

ACQUIRE



End User Licence
Agreement

Document information

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About this Document

Purpose

This document sets out terms and conditions for the licensing and use of Acquire Software and any associated Maintenance or other services.

Agreement

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6 Compliance

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- 6.2 Acquire shall have the right, at any time upon providing not less than fourteen (14) days' written notice to Licensee and during normal business hours, to audit Licensee's books and records to verify Licensee's compliance with the terms of this EULA and any applicable Quotation (including establishing the name and password of each Authorised User as applicable).
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8 Hosting Services

- 8.1** If Licensee procures Hosting Services from Acquire, then Acquire will provide the Hosting Services as further set out in the Quotation (including any document referenced in the Quotation)
- 8.2** Acquire shall use commercially reasonable endeavours to make the Hosting Services available twenty-four (24) hours a day, seven (7) days a week, except for:
 - a) planned maintenance carried out during the agreed maintenance window;
 - b) unscheduled maintenance, provided that Acquire has used reasonable endeavours to give Licensee notice in advance; and
 - c) as agreed with the Licensee, the operating hours of the Hosting Service are prescribed less than twenty-four (24) hours a day, seven (7) days a week.

- 8.3** In the event of loss or damage to such Licensee Data, Licensee's sole and exclusive remedy shall be for Acquire to use reasonable commercial endeavours to restore the lost or damaged Licensee Data from the latest back-up of such Licensee Data maintained by Acquire in accordance with the agreed back-up procedure described. Acquire shall not be responsible for any loss, destruction, alteration or disclosure of Licensee Data caused by any third party (except third parties subcontracted by Acquire to perform services related to Licensee Data back-up and maintenance).
- 8.4** Acquire will implement a program of back-up of Licensee Data stored by Acquire via the Hosting Services, and make this information available to Licensee on written request.
- 8.5** Acquire may destroy or dispose of any Licensee Data in its possession unless Acquire receives, no later than seven (7) days after the effective date of the termination of this EULA, a written request for the delivery to Licensee of the then most recent back-up of Licensee Data. Acquire shall use reasonable commercial endeavours to deliver the back-up to Licensee within thirty (30) days of its receipt of such a written request, provided that Licensee has, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination). Licensee shall pay all reasonable expenses incurred by Acquire in returning or disposing of Licensee Data.
- 8.6** Without limiting clause 10 of the Agreement, Acquire:
- a) does not warrant that Licensee's use of Software deployed using the Hosting Services will be uninterrupted, error-free or adhere to any minimum standard of performance; nor that the Hosting Services will meet Licensee's requirements; and
 - b) is not responsible for any delays, delivery failures, or any other loss, wrongful access or disclosure or damage resulting from the transfer of data over communications networks and facilities, including the internet, and Licensee acknowledges that the Hosting Services may be subject to limitations, delays, security flaws and other issues inherent in the use of such communications facilities.

9 Ownership

- 9.1** Licensee acknowledges that the Software and Documentation are valuable assets of Acquire provided to Licensee on a restricted and confidential basis and that, under the terms of this EULA, Licensee has obtained a limited Licence only for Authorised Users to use the Software and Documentation set out in the relevant Quotation on the terms set out in that Quotation and this EULA. Licensee acknowledges there is no transfer of title or ownership to Licensee of the Software or Documentation. All rights not expressly granted to Licensee pursuant to this EULA and the applicable Quotation, are reserved.
- 9.2** Licensee acknowledges and agrees that, as between Acquire and Licensee: (a) Acquire owns all Intellectual Property Rights subsisting in the Software, Documentation and any Maintenance or other services; (b) Acquire will own all Intellectual Property Rights associated with any modifications, enhancements, adaptations or translations of the aforementioned Intellectual Property Rights and all such rights shall absolutely vest in Acquire (or its nominee) from the moment that creation of the relevant material commences; and (c) if Licensee Acquires any rights in the aforementioned Intellectual Property Rights or any modifications, enhancements, adaptations or translations thereof (by operation of law or otherwise), then Licensee hereby assigns all such rights to Acquire (or its nominee as applicable). Licensee must provide Acquire all reasonable assistance and must execute all documents necessary to assist or enable Acquire to identify, perfect, preserve, register and/or record such assignment and Acquire's ownership of such Intellectual Property Rights.
- 9.3** Licensee shall own all rights, title and interest in and to all Licensee Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of Licensee Data.

