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**PEOPLEMAPS APPLICATION SERVICE PROVIDER (ASP)  
AGREEMENT FOR ALL SUBSCRIPTION  
SERVICES(SERVICE PROVIDER) TR.IT.11**

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**THIS AGREEMENT** is

**BETWEEN:**

- (1) PeopleMaps Ltd a company registered in England under number 03904001 whose registered office is at Carrwood Park, Selby Road, Leeds, LS15 4LG (“the Service Provider”) and
- (2) The Customer

**WHEREAS:**

- (1) The Service Provider hosts and provides access to the Applications described herein in its capacity as an Application Service Provider.
- (2) The Customer wishes to access the Applications described herein as hosted by the Service Provider under a non-exclusive Licence, from a remote location, in return for the payment and subject to the terms and conditions of this Agreement.

**IT IS AGREED** as follows:

**1. Definitions and Interpretation**

- 1.1 In this Agreement, unless the context otherwise requires, the following expressions have the following meanings:

|                                   |  |
|-----------------------------------|--|
| <b>“Applications”</b>             | means the selected software applications provided by the ASP which shall be available to the Customer, as set out in Schedule 2 of this Agreement;                           |
| <b>“ASP Infrastructure”</b>       | means the Service Provider’s computer hardware, firmware, software and communications infrastructure which is used to facilitate access to the Applications by the Customer; |
| <b>“Business Day”</b>             | means any day other than Saturday or Sunday that is not a bank or public holiday;  |
| <b>“Business Hour”</b>            | means any time between <<e.g. 09:00>> and <<e.g. 14:00>> on a Business Day, during which the Service Provider is open for business;  |
| <b>“Commencement Date”</b>        | means date of first invoice being raised or payment being made.  |
| <b>“Confidential Information”</b> | means all business, technical, financial or other information created or exchanged between the Parties throughout the Term of this Agreement;                                |

|                                       |   |
|---------------------------------------|---|
| <b>“Customer Computer Systems”</b>    | means the Customer’s computer hardware, firmware, software and communications infrastructure through and on which the Applications are to be used;  |
| <b>“Customer Data”</b>                | means any data belonging to the Customer or to third parties and used by the Customer under licence which is created using the Applications or otherwise stored in the ASP Infrastructure;  |
| <b>“Fees”</b>                         | means the sums payable by the Customer in return for access to the Applications, the ASP Infrastructure and support services provided by the Service Provider in accordance with Clauses 4 and 12 and Schedule 1 of this Agreement;                                   |
| <b>“Intellectual Property Rights”</b> | means all vested contingent and future intellectual property rights including but not limited to copyright, trade marks, service marks, design rights (whether registered or unregistered), patents, know-how, trade secrets, inventions, get-up and database rights; |
| <b>“Non-Customer User”</b>            | means a non-employee of the Customer who may not use the Service in the absence of written consent from the Service Provider as per sub-Clause 10.4;  |
| <b>“Service”</b>                      | means, collectively, the Applications, ASP Infrastructure and support services provided by the Service Provider to the Customer; and  |
| <b>“Users”</b>                        | means an employee of the Customer who shall, from time to time, access the Applications through the ASP Infrastructure.   |

- 1.2 Unless the context otherwise requires, each reference in this Agreement to:
- 1.2.1 “writing”, and any cognate expression, includes a reference to any communication effected by electronic or facsimile transmission or similar means;
  - 1.2.2 a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;
  - 1.2.3 “this Agreement” is a reference to this Agreement and each of the Schedules as amended or supplemented at the relevant time;
  - 1.2.4 a Schedule is a schedule to this Agreement; and
  - 1.2.5 a Clause, sub-Clause or paragraph is a reference to a Clause of this Agreement (other than the Schedules) or a paragraph of the relevant Schedule.
- 1.3 The headings used in this Agreement are for convenience only and shall have no effect upon the interpretation of this Agreement.
- 1.4 Words imparting the singular number shall include the plural and vice versa.

1.5 References to any gender shall include the other gender.

## 2. **The Service**

2.1 The Service Provider shall, with effect from the Commencement Date, provide the Service to the Customer on a non-exclusive basis for the duration of the Term of this Agreement and in accordance with the terms and conditions of this Agreement.

