

DATED

4th April 2018

Agreement for the Maintenance and Licensing of LANDIS

Ecm_51536

Cranfield University

and

Department for the Environment, Food and Rural Affairs

This agreement is dated

4th day of April 2018

Between;

Parties

- (1) **Cranfield University** a charity incorporated in England and Wales registered with number RC000151 whose registered office is at Wharley End, Cranfield, Bedfordshire MK43 0AL (Cranfield)
- (2) **The Secretary of State for Environment, Food and Rural Affairs** whose principal place of business is at Nobel House, 17, Smith Square, London SW1P 3JR (DEFRA)

BACKGROUND

- (A) Cranfield has benefitted from the transfer of physical assets and licence of intellectual property as governed by agreements listed in Annex A. The purpose of this framework document is to clarify the rights, remedies, duties and obligation of the parties in relation the documents listed in said Annex A.
- (B) The Intellectual Property LandIS is owned jointly and severally by Cranfield and DEFRA as described in Schedule1 of this Agreement.
- (C) Cranfield is responsible for the security, maintenance and future development of LandIS.
- (D) Cranfield manages and is responsible for Licensing the use of Data and Materials as set out in Schedules 3 and 4 hereof.
- (E) The Heads of Agreement and 1999 LandIS agreement, transferring the title to LandIS to Cranfield, envisaged that all licenses for use by DEFRA and other Crown Users would be licensed free of charge by Cranfield.
- (F) All sublicenses from DEFRA to third party users who were other Crown users would be free of charge and all sub-licences from DEFRA to non crown users would attract a license fee to be determined in accordance with the terms of Schedule 3.
- (G) The licenses to DEFRA Associates (as defined below) will be licensed for a fee in accordance with the terms and conditions of Schedule 4 hereof.

Agreed terms

1. INTERPRETATION

The following definitions and rules of interpretation apply in this agreement.

1.1 Definitions.

Applicable Laws: all applicable laws, statutes, regulations and codes from time to time in force.

Business Day: a day other than a Saturday, Sunday or public holiday in England or a Cranfield Closure Day

Business Hours: the period from 9.00 am to 5.00 pm on any Business Day.

Charges: the sums payable for the Services, as set out in Schedules 2, 3 and 4.

Confidential Information: all confidential information (however recorded or preserved) disclosed by a party or its employees, officers, representatives, advisers or sub-contractors involved in the provision or receipt of the Data and Materials who need to know the confidential information in question (Representatives) to the other party and that party's Representatives in connection with this Agreement, which is either labelled as such or else which should reasonably be considered as confidential because of its nature and the manner of its disclosure.

Cranfield Closure Day: any day other than weekends and bank holidays when Cranfield is not open for business

Cranfield Data: means all data, documents information and items in any form owned by Cranfield

Cranfield Manager; means the person appointed from time to time to manage the Data and Materials in respect of LandIS.

Crown: means the government of the United Kingdom (including the Northern Ireland Executive Committee and Northern Ireland Departments, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers, government departments, government offices and government agencies

Crown Users: any employee of the Civil Service/ any part of government with Crown status.

Crown Data: all data, documents, information, items in any form which were publicly funded and therefore owned by the Crown as Crown Copyright or Database Rights which are in the possession of Cranfield and may be re-used under the terms of the non-exclusive Open Government Licence.

DEFRA Associates; shall mean non departmental public bodies that report to the Secretary of State for Environment Food and Rural Affairs.

Data: the data or information, in whatever form including electronic images, maps, charts, still and moving pictures and sound recordings including but not limited to Raw data, Derived Data and Manipulated Data

Data Controller: has the meaning set out in section 1(1) of the Data Protection Act 1998.

Derived Data: any data (wholly or in part) (a) Manipulated to such a degree that it cannot be reverse-engineered and is not capable of use as a substitute for the Raw Data. or (b) any extraction or manipulation of Raw Data that by virtue of the amount of Raw Data so used is not substantial enough to amount to an infringement of intellectual Property rights in the Raw Data

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trademarks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world

LandIS; shall mean the data, intellectual property and materials pertaining to the Soil of England and Wales and associated environmental themes outlined in the Materials and Datasets list within Schedule 1

Licensing; shall be as specified in Schedules 3 and 4

Management; shall mean both the management and maintenance of the LandIS database and Materials as specified in Schedule 2

Manipulate; means to combine or aggregate the Data (wholly or in part) with other data or information or to adapt the Data (wholly or in part).

Manipulated Data; any Data which has been Manipulated. Manipulated Data excludes any Derived Data.

Materials; shall mean the soil samples, maps, plans, publications, field records and other physical assets

Services: the services as set out in Schedules 2 3 and 4 including services which are incidental or ancillary to Licensing.

Third Party Data: all data, documents, information, items in LandIS in any form not owned by either Defra or Cranfield.

VAT: value added tax chargeable under the Value Added Tax Act 1994.

- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this agreement.
- 1.3 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 The Schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedules.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.6 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.7 A reference to **writing** or **written** includes email.
- 1.8 If there is any uncertainty between:
 - (a) any provision contained in the body of this Agreement and any provision contained in the Schedules or appendices, the provision in the body of this Agreement shall prevail;
 - (b) the terms of any accompanying invoice or other documents annexed to this Agreement the provision contained in the invoice or appendices shall prevail.

2. COMMENCEMENT AND DURATION

- 2.1 This agreement shall commence on the date when it has been signed by all the parties and shall continue, unless terminated earlier in accordance with clause 14, for a period of 4 years
- 2.2 Cranfield shall provide the Services to DEFRA in accordance with this agreement from 01 October 2017.

3. CRANFIELD'S OBLIGATIONS

- 3.1 Cranfield shall use best endeavours to manage and provide the Services in accordance with this agreement in all material respects.
- 3.2 Cranfield shall use reasonable endeavours to meet any performance requirements specified in Schedules 2 3 and 4 but any such dates shall be estimates only and time for performance by Cranfield shall not be of the essence of this agreement.
- 3.3 Cranfield shall appoint a manager (the Cranfield Manager) for the Services. . Cranfield may replace that person from time to time where reasonably necessary in the interests of Cranfield's business.

4. DEFRA'S OBLIGATIONS

- 4.1 DEFRA shall:
- (a) co-operate with Cranfield in all matters relating to the Services;
 - (b) appoint a manager for the Services, who shall have the authority to negotiate on behalf of DEFRA on matters relating to the Services;
 - (c) provide to Cranfield in a timely manner all documents, information, items and materials in any form reasonably required by Cranfield in connection with the Services and ensure that they are accurate and complete;
 - (d) obtain and maintain all necessary licences and consents and comply with all relevant legislation as required to enable Cranfield to provide the Services, the use of all DEFRA Data in all cases before the date on which the Services are to start;
- 4.2 If Cranfield's performance of its obligations under this agreement is prevented or delayed by any act or omission of DEFRA, its agents, subcontractors, consultants, employees or any other third party working on its behalf, then, without prejudice to any other right or remedy it may have, Cranfield shall be allowed an extension of time and/or remuneration to perform its obligations equal to the delay caused by DEFRA.

5. CHANGE CONTROL

- 5.1 Either party may propose changes to the scope or execution of the Services but no proposed changes shall come into effect until a **Change Order** has been signed by both parties. A Change Order shall be a document setting out the proposed changes and the effect that those changes will have on:

- (a) the Services;
- (b) Cranfield's existing charges;
- (c) the timetable of the Services; and
- (d) any of the terms of this agreement.
- (e) Licensing
- (f) Management

5.2 If a party wishes to make a change to the Services it shall provide a draft Change Order to the other party.

5.3 If the parties:

- (a) agree to a Change Order, they shall sign it and that Change Order shall amend this agreement; or
- (b) are unable to agree a Change Order, either party may require the disagreement to be dealt with in accordance with the dispute resolution procedure.

6. CHARGES AND PAYMENT

6.1 In consideration of the provision of the Services by Cranfield, DEFRA shall coordinate the payment of the Charges as set out in Schedules 2 3 and 4

6.2 Cranfield shall invoice DEFRA for the Charges in accordance with the terms of Schedules 2, 3 and 4 hereof.

6.3 DEFRA shall pay each invoice submitted to it by Cranfield within 30 days of receipt to a bank account nominated in writing by Cranfield from time to time.

6.4 Without prejudice to any other right or remedy that it may have, if DEFRA fails to pay Cranfield any sum due under this agreement on the due date:

- (a) DEFRA shall pay interest on the overdue amount at the rate of 4% per annum above National Westminster Bank's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. DEFRA shall pay the interest together with the overdue amount; and
- (b) In the event DEFRA fails to fund Cranfield may suspend all or part of the Services until payment has been made in full.

6.5 All sums payable to Cranfield under this agreement:

- (a) are exclusive of VAT, and DEFRA shall in addition pay an amount equal to any VAT chargeable on those sums on delivery of a VAT invoice; and
- (b) shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

7. INTELLECTUAL PROPERTY RIGHTS

7.1 In relation to Cranfield:

- (a) Cranfield shall retain ownership of all Intellectual Property Rights in Cranfield Data and Materials Specified in Schedule 1
- (b) Cranfield grants Crown a, worldwide, non-exclusive, royalty-free licence, non-transferable to use the Data and Material specified in (a) above and to copy and modify it for the purpose of receiving and using the Services.
- (c) Cranfield undertakes to grant members of the DEFRA Associate licenses to use the Cranfield Intellectual Property in accordance with Schedule 4

7.2 In relation to CROWN Intellectual Property,

- (a) The Crown: shall retain ownership of all Intellectual Property Rights in Crown Data; and
- (b) grants Cranfield a world-wide, non-exclusive, royalty-free, non-transferable licence to copy and modify Crown Data for the term of this agreement for the purpose of providing the Services to DEFRA and licensing the LandIS data to third parties.
- (c) grants Cranfield a fully paid up, world-wide, non-exclusive, royalty free, non-transferable license to use the Crown Materials for the term of this agreement for the purpose of providing the services to DEFRA and of licensing Material to third parties

7.3 In relation to Cranfield Intellectual Property

Cranfield:

- (a) warrants that the supply of the Services to DEFRA and its permitted sub-licensees shall not infringe the rights, including any Intellectual Property Rights, of any third party;
- (b) shall, subject to clause 13.3, accept legal liability for all costs, expenses, damages and losses, including any interest, fines, legal and other professional fees and expenses awarded against or incurred or paid by DEFRA as a result of or in connection with any claim brought against DEFRA for infringement of a third party's Intellectual Property Rights, arising out of, or in connection with, the receipt, use or supply of the Services; and
- (c) shall not be in breach of the warranty at clause 12 and DEFRA shall have no claim under the indemnity at clause 7.3(b), to the extent the infringement arises from:
 - (i) the use of Crown Data in the development of, or the inclusion of Crown Data in any Derived Data
 - (ii) any modification of the Cranfield Data, Material, or Services other than by or on behalf of Cranfield; and
 - (iii) compliance with the DEFRA's specifications or instructions

7.4 DEFRA:

- (a) warrants that the receipt and use of Crown Data in the performance of this agreement by Cranfield, its agents, subcontractors or consultants shall not infringe the rights, including any Intellectual Property Rights, of any third party and
- (b) shall keep Cranfield indemnified against legal liability for all costs, expenses, damages and losses, including any interest, fines, legal and other professional fees and expenses awarded against or incurred or paid by Cranfield as a result of or in connection with any claim brought against Cranfield, its agents, subcontractors or consultants for infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the receipt or use in the performance of this agreement of Crown Data.

