

PRODUCT TERMS - SAAS (ENGLISH LAW) | GEOAD

These Product Terms apply whenever Customer accesses or uses Capita’s GeoAD software (including its individual components and modules) as a SaaS Product (as defined in the Master Terms). These Product Terms are incorporated into the Product Order and, together with the Master Terms and the Professional Services Terms (if applicable), form part of the Agreement between Capita and Customer. In some cases, additional or modified rights to those provided in these Product Terms will be included in a Product Order.

1. DEFINITIONS AND INTERPRETATION.

1.1 Capitalised terms used in these Product Terms but not defined below are defined in the Master Terms.

“Authorised Purpose” has the meaning given to it in Paragraph 2.2 below.

“Authorised User(s)” has the meaning given to it in the Master Terms.

“Business Day” means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

“Customer Portal” has the meaning given to it in the Product Order.

“Maintenance Release” means any update, upgrade, revision, release, patch bug-fix, or other adaption or modification of the Product, including any updated Documentation, that Capita may provide to Customer from time to time as part of the Support Services during the Support Period, which may contain, amongst other things, error corrections, enhancements, and/or improvements, or anything otherwise that may amend the Product, but does not include any New Version or New Module.

“Master Terms” means the Master Terms that, together with the Product Order, these Product Terms and, if applicable, the Professional Services Terms, form the Agreement between Capita and Customer, and which can be found at the following URL:<https://www.capitasoftware.com/customertermsandconditions>.

“New Module” means any new software component, module or part of the Product that provides additional functionality to the Product that Capita may from time to time introduce and market generally as a distinct licenced product and which Capita

may make available to Customer at an additional cost under a Product Order.

“New Version” means any new version of the Product (other than a New Module) that Capita may from time to time introduce and market generally as a distinct licensed product and which Capita may, only if New Versions are included as part of the Support Services as indicated in the Product Order, provide to Customer from time to time as part of the Support Services during the Usage Period, or, if New Versions are not included as part of the Support Services as indicated in the Product Order, make available to Customer at an additional cost under a separate Product Order.

“Out of Hours Support Services” means any Support Services provided by Capita outside of the Support Hours, as specified in the Product Order.

“Quarter” means each period of three (3) consecutive months during a calendar.

“Reporting Period” has the meaning given to it in the Product Order.

“Support Hours” means the support hours during which Capita shall provide the Support Services, as detailed in Annex 1 of the Product Order.

“Territory” means the territory set out in the Product Order.

1.2 Unless specified otherwise, reference to Paragraphs in these Product Terms shall be to the paragraphs of these Product Terms or any annexures. References to Sections in these Product Terms shall be to the sections of the Master Terms.

2. USAGE RIGHTS.

2.1 Grant of Usage Rights. Subject to, and in consideration of, Customer’s payment of

the Licence Fees and Customer's and its Authorised Users' continuing compliance with all other terms and conditions of the Agreement, Capita grants to Customer during the applicable Usage Period specified in the Product Order, a non-exclusive, non-transferable, non-sublicensable and revocable licence for Customer and its Listed Affiliates to access and use, solely by and through the Authorised Users, the Product(s) listed in the applicable Product Order (including any Maintenance Release and any New Version provided to Customer pursuant to the provision of Support Services), the Content and to use the relevant Documentation, in each case within the Territory and solely for the Authorised Purpose.

2.2 Authorised Purpose. The "**Authorised Purpose**" is the receipt and use of, the Product(s) in accordance with the Agreement and the Documentation and solely for the internal business operations/purpose of Customer and its Listed Affiliates in relation to the management of their workforces. The Authorised Purpose shall only extend to Customer's own data processing and shall not be used to provide a data processing service or bureau service to any third party whether by way of trade or otherwise.

2.3 Scope of Licensed Access and Use. The total number of Authorised Users will not exceed the numbers set out in the applicable Product Order. If at any time during a Quarter, the number of Authorised Users exceeds the amount of Authorised Users that the Licence Fees for that Quarter were based on, then Customer shall be liable to pay a pro-rated increase in the Licence Fee for such additional Authorised Users for the remainder of that Quarter. Any such amount shall be included in the invoice for the next Quarter. If there is no invoice for the next Quarter, a separate invoice for such amount shall be raised and shall be payable in accordance with the terms of the Agreement. Capita will undertake monthly monitoring of Customer's use of the Product(s) to determine the number of Authorised Users registered to use the Product(s).