10 Limited Warranty and Disclaimer

10.1 Acquire warrants that:

- a. the Software will be free from Defects for a period of 90 days from the date of installation of the Software;
- b. all Maintenance and other services will be performed by suitably qualified and experienced representatives of Acquire, in a professional manner and consistent with generally accepted industry practice; and
- c. Acquire has and will maintain all necessary licences, consents and permissions necessary for the performance of its obligations under this EULA.

10.2 Acquire is not liable under the warranty set out in clause 10.1a):

- a. unless within 90 days of the date of installation of the Software, Licensee returns any Software with Defect to Acquire together with a written report specifying in detail the nature and extent of any Defect;
- b. if Acquire (after exercising commercially reasonable efforts) is unable to reproduce the reported Defect in an operating environment consistent with that specified in the Documentation;
- c. if the Software is not installed, used and operated in conformity with the Documentation.

10.3 If a Defect is determined by Acquire to have been caused by a failure of the Software to conform to the warranty set out in clause 10.2a), then Acquire will, at its option and in its sole discretion, either replace any media, or repair, correct or provide workaround support for the Software, or terminate this EULA and return any Licence fees paid for the Software provided that Licensee removes and destroys all copies of the Software and provides appropriate evidence of such removal and destruction.

10.4 Acquire's obligations set out in clause 10.3 are Licensee's sole and exclusive remedies against Acquire if the Software does not comply with the warranty provided in clause 10.1a).

10.5 EXCEPT AS EXPRESSLY STATED IN THIS EULA (BUT OTHERWISE TO THE MAXIMUM EXTENT PERMITTED BY LAW), THE SOFTWARE, DOCUMENTATION AND ALL MAINTENANCE AND OTHER SERVICES ARE SUPPLIED TO LICENSEE "AS IS" AND "AS AVAILABLE" WITHOUT WARRANTY OR GUARANTEE OF ANY KIND, EITHER EXPRESS OR IMPLIED AND INCLUDING BUT NOT LIMITED TO WARRANTIES OR GUARANTEES OF MERCHANTABLE QUALITY, QUIET ENJOYMENT, FITNESS FOR ANY PARTICULAR PURPOSE OR NON-INFRINGEMENT. ACQUIRE DOES NOT WARRANT THAT: (A) THE SOFTWARE OPERATES UNINTERRUPTED; (B) ALL SOFTWARE ERRORS CAN BE CORRECTED; (C) THE APPLICATIONS CONTAINED IN THE SOFTWARE ARE DESIGNED TO MEET ANY OF LICENSEE'S BUSINESS REQUIREMENTS; OR (D) THE INFORMATION OR DATA PROVIDED IS ACCURATE OR ERROR-FREE.

BY ENTERING INTO THIS EULA, LICENSEE ACKNOWLEDGES THAT IT HAS RELIED UPON ITS OWN EXPERIENCE, SKILL AND JUDGMENT TO EVALUATE THE SOFTWARE AND THAT IT HAS SATISFIED ITSELF AS TO THE SUITABILITY OF THE SOFTWARE TO MEET ITS REQUIREMENTS. SUBJECT TO THE WARRANTY SET OUT AT CLAUSE 10.1a, THE ENTIRE RISK AS TO THE QUALITY OF THE SOFTWARE IS ASSUMED BY LICENSEE. LICENSEE ASSUMES RESPONSIBILITY FOR THE SELECTION OF THE SOFTWARE TO ACHIEVE ITS INTENDED PURPOSES AND FOR THE END RESULTS OBTAINED FROM THE SOFTWARE AND/OR ITS OPERATION (TOGETHER WITH ANY CONCLUSIONS DRAWN THEREFROM).

