

**Microsoft® Bing™ Maps Platform APIs' Terms Of Use**

Last Updated: November 2016

If you are using the Services:

<b>As part of a Bing Maps Agreement that incorporates this TOU by reference</b>	<p><b>1. What does this Contract cover?</b> This is a contract between you and Microsoft. Sometimes you are referred to as "Company", "you" or "your" and Microsoft is "our". This Microsoft Bing Maps Platform APIs' Terms of Use (the "TOU") applies to Platform APIs listed <a href="#">here</a> and the Maps Platform APIs for the Universal Windows Platform (collectively, the "Services").</p> <p>The rights and obligations that you have under this TOU depend on your use of the Services:</p> <ul style="list-style-type: none"> <li>■ If you are using the Services <b>as part of a Bing Maps Agreement that incorporates this TOU by reference</b>, Sections 1, 2 and 3 apply. If you would like to find out more about a Bing Maps Agreement, please contact us <a href="#">here</a>.</li> <li>■ If you are using the Services <b>as part of a Volume Licensing Agreement</b>, you would like to find out more about a Volume Licensing Agreement, please contact us <a href="#">here</a>.</li> <li>■ If you are using the Services <b>only for Education or Non-Profit Organization Use</b> (as defined in <a href="#">Section 2</a>), Sections 1, 2, 5 and 8 apply.</li> <li>■ If you are using the Services <b>only for Limited Website and Consumer App Use</b> (as defined in <a href="#">Section 2</a>), Sections 1, 2, 6 and 8 apply.</li> <li>■ If you are using the Services <b>only for Limited Commercial Windows App Development</b> (as defined in <a href="#">Section 2</a>), Sections 1, 2, 8 and 9 apply.</li> <li>■ If you are using the Services <b>only for Windows App and Windows Phone App Development</b> (as defined in <a href="#">Section 2</a>), Sections 1, 2, 8 and 10 apply.</li> <li>■ If you are using the Services <b>only for Broadcast</b>, the <a href="#">Bing Maps Media, Use Terms of Use</a> apply.</li> <li>■ If you are using the Services <b>as part of an Azure Marketplace subscription</b>, the <a href="#">Azure Marketplace Terms of Use</a> apply.</li> </ul> <p><b>2. Definitions.</b> Wherever used in this TOU with the first letter capitalized, the following definitions apply:</p> <ul style="list-style-type: none"> <li>■ <b>"Access Credentials"</b> means the unique credentials provided to Company for the Services.</li> <li>■ <b>"Affiliate"</b> means, with respect to an entity, any person or entity that is owned by, or is under common ownership with that entity. For purposes of this TOU, "common ownership" means control of more than a 50% interest in an entity.</li> <li>■ <b>"Agreement"</b> means the Bing Maps Agreement and/or Volume Licensing Agreement.</li> <li>■ <b>"Asset"</b> means one of any of the following classes: vehicle, device or other tangible or intangible property.</li> <li>■ <b>"Billable Transaction"</b> means any of the following (with all capitalized terms defined in the Microsoft Bing Maps Platform APIs' Terms of Use): a transaction for the use of the Bing Maps Platform SDKs or the Microsoft Bing Maps Platform APIs' Terms of Use, including but not limited to Imagery, Route, Geocode, Spatial Data and the Bing Maps AJAX Control API, Bing Maps Windows Presentation Foundation Silverlight Control API, where a session begins with the load of any of the user's browser and includes all transactions until the browser is closed or the page is refreshed for up to 50 transactions (thereafter each otherwise Billable Transaction as a separate Billable Transaction as set forth in Sections (a) and (c) hereof); or any other transaction that may constitute a Billable Transaction as described in the Microsoft Bing Maps Platform APIs' Terms of Use, Company Applications under Section 4.9(a)(i) and/or (ii) by agents or for the use of the Services, controlled and branded by Company including all use of the Bing Maps Platform APIs' Terms of Use.</li> <li>■ <b>"Bing Maps Agreement"</b> means a separately executed Bing Maps Agreement, including the Microsoft Service Order under the Bing Maps Platform Service Agreement for Bing Maps Platform APIs and Microsoft Service Order, and all predecessor or future agreements, including agreements formerly known as the Microsoft Service Agreement for MapPoint Web Services, Microsoft Service Agreement for the MapPoint Web Service, Microsoft MapPoint Web Service Agreement - for Microsoft Virtual Earth Map Control and the MapPoint Web Service.</li> <li>■ <b>"Bing Maps AJAX Control API"</b> means the Bing Maps JavaScript API for Web sites and mobile Company Applications with imagery and location functionality, as described in greater detail in the SDKs.</li> <li>■ <b>"Bing Maps iOS Control API"</b> means the Objective-C control that enable the use of the Bing Maps Platform APIs' Terms of Use directly into native iOS Company Applications, as described in greater detail in the SDKs.</li> <li>■ <b>"Bing Maps Platform APIs"</b> means collectively the following APIs: Bing Maps iOS Control API, Bing Maps REST Services API, Bing Maps Silverlight Control for Windows Phone API, Bing Maps SOAP Services API, Bing Maps Presentation Foundation Control API, and Bing Spatial Data Services API, future versions of such APIs, and any other Bing Maps Platform APIs that are part of the SDKs.</li> <li>■ <b>"Bing Maps REST Services API"</b> means the services that enable the use of the Bing Maps Platform APIs' Terms of Use, such as creating a map with pushpins, geocoding an address, retrieving</li> </ul>
<b>As part of a Volume Licensing Agreement</b>	
<b>Only for Education or Non-Profit Organization Use</b> (as defined in <a href="#">Section 2</a> )	
<b>Only for Limited Website and Consumer App Use</b> (as defined in <a href="#">Section 2</a> )	
<b>Only for Evaluation for Commercial, Non-Commercial, or Government Use</b> for 90 days (as defined in <a href="#">Section 2</a> )	
<b>Only for Limited Commercial Windows App Development</b> (as defined in <a href="#">Section 2</a> )	
<b>Only for Windows App and Windows Phone App Development</b> (as defined in <a href="#">Section 2</a> )	
<b>As part of an Azure Marketplace subscription</b> (as defined in <a href="#">Section 12</a> )	

a route, all as part of Company Applications, as described in greater detail in the SDKs.

- **"Bing Maps for Windows Store Apps API"** means the programmable control that enables developers to create immersive Windows Apps Company Applications for Windows offered through the Windows Store, as described in greater detail in the SDKs.
- **"Bing Maps Silverlight Control API"** means the programmable control that enables developers to create an immersive mapping experience with Silverlight in Company Applications, as described in greater detail in the SDKs.
- **"Bing Maps Silverlight Control for Windows Phone API"** means the programmable control that enables developers to create immersive mapping experiences with Silverlight in Company Applications on Windows Phone, as described in greater detail in the SDKs.
- **"Bing Maps SOAP Services API"** means the programmable SOAP services that enable developers to integrate maps and imagery, driving directions, distance calculations and other location intelligence into Company Applications, as described in greater detail in the SDKs.
- **"Bing Maps TOU"** is the Bing Maps End User Terms of Use located [here](#) or such other locations as Microsoft may specify from time to time, that apply to end users of your Company Application.
- **"Bing Maps Windows Presentation Foundation Control API"** means the programmable control that enables developers to integrate Bing Maps into Company Applications that use Windows Presentation Foundation, as described in greater detail in the SDKs.
- **"Bing Spatial Data Services API"** means the services that enable the use of REST URLs to geocode and reverse-geocode large sets of spatial data and to create and query data sources in Company Applications, as described in greater detail in the SDKs.
- **"Company Application"** means the Company's software application(s) for online services that use the Services as may be further defined in your Agreement.
- **"Content"** means the maps, images and other data and third party content that Company is authorized to access via the Services.
- **"Education or Non-Profit Organization Use"** means using the Services with a Company Application that displays results for education or non-profit use, where non-profit organization means a tax exempt organization and education means use by public or private K-12 schools, universities, community colleges or other collegiate level institutions such as vocational schools, trade schools or career colleges, including their faculty, staff, and students, provided that your use is consistent with the terms of Section 5. Further your Company Application must be one of the following: publicly available without restriction (for example, login or password must not be required), available only to current students of your education organization via your private network in order to provide education related services, available internally for free instructional use, or available internally for non-commercial research use. Commercially funded research projects and commercial company use for educational purposes are excluded from Education or Non-Profit Organization Use.
- **"Geofence"** means one or more coordinates used to determine whether the location of an Asset has intersected a line or entered or exited a polygon. Examples include a radius of a point, a polyline or a polygon.
- **"Geofencing Alert"** means the notification generated when an Asset enters, intersects or exits a Geofence.
- **"Known User"** is a user that is provisioned and/or authenticated by Company Application (but not necessarily Company web site or network), for example through the use of usernames, passwords, digital certificates, unique IDs, smart cards, or other identification technology.
- **"Known User Subscription License"** means the license granted to a Known User pursuant to an Agreement.
- **"Limited Commercial Windows App Use"** means using the Services in a Windows App or Windows Phone App for commercial or government use over a private network under the TOU without entering into an Agreement, provided that (i) your use is consistent with the terms of Section 9; and (ii) your Company Application does not exceed 125,000 cumulative Billable Transactions (which will be free of charge) as defined in the SDK's, per calendar year.
- **"Limited Website and Consumer App Use"** means using the Services for commercial, non-commercial or government use (provided that such use is not considered Education or Non-Profit Organization Use as defined in this section) under the TOU without entering into an Agreement, provided that (i) your use is consistent with the terms of Section 6; (ii) your Company Application is available on a web site, mobile web site or a mobile app running in a non-Windows operating system; and (iii) you do not exceed 125,000 cumulative Billable Transactions (which will be free of charge) as defined in the SDKs, per calendar year.
- **"SDKs"** means the software development kits applicable to the Services, located [here](#), including all updated and replacement development kits.
- **"Services"** means, the Bing Maps Platform APIs and UWP Maps Platform APIs to be provided by Microsoft.
- **"Volume Licensing Agreement"** means a separately executed Microsoft Volume Licensing Agreement (such as an Enterprise Agreement or Microsoft Business and Services Agreement) that includes licensing of the Services and incorporates this TOU.
- **"Windows App"** means using the Services in a Company Application (i) built upon the UWP which runs exclusively across Windows platforms and/or (ii) which runs exclusively on the Windows 8.x and earlier operating systems.

- **"Windows Phone App"** means using the Services in a Company Application which runs exclusively on the Windows Phone 8.x and earlier operating systems.

**3. Use with a Bing Maps Agreement.** If you have separately entered into a Bing Maps Agreement, the following terms also apply to your use of the Services. **Please note that we do not provide warranties for the Services under this section. This TOU also limits our liability. These terms are in Sections 3.8 and 3.9 and we ask you to read them carefully.**

**3.1. License Rights.** In exchange for the fees set forth in your Bing Maps Agreement and subject to your compliance with Sections 1, 2, and 3 of this TOU, you may use the Services solely in conjunction with and integrated into Company Applications using only methods and means of access that are documented in the SDKs. You will set the user region parameter in the Services in compliance with applicable laws, including those regarding mapping, of the country where the Content is made available. Your use shall be subject to any additional restrictions or rights included in your Bing Maps Agreement. In the event of any conflict between this TOU and your Bing Maps Agreement, the Bing Maps Agreement shall prevail. In using the Services and developing Company Applications you must: obey the law (including local, state, federal or other applicable consumer privacy regulations); not violate the rights of any third party; and obey any codes of conduct or other notices we provide.

