

## **Mud Map Terms of Service**

### **Welcome to Mud Map!**

Before you continue, you should print off or save a local copy of the Universal Terms for your records.

#### **1. Your relationship with Mud Map**

1.1 Your use of Mud Map's products, software, services and web sites and products but excluding any software, services, websites and products made available to you by Mud Map under or in relation to a separate written agreement, including but not limited to any applicable end user licensing agreement ("EULA") (the included products, software, services and websites being referred to collectively as the "Services" in this document) is subject to the terms of a legal agreement made between you and Mud Map. "Mud Map" means Equibs Solutions Pty Ltd., whose principal place of business is at Unit 2/84-90 Lakewood Bvd, Braeside Victoria 3195 Australia. This document sets out the basic terms and conditions of that agreement.

1.2 Subject to the other provisions of this agreement, unless otherwise agreed in writing with Mud Map, your agreement with Mud Map will always include, at a minimum, the terms and conditions set out in this document. These are referred to below as the "Universal Terms".

1.3 Your agreement with Mud Map will also include any terms and conditions notified to you or made publically available as being applicable to the Services, in addition to the Universal Terms. All of these are referred to below as the "Additional Terms". Where Additional Terms apply to a Service, these will be made accessible for you to read either within, or through your use of, that Service.

1.4 The Universal Terms, together with the Additional Terms, form a legally binding agreement between you and Mud Map in relation to your use of the Services. It is important that you take the time to read them carefully. Collectively, the provisions of this legal agreement are referred to below as the "Terms".

1.5 If there is any contradiction between what the Additional Terms say and what the Universal Terms say, then the Additional Terms shall take precedence in relation to that Service.

#### **2. Accepting the Terms**

2.1 In order to use the Services, you must first agree to the Terms. You may not use the Services if you do not accept the Terms.

2.2 You can accept the Terms by:

(A) clicking to accept or agree to the Terms, where this option is made available to you by Mud Map in the user interface for any Service; or

(B) by actually using the Services, in which case, you understand and agree that Mud Map will treat your use of the Services as acceptance of the Terms from that point onwards.

2.3 You may not use the Services and may not accept the Terms if (a) you lack legal capacity to form a binding contract with Mud Map (including but not limited to being a minor), or (b) if you are a person barred from receiving the Services under the laws of Australia or other countries including the country in which you are resident or from which you use the Services.

### **3. Language of the Terms**

3.1 Where Mud Map has provided you with