10.6 No employee or agent of Acquire is authorised to provide any warranty or representation beyond those expressly set out in this EULA.

10.7 Nothing in this EULA will exclude, restrict or modify any condition, warranty, guarantee, right, remedy or liability implied or imposed by any legislation if they cannot be excluded, restricted or modified (a "**Non-Excludable Term**"). Where a Non-Excludable Term applies, unless it is unlawful to do so, the liability of Acquire for any breach of such Non-Excludable Term is limited, at the sole option of Acquire, to one or more of the following:

- a. in the case of services, the supply of the service again; or
- b. in the case of goods, any one or more of the following:
 - i. the replacement of the goods or the supply of equivalent goods; or
 - ii. the repair of the goods.

11 Limitation of Liability

- 11.1 Under no circumstances will Acquire and its officers, employees, agents or contractors (nor any officers, employees, agents or contractors of any Affiliate of Acquire) be liable in any amount for special, incidental, consequential or indirect damages, or for any loss of goodwill or business profits, work stoppage, data loss or corruption, computer failure or malfunction, or exemplary or punitive damages, however arising, even if Acquire has been advised of the possibility of such damages.
- 11.2 The aggregate liability of Acquire to Licensee, whether arising from breach of contract, negligence or any other tort, in equity or otherwise and whether or not Acquire was advised of the possibility of such loss or damage, is limited to an amount equal to the fees received by Acquire under this EULA during the 12-month period prior to the date on which Licensee's claim is communicated to Acquire. However, this limitation of liability shall not apply to the extent, and to the extent only, that any legislation prohibits or restricts limitation of liability for personal injury (including sickness and death) and/or loss or damage to tangible property.
- 11.3 Each party acknowledges that the fees reflect the allocation of risk between the parties and that Acquire would not enter into this EULA or any applicable Quotation without these limitations on its liability.

12 Intellectual Property Infringement Indemnity

- 12.1 Acquire will indemnify Licensee and hold Licensee harmless against all fees, damages or costs finally awarded against Licensee as a result of any claim brought against Licensee by a third party alleging that use of the Software in conformity with this EULA and any applicable Quotation infringes the Intellectual Property Rights of any third party (collectively, an “**Infringement Claim**”).
- 12.2 Acquire shall not be liable under the indemnity set out in clause 12.1 unless Licensee:
 - a. promptly notifies Acquire in writing as soon as it becomes aware of any actual, suspected or alleged infringement of Intellectual Property Rights;
 - b. gives Acquire the option to conduct the sole defence of the Infringement Claim, including all negotiations for settlement or compromise prior to the institution of legal proceedings;
 - c. provides Acquire with all reasonable assistance in conducting the defence of the Infringement Claim; and
 - d. permits Acquire (at Acquire's expense) to modify, alter or substitute the portion of the Software that is the subject of the Infringement Claim, or to procure a licence for Licensee to continue to access and use the Software that is the subject of the Infringement Claim.
- 12.3 Acquire shall have no obligation to Licensee for any Infringement Claim arising out of or relating to:
 - a. use of the Software in combination with any other products or technologies if the Infringement Claim would not have occurred but for such combination;
 - b. use of the Software in a manner or for a purpose not reasonably contemplated or not authorised by Acquire;
 - c. modification or alteration of the Software without the prior written consent of Acquire;
 - d. failure by Licensee to comply with any third-party terms and conditions referred to in clause 15; or

