

## Access Terms - Authorised Users and/ or Approved Users

### 1. PURPOSE OF THIS DOCUMENT

1.1 The Customer and AGTRIX have entered into the Agreement.

1.2 The Agreement governs the rights of the Customer in respect of use of the Software as a service. The Agreement contemplates use of the Software by the Customer's Authorised and/ or Approved Users.

1.3 The purpose of this document is to ensure that such Authorised Users and/ or Approved Users understand and accept these terms of access.

1.4 In consideration given by AGTRIX under this document, access to the Software constitutes acceptance on the part of any Authorised User and/ or Approved User to these access terms and the Agreement as it applies to such persons.

### 2. AUTHORISATION + LOG-IN

2.1 An Authorised User and/ or Approved Users must be issued with log-in details (comprising username and password) by AGTRIX.

2.2 Each person accessing the Software warrants and represents to AGTRIX that they:

2.2.1 have the authority to bind any company or other legal entity or person on whose behalf they represent (including as may be relevant a Customer) and is duly authorised by the relevant Customer to be an Authorised User and/ or Approved Users for the purposes of the relevant Agreement.

2.2.2 are not a Competitor and not accessing the Software for any benchmarking or competitive purposes or for any reason otherwise in breach of the relevant Agreement or this document.

2.3 AGTRIX reserves the right, at any time without notice, to disable, terminate or impose further conditions of access as may be required or contemplated by the Agreement, in the event of a breach by an Authorised User and/ or Approved User or relevant Customer of these terms and/ or the Agreement. This includes, without limitation, for non-payment of Fees due to AGTRIX (whether relating to an Authorised User or not).

### 3. RIGHTS OF USE

3.1 AGTRIX has granted to the Customer a licence and right for the Term to use the Software as a service within the Territory for the purpose of enjoying the rights granted by the Agreement.

3.2 The right of the Customer and its Authorised Users and/ or Approved Users to access and use the Software as a service during the Term is subject to the provisions of the Agreement and these terms.

3.3 This right shall subsist as regards an Authorised User and/ or Approved User from the date of issue of log-in details for the remainder of the Term (subject to earlier termination of the Agreement or as contemplated by clause 2.3 of the terms).

3.4 This right is limited to Authorised Users and/ or Approved Users.

3.5 Customisation of the Software (if requested by a Customer) is subject to entry into a SOW. AGTRIX is otherwise not obliged to provide Customisations to any Customer.

3.6 Releases and Updates are provided to a Customer as part of but subject to the Agreement. On that basis only, Releases and Updates shall form part of the Software for the Term.

3.7 The Customer may not modify, copy, enhance, adapt or merge the Software with other software or otherwise use the Software other than expressly allowed by the Agreement or with the prior written consent of AGTRIX.

3.8 The Customer and each of its Authorised Users and/ or Approved Users must not do or permit the following:

3.8.1 permit a third party to use the Software or provide it to a third party directly or indirectly;

3.8.2 reverse engineer or decompile the Software or any part of it;

3.8.3 create or attempt to create the source code or any part of it from the Software or from any other information, except where permitted by law;

3.8.4 use or permit the use of the Software to provide any form of bureau service, third party training or for similar activities;

3.8.5 use the Software other than as contemplated by the Agreement or this document;

3.8.6 distribute, disclose, market, rent, lease to any third party any portion of the Software or Tools;

3.8.7 publish the results of Software performance benchmarks to any third party without AGTRIX's prior written consent;

3.8.8 demonstrate or give use of the Software or related system to any Competitor of AGTRIX; or

3.8.9 except as may be agreed by AGTRIX in writing, reinstall or transfer the Software to another platform or database version other than the platform or database version to which the Agreement applies, without the prior written consent of AGTRIX and payment of any additional Fees that may be agreed between the parties in such event.

3.9 The Customer and each of its Authorised Users and/ or Approved Users shall not knowingly or recklessly access, store, distribute or transmit any Viruses, or any material in relation to its use of the Software that:

3.9.1 is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;

3.9.2 facilitates any illegal activity;

3.9.3 depicts sexually explicit images;

3.9.4 promotes unlawful violence;

3.9.5 is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability or any other illegal activity; or

3.9.6 causes damage or injury to any person or property.