2.4 Third Party terms. If the Products, Content and Deliverables contain proprietary and/or Third Party Software components and applicable licence and notice terms are not provided to Customer as anticipated by Section 2.3 of the Master Terms, Capita and any third party supplier of associated Third Party Software disclaim any and all liability for consequential damages and implied warranties (including, as permitted by law, the implied warranties of non-infringement, satisfactory quality, merchantability and fitness for purpose). For clarity, Customer has selected any third party products or devices by its own volition and is not relying on any recommendation made by Capita.

2.5 Copies of Documentation. At the request of Customer, Capita may provide additional copies of the Documentation as Customer reasonably requires for the normal operation of its business, at Capita's then current standard scale of charges.

2.6 Material breach. The Parties agree that a breach of the terms of this Paragraph 2 by Customer will be a non-remedial material breach under Section 11.1 of the Master Terms.

3. INDEMNITY.

3.1 The indemnity set forth at Paragraph 4.1 of Part G of the Product Order shall not apply with respect to any Third Party Software which is incorporated within a Product.

4. HOSTING.

4.1 Subject to Customer's compliance with its obligations under the Agreement, during the Usage Period, Capita will, or will procure a Hosting Provider to, be responsible for the hosting environment for the Product(s) (including its individual components and modules and any Customer Data) on the Capita IT Systems.

5. SUPPORT SERVICES AND PROFESSIONAL SERVICES.

- 5.1 Support Services. Where specified in a Product Order, and subject to the terms of the Agreement and the payment of all charges payable by the Customer under the Agreement (including the Support Fees), during the Support Period, Capita will use reasonable endeavours to provide the Support Services during the Support Hours.
- 5.2 In addition to the Support Services set forth at Paragraph 5.1, where specified in a Product Order, and subject to the terms of the Agreement and the payment of the separate Support Fees specified in the Product Order as payable in respect of Out of Hours Support Services, during the Support Period Capita will provide Out of Hours Support Services.
- 5.3 Support requests. In order to obtain Support Services, Customer must:
- 5.3.1 contact Capita directly through the online support as detailed in Annex 1 of the Product Order (or such other contact details as notified to Customer from time to time); and
- 5.3.2 provide Capita with sufficient information to enable Capita to reproduce the problem.
- 5.4 Additional support fees. If Customer uses Capita's service desk for general advice regarding the use of the Product(s), Capita reserves the right to treat this outside the scope of the Support Services, and to charge Customer additional fees. Such services shall be deemed to be Professional Services and shall be subject to Professional Services Terms and the Professional Service section in the Product Order.
- 5.5 Maintenance Releases.
- 5.5.1 All Maintenance Releases provided by Capita to Customer are deemed to be part of the applicable Product. For the avoidance of doubt, the cost of the provision of Maintenance Releases is included in the Support Fees payable for the
- Support Services, but excludes any sums payable by Customer:
- (a) for Professional Services in respect of assistance to Customer to support the deployment of a Maintenance Release; and
- (b) in respect of the license of a New Module.
- 5.5.2 Once a Maintenance Release has been placed into production use by Customer, Customer shall, on Capita's request, certify in writing to Capita that all copies of the Product(s), or any part of the Product(s), which is superseded by that Maintenance Release then in its possession, custody or control, have been deleted by Customer.
- 5.6 New Versions.
- 5.6.1 Where New Versions are provided by Capita as part of the Support Services (as indicated in the Product Order):
- (a) such New Versions provided by Capita to Customer are deemed to be part of the applicable Product; and
- (b) the cost of the provision of such New Versions is included in the Support Fees payable for the Support Services, but excludes any sums payable by Customer:
- (i) for Professional Services in respect of assistance to Customer to support the deployment of a New Version; and
- (ii) in respect of the license of a New