2.2 The Service Provider shall provide access to the Applications through the ASP Infrastructure and shall use its best and reasonable endeavours to ensure that such access is available, without interruption, 24 hours a day, 7 days a week, 365 days a year. This undertaking shall be subject to the exceptions contained in Clauses 4, 12, 18 and 19 of this Agreement.

## 3. **Term**

3.1 The Service will be provided by the Service Provider during the term of this agreement (the "Term"), which shall commence on the Commencement Date and will continue unless otherwise terminated in accordance with Clause 19 of this Agreement.

3.2 The Term may be renewed on the same terms and conditions as set out in this Agreement for a further period upon the mutual consent of both Parties.

## 4. **Fees and Payment**

4.1 The Fees due for the Service are specified in Schedule 1 to this Agreement.

4.2 The Customer shall pay to the Service Provider all Fees immediately online or within 7 days of receipt of an invoice from the Service Provider for the same.

4.3 In the event that the Customer does not pay all Fees due within the time period specified in sub-Clause 4.2 above, the Service Provider shall suspend the Customer's use of the Service by whatever means it deems appropriate, subject to the requirement that such shall not disrupt any other of the Customer's operations.

4.4 In the event that the Customer fails to pay under sub-Clause 4.3 then, without prejudice to sub-Clause 4.3, that amount shall bear interest from the due date until payment is made in full, both before and after any judgment, at 3% per annum over the Bank of England base rate obtaining at the time.

4.5 The Service Provider reserves the right to vary the Fees from time to time as it may deem appropriate. The Customer shall receive 30 days' written notice of any such variation. Such variations shall take effect upon expiry of such notice.

## 5. **The Applications**

5.1 The Applications to which the Customer shall have access are detailed in Schedule 2 to this Agreement.

5.2 The Customer is free during the term of this Agreement to either add to or

remove from the selection of Applications, subject to availability of required applications from the Service Provider. The Fees shall be amended accordingly in the event of such modification.

## 6. **Training**

In the event that any Users require training in order to use the Applications, it shall be the responsibility of the Customer to ensure that all Users are appropriately trained and to bear any costs associated with such training. The Service Provider shall not provide any training of any kind save for advice on appropriate courses and / or materials.

## 7. **Security**

7.1 The Service Provider shall ensure that at all times the ASP Infrastructure includes daily backups and the service may only be accessed using an approved username and password.

7.2 The Service Provider shall make daily backups of all data on the ASP server. Such backups will be made using Acronis. All end-user shall be stored in the PeopleMaps cloud server and backups stored with Acronis.

## 8. **Maintenance**

8.1 The Service Provider shall be responsible for all maintenance and upgrades to the ASP Infrastructure which may from time to time be required.

8.2 Subject to the provisions of Clause 12, the Customer shall be responsible for all maintenance and upgrades to the Customer Computer Systems which may from time to time be required.

Whenever possible, the Service Provider shall use its best and reasonable endeavours to undertake maintenance work outside of the Customer's business hours.

8.3 The Service Provider shall not provide notice of any maintenance which may affect the Customer's use of the Service.

8.4 Where maintenance will disrupt the Service, the Service Provider shall aim to complete all necessary work within 5 Business Hours or as soon as possible thereafter where resolution in that time is not possible.

8.5 []

## 9. **Software Licences**

9.1 The Customer shall use all Applications under a non-exclusive, non-transferrable licence, as set out in this Agreement. This licence permits a maximum number of 1 User to access the Applications at any given time and such access is only permitted through HTML website.

9.2 All Applications provided by the Service Provider are the property of the Service Provider unless otherwise stated and shall be covered by the terms of

the licence included in this Agreement. Where Applications are the property of a third party, the relevant licences for those Applications shall be annexed to this Agreement in Schedule 3.

- 9.3 Where Applications are the property of a third party, the Service Provider warrants that they have all requisite authority to sub-licence such applications to the customer for the purposes of this Agreement and for use under its terms.

