



# NUAR Hub Supplemental End User Terms (SGN)

These End User Terms set out the terms on which Southern Gas Networks PLC (company registration number 05167021) (**we, us, our, SGN**) consents to the NUAR Hub making available to you, the person or entity entering into these End User Terms (**you, your**), information referencing data provided by us.

You and we are each a **party** and together the **parties**.

## Agreed Terms:

### 1 Definitions & Interpretation

- 1.1 Schedule 1 provides for the definition and interpretation of words used in these End User Terms.
- 1.2 These End User Terms are applicable third party terms for the purposes of Clause 4.6 of the NUAR Hub End User Terms (Ordnance Survey) and should be read in conjunction with them.

### 2 Term

- 2.1 These End User Terms will commence when you click to accept these terms and conditions where prompted to do so on the login page to the NUAR Hub and shall terminate on 31 March 2020 unless terminated sooner in accordance with the provisions hereof.

### 3 Safe Digging

- 3.1 By entering into these End User Terms you acknowledge that:
  - 3.1.1 the Background Data has been provided to the operators of the NUAR Hub without warranty as to its accuracy and that, accordingly, we do not provide any warranty as regards the Background Data whether independently or as part of the Licensed Data accessed by you. Specifically, but not exclusively, service pipes, valves, siphons, sub-connections etc. are not shown but their presence should be anticipated, and underground assets may be in a different location from that show. No liability of any kind whatsoever is accepted by SGN or its agents, servants or sub-contractors for any error or omission;
  - 3.1.2 information procured from the NUAR Hub may only be used for general guidance and not as the principal reference for conducting excavations or other works;
  - 3.1.3 should you wish to excavate in the vicinity of pipelines, you should visit SGN via [sgn.co.uk/Safety/Dig-safely](http://sgn.co.uk/Safety/Dig-safely) for further information. SGN use an on-line mapping system, accessible via the [sgn.co.uk/Safety/Dig-safely](http://sgn.co.uk/Safety/Dig-safely) web pages or [linesearchbeforeudig.co.uk](http://linesearchbeforeudig.co.uk), this process should be used to obtain up to date maps and safety information before you excavate. However if you need more information please contact our Safety Admin team on 0800 912 1722 or by email: [plantlocation@sgn.co.uk](mailto:plantlocation@sgn.co.uk). If you have any more general enquiries, please contact our Customer Services team on 0800 912 1700 or by email: [customer@sgn.co.uk](mailto:customer@sgn.co.uk).
  - 3.1.4 accessing information within the NUAR Hub does not relieve any Authorised User of its obligation to take all reasonable care and exercise all reasonable diligence when performing the excavation or other works or of its obligations under any laws or legislation in force from time to time (including without limitation under the New Roads and Street Works Act 1991 and Health and Safety at Work etc. Act 1974) applicable to any excavation or other works carried out;
  - 3.1.5 safe digging practices, in accordance with HS (G) 47 and other applicable standards, must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all persons (whether direct labour or contractors) working for you on or near gas apparatus.
- 3.2 Gas mains recorded within the Background Data are those owned by us by virtue of being a licensed gas transporter (distribution network operator class). Gas pipes owned by other gas transporters of varying classes

appearing on the register of gas licensees maintained by the Office of Gas and Electricity Markets,<sup>1</sup> may also be present in the area and are not recorded within the Background Data. Information with regard to such gas network assets, and other utility assets, should be obtained from the relevant owners.