**3.2. General Restrictions.** We do have some restrictions on your use of the Services. In developing Company Applications, and in using the Services, you may not, nor may you permit your customers to:

- (a) Upload any content to the Services, or use the Services to display or perform in your Company Application, any content:
  - for which you do not have all necessary permissions from the copyright holder(s);
  - which includes nudity or is obscene, indecent, pornographic or libelous;
  - which is intended to exploit minors in any way;
  - which incites, advocates, or expresses hatred, bigotry, racism, or gratuitous violence; or
  - which is intended to threaten, harass, stalk, defame, defraud, degrade, victimize, or intimidate an individual or group of individuals for any reason, including on the basis of age, gender, disability, ethnicity, sexual orientation, race, or religion, or to incite or encourage anyone else to do so.
- (b) Copy, store, archive, or create a database of the Content, except that geocodes may be stored locally only for use with your Company Applications.
- (c) Exceed a total of 1,000,000 batch geocode entities non-billable transactions or 10,000,000 non-billable transactions total using the Bing Spatial Data Services API per calendar year (all transactions above either of these limits will be billable).
- (d) Use Content, including geocodes, other than via an authenticated call to the Services and/or in conjunction with a Bing Map.
- (e) Present or alert an end user to individual maneuvers of a route in any way that is synchronized with the end-user's sensor-based position along the route (e.g. turn by turn navigation that tracks end-user's position using GPS and communicates a maneuver as the end-user approaches the location for such maneuver).
- (f) Change, obscure, or minimize any logo, trademark, copyright or other notice of Microsoft or its suppliers, or digital watermarks in the Content; except that we may make alternative logo, trademark and copyright attribution requirements available for use with small maps or on small devices; if available you will find them [here](#).
- (g) Use the Services for business asset tracking, fleet management, or dispatch including, without limitation, to monitor or track the location or movement of Asset(s), including to provide guidance based on the position or routing of multiple objects tracked using GPS or other sensor-generated methods, unless such use is specifically allowed in your Bing Maps Agreement.
- (h) Use Content that consists of points of interest data to generate sales leads information in the form of ASCII or other text-formatted lists of category-specific business listings which (i) include complete mailing address for each business; and (ii) contain a substantial portion of such listings for a particular country, city, state or zip code region.
- (i) Use Content other than in combination with the Services and not separately.
- (j) Transmit, sell, license or deliver any infringing, defamatory, offensive, or illegal products, services or materials.
- (k) Violate any applicable U.S. Export Administration Regulations or end-user, end-use and destination restrictions issued by U.S. and other governments. The Services are subject to U.S. export jurisdiction.
- (l) Use the Services in any way that threatens the integrity, performance or reliability of the Services including performance or stress testing, or in any manner that works around any technical limitations in the Services; except that you may test the performance of the Services provided such testing is not at levels above Company's peak performance levels during the prior three (3) months.
- (m) Syndicate, redistribute, resell or sublicense access to the Services or Content on a standalone basis, unless specifically allowed in your Bing Maps Agreement.
- (n) Falsify or alter any unique referral identifier in, or assigned to, a Company Application, or otherwise obscure or alter the source of queries coming from a Company Application.
- (o) Reverse engineer, decompile or disassemble the Services, except and only to the extent that applicable law expressly permits, despite this limitation.
- (p) Integrate road maps from the Services with road maps supplied by any third party. You may not

replace aerial imagery from the Services with imagery supplied by any other mapping platform. Notwithstanding the foregoing, you may overlay aerial imagery that you have the rights to use, provided that such imagery does not substantially replace the base aerial imagery provided by the Services. You may incorporate various data layers of types not available through the Services, in the Company Applications (for example, demographic or school location data). You may combine or overlay Ordnance Survey's United Kingdom mapping data or data derived from Ordnance Survey's United Kingdom mapping data (but not Ordnance Survey roads data) with the Services, provided that you have procured all such rights to the Ordnance Survey United Kingdom mapping data, that such use of the Ordnance Survey United Kingdom mapping data with the Services is consistent with your Ordnance Survey license, and that you indemnify Microsoft for such use pursuant to Section 3.8.

**(q)** Use bird's eye aerial imagery (if it is made available through the Bing Maps Platform APIs) to reveal latitude, longitude, altitude or other metadata.

**(r)** Save, download, print, distribute, transmit or manipulate the bird's eye imagery, or offer others that ability, through your Company Application.

**(s)** Allow use of bird's eye imagery of the United States, Canada, Mexico, New Zealand, Australia, and/or Japan by a government entity.

**(t)** Use Content from Ordnance Survey for non-publicly available Company Applications.

**(u)** Use the Services or Content with a vehicle's dashboard, or a device connected to a vehicle's dashboard, systems or sensors, except that the device may be connected to the vehicle power source for charging purposes.

Additional restrictions may apply to use of particular Content or functionalities, as set forth in the SDKs from time to time.

**3.3. Developer Accounts.** Microsoft will provide Company with access to developer accounts which may be used for up to 10,000 cumulative transactions, of any type including sessions, both billable or non-billable, within any 30 day period, across all Company developer accounts. Developer accounts may only be used by Company for developing, testing and maintenance of the Services with Company Applications consistent with all other terms in this Section 3. If you are a registered Microsoft Certified Partner, you may also use your developer account to demonstrate your Company Application. If these limits interfere with your ability to use the Services, please contact us [here](#).

**3.4. Account Access.** We require use of Access Credentials to use the Services, and require use of transaction tracking and/or session tracking methods for all uses of the Services, as described in the applicable SDKs. Company will use the Access Credentials to: (a) access the Services; and (b) access an administrative customer service site. Company will not make its Access Credentials available to any third party except a third party authorized to act on its behalf. Company is responsible for all use of the Services through its Access Credentials. Company will promptly notify us if it learns of a security breach related to your Access Credentials and use of the Services.

**3.5. Bing Maps TOU.** You must provide a hypertext link to the [Bing Maps TOU](#): (i) at the bottom of each page in your Company Application where the Services can be viewed or accessed, or (ii) within the terms of use of your Company Application. Microsoft may change the Bing Maps TOU from time to time and will provide notice as set forth in Section 3.10(a). Company is responsible for notifying its end users of changes as appropriate and will comply with Microsoft's reasonable instructions in doing so. You may not encourage or require any end user to breach the terms of the Bing Maps TOU.

**3.6. Privacy.** Microsoft may collect information such as, but not limited to, an end user's IP address, requests, time of submissions and the results returned to the user, in connection with transaction requests to the Services. All access to and use of the Services is subject to the data practices set forth in the then-current Privacy Statement, a current copy of which is available at <http://aka.ms/BingMapsMicrosoftPrivacy>. You are responsible for providing end users with adequate notice of the privacy practices applicable to your Company Application.

**3.7. Intellectual Property and Reservation of Rights.** All rights to the Services and the Content, including rights of use, not specifically granted under this TOU or your Bing Maps Agreement are reserved by Microsoft and its suppliers. Except as set forth in your Bing Maps Agreement, this TOU does not grant Microsoft any right or license to any Company Application or Company intellectual property, including intellectual property that Company has licensed from third parties.

Except for material that we may license to you, we do not claim ownership of the content you post or otherwise provide to us, that is hosted by Microsoft or a third party hosting provider on Microsoft's behalf, related to the Services (called a "Submission"). However, except as set forth herein, by posting or otherwise providing your Submission (and for the avoidance of doubt, where Microsoft hosts content on your behalf including by a third party hosting provider, this constitutes a Submission, but where you host or a third party hosts content on your behalf, other than Microsoft or a third party hosting provider on behalf of Microsoft, this does not constitute a Submission), you are granting to Microsoft free permission to use, copy, distribute, display, publish, transcode and otherwise modify your Submission, each in connection with the Services, and sublicense these rights to others in order to provide the Services. For every Submission you make, you must have all rights necessary for you to grant the permissions in this section. Content that you upload to the Bing Spatial Data Services API will only be used by Microsoft to provide the Services to you, unless you agree to grant Microsoft additional rights under this section by way of your Bing Maps Agreement or the process detailed in the SDKs.

### **3.8. Duty to Defend.**

**(a) Microsoft.** Microsoft agrees at its expense to defend Company in a lawsuit or other judicial action, and pay the amount of any adverse final judgment (after any appeals) or settlement to which Microsoft consents, for any claim made by an unaffiliated third party that the Services infringe its copyright,

trademark or patent, or misappropriates a trade secret (individually and collectively, an "**Infringement Claim**").

**(b) Company.** Company agrees at its expense to defend Microsoft in a lawsuit or other judicial action, and pay the amount of any adverse final judgment (after any appeals) or settlement to which Company consents, for any claim made by an unaffiliated third party to the extent based on the operation of any Company Application (together with any Infringement Claim, individually and collectively, a "**Claim**").

**(c) Conditions.** With regard to any Claim, either party's obligations are subject to the following conditions: (a) the party seeking defense (the "**Defended party**") must promptly notify the other party (the "**Defending party**") in writing of the Claim; (b) the Defending party will have sole control over defense or settlement of the Claim; and (c) the Defended party must provide the Defending party with reasonable assistance in the defense of the Claim, for which the Defending party will reimburse Defended party's reasonable out of pocket expenses. Defended party will have the right to employ separate counsel and participate in the defense at Defended party's expense. Defending party may not settle the Claim without the Defended party's prior written consent, if such settlement would result in any admission, liability or limitation upon future actions of the Defended party.

**(d) Exceptions.** Microsoft's obligations will not apply to the extent any Claim or adverse final judgment is based on: (a) any unauthorized use, disposition or promotion of the Services or a Microsoft trademark by Company; (b) a patent or copyright owned or controlled by Company or its Affiliate; (c) combining the Services with a non-Microsoft product, data or business process, if the basis of the Claim would not have existed but for such combination; or (d) continued use of any part of the Services after notice from Microsoft to stop use because of any alleged infringement. Company will reimburse Microsoft for all damages, costs, and expenses resulting from such actions.

**(e) Mitigation.** In addition to the obligations in Section 3.8(a) above, Microsoft may, in connection with a potential Infringement Claim, at its expense and option, take further action such as: (a) procuring for Company the rights or licenses necessary to address the Infringement Claim; (b) replacing or modifying the Services to make it non-infringing, or (c) terminating the Services and refunding any fees prepaid by Company for undelivered Services.

**(f) Exclusive Remedy.** This Section 3.8 provides Company's exclusive remedy for third party Infringement Claims.

### 3.9. Limitation of Liabilities and Disclaimer.

**(a) Limitation of Liabilities.** Neither party nor Microsoft's suppliers will be liable for any indirect damages, (including, without limitation, consequential, special or incidental damages, damages for loss of profits or revenues, business interruption, or loss of business information) arising out of or related to the Services, Content, TOU or Bing Maps Agreement, even if advised of the possibility of such damages or if the possibility was reasonably foreseeable. Neither party nor Microsoft's suppliers' aggregate liability for all claims, actions and/or omissions arising from or related to this TOU, the Bing Maps Agreement, the Services or the Content will exceed the greater of (a) the amount of fees paid by Company to Microsoft in the twelve (12) months preceding the date the claim arises, or (b) two hundred and fifty thousand dollars (\$250,000). These limitations will apply even if any remedy fails its essential purpose. None of the limitations and exclusions in this section apply to claims related to either party's violation of the other party's intellectual property rights, under Section 3.8 (Duty to Defend), or to any obligation to pay fees.