7.5 If either party (the **Indemnifying Party**) is required to indemnify the other party (the **Indemnified Party**) under this clause 7., the Indemnified Party shall:

- (a) notify the Indemnifying Party in writing of any claim against it in respect of which it wishes to rely on the indemnity at clause 7.3(b) or clause 7.4(b) (as applicable), (**Intellectual Property Rights Claim**);
- (b) allow the Indemnifying Party, at its own cost, to conduct all negotiations and proceedings and to settle the Intellectual Property Rights Claim, always provided that the Indemnifying Party shall obtain the Indemnified Party's prior approval of any settlement terms, such approval not to be unreasonably withheld;
- (c) provide the Indemnifying Party with such reasonable assistance regarding the Intellectual Property Rights Claim as is required by the Indemnifying Party, subject to reimbursement by Cranfield of the Indemnified Party's costs so incurred; and
- (d) not, without prior consultation with the Indemnifying Party, make any admission relating to the Intellectual Property Rights Claim or attempt to settle it, provided that the Indemnifying Party considers and defends any Intellectual Property Rights Claim diligently, using competent counsel and in such a way as not to bring the reputation of the Indemnified Party into disrepute.

8. AUDIT

8.1 Each party shall keep proper records and books of account showing the description and any price of all subcontracts including its agents, consultants and any other third party working on its behalf and Licenses of the other parties Data. Such records and books shall be kept separate from any records and books not relating solely to the parties Data and be open during normal Business Hours to inspection and audit by the owning party (or its authorised representative), who shall be entitled to take copies of or extracts from them. If such inspection or audit should reveal a discrepancy in the royalties paid from those payable under this Agreement, DEFRA shall immediately make up the shortfall and reimburse Cranfield in respect of any professional charges incurred for such audit or inspection. If any Audit shall show Data and Materials being licensed in any way contravention with these terms then DEFRA or any contravening DEFRA Associate shall pay a license fee to Cranfield in accordance with the fees shown in Schedules 3 and 4. In the Event that the Audited party is found to have contravened the terms of this agreement, they shall become liable for the Auditors cost and expenses in respect thereof.

9. DATA PROTECTION

- 9.1 In the event that a Party receives personal data as defined by the Data Protection Act 1998 ("the Act") from the other Party, the receiving Party warrants that it will comply with the Act and deal with any data in order to complete its obligations under this Contract and for no other purpose
- 9.2 Each Party shall accept full legal liability for any breach of the Act which renders the other Party liable for loss, damage, costs and any claims.
- 9.3 In order to fulfil its obligations under the Act each Party shall have in place regulations to ensure:
- (i) Full compliance with the Act.
 - (ii) Specific compliance with the Seventh Data Protection Principle concerning security of personal data.
 - (iii) The reliability and integrity of all employees involved in processing any personal data of the other Party.
- 9.4 Each Party shall take reasonable steps to ensure that any sub-contractor, consultant, agent or other third party shall comply with this Clause.
- 9.5 Each Party will allow the other Party reasonable access to examine the systems and regulations in order to ensure compliance with the provisions of the Act.

10. ANTI-CORRUPTION AND MODERN SLAVERY

10.1 Neither Party will directly or indirectly either in private business dealings or in dealings with the public sector offer give or agree to offer or give (either itself or in agreement with others) any payment gift or other advantage with respect to any matters which are the subject of this Agreement and which:

- (a) is intended to or does influence or reward any person for acting in breach of an expectation of good faith impartiality or trust, or which it would otherwise be improper for the recipient to accept;
 - (b) is made to or for a public official with the intention of influencing them and obtaining or retaining an advantage in the conduct of business; or
 - (c) a reasonable person would otherwise consider to be unethical, illegal or improper,
- (in this clause 10, a "Corrupt Act").

10.2 The Parties represent, warrant and undertake that:

- (a) they have not engaged in any Corrupt Act prior to the date of this Contract; and
- (b) to the best of their knowledge and belief, it has not at any time:
 - (i) been found by a court in any jurisdiction to have engaged in any Corrupt Act (or similar conduct);
 - (ii) admitted to having engaged in any Corrupt Act (or similar conduct); or

- (iii) been investigated or been suspected in any jurisdiction of having engaged in any Corrupt Act (or similar conduct).

10.3 The Parties further agree:

- (a) to provide any information to the other Party as may reasonably require by notice in writing in order to monitor the compliance with its obligations under clause 10; and
- (b) to notify the other Party in writing as soon as practicable if, at any time, it becomes aware of a breach of clause 10 or that any of the representations, warranties and undertakings set out at clause 10.2 are no longer correct.

10.4 Each party agrees that it shall, and that it shall procure that its personnel shall:

- (a) comply with all applicable law relating to slavery and human trafficking including but not limited to the Modern Slavery Act 2015 (Anti-Slavery Requirements);
- (b) not take or knowingly permit any action to be taken that would or might cause or lead a party to be in violation of any Anti-Slavery Requirements;
- (c) at the other party's reasonable request and cost, provide any reasonable assistance to enable it to perform any activity required by any regulatory body for the purpose of complying with Anti-Slavery Requirements.

11. CONFIDENTIALITY

11.1 Each party shall, during the term of this agreement and thereafter, keep confidential all, and shall not use for its own purposes (other than implementation of this agreement) nor without the prior written consent of the other disclose to any third party (except its professional advisors or as may be required by any law or any legal or regulatory authority) any, information of a confidential nature (including trade secrets and information of commercial value) which may become known to such party from the other party and which relates to the other party (Confidential Information), unless such information is public knowledge or already known to such party at the time of disclosure, or subsequently becomes public knowledge other than by breach of this agreement, or subsequently comes lawfully into the possession of such party from a third party. Each party shall use its reasonable endeavours to prevent the unauthorised disclosure of any such information.

11.2 Each party undertakes that it shall not at any time during this agreement, and for a period of five years after termination of this agreement, disclose to any person any confidential information concerning the business, affairs, clients or suppliers of the other party except as permitted by clause 11.3.

11.3 Each party may disclose the other party's confidential information:

- (a) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 11.; and

- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

11.4 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this agreement.

11.5 The provisions of this clause shall remain in full force and effect notwithstanding any termination of this agreement.

12. WARRANTIES

12.1 Cranfield warrants that it will use its reasonable endeavours to supply the Data and Materials as specified in this Agreement promptly.

12.2 Except as expressly stated in this Agreement, all warranties, conditions and terms, whether express or implied by statute, common law or otherwise are hereby excluded to the extent permitted by law.

12.3 Without limiting the effect of clause 12.1, Cranfield does not warrant that:

- (a) the supply of the Data will be free from interruption;
- (b) the Data will run on DEFRA System;
- (c) the Data is accurate, complete, reliable, secure, useful, fit for and specific purpose; or
- (d) the Data has been tested for use by DEFRA or any third party or that the Data will be suitable for or be capable of being used by DEFRA or any third party.

13. LIMITATION OF LIABILITY

13.1 Nothing in this agreement shall limit or exclude its liability for:

- (a) death or personal injury caused by its negligence;
- (b) fraud or fraudulent misrepresentation; or
- (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by applicable law.

13.2 Subject to clause 13.1, neither party shall not be liable to the other party, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this agreement for any indirect or consequential loss including but not limited to, loss of profits, loss of sales or business, loss of or damage to goodwill. This list is not exhaustive.

13.3 Subject to clause 13.1, each parties total liability to the other, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this agreement shall be limited to two million Sterling (£2m) in the aggregate

14. TERMINATION

14.1 Without affecting any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of any term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 45 days after being notified in writing to do so;
- (b) the other party repeatedly breaches any of the terms of this agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;
- (c) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
- (d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party.
- (e) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party (being a company);
- (f) a person becomes entitled to appoint a receiver over all or any of the assets of the other party or a receiver is appointed over all or any of the assets of the other party;
- (g) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

14.2 For the purposes of clause 14.1(a) **material breach** means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the terminating party would otherwise derive from:

- (a) a substantial portion of this agreement; or
- (b) any of the obligations set out in clauses 6,7,8,9 and 10
- (a) over 3-month period during the term of this agreement. In deciding whether any breach is material no regard shall be had to whether it occurs by some accident, mishap, mistake or misunderstanding.

14.3 Without affecting any other right or remedy available to it, Cranfield may terminate this agreement with immediate effect by giving written notice to DEFRA if DEFRA fails to pay any amount due under this agreement on the due date for payment and remains in default not less than 30 days after being notified to make such payment

15. CONSEQUENCES OF TERMINATION

15.1 On termination or expiry of this agreement:

- (a) DEFRA shall immediately pay to Cranfield all of Cranfield's outstanding unpaid invoices and interest and, in respect of the Services supplied under Schedules 2, 3 and 4 but for

which no invoice has been submitted, Cranfield may submit an invoice, which shall be payable immediately on receipt;

- (b) Cranfield will continue to honour all Licenses granted under Schedules 3 and 4 for the license period or until terminated in accordance with the said Schedules 3 and 4 ;
- (c) Subject to Clause 6.4b, Cranfield shall on request return any of Crown Data.

15.2 Termination or expiry of this agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination or expiry.

16. FORCE MAJEURE

16.1 Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under it if such a delay or failure result from an event, circumstances or cause beyond its reasonable control (**Force Majeure Event**).

16.2 The Supplier shall use all reasonable endeavours to mitigate the effect of a Force Majeure Event on the performance of its obligations.

16.3 If a Force Majeure Event prevents, hinders or delays the Supplier's performance of its obligations for a continuous period of more than thirty (30) Business Days, the Purchaser may terminate the Contract immediately by giving written notice to the Supplier

17. ASSIGNMENT AND OTHER DEALINGS

17.1 This agreement is personal to the parties and neither party shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under this agreement without the express permission of the other party

18. VARIATION

Subject to clause 5 no variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

19. WAIVER

19.1 A waiver of any right or remedy under this agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default.

19.2 A failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.

19.3 A party that waives a right or remedy provided under this agreement or by law in relation to one party, or takes or fails to take any action against that party, does not affect its rights in relation to any other party.

20. RIGHTS AND REMEDIES

The rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

21. SEVERANCE

21.1 If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this agreement.

22. ENTIRE AGREEMENT

22.1 This agreement together with its Schedules and the rights granted in the document listed in Annex A constitutes the entire agreement between the parties and supersedes all promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

22.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this agreement.

23. CONFLICT

If there is an inconsistency between any of the provisions of this agreement and the provisions of the Schedules, the provisions of this Agreement shall prevail.

24. NO PARTNERSHIP OR AGENCY

24.1 Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

24.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

25. THIRD PARTY RIGHTS

No one other than a party to this agreement, their successors and permitted assignees, shall have any right to enforce any of its terms.