3.10 AGTRIX reserves the right, without liability to the Customer or its Authorised Users and/ or Approved Users, to temporarily disable or suspend the Customer's access and/ or that of its Authorised Users or Approved Users to the Software in the event of a breach of the provisions of this paragraph 3.9.

### 4. SERVICE LEVELS

4.1 Subject to any contrary terms in the Agreement, AGTRIX has agreed with the Customer to provide the Software as a service in accordance with the following Service Levels:

#### 4.2 Services Availability

4.2.1 Excluding scheduled downtime, the Software will be available to Authorised Users or Approved Users for not less than 98% of the time each calendar year of the Term (**Uptime Percentage**).

4.2.2 If downtime exceeds, as detailed below, the specified percentage (**Uptime Percentage**) 5 (five) times within a contract period (a **Service Level Default**) the Customer will be entitled to a rebate as a percentage of unscheduled downtime offset to fees paid. This fee will be adjusted as a credit against the month's invoice immediately following the annual calculation.

#### 4.3 Measurement Process

4.3.1 Downtime is measured on an individual sites basis and is taken as the period from when the Customer reports the possible downtime to the Software being useable again.

4.3.2 Downtime does not include:

A. scheduled outages the Customer or a relevant Authorised User or Approved User is informed of by email; or

B. third party outages affecting the Software including hardware and network outages.

C. any downtime where a workaround has been provided.

4.3.3 Downtime is when the Software is unusable and does not relate to functionality or performance.

4.3.4 Software availability is measured annually during the relevant Term by calculating the percentage of the total hours the Software is available (**Actual Uptime**) compared to the total hours the Software is scheduled to be available (**Scheduled Uptime**) according to the usage requirements of the relevant Customer.

4.4 **Availability % = ((Actual Uptime (in hours))/ (Scheduled Uptime (in hours))) x 100%.**

### 5. PROTECT SOFTWARE

5.1 The Customer and each Authorised User and/ or Approved User must:

5.1.1 protect the Software from misuse, or any unauthorised use; and

5.1.2 supervise and control the use of the Software in accordance with the terms of the Agreement and this document.

### 6. SOURCE CODE

Nothing in the Agreement gives the Customer or an Authorised User and/ or Approved User any rights in, or to view, the source code of the Software or Tools.

### 7. LIMITATION OF LIABILITY

7.1 AGTRIX has limited its liability to the relevant Customer under the Agreement.

7.2 Except to the extent any liability is expressly assumed by AGTRIX to an authorised User and/ or Approved User under a relevant Agreement (subject to such lawful exclusions and limitations as may be applicable), AGTRIX excludes to the full extent permitted by relevant laws any liability (howsoever arising) to each Authorised User and/ or Approved User.

7.3 Where liability of AGTRIX to an Authorised User and/ or Approved User has not been expressly assumed by AGTRIX to an Authorised User and/ or Approved User under an Agreement or has not been lawfully limited or excluded, the aggregate liability of AGTRIX for breach of or liabilities under, in respect of and in connection with this document and/ or relevant Agreement, in tort or equity, for breach of statutory duty or otherwise (as applicable) and under any indemnity is limited (to the extent lawful) to an amount equivalent to the value of the following remedy or amount in the case of:

7.3.1 goods the replacement of the goods, the supply of equivalent goods, the repair of the goods, the payment of the cost of replacing the goods or of acquiring equivalent goods or the payment of the cost of having the goods repaired; or

7.3.2 services (which for these purposes includes use of the Software) - the supply of the services again or the payment of the cost of having the services supplied again.

### 8. DATA PRIVACY

8.1 AGTRIX's Privacy Policy is at Agtrix Privacy Policy

8.2 *Google. The Services may incorporate Google Maps software provided by Google Inc. Where Google Maps software is incorporated into the Services You agree to be bound by:*

8.2.1 The Google Maps/Google Earth Additional Terms of Service

8.2.2 Google Privacy Policy.

#### 8.3 BETA SERVICES

From time to time AGTRIX may invite the Customer to try, at no charge, AGTRIX's products or services that are not generally available to AGTRIX's customers (Beta Services). The Customer may accept or decline any such trial in its sole discretion. Any Beta Services will be clearly designated as beta, pilot, limited release, developer preview, non-production or by a similar description. *Beta Services are provided for evaluation purposes and not for commercial use, are not supported, may contain bugs or errors, and may be subject*

*to additional terms. UNLESS OTHERWISE DETERMINED BY AGTRIX BETA SERVICES ARE NOT CONSIDERED "SERVICES" UNDER THESE TERMS OR AN AGREEMENT AND, SUBJECT TO ANY NON-EXCLUDABLE LAW, ARE PROVIDED "AS IS" WITH NO EXPRESS OR IMPLIED WARRANTY. AGTRIX may discontinue Beta Services at any time in its sole discretion and may never make them generally available, in each case without any liability or responsibility being assumed on its part.*

### 9. GOVERNING LAW

This document is governed by the laws of New South Wales which shall have non-exclusive jurisdiction with respect to any disputes.