**(b) Disclaimer of Warranties.** The Services and all Content are provided "as is" without warranty of any kind by Microsoft or its suppliers. To the maximum extent permitted by law, any and all representations, warranties or conditions of any kind whatsoever (including, but not limited to, implied or statutory warranties of merchantability, fitness for a particular purpose, title, non-infringement, accuracy or satisfactory quality), all with regard to the Services and any Content, are expressly excluded by Microsoft and its suppliers. Microsoft and its suppliers make no warranty that the Services will operate properly as integrated with the Company Applications, that the Services will be uninterrupted, or that any Content will be accurate or complete.

**(c) Disclaimer of Reliance.** Microsoft and its suppliers specifically disclaim any liability for end users' reliance on the Services. Without limiting the foregoing, Microsoft and its suppliers shall have no liability for harm to end users resulting from reliance on any map or direction provided hereunder.

### 3.10. General Legal Terms.

**(a) Notices.** All legal notices in connection with the Bing Maps Agreement or this TOU must be sent by post, express courier, facsimile or email to the addresses and numbers indicated in the Address Schedule of the Bing Maps Agreement. You are responsible for keeping your contact information up to date.

This TOU is in electronic form. We have promised to send you certain information in connection with the Services and have the right to send you certain additional information, including that which may be required by law, which we may send in electronic form. If you do not consent to receive notices electronically, you must stop using the Services.

We may provide required information to you:

- at the e-mail address in your Bing Maps Agreement or any email address you specified via [www.bingmapsportal.com](http://www.bingmapsportal.com) (you are responsible for keeping your contact information up to date); or
- by posting on any portion of this [TOU](#) or to another Microsoft web site that will be designated in advance for this purpose.

Notices will be deemed given on the date shown on the postal return receipt or on the courier, facsimile or email confirmation delivery.

**(b) How We May Change the TOU.** We may update the TOU from time to time and the impact of such



changes is governed by your Bing Maps Agreement. If you have a Bing Maps Agreement as of May 1, 2014, the limits set forth in Section 3.2(c) will be effective as set forth in your Bing Maps Agreement or January 1, 2015, whichever is later. Until the limits set forth in Section 3.2(c) above are effective, the limitation set forth below will continue to apply. In developing Company Applications, and in using the Services, you may not, nor may you permit your customers to: Exceed a total of 10,000,000 non-billable transactions using the Bing Spatial Data Services API per calendar year.

**(c) Force Majeure.** Microsoft and Company will not be in default of the Bing Maps Agreement or this TOU if performance is delayed or prevented for reasons beyond its control, so long as it resumes performance as soon as practical.

**(d) Survival.** Sections 3.1, 3.2 and 3.7 through and including 3.10 will survive the termination or expiration of your Bing Maps Agreement for any reason.

**(e) Assignment.** The Bing Maps Agreement and TOU will be binding on the parties and their successors and assigns. We may assign the Bing Maps Agreement and TOU, in whole or in part, at any time with notice to you. Company may assign the Bing Maps Agreement to an Affiliate or to a third party on prior notice to Microsoft, provided that the assignee agrees in writing to be liable for all debts and obligations of the Company under the Bing Maps Agreement.

**(f) Enforceability and Interpreting the TOU.** All parts of this TOU apply to the maximum extent permitted by law. If any provision of the Bing Maps Agreement or this TOU is unenforceable, the parties (or, if the parties cannot agree, a court) will revise it so that it can be enforced. Even if no revision is possible, the rest of the Bing Maps Agreement and this TOU will remain in place. This TOU, together with your Bing Maps Agreement, constitutes the entire agreement between you and us regarding your use of the Services.

**(g) Taxes.** The amounts to be paid by Company to Microsoft under a respective Bing Maps Agreement do not include any foreign, U.S. federal, state, local, municipal or other governmental taxes, duties, levies, fees, excises or tariffs, arising as a result of or in connection with the transactions or sessions contemplated under the Bing Maps Agreement. Company shall pay to Microsoft any applicable value added, sales or use taxes or like taxes that are owed by Company solely as a result of entering into the Bing Maps Agreement and which are permitted to be collected from Company by Microsoft under applicable law. Company may provide to Microsoft a valid exemption certificate in which case Microsoft shall not collect the taxes covered by such certificate. Microsoft is not liable for any of the taxes of Company that Company is legally obligated to pay ("Company's Taxes") which are incurred or arise in connection with or related to the sale of goods and services under the Bing Maps Agreement, and all such taxes (including, but not limited to, net income or gross receipts taxes, franchise taxes, and property taxes) shall be the financial responsibility of Company. Company agrees to indemnify, defend and hold Microsoft harmless from Company's Taxes or claims, causes of action, costs (including, without limitation, reasonable attorneys' fees) and any other liabilities of any nature whatsoever related to such taxes. If any taxes are required by law to be withheld on payments made by Company to Microsoft, Company may deduct such taxes from the amount owed Microsoft and pay such taxes to the appropriate taxing authority; provided however, that Company shall promptly secure and deliver to Microsoft an official receipt for any such taxes withheld or other documents necessary to enable Microsoft to claim a U.S. Foreign Tax Credit. Company will make certain that any taxes withheld are minimized to the extent possible under applicable law.

**(h) Choice of Law and Location for Resolving Disputes.** If you are headquartered anywhere other than Europe: (i) Washington State law governs the interpretation of this TOU and your Bing Maps Agreement and applies to claims for breach, regardless of conflict of laws principles; and (ii) you and we irrevocably consent to the exclusive jurisdiction and venue of the state or federal courts in King County, Washington, USA, for all disputes arising out of or relating to the Bing Maps Agreement and TOU. If you are headquartered in Europe, the Bing Maps Agreement and TOU will be construed and governed by the substantive laws of England and Wales. The parties waive all defenses of lack of personal jurisdiction and forum non conveniens. Process may be served on either party in the manner authorized by applicable law or court rule. In any dispute relating to the Bing Maps Agreement or TOU the prevailing party will be entitled to recover reasonable attorneys' fees and costs.

**(i) No Third Party Beneficiaries.** This TOU is solely for your and our benefit. It is not for the benefit of any other person, except for permitted successors and assigns.

**(j) No Joint Venture/Independent Development.** The parties are operating as independent contractors, and nothing in this TOU will be construed as creating a partnership, franchise, joint venture, employer-employee or agency relationship.

**(k) Waiver.** Any delay or failure of either party to exercise a right or remedy will not result in a waiver of that, or any other, right or remedy. No waiver will be effective unless made in writing and signed by an authorized representative of the waiving party.

**(l) Logos; Marketing.** Except as otherwise agreed to by the parties in writing, neither party will use any logo or trademark of the other party for marketing or any other purpose without the other party's prior written approval.

**(m) Print Rights.** If print rights are available for the Services, such rights will be included [here](#).

**4. Use with a Volume Licensing Agreement.** If you have separately entered into a Volume Licensing Agreement, the following terms also apply to your use of the Services.

**4.1. License Rights.** In exchange for the fees set forth in your Volume Licensing Agreement and subject to your compliance with Sections 1, 2, and 4 of this TOU, you may use the Services solely in conjunction with and integrated into Company Applications using only methods and means of access that are documented in the SDKs. You will set the user region parameter in the Services in compliance with applicable laws, including those regarding mapping, of the country where the Content is made available. Your use shall be

subject to any additional restrictions or rights included in your Volume Licensing Agreement. In the event of any conflict between this TOU and your Volume Licensing Agreement, the Volume Licensing Agreement shall prevail. In using the Services and developing Company Applications you must: obey the law (including local, state, federal or other applicable consumer privacy regulations); not violate the rights of any third party; and obey any codes of conduct or other notices we provide.

**4.2. General Restrictions.** We do have some restrictions on your use of the Services. In developing Company Applications, and in using the Services, you may not, nor may you permit your customers to:

- (a)** Upload any content to the Services, or use the Services to display or perform in your Company Application, any content:
  - for which you do not have all necessary permissions from the copyright holder(s);
  - which includes nudity or is obscene, indecent, pornographic or libelous;
  - which is intended to exploit minors in any way;
  - which incites, advocates, or expresses hatred, bigotry, racism, or gratuitous violence; or
  - which is intended to threaten, harass, stalk, defame, defraud, degrade, victimize, or intimidate an individual or group of individuals for any reason, including on the basis of age, gender, disability, ethnicity, sexual orientation, race, or religion, or to incite or encourage anyone else to do so.
- (b)** Copy, store, archive, or create a database of the Content, except that geocodes may be stored locally only for use with your Company Applications.
- (c)** Exceed a total of 1,000,000 batch geocode entities non-billable transactions or 10,000,000 non-billable transactions total using the Bing Spatial Data Services API per calendar year (all transactions above either of these limits will be billable).
- (d)** Use Content, including geocodes, other than via an authenticated call to the Services and/or in conjunction with a Bing Map.
- (e)** Present or alert an end user to individual maneuvers of a route in any way that is synchronized with the end-user's sensor-based position along the route (e.g. turn by turn navigation that tracks end-user's position using GPS and communicates a maneuver as the end-user approaches the location for such maneuver).
- (f)** Change, obscure, or minimize any logo, trademark, copyright or other notice of Microsoft or its suppliers, or digital watermarks in the Content; except that we may make alternative logo, trademark and copyright attribution requirements available for use with small maps or on small devices; if available you will find them [here](#).
- (g)** Use the Services for business asset tracking, fleet management, or dispatch including, without limitation, to monitor or track the location or movement of Asset(s), including to provide guidance based on the position or routing of multiple objects tracked using GPS or other sensor-generated methods, unless you have purchased one or more of the following SKU's: Bing Maps Mobile Asset Management North America with Routing Per Asset; Bing Maps Mobile Asset Management Europe with Routing Per Asset; Bing Maps Mobile Asset Management North America without Routing Per Asset; Bing Maps Mobile Asset Management Europe without Routing Per Asset; Bing Maps Asset Management for Windows North America with Routing Per Asset; or Bing Maps Asset Management for Windows Europe with Routing Per Asset. You may only provide guidance based on the position or routing of multiple objects tracked using GPS or other sensor-generated methods if you purchased one or more of the following: Bing Maps Mobile Asset Management North America with Routing Per Asset; Bing Maps Mobile Asset Management Europe with Routing Per Asset; Bing Maps Asset Management for Windows North America with Routing Per Asset; Mobile Asset Management North America with Routing per Asset; Mobile Asset Europe with Routing per Asset and Mobile Asset Management Rest of World with Routing per Asset.
- (h)** Use the Services to track Assets that are consumer devices, including, without limitation to monitor or track the location or movement of Asset(s), including to provide guidance based on the position or routing of multiple objects tracked using GPS or other sensor-generated methods, unless you have purchased one or more of the following SKU's: Bing Maps Mobile Asset Management Consumer Tracked Per Asset; or Bing Maps Public Website Usage Add-on SL.
- (i)** Use Content that consists of points of interest data to generate sales leads information in the form of ASCII or other text-formatted lists of category-specific business listings which (i) include complete mailing address for each business; and (ii) contain a substantial portion of such listings for a particular country, city, state or zip code region.
- (j)** Use Content other than in combination with the Services and not separately.
- (k)** Transmit, sell, license or deliver any infringing, defamatory, offensive, or illegal products, services or materials.
- (l)** Violate any applicable U.S. Export Administration Regulations or end-user, end-use and destination restrictions issued by U.S. and other governments. The Services are subject to U.S. export jurisdiction.
- (m)** Use the Services in any way that threatens the integrity, performance or reliability of the Services including performance or stress testing, or in any manner that works around any technical limitations in the Services; except that you may test the performance of the Services provided such testing is not at levels above Company's peak performance levels during the prior three (3) months.
- (n)** Syndicate, redistribute, resell or sublicense access to the Services or Content on a standalone basis, unless specifically allowed in your Volume Licensing Agreement.
- (o)** Falsify or alter any unique referral identifier in, or assigned to, a Company Application, or otherwise obscure or alter the source of queries coming from a Company Application.