#### **4 Data**

- 4.1 We do not own or control the NUAR Hub and these End User Terms do not create a legal relationship between us and you in respect of the NUAR Hub but instead set out the terms on which we consent to you being given access to Licensed Data within the NUAR Hub that is based on our Background Data.
- 4.2 We provide Background Data utilised by the NUAR Hub and own and reserve all rights to the intellectual property rights in such data. Accordingly, breach by you of your obligations under the NUAR Hub will constitute a breach of these End User Terms and may lead to us taking action against you.
- 4.3 You may not:
  - 4.3.1 pass or allow access to the NUAR Hub or any data obtained from it to any third party;
  - 4.3.2 extract Background Data from any Licensed Data, or copy, adapt, reverse engineer, decompile, disassemble, modify, adapt or make error corrections to the data in whole or in part or update, or otherwise modify or otherwise alter the data in any way;
  - 4.3.3 change the format of the Licensed Data other than to enable the storage of it on your own systems;
  - 4.3.4 commercially exploit, sell, license, distribute or otherwise build a product or service which relies on, incorporates or references Licensed Data or Background Data or combine or merge such data with any other data;
  - 4.3.5 forward, distribute or otherwise make available the data in any format to any third party;
  - 4.3.6 store the data together in a manner such that it is not separate from other data;
  - 4.3.7 store, view or transfer the data onto any public or third party owned systems;
  - 4.3.8 use the data or any reproductions of it for any purpose other than showing the location of the gas network plant for the purposes listed in the definition of Licensed Use.
- 4.4 You must use your best endeavours to report back to us and Ordnance Survey any wrongly recorded objects or buried objects not identified within the Licensed Data.

#### **5 Your obligations**

- 5.1 You shall comply with the requirements of Clause 4 (*Your Obligations*) of the NUAR Hub End User Terms (Ordnance Survey) and acknowledge that breach of that Clause will constitute a breach of these End User Terms and may lead to us taking action against you.
- 5.2 You shall ensure that your Authorised Users are aware of and comply with all applicable terms of these End User Terms. You are responsible for anything done by you or your Authorised Users.
- 5.3 You will not, when interacting with the NUAR Hub or the information obtained from it, act in a manner that is unlawful, misleading or unethical or detrimental to our reputation.
- 5.4 You will use technological and security measures to ensure that your Authorised Users' access to the NUAR Hub is secure from unauthorised use or access.
- 5.5 You will use technological and security measures to ensure that any data obtained via your access, and the access of your Authorised Users, to the NUAR Hub is kept secure from unauthorised use or access.
- 5.6 You will provide us with all necessary co-operation in relation to these End User Terms and all necessary access to such information relating to these End User Terms as we may reasonably require.
- 5.7 You will be solely responsible for procuring and maintaining your network connections and telecommunications links from your systems to our data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to your network connections or telecommunications links or caused by the internet.
- 5.8 You will (and you shall procure that your Authorised Users will):
  - 5.8.1 notify us as soon as you become aware of, or suspect, (i) any infringement of our IPR and (ii) any unauthorised access to, distribution of, loss of, or use of data acquired by you pursuant to your access, and the access of

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<sup>1</sup> [https://www.ofgem.gov.uk/system/files/docs/2019/10/gas\\_registered\\_or\\_service\\_addresses\\_new\\_1.0\\_002.pdf](https://www.ofgem.gov.uk/system/files/docs/2019/10/gas_registered_or_service_addresses_new_1.0_002.pdf)

your Authorised Users, to the NUAR Hub, and give us all reasonable assistance in pursuing or dealing with any such infringement, access, distribution, loss or use;

- 5.8.2 not tamper with or remove any of our copyright, trade mark, trade mark symbols or other proprietary notices contained in the Licensed Data and the NUAR Hub; and
- 5.8.3 not use or apply for registration of any trade mark in respect of our trade names or registered or unregistered trade marks or any part of them, nor use or apply to register any trade mark similar to or likely to be confused with any of them, nor register any domain name which is similar to or likely to be confused with any of our trade names or registered or unregistered trademarks or domain names.

## **6 Suspension, termination, expiry and cancellation**

- 6.1 We may request Ordnance Survey to suspend your access to or use of the NUAR Hub (in whole or in part), or any Authorised User's access to or use of the NUAR Hub, if we suspect that you (or your Authorised Users) are in breach of these End User Terms or the NUAR Hub End User Terms (Ordnance Survey).
- 6.2 Clause 7 (*Suspension, termination, expiry and cancellation*) of the NUAR Hub End User Terms (Ordnance Survey) shall apply to these End User Terms with such modifications as necessary to enable it to apply to the relationship between us.