## 10. **Applications and ASP Infrastructure Terms of Use**

- 10.1 Under this Agreement, as indicated in sub-Clause 9.1 above, a maximum number of 1 User may access the Applications through the ASP Infrastructure at any given time.
- 10.2 Users' access to the Applications and the ASP Infrastructure shall be controlled by means of a username and password.
- 10.3 Should the Customer require an increased maximum number of Users, such an increase shall be permitted at the exclusive discretion of the Service Provider. The Service Provider reserves the right to increase Fees proportionately, in accordance with Schedule 1, in the event of an increase in the maximum number of Users.
- 10.4 Use by Non-Customer Users is not permitted under this Agreement in the absence of express written consent from the Service Provider, such consent not to be unreasonably withheld. The Service Provider may require such details as the reason that access to the Applications and ASP Infrastructure is required by the Non-Customer User, details of the Non-Customer User and other information which may be specified from time to time.
- 10.5 The Customer shall use the Service exclusively for the purposes of carrying on its business.
- 10.6 The Service Provider shall monitor the Customer's use of the Applications and ASP Infrastructure from time to time to ensure compliance with the terms and conditions of this Agreement and with the Reasonable Usage Policy annexed to this Agreement as Schedule 4. In the event that the Customer's use of the Service exceeds levels deemed reasonable by the Reasonable Usage Policy, the Service Provider reserves the right to increase Fees, in accordance with Schedule 1, as it deems appropriate, supplying 30 days' written notice to the Customer of such an increase.
- 10.7 The Customer may only access the Applications detailed in Schedule 2 to this Agreement. No access to other parts of the ASP Infrastructure shall be permitted in the absence of express written permission from the Service Provider.
- 10.8 The Customer is exclusively responsible for its use of the Service, including the conduct of individual Users (Users to include any authorised Non-Customer Users) and must ensure that all use is in accordance with this Agreement. The Customer shall notify the Service Provider immediately of any breaches of this Agreement by any Users or Non-Customer Users.
- 10.9 Access to the Applications is only permitted through HTML website, via the ASP Infrastructure. Under no circumstances may the Customer download,

store, reproduce or redistribute the Applications or any other part of the ASP Infrastructure, without first obtaining the express written permission of the Service Provider.

- 10.10 The Customer's use of the Applications and ASP Infrastructure may, from time to time, be governed by statutory or regulatory rules and requirements external to the terms and conditions of this Agreement. It shall be the Customer's exclusive responsibility to ensure that their use of the Service is in compliance with any such laws.
- 10.11 The Customer's use of the Service shall be subject to the following limitations, any of which may be waived by the Service Provider giving their express written consent:
- 10.11.1 The Customer may not use or redistribute the Applications or the ASP Infrastructure for the purpose of conducting the business of an Application Service Provider;
- 10.11.2 The Customer may not redistribute or reproduce the Applications or the ASP Infrastructure through any network; and
- 10.11.3 The Customer may not allow any unauthorised third party to access the Applications or the ASP Infrastructure.
- 10.12 Neither the Customer nor anyone on their behalf may, in the absence of written consent from the Service Provider:
- 10.12.1 Make changes of any kind to the Applications or the ASP Infrastructure; or
- 10.12.2 Attempt to correct any fault or perceived fault in the Applications or the ASP Infrastructure.

## 11. **Customer Computer Systems**

- 11.1 []
- 11.2 []
- 11.3 []
- 11.4 Where, in the opinion of the Service Provider, Customer Computer Systems are likely to cause disruption to the ASP Infrastructure, the Service Provider may request that the Customer disconnects from the ASP Infrastructure until advised that reconnection is possible. The Service Provider may require changes such as upgrades or equipment replacement to be made to the Customer Computer Systems prior to reconnection.
- 11.5 In the event of any unauthorised access by the Customer of Applications or the ASP Infrastructure, in breach of sub-Clause 10.3 or otherwise the Service Provider shall be entitled to terminate access indefinitely or temporarily as it deems appropriate and to terminate this Agreement in accordance with Clause 19 below.
- 11.6 The Customer shall ensure that no Customer Computer Systems are connected to a third party ASP system or other service, communications system or network in such a way that the Service may be accessed by unauthorised third parties.