26. NOTICES

- 26.1 Any notice or other communication given to a party under or in connection with this agreement shall be in writing and shall be:
- (a) delivered by hand or by pre-paid first-class post or other next Business Day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
 - (b) sent by e-mail to the address of the parties representative below.
Cranfield; to the Head of Contracts Kent House, Building 31 Cranfield University, Cranfield, Beds. MK43 0AL
 - (c) DEFRA; to The Secretary of State for Environment, Food and Rural Affairs of Nobel House. 17 Smith Square. London. SW1P
[Redacted]
- 26.2 Any notice or communication]shall be deemed to have been received:
- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
 - (b) if sent by pre-paid first-class post or other next Business Day delivery service, at 11.00 am on the Business Day after posting or at the time recorded by the delivery service.
 - (c) if sent by email, at 11.00 am on the next Business Day after transmission.
- 26.3 This clause does not apply to the service of any proceedings or any documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

27. MULTI-TIERED DISPUTE RESOLUTION PROCEDURE

- 27.1 If a dispute arises out of or in connection with this agreement or the performance, validity or enforceability of it (**Dispute**) then the parties shall follow the procedure set out in this clause:
- (a) either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (**Dispute Notice**), together with relevant supporting documents. On service of the Dispute Notice, the [EMPLOYEE TITLE] of DEFRA and Head of the School of Water Energy and Environment at Cranfield shall attempt in good faith to resolve the Dispute;
 - (b) if the Category Lead – ICT of DEFRA and the Head of the School of Water Energy and Environment at Cranfield are for any reason unable to resolve the Dispute within 30 days of service of the Dispute Notice, the Dispute shall be referred to the Deputy Head of Procurement of DEFRA and the Vice Chancellor of Cranfield who shall attempt in good faith to resolve it; and
 - (c) if the Deputy Head of Procurement of DEFRA and Vice Chancellor of Cranfield are for any reason unable to resolve the Dispute within 30 days of it being referred to them, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall

be nominated by CEDR. To initiate the mediation, a party must serve notice in writing (**ADR notice**) to the other party to the Dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR. The mediation will start not later than 45 days after the date of the ADR notice.

- 27.2 The commencement of mediation shall not prevent the parties commencing or continuing court proceedings in relation to the Dispute under clause 27 which clause shall apply at all times.
- 27.3 If the Dispute is not resolved within 30 days after service of the ADR notice, or either party fails to participate or to continue to participate in the mediation before the expiration of the said period of 30 days, or the mediation terminates before the expiration of the said period of 30 days, the Dispute shall be finally resolved by the courts of England and Wales in accordance with clause 27.

28. GOVERNING LAW

This agreement and any dispute or claim (including non-contractual disputes or claims) arising out of shall be governed by and construed in accordance with the law of England and Wales and each party agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation.

This agreement has been entered into on the date stated at the beginning of it.

Signature

[Redacted]

Signed for and on behalf of
Cranfield University

Signed by for and on behalf of
the Secretary of State for
Environment Food and Rural
Affairs

Deputy Head of Procurement

ANNEX A. Summary of LandIS Ownership

Background:

Heads of Agreement 24th April 1987 covers transfer from MAFF/AFRC/LAT to Cranfield.

Covers transfer of staff, physical assets and database, IPR issues were left out of this agreement but covered later by the "Deed of Assignment" and the "LandIS Agreement" below.

"Deed of Assignment" from Lawes Agricultural Trust to Cranfield – 31st July 1993

"All records, charts, maps, diagrams, tables, computer software, books, data and all other documents and materials in which copyright may subsist relating to the work of and having been created by or for the Soil Survey of England and Wales and to the Soil Survey and Land Research centre prior to transfer of such assets from the Assignor to the Assignee on July 1987."

This Deed gives Cranfield IPR rights on all the original SSEW materials in the soil archive.

LandIS Agreement 3rd Sept 1999

Specifically covers only the computerised soil and related databases. Defines:

"Pre-1987 rights"

Description: those datasets which were collected before 1987 and digitally captured before 1999.

Ownership: The IPR is owned by Cranfield. Crown users are granted rights to use for non-commercial purposes for specific uses for the cost of P&A only.

Datasets included: 5km agro-climatic datasets as used in the ALC system; Auger bores collected during the national map programme; 1:25k Coventry map (100m raster), 100m, 1k, 5k National soil map; Representative profiles and analysis (only ~3000 profiles from paper records) including hydraulic data; 5km altitude data; tables for suitability modelling of grass and other crops; brief profile descriptions and series classification tables; tables for calculating available water (AP); Standardised series property and horizon data; Original NSI sampling data and analyses.

"MAFF-Rights"

Description: those datasets captured between 1987 and 1999 commissioned by MAFF:

Ownership: The IPR is owned by the Crown. Cranfield University granted rights to use this data and sub-licence. CU needs to keep records of licences taken out on MAFF rights data

Datasets included:

Auger bores surveyed for specific MAFF projects distinguishable in the database from Augers collected for other clients during this time (~31000); Further analyses on original NSI samples – textures and additional elements; T200 climate stations and temperature data.

LandIS Addendum – 1st April 2003

"New Map Rights"

Description: rights to data captured from 1999 to 2003, specifically the re-digitisation of the National Soil Map as a vector dataset

Ownership: The IPR is owned by Cranfield. Crown users are granted rights to use for non-commercial purposes for specific uses for the cost of P&A only.

Datasets included:

NATMAP vector; updated series classification and new 1k, 5k summaries with extension into urban areas.

SCHEDULE 1

Materials and Datasets.

List of Materials and Datasets pertaining to LandIS, with IPR ownership identified in square parenthesis []. Physical materials such as soil samples, publications and paper products are identified as MATERIALS.

Key to Owners:

- Crown – data originating from the Soil Survey of England and Wales (SSEW) pre 1987 or paid for by subsequent Defra projects.
 - CU – Cranfield University, including data originating from SSEW pre 1987.
 - MO – Meteorological Office
 - ADAS – Agricultural Development and Advisory Service
 - CEH – Centre for Ecology and Hydrology
 - JHI – James Hutton Institute
1. The National Soil Map
 - 1.1. MATERIALS - Published over 6 sheets each with an accompanying bulletin [Crown + CU].
 - 1.2. NATMAPvector is the re-digitised version including expansion of soil polygons into previously unsurveyed/urban areas [CU].
 - 1.3. NATMAP1000, NATMAP2000, NATMAP5000 – gridded summaries of NATMAPvector [CU]
 - 1.4. National Soil Map Legend and Associations [Crown + CU]
 - 1.5. Soilscales – reclassification of the National Soil Map [Crown + CU]
 2. The National Soil Inventory
 - ~6000 sites on a 5km grid.
 - 2.1. Field record cards (all digitised) – Site and Profile data [Crown + CU]
 - 2.2. Laboratory Analysis – Original analyses (Total P, K, Mg, Al, Ba, Ca, Fe, Na, Sr, Cd, Cr, Cu, Pb, Ni, Zn, Organic Carbon) [Crown + CU]
 - 2.3. Laboratory Analysis – Original analyses (Extractable Cd, Co, Cu, Pb, Ni, Zn, Mn) [Crown + CU]
 - 2.4. Laboratory Analysis – Original analyses (Extractable P, Mg, K, soil pH) [Crown]
 - 2.5. Laboratory Analysis – Additional Elements (As, Hg, Se, V, F) [Crown + CU]
 - 2.6. Laboratory Analysis – Texture [Crown + CU]
 - 2.7. Resurvey of selected sites (1997- 2003) + analyses [CU]
 - 2.8. Magnetic analyses [CU performed by Coventry University]
 - 2.9. MATERIALS - Physical Soil Samples (topsoil only) [Crown + CU]
 3. Soil Classification
 - 3.1. Soil series Definition (TM 14/17) [Crown + CU]
 - 3.2. Soil series hydrological and agronomic properties [Crown + CU]
 - 3.3. Soil series HOST (CU, CEH and JHI)
 - 3.4. Standardised soil series fundamental and hydraulic properties (HORIZON) [Crown + CU]
 - 3.5. Soil series risk properties (pesticide, shrink/swell, Nitrogen) [CU]
 - 3.6. World Reference Base classification [CU]
 4. Agroclimatic Data
 - 4.1. 5km Climatology data for Agricultural Land Classification [Crown + CU + MO]

- 4.2. 1 km and 5 km agroclimatic data (Rain, FC, MD) [Crown + CU + MO]
- 4.3. Field Capacity Zone map (vectorised from 1km gridded data) [CU]
- 4.4. 5km UKCP09 climate data [Crown + ADAS + MO, created for SP1104 held by CU]
- 4.5. T200 Climate Station and Temperature data [Crown]
- 5. Soil Profiles
 - 5.1. MATERIALS - Physical soil samples from soilpits [Crown + CU]
 - 5.2. MATERIALS – Profile descriptions (paper based) [Crown + CU]
 - 5.3. Laboratory Analysis (texture, organic carbon, pH plus others) [Crown + CU]
 - 5.4. Analyses of Hydrological properties [Crown + CU]
- 6. Auger bores and field records
 - 6.1. MATERIALS - Auger bore cards (not all digitised) [Crown + CU]
 - 6.2. Digitised auger bore records [Crown + CU]
 - 6.3. Digitised auger bore records collected for specific MAFF projects (including Lowland Peat Survey) [Crown]
 - 6.4. MATERIALS - Older record formats and field notebooks (paper based) [Crown + CU]
- 7. Soil Publications (Monographs, Bulletins and Records)
 - 7.1. MATERIALS - Store of books for sale, Bulletins, Monographs and Records (CU)
 - 7.2. Scanned copies of selected technical monographs (CU)
 - 7.3. E-books (CU)
- 8. Regional Soil Mapping
 - 8.1. MATERIALS - Store of published maps in folded and flat format (CU)
 - 8.2. Scanned and digitised copies of detailed map sheets (still requiring some validation) (CU)
- 9. Farm Surveys
 - 9.1. MATERIALS - Unpublished farm and local area reports (CU)
 - 9.2. Scanned farm maps (CU)
- 10. Interpreted maps
 - 10.1. Topsoil and Subsoil Texture (based on NATMAPvector and HORIZONfundamentals) [Crown + CU]
 - 10.2. Carbon Stock (based on NATMAPvector and HORIZONfundamentals) [Crown + CU]
 - 10.3. Available Water (based on NATMAPvector and SOILSERIESagronomy) [Crown + CU]
 - 10.4. Wetness class (based on NATMAPvector and Field Capacity Zone map) [Crown + CU]
 - 10.5. World Reference Base (reclassification of NATMAPvector) [CU]
 - 10.6. NATMAPhost (based on NATMAPvector and SOILSERIEShydrology) [CU]

Schedule 2

MAINTENANCE AGREEMENT

1. INTERPRETATION

- 1.1 The additional definitions to the Agreement for the Maintenance and Licensing of LANDIS apply to this Schedule 2 together with additional rules of interpretation.

Charges: the charges payable for the Services to be provided hereunder are as specified in Annex B

Contract Year: any 12-month period ending on any anniversary of the date of this Schedule.

Critical Fault: a reproducible fault which substantially hinders or prevents DEFRA from using a material part of the functionality of the Data or Materials.

DEFRA Manager: the person appointed by DEFRA from time to time in order to fulfil the role described herein

Documentation: the documents provided by Cranfield to use in relation to the Data and Materials in either printed text or machine-readable form, including the technical documentation, program specification and operations manual.

Maintenance Service; shall include the maintenance and secure storage of LandIS Materials, maintenance of the data holdings and databases as detailed in Annex A (part 1)

Maintenance Release: a release of any information or material which corrects faults, adds functionality or otherwise amends or upgrades the Data but which does not constitute a New Version.

Modification: any Maintenance update or New Version which is supplied by Cranfield.

New Version: any new version of the Data which is created by Cranfield in the course of its normal business, being a version which contains such significant differences from the previous versions as to be generally as constituting a new product.

Non-Critical Fault: any reproducible fault in the Data other than a Critical Fault.