(p) Reverse engineer, decompile or disassemble the Services, except and only to the extent that applicable law expressly permits, despite this limitation.

(q) Integrate road maps from the Services with road maps supplied by any third party. You may not replace aerial imagery from the Services with imagery supplied by any other mapping platform. Notwithstanding the foregoing, you may overlay aerial imagery that you have the rights to use, provided that such imagery does not substantially replace the base aerial imagery provided by the Services. You may incorporate various data layers of types not available through the Services, in the Company Applications (for example, demographic or school location data). You may combine or overlay Ordnance Survey's United Kingdom mapping data or data derived from Ordnance Survey's United Kingdom mapping data (but not Ordnance Survey roads data) with the Services, provided that you have procured all such rights to the Ordnance Survey United Kingdom mapping data, that such use of the Ordnance Survey United Kingdom mapping data with the Services is consistent with your Ordnance Survey license, and that you indemnify Microsoft for all such use pursuant to your Volume Licensing Agreement.

(r) Use bird's eye aerial imagery (if it is made available through the Bing Maps Platform APIs) to reveal latitude, longitude, altitude or other metadata.

(s) Save, download, print, distribute, transmit or manipulate the bird's eye imagery, or offer others that ability, through your Company Application.

(t) Allow use of bird's eye imagery of the United States, Canada, Mexico, New Zealand, Australia, and/or Japan by a government entity.

(u) Use Content from Ordnance Survey for non-publicly available Company Applications.

(v) Use the Services or Content with a vehicle's dashboard, or a device connected to a vehicle's dashboard, systems or sensors, except that the device may be connected to the vehicle power source for charging purposes.

Additional restrictions may apply to use of particular Content or functionalities, as set forth in the SDKs from time to time.

**4.3. Services Update.** Microsoft will make commercially reasonable efforts to provide advance notice of material updates to the Services. When Microsoft reasonably believes an update will require significant changes to all Company Applications using the Services (such as major version releases – e.g. v1.0 to v2.0), Microsoft will keep the previous version (one version back) of the Services available for at least twelve (12) months after the release of the new version. Company may be unable to access the Services if it does not upgrade Company Applications to the latest version during that time.

#### **4.4. Account Access and Developer Accounts.**

(a) We require use of Access Credentials to use the Services, and require use of transaction tracking and/or session tracking methods for all uses of the Services, as described in the applicable SDKs. Company will use the Access Credentials to: (i) access the Services, and (ii) access an administrative customer service site. Company will not make its Access Credentials available to any third party except a third party authorized to act on its behalf. Company is responsible for all use of the Services through its Access Credentials. Company will promptly notify us if it learns of a security breach related to your Access Credentials and use of the Services.

(b) Microsoft will provide Company with access to developer accounts which may be used for up to 125,000 cumulative transactions, of any type including sessions, both billable or non-billable, per calendar year, across all Company developer accounts. Developer accounts may only be used by Company for developing, testing and maintenance of the Services with Company Applications consistent with all other terms in this Section 4. If you are a registered Microsoft Certified Partner, you may also use your developer account to demonstrate your Company Application. If these limits interfere with your ability to use the Services please contact us [here](#).

**4.5. End User Terms.** You must provide a hypertext link to the [Bing Maps TOU](#): (i) at the bottom of each page in your Company Application where the Services can be viewed or accessed, or (ii) within the terms of use of your Company Application. Microsoft may change the Bing Maps TOU from time to time and will provide notice as set forth in Section 4.8(a). Company is responsible for notifying its end users of changes as appropriate and will comply with Microsoft's reasonable instructions in doing so. You may not encourage or require any end user to breach the terms of the Bing Maps TOU.

**4.6. Privacy.** Microsoft may collect information such as, but not limited to, an end user's IP address, requests, time of submissions and the results returned to the user, in connection with transaction requests to the Services. All access to and use of the Services is subject to the data practices set forth in the then-current Privacy Statement, a current copy of which is available at <http://aka.ms/BingMapsMicrosoftPrivacy>. You are responsible for providing end users with adequate notice of the privacy practices applicable to your Company Application.

**4.7. Intellectual Property and Reservation of Rights.** All rights to the Services and the Content, including rights of use, not specifically granted under this TOU or your Volume Licensing Agreement are reserved by Microsoft and its suppliers. Except as set forth in your Volume Licensing Agreement, this TOU does not grant Microsoft any right or license to any Company Application or Company intellectual property, including intellectual property that Company has licensed from third parties.

Except for material that we may license to you, we do not claim ownership of the content you post or otherwise provide to us, that is hosted by Microsoft or a third party hosting provider on Microsoft's behalf, related to the Services (called a "Submission"). However, except as set forth herein, by posting or otherwise providing your Submission (and for the avoidance of doubt, where Microsoft hosts content on your behalf including by a third party hosting provider, this constitutes a Submission, but where you host or a third party hosts content on your behalf, other than Microsoft or a third party hosting provider on behalf of Microsoft,



this does not constitute a Submission), you are granting to Microsoft free permission to use, copy, distribute, display, publish, transcode and otherwise modify your Submission, each in connection with the Services, and sublicense these rights to others in order to provide the Services. For every Submission you make, you must have all rights necessary for you to grant the permissions in this section. Content that you upload to the Bing Spatial Data Services API will only be used by Microsoft to provide the Services to you unless you agree to grant Microsoft additional rights under this section, by way of your Volume Licensing Agreement or the process detailed in the SDKs.

#### 4.8. General Legal Terms.

**(a) Notices.** All Bing Maps legal notices between the parties will be sent consistent with your Volume Licensing Agreement. You are responsible for keeping your contact information up to date. This TOU is in electronic form. We have promised to send you certain information in connection with the Services and have the right to send you certain additional information, including that which may be required by law, which we may send in electronic form. If you do not consent to receive notices electronically, you must stop using the Services.

We may provide required information to you:

- at the e-mail address provided through your Volume Licensing Agreement or any email address you specified via [www.bingmapsportal.com](http://www.bingmapsportal.com) (you are responsible for keeping your contact information up to date); or
- by posting on any portion of this TOU or to another Microsoft web site that will be designated in advance for this purpose.

Notices will be deemed given on the date shown on the postal return receipt or on the courier, facsimile or email confirmation delivery.

**(b) How We May Change the TOU.** We may update the TOU from time to time and the impact of such changes is governed by your Volume Licensing Agreement. If you are licensing Bing Maps through your Volume Licensing Agreement as of May 1, 2014, the limits set forth in Section 4.2(c) will be effective as set forth in your Volume Licensing Agreement or January 1, 2015, whichever is later. Until the limits set forth in Section 4.2(c) above are effective, the limitation set forth below will continue to apply. In developing Company Applications, and in using the Services, you may not, nor may you permit your customers to: Exceed a total of 10,000,000 non-billable transactions using the Bing Spatial Data Services API per calendar year.

If you are licensing Bing Maps through your Volume Licensing Agreement as of May 1, 2014, and the terms of Section 4.9(c) apply to your use, the following limitation will be effective as set forth in your Volume Licensing Agreement or January 1, 2015, whichever is later: You may not exceed 10 million total forward or reverse geocoding transactions, sessions, or routing requests per year under the Bing Maps Enterprise Platform Service SL or Bing Maps Known User SL. Should you license more than 5000 Bing Maps Known User SLs, the limits set forth herein will be increased at a rate of 20 requests per Known User within any 24 hour period and 2000 requests per Known User per year, for each Known User SL above 5,000. Such increased limits will continue for the duration that you license more than 5,000 Bing Maps Known User SLs.

If you are licensing Bing Maps through your Volume Licensing Agreement as of May 1, 2014 and the terms of 4.9(d) apply to your use, the following limitation will be effective as set forth in your Volume Licensing Agreement or January 1, 2015, whichever is later: You may not exceed 5 million total forward or reverse geocoding transactions, sessions or routing requests per year under the Bing Maps Enterprise Platform Service SL or Bing Maps Light Known User SL. Should you license more than 5000 Light Known User SLs these limits will be increased at the rate of 10 requests per Light Known User within any 24 hour period and 1000 requests per Light Known User per year, for each Light Known User SL above 5,000. Such increased limits will continue for the duration that you license more than 5,000 Bing Maps Light Known User SLs.

**(c) Survival.** Sections 4.1, 4.2, 4.7 and 4.8 will survive the termination or expiration of your Volume Licensing Agreement for any reason.

**(d) Enforceability and Interpreting the TOU.** All parts of this TOU apply to the maximum extent permitted by law. If any provision of the Volume Licensing Agreement or this TOU is unenforceable, the parties (or, if the parties cannot agree, a court) will revise it so that it can be enforced. Even if no revision is possible, the rest of the Volume Licensing Agreement and this TOU will remain in place. This TOU, together with your Volume Licensing Agreement, constitutes the entire agreement between you and us regarding your use of the Services.

**(e) No Third Party Beneficiaries.** This TOU is solely for your and our benefit. It is not for the benefit of any other person, except for permitted successors and assigns.

**(f) No Joint Venture/Independent Development.** The parties are operating as independent contractors, and nothing in this TOU will be construed as creating a partnership, franchise, joint venture, employer-employee or agency relationship.

**(g) Waiver.** Any delay or failure of either party to exercise a right or remedy will not result in a waiver of that, or any other, right or remedy. No waiver will be effective unless made in writing and signed by an authorized representative of the waiving party.

**(h) Logos; Marketing.** Except as otherwise agreed to by the parties in writing, neither party will use any logo or trademark of the other party for marketing or any other purpose without the other party's prior written approval.

**(i) Volume Licensing Agreement Terms.** For clarity, the following terms will be governed as set forth in your Volume Licensing Agreement: Confidentiality; Duty to Defend; Limitation of Liabilities and

Disclaimers; Taxes; Choice of Law and Location for Resolving Disputes; Force Majeure; and Assignment.

**(j) Print Rights.** If print rights are available for the Services, such rights will be included [here](#).

**4.9. Company Application Terms.** The following terms apply respectively for each of the following offerings purchased through Volume Licensing.

**(a) Bing Maps Enterprise Platform Service SL and a Bing Maps Public Website Usage Add-on**

**SL:** If you have purchased a Bing Maps Enterprise Platform Service SL and a Bing Maps Public Website Usage Add-on SL you may only use the Services in: (i) a Company Application that will serve as a map display and/or locator, available to consumers on Company, agent or franchisee owned and operated publicly available websites (including mobile websites or apps), which may be offered for a fee and/or require a login; or (ii) a Company Application which is used by Company, agent or franchisee to track, view and manage Assets that are consumer devices based on their GPS or other sensor based location. You may not use the Services for or in connection with Company Applications used by authenticated enterprise users (employees or agents of the enterprise) over a private network. Each Bing Maps Public Website Usage Add-on SL offering consists of a varying number of Billable Transactions.