- Module.
- 5.6.2 Where New Versions are not included as part of the Support Services (as indicated in the Product Order), Customer will need to enter into a new agreement with Capita for such New Version.
- 5.6.3 Once a New Version has been placed into production use by Customer, Customer shall, on Capita's request, certify in writing to Capita that all copies of the Product(s), or any part of the Product(s), which is superseded by that New Version then in its possession, custody or control, have been deleted by Customer.
- 5.7 Exclusions. The Support Services shall not include the following for which Capita may make an additional charge on a time and materials basis:
- 5.7.1 the support of other software, accessories, attachments, machines, systems or other devices not supplied by Capita nor provided pursuant to the Agreement;
- 5.7.2 rectification of lost or corrupted data arising for any reason other than Capita's own negligence;
- 5.7.3 support rendered more difficult because of any changes, alterations, additions, modifications or variations to the Product, the system or the operating environment made by or on behalf of Customer;
- 5.7.4 attendance to faults caused by using the Product outside design or other specifications supplied with the Product; and
- 5.7.5 diagnosis and/or rectification of problems not associated with the Product.
- 5.8 Provision of Information. The provision of the Support Services is conditional upon Customer having provided adequate information in respect of any malfunction in the Products.
- 5.9 New Modules. Customer acknowledges and agrees that any New Modules of the Product(s) that Capita may, in its sole discretion, release from time to time are not included as part of the Support Services. Fees for any New Module and any related Professional Services shall be charged and invoiced to Customer following acceptance by Capita of a new Product Order for such New Module.
- 5.10 Current Release. Except as otherwise expressly agreed by Capita and Customer in writing, Customer must run only the current Maintenance Release level of the Product(s) Capita has made available to its customers and must ensure that such Maintenance Release is run on the latest New Version made available to its customers. Customer shall install all Maintenance Releases and New Versions as soon as reasonably possible from the date they are made available by Capita. If Customer fails to comply with this Paragraph 5.10 with respect to the Product(s) used in any Territory, Capita may insist on such installation and/or refuse to provide Support Services in respect of such Product(s).
- 5.11 Systems, platforms and environments. Capita reserves the right to specify which versions of third party products, operating systems, platforms and environments with which the Product will run on.
- 5.12 Customer Responsibilities. In addition to Customer's obligations set out in the Master Terms and elsewhere in these Product Terms, Customer shall:
- 5.12.1 designate appropriately qualified and trained personnel authorised to request the Support Services and inform Capita accordingly. Customer shall limit use of the Customer Portal (in accordance with the Product Order requirements) to such designated contact;
- 5.12.2 supervise and control the use of

- the Product;
- 5.12.3 maintain procedures to facilitate reconstruction of any lost or altered files, data or programs to the extent deemed necessary by Customer, and Customer agrees that Capita shall not be liable under any circumstances for any consequence arising from lost or corrupted data, files or programs;
- 5.12.4 be solely responsible for carrying out all necessary back-up procedures for their own benefit, to ensure that data integrity can be maintained in the event of loss of data for any reason; and
- 5.12.5 provide telephone and appropriate access (for example, via a VPN connection) to facilitate the remote investigation of Product issues.
- 5.13 Additional Support and Maintenance.
- 5.13.1 Customer may from time to time request Capita to supply additional support and maintenance services outside the scope of the Support Services provided pursuant to the applicable Product Order.
- 5.13.2 If Customer requests any such additional services, Capita shall use its reasonable endeavours to comply with Customer's request, but Customer acknowledges that Capita's ability to supply such additional services shall depend on the availability of appropriate resources at the time in question.
- 5.13.3 Where Capita agrees to provide additional services in accordance with Paragraph 5.13.2 above, additional fees may apply, and such agreement shall be documented in an order for Professional Services, which shall be made under, and shall incorporate, the terms of the Agreement.
- 5.14 Professional Services. Subject to payment by Customer of all charges payable under the Agreement (including the applicable Professional Services Fees) and Customer's compliance with its obligations under the Agreement, Capita shall perform Professional Services if, and as, specified in the Product Order or as may be agreed in writing between the Parties from time to time, in each case in accordance with the Professional Services Terms.
6. **CHANGES.**
- 6.1 Changes to Products. Capita may modify Product(s) from time to time but will not change their fundamental nature. Capita will use reasonable efforts to notify Customer of significant changes to Product(s).
7. **TERMINATION.**
- 7.1 The Parties' termination rights are set out in Section 11 of the Master Terms.
8. **DATA PROTECTION.**
- 8.1 Scope and status of the Parties.
- 8.1.1 In this Paragraph 8, the terms "controller", "data subject", "personal data", "personal data breach", "process" ("processed" to be construed accordingly) and "processor" shall have the same meanings as in the EU General Data Protection Regulation (EU)2016/679 as it forms part of domestic law in the United Kingdom by virtue of section 3 of the European Union (Withdrawal) Act 2018 and as amended by Schedule 1 to the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019 (SI 2019/419) (including as further amended or modified by the laws of the United Kingdom or of a part of the United Kingdom from time to time (the "**UK GDPR**"). "**Data Protection Laws**" means all applicable data protection and