Operational Services; means the provision of operational activities associated to the good maintenance of LandIS including archiving, curation, translation of LandIS Materials, data curation, manipulation and interpreting the Data and Materials together with the services specified in Annex A (part 2) hereof

Service Levels: those standards of performance to be achieved by Cranfield in performing the Standard Support Service

Services: includes Maintenance and Support Service, the Updating Service, and any Operational Services which are agreed hereunder.

Standard Operational Service: the Operational Service more particularly described which is to be provided by Cranfield to DEFRA in Annex A (part 2).

Standard Support Hours: 8.00 am to 6.00 pm Monday to Friday, except on days which are bank holidays in England or a Cranfield Closure Day

Support Manager: the person appointed by Cranfield from time to time in order to fulfil the role described in clause 5.

Support Staff: those individuals who perform Cranfield's obligations under this Schedule including (where the context permits) the Support Manager.

Supported Data: has the meaning set out in clause 2.2.1.

The Agreement; means the Agreement for the Maintenance and Licensing of LANDIS to which this Schedule is attached

Updating Service: the service to be supplied by Cranfield to DEFRA under clause's 2.3.1 and 2.3.3.

1.2 The headings in this Schedule do not affect its interpretation. Except where the context otherwise requires.

1.3 Unless the context otherwise requires:

- (a) The Annex's form part of this Schedule and shall have effect as if set out in full in the body of this Schedule and the Agreement.
- (b) Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- (c) A reference to a statute or statutory provision is a reference to it as it is in force as at the date of this Schedule.

2. SUPPORTED DATA

2.1 The Supported Data is:

- (a) the Data as specified in Schedule 1 of the Agreement;
- (b) any Modification which is acquired by DEFRA (whether under the Licence, the Agreement or this Schedule between Cranfield and DEFRA) during the course of the Licence and which accordingly becomes part of the Data defined as the Data under the Licence; and
- (c) any other Data which Cranfield and DEFRA agree should be Supported Data for the purposes of this Schedule

2.2 In relation to Maintenance Releases:

- (a) as part of the Updating Service, Cranfield shall from time to time make Maintenance Releases available to DEFRA without charge; and
- (b) if DEFRA fails to acquire or make arrangements for the installation of a Maintenance Release within of Cranfield 's notifying DEFRA that such Maintenance Release is available for installation, Cranfield shall accept no liability for any loss occasions by DEFRA's neglect of any such Maintenance Release

3. THE SERVICES

3.1 In consideration of the Charges payable by DEFRA to Cranfield, Cranfield shall supply, the following Services:

- (a) the Operational Service;
- (b) the Maintenance Services;
- (c) the Updating Service;

3.2 In relation to the Operational Service:

(a) the Standard Support Service shall be provided during the Standard Support Hours and shall comprise:

- (i) a telephone help desk to provide first-line technical support to users of the Data and Material
- (ii) remote diagnosis and, where possible, correction of faults using the Data

all as more particularly defined Annex A (part 1)

- (b) provide research and consultancy services in relation to both the Data and Materials
- (c) provide access and maintenance in respect of Materials

3.3 In relation to the Maintenance services

- (a) The Maintenance services shall be provided during the Standard Support Hours
- (b) if additional Maintenance is required in any month it may be provided by Cranfield at its option at the rates set out in Annex A (part 2) (as varied from time to time in accordance with the Change Procedure)
- (c) If a Critical Fault is discovered by either party then that party must inform the other party within 24 working hours
- (d) where a Non-Critical Fault is to be corrected in a forthcoming Maintenance Release, then for a reasonable period before the issue of such Maintenance Release Cranfield may decline to provide assistance in respect of that Non-Critical Fault.
- (e) to maintain in good order in safe and secure surroundings with adequate and secure access all the Materials as defined.

3.4 In relation to the Updating Service:

- (a) Cranfield shall issue Modifications of the Data as and when required by way of a local fix or patch of the Data or a temporary by-pass solution the Updating Service shall include the supply to DEFRA of all revisions to the Documentation which are necessary in order to reflect any Modification acquired by DEFRA;

- (b) for the avoidance of doubt, the cost of the Updating Service is included in the Charges payable for the Standard Support Service, but excludes any sum payable by DEFRA in respect of the licence of a New Version; and
 - (c) once any Modification has been installed by DEFRA, DEFRA shall return all copies of the Data or any part of the Data which is superseded by that Modification.
- 3.5 Cranfield may, on prior notice to DEFRA, make changes to the Services, provided such changes do not have a material adverse effect on DEFRA's business operations.
- 3.6 Cranfield shall have no obligation to provide the Services where faults arise from:
 - (a) misuse, incorrect use of or damage to the Data from whatever cause (other than any act or omission by Cranfield, including failure or fluctuation of electrical power;
 - (b) failure to maintain the necessary environmental conditions for use of the Data or Materials;
 - (c) use of the Data in combination with any equipment or Data not provided by Cranfield or not designated by Cranfield for use with any Modification of the Data, or any fault in any equipment or software;
 - (d) relocation [or installation] of the Data by any person other than Cranfield or a person acting under Cranfield 's instructions;
 - (e) any breach of DEFRA's obligations under this agreement howsoever arising or having the Data maintained by a third party;
 - (f) any Modification not authorised by Cranfield resulting in a departure from the Specification (as defined in the Licence); or operator error.

4. ORDERS FOR OPERATIONAL SERVICES

- 4.1 DEFRA may from time to time request Cranfield to supply Operational Services of the type specified in Annex A (part 1) for the charges specified in Annex B and Cranfield shall use its reasonable endeavours to comply with DEFRA's request, but DEFRA acknowledges that Cranfield's ability to supply the Operational Services shall depend on the availability of appropriate resources at the time in question.
- 4.2 Where Cranfield agrees to provide Operational Services, such agreement shall be embodied in an order for Operational Services. Each order for Operational Services shall be made under, and shall incorporate, the terms of this agreement.

5. SUPPORT STAFF

- 5.1 Cranfield shall appoint a Support Manager, who shall be responsible for the co-ordination of all matters relating to the Services. All communications, documentation and materials relating to this agreement shall be sent as appropriate by the Support Manager to the Defra Manager. Each party shall notify the other in writing promptly if there is any proposed change to those appointments.

- 5.2 In addition to its Support Manager, Cranfield shall provide sufficient Support Staff to fulfil its obligations under the terms of this agreement. The Support Staff shall be suitably trained and experienced in the support and maintenance of the Data and Materials.
- 5.3 In the absence of the Support Manager or of any other member of the Support Staff for any reason, Cranfield shall supply a replacement person who:
- (a) is appropriately trained and competent to fulfil the role required of them; and
 - (b) has undergone a suitable period of familiarisation with the Services to enable him them to perform the functions of the person he is replacing.

6. CHARGES

- 6.1 In consideration of the Services, DEFRA shall pay the Charges set out in Annex B. These Charges shall be paid quarterly in arrears by DEFRA to Cranfield within 30 days of the date of Cranfield's invoice.
- 6.2 Charges for any New Version or Operational Services to DEFRA shall be determined in writing before performance or supply by Cranfield, and shall be charged and invoiced to DEFRA by Cranfield following acceptance by Cranfield of DEFRA's written order for such New Version or such Operational Service (as the case may be).
- 6.3 DEFRA shall pay all costs (at Cranfield's then prevailing rates) and reasonable expenses incurred by Cranfield for work carried out by Cranfield in connection with any fault which is not covered by this agreement.

7. INTELLECTUAL PROPERTY RIGHTS

- 7.1 All Intellectual Property Rights in the Data and Materials belongs to the parties as specified in Schedule 1 hereto

8. DEFRA'S RESPONSIBILITIES

- 8.1 DEFRA shall nominate a Defra Manager to be available to liaise with, and respond to queries from, the Support Manager.
- 8.2 DEFRA shall:
- (a) co-operate with Cranfield in performing the Services and provide any assistance or information as may reasonably be required by Cranfield, including in relation to the diagnosis of any faults;
 - (b) report faults promptly to Cranfield; and
 - (c) keep full backup copies of all of its data.
- 8.3 DEFRA shall indemnify Cranfield against any losses, damages, costs (including legal fees) and expenses incurred by or awarded against Cranfield as a result of DEFRA's

breach of this agreement howsoever arising or any negligent or wrongful act of DEFRA, its officers, employees, contractors or agents.

9. MEETINGS

For the duration of this agreement, the Defra Manager, the Support Manager and such Support Staff as may from time to time be considered appropriate shall meet at least once a quarter at a DEFRA office location or elsewhere to be specified and at a time to be agreed between the Defra Manager and the Support Manager, for the purpose of discussing provision of the Services, the achievement of the Service Levels and any other appropriate matters.

10. NON-SOLICITATION

DEFRA shall not, for the duration of this agreement, and for a period of six months following termination, directly or indirectly induce or attempt to induce any employee of Cranfield who has been engaged in the provision, receipt, review or management of the Services or otherwise in connection with this Schedule to leave the employment of Cranfield .

11. ASSIGNMENT AND SUBCONTRACTING

11.1 DEFRA shall not assign, novate, charge, or deal in any other manner with any or all of its rights and obligations under this Schedule without the prior written consent of Cranfield (such consent not to be unreasonably withheld or delayed).

11.2 Cranfield may at any time assign, novate, charge, or deal in any other manner with any or all of its rights and obligations under this Schedule, provided it gives written notice to DEFRA.

11.3 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

12. DURATION

Supply of the Services by Cranfield to DEFRA shall commence on the date of the Agreement and, subject to termination in accordance with the provisions of the Agreement, shall continue for a term of 4 years. After expiry of the term, the supply of the Services shall (subject to any such termination) continue under this Schedule from year to year until terminated by either Cranfield or DEFRA on 180 days' prior written notice to the other to expire at the end of the current Contract Year.

13. TERMINATION

13.1 Shall be in accordance with the provisions of the Agreement

ANNEX A. SERVICES

Part 1 Maintenance Services

1. Storage of the LandIS Materials in a secure, easily accessible repository.
2. Development of LandIS in ways that meets the needs of current and future user communities.
3. Maintenance of the LandIS database such that it is operational and accessible. Maintenance will include hardware and software upgrades, backup and system security, metadata and system documentation, employment of adequately trained and experienced systems administration staff.
4. Maintenance of a LandIS records, user manuals, metadata and technical descriptions

Part 2 Operational Services

1. Incorporate and archive any new, related material into LandIS.
2. Curate and where necessary repair any existing material in LandIS.
3. Digital capture and conversion of physical material in LandIS to a useable digital format.
4. Translate historical material to contemporary standards to ensure its current usefulness and future utility.
5. Provision of information, advice, support and data supply service, such as;
 - a) Data provision to Defra under the various licence agreements as described in Schedule 3 .
 - b) Web services made available utilising WMS/WFS where appropriate.
 - c) Support of spatial web-based tools for selecting and extracting data for areas of interest.
 - d) Data provision to third parties under licences described in Schedule 3.
 - e) Educational Information provided freely on the LandIS website, for example the Soils Guide which gives a comprehensive description of all soil series and soil associations.

- f) Free access to selected personalised soil reports via the Soil Site Reporter (login with institutional email).
- g) Maintain and develop a LandIS user group aimed at actively promoting the use of the data and materials in LandIS

ANNEX B CURRENT CHARGES

[Redacted]	Schedule 2 (Maintenance)	£180,000 per annum
------------	--------------------------	--------------------

Schedule 3

CROWN LICENCE OF DATA AND MATERIALS

AGREED TERMS

The Definitions of terms specified in the main body of the agreement shall be supplemented by the following;

1. ADDITIONAL DEFINITIONS

- 1.1 The additional definitions and rules of interpretation in this clause 2.1 shall apply to this Schedule 3;

Charges: the charges specified in clause 4 hereof.

