not under our control ( <b>Third Party Websites</b> ).
	5.2 Links to Third Party Websites on Geoscape Data on Demand or our Website are provided as a convenience to you and not as an endorsement of the Third Party Websites, their content or their owners and operators.
	5.3 We are not responsible for the content on any Third Party Website.
<i>Security is very important to us.</i>	6. <b>Username and passwords</b>
<i>You must ensure that you take care of your passwords and usernames by protecting and not</i>	6.1 You are responsible for maintaining, securing and protecting the username and password to access your Geoscape



sharing them.

*If your usernames or passwords are compromised, you must immediately notify us and take steps to change your password.*

- Account, and ensuring that they are used only by you or any Authorised User to whom they have been issued.
- 6.2 If an Authorised User ceases to be employed or engaged by you, or is no longer authorised by you to access Geoscape Data on Demand, you must ensure that they are no longer able access and use Geoscape Data on Demand on your behalf.
- 6.3 You must not:
- (a) transfer usernames and passwords;
  - (b) allow usernames and passwords to be transferred between Authorised Users or other individuals; or
  - (c) create, or allow third parties to create on your behalf, accounts with us through unauthorised means, including by using an automated device, script, bot or other similar means.
- 6.4 You must immediately notify us if a username and password are lost, stolen, missing or otherwise compromised and take immediate steps to change the relevant password.
- 6.5 We reserve the right to change or revoke usernames and passwords at any time. If we do so, we will provide you with written notice.

*You have a number of responsibilities and obligations when you access our Website or Geoscape Data on Demand. You should familiarise yourself with them. They include:*

- *not reverse engineering or de-compiling Geoscape Data on Demand or our Website;*
- *not trying to circumvent or break any encryption we have in place; and*
- *not permitting anyone other than your Authorised Users to use Geoscape Data on Demand; and*
- *not uploading any Unacceptable Content.*

*If we have reason to believe you have uploaded Unacceptable Content, we may remove it.*

## **7. Your responsibilities and obligations**

- 7.1 You are responsible for ensuring that your use, and use by your Authorised Users, of Geoscape Data on Demand complies with all applicable laws, regulations and codes of conduct and does not infringe the Intellectual Property Rights or other rights of any person.
- 7.2 You must:
- (a) not modify, adapt, translate, reverse engineer, de-compile, disassemble or copy all or any part of Geoscape Data on Demand or our Website;
  - (b) not interfere with or disrupt Geoscape Data on Demand or our Website, including by transmitting any viruses, spyware, malware or any other code of a destructive or disruptive nature;
  - (c) immediately notify us if you become aware of any breach of the provisions of these Terms by you or an Authorised User;
  - (d) comply with any Documentation made available by us to you from time to time;
  - (e) not attempt to circumvent or break any encryption, decryption or other security device or technological protection measure contained in Geoscape Data on Demand or our Website;
  - (f) not distribute any part of Geoscape Data on Demand for commercial purposes or otherwise sublicense or resell access to Geoscape Data on Demand;
  - (g) not permit any person other than your Authorised Users to use Geoscape Data on Demand; and
  - (h) not, and must ensure that your Authorised Users do not, upload any Unacceptable Content to Geoscape Data on Demand.

- 7.3 If we reasonably believe that any Unacceptable Content has been uploaded to Geoscape Data on Demand, we may remove this Unacceptable Content.

*You should read our [Privacy Policy](#). It describes how we handle your Personal Information.*

## 8. Privacy

We handle any Personal Information collected in the course of you using our Website or providing you and your Authorised Users with Geoscape Data on Demand in accordance with our [Privacy Policy](#).

*We don't guarantee that Geoscape Data on Demand and our Website will always be available.*

## 9. Availability

*We will try to let you know about any scheduled downtime in advance, but sometimes this may not be possible.*

- 9.1 We strive to make Geoscape Data on Demand and our Website available 24/7, but from time to time Geoscape Data on Demand or our Website, or some of their features or functions, may be unavailable (for example, due to scheduled or unscheduled maintenance of Geoscape Data on Demand, our Website or Geoscape Infrastructure).
- 9.2 If you have a Geoscape Account, we will give you notice of any scheduled unavailability of Geoscape Data on Demand or our Website where we can reasonably do so.

*If you have a Geoscape Account, we may close it at any time if you are only using it as part of a Trial.*

## 10. Termination

*If you use your Geoscape Account for other purposes (for example, to order Data from us as part of a subscription) we can only close your Geoscape Account in certain circumstances, including where:*

- *we terminate your Subscription Agreement for cause;*
- *you breach of these Terms and that breach can't be fixed;*
- *you breach these Terms and don't fix it within 7 days of us asking you to;*
- *you become insolvent.*

*We may block your access to our Website for any reason, including if we think you don't or won't comply with these Terms.*

