



Urban Model Licence
Urban Model (Commercial) - LA/09/01/v002C



Development and Regeneration Services
Glasgow City Council, 229 George Street, Glasgow G1 1QU

LICENCE AGREEMENT URBAN MODEL (COMMERCIAL)

Glasgow City Council, a local authority constituted and incorporated under the Local Government etc (Scotland) Act 1994 having its principal offices at City Chambers, George Square, Glasgow G2 1DU (the "Council"); and

having its principal place of business at:

(“the Licensee”)

(hereinafter referred to as the “Parties”)

WHEREAS:

- (a) The Council is the sole and exclusive owner of the Urban Model (hereinafter defined) and all IPRs (hereinafter defined) contained therein;
- (b) The Council has agreed to grant a licence for the use of the Urban Model in accordance with the terms of this Agreement and for the Term (as hereinafter defined).

NOW THEREFORE IT IS HEREBY AGREED as follows:

1 Definitions and Interpretations

1.1 As used in this Agreement, the following terms shall have the following meanings:-

“**Agreement**” means this Agreement being the terms and conditions hereto;

“**Background IPRs**” means all Intellectual Property, the ownership of which by the Council either (i) pre-dates the last date of execution of this Agreement, or (ii) is acquired subsequently or arises exclusively as a result of independent development by or on behalf of the Council and without reference to or use of the Intellectual Property of the Licensee;

“**Commencement Date**” means the date on which this Agreement is signed by both Parties;

“**Council's Representative**” means the person named in Part 1 of Schedule 2;

“**Derivatives**” means images, animations and 3D models wholly created by the licensee within or using the Urban Model data;

“**Developed IPRs**” means Derivatives of the Urban Model created as a result of independent development by the Licensee for the purposes of a planning application submitted to the Council;

“**Fee**” means the payment made by the Licensee to the Council in exchange for the Urban Model;

“Force Majeure” means in relation to any party, any circumstance beyond the reasonable control of that party (including, without limitation, any strike, lock-out or other form of industrial action);

“Hard Copy” means the CD-Rom(s) or DVD(s) provided to the Licensee by the Council at the time of execution of this Agreement;

“Intellectual Property” means property in which IPRs of whatever nature, whether registered or not, subsist;

“IPRs” means all patents, trademarks, service marks, design rights (whether registerable or otherwise), applications for any of the foregoing, copyright, database right, trade or business names, discovery, invention, process, formula, know-how, specification, improvement, technique, technical information, drawing and other similar rights or obligations whether registerable or not in any country (including but not limited to United Kingdom);

“Licensee's Representative” means the person named in Part 2 of Schedule 2;

“Master Model” means the Urban Model Data retained and updated by the Council;

“Predefined Area” means the area set out in Part 1 of Schedule 1 hereof;

“Term” has the meaning ascribed to it in Clause 2.1;

“Third Party” means any party other than the Council or the Licensee;

“Urban Model” means the three dimensional virtual model of the Predefined Area which comprises Urban Model Data; and

“Urban Model Data” means all information, text, drawings, images or sounds which are embodied in any electronic or tangible medium and which are supplied or in respect of which access is granted to the Licensee under this Agreement.

- 1.2 Reference to any statute or statutory provision shall include a reference to any statute or statutory provision which amends, extends, consolidates or replaces the same (save to the extent that any amendment, extension, consolidation or replacement would impose more onerous obligations than otherwise exist at the date of the execution of this Agreement).
- 1.3 The singular includes the plural and vice versa and any gender includes all genders.
- 1.4 The headings are inserted for convenience only and shall not affect the construction of this Agreement.

2 Commencement and Term

- 2.1 This Agreement shall take effect from the last date of execution of the Agreement and continue for a period of one year (the **“Term”**) unless otherwise terminated in accordance with Clause 8.