DEFRA System: any information technology system or systems owned or operated by DEFRA from which Data is received in accordance with this Agreement.

DEFRA Users: any employee of the Civil Service authorised by DEFRA to access and use the Data (wholly or in part), using his own unique identifier provided by Cranfield.

DEFRA User Restrictions: the obligations set out in Annex A.

DEFRA Sublicensing: this shall be conducted in accordance with Annex B

Data: the data or information, in whatever form including electronic images, maps, charts, still and moving pictures, soil samples and sound recordings.

Distribute: to make Data accessible to its DEFRA users, and providing by sub-licensing to any third parties in accordance with clause 2.2 hereof.

Licence: the licence granted in clause 2.2.

Permitted Use: internal business use together with sublicensing to Third Party's for Defra funded research

Raw Data: Data described in Schedule 1

The Agreement: means the Agreement for the Maintenance and Licensing of LANDIS to which this Schedule is attached.

2. LICENCE

- 2.1 Cranfield grants to DEFRA a non-exclusive, non-transferable, irrevocable, worldwide royalty free licence to the Cranfield Data and the Materials as specified in Schedule 1 of the Agreement and to Sublicense in accordance with Annex B for the Permitted Use only during the Term.

2.2 All non DEFRA Crown users will enter into a separate License for use of the Cranfield Data and Materials on a non-exclusive, non-transferable, irrevocable, worldwide royalty free licence with Cranfield

3. DATA

3.1 During the Term Cranfield shall supply the Data to DEFRA.

3.2 Cranfield may change at any time, with as much prior notice to DEFRA as is reasonably practicable:

- (a) the content, format or nature of Data; and
- (b) the means of access to the Data.

4. CHARGES

4.1 In the event that any charge should arise for sub-licencing in accordance with Categories 1 and 2 of Annex B.

4.2 The Charges shall be due and payable to Cranfield in accordance with the terms of each individual licence.

4.3 Time shall be of the essence regarding the Customer's obligations to make payments in accordance with this clause 4 and such obligations are material obligations for the Licence

4.4 The remedies specified in clause 6 of the Agreement shall apply to late payment.

4.5 Cranfield shall increase charges on an annual basis in line API if applicable.

5. AUDIT

5.1 In addition to Clause 8 of the Agreement DEFRA shall keep, in paper and electronic form, at its normal place of business detailed, accurate and up-to-date records (**Records**) showing, during the previous seven years the steps taken by DEFRA to comply with DEFRA User Restrictions. DEFRA shall ensure that the Records are sufficient to enable Cranfield to verify the Customer's compliance with its obligations under this clause 5.

5.2 DEFRA shall permit Cranfield and its third-party representatives, on reasonable notice during Normal Business Hours, but without notice in case of any reasonably suspected breach of this clause 5, to:

- (a) gain (physical and remote electronic) access to, and take copies of, the Records and any other information held at the Customer's premises or on DEFRA System; and
- (b) inspect all Records and DEFRA Systems relating to the use, Distribution, Redistribution, and control of the Data.

For the purpose of auditing the accuracy of the DEFRA's compliance with its obligations under this Agreement including DEFRA User Restrictions. Such audit rights shall continue for seven years after termination of this Agreement. DEFRA shall give all necessary assistance to the conduct of such audits during the term of this Agreement and for a period of seven years after termination of this Agreement

6. INTELLECTUAL PROPERTY RIGHTS OWNERSHIP

6.1 In addition to the terms specified in the Agreement DEFRA acknowledges that:

- (a) all Intellectual Property Rights in the Data specified in of Schedule 1 are the property of the parties specified, as the case may be;
- (b) it shall have no rights in Cranfield Intellectual Property or to the Data other than the right to use them in accordance with the express terms of this Agreement; and
- (c) Cranfield or its licensors has or have made and will continue to make substantial investment in the obtaining, verification, selection, coordination, development, presentation and supply of the Data.

6.2 DEFRA shall, and shall use all reasonable endeavours to procure that any necessary third party shall, at Cranfield's cost, promptly execute such documents and perform such acts as may reasonably be required for the purpose of giving full effect to this Agreement.

6.3 The Intellectual Property Rights assigned to Cranfield under clause 7.2 of the Agreement shall be deemed to be included in the Licence from the date when such rights arise.

6.4 Any display of the Data by DEFRA shall credit, wherever technically and commercially feasible, Cranfield, any licensor of Cranfield or any other source of the Data specified by Cranfield as the source of the Data.

7. UNAUTHORISED USE

7.1 If any unauthorised use is made of the Data or Materials and such use is attributable to the act or default of, or through, DEFRA (including breach of any DEFRA User Requirements) then, without prejudice to Cranfield's other rights and remedies, DEFRA shall immediately be liable to pay Cranfield an amount equal to the Charges that Cranfield would have charged, had Cranfield authorised the unauthorised user at the beginning of the period of that unauthorised use together with interest at the rate provided for in clause 6.4 of the Agreement from the date of that unauthorised use to the date of payment

ANNEX A

1. DEFRA USER RESTRICTIONS

1.1 DEFRA shall:

- (a) limit access to the Data to DEFRA Users;
- (b) only make copies of the Data and the Materials to the extent reasonably necessary for the following purposes: back-up, mirroring (and similar availability enhancement techniques), security, disaster recovery and testing;
- (c) not use the Data for any purpose contrary to any law or regulation or any regulatory code, guidance or request;
- (d) not extract, reutilise, use, exploit, redistribute, copy or store the Data or the Materials for any purpose not expressly permitted by this Agreement;
- (e) not copy, modify, decompile, reverse engineer or create derivative works, except to the extent permitted by any applicable law; and
- (f) not do anything which may damage the reputation of Cranfield, the Data, including by way of using the Data (wholly or in part) in any manner which is pornographic, racist or that incites religious hatred or violence.

ANNEX B

DEFRA Sublicensing categories

Sub-Licensing of Data and Derived Data by Defra Shall be divided into five categories as follows.

- i) Category 1- Cranfield Data (as-is or 'raw') including Manipulated data and Derived Data Cranfield has created from the Raw Data, shall be licensed to third parties under Cranfield standard terms for agreed royalty
 - ii) Category 2- Derived Data in which Cranfield has a substantial interest namely where Cranfield have either contributed to the creation of the Derived Data or where the output is mainly Raw Data, the license fee shall to be determined by Cranfield taking account of the residual interest which is to be agreed between the group deriving the data and Cranfield
 - iii) Category 3- Where the residual interest in Derived Data is not substantial the Derived Data can be licensed by Defra under the Restricted (non-commercial) Government Licence (NCGL)
 - iv) Category 4- Where Cranfield has no substantial residual interest in the Derived Data or any remaining interest has been satisfactorily covered, the license can be granted under the OGL
 - v) Category 5- Where the data is used by third parties for Defra funded research, the license is granted for research purposes only free of charge. .
-
-

Schedule 4

AGREEMENT WITH DEFRA TO LICENSE AND SUBLICENCE DATA, DERIVED DATA AND MATERIALS TO DEFRA ASSOCIATE'S

AGREED TERMS

The Definitions of terms specified in the main body of the agreement shall be supplemented by the following;

1. ADDITIONAL DEFINITIONS

The additional definitions and rules of interpretation in this clause 4.1 shall apply to this Schedule 4;

Associate; Shall mean the Defra Associate as defined in the Framework to which this Schedule is attached and shall be construed as to include Associate's Sub-Contractors

Charges: the charges specified in Clause 4 hereof.

Associate System: any information technology system or systems owned or operated by an Associate from which Data is received in accordance with this Agreement.

Associate User's: any employee of an Associate authorised by an Associate to access and use the Data (wholly or in part).

Associate User Restrictions: the obligations specified in Annex A.

Distribute: to make Data accessible to Associate users, and by sub-licensing to any third parties in accordance with clause 4.2 and Annex B.

Licence: the licences proposed in clause 4.2.

Manipulate: to combine or aggregate the Data (wholly or in part) with other data or information or to adapt the Data (wholly or in part).

Manipulated Data: any Data which has been Manipulated Data includes any Derived Data.

Permitted Use: to use the Database for internal purposes by the Licensee's direct employees.

Raw Data: Data in LandIS databases, datasets or obtained from LandIS materials.

Sub-Contractors: means those third parties contracted by an Associate who conduct work for and on behalf of the contracting Associate

The Agreement: means the Agreement for the Maintenance and Licensing of LANDIS to which this Schedule is attached.

2. LICENCE

2.1 Cranfield agrees to grant individual Associate's a non-exclusive, non-transferable, irrevocable, worldwide, royalty free licence on specific terms and conditions to be

agreed on a case by case basis dependant on the individual circumstances to the Cranfield Data and the Materials as specified in Schedule 1 of the Agreement for the Permitted Use only during the Term.

- 2.2 The licence shall include but not be not limited to
- (a) Internal use by the Associate for their own purposes
 - (b) access, view and Manipulate Data and create Derived Data;
 - (c) store the Data and Manipulated Data on the Associate's System;
- 2.3 The Associate shall be entitled to sublicense the data in accordance with the table of use specified in Annex B. All sublicense specified in Categories Annex B must be referred to Cranfield in order for the terms and conditions and fees to be agreed

3. DATA

- 3.1 During the Term Cranfield shall supply the Data to the Associate.
- 3.2 Cranfield may change at any time, with as much prior notice to the Associate as is reasonably practicable:
- (a) the content, format or nature of Data; and
 - (b) the means of access to the Data.

4. CHARGES

- 4.1 The charges arising for the supply of the Data, shall be paid to Cranfield in accordance with the categories listed in Annex C hereto
- 4.2 The Charges shall be due and payable to Cranfield in accordance with the payment terms included in the individual license
- 4.3 Time shall be of the essence regarding the Associate's obligations to make payments in accordance with this clause 3.4 and such obligations are material obligations for the purpose.
- 4.4 The remedies specified in clause 6 of the Agreement shall apply to late payment .
- 4.5 Cranfield shall increase charges on an annual basis in line API if applicable.