## 12. Support

- 12.1 The Service Provider shall provide support services during their normal business hours of 10:00 to 15:00 Monday to Friday, such business hours to exclude public holidays. The support provided by the Service Provider shall relate only to the Applications and ASP Infrastructure. Any problems which are related to Customer Computer Systems must be resolved by the Customer's own support staff.
- 12.2 []
- 12.3 When seeking support the Customer shall use its best and reasonable endeavours to provide the fullest information possible, including account username, to aid the Service Provider in diagnosing any faults in either the Applications or the ASP Infrastructure. Unless an account username is provided, no action will be taken by Customer Support.
- 12.4 The Service Provider shall aim to resolve all support problems within 5 Business Hours or as soon as possible thereafter where resolution in that time is not possible.
- 12.5 Whenever possible, the Service Provider shall provide a workaround solution to the Customer to enable the Customer's continued use of the Service or to enable use that is as close to normal as is possible under the prevailing circumstances.

## 13. Intellectual Property

- 13.1 Subject to sub-Clause 13.2 all Intellectual Property Rights subsisting in the Applications and the ASP Infrastructure, including any supporting software and documentation are the property of the Service Provider. For the purposes of this Clause 13, 'Applications' and 'ASP Infrastructure' along with supporting software and documentation are taken to include the manner in which all such material is compiled and presented.
- 13.2 Where expressly indicated, the Intellectual Property Rights subsisting in certain Applications including any supporting software and documentation may be the property of named third parties.
- 13.3 The Customer shall not either during the term or after the expiry of this Agreement permit or cause to occur any infringement of any Intellectual Property Rights covered by this Clause 13. Use by the Customer and its employees of the Service shall be only within the terms of this Agreement.
- 13.4 The Customer shall not, in the absence of the Service Provider's written consent, reproduce, adapt, translate, reverse-engineer, or make available to any third party any of the Applications, any part of the ASP Infrastructure, or any other material associated with this Agreement where such activity goes beyond the scope of actions permitted by the terms and conditions of this Agreement.
- 13.5 Where the Customer either suspects or is aware of any breach of Intellectual Property Rights covered by this Clause 13 it shall be under a duty to inform the Service Provider of such breach immediately.



## 14. Customer Data

- 14.1 Subject to sub-Clause 14.2 all Intellectual Property Rights subsisting in Customer Data are and shall remain the property of the Customer.
- 14.2 Certain Customer Data may belong to third parties. In such cases, the Customer warrants that all such Customer Data is used with the consent of relevant third parties.

## 15. Confidentiality

- 15.1 During the Term of this Agreement and after the termination or expiration of this Agreement for any reason, the Service Provider shall use its best and reasonable endeavours to ensure that all Customer Data is kept secure and confidential. The Service Provider shall not, in the absence of express written consent from the Customer, disclose Customer Data to any third party unless such disclosure is required by law in which case the Customer shall be notified in writing of the disclosure.
- 15.2 During the Term of this Agreement and after termination or expiration of this Agreement for any reason for a period of 12 months starting on date of termination, the following obligations shall apply to the Party receiving Confidential Information (the "Receiving Party") from the other Party (the "Disclosing Party").
  - 15.3 Subject to sub-Clause 15.4, the Receiving Party:
    - 15.3.1 may not use any Confidential Information for any purpose other than the performance of their obligations under this Agreement;
    - 15.3.2 may not disclose any Confidential Information to any third party except with the prior written consent of the Disclosing Party; and
    - 15.3.3 shall make every effort to prevent the unauthorised use or disclosure of the Confidential Information.
- 15.4 The obligations of confidence referred to in this Clause 15 (excluding sub-Clause 15.1) shall not apply to any Confidential Information that:
  - 15.4.1 is in the possession of and is at the free disposal of the Receiving Party or is published or is otherwise in the public domain prior to its receipt by the Receiving Party;
  - 15.4.2 is or becomes publicly available on a non-confidential basis through no fault of the Receiving Party;
  - 15.4.3 is required to be disclosed by any applicable law or regulation; or
  - 15.4.4 is received in good faith by the Receiving Party from a third party who, on reasonable enquiry by the Receiving Party claims to have no obligations of confidence to the Disclosing Party in respect thereof and who imposes no obligations of confidence upon the Receiving Party.
- 15.5 Without prejudice to any other rights or remedies the Disclosing Party may have, the Receiving Party acknowledges and agrees that in the event of breach of this Clause the Disclosing Party shall, without proof of special damage, be entitled to an injunction or other equitable remedy for any

threatened or actual breach of the provisions of this Clause in addition to any damages or other remedies to which they may be entitled.