- e. continued use of the Software following a notification by Acquire regarding an actual or threatened Infringement Claim.
- 12.4** Licensee must indemnify Acquire against any loss, costs, expenses, demands or liability, whether direct or indirect, arising out of any Infringement Claim (or any other claim brought against Acquire by a third party alleging that the Software infringes the third party's Intellectual Property Rights) to the extent that:
- a. the claim arises from an event specified in clause 12.3; or
 - b. the ability of Acquire to defend the claim has been prejudiced by the failure of Licensee to comply with any requirement of clauses 12.2 or 12.3.
- 12.5** The foregoing states Licensee's sole and exclusive rights and remedies, and Acquire's (including Acquire's employees', agents' and sub-contractors') entire obligations and liability, for infringement of the Intellectual Property Rights of any third party.

13 Anti-corruption, Bribery and Sanctions

- 13.1** Licensee warrants that neither it nor any of its Personnel or Affiliates has offered or given, or will offer or give, anything of value or advantage to:
- a. any government official, in order to influence or reward any action relating to Acquire, this EULA or any Quotation;
 - b. any other Person where it knows or reasonably should know that the same (or part thereof) will be offered, promised or given to:
 - i. a government official in order to influence or reward action relating to Acquire, this EULA or any Quotation; or
 - ii. any Person in order to influence or reward such Person for acting improperly.
- 13.2** Licensee will comply with all local, state, national and international applicable laws, rules and regulations related to ethical conduct and responsibility in all jurisdictions within which Licensee makes business with Acquire, including but not limited to all such laws, rules and regulations relating to human rights (including but not limited to human trafficking and slavery, labour regulations and the supply of conflict minerals), environmental protection, sustainable development, and Anti-Corruption Laws.
- 13.3** Licensee shall not offer gifts, entertainment, payments, loads or other favours for the purpose of receiving favourable treatment under any agreement or other advantage that contravenes any applicable Anti-Corruption Laws.
- 13.4** Licensee represents and warrants that neither it nor any of its Personnel or Affiliates:
- a. are or will become a Restricted Party;
 - b. has sourced or will source goods or services, directly or indirectly, from a Restricted Party; or
 - c. will violate any relevant Sanctions.

14 Modern Slavery

- 14.1** Acquire works to comply with the requirements of the Modern Slavery as defined in the Modern Slavery Act 2019 (Cth) and expects the same of its contractors. Acquire shall ensure that:
- a) it investigates the risk of Modern Slavery within its operations, and those of its supply chain;
 - b) it assesses and addresses risks regarding Modern Slavery, including implementing appropriate due diligence and remediation programs;
 - c) it will notify the Licensee as soon as possible of any confirmed instances of Modern Slavery and the actions undertaken by Acquire to remedy the issue;

- d) it has all the necessary processes, procedures, investigations and compliance systems in place to undertake the actions in sub-clauses (a) – (c) above;
 - e) upon request, Acquire will provide evidence to the satisfaction of the Licensee which validates Acquire's compliance with this clause; and
 - f) upon request, Acquire will permit the Licensee's personnel or its nominated representative/s to undertake verification activities to validate Acquire's compliance with this clause.
- 14.2** In the event that Acquire does not remedy, or provide an acceptable cure plan to remedy, any identified instances of Modern Slavery within the time frame specified by the Licensee which violates the Modern Slavery Act 2019 (Cth), the Licensee reserves the right to terminate this Agreement.

15 Third Party Software

- 15.1** The Software may contain third party software which requires notices and/or additional terms and conditions. Such required third party software notices and/or additional terms and conditions are made a part of and incorporated by reference into this EULA. By accepting this EULA, Licensee also agrees to accept these additional terms and conditions, if any, set out therein.
- Bing Maps terms of use are found at the following hypertext link:
[Bing Maps End User Terms of Use](#)

