

BetaStreets End User Licence Agreement

Last update: 18 July 2023

By clicking “I agree” (or similar button or checkbox) at the time of your Order, or by using or accessing BetaStreets Software, you indicate your assent to be bound by this Agreement. If you do not agree to the terms in this Agreement, do not use or access this Software.

This agreement is between:-

1. Beta Streets Ltd (Company number 13445374) whose registered office is at 63/66 Hatton Garden, Fifth Floor Suite 23, London, England, EC1N 8LE “**Licensor**”;

and

2. The “**Licensee**”.

WHEREAS:-

- A. The Licensor has created a suite of software having the name BETASTREETS and which functions as a street design tool enabling a user to generate and amend high-quality 3D navigable visualisations of street environments (“the Software”);
- B. The Software may be downloaded from a server within the custody and/or control of the Licensor to a web browser client (within which it is then cached) via which users may then gain access to its various capabilities such that:
 - i. a digitally-recorded 3-dimensional model of a street location created by a user locally by means of the provision of data and commands input by the user in the browser (“Built Model”) and be generated;
 - ii. during the design process and thereafter, the Software operates visually to manifest a Built Model to the user in the browser;
 - iii. the user may incorporate within a Built Model, content objects created from markup instructions, stylesheets, scripts, still and moving image files, audio files and the like (“Content Assets”) causing the browser to render the Content Assets within the Built Model; and
 - iv. the Built Model may be immersively navigated within the browser pursuant to user instructions entered in the browser and rendering instructions.
- C. The Licensor is the proprietor of all copyright in the Software and in certain cases of the Content Assets, and enjoys licence permissions including the ability to grant licences in respect of those Content Assets whose copyright does not vest in the Licensor;

D. The Licensor wishes to grant access to the Licensee as a user, via a web browser, of the Licensor's Software and the Licensee wishes to acquire such access on the terms and conditions set out below.

NOW IT IS HEREBY AGREED THAT:-

1. The following definitions shall apply:-
 - a. Access Credential shall mean a means of validating the identity of a user seeking to gain access to the use of the Software;
 - b. Agreement Date shall mean the date of execution of this Agreement by both the Parties hereto;
 - c. Built Model means a digitally-recorded 3-dimensional model of a street location created by a user locally by means of the provision of data and commands input by the user in a browser;
 - d. Business Days means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;
 - e. Content Assets means content objects created from markup instructions, stylesheets, scripts, still and moving image files, audio files and the like;
 - f. Initial Fee shall mean the sum of £300 per quarter or £900 per annum;
 - g. Initial Term shall mean the period of 3 months or 12 months beginning on the Agreement Date;
 - h. Notice shall mean the receipt of a communication meeting the following conditions:

For a communication to the Licensor:

Email: support@betastreet.co.uk

Postal Address:

DX:

For a communication to the Licensee:

The Email address you register:

The postal address you provide (or DX)

And communications sent by email shall be deemed to have been received when received by the email server of the recipient; communications sent by Post or DX shall be deemed to have been received on the second Business Day after posting or dispatch;

- i. Party shall mean each of the Licensor and the Licensee and together referred to as the "Parties".
- j. Renewal Fee shall mean the sum of £300 or £900 or such other sum as the Licensor may, after the date of this Agreement, give Notice of to the Licensee at least one month prior to it becoming payable;

- k. Renewal Period means the period or periods of 3 or 12 months beyond the Initial Term in connection with which one or more Renewal Fee has been paid;
- l. Service shall mean the capacity to use the functions of the Software;
- m. Software means a suite of software having the name BETASTREETS and which functions as a street design tool enabling a user to generate and amend high-quality 3D navigable visualisations of street environments;
- n. User List shall mean a list, provided by the Licensee at signup and/or appended hereto as Schedule A, of users within the Licensee's organisation, each of whom is identified by the following ('User ID Data'):
 - i. an email address within the email domain of the Licensee; and
 - ii. a second identifying factor [ENTER – eg a mobile telephone]and to whom the Licensee wishes the Licensor to provide the Service.