## **7 Warranties and liability**

- 7.1 You warrant that you are, and that you shall continue to remain for the term of these End User Terms, a Statutory Undertaker.
- 7.2 All warranties, conditions and other terms implied by statute or common law regarding the Background Data and any Licensed Data are excluded from these End User Terms to the fullest extent permitted by law, and you acknowledge that the same has been provided 'as is' and 'as available' without any warranty of any kind.
- 7.3 Neither party excludes or limits liability under these End User Terms for:
  - 7.3.1 any breach of IPR;
  - 7.3.2 personal injury or death caused by its negligence or that of its employees, contractors or agents; or
  - 7.3.3 fraud or any other liability that cannot be lawfully excluded or limited.
- 7.4 Subject to Clause 7.3, neither you nor we will be liable to the other in contract, tort (including negligence) or otherwise for losses of any kind arising from your use of data relying on the Background Data unless the steps referred to in Clause 3 (Safe Digging) have been undertaken. Where such steps have been taken we will not be liable to you in contract, tort (including negligence) or otherwise for any special, indirect, or consequential loss or damage, or any loss of profits, loss of business or loss of contracts (in each case whether direct or indirect), and shall not be liable to you more generally to a value of more than £100,000 (in aggregate).

## **8 Confidentiality and privacy**

- 8.1 Clause 9 (*Confidentiality and privacy*) of the NUAR Hub End User Terms (Ordnance Survey) shall apply to these End User Terms with such modifications as necessary to enable it to apply to the relationship between us. In particular, but not exclusively, Confidential Information and Licenced Data shall be deemed to include the Background Data and the data derived from it.
- 8.2 You shall conform to all relevant rules and regulations governing the holding of data, including without limitation the General Data Protection Regulation ((EU) 2016/679) (GDPR) and any national laws implementing GDPR or a successor regime.

## **9 Assignment**

- 9.1 You may not assign, transfer or novate rights and obligations under these End User Terms without our prior written consent, which we will not unreasonably withhold or delay.
- 9.2 We may assign, transfer or novate the benefits and obligations of these End User Terms to any of our affiliates and in the event of the transfer of all or any of our activities or functions to any other entity, to the entity to which our functions have been transferred.

## **10 Variation**

- 10.1 These terms may change from time to time and therefore it is your responsibility to ensure that you and your Authorised Users regularly review these terms to ensure that you and your Authorised Users are familiar with the most up-to-date version of them.
- 10.2 Your continued use of the NUAR Hub will be deemed to be acceptance of such changes. If you do not find the changes made in accordance with this Clause 10 acceptable you shall, as soon as reasonably practicable, notify

us and Ordnance Survey that you wish to terminate these End User Terms, and the NUAR Hub End User Terms (Ordnance Survey) to the extent they govern access to information relying on Background Data provided by us with immediate effect.

10.3 Additionally, changes to these End User Terms may take effect if agreed in writing by both you and us.

## **11 Entire Agreement**

11.1 These End User Terms sets out the entire agreement and understanding between you and us in respect of the subject matter of these End User Terms.

11.2 The waiver (which must be in writing) by you or us of any rights under these End User Terms does not imply that any other rights are waived.

## **12 Notices**

12.1 We may provide notice to you under these End User Terms by email to the email address then associated with your User Account as provided to us by Ordnance Survey, and you give your consent to that information being provided to us.

12.2 Except where otherwise specified, you must give us notice under these End User Terms by email to Data and Digitalisation Management Unit at [DDU.management@sgn.co.uk](mailto:DDU.management@sgn.co.uk).

## **13 Rights of Third Parties**

A person who is not a party to these End User Terms has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any of its terms.