**(b) Bing Maps Enterprise Platform Service SL and a Bing Maps Internal Website Usage Add-on**

**SL:** If you have purchased a Bing Maps Platform Service SL and a Bing Maps Internal Website Usage Add-on SL you may only use the Services in a Company Application accessed by your employees on your private network, to access and display maps and related information. Your Company Application may be accessed via a web browser or an installed client, provided that you strictly control functionality in the user interface and authentication of users. Each Bing Maps Internal Website Usage Add-on SL offering consists of a varying number of Billable Transactions.

**(c) Bing Maps Enterprise Platform Service SL and Bing Maps Known User SL:** If you have purchased a Bing Maps Platform Service SL and a Bing Maps Known User SL you may only use the Services in a Company Application accessed by your employees on your private network, to access and display maps and related information. Your Company Application may be accessed via a web browser or an installed client, provided that you strictly control functionality in the user interface and authentication of users. You may not exceed 100,000 total forward or reverse geocoding transactions, sessions or routing requests within any 24 hour period. You may not exceed 10 million total forward or reverse geocoding transactions, sessions, or routing requests per year under the Bing Maps Enterprise Platform Service SL or Bing Maps Known User SL. Should you license more than 5000 Bing Maps Known User SLs, the limits set forth herein will be increased at a rate of 20 requests per Known User within any 24 hour period and 2000 requests per Known User per year, for each Known User SL above 5,000. Such increased limits will continue for the duration that you license more than 5,000 Bing Maps Known User SLs.

**(d) Bing Maps Enterprise Platform Service SL and Bing Maps Light Known User SL:** If you have purchased a Bing Maps Platform Service SL and a Bing Maps Light Known User SL you may only use the Services in a Company Application accessed by your employees on your private network, to access and display maps and related information. Your Company Application may be accessed via a web browser or an installed client, provided that you strictly control functionality in the user interface and authentication of users. You may not exceed 25,000 total forward or reverse geocoding transactions, sessions or routing requests within any 24 hour period. You may not exceed 5 million total forward or reverse geocoding transactions, sessions or routing requests per year. Should you license more than 5000 Light Known User SLs these limits will be increased at the rate of 10 requests per Light Known User within any 24 hour period and 1000 requests per Light Known User per year, for each Light Known User SL above 5,000. Such increased limits will continue for the duration that you license more than 5,000 Bing Maps Light Known User SLs.

Subject to Section 4.2(q), Company may only overlay administrative boundaries or other map content provided that the Company Application's user interface prevents end users from:

- loading additional map content layers of any kind;
- editing or creating map content. For avoidance of doubt, simple annotations such as a line, arrow, polygon or circle to highlight an area is allowed and not considered map content under this restriction; and
- executing any spatial query other than proximity (find the nearest), point-in-polygon, distance between two points or find and route within the Services. For avoidance of doubt, Company Application may not perform geofences, buffers or query a spatially enabled database.

**(e) Bing Maps Mobile Asset Management Platform Add-on SL:**

**(i)** This section applies to your use if you have purchased a Bing Maps Mobile Asset Management Platform Add-on SL and any one or more of the following: Bing Maps Mobile Asset Management North America with Routing Per Asset; Bing Maps Mobile Asset Management Europe with Routing Per Asset; Bing Maps Mobile Asset Management North America without Routing Per Asset; or Bing Maps Mobile Asset Management Europe without Routing Per Asset; Mobile Asset Management North America with Routing per Asset; Mobile Asset Management Europe with Routing per Asset or Mobile Asset Management Rest of World with Routing per Asset.

- You may only use the Services in a Company Application which is used by your employees for mobile asset management to track, view and manage Assets based on their GPS or other sensor based location. Company Application may be accessed via a web browser or an installed client, provided that you strictly control functionality in the user interface and authentication of users.
- You may not exceed 100,000 total requests or 100 requests per Asset, whichever is greater, of forward geocoding transactions, sessions or routing requests, all measured as an average over any 24 hour period. If you choose to use the Bing Spatial Data Services API for batch geocoding, the 10,000,000 non-billable transaction limit set forth in Section 4.2(c) will not apply to any reverse geocoding. You also may not exceed more than 150 reverse geocode requests per Asset

over any 24-hour period using the Bing Spatial Data Services API or otherwise.

- Notwithstanding Section 4.2(v), you may use the Services to cache a Geofence and/or Geofencing Alerts on a device only with your Company Application, provided that neither the Geofence and/or Geofencing Alerts interacts with the vehicle's dashboard, systems or sensors.
- For purposes of this Section, North America means the United States and Canada. For purposes of this Section, Europe means Western Europe (Andorra, Austria, Belgium, Denmark, Eire (Republic of Ireland), Faroe Islands, Finland, France, Germany, Gibraltar, Greece, Greenland, Guernsey, Iceland, Italy / Vatican City, Jersey, Liechtenstein, Luxembourg, Malta, Man, Monaco, Norway, Portugal, San Marino, Spain, Sweden, Switzerland, The Netherlands, and United Kingdom); Eastern Europe (Albania, Belarus, Bosnia & Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Macedonia, Moldova, Montenegro, Poland, Romania, Russia, Serbia, Slovakia, Slovenia, and Ukraine) and Turkey. For the purposes of this section, Rest of World means everywhere except North America, Europe (as defined above) and India.

(ii) This section applies to your use if you have purchased a Bing Maps Mobile Asset Management Platform Add-on SL and Bing Maps Mobile Asset Management Consumer Tracked Per Asset.

- You may only use the Services in a Company Application which is used to track, view and manage Assets that are consumer devices based on their GPS or other sensor based location. Company Application may be accessed via a web browser or an installed client, provided that you strictly control functionality in the user interface and authentication of users.
- You may not exceed 50,000 total requests or 20 requests per Asset, whichever is greater, of forward geocoding, sessions or routing requests, all measured as an average over any 24 hour period. You also may not exceed more than 50 reverse geocoding requests per Asset over any 24 hour period using the Bing Spatial Data Services API or otherwise.

**(f) Bing Maps Asset Management for Windows Platform Add-on SL:**

(i) This section applies to your use if you have purchased a Bing Maps Asset Management for Windows Platform Add-on SL and any one or more of the following: Bing Maps Asset Management for Windows North America with Routing Per Asset; Bing Maps Asset Management for Windows Europe with Routing Per Asset.

- You may only use the Services in a Company Application which is used by your employees for mobile asset management to track, view and manage Assets based on their GPS or other sensor based location. You may use the Services only on a software application available exclusively on Windows by using the Bing Maps for Windows Store Apps API; Bing Spatial Data Services API; Bing Maps SOAP Services API; Bing Maps Windows Presentation Foundation Control API; or the Bing Maps REST Services API, including all successor versions. Microsoft may add to this list from time to time upon written notice. You must strictly control functionality in the user interface and authentication of users.
- You may not exceed 100,000 total requests or 20 requests per Asset, whichever is greater, of forward geocoding transactions, sessions or routing requests, all measured as an average over any 24 hour period. You also may not reverse geocode the position of more than one Asset per minute over any 24 hour period using the Bing Spatial Data Services API or otherwise.
- Notwithstanding Section 4.2(v), you may use the Services to cache a Geofence and/or Geofencing Alerts on a device only with your Company Application, provided that neither the Geofence and/or Geofencing Alerts interacts with the vehicle's dashboard, systems or sensors.
- For purposes of this Section, North America means the United States and Canada. For purposes of this Section, Europe means Western Europe (Andorra, Austria, Belgium, Denmark, Eire (Republic of Ireland), Faroe Islands, Finland, France, Germany, Gibraltar, Greece, Greenland, Guernsey, Iceland, Italy / Vatican City, Jersey, Liechtenstein, Luxembourg, Malta, Man, Monaco, Norway, Portugal, San Marino, Spain, Sweden, Switzerland, The Netherlands, and United Kingdom); Eastern Europe (Albania, Belarus, Bosnia & Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Macedonia, Moldova, Montenegro, Poland, Romania, Russia, Serbia, Slovakia, Slovenia, and Ukraine) and Turkey.

(ii) This section applies to your use if you have purchased a Bing Maps Asset Management Platform for Windows Add-on SL and Bing Maps Mobile Asset Management Consumer Tracked Per Asset.

- You may only use the Services in a Company Application which is used to track, view and manage Assets that are consumer devices based on their GPS or other sensor based location. Company Application may be accessed via a web browser or an installed client, provided that you strictly control functionality in the user interface and authentication of users.
- You may not exceed 50,000 total requests or 20 requests per Asset, whichever is greater, of forward geocoding, sessions or routing requests, all measured as an average over any 24 hour period. You also may not exceed more than 50 reverse geocoding requests per Asset over any 24 hour period using the Bing Spatial Data Services API or otherwise.

**5. Education or Non-Profit Organization Use.** Subject to your compliance with Sections 1, 2, 5 and 8 of this TOU, you may develop or host a Company Application that uses the Services to display results for Education or Non-profit Organization Use (as defined in Section 2). You may use the Services solely in conjunction with and integrated into Company Applications using only methods and means of access that are documented in the SDKs. **Please note that we do not provide warranties for the Services for Education or Non-Profit Organization Use under this Section 5. This TOU also limits our liability. These terms are in Sections 8.8 and 8.9 and we ask you to read them carefully.**

**6. Limited Website and Consumer App Use.** Subject to your compliance with Sections 1, 2, 6 and 8 of this TOU, you may develop or host a Company Application that uses the Services for Limited Website Use and Consumer App Use (as defined in Section 2). You may use the Services solely in conjunction with and

integrated into Company Applications using only methods and means of access that are documented in the SDKs. Your use of the Content in the Services is subject to the [Bing Maps Branding Guidelines](#). If you will exceed the Limited Website and Consumer App Use transaction limits or limits on use of the Bing Spatial Data Services API, please contact us [here](#) to discuss how you can license additional transactions. **Please note that we do not provide warranties for the Services for Limited Website Use under this Section 6. This TOU also limits our liability. These terms are in Sections 8.8 and 8.9 and we ask you to read them carefully.**

## 7. RESERVED.

**8. General Terms for use of the Services under TOU Sections 5, 6, 7, 9 and 10.** If you use the Services under Sections 5 (Education or Non-Profit Organization Use), 6 (Limited Public Website Use), 9 (Limited Commercial Windows App Development) or 10 (Windows App and Windows Phone App Development) the terms in this Section 8 apply to your use of the Services.

**8.1. General Limitations and Conditions of the Services.** In using the Services and developing Company Applications you must: obey the law (including local, state, federal or other applicable consumer privacy regulations); not violate the rights of any third party; and obey any codes of conduct or other notices we provide. We may use technology or other means to protect the Services that you will not circumvent. These means may include, for example, filtering to increase security. Microsoft may, in its sole discretion, limit the: (i) rate at which the Services, or any subset of it, may be called, (ii) amount of storage made available to each Services account, or (iii) length of individual content segments that may be uploaded to, or served from, the Services (all of the foregoing being forms of "Throttling"). You will set the user region parameter in the Services in compliance with applicable laws, including those regarding mapping, of the country where the Content is made available.