LICENCE GRANT & ACCESS TO SERVICE

- 2. In consideration of the Licensee's agreement to accept and, where applicable, to adhere to the terms of clauses 6 to 22 and clause 27 below, together with the timely discharge of all of its payment obligations set out in clause 6 (where applicable, as modified by the provisions of clause 11), the Licensor agrees to provide:-
 - a. the Service to each user on the User List; and
 - b. the licence permissions set out in clauses 3 to 5 below.
- 3. Upon receipt of the Initial Fee and the User List from the Licensee, the Licensor shall provide, to the Licensee, one Access Credential in respect of each user identified.
- 4. The Licensor hereby grants to the Licensee for the Initial Term and (where applicable) any Renewal Period a licence under the Licensor's copyright in:-
 - a. the Software;
 - b. the Content Assets; and
 - c. any Built Model;to permit any person on the User List to undertake the acts set out in clause 5 below.
- 5. The licence permissions provided to the Licensee pursuant to this clause 5 shall permit the Licensee, acting solely by users on the User List to:-
 - a. copy the Software by downloading it from a server and running it locally;
 - b. retain the Software in the course of business by caching of the Software locally within a web browser client;
 - c. copy any Built Model whether by modification or otherwise;

- d. retain any Built Model within the Licensee's custody or control within the course of business;
- e. to issue copies of any Built Model to:
 - i. a relevant authority within the meaning of s111 of the Local Government Finance Act 1988 (or successor legislation from time to time in force); or
 - ii. a third party who is in or is intending to enter into a *bona fide* consultation with a relevant authority in connection with the subject-matter of a Built Model;
- f. to copy, retain or issue to third parties any Content Asset provided that any such act is undertaken as part of an act licensed under the provisions of clauses 5(a) to (e) above.

LICENSEE'S OBLIGATIONS & ASSIGNMENT

- 6. The Licensee shall, no later than 1 (one) Business Day of the date of this Agreement, pay to the Licensor the Initial Fee by telegraphic transfer.
- 7. The Licensee shall not undertake any act in connection with the Software, any Content Asset or any Built Model that is not within the scope of the permissions set out in clause 5 above, nor shall it permit nor facilitate any third party (including any user) to do so.
- 8. The Licensee shall ensure that, at all times, each and every user on a User List:
 - a. is an employee of the Licensee; or
 - b. in the alternative to clause 8(a), is a person contractually obliged to the Licensee under terms assigning to the Licensee future copyright in all works created under the benefit of the Access Credential provided to them under this Agreement; and
 - c. is aware of and complies with the provisions of clauses 4, 5, and 7 to 10 of this Agreement.
- 9. The Licensee agrees and acknowledges that any person who at the relevant time:
 - a. is employed by the Licensee; or
 - b. is contracted to the Licensee; or
 - c. is otherwise acting for the benefit of or is under an obligation (whether contractual or otherwise) to act for the benefit of the Licensee's interests; and
 - d. who is not identified on the User List but nonetheless gains access to the use of the Software, or the Content Assets or any Built Model, does so without the Licensor's authorisation and the Licensee is liable to the Licensor (and any other relevant person benefiting from the provisions of s297ZA of the Copyright, Designs and Patents Act 1988) for all actions by such a person including, *inter alia*, infringement of copyright by unauthorised copying and circumvention of technical protection measures.

10. The Licensee hereby assigns to the Licensor, with full title guarantee, future copyright in each and every Built Model created by any person gaining access to the Services from the Licensee's computing infrastructure (whether or not doing so with permissions provided under this Agreement) during the Initial Term and/or any Renewal.

TERM & RENEWAL

11. The Licensee may, at any time during the Initial Term or (as the case may be) any Renewal Period, give Notice to the effect that it wishes this Agreement to expire upon expiry of the Initial Term or (as applicable) the then current Renewal Period.
12. In the absence of Notice under clause 11, upon expiry of the Initial Term or any Renewal Period, the provisions of clauses 2 to 11 above shall apply for a Renewal Period or (as the case may be) further Renewal Period subject to the following modifications of clause 6:
 - a. The Initial Fee shall be substituted by the Renewal Fee; and
 - b. The period of 1 (one) Business Day from the date of this Agreement shall be substituted by the period of 5 (five) Business Days from the date of commencement of the Renewal Period.

VARIATIONS

13. Subject only to clause 14 below, this Agreement may only be varied in writing and in accordance with the provisions of paragraphs (a) & (b) below:
 - a. any variation must be set out in a document expressed to be supplemental to this Agreement ('Amendment Document'); and
 - b. the Amendment Document must be signed by authorised representatives of each of the Parties.
14. The Licensee may, in accordance with the provisions of clauses 14(a) and (b) below, amend the users specified on the User List, and the provisions of this Agreement shall apply *mutatis mutandis* to the amended User List:-
 - a. the Licensee shall give Notice of any such variation no later than 10 (ten) Business Days in advance of it coming into effect; and
 - b. Notice from the Licensee of any such variation shall:-
 - i. explicitly identify, by User ID Data, each user to be removed from the User List and each user to be added to the User List;
 - ii. certify that, prior to submitting Notice, the Licensee has complied with the provisions of clause 8 above; and
 - iii. explicitly acknowledge and re-affirm the Licensee's agreement to the provisions of clauses 9 and 10 above.