3 Licence and Use

- 3.1 The Council in return for the payment of the Fee in advance of this Agreement grants to the Licensee, a non-exclusive, irrevocable licence to use the Urban Model in accordance with this Clause 3 and Clause 4 and for the Term throughout the world and for no other purpose and in no manner whatsoever, subject always to the terms and conditions herein.
- 3.2 The Licensee may publish, market or distribute Derivatives of the Urban Model Data only for the purposes of a planning application or for any of the project(s) detailed in Part 2 of Schedule 1 and any other project(s) as may be agreed, in writing, between the Parties.
- 3.3 The Licensee undertakes not to do anything that would in the reasonable opinion of the Council, cause damage to the reputation of the Council, or to the Urban Model.
- 3.4 No Urban Model Data may be:
 - 3.4.1 published, marketed, distributed in full or in excerpts (any part thereof), except where such publishing, marketing and distributing is in accordance with Clause 3.2;
 - 3.4.2 transferred, sold or sublicensed in full or in excerpts (any part thereof);
 - 3.4.3 published, marketed, distributed, transferred, sold or sublicensed as part of a software application, data or any other product from which any original Urban Model Data, or any part thereof, or any substantially similar version of the original Urban Model can be separately exported, extracted or decompiled into any redistributable form or format; or
 - 3.4.4 published, marketed, distributed, transferred, sold or sublicensed as "clip art" or the like.
- 3.5 The Licensee must seek the prior written approval of the Council Representative should the Licensee wish to carry out any of the actions set out in Clauses 3.4.1 to 3.4.4.
- 3.6 The Urban Model Data must not under any circumstances be used in, or in conjunction with, pornographic, defamatory, obscene, fraudulent, libellous, infringing, immoral or illegal material.
- 3.7 The Licensee accepts that the Urban Model Data is based on survey data obtained prior to January 2006.
- 3.8 It is the Licensee's responsibility to ensure the Predefined Area meets the Licensee's requirements prior to signing this Agreement.
- 3.10 The Licensee undertakes to provide to the Council an electronic copy (the format of which is to be agreed by both parties) of the file containing the Urban Model that forms part of any planning application approved by the Council and grant to the Council licence to use the aforementioned file and the Urban Model contained therein for the purposes of updating the Master Model.
- 3.11 The electronic copy of the file referred to in Clause 3.9 shall be delivered to the Council Representative within twenty-eight days of the relevant planning application being approved.

- 3.12 The Licensee agrees to return the Hard Copy to the Council's Representative upon expiry of the Term or upon early termination of this Agreement in accordance with Clause 8 and delete any additional copies of the Hard Copy.

4 Intellectual Property

- 4.1 The Parties agree that the ownership of and the rights to exploit all forms and aspects of the Urban Model and the Background IPRs in the Urban Model shall belong to the Council and, accordingly, the Licensee hereby assigns to the Council all rights which they may have in the Urban Model and the IPRs and ensures such rights (including but not limited to moral rights) are capable of assignment.
- 4.2 The Licensee recognises the Council's title to the Background IPRs in the Urban Model and shall not claim any right, title or interest in the Background IPRs in the Urban Model in their own name as proprietor.
- 4.3 The Licensee shall promptly call to the attention of the Council the use (coming to its notice) of any part of the Background IPRs in the Urban Model by any Third Party or any activity of any Third Party (coming to its notice) which might in the opinion of the Licensee amount to infringement or passing off.
- 4.4 Any goodwill generated by the operations of the Licensee under this Agreement in connection with the Urban Model and the Background IPRs in the Urban Model shall vest in the Council as absolute beneficial owner thereof.
- 4.5 The Parties agree that the ownership of and the rights to Developed IPRs shall belong to the Licensee.
- 4.6 The Licensee shall not assign the benefit of this Agreement or grant any sub-licence without the prior written consent of the Council.
- 4.7 The Licensee's Representative must give advance notice to the Council's Representative, in writing, of the details of any persons, other than the Licensee's Representative, intending to use the Urban Model and the Urban Model must not be used by any person until authorised to do so by the Council under clause 4.8.
- 4.8 The Council must respond, in writing, to the advance notice received under clause 4.7 within seven days of receipt and the Council reserves the right to refuse to allow a particular person to use the Urban Model.

5 Copyright

Copyright in the Urban Model shall vest in the Council and shall only be used by the Licensee for the purposes for which they are licensed.

6 Action Against Third Parties

The Licensee shall not, without the express written permission of the Council, have the right to bring court or legal proceedings against any Third Party in respect to any dispute relating to the Urban Model and/or the Background IPRs in the Urban Model. The Licensee shall co-operate fully with the Council in any such legal action.

7 Warranties and Indemnities

- 7.1 The Council hereby represents, warrants and undertakes to the Licensee and its permitted successors and assignees whomsoever that:
- 7.1.1 as far as the Council is aware, the Council has full power, right and title to grant the Licensee the rights in relation to the IPRs in terms of this Agreement;
 - 7.1.2 all other warranties of the Council express or implied are excluded to the maximum extent permitted by law.
- 7.2 The Licensee shall indemnify the Council on demand from and against all and any costs, claims, losses or expenses (including, but not restricted to, legal expenses on a full indemnity basis) incurred by the Council directly or indirectly as a result of any breach by the Licensee of this Agreement, or any use, authorised or unauthorised by the Licensee of the IPRs in the Urban Model.
- 7.3 The Licensee shall maintain in force throughout the Term and for a period of five years thereafter with a reputable UK based insurer a policy of insurance in a sum not less than five (£5) million pounds Sterling for any one claim in respect of the indemnity set out in Clause 7.2.