**8.2. General Restrictions.** We do have some restrictions on your use of the Services. In developing Company Applications, and in using the Services, you may not, nor may you permit your customers to:

(a) Upload any content to the Services, or use the Services to display or perform in your Company Application, any content:

- for which you do not have all necessary permissions from the copyright holder(s);
- which includes nudity or is obscene, indecent, pornographic or libelous;
- which is intended to exploit minors in any way;
- which incites, advocates, or expresses hatred, bigotry, racism, or gratuitous violence; or
- which is intended to threaten, harass, stalk, defame, defraud, degrade, victimize, or intimidate an individual or group of individuals for any reason, including on the basis of age, gender, disability, ethnicity, sexual orientation, race, or religion, or to incite or encourage anyone else to do so.

(b) Copy, store, archive, or create a database of the Content, except that geocodes may be stored locally only for use with your Company Applications.

(c) Exceed 50,000 cumulative billable transactions (which will be free of charge) as defined in the SDKs, within any 24 hour period. Exceed a total of 50,000 batch geocode entities non-billable transactions or 100,000 non-billable transactions total using the Bing Spatial Data Services API per calendar year.

(d) Use Content, including geocodes, other than via an authenticated call to the Services and/or in conjunction with a Bing Map.

(e) Present or alert an end user to individual maneuvers of a route in any way that is synchronized with the end-user's sensor-based position along the route (e.g. turn by turn navigation that tracks end-user's position using GPS and communicates a maneuver as the end-user approaches the location for such maneuver).

(f) Change, obscure, or minimize any logo, trademark, copyright or other notice of Microsoft or its suppliers; digital watermarks in the Content; or any search box, portion of the results, or advertisement; except that we may make alternative logo, trademark, and copyright attribution requirements available for use with small maps or on small devices; if available you will find them [here](#).

(g) Use the Services for business asset tracking, fleet management, or dispatch including, without limitation, to monitor or track the location or movement of Asset(s), including to provide guidance based on the position or routing of multiple objects tracked using GPS or other sensor-generated methods.

(h) Use bird's eye aerial imagery (except you may use bird's eye aerial imagery if your use of the Services is under Section 7 and consistent with Section 7.1 accordingly).

(i) Use Content that consists of points of interest data to generate sales leads information in the form of ASCII or other text-formatted lists of category-specific business listings which (i) include complete mailing address for each business; and (ii) contain a substantial portion of such listings for a particular country, city, state or zip code region.

(j) Use Content other than in combination with the Services and not separately.

(k) Use the Services in a way that harms us or our Affiliates or suppliers.

(l) Transmit, sell, license or deliver any infringing, defamatory, offensive, or illegal products, services or materials.

(m) Violate any applicable U.S. Export Administration Regulations or end-user, end-use and destination restrictions issued by U.S. and other governments. The Services are subject to U.S. export jurisdiction.

(n) Use the Services in any way that threatens the integrity, performance, or reliability of the Services including performance or stress testing, or in any manner that works around any technical limitations in the Services.



(o) Syndicate, redistribute, resell or sublicense access to the Services or Content on a standalone basis.

(p) Falsify or alter any unique referral identifier in, or assigned to, a Company Application, or otherwise obscure or alter the source of queries coming from a Company Application.

(q) Use any automated process or service to access and/or use the Services (such as a BOT, a spider, periodic caching of information stored by Microsoft, or "meta-searching").

(r) Reverse engineer, decompile or disassemble the Services, except and only to the extent that applicable law expressly permits, despite this limitation.

(s) Integrate road maps from the Services with road maps supplied by any third party. You may not replace aerial imagery from the Services with imagery supplied by any other mapping platform. Notwithstanding the foregoing, you may overlay aerial imagery that you have the rights to use, provided that such imagery does not substantially replace the base aerial imagery provided by the Services. You may incorporate various data layers of types not available through the Services, in the Company Applications (for example, demographic or school location data). You may combine or overlay Ordnance Survey's United Kingdom mapping data or data derived from Ordnance Survey's United Kingdom mapping data (but not Ordnance Survey roads data) with the Services, provided that you have procured all such rights to the Ordnance Survey United Kingdom mapping data, that such use of the Ordnance Survey United Kingdom mapping data with the Services is consistent with your Ordnance Survey license, and that you indemnify Microsoft for such use pursuant to this TOU.

(t) Use Content from Ordnance Survey for non-publicly available Company Applications.

(u) Use the Services or Content with a vehicle's dashboard, or a device connected to a vehicle's dashboard, systems or sensors, except that the device may be connected to the vehicle power source for charging purposes.

Additional restrictions may apply to use of particular Content or functionalities, as set forth in the SDKs from time to time. We reserve the right to include a search box or advertising in the Content served through the Services. You will not intentionally omit or obscure such advertising, search box or search results including advertising when displaying such Content to end users.

**8.3. Account Access.** We require use of Access Credentials to use the Services, and require use of transaction tracking and/or session tracking methods for all uses of the Services, as described in the applicable SDKs. Company will use the Access Credentials to: (a) access the Services, and (b) access an administrative customer service site. Company will not make its Access Credentials available to any third party except a third party authorized to act on its behalf. Company is responsible for all use of the Services through its Access Credentials. Company will promptly notify us if it learns of a security breach related to your Access Credentials and use of the Services.

**8.4. Bing Maps TOU.** You must provide a hypertext link to the [Bing Maps TOU](#): (i) at the bottom of each page in your Company Application where the Services can be viewed or accessed, or (ii) within the terms of use of your Company Application. Microsoft may change the Bing Maps TOU from time to time. Company is responsible for notifying its end users of changes as appropriate and will comply with Microsoft's reasonable instructions in doing so. You may not encourage or require any end user to breach the terms of the Bing Maps TOU.

**8.5. Privacy.** Microsoft may collect information such as, but not limited to, an end user's IP address, requests, time of submissions and the results returned to the user, in connection with transaction requests to the Services. All access to and use of the Services is subject to the data practices set forth in the then-current Privacy Statement, a current copy of which is available at <http://aka.ms/BingMapsMicrosoftPrivacy>. You are responsible for providing end users with adequate notice of the privacy practices applicable to your Company Application.

**8.6. Intellectual Property and Reservation of Rights.** Microsoft and its suppliers retain all right, title and interest in and to the Services, Content, the SDKs and all intellectual property rights therein, except for the limited rights expressly granted herein. This TOU does not grant Microsoft any right or license to any Company Application or Company intellectual property including intellectual property that Company has licensed from third parties.

Except for material that we may license to you, we do not claim ownership of the content you post or otherwise provide to us, that is hosted by Microsoft or a third party hosting provider on Microsoft's behalf, related to the Services (called a "Submission"). However, by posting or otherwise providing your Submission (and for the avoidance of doubt, where Microsoft hosts content on your behalf including by a third party hosting provider, this constitutes a Submission, but where you host or a third party hosts content on your behalf, other than Microsoft or a third party hosting provider on behalf of Microsoft, this does not constitute a Submission), you are granting to Microsoft free permission to use, copy, distribute, display, publish, transcode and otherwise modify your Submission, each in connection with the Services, and sublicense these rights to others in order to provide the Services. We may refuse to publish and may remove your Submission from the Services at any time. For every Submission you make, you must have all rights necessary for you to grant the permissions in this section. You may agree to grant Microsoft additional rights under this section by way of the process detailed in the SDKs.

**8.7. Your Responsibility.** You will indemnify and hold the Microsoft parties harmless from and against any and all loss, liability, and expense (including reasonable attorneys' fees) suffered or incurred by reason of any claims, proceedings or suits based on or arising out of any breach by you of any obligation or warranty under this TOU. You will be solely responsible for defending any claim, subject to Microsoft's right to participate with counsel it selects, and you will not agree to any settlement that imposes any obligation or liability on the Microsoft parties without Microsoft's prior written consent.

**8.8. We Make No Warranty.** Microsoft and its suppliers provide the Services and Content "as-is," "with all faults," "as available" and without warranty of any kind. To the maximum extent permitted by law, any

and all representations, warranties or conditions of any kind whatsoever (including, but not limited to, implied or statutory warranties of merchantability, fitness for a particular purpose, title, non-infringement, accuracy or satisfactory quality), all with regard to the Services and any Content, are expressly excluded by Microsoft and its suppliers. Microsoft and its suppliers make no warranty that the Services will operate properly as integrated with the Company Applications, that the Services will be uninterrupted, or that any Content will be accurate or complete. Microsoft and its suppliers specifically disclaim any liability for end users' reliance on the Services. Without limiting the foregoing, Microsoft and its suppliers shall have no liability for harm to end users resulting from reliance on any map or direction provided hereunder.

**8.9. Liability Limitation.** You can recover from Microsoft and its suppliers only direct damages up to an amount equal to fees you have paid Microsoft for the Services for one month. Neither party nor its suppliers will be liable for any indirect damages, (including, without limitation, consequential, special or incidental damages, damages for loss of profits or revenues, business interruption, or loss of business information) arising out of or related to the Services, Content, or TOU even if advised of the possibility of such damages or if the possibility was reasonably foreseeable.

**8.10. Changes to the Services; Cancellation or Suspension of the Services; Audit.** We may change, cancel or suspend your use of the Services at any time. Some changes to the Services may cause existing Company Applications to stop working. Our cancellation or suspension may be without cause and/or without notice. Upon Services cancellation, your right to use the Services stops right away. Once the Services are cancelled or suspended, any data you have stored on the Services may not be retrieved later. Microsoft reserves the right to verify your compliance with this TOU.

**8.11. General Legal Terms.**

**(a) How We May Change the Contract.** We may update the TOU from time to time. If we change this TOU, then we will provide notice as provided in Section 8.11(g). If you do not agree to these changes, then you must stop using the Services. If you do not stop using the Services, then your use of the Services will continue under the changed TOU. In the future we may choose to charge for all use of the Services, or change the requirements for use free of charge. If we choose to change the fee requirements for the Services, Microsoft will provide notice of such terms as provided in Section 8.11(g), and you may elect to stop using the Services rather than incurring fees.

**(b) Term.** This TOU will become effective on your first use of the Services. This TOU may be terminated immediately for any reason and without notice by Microsoft. If this TOU terminates, all rights granted to you by this TOU will automatically terminate and you will cease to have any rights to use the Services.

**(c) Force Majeure.** Microsoft and Company will not be in default of this TOU if performance is delayed or prevented for reasons beyond its control, so long as it resumes performance as soon as practical.

**(d) Survival.** Sections 8.1, 8.2 and 8.6 through and including 8.11 will survive the termination or expiration of this TOU for any reason.

**(e) Assignment.** We may assign the TOU, in whole or in part, at any time with notice to you.

**(f) Enforceability and Interpreting the TOU.** All parts of this TOU apply to the maximum extent permitted by law. If any provision of the TOU is unenforceable, the parties (or, if the parties cannot agree, a court) will revise it so that it can be enforced. Even if no revision is possible, the rest of the TOU will remain in place. This TOU constitutes the entire agreement between you and us regarding your use of the Services.

**(g) Notices; Consent Regarding Electronic Information.** This TOU is in electronic form. We have promised to send you certain information in connection with the Services and have the right to send you certain additional information, including legal notices and that which may be required by law, which we may send in electronic form. You are responsible for keeping your contact information up to date.