privacy legislation in force from time to time in the UK including without limitation the UK GDPR, the UK Data Protection Act 2018 and any replacement or supplementary legislation applicable to the processing of personal data applicable in the United Kingdom from time to time.

8.1.2 Capita acts as a data processor on behalf of Customer with respect to personal data (if any) which is processed by Capita on behalf of Customer or any Listed Affiliates (each a “**Customer Group Member**”) under the Product Order to the extent that it relates to the Product(s) under such Product Order (the “**Customer Personal Data**”). Customer may act as controller or processor in respect to Customer Personal Data. This Paragraph 8 sets out Capita’s data processing obligations to Customer in respect of Customer Personal Data.

8.1.3 Customer warrants, represents and undertakes to Capita that it (or the applicable Customer Group Member):

- (a) will comply at all times with the Data Protection Laws; and
- (b) has all necessary consents and notices in place to enable lawful transfer (including international transfers, if any) of Customer Personal Data to Capita for the duration of the Agreement (including without limitation, lawful grounds for processing).

8.2 Capita’s obligations. Where Capita processes Customer Personal Data under or in connection with the performance of its obligations under the Product Order, Capita shall:

8.2.1 process the Customer Personal Data only in accordance with the applicable Product Order and with other mutually agreed and documented instructions of Customer (including in relation to any international transfer of Customer Personal Data made in accordance with Paragraph 9.3);

8.2.2 implement appropriate technical and organisational measures necessary to meet the requirements of Article 32 of the UK GDPR;

8.2.3 ensure Capita staff authorised to process Customer Personal Data are subject to appropriate confidentiality obligations;

8.2.4 unless otherwise specified in the applicable Product Order, be entitled to engage sub-processors to process Customer Personal Data (and this Paragraph 8.2.4 shall be deemed Customer’s general written authorisation to the same). Capita shall:

- (a) ensure that equivalent requirements to those set out in this Paragraph 8.2 are imposed on any sub-processor(s) through a written agreement;
- (b) remain liable to Customer for the performance of the sub-processor’s obligations; and
- (c) where applicable, provide to Customer reasonable prior notice of any addition or replacement of such sub-processors.

Without prejudice to the foregoing general authorisation to appoint sub-processors, Customer will be deemed to have specifically consented to any new appointment if no objection is

- received within five (5) Business Days of Capita's notification;
- 8.2.5 taking into account the nature of the processing and the information available to Capita, reasonably assist Customer to fulfil Customer's obligations under the Data Protection Laws:
- (a) to respond to data subjects' requests exercising their rights; and
- (b) with respect to security, data protection impact assessments, data breach notifications and consultations with data protection supervisory authorities;
- 8.2.6 save as required by law, at Customer's option, either delete or return Customer Personal Data in Capita's possession to Customer on expiry or termination of the applicable Product Order;
- 8.2.7 make available to Customer such information as Customer reasonably requests and Capita is reasonably able to provide, and permit and contribute to such audits, including inspections, conducted by Customer (or agreed auditors other than Capita's competitors), as is necessary to demonstrate Capita's compliance with its obligations set out in this Paragraph 8. Customer will give reasonable notice of any audit, ensure that any audit does not disrupt Capita's business operations, ensure any agreed auditors (if any) are bound by appropriate (in Capita's opinion) confidentiality obligations to protect Capita's confidential information, and for the avoidance of doubt, Customer will be fully liable for any associated costs (including those of Capita); and
- 8.2.8 notify Customer without undue delay after becoming aware of any personal data breach involving Customer Personal Data.
- Capita shall be entitled to charge Customer, at Capita's then-current rate card and expenses policy, for any Capita effort or costs under Paragraphs 8.2.5 to 8.2.8 (inclusive).
- 8.3 International transfers.
- 8.3.1 Subject to Paragraph 8.3.2, Capita shall not transfer Customer Personal Data to any country or territory outside the European Economic Area (EEA) without Customer's prior written consent (such consent not to be unreasonably withheld or delayed).
- 8.3.2 Capita may transfer Customer Personal Data to Capita Affiliates located in the United Kingdom. Customer's agreement to this Paragraph 8.3.2 shall be deemed to be the prior written consent of Customer.
- 8.3.3 Any transfers authorised in accordance with this Paragraph 8.3.3 shall be subject to appropriate safeguards or derogations under Data Protection Laws. Where requested to do so by Capita, Customer shall execute the appropriate approved standard contractual clauses for transfers of Customer Personal Data from the EEA or the UK to third countries ("**Standard Contractual Clauses**") as data exporter with the applicable Capita data importer entity and, where relevant, procure that the relevant data controller entity does the same. Customer agrees that if, pursuant to the Standard Contractual Clauses, Capita is obliged to provide a copy of any applicable sub-processor agreement, such agreement may have all commercial information, or clauses unrelated to the Standard Contractual Clauses, removed by Capita beforehand and that such copies will be provided by Capita in a manner to be determined in its discretion and only upon request by Customer.
- 8.4 Indemnity.