- 10.1 If you use Geoscape Data on Demand as part of a Trial only, we may terminate or suspend your Geoscape Account (and access to Geoscape Data on Demand), including the licence granted in clause 1.2 of these Terms, without cause and with immediate effect by notice to you.
- 10.2 If you use Geoscape Data on Demand other than as part of a Trial (for example, under a Subscription Agreement), we may, by written notice to you, terminate your Geoscape Account (and access to Geoscape Data on Demand) with immediate effect if we have reasonable grounds to suspect that you:
- (a) have contravened or are contravening any laws;
  - (b) have breached any terms of your Subscription Agreement, and we terminate your Subscription Agreement in accordance with those terms;
  - (c) due to your act or omission, have caused damage to our reputation, goodwill or other interests;
  - (d) due to your act or omission, allowed unauthorised access to our Data or Geoscape Data on Demand;
  - (e) have breached these Terms and:
    - (i) if the breach is capable of remedy, have not remedied the breach within 14 days of receiving notice from us requiring the breach to be remedied; or
    - (ii) the breach is not capable of remedy; or
  - (f) are subject to an Insolvency Event;

- 10.3 Upon termination of your Geoscape Account, you must immediately cease using, and ensure that each Authorised User ceases using, Geoscape Data on Demand, and we may disable all of your, and your Authorised Users', usernames and passwords.
- 10.4 We may prevent you from accessing our Website in our sole discretion for any reason, including if we have reason to believe that you have breached these Terms, you do not intend to comply with these Terms, you are unable to comply with these Terms or to otherwise protect our business interests.

*We both agree to keep each other's Confidential Information confidential.*

*If either of us suspects a breach of the other's confidentiality, we must immediately let each other know and try to stop any further unauthorised use or disclosure.*

## 11. Confidentiality

### 11.1 Both parties:

- (a) may use the other party's Confidential Information solely for the purposes set out in or reasonably contemplated by these Terms;
- (b) must keep confidential all the other party's Confidential Information; and
- (c) may disclose the other party's Confidential Information only:
  - (i) to their employees, contractors and professional advisors who:
    - (A) are aware and agree that the Confidential Information must be kept confidential; and
    - (B) have a need to know the Confidential Information (and only to the extent that each has a need to know),
  - (ii) as required by law or securities exchange regulation; and
  - (iii) with the prior written consent of the other party.

- 11.2 Each party must notify the other immediately if they become aware of any breach of confidentiality in respect of the other's Confidential Information and must take all reasonable steps necessary to prevent further unauthorised use or disclosure of the Confidential Information.

*Your only rights to use our intellectual property are those expressly set out in these Terms, for example the right to use Sample Data under clause 1.*

## 12. Intellectual Property

Except as otherwise expressly set out in these Terms (including in clause 1), you acknowledge that nothing in these Terms grants you any rights or ownership in respect of Intellectual Property Rights in Geoscape Data on Demand, our Website, our Data, or any Documentation.

*Geoscape Data on Demand and our Website are offered 'as is' and 'as available' – we do not make any representations or give any guarantees about them.*

## 13. Disclaimer

- 13.1 Geoscape Data on Demand and our Website are provided to you on an 'as is' and 'as available' basis. Subject to clause 14.1, We do not make any representations or give any warranties or guarantees:

- (a) about the accuracy, reliability or completeness of Geoscape Data on Demand or our Website or any content provided through them;
- (b) that your access to Geoscape Data on Demand or our Website will be uninterrupted, error free or free from

- corruption, viruses, interference, hacking or other security intrusion;
- (c) that Geoscape Data on Demand or our Website will be fit for any particular purpose.

*Nothing in these Terms excludes or limits any of your rights under the Australian Consumer Law.*

*However, other than where the Consumer Guarantees apply, we exclude all liability to you and exclude any warranties regarding the performance of Geoscape Data on Demand or Our Website.*

*Neither of us will be responsible for any Consequential Loss.*

14. **Liability**

14.1 Nothing in these Terms should be interpreted as attempting to exclude, restrict or modify the application of any Consumer Guarantees under the Australian Consumer Law.

14.2 Subject to clause 14.1 and notwithstanding any other provision of these Terms, we will not be liable for any Loss suffered by you which arises out of or in connection with your use of Geoscape Data on Demand or our Website, including any Loss arising from:

- (a) any computer viruses or malicious code being transferred by or obtained as a result of the use of Geoscape Data on Demand or our Website; or
- (b) any hacking into, data security issues or other similar attacks on Geoscape Data on Demand, our Website or the Geoscape Infrastructure.

14.3 Neither party will be liable for any Consequential Loss (however caused) suffered or incurred by the other party in connection with these Terms.

*Last are what the lawyers call the 'boilerplates'. You are nearly there!*

*This agreement is governed by the laws of the Australian Capital Territory.*

*If we can't keep our promises because of some unavoidable, catastrophic incident (imagine a prolonged power outage, extreme natural disaster or an outbreak of war), neither of us will hold that against each other.*

*If any part of these Terms is found to be unworkable, that should not impact the rest of these Terms. The unworkable part should simply be removed.*

*The meaning of general words isn't limited by any specific examples included in these Terms.*

15. **General provisions**

15.1 These Terms are governed by the laws in force in Australian Capital Territory, and the parties submit to the non-exclusive jurisdiction of the courts of the Australian Capital Territory and the Federal Court of Australia.