- 15.6 The obligations of the Parties under all provisions of this Clause shall survive the expiry or the termination of this Agreement irrespective of the reason for such expiry or termination.

## 16. **Liability**

- 16.1 The Service Provider shall not be liable to the Customer for any indirect or consequential loss the Customer may suffer even if such loss is reasonably foreseeable or if the Service Provider has been advised of the possibility of the Customer incurring it.
- 16.2 The Service Provider's entire liability to the Customer in respect of any breach of its contractual obligations, any breach of warranty, any representation, statement or tortious act or omission including negligence arising under or in connection with this Agreement shall be limited to £1.
- 16.3 Notwithstanding any other provision in this Agreement, the Service Provider's liability to the Customer for death or injury resulting from the Service Provider's own negligence or that of their employees, agents or sub-contractors shall not be limited.

## 17. **Indemnity**

- 17.1 The Customer will fully indemnify the Service Provider against all costs, expenses, liabilities, losses, damages and judgments that the Service Provider may incur or be subject to as a result of any of the following:
- 17.1.1 The Customer's misuse of the Applications, ASP Infrastructure or any other element of the Service;
  - 17.1.2 The Customer's breach of this Agreement; or
  - 17.1.3 The Customer's negligence or other act of default.
- 17.2 The Service Provider shall be under no obligation to indemnify the Customer against any costs, expenses, liabilities, losses, damages and judgments that the Customer may incur or be subject to arising out of any matter covered by this Agreement.

## 18. **Force Majeure**

- 18.1 Neither the Service Provider nor the Customer shall be liable for breaching this Agreement where that breach results from Force Majeure.
- 18.2 Force Majeure refers to any event that is beyond the reasonable control of the parties and includes, but is not limited to: power failure, internet service provider failure, industrial action, civil unrest, theft, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the Party in question.

## 19. Termination

- 19.1 The Service Provider reserves the right to terminate this Agreement or to suspend the Service in the following circumstances:
- 19.1.1 If the Customer fails to pay Fees due under Clause 4 of this Agreement;
  - 19.1.2 If the Customer is in breach of the terms of this Agreement;
  - 19.1.3 If the Customer becomes the subject of a voluntary arrangement under Section 1 of the Insolvency Act 1986;
  - 19.1.4 If the Customer is unable to pay its debts within the definition of Section 123 of the Insolvency Act 1986; or
  - 19.1.5 If the Customer has a receiver, manager, administrator or administrative receiver appointed over all or a substantial part of its undertakings, assets, or income; has passed a resolution for its winding up; or is the subject of a petition presented to a court for its winding up or for an administration order.
- 19.2 The Customer reserves the right to terminate this Agreement at any time, however, they must provide a termination request in writing via <https://www.peplemaps.com/contact/> 5 days prior to the invoice being raised by the system. The Customer will receive an email confirming receipt of the termination request and should not presume the termination process is activated unless they receive it in writing. Payment will be expected on any invoices raised.
- 19.2.1 []
  - 19.2.2 []
  - 19.2.3 []
  - 19.2.4 []
- 19.3 As soon as a termination request is received, the Customer shall have no access to the Applications and ASP Infrastructure including, but not limited to, client software supplied by the Service Provider for that sole purpose. The Customer will have no access to their Control Room and therefore no access to the data held within the Control Room. If the Customer wishes to retain any data held within the PeopleMaps Control Room, they should download it prior to submitting their termination request. Data will be deleted after one week of receiving the termination request and within 12 months of receiving the termination request. As the customer will not have access to their PeopleMaps Control Room, they will not be able to use any report credits remaining. No refund on these credits will be provided.

## 20. Notices

- 20.1 All notices under this Agreement shall be in writing.
- 20.2 Notices shall be deemed to have been duly given:
- 20.2.1 when delivered, if delivered by courier or other messenger (including registered mail) during normal business hours of the recipient; or

- 20.2.2 when sent, if transmitted by e-mail and a successful transmission report or return receipt is generated; or
  - 20.2.3 on the fifth business day following mailing, if mailed by national ordinary mail, postage prepaid; or
  - 20.2.4 on the tenth business day following mailing, if mailed by airmail, postage prepaid.
- 20.3 In each case notices should be addressed to the most recent address, e-mail address notified to the other Party.