We may provide required information to you:

- at the e-mail address you specified when you signed up for the Services or any email address you specified via [www.bingmapsportal.com](http://www.bingmapsportal.com) (you are responsible for keeping your contact information up to date); or
- by posting on any portion of this TOU or to another Microsoft web site that will be designated in advance for this purpose.

Notices provided to you via e-mail will be deemed given and received on the transmission date of the e-mail. If you do not consent to receive notices electronically, you must stop using the Services. Any notice from you will be sent electronically to: [maplic@microsoft.com](mailto:maplic@microsoft.com).

**(h) Claim Must Be Filed Within One Year.** Any claim related to this TOU or the Services may not be brought unless brought within one year. The one-year period begins on the date when the claim first could be filed. If it is not filed within the one-year period, then that claim is permanently barred. This applies to both parties.

**(i) Choice of Law and Location for Resolving Disputes.** If you are headquartered anywhere other than Europe, Washington State law governs the interpretation of this TOU and applies to claims for breach, regardless of conflict of laws principles. You and we irrevocably consent to the exclusive jurisdiction and venue of the state or federal courts in King County, Washington, USA, for all disputes arising out of or relating to this TOU. If you are headquartered in Europe, the TOU will be construed and governed by the substantive laws of England and Wales. The parties waive all defenses of lack of personal jurisdiction and forum non conveniens. Process may be served on either party in the manner authorized by applicable law or court rule. In any dispute relating to the TOU the prevailing party will be entitled to recover reasonable attorneys' fees and costs.

**(j) No Third Party Beneficiaries.** This TOU is solely for your and our benefit. It is not for the benefit of

any other person, except for permitted successors and assigns.

**(k) No Joint Venture/Independent Development.** The parties are operating as independent contractors, and nothing in this TOU will be construed as creating a partnership, franchise, joint venture, employer-employee or agency relationship.

**(l) Waiver.** Any delay or failure of either party to exercise a right or remedy will not result in a waiver of that, or any other, right or remedy. No waiver will be effective unless made in writing and signed by an authorized representative of the waiving party.

**(m) Logos; Marketing.** Except as otherwise agreed to by the parties in writing, neither party will use any logo or trademark of the other party for marketing or any other purpose without the other party's prior written approval.

**(n) Print Rights.** If print rights are available for the Services, such rights will be included [here](#).

**9. Limited Commercial Windows App Development.** Subject to your compliance with Sections 1, 2, 8 and 9 of this TOU, you may develop and host Limited Commercial Windows Apps Company Applications that use the Services. Please note that the Maps Platform APIs for the UWP are not available for Windows Apps running on Windows 8.x and earlier operating systems. You may use the Services solely in conjunction with and integrated into Limited Commercial Windows Apps Company Applications using only methods and means of access that are documented in the SDKs. Notwithstanding Section 8.2(b), you may download Content as specifically enabled in the Maps Platform APIs for the UWP for use only in your Company Application. **Please note that we do not provide warranties for the Services for Limited Commercial Windows Apps Company Applications under this Section 9. This TOU limits our liability. These terms are in Sections 8.8 and 8.9 and we ask you to read them carefully.**

You are responsible for obtaining users' express permission (opt-in) to use users' personally identifying information, including users' location information, and providing a mechanism through which users can opt-out of the use of their personally identifiable and location information. Your use of the Content in the Services is subject to the [Bing Maps App Branding Guidelines](#).

**10. Windows App and Windows Phone App Development.** Subject to your compliance with Sections 1, 2, 8 and 10 of this TOU, you may develop and host Windows Apps and Windows Phone Apps Company Applications that use the Services. Please note that the Maps Platform APIs for the UWP are not available for Windows Apps running on Windows 8.x and earlier operating systems. You may use the Services solely in conjunction with and integrated into Windows Apps and Windows Phone Apps Company Applications using only methods and means of access that are documented in the SDKs. Notwithstanding Section 8.2(b), you may download Content as specifically enabled in the Maps Platform APIs for the UWP for use only in your Company Application. **Please note that we do not provide warranties for the Services for Windows Apps and Windows Phone Apps Company Applications under this Section 10. This TOU limits our liability. These terms are in Sections 8.8 and 8.9 and we ask you to read them carefully.**

Your Windows Apps and Windows Phone Apps Company Applications, and the Content therein, must be available to consumers and may be offered for a fee; or available internally for free instructional non-commercial use. You may not use the Services for or in connection with Windows Apps Company Applications used by authenticated enterprise users (employees or agents of the enterprise) over a private network under this section (see Section 9 for terms on such use).

You are responsible for obtaining users' express permission (opt-in) to use users' personally identifying information, including users' location information, and providing a mechanism through which users can opt-out of the use of their personally identifiable and location information.

If you have a Bing Maps Agreement or Volume Licensing Agreement, you may use the Services for Windows App and Windows Phone App Development free of charge pursuant to this Section 10 by following the instructions at the [Bing Maps Portal](#).

**11. Media, Entertainment and Broadcast Use.** To use Bing Maps for Media, Entertainment and Broadcast Use, please refer to the [Bing Maps Media, Entertainment and Broadcast Use Terms of Use](#).

**12. Bing Maps API for Enterprise offerings purchased through the Azure Marketplace.** If you have purchased Bing Maps API for Enterprise through the Azure Marketplace the following terms apply to your use of the Services. Please note that we do not provide warranties for the Services under this section. This TOU also limits our liability. These terms are in Sections 12.7 and 12.8 and we ask you to read them carefully.

**12.1. License Rights.** In exchange for the fees paid through the Azure Marketplace and subject to your compliance with Sections 1, 2, and 12 of this TOU, you may use the Services solely in conjunction with and integrated into Company Applications using only methods and means of access that are documented in the SDKs, up to the number of Billable Transactions purchased. You will set the user region parameter in the Services in compliance with applicable laws, including those regarding mapping, of the country where the Content is made available. Your use shall be subject to any additional restrictions or rights included in the agreement under which you obtained access to Microsoft Azure services, including the [Microsoft Azure Marketplace Terms](#) (your "Azure Customer Agreement"). In using the Services and developing Company Applications you must: obey the law (including local, state, federal or other applicable consumer privacy regulations); not violate the rights of any third party; and obey any codes of conduct or other notices we provide.

**12.2. General Restrictions.** We do have some restrictions on your use of the Services. In developing Company Applications, and in using the Services, you may not, nor may you permit your customers to:

- (a)** Upload any content to the Services, or use the Services to display or perform in your Company Application, any content:
  - for which you do not have all necessary permissions from the copyright holder(s);
  - which includes nudity or is obscene, indecent, pornographic or libelous;

- which is intended to exploit minors in any way;
  - which incites, advocates, or expresses hatred, bigotry, racism, or gratuitous violence; or
  - which is intended to threaten, harass, stalk, defame, defraud, degrade, victimize, or intimidate an individual or group of individuals for any reason, including on the basis of age, gender, disability, ethnicity, sexual orientation, race, or religion, or to incite or encourage anyone else to do so.
- (b) Copy, store, archive, or create a database of the Content, except that geocodes may be stored locally only for use with your Company Applications.
- (c) Use Content, including geocodes, other than via an authenticated call to the Services and/or in conjunction with a Bing Map.
- (d) Present or alert an end user to individual maneuvers of a route in any way that is synchronized with the end-user's sensor-based position along the route (e.g. turn by turn navigation that tracks end-user's position using GPS and communicates a maneuver as the end-user approaches the location for such maneuver).
- (e) Change, obscure, or minimize any logo, trademark, copyright or other notice of Microsoft or its suppliers, or digital watermarks in the Content; except that we may make alternative logo, trademark and copyright attribution requirements available for use with small maps or on small devices; if available you will find them [here](#).
- (f) Use the Services for business asset tracking, fleet management, or dispatch including, without limitation, to monitor or track the location or movement of Asset(s), including to provide guidance based on the position or routing of multiple objects tracked using GPS or other sensor-generated methods.
- (g) Use Content that consists of points of interest data to generate sales leads information in the form of ASCII or other text-formatted lists of category-specific business listings which (i) include complete mailing address for each business; and (ii) contain a substantial portion of such listings for a particular country, city, state or zip code region.
- (h) Use Content other than in combination with the Services and not separately.
- (i) Transmit, sell, license or deliver any infringing, defamatory, offensive, or illegal products, services or materials.
- (j) Violate any applicable U.S. Export Administration Regulations or end-user, end-use and destination restrictions issued by U.S. and other governments. The Services are subject to U.S. export jurisdiction.
- (k) Use the Services in any way that threatens the integrity, performance or reliability of the Services including performance or stress testing, or in any manner that works around any technical limitations in the Services; except that you may test the performance of the Services provided such testing is not at levels above Company's peak performance levels during the prior three (3) months.
- (l) Syndicate, redistribute, resell or sublicense access to the Services or Content on a standalone basis.
- (m) Falsify or alter any unique referral identifier in, or assigned to, a Company Application, or otherwise obscure or alter the source of queries coming from a Company Application.
- (n) Reverse engineer, decompile or disassemble the Services, except and only to the extent that applicable law expressly permits, despite this limitation.
- (o) Integrate road maps from the Services with road maps supplied by any third party. You may not replace aerial imagery from the Services with imagery supplied by any other mapping platform. Notwithstanding the foregoing, you may overlay aerial imagery that you have the rights to use, provided that such imagery does not substantially replace the base aerial imagery provided by the Services. You may incorporate various data layers of types not available through the Services, in the Company Applications (for example, demographic or school location data). You may combine or overlay Ordnance Survey's United Kingdom mapping data or data derived from Ordnance Survey's United Kingdom mapping data (but not Ordnance Survey roads data) with the Services, provided that you have procured all such rights to the Ordnance Survey United Kingdom mapping data, that such use of the Ordnance Survey United Kingdom mapping data with the Services is consistent with your Ordnance Survey license, and that you indemnify Microsoft for such use pursuant to Section 12.7.
- (p) Use bird's eye aerial imagery (if it is made available through the Bing Maps Platform APIs) to reveal latitude, longitude, altitude or other metadata.
- (q) Save, download, print, distribute, transmit or manipulate the bird's eye imagery, or offer others that ability, through your Company Application.
- (r) Allow use of bird's eye imagery of the United States, Canada, Mexico, New Zealand, Australia, and/or Japan by a government entity.
- (s) Use Content from Ordnance Survey for non-publicly available Company Applications.
- (t) Use the Services or Content with a vehicle's dashboard, or a device connected to a vehicle's dashboard, systems or sensors, except that the device may be connected to the vehicle power source for charging purposes.

Additional restrictions may apply to use of particular Content or functionalities, as set forth in the SDKs from time to time.

**12.3. Account Access.** We require use of Access Credentials to use the Services, and require use of transaction tracking and/or session tracking methods for all uses of the Services, as described in the applicable SDKs. Company will use the Access Credentials to access the Services. Company will not make its Access Credentials available to any third party except a third party authorized to act on its behalf. Company



is responsible for all use of the Services through its Access Credentials. Company will promptly notify us if it learns of a security breach related to your Access Credentials and use of the Services.

**12.4. Bing Maps TOU.** You must provide a hypertext link to the [Bing Maps TOU](#): (i) at the bottom of each page in your Company Application where the Services can be viewed or accessed, or (ii) within the terms of use of your Company Application. Microsoft may change the Bing Maps TOU from time to time. Company is responsible for notifying its end users of changes as appropriate and will comply with Microsoft's reasonable instructions in doing so. You may not encourage or require any end user to breach the terms of the Bing Maps TOU.