15.2 A party will not be liable for any failure to perform or delay in performing its obligations under these Terms if that failure or delay is due to a Force Majeure Event and it has provided notice to the other party of the Force Majeure Event.

15.3 If any provision of these Terms is void, unenforceable or illegal and would not be so if a word or words were omitted, then that word or those words are to be severed and if this cannot be done, the entire provision is to be severed from these Terms without affecting the validity or enforceability of the remaining provisions of these Terms.

15.4 In these Terms, the meaning of general words is not limited by specific examples introduced by 'includes', 'including', 'for example' or 'such as' or similar expressions.

16. **Definitions**

In these Terms:

**Australian Consumer Law** means Schedule 2 of the *Competition and Consumer Act 2010* (Cth) and any equivalent State or Territory legislation.

**Authorised Users** has the meaning given in clause 2.

**Confidential Information** means all information and other content disclosed by the parties to each other in connection with Geoscape Data on Demand, our Website or these Terms but excludes information that:

- (a) is public knowledge or becomes available to a party from a source other than the other party (otherwise than as a result of a breach of confidentiality); or
- (b) is rightfully known to, or in the possession or control of a party and not subject to an obligation of confidentiality in accordance with the terms of these Terms.

**Consequential Loss** means

- (a) any form of indirect, special or consequential loss, including loss of reputation, loss of profits, loss of data, loss of actual or anticipated savings, loss of bargain and loss of opportunity; and
- (b) any loss beyond the normal measure of damages.

**Consumer Guarantee** means a guarantee provided under Division 1 of Part 3-2 of the Australian Consumer Law.

**Data** means the data products that we make available through Geoscape Data on Demand from time to time.

**Documentation** means any manuals, guides, reference materials or other similar documents in any form made available by us to you in connection with Geoscape Data on Demand or our Website.

**Force Majeure Event** means any event arising from, or attributable to, acts, events, omissions or accidents which are beyond the reasonable control of a party.

**Geoscape Account** means the account that you register to be able to access and use Geoscape Data on Demand.

**Geoscape Data on Demand** means the data delivery platform made available by us at <https://geoscape.app> from time to time.

**Geoscape Infrastructure** means the computer servers or other hardware used by us in connection with our provision of Geoscape.

**Insolvency Event** means, in relation to a body corporate, a liquidation or winding up or the appointment of a voluntary administrator, receiver, manager or similar insolvency administrator to that body corporate or any substantial part of its assets; in relation to an individual or partnership, the act of bankruptcy, or entering into a scheme or arrangement with creditors; in relation to a trust, the making of an application or order in any court for accounts to be taken in respect of the trust or for any property of the trust to be brought into court or administered by the court under its control; or the occurrence of any event that has substantially the same effect to any of the preceding events.

**Intellectual Property Rights** means any and all intellectual and industrial property rights anywhere in the world including, but not limited to, the rights comprised in any copyright (including database rights), trade marks, patents, confidential information (including Confidential Information) and trade secrets, know-how and processes.

**Loss** means any loss, liability, cost, claim, expense, damage, charge, penalty, outgoing or payment however arising, whether present, unascertained, immediate, future or contingent, and includes direct loss and Consequential Loss.

**Personal Information** has the meaning given to it under the *Privacy Act 1988* (Cth).

**Subscription Agreement** means an agreement between you and us to subscribe to purchase our Data through Geoscape.

**Third Party Application** means any product, service, system, application or internet site integrated or interfaced with Geoscape Data on Demand or our Website that is owned or operated by a Third Party Provider.

**Third Party Websites** has the meaning given in clause 5.

**Third Party Provider** means any third party that provides products or services that are used by you or an Authorised User in connection with Geoscape Data on Demand or our Website.

**Third Party Provider Terms** has the meaning given in clause 4.4.

**Trial** means your access to our Sample Data on a short term trial basis.

**Sample Data** means any Data that we allow you to access through our Website or Geoscape Data on Demand without signing up to a Subscription Agreement or other purchase agreement.

**Unacceptable Content** means:

- (a) content which, in our reasonable opinion, is obscene, offensive, upsetting, defamatory, illegal or inappropriate, infringes or appears to infringe the Intellectual Property Rights of

any person or contravenes or appears to contravene any applicable laws, regulations or codes of conduct;

- (b) content which is incorrect, false or misleading; or
- (c) files with any viruses, malicious code or other conditions which could damage or interfere with data, hardware or software.

**We** or **us** means PSMA Australia Limited (ABN 23 089 912 710) trading as Geoscape Australia of Unit 6, 113 Canberra Avenue, Griffith in the Australian Capital Territory.

**You** or **your** means the person (where an individual has agreed to these terms on their own behalf) or organisation (where an individual has agreed to these terms on behalf of an organisation) who registers with us for a Geoscape Account or uses our Website.