8 Termination

- 8.1 The Council may terminate this Agreement forthwith by written notice to the Licensee in the event that:-
- 8.1.1 the Licensee breaches any term of this Agreement and fails to remedy the breach within twenty-eight (28) days of being required in writing to do so by the Council;
 - 8.1.2 the Licensee has a receiver, administrative receiver, liquidator or provisional liquidator appointed over all or any part of its assets;
 - 8.1.3 a petition for the appointment of an administrator to the Licensee is presented or the Licensee resolves to be wound up;
 - 8.1.4 the Licensee has stopped payment of, or is unable to pay its debts or enters into an arrangements with its creditors or some action is taken to terminate its business; or
 - 8.1.5 if the Licensee ceases for any reason to carry on business.
- 8.2 Upon termination of this Agreement for whatever reason the Licensee agrees to return the Urban Model and Urban Model Data to the Council.

9 Amendments

This Agreement shall not be varied or amended unless such variation or amendment is agreed in writing by the Council's Representative and the Licensee's Representative.

10 Notices

Except as otherwise expressly provided no communication from one party to the other shall have any validity under this Agreement unless made in writing between the Parties.

11 Severability

If any provision of this Agreement is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect if this Agreement had been executed with the invalid, illegal or unenforceable provision eliminated.

12 Waiver

The failure of any party to insist upon strict performance of any provision of this Agreement, or failure of any party to exercise any right or remedy to which it is entitled hereunder, shall not constitute a waiver thereof and shall not cause a diminution of the obligations established by this Agreement.

13 Rights of Third Parties

This Agreement shall not create any rights that shall be enforceable by anyone other than the parties to this Agreement.

14 Protection of Personal Data and Freedom of Information

14.1 Each party shall comply with its respective obligations under the provisions of the Data Protection Act 1998.

14.2 Where the Licensee, or any of its sub-contractors, agents or consultants, as part of their obligations under this Agreement process personal data as a data processor on behalf of the Council then the Licensee shall:-

14.2.1 act only on instructions from the Council as data controller;

14.2.2 comply with the Council's instructions in relation to the processing of such personal data as such instructions are given and varied from time to time by the Council; and

14.2.3 at all times take all appropriate technical and organisational measures against unauthorised or unlawful processing of such personal data and against accidental loss or destruction of, or damage to, such personal data.

14.3 If the Council receives a request under section 1 of the Freedom of Information (Scotland) Act 2002, which includes any confidential information of the Licensee, the Council may seek the consent of the Licensee to release some or all of the confidential information in response to such request and shall do so if the Council is minded to disclose such items, whether in terms of public interest or otherwise. If the Licensee fails to respond to such a request for consent within seven (7) days of the request being made, it shall be deemed to have consented to the release of the information as requested by the Council. In all cases the Council may, without the consent of the Licensee disclose any of the confidential information if the Council (acting reasonably) is satisfied that it is in the public interest to do so. In reaching this conclusion the Council shall take into account any representation made in connection with this by the Licensee but the decision of the Council as to what constitutes public interest shall be final and conclusive in any dispute, difference or question arising in respect thereof.

15 Scots Law and Jurisdiction

This Agreement shall be considered as a contract made in Scotland and according to Scots Law and subject to the exclusive jurisdiction of the Scottish Courts to which both parties hereby submit.

16 Entire Agreement

This Agreement contains the entire agreement between the parties with respect to its subject matter and may not be modified except in writing signed by all parties.

IN WITNESS WHEREOF this Agreement is executed as follows;-

Executed for and on behalf of the	COUNCIL	LICENSEE
Signature		
Name (Print)		
Job Title (Print)		
Date of Signature (Print)		
Location of Signature (Print)		
Before this Witness		
Witness Signature		
Witness Name (Print)		
Witness Address (Print)		

This is the Schedule referred to in the foregoing Minute of Agreement between Glasgow City Council and _____.

Schedule 1

PART ONE

<PREDEFINED AREA>

PART TWO

<PROJECT(S) LIST>

This is the Schedule referred to in the foregoing Minute of Agreement between Glasgow City Council and _____.

Schedule 2

PART 1 Council Representative

Name: Margherita Cavallo
Designation: Planning Officer
Address: Exchange House
229 George Street,
Glasgow G1 1QU

Telephone Number: 0141 287 8636

PART 2 Licensee's Representative

Name: _____

Designation: _____

Address _____

Telephone Number _____