5. AUDIT

- 5.1 The Associate will be required to keep, in paper and electronic form, at its normal place of business detailed, accurate and up-to-date records (**Records**) showing, during the previous seven years the steps taken by Associate to comply with Associate User Restrictions. The Associate shall ensure that the Records are sufficient to enable Cranfield to verify the Associate's compliance with its obligations under this clause 5.
- 5.2 The Associate shall be required to permit Cranfield and its third-party representatives, on reasonable notice during Normal Business Hours, but without notice in case of any reasonably suspected breach of this clause 5, to:
- (a) gain (physical and remote electronic) access to, and take copies of, the Records and any other information held at the Associate's premises or on the Associate's System; and

- (b) inspect all Records and Associate Systems relating to the use, Distribution, Redistribution, and control of the Data.

for the purpose of auditing the accuracy of the Associate's compliance with its obligations under this Agreement including Associate User Restrictions. Such audit rights shall continue for seven years after termination of this Agreement. Associate shall give all necessary assistance to the conduct of such audits during the term of this Agreement and for a period of seven years after termination of this Agreement

6. INTELLECTUAL PROPERTY RIGHTS OWNERSHIP

- 6.1 Associate shall be licensed subject to the terms and conditions of the individual licence applicable to its use of the rights and Data

7. UNAUTHORISED USE

- 7.1 If any unauthorised use is made of the Data or Materials and such use is attributable to the act or default of, or through, the Associate (including breach of any Associate User Requirements) then, without prejudice to Cranfield's other rights and remedies, Associate shall immediately be liable to pay Cranfield an amount equal to the Charges that Cranfield would have charged, had Cranfield authorised the unauthorised user at the beginning of the period of that unauthorised use together with interest at the rate provided for in clause 6.4 of the Agreement from the date of that unauthorised use to the date of payment

ANNEX A

1. ASSOCIATE USER RESTRICTIONS

1.1 Associate shall:

- (a) limit access to the Data to Associate Users;
- (b) only make copies of the Data and the Materials to the extent reasonably necessary for the following purposes: back-up, mirroring (and similar availability enhancement techniques), security, disaster recovery and testing;
- (c) not use the Data for any purpose contrary to any law or regulation or any regulatory code, guidance or request;
- (d) not extract, reutilise, use, exploit, redistribute, copy or store the Data or the Materials for any purpose not expressly permitted by this Agreement;
- (e) not copy, modify, decompile, reverse engineer or create derivative works, except to the extent permitted by any applicable law; and
- (f) not do anything which may damage the reputation of Cranfield, the Data, including by way of using the Data (wholly or in part) in any manner which is pornographic, racist or that incites religious hatred or violence.

ANNEX B

ASSOCIATE CATEGORIES FOR SUB LICENSING

Sub-Licensing of Derived Data by DEFRA Associates is to be divided into four sections.

- i) Category 1- Cranfield Data (as-is or 'raw') including Manipulated data and Derived Data Cranfield has created from the Raw Data, shall be licensed to third parties under Cranfield standard terms for agreed royalty.
- ii) Category 2- Derived Data in which Cranfield has a substantial interest namely where Cranfield have either contributed to the creation of the Derived Data or where the output is mainly Raw Data, the license fee shall to be determined by Cranfield taking account of the residual interest which is to be agreed between the group deriving the data and Cranfield.
- iii) Category 3- Where the residual interest in Derived Data is not substantial the Derived Data can be licensed by Defra under the Restricted (non-commercial) Government Licence (NCGL).
- iv) Category 4- Where Cranfield has no substantial residual interest in the Derived Data or any remaining interest has been satisfactorily covered, the license can be granted under the OGL.

ANNEX C CURRENT CHARGES

[Redacted]

SCHEDULE 1

Materials and Datasets.

List of Materials and Datasets pertaining to LandIS, with IPR ownership identified in square parenthesis []. Physical materials such as soil samples, publications and paper products are identified as MATERIALS.

Key to Owners:

- Crown – data originating from the Soil Survey of England and Wales (SSEW) pre 1987 or paid for by subsequent Defra projects.
- CU – Cranfield University, including data originating from SSEW pre 1987.
- MO – Meteorological Office
- ADAS – Agricultural Development and Advisory Service
- CEH – Centre for Ecology and Hydrology
- JHI – James Hutton Institute

1. The National Soil Map

- 1.1. MATERIALS - Published over 6 sheets each with an accompanying bulletin [Crown + CU].
- 1.2. NATMAPvector is the re-digitised version including expansion of soil polygons into previously unsurveyed/urban areas [CU].
- 1.3. NATMAP1000, NATMAP2000, NATMAP5000 – gridded summaries of NATMAPvector [CU]
- 1.4. National Soil Map Legend and Associations [Crown + CU]
- 1.5. Soilscales – reclassification of the National Soil Map [Crown + CU]

2. The National Soil Inventory

~6000 sites on a 5km grid.

- 2.1. Field record cards (all digitised) – Site and Profile data [Crown + CU]
- 2.2. Laboratory Analysis – Original analyses (Total P, K, Mg, Al, Ba, Ca, Fe, Na, Sr, Cd, Cr, Cu, Pb, Ni, Zn, Organic Carbon) [Crown + CU]
- 2.3. Laboratory Analysis – Original analyses (Extractable Cd, Co, Cu, Pb, Ni, Zn, Mn) [Crown + CU]
- 2.4. Laboratory Analysis – Original analyses (Extractable P, Mg, K, soil pH) [Crown]
- 2.5. Laboratory Analysis – Additional Elements (As, Hg, Se, V, F) [Crown + CU]
- 2.6. Laboratory Analysis – Texture [Crown + CU]
- 2.7. Resurvey of selected sites (1997- 2003) + analyses [CU]
- 2.8. Magnetic analyses [CU performed by Coventry University]
- 2.9. MATERIALS - Physical Soil Samples (topsoil only) [Crown + CU]

3. Soil Classification

- 3.1. Soil series Definition (TM 14/17) [Crown + CU]
- 3.2. Soil series hydrological and agronomic properties [Crown + CU]
- 3.3. Soil series HOST (CU, CEH and JHI)
- 3.4. Standardised soil series fundamental and hydraulic properties (HORIZON) [Crown + CU]
- 3.5. Soil series risk properties (pesticide, shrink/swell, Nitrogen) [CU]
- 3.6. World Reference Base classification [CU]

4. Agroclimatic Data

- 4.1. 5km Climatology data for Agricultural Land Classification [Crown + CU + MO]

- 4.2. 1 km and 5 km agroclimatic data (Rain, FC, MD) [Crown + CU + MO]
- 4.3. Field Capacity Zone map (vectorised from 1km gridded data) [CU]
- 4.4. 5km UKCP09 climate data [Crown + ADAS + MO, created for SP1104 held by CU]
- 4.5. T200 Climate Station and Temperature data [Crown]
- 5. Soil Profiles
 - 5.1. MATERIALS - Physical soil samples from soilpits [Crown + CU]
 - 5.2. MATERIALS – Profile descriptions (paper based) [Crown + CU]
 - 5.3. Laboratory Analysis (texture, organic carbon, pH plus others) [Crown + CU]
 - 5.4. Analyses of Hydrological properties [Crown + CU]
- 6. Auger bores and field records
 - 6.1. MATERIALS - Auger bore cards (not all digitised) [Crown + CU]
 - 6.2. Digitised auger bore records [Crown + CU]
 - 6.3. Digitised auger bore records collected for specific MAFF projects (including Lowland Peat Survey) [Crown]
 - 6.4. MATERIALS - Older record formats and field notebooks (paper based) [Crown + CU]
- 7. Soil Publications (Monographs, Bulletins and Records)
 - 7.1. MATERIALS - Store of books for sale, Bulletins, Monographs and Records (CU)
 - 7.2. Scanned copies of selected technical monographs (CU)
 - 7.3. E-books (CU)
- 8. Regional Soil Mapping
 - 8.1. MATERIALS - Store of published maps in folded and flat format (CU)
 - 8.2. Scanned and digitised copies of detailed map sheets (still requiring some validation) (CU)
- 9. Farm Surveys
 - 9.1. MATERIALS - Unpublished farm and local area reports (CU)
 - 9.2. Scanned farm maps (CU)
- 10. Interpreted maps
 - 10.1. Topsoil and Subsoil Texture (based on NATMAPvector and HORIZONfundamentals) [Crown + CU]
 - 10.2. Carbon Stock (based on NATMAPvector and HORIZONfundamentals) [Crown + CU]
 - 10.3. Available Water (based on NATMAPvector and SOILSERIESagronomy) [Crown + CU]
 - 10.4. Wetness class (based on NATMAPvector and Field Capacity Zone map) [Crown + CU]
 - 10.5. World Reference Base (reclassification of NATMAPvector) [CU]
 - 10.6. NATMAPhost (based on NATMAPvector and SOILSERIEShydrology) [CU]

Schedule 2

MAINTENANCE AGREEMENT

1. INTERPRETATION

- 1.1 The additional definitions to the Agreement for the Maintenance and Licensing of LANDIS apply to this Schedule 2 together with additional rules of interpretation.

Charges: the charges payable for the Services to be provided hereunder are as specified in Annex B

Contract Year: any 12-month period ending on any anniversary of the date of this Schedule.

Critical Fault: a reproducible fault which substantially hinders or prevents DEFRA from using a material part of the functionality of the Data or Materials.

DEFRA Manager: the person appointed by DEFRA from time to time in order to fulfil the role described herein

Documentation: the documents provided by Cranfield to use in relation to the Data and Materials in either printed text or machine-readable form, including the technical documentation, program specification and operations manual.

Maintenance Service; shall include the maintenance and secure storage of LandIS Materials, maintenance of the data holdings and databases as detailed in Annex A (part 1)

Maintenance Release: a release of any information or material which corrects faults, adds functionality or otherwise amends or upgrades the Data but which does not constitute a New Version.

Modification: any Maintenance update or New Version which is supplied by Cranfield.

New Version: any new version of the Data which is created by Cranfield in the course of its normal business, being a version which contains such significant differences from the previous versions as to be generally as constituting a new product.

Non-Critical Fault: any reproducible fault in the Data other than a Critical Fault.

Operational Services; means the provision of operational activities associated to the good maintenance of LandIS including archiving, curation, translation of LandIS Materials, data curation, manipulation and interpreting the Data and Materials together with the services specified in Annex A (part 2) hereof

Service Levels: those standards of performance to be achieved by Cranfield in performing the Standard Support Service

Services: includes Maintenance and Support Service, the Updating Service, and any Operational Services which are agreed hereunder.

Standard Operational Service: the Operational Service more particularly described which is to be provided by Cranfield to DEFRA in Annex A (part 2).

Standard Support Hours: 8.00 am to 6.00 pm Monday to Friday, except on days which are bank holidays in England or a Cranfield Closure Day

Support Manager: the person appointed by Cranfield from time to time in order to fulfil the role described in clause 5.

Support Staff: those individuals who perform Cranfield's obligations under this Schedule including (where the context permits) the Support Manager.

Supported Data: has the meaning set out in clause 2.2.1.

The Agreement; means the Agreement for the Maintenance and Licensing of LANDIS to which this Schedule is attached

Updating Service: the service to be supplied by Cranfield to DEFRA under clause's 2.3.1 and 2.3.3.

1.2 The headings in this Schedule do not affect its interpretation. Except where the context otherwise requires.

1.3 Unless the context otherwise requires:

- (a) The Annex's form part of this Schedule and shall have effect as if set out in full in the body of this Schedule and the Agreement.
- (b) Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- (c) A reference to a statute or statutory provision is a reference to it as it is in force as at the date of this Schedule.

2. SUPPORTED DATA

2.1 The Supported Data is:

- (a) the Data as specified in Schedule 1 of the Agreement;
- (b) any Modification which is acquired by DEFRA (whether under the Licence, the Agreement or this Schedule between Cranfield and DEFRA) during the course of the Licence and which accordingly becomes part of the Data defined as the Data under the Licence; and
- (c) any other Data which Cranfield and DEFRA agree should be Supported Data for the purposes of this Schedule

2.2 In relation to Maintenance Releases:

- (a) as part of the Updating Service, Cranfield shall from time to time make Maintenance Releases available to DEFRA without charge; and
- (b) if DEFRA fails to acquire or make arrangements for the installation of a Maintenance Release within of Cranfield 's notifying DEFRA that such Maintenance Release is available for installation, Cranfield shall accept no liability for any loss occasions by DEFRA's neglect of any such Maintenance Release

3. THE SERVICES

3.1 In consideration of the Charges payable by DEFRA to Cranfield, Cranfield shall supply, the following Services:

- (a) the Operational Service;
- (b) the Maintenance Services;
- (c) the Updating Service;

3.2 In relation to the Operational Service:

- (a) the Standard Support Service shall be provided during the Standard Support Hours and shall comprise:
 - (i) a telephone help desk to provide first-line technical support to users of the Data and Material
 - (ii) remote diagnosis and, where possible, correction of faults using the Data

all as more particularly defined Annex A (part 1)

- (b) provide research and consultancy services in relation to both the Data and Materials
- (c) provide access and maintenance in respect of Materials

3.3 In relation to the Maintenance services

- (a) The Maintenance services shall be provided during the Standard Support Hours
- (b) if additional Maintenance is required in any month it may be provided by Cranfield at its option at the rates set out in Annex A (part 2) (as varied from time to time in accordance with the Change Procedure)
- (c) If a Critical Fault is discovered by either party then that party must inform the other party within 24 working hours
- (d) where a Non-Critical Fault is to be corrected in a forthcoming Maintenance Release, then for a reasonable period before the issue of such Maintenance Release Cranfield may decline to provide assistance in respect of that Non-Critical Fault.
- (e) to maintain in good order in safe and secure surroundings with adequate and secure access all the Materials as defined.

3.4 In relation to the Updating Service:

- (a) Cranfield shall issue Modifications of the Data as and when required by way of a local fix or patch of the Data or a temporary by-pass solution the Updating Service shall include the supply to DEFRA of all revisions to the Documentation which are necessary in order to reflect any Modification acquired by DEFRA;

- (b) for the avoidance of doubt, the cost of the Updating Service is included in the Charges payable for the Standard Support Service, but excludes any sum payable by DEFRA in respect of the licence of a New Version; and
 - (c) once any Modification has been installed by DEFRA, DEFRA shall return all copies of the Data or any part of the Data which is superseded by that Modification.
- 3.5 Cranfield may, on prior notice to DEFRA, make changes to the Services, provided such changes do not have a material adverse effect on DEFRA's business operations.
- 3.6 Cranfield shall have no obligation to provide the Services where faults arise from:
 - (a) misuse, incorrect use of or damage to the Data from whatever cause (other than any act or omission by Cranfield, including failure or fluctuation of electrical power;
 - (b) failure to maintain the necessary environmental conditions for use of the Data or Materials;
 - (c) use of the Data in combination with any equipment or Data not provided by Cranfield or not designated by Cranfield for use with any Modification of the Data, or any fault in any equipment or software;
 - (d) relocation [or installation] of the Data by any person other than Cranfield or a person acting under Cranfield 's instructions;
 - (e) any breach of DEFRA's obligations under this agreement howsoever arising or having the Data maintained by a third party;
 - (f) any Modification not authorised by Cranfield resulting in a departure from the Specification (as defined in the Licence); or operator error.

4. ORDERS FOR OPERATIONAL SERVICES

- 4.1 DEFRA may from time to time request Cranfield to supply Operational Services of the type specified in Annex A (part 1) for the charges specified in Annex B and Cranfield shall use its reasonable endeavours to comply with DEFRA's request, but DEFRA acknowledges that Cranfield's ability to supply the Operational Services shall depend on the availability of appropriate resources at the time in question.
- 4.2 Where Cranfield agrees to provide Operational Services, such agreement shall be embodied in an order for Operational Services. Each order for Operational Services shall be made under, and shall incorporate, the terms of this agreement.

5. SUPPORT STAFF

- 5.1 Cranfield shall appoint a Support Manager, who shall be responsible for the co-ordination of all matters relating to the Services. All communications, documentation and materials relating to this agreement shall be sent as appropriate by the Support Manager to the Defra Manager. Each party shall notify the other in writing promptly if there is any proposed change to those appointments.

- 5.2 In addition to its Support Manager, Cranfield shall provide sufficient Support Staff to fulfil its obligations under the terms of this agreement. The Support Staff shall be suitably trained and experienced in the support and maintenance of the Data and Materials.
- 5.3 In the absence of the Support Manager or of any other member of the Support Staff for any reason, Cranfield shall supply a replacement person who:
- (a) is appropriately trained and competent to fulfil the role required of them; and
 - (b) has undergone a suitable period of familiarisation with the Services to enable him them to perform the functions of the person he is replacing.

6. CHARGES

- 6.1 In consideration of the Services, DEFRA shall pay the Charges set out in Annex B. These Charges shall be paid quarterly in arrears by DEFRA to Cranfield within 30 days of the date of Cranfield's invoice.
- 6.2 Charges for any New Version or Operational Services to DEFRA shall be determined in writing before performance or supply by Cranfield, and shall be charged and invoiced to DEFRA by Cranfield following acceptance by Cranfield of DEFRA's written order for such New Version or such Operational Service (as the case may be).
- 6.3 DEFRA shall pay all costs (at Cranfield's then prevailing rates) and reasonable expenses incurred by Cranfield for work carried out by Cranfield in connection with any fault which is not covered by this agreement.

7. INTELLECTUAL PROPERTY RIGHTS

- 7.1 All Intellectual Property Rights in the Data and Materials belongs to the parties as specified in Schedule 1 hereto

8. DEFRA'S RESPONSIBILITIES

- 8.1 DEFRA shall nominate a Defra Manager to be available to liaise with, and respond to queries from, the Support Manager.
- 8.2 DEFRA shall:
- (a) co-operate with Cranfield in performing the Services and provide any assistance or information as may reasonably be required by Cranfield, including in relation to the diagnosis of any faults;
 - (b) report faults promptly to Cranfield; and
 - (c) keep full backup copies of all of its data.
- 8.3 DEFRA shall indemnify Cranfield against any losses, damages, costs (including legal fees) and expenses incurred by or awarded against Cranfield as a result of DEFRA's

breach of this agreement howsoever arising or any negligent or wrongful act of DEFRA, its officers, employees, contractors or agents.

9. MEETINGS

For the duration of this agreement, the Defra Manager, the Support Manager and such Support Staff as may from time to time be considered appropriate shall meet at least once a quarter at a DEFRA office location or elsewhere to be specified and at a time to be agreed between the Defra Manager and the Support Manager, for the purpose of discussing provision of the Services, the achievement of the Service Levels and any other appropriate matters.

10. NON-SOLICITATION

DEFRA shall not, for the duration of this agreement, and for a period of six months following termination, directly or indirectly induce or attempt to induce any employee of Cranfield who has been engaged in the provision, receipt, review or management of the Services or otherwise in connection with this Schedule to leave the employment of Cranfield .

11. ASSIGNMENT AND SUBCONTRACTING

11.1 DEFRA shall not assign, novate, charge, or deal in any other manner with any or all of its rights and obligations under this Schedule without the prior written consent of Cranfield (such consent not to be unreasonably withheld or delayed).

11.2 Cranfield may at any time assign, novate, charge, or deal in any other manner with any or all of its rights and obligations under this Schedule, provided it gives written notice to DEFRA.

11.3 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

12. DURATION

Supply of the Services by Cranfield to DEFRA shall commence on the date of the Agreement and, subject to termination in accordance with the provisions of the Agreement, shall continue for a term of 4 years. After expiry of the term, the supply of the Services shall (subject to any such termination) continue under this Schedule from year to year until terminated by either Cranfield or DEFRA on 180 days' prior written notice to the other to expire at the end of the current Contract Year.

13. TERMINATION

13.1 Shall be in accordance with the provisions of the Agreement

ANNEX A. SERVICES

Part 1 Maintenance Services

1. Storage of the LandIS Materials in a secure, easily accessible repository.
2. Development of LandIS in ways that meets the needs of current and future user communities.
3. Maintenance of the LandIS database such that it is operational and accessible. Maintenance will include hardware and software upgrades, backup and system security, metadata and system documentation, employment of adequately trained and experienced systems administration staff.
4. Maintenance of a LandIS records, user manuals, metadata and technical descriptions

Part 2 Operational Services

1. Incorporate and archive any new, related material into LandIS.
2. Curate and where necessary repair any existing material in LandIS.
3. Digital capture and conversion of physical material in LandIS to a useable digital format.
4. Translate historical material to contemporary standards to ensure its current usefulness and future utility.
5. Provision of information, advice, support and data supply service, such as;
 - a) Data provision to Defra under the various licence agreements as described in Schedule 3 .
 - b) Web services made available utilising WMS/WFS where appropriate.
 - c) Support of spatial web-based tools for selecting and extracting data for areas of interest.
 - d) Data provision to third parties under licences described in Schedule 3.
 - e) Educational Information provided freely on the LandIS website, for example the Soils Guide which gives a comprehensive description of all soil series and soil associations.

- f) Free access to selected personalised soil reports via the Soil Site Reporter (login with institutional email).
- g) Maintain and develop a LandIS user group aimed at actively promoting the use of the data and materials in LandIS

ANNEX B CURRENT CHARGES

[Redacted]

Schedule 3

CROWN LICENCE OF DATA AND MATERIALS

AGREED TERMS

The Definitions of terms specified in the main body of the agreement shall be supplemented by the following;

1. ADDITIONAL DEFINITIONS

1.1 The additional definitions and rules of interpretation in this clause 2.1 shall apply to this Schedule 3;

Charges: the charges specified in clause 4 hereof.

DEFRA System: any information technology system or systems owned or operated by DEFRA from which Data is received in accordance with this Agreement.

DEFRA Users: any employee of the Civil Service authorised by DEFRA to access and use the Data (wholly or in part), using his own unique identifier provided by Cranfield.

DEFRA User Restrictions: the obligations set out in Annex A.

DEFRA Sublicensing: this shall be conducted in accordance with Annex B

Data: the data or information, in whatever form including electronic images, maps, charts, still and moving pictures, soil samples and sound recordings.

Distribute: to make Data accessible to its DEFRA users, and providing by sub-licensing to any third parties in accordance with clause 2.2 hereof.

Licence: the licence granted in clause 2.2.

Permitted Use: internal business use together with sublicensing to Third Party's for Defra funded research

Raw Data: Data described in Schedule 1

The Agreement: means the Agreement for the Maintenance and Licensing of LANDIS to which this Schedule is attached.

2. LICENCE

2.1 Cranfield grants to DEFRA a non-exclusive, non-transferable, irrevocable, worldwide royalty free licence to the Cranfield Data and the Materials as specified in Schedule 1 of the Agreement and to Sublicense in accordance with Annex B for the Permitted Use only during the Term.

- 2.2 All non DEFRA Crown users will enter into a separate License for use of the Cranfield Data and Materials on a non-exclusive, non-transferable, irrevocable, worldwide royalty free licence with Cranfield

3. DATA

- 3.1 During the Term Cranfield shall supply the Data to DEFRA.
- 3.2 Cranfield may change at any time, with as much prior notice to DEFRA as is reasonably practicable:
- (a) the content, format or nature of Data; and
 - (b) the means of access to the Data.

4. CHARGES

- 4.1 In the event that any charge should arise for sub-licencing in accordance with Categories 1 and 2 of Annex B.
- 4.2 The Charges shall be due and payable to Cranfield in accordance with the terms of each individual licence.
- 4.3 Time shall be of the essence regarding the Customer's obligations to make payments in accordance with this clause 4 and such obligations are material obligations for the Licence
- 4.4 The remedies specified in clause 6 of the Agreement shall apply to late payment.
- 4.5 Cranfield shall increase charges on an annual basis in line API if applicable.

5. AUDIT

- 5.1 In addition to Clause 8 of the Agreement DEFRA shall keep, in paper and electronic form, at its normal place of business detailed, accurate and up-to-date records (**Records**) showing, during the previous seven years the steps taken by DEFRA to comply with DEFRA User Restrictions. DEFRA shall ensure that the Records are sufficient to enable Cranfield to verify the Customer's compliance with its obligations under this clause 5.
- 5.2 DEFRA shall permit Cranfield and its third-party representatives, on reasonable notice during Normal Business Hours, but without notice in case of any reasonably suspected breach of this clause 5, to:
- (a) gain (physical and remote electronic) access to, and take copies of, the Records and any other information held at the Customer's premises or on DEFRA System; and
 - (b) inspect all Records and DEFRA Systems relating to the use, Distribution, Redistribution, and control of the Data.

For the purpose of auditing the accuracy of the DEFRA's compliance with its obligations under this Agreement including DEFRA User Restrictions. Such audit rights shall continue for seven years after termination of this Agreement. DEFRA shall give all necessary assistance to the conduct of such audits during the term of this Agreement and for a period of seven years after termination of this Agreement

6. INTELLECTUAL PROPERTY RIGHTS OWNERSHIP

- 6.1 In addition to the terms specified in the Agreement DEFRA acknowledges that:
- (a) all Intellectual Property Rights in the Data specified in of Schedule 1 are the property of the parties specified, as the case may be;
 - (b) it shall have no rights in Cranfield Intellectual Property or to the Data other than the right to use them in accordance with the express terms of this Agreement; and
 - (c) Cranfield or its licensors has or have made and will continue to make substantial investment in the obtaining, verification, selection, coordination, development, presentation and supply of the Data.
- 6.2 DEFRA shall, and shall use all reasonable endeavours to procure that any necessary third party shall, at Cranfield's cost, promptly execute such documents and perform such acts as may reasonably be required for the purpose of giving full effect to this Agreement.
- 6.3 The Intellectual Property Rights assigned to Cranfield under clause 7.2 of the Agreement shall be deemed to be included in the Licence from the date when such rights arise.
- 6.4 Any display of the Data by DEFRA shall credit, wherever technically and commercially feasible, Cranfield, any licensor of Cranfield or any other source of the Data specified by Cranfield as the source of the Data.

7. UNAUTHORISED USE

- 7.1 If any unauthorised use is made of the Data or Materials and such use is attributable to the act or default of, or through, DEFRA (including breach of any DEFRA User Requirements) then, without prejudice to Cranfield's other rights and remedies, DEFRA shall immediately be liable to pay Cranfield an amount equal to the Charges that Cranfield would have charged, had Cranfield authorised the unauthorised user at the beginning of the period of that unauthorised use together with interest at the rate provided for in clause 6.4 of the Agreement from the date of that unauthorised use to the date of payment

ANNEX A

1. DEFRA USER RESTRICTIONS

1.1 DEFRA shall:

- (a) limit access to the Data to DEFRA Users;
- (b) only make copies of the Data and the Materials to the extent reasonably necessary for the following purposes: back-up, mirroring (and similar availability enhancement techniques), security, disaster recovery and testing;
- (c) not use the Data for any purpose contrary to any law or regulation or any regulatory code, guidance or request;
- (d) not extract, reutilise, use, exploit, redistribute, copy or store the Data or the Materials for any purpose not expressly permitted by this Agreement;
- (e) not copy, modify, decompile, reverse engineer or create derivative works, except to the extent permitted by any applicable law; and
- (f) not do anything which may damage the reputation of Cranfield, the Data, including by way of using the Data (wholly or in part) in any manner which is pornographic, racist or that incites religious hatred or violence.

ANNEX B

DEFRA Sublicensing categories

Sub-Licensing of Data and Derived Data by Defra Shall be divided into five categories as follows.

- i) Category 1- Cranfield Data (as-is or 'raw') including Manipulated data and Derived Data Cranfield has created from the Raw Data, shall be licensed to third parties under Cranfield standard terms for agreed royalty
- ii) Category 2- Derived Data in which Cranfield has a substantial interest namely where Cranfield have either contributed to the creation of the Derived Data or where the output is mainly Raw Data, the license fee shall to be determined by Cranfield taking account of the residual interest which is to be agreed between the group deriving the data and Cranfield
- iii) Category 3- Where the residual interest in Derived Data is not substantial the Derived Data can be licensed by Defra under the Restricted (non-commercial) Government Licence (NCGL)
- iv) Category 4- Where Cranfield has no substantial residual interest in the Derived Data or any remaining interest has been satisfactorily covered, the license can be granted under the OGL
- v) Category 5- Where the data is used by third parties for Defra funded research, the license is granted for research purposes only free of charge. .

Schedule 4

AGREEMENT WITH DEFRA TO LICENSE AND SUBLICENCE DATA, DERIVED DATA AND MATERIALS TO DEFRA ASSOCIATE'S

AGREED TERMS

The Definitions of terms specified in the main body of the agreement shall be supplemented by the following;

1. ADDITIONAL DEFINITIONS

The additional definitions and rules of interpretation in this clause 4.1 shall apply to this Schedule 4;

Associate; Shall mean the Defra Associate as defined in the Framework to which this Schedule is attached and shall be construed as to include Associate's Sub-Contractors

Charges: the charges specified in Clause 4 hereof.

Associate System: any information technology system or systems owned or operated by an Associate from which Data is received in accordance with this Agreement.

Associate User's: any employee of an Associate authorised by an Associate to access and use the Data (wholly or in part).

Associate User Restrictions: the obligations specified in Annex A.

Distribute: to make Data accessible to Associate users, and by sub-licensing to any third parties in accordance with clause 4.2 and Annex B.

Licence: the licences proposed in clause 4.2.

Manipulate: to combine or aggregate the Data (wholly or in part) with other data or information or to adapt the Data (wholly or in part).

Manipulated Data: any Data which has been Manipulated Data includes any Derived Data.

Permitted Use: to use the Database for internal purposes by the Licensee's direct employees.

Raw Data: Data in LandIS databases, datasets or obtained from LandIS materials.

Sub-Contractors: means those third parties contracted by an Associate who conduct work for and on behalf of the contracting Associate

The Agreement: means the Agreement for the Maintenance and Licensing of LANDIS to which this Schedule is attached.

2. LICENCE

2.1 Cranfield agrees to grant individual Associate's a non-exclusive, non-transferable, irrevocable, worldwide, royalty free licence on specific terms and conditions to be

agreed on a case by case basis dependant on the individual circumstances to the Cranfield Data and the Materials as specified in Schedule 1 of the Agreement for the Permitted Use only during the Term.

- 2.2 The licence shall include but not be not limited to
- (a) Internal use by the Associate for their own purposes
 - (b) access, view and Manipulate Data and create Derived Data;
 - (c) store the Data and Manipulated Data on the Associate's System;
- 2.3 The Associate shall be entitled to sublicense the data in accordance with the table of use specified in Annex B. All sublicense specified in Categories Annex B must be referred to Cranfield in order for the terms and conditions and fees to be agreed

3. DATA

- 3.1 During the Term Cranfield shall supply the Data to the Associate.
- 3.2 Cranfield may change at any time, with as much prior notice to the Associate as is reasonably practicable:
- (a) the content, format or nature of Data; and
 - (b) the means of access to the Data.

4. CHARGES

- 4.1 The charges arising for the supply of the Data, shall be paid to Cranfield in accordance with the categories listed in Annex C hereto
- 4.2 The Charges shall be due and payable to Cranfield in accordance with the payment terms included in the individual license
- 4.3 Time shall be of the essence regarding the Associate's obligations to make payments in accordance with this clause 3.4 and such obligations are material obligations for the purpose.
- 4.4 The remedies specified in clause 6 of the Agreement shall apply to late payment .
- 4.5 Cranfield shall increase charges on an annual basis in line API if applicable.

5. AUDIT

- 5.1 The Associate will be required to keep, in paper and electronic form, at its normal place of business detailed, accurate and up-to-date records (**Records**) showing, during the previous seven years the steps taken by Associate to comply with Associate User Restrictions. The Associate shall ensure that the Records are sufficient to enable Cranfield to verify the Associate's compliance with its obligations under this clause 5.
- 5.2 The Associate shall be required to permit Cranfield and its third-party representatives, on reasonable notice during Normal Business Hours, but without notice in case of any reasonably suspected breach of this clause 5, to:
- (a) gain (physical and remote electronic) access to, and take copies of, the Records and any other information held at the Associate's premises or on the Associate's System; and

- (b) inspect all Records and Associate Systems relating to the use, Distribution, Redistribution, and control of the Data.

for the purpose of auditing the accuracy of the Associate's compliance with its obligations under this Agreement including Associate User Restrictions. Such audit rights shall continue for seven years after termination of this Agreement. Associate shall give all necessary assistance to the conduct of such audits during the term of this Agreement and for a period of seven years after termination of this Agreement

6. INTELLECTUAL PROPERTY RIGHTS OWNERSHIP

- 6.1 Associate shall be licensed subject to the terms and conditions of the individual licence applicable to its use of the rights and Data

7. UNAUTHORISED USE

- 7.1 If any unauthorised use is made of the Data or Materials and such use is attributable to the act or default of, or through, the Associate (including breach of any Associate User Requirements) then, without prejudice to Cranfield's other rights and remedies, Associate shall immediately be liable to pay Cranfield an amount equal to the Charges that Cranfield would have charged, had Cranfield authorised the unauthorised user at the beginning of the period of that unauthorised use together with interest at the rate provided for in clause 6.4 of the Agreement from the date of that unauthorised use to the date of payment

ANNEX A

1. ASSOCIATE USER RESTRICTIONS

1.1 Associate shall:

- (a) limit access to the Data to Associate Users;
- (b) only make copies of the Data and the Materials to the extent reasonably necessary for the following purposes: back-up, mirroring (and similar availability enhancement techniques), security, disaster recovery and testing;
- (c) not use the Data for any purpose contrary to any law or regulation or any regulatory code, guidance or request;
- (d) not extract, reutilise, use, exploit, redistribute, copy or store the Data or the Materials for any purpose not expressly permitted by this Agreement;
- (e) not copy, modify, decompile, reverse engineer or create derivative works, except to the extent permitted by any applicable law; and
- (f) not do anything which may damage the reputation of Cranfield, the Data, including by way of using the Data (wholly or in part) in any manner which is pornographic, racist or that incites religious hatred or violence.

ANNEX B

ASSOCIATE CATEGORIES FOR SUB LICENSING

Sub-Licensing of Derived Data by DEFRA Associates is to be divided into four sections.

- i) Category 1- Cranfield Data (as-is or 'raw') including Manipulated data and Derived Data Cranfield has created from the Raw Data, shall be licensed to third parties under Cranfield standard terms for agreed royalty.
- ii) Category 2- Derived Data in which Cranfield has a substantial interest namely where Cranfield have either contributed to the creation of the Derived Data or where the output is mainly Raw Data, the license fee shall to be determined by Cranfield taking account of the residual interest which is to be agreed between the group deriving the data and Cranfield.
- iii) Category 3- Where the residual interest in Derived Data is not substantial the Derived Data can be licensed by Defra under the Restricted (non-commercial) Government Licence (NCGL).
- iv) Category 4- Where Cranfield has no substantial residual interest in the Derived Data or any remaining interest has been satisfactorily covered, the license can be granted under the OGL.

ANNEX C CURRENT CHARGES

[Redacted]

[Redacted]

[Redacted]