**12.5. Privacy.** Microsoft may collect information such as, but not limited to, an end user's IP address, requests, time of submissions and the results returned to the user, in connection with transaction requests to the Services. All access to and use of the Services is subject to the data practices set forth in the then-current Privacy Statement, a current copy of which is available at <http://aka.ms/BingMapsMicrosoftPrivacy>. You are responsible for providing end users with adequate notice of the privacy practices applicable to your Company Application.

**12.6. Intellectual Property and Reservation of Rights.** All rights to the Services and the Content, including rights of use, not specifically granted under this TOU are reserved by Microsoft and its suppliers. Except as set forth herein, this TOU does not grant Microsoft any right or license to any Company Application or Company intellectual property, including intellectual property that Company has licensed from third parties.

Except for material that we may license to you, we do not claim ownership of the content you post or otherwise provide to us that is hosted by Microsoft or a third party hosting provider on Microsoft's behalf, related to the Services (called a "Submission"). However, except as set forth herein, by posting or otherwise providing your Submission (and for the avoidance of doubt, where Microsoft hosts content on your behalf including by a third party hosting provider, this constitutes a Submission, but where you host or a third party hosts content on your behalf, other than Microsoft or a third party hosting provider on behalf of Microsoft, this does not constitute a Submission), you are granting to Microsoft free permission to use, copy, distribute, display, publish, transcode and otherwise modify your Submission, each in connection with the Services, and sublicense these rights to others in order to provide the Services. For every Submission you make, you must have all rights necessary for you to grant the permissions in this section. Content that you upload to the Bing Spatial Data Services API will only be used by Microsoft to provide the Services to you, unless you agree to grant Microsoft additional rights under this section by way of the process detailed in the SDKs.

#### **12.7. Duty to Defend.**

**(a) Microsoft.** Microsoft agrees at its expense to defend Company in a lawsuit or other judicial action, and pay the amount of any adverse final judgment (after any appeals) or settlement to which Microsoft consents, for any claim made by an unaffiliated third party that the Services infringe its copyright, trademark or patent, or misappropriates a trade secret (individually and collectively, an "Infringement Claim").

**(b) Company.** Company agrees at its expense to defend Microsoft in a lawsuit or other judicial action, and pay the amount of any adverse final judgment (after any appeals) or settlement to which Company consents, for any claim made by an unaffiliated third party to the extent based on the operation of any Company Application (together with any Infringement Claim, individually and collectively, a "Claim").

**(c) Conditions.** With regard to any Claim, either party's obligations are subject to the following conditions: (a) the party seeking defense (the "Defended party") must promptly notify the other party (the "Defending party") in writing of the Claim; (b) the Defending party will have sole control over defense or settlement of the Claim; and (c) the Defended party must provide the Defending party with reasonable assistance in the defense of the Claim, for which the Defending party will reimburse Defended party's reasonable out of pocket expenses. Defended party will have the right to employ separate counsel and participate in the defense at Defended party's expense. Defending party may not settle the Claim without the Defended party's prior written consent, if such settlement would result in any admission, liability or limitation upon future actions of the Defended party.

**(d) Exceptions.** Microsoft's obligations will not apply to the extent any Claim or adverse final judgment is based on: (a) any unauthorized use, disposition or promotion of the Services or a Microsoft trademark by Company; (b) a patent or copyright owned or controlled by Company or its Affiliate; (c) combining the Services with a non-Microsoft product, data or business process, if the basis of the Claim would not have existed but for such combination; or (d) continued use of any part of the Services after notice from Microsoft to stop use because of any alleged infringement. Company will reimburse Microsoft for all damages, costs, and expenses resulting from such actions.

**(e) Mitigation.** In addition to the obligations in Section 12.7(a) above, Microsoft may, in connection with a potential Infringement Claim, at its expense and option, take further action such as: (a) procuring for Company the rights or licenses necessary to address the Infringement Claim; (b) replacing or modifying the Services to make it non-infringing, or (c) terminating the Services and refunding any fees prepaid by Company for undelivered Services.

**(f) Exclusive Remedy.** This Section 12.7 provides Company's exclusive remedy for third party Infringement Claims.

#### **12.8. Limitation of Liabilities and Disclaimer.**

**(a) Limitation of Liabilities.** Neither party nor Microsoft's suppliers will be liable for any indirect damages, (including, without limitation, consequential, special or incidental damages, damages for loss of profits or revenues, business interruption, or loss of business information) arising out of or related to the Services, Content or TOU even if advised of the possibility of such damages or if the possibility was reasonably foreseeable. Neither party nor Microsoft's suppliers' aggregate liability for all claims, actions

and/or omissions arising from or related to this TOU, the Services or the Content will exceed the greater of (a) the amount of fees paid by Company to Microsoft in the twelve (12) months preceding the date the claim arises, or (b) two hundred and fifty thousand dollars (\$250,000). These limitations will apply even if any remedy fails its essential purpose. None of the limitations and exclusions in this section apply to claims related to either party's violation of the other party's intellectual property rights, under Section 12.7 (Duty to Defend), or to any obligation to pay fees.

**(b) Disclaimer of Warranties.** The Services and all Content are provided "as is" without warranty of any kind by Microsoft or its suppliers. To the maximum extent permitted by law, any and all representations, warranties or conditions of any kind whatsoever (including, but not limited to, implied or statutory warranties of merchantability, fitness for a particular purpose, title, non-infringement, accuracy or satisfactory quality), all with regard to the Services and any Content, are expressly excluded by Microsoft and its suppliers. Microsoft and its suppliers make no warranty that the Services will operate properly as integrated with the Company Applications, that the Services will be uninterrupted, or that any Content will be accurate or complete.

**(c) Disclaimer of Reliance.** Microsoft and its suppliers specifically disclaim any liability for end users' reliance on the Services. Without limiting the foregoing, Microsoft and its suppliers shall have no liability for harm to end users resulting from reliance on any map or direction provided hereunder.

**12.9. Termination.** Either party may terminate this TOU if the other party is in breach of any material term and fails to cure it within thirty (30) days after written notice that describes the breach. In the event of termination by Microsoft due to Company's uncured material breach, Company will no longer have access to the Services and pay any amounts that it has not yet paid, for services delivered prior to the date of termination.

**12.10. Company Application Terms.** The following terms apply respectively for each of the following offerings purchased through the Azure Marketplace:

**(a) Bing Maps API for Enterprise Public Website Transactions:** If you purchased a Bing Maps API for Enterprise Public Website Transactions subscription, you may only use the Services in: (i) a Company Application that will serve as a map display and/or locator, available to consumers on Company, agent or franchisee owned and operated publicly available websites (including mobile websites or apps), which may be offered for a fee and/or require a login; or (ii) a Company Application which is used by Company, agent or franchisee to track, view and manage Assets that are consumer devices based on their GPS or other sensor based location. You may not use the Services for or in connection with Company Applications used by authenticated enterprise users (employees or agents of the enterprise) over a private network. Each Bing Maps API for Enterprise Public Website Transaction subscription consists of a varying number of Billable Transactions.

**(b) Bing Maps API for Enterprise Internal Website Transactions:** If you have purchased a Bing Maps API for Enterprise Internal Website Transactions subscription you may only use the Services in a Company Application on a private network with access restricted to your employees and/or customers, to access and display maps and related information. Your Company Application may be accessed via a web browser or an installed client, provided that you strictly control functionality in the user interface and authentication of users. Each Bing Maps API for Enterprise Internal Website Transaction subscription consists of a varying number of Billable Transactions.

**12.11. Service Levels.** Microsoft will use commercially reasonable efforts to achieve the service level commitments in the [SLA](#). The sole remedies for failure to meet the level of service described in the SLA shall be the remedies stated in the SLA. Microsoft will not be liable under the SLA if performance is delayed or prevented for reasons beyond its control, so long as it resumes performance as soon as practical.

**12.12. Services Updates.** Microsoft will make commercially reasonable efforts to provide advance notice of material updates to the Services. When Microsoft reasonably believes an update will require significant changes to all Company Applications using the Services (such as major releases – e.g. v1.0 to v2.0), Microsoft will keep the previous version (one version back) of the Services available for at least twelve (12) months after the release of the new version. Company may be unable to access the Services if it does not upgrade Company Applications to the latest version during that time.

#### **12.13. General Legal Terms.**

**(a) Notices.** We will send any legal notices under this TOU, including notices required by law, to the email address associated with your Microsoft Azure subscription. You are responsible for keeping your contact information up to date. This TOU is in electronic form. Any email notice that we send to that email address will be effective when sent, whether or not you actually receive the email. If you do not consent to receive notices electronically, you must stop using the Services.

**(b) How We May Change the TOU.** We may update the TOU from time to time. Such TOU updates will be effective when posted [here](#).

**(c) Force Majeure.** Microsoft and Company will not be in default if performance is delayed or prevented for reasons beyond its control, so long as it resumes performance as soon as practical.

**(d) Survival.** Sections 12.1, 12.2, 12.6, 12.7, 12.8, 12.9, 12.10 and 12.13 will survive the termination or expiration of this TOU for any reason.

**(e) Assignment.** We may assign this TOU, in whole or in part, at any time with notice to you.

**(f) Enforceability and Interpreting the TOU.** All parts of this TOU apply to the maximum extent permitted by law. If any provision of this TOU is unenforceable, the parties (or, if the parties cannot agree, a court) will revise it so that it can be enforced. Even if no revision is possible, this TOU will remain in place. This TOU constitutes the entire agreement between you and us regarding your use of the Services.

**(g) Fees and Payment.** The price and payment terms for your Bing Maps API for Enterprise purchase are governed by your Azure Customer Agreement, hereby incorporated by reference.

**(h) Choice of Law and Location for Resolving Disputes.** If you are headquartered anywhere other than Europe: (i) Washington State law governs the interpretation of this TOU and applies to claims for breach, regardless of conflict of laws principles; and (ii) you and we irrevocably consent to the exclusive jurisdiction and venue of the state or federal courts in King County, Washington, USA, for all disputes arising out of or relating to this TOU. If you are headquartered in Europe, this TOU will be construed and governed by the substantive laws of England and Wales. The parties waive all defenses of lack of personal jurisdiction and forum non conveniens. Process may be served on either party in the manner authorized by applicable law or court rule. In any dispute relating to this TOU the prevailing party will be entitled to recover reasonable attorneys' fees and costs.

**(i) No Third Party Beneficiaries.** This TOU is solely for your and our benefit. It is not for the benefit of any other person, except for permitted successors and assigns.

**(j) No Joint Venture/Independent Development.** The parties are operating as independent contractors, and nothing in this TOU will be construed as creating a partnership, franchise, joint venture, employer-employee or agency relationship.

**(k) Waiver.** Any delay or failure of either party to exercise a right or remedy will not result in a waiver of that, or any other, right or remedy. No waiver will be effective unless made in writing and signed by an authorized representative of the waiving party.

**(l) Logos; Marketing.** Except as otherwise agreed to by the parties in writing, neither party will use any logo or trademark of the other party for marketing or any other purpose without the other party's prior written approval.

**(m) Print Rights.** If print rights are available for the Services, such rights will be included [here](#).

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