16 Confidentiality and Privacy

- 16.1** Receiving party shall not, without the prior written approval of the disclosing party, disclose disclosing party's Confidential Information.
- 16.2** Receiving party shall not be in breach of clause 16.1 in circumstances where it is legally compelled to disclose disclosing party's Confidential Information, provided that: (i) receiving party must notify disclosing party in writing as soon as reasonably practicable after it becomes aware that disclosure is required; (ii) unless immediate disclosure is required, receiving party must give disclosing party a reasonable opportunity to comment on the requirement for, and proposed form of, the disclosure; and (iii) receiving party must take all steps reasonably required by disclosing party to prevent or restrict the disclosure of the Confidential Information.
- 16.3** Receiving party must take all reasonable steps to ensure that its Personnel (and the Personnel of any Affiliate of receiving party), do not disclose disclosing party's Confidential Information and that Confidential Information is only used in a manner authorised by this EULA.
- 16.4** Licensee consents to the collection and other handling of its Personal Information by Acquire in accordance with the terms of the Privacy Policy.

17 Termination and Breach

- 17.1** Either party (“**the Terminating Party**”), at its option and without prejudicing any other rights it may have under this EULA, may terminate this EULA in writing if the other party:
- a. is in breach of any clause or term of this EULA (including any breach of Anti-Corruption Laws or any warranty in respect of Sanctions) and such breach is not remedied within 30 days of its notification by the Terminating Party (or if the breach is not reasonably capable of remedy);
 - b. makes a general assignment for the benefit of creditors; or makes a written admission of its inability to pay its debts or obligations as they become due; or on becoming bankrupt or insolvent, takes the benefit of any law in force for the bankrupt or insolvent debtor; or seeks, consents to or acquiesces in the appointment of any trustee, receiver or liquidator of its business or its assets; or

- c. is found by a governmental authority or a competent court to be guilty of money laundering, breaching any law relating to bribery, corruption or offering inducements, or in breach of any other applicable laws related to the EULA.
- 17.2** Immediately upon termination of this EULA, and after any applicable period during which Licensee may extract its data under clause 2.12, Licensee must destroy all copies of the Software and Documentation and any component parts of such Software and Documentation in its possession or control, and certify to Acquire that it has done so.
- 17.3** Clauses 9, 12, 13, 14, 15 and 16 shall survive the termination of this EULA. The accrued rights of the parties as at termination, or the continuation after termination of any provision expressly stated to survive or implicitly surviving termination, shall not be affected or prejudiced.

18 Severability, Waiver, No Adverse Construction

- 18.1** If any provision of this EULA or any Quotation is held to be invalid or unenforceable, then that provision shall be deemed modified only to the minimum extent necessary to render it valid (preserving the intention of the parties where applicable) or eliminated if modification is not possible, and the remainder of this EULA (or the relevant Quotation) shall be enforced and construed as if the provision had been included as modified or as if it had not been included, as the case may be.
- 18.2** No provision of this EULA (or any Quotation) is to be construed adversely against a party on the grounds that the party was responsible for the preparation of that provision, or the preparation of this EULA or the relevant Quotation generally.
- 18.3** A waiver of any right under this EULA is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and to the circumstances for which it is given. Unless specifically provided otherwise, rights arising under this EULA are cumulative and do not exclude rights provided by law.

19 Governing Law

- 19.1** This EULA will be governed by and construed by the laws of the Province of Ontario and shall be subject to the exclusive jurisdiction of the courts of the Province of Ontario.

20 Force Majeure

- 20.1** Acquire shall have no liability to Licensee under this agreement if it is prevented from or delayed in performing its obligations under this agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of Acquire or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors, provided that Licensee is notified of such an event and its expected duration.

21 Assignment, No Agency

- 21.1** Licensee shall not, without the prior written consent of Acquire, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this EULA.
- 21.2** Acquire may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this EULA.
- 21.3** Nothing in this EULA is intended to or shall operate to create a partnership between the parties, or authorise either party to act as an agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited

to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

- 21.4** Nothing in this EULA shall prevent Acquire from entering into similar agreements with third parties.