**21. Relationship of Parties**

Nothing in this Agreement shall create, or be deemed to create, a partnership, the relationship of principal and agent, or of employer and employee between the Service Provider and the Customer.

**22. Assignment**

Neither Party shall assign, transfer, sub-contract, or in any other manner make over to any third party the benefit and/or burden of this Agreement without the prior written consent of the other, such consent not to be unreasonably withheld.

**23. Severance**

The Parties agree that, in the event that one or more of the provisions of this Agreement is found to be unlawful, invalid or otherwise unenforceable, that / those provisions shall be deemed severed from the remainder of this Agreement. The remainder of this Agreement shall be valid and enforceable.

**24. Entire Agreement**

24.1 This Agreement embodies and sets forth the entire agreement and understanding between the Parties and supersedes all prior oral or written agreements, understandings or arrangements relating to the subject matter of this Agreement. Neither Party shall be entitled to rely on any agreement, understanding or arrangement not expressly set forth in this Agreement, save for any representation made fraudulently.

24.2 Unless otherwise expressly provided elsewhere in this Agreement, this Agreement may be varied only by a document signed by both of the Parties.

**25. No Waiver**

The Parties agree that no failure by either Party to enforce the performance of any provision in this Agreement shall constitute a waiver of the right to subsequently enforce that provision or any other provision of this Agreement. Such failure shall not be deemed to be a waiver of any preceding or subsequent breach and shall not constitute a continuing waiver.

26. **Non-Exclusivity**

The relationship between the Parties under this Agreement is and shall remain non-exclusive. Both parties are free to enter into similar relationships with other parties.

27. **[Dispute Resolution (Arbitration)]**

27.1 It is agreed that where any dispute or difference relating to this Agreement arises between the Parties that matter shall be referred to the arbitration of a single arbitrator, namely <https://scottisharbitrationcentre.org/>

27.2 []

27.3 []

27.4 The Parties shall promptly furnish to the arbitrator all information reasonably requested by him relating to the particular dispute, imposing appropriate obligations of confidence.

27.5 The Parties shall require the arbitrator to use all reasonable endeavours to render his decision within 30 days following his receipt of the information requested or if this is not possible as soon thereafter as may reasonably be practicable. The Parties shall cooperate fully with the arbitrator to achieve this objective.

27.6 The Parties shall share the fees and expenses of the arbitrator equally. The decision of the arbitrator shall be final and binding upon both Parties.

27.7 []

28. **Law and Jurisdiction**

28.1 This Agreement (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of Scotland..

28.2 Any dispute, controversy, proceedings or claim between the Parties relating to this Agreement (including any non-contractual matters and obligations arising therefrom or associated therewith) shall fall within the jurisdiction of the courts of Scotland.

## SCHEDULE 1

### Fees

#### 1. **Subscription Fees**

The subscription fees will be described in detail in the quote provided by the Supplier.

What you get for your subscription is also itemised in detail in the quotation.

All quotes are accessed via the Client Control Room under ">>Credits>> Buy Credits or License".

#### 2. **Additional Credit Fees**

In addition to the subscription payment you may also have the opportunity to buy additional credits. These will be quoted separately and accessed via the Client Control Room under ">>Credits>> Buy Credits or License".

#### 3. **Fee Increases**

You will be notified of Fee increases by email in advance.

## **SCHEDULE 2**

### **Applications**

What products are being made available will be described in detail in the quotation.

### **SCHEDULE 3**

#### **Third Party Software Licenses**

None



## **[SCHEDULE 4]**

### **Reasonable Usage Policy**

When gathering information about your project, we will determine what an average reasonable use is. For example, if it is a recruitment project, we will establish an approximation of the number of vacancies you will have per year and also the number of applications you will receive. Your reasonable use will be based on these numbers. If we feel that you are exceeding your reasonable use we reserve the right to cap the service being provided and will provide a new quotation to cover the new requirement.