## **14 Governing law and jurisdiction**

These End User Terms will be governed by and construed in accordance with English law and the parties agree to submit to the exclusive jurisdiction of the English courts.

## Schedule 1 Definitions & interpretations

1.1 The following words have the following meanings in these End User Terms:

**Authorised User** means any of the following:

- a) any of your employees that is authorised by you to access Licensed Data for your Licensed Use; or
- b) any third party that is granted written permission by you to access the NUAR Hub solely for the purposes of your Licensed Use, in each case whose name has been registered by you in the NUAR Hub as being eligible to become an Authorised User and in respect of whom an individual account enabling their access to the NUAR Hub has been created.

**Background Data** means the maps data provided by us to facilitate the presentation of Licensed Data within the NUAR Hub

**Business Day** means any day other than a Saturday, a Sunday, any public holiday in England or any day falling during the period between Christmas Day and New Year's Day.

**Business Hours** means the hours between 08:30 and 17:30 (UK local time) on a Business Day.

**Confidential Information** means any information disclosed by one party to the other in connection with these End User Terms, whether in writing, orally or electronically and whether identified as confidential or not including, but not limited to any Licensed Data reliant on the Background Data and such Licensed Data and related information.

**End User Terms** these terms and conditions (as amended from time to time) including the Schedules.

**IPR** means copyright, patents, trade marks, design rights, database rights, trade secrets, know how, rights of confidence and all other similar rights anywhere in the world whether or not registered and including applications for registration of any of them.

**Licensed Data** means any User Generated Point or User Generated Polygon derived from Background Data provided by us as may be created by your Authorised User in accordance with the terms of the NUAR Hub End User Terms (Ordnance Survey) and these End User Terms

**Licensed Use** means the Authorised User's right to access the NUAR Hub in order to view (either via the NUAR Hub or its own systems) and / or download and store the Licensed Data onto its own systems for the purposes of preliminary desk-based research undertaken for internal planning or operational purposes pertinent to:

- a) safe digging, the avoidance of utility strikes and undertaking statutory duties in respect to the design, construction, maintenance, operation or improvement of underground assets under sections 79-82 of the New Roads and Street Works Act 1991;
- b) assisting in the alleviation of fuel poverty;
- c) the promotion of energy efficiency;
- d) preventing damage to SGN's pipe work in accordance with regulation 16 of the Pipeline Safety Regulations and the Health and Safety Executive's HS (G) 47 guidance; and/or
- e) carrying out safe working practices under the Health & Safety at Work etc. Act 1974,

**NUAR Data** means a dataset comprising of named layers of underground assets which is available on the NUAR Hub.

**NUAR Hub** means the National Underground Assets Register created by Ordnance Survey for the purposes of hosting NUAR Data.

**Organisational Use** means your right to access the NUAR Hub in order to register those of your employees and contractors that are eligible to become Authorised Users and to create and manage any User Accounts given to such persons.

**Statutory Undertaker** means an organisation that operates within the Territory and is a statutory undertaker for the purposes of the Licensed Use.

**Term** means the period of time described in Clause 2.1.

**Territory** means the territory covered by the NUAR Hub which includes your area of interest.

**User Account** means an account and login details created by you pursuant to your Organisational Use to enable an Authorised User to access and Licensed Data based on our Background Data in accordance with these End User Terms.

**User Generated Point** means a point created using the specific NUAR Data selected by an Authorised User, such point having a buffer zone radius of up to 250 metres.

**User Generated Polygon** means a polygon drawn using the specific NUAR Data selected by an Authorised User, such polygon having a maximum geographic extent of no greater than 500 metres by 500 metres.

1.2 In these End User Terms, unless the context otherwise requires:

1.2.1 words in the singular include the plural and vice versa;

1.2.2 references to a:

- a) Clause or a Schedule are to a Clause of or Schedule to these terms and conditions; and
- b) statute or statutory provision include any amendment, extension or re-enactment of such statute or provision.