TERMINATION

15. The Licensor may terminate this agreement forthwith upon Notice in the event of:
 - a. any breach by the Licensee of clause 5 (and which is therefore both a breach of this Agreement and an infringement of the Licensor's copyright); or
 - b. a breach by the Licensee of any of the provisions of clauses 6 to 8 above.

16. This Agreement shall terminate forthwith in the event that the Licensee becomes insolvent within the meaning of the Insolvency Act 1986 or any successor legislation thereto and, without prejudice to the generality of the foregoing, in the event that the Licensee:-
 - a. is unable to pay its debts as they become due;
 - b. is the subject of a winding-up petition;
 - c. seeks to come to an arrangement with two or more independent creditors concerning its debts;
 - d. convenes a meeting of its directors at which the appointment of an administrator is to be discussed;
 - e. an administrator or other trustee is appointed by a court of competent jurisdiction; or
 - f. issues a notice under s114 of the Local Government Finance Act 1988 (or successor legislation from time to time being in force).

17. The Licensee may terminate this Agreement upon Notice in the event that the Service is unavailable for a period of 10 (ten) consecutive Business Days.

18. Upon termination under the provisions of clauses 15 or 16 above:-
 - a. the Licensor may, at its election and without Notice, suspend the Service forthwith;
 - b. the Licensee shall notify each user on the User List of such termination and its consequences;
 - c. the Licensor may, upon Notice, require the Licensee to provide to it, within 5 (five) Business Days, written confirmation that all users on the User List have been informed of termination, that the Service is no longer available to them, and of the consequences of the provisions of clauses 18(d) and (e) below; and
 - d. clauses 4 and 5 shall immediately cease to have effect and all licence permissions in favour of the Licensee pursuant to clauses 4 and 5 shall terminate forthwith; and
 - e. the Licensee shall ensure that all Software, Built Models and Content Assets are immediately and irretrievably erased from all storage media within the possession, custody or control of the Licensee.

19. Clauses 4, 5 and 7 shall survive:

- a. expiry (whether of the Initial Term or any Renewal Period) of this Agreement; and
- b. termination under the provisions of clause 17 above;

BUT the licence permissions set out in clause 5 above shall survive for a period of 1 (one) calendar year following termination and only to the extent necessary for the Licensee to undertake the following acts:

- c. to render (and only to render and not otherwise to reproduce including reproduction by modification or in any other way) a Built Model upon a computing entity within the possession, custody or control of the Licensee; or
- d. to share a Built Model as permitted under clause 5.e) for the purpose (and only for that specific purpose) of an objective which the Licensee is able, upon the request of the Licensor, to provide written evidence showing it was within the Licensee's contemplation prior to termination.

LIMITATION OF LIABILITY

20. Nothing in this Agreement shall be taken to provide, either expressly or impliedly, any limitation of liability of either Party to the other in respect: (i) of death or personal injury arising from negligence; and/or (ii) fraud or fraudulent misrepresentation; and clauses 21 and 22 below are to be interpreted accordingly.

21. The Licensor shall not be liable to the Licensee for any of the following categories of damage or loss:-

- a. any special, incidental, indirect, or consequential damages whatsoever; and
- b. without prejudice to the generality of clause 21(a), loss of profits, business interruption, loss of business information, loss of a chance or opportunity or pure economic loss howsoever arising.

22. The provisions of clause 21 above notwithstanding, Licensor's aggregate liability to the Licensee:-

- a. over the course of a period of time equal to the Initial Term howsoever arising; and/or
- b. in connection with any event or group of events which are related or sharing a common causal link;

shall not, in either case or in both cases in combination, exceed the lesser of:-

- c. the total of the sums payable by the Licensee to the Licensor; and
- d. the total sums paid by the Licensee to the Licensor.

over that same period.

GENERAL

23. This Agreement embodies the entire understanding of the Parties with respect to the subject matter hereof and supersedes all previous communications, representations or understandings, and agreements, whether oral or written, between the Parties relating to the subject matter hereof.
24. The headings within this Agreement are for convenience and are not to be used in its interpretation.
25. The *ejusdem generis* rule of interpretation shall not apply to this Agreement.
26. This Agreement may be executed in any number of counterparts which together shall constitute one agreement.
27. This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and interpreted in accordance with the law of England and Wales and the **Licensor** and **Licensee** hereby submit to the exclusive jurisdiction of the courts of England and Wales.

If you have any questions regarding this agreement, or if you require any additional information from BetaStreets Ltd please use the contact details and address provided in this agreement.

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