### 10. DEFINITIONS

In this document, unless the context otherwise requires or provides:

**Agreement** means an agreement in writing between AGTRIX and the Customer relating to the Software including for the maintenance, support and upgrade (comprising Updates and Releases) of the Software.

**AGTRIX** means Agtrix Pty Limited (ACN 103 038 508) whose usual place of business is at AGTRIX Unit 6, 2 Bonanza Dr, Billinudgel NSW 2483 but for the purposes of this document shall include its permitted assigns from time to time.

**Authorised Users** means those employees who are authorised by the Customer to use the Software.

**Approved Users** means those agents and independent contractors of the Customer, or farmers through Customers who have been approved by AGTRIX to use the Software.

**Approved Data Recipients** means those external parties that have a legitimate use of the Data produced by the system.

**Competitor** means another software vendor or developer that is or may reasonably be considered by AGTRIX to be a competitor of AGTRIX.

**Customer** means the relevant customer of AGTRIX who has entered into an Agreement.

**Customisation(s)** means a development, enhancement or other Modification to the Software which is undertaken by AGTRIX at an agreed value at the request of the Customer under a SOW or other relevant document.

**Fees** means the fees payable by the relevant Customer to AGTRIX for the Software, and where relevant the standard published fees of AGTRIX for relevant goods and/or services (as the case may be) as set out in a relevant Statement of Work and/or other document/s.

**Intellectual Property Rights** means all present and future intellectual and industrial property rights subsisting in any and all media and

materials (whether now known or created in the future), conferred by statute, at common law or in equity and wherever existing.

**IT** means information technology.

**Location** means IP address and primary business street address of where system will be used.

**Modification** means, in relation to the Software, any adaptation or derivative of the same however made.

**Related Bodies Corporate** means as defined in the *Corporations Act 2001* (Cth).

**Release** means software which has been produced primarily to extend, alter or improve the Software by providing additional functionality or performance enhancement (whether or not defects in the Software are also corrected) while still retaining the same or substantial similar functionality of the Software, but for the avoidance of doubt shall not include new software products so designated by AGTRIX (even if the new software has some or all of the same functionality).

**Software** means software hosted by AGTRIX (or on its behalf) and made available and provided as a service to and accessible remotely by the relevant Customer (including as relevant its Authorised Users and Approved Users) (not being third party software) as stated in the Agreement, including each Release, Update and Customisation of that software.

**Standard Rates** means AGTRIX's current standard consultancy rates for professional services (as determined by AGTRIX).

**Statement of Work** or **SOW** means an agreement in writing between AGTRIX and the Customer for the provision of goods and/or services which may include certain deliverables and/or Customisations in respect of the Software. Such agreement in writing may incorporate or comprise the terms of or be subject to a Professional Services Agreement of AGTRIX.

**Support Hours** means 8.30 a.m. to 5.30 p.m. Sydney time on Business Days, unless agreed in writing with non-Australian domiciled Customers.

**Support + Maintenance Services** means the maintenance and support services specified in the Master Service Agreement or Maintenance + Support Services Agreement as held by the Customer.

**Term** means the relevant period as stated in the Agreement.

**Territory** means anywhere in the world (but only to the extent lawful in any particular jurisdiction).

**Tools** means the underlying architecture from which the Software is designed and includes

software application programming tools and code.

**Update** means software which has been provided in the opinion of AGTRIX, to enhance user experience, or to overcome defects in software and includes patches.

**Virus** means a hidden, self-replicating section of computer software, usually malicious logic, that propagates by infecting - i.e., inserting a copy of itself into and becoming part of another program. This includes malware, worms, trojans and BOTs.

## 11. AMENDMENT HISTORY

Initial	Feb 2016
Revision 1.0	Oct 2018
Revision 2.0	May 2020