Appendix 1 – GIM Suite Additional Terms

If the Software licensed to Licensee comprises or includes the GIM Suite Software, then the additional terms set out in this Appendix 1 (GIM Suite Additional Terms) shall apply to Licensee's use of the Software (and this EULA is to be read together with this Appendix 1 and the applicable Quotation).

1. Terms of Use

1.1 The following table lists the types of GIM Suite Software Licences governed by this EULA:

Licence Name	Perpetual		Subscription	
	Site Licence	Named User	Site Licence	Named User
Core Licences				
GIM Suite Core for Minerals	✓			
GIM Suite Core for Coal	✓			
GIM Suite Core for Hydrocarbons	✓			
Core Extensions				
GIM Suite Automation Core Extension	✓			
GIM Suite Integration Core Extension			✓	
GIM Suite Read Integration Core Extension			✓	
Core Workflow Extensions				
GIM Suite Geophysics Core Extension	✓			
GIM Suite Monitoring Core Extension	✓			
GIM Suite Coal Core Extension	✓			
GIM Suite Depth Adjustment Core Extension	✓			
User Licences				
GIM Suite Design		✓		✓
GIM Suite Analyse		✓		✓
GIM Suite Contribute		✓		✓
GIM Suite Read		✓		✓

2. Restrictions that apply to a Dormant Licence

2.1 Dormant Licences are subject to a separate Dormant Licence Agreement entered into by Licensee and Acquire. The Dormant Licence Agreement sets out the terms under which the Dormant Licences may be reinstated.

2.2 Licensee and Acquire may agree from time-to-time to convert a Standard Licence into a Dormant Licence, by executing a Dormant Licence Agreement with respect to the Licence. During the period of the Dormant Licence Agreement: (i) Maintenance fees are not payable with respect to the Dormant Licence; and (ii) the Dormant Licence must be surrendered and may not be used by Licensee. Dormant Licences (and any associated Licence Keys) may only be reinstated in accordance with the applicable Dormant Licence Agreement.

3. Warranty Survey

3.1 If Licensee does not comply with the clauses 7.7, then Acquire may, at its option, and with the express permission of Licensee, conduct a Warranty Survey for the purpose of determining if the Software implementation at Licensee's Site or Sites is Support Compliant. If this occurs then:

- i. any Warranty Survey will be at the sole expense of Licensee;
- ii. any remedial measures identified by Acquire must (unless otherwise expressly agreed in writing by Acquire) be implemented by a Certified Acquire Implementer within 30 days of receipt of the recommendations; and

3.2 If Licensee does not comply with subclauses 3.1 above, then Acquire may, at its option and in its sole discretion, elect to suspend Licensee's access to Maintenance and/or support until such time as the licensee complies with subclauses 3.1 above. No refund of Maintenance or Subscription Fees paid by Licensee shall apply during the period of suspension.

Appendix 2 – EnviroSys Additional Terms

If the Software licensed to Licensee comprises or includes the EnviroSys Software, then the additional terms set out in this Appendix 2 (EnviroSys Additional Terms) shall apply to Licensee's use of the Software (and this EULA is to be read together with this Appendix 2 and the applicable Quotation).

1. Licensee's obligations

Licensee shall:

- a) provide Acquire with:
 - i. all necessary co-operation in relation to this agreement; and
 - ii. all necessary access to such information as may be required by Acquire;
in order to render the Hosting Services, including but not limited to Licensee Data, security access information and configuration services;
- b) ensure that its network and systems comply with the relevant specifications provided by Acquire from time-to-time; and
- c) be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to Acquire's Hosting Services, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to Licensee's network connections or telecommunications links or caused by the internet.

Appendix 3 – Insite Additional Terms

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Appendix 4 – BlackFox Additional Terms

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Appendix 5 – GIM Essentials Additional Terms

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Appendix 6 – Global Tenements Additional Terms

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Contact

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