- 8.4.1 Subject to the limitations and exclusions of liability set out in the Agreement, each Party shall indemnify and keep indemnified the other Party against any liability, fines, claims, demands, expenses and costs (including reasonable legal fees) arising as a result of:
- (a) any breach by the other Party (including in the case of Customer, by any Customer Group Member and any other controller of the Customer Personal Data) of its obligations under Data Protection Laws; and/or
 - (b) where Capita is the indemnified Party, Capita acting in accordance with any instruction, policy or procedure of Customer or any Customer Affiliate.
- 8.4.2 Subject to the limitations and exclusions of liability set out in the Master Terms, Customer shall defend and indemnify, at its own expense, Capita from and against any third party claim against Capita to the extent arising out of or in connection with Customer's breach of Paragraph 8.1.3(b) or Paragraph 8.1.3(c).
9. **NON-SOLICITATION**
- 9.1 Neither Party shall approach directly or indirectly employees of the other with offers of employment for the duration of the Support Period and for a period of (6) six months thereafter. This will not restrict either Party from employing staff who apply unsolicited in response to general advertising or other general recruitment campaigns.
10. **FREEDOM OF INFORMATION.**
- 10.1 For the purpose of this Paragraph 10, "**Commercially Sensitive Information**" means commercially sensitive information including, without limitation, information relating to Capita's business, products, services and pricing of a confidential nature which Capita discloses to Customer whether before, during or after the Relevant Period of the Agreement.
- 10.2 If Customer receives a request under the Freedom of Information Act 2000 (the "**Act**") which relates to any of the Commercially Sensitive Information, Customer shall consult Capita and consider Capita's representations concerning such request.
- 10.3 In reaching a decision on disclosure, Customer shall take into account its obligations under the Agreement and the representations made in connection with the request by Capita but the decision of Customer, acting always in accordance with the Act, shall be final.
11. **SPECIAL TERMS – ROYAL MAIL.**
- 11.1 **Royal Mail Content.** With respect to the Royal Mail Content, Customer shall be fully responsible for its use of any such Content (or similar or equivalent data) accessed by Customer through the Product ("**RM Data**") and Capita shall have no responsibility in respect of the same. For the purposes of the Agreement, RM Data shall be considered to be Content and nothing in these Product Terms shall have the effect of limiting Customer's obligations and responsibilities with respect to such Content.
- 11.2 **Disclaimer.** This Paragraph 11.2 applies only in respect of the RM Data. In addition to any third party disclaimer issued in connection with any RM Data, Customer agrees that (in addition to, and without prejudice to, the Capita disclaimer set forth at Paragraph 11.1 and the limitations and exclusions on Capita's liability set out elsewhere in the Agreement) Capita accepts no responsibility for, and makes no warranty as to the accuracy of the RM Data. Customer should anticipate that, for example, the most accurate information may not be shown on the RM Data or may not be accurately located on the RM Data, and that the RM Data may not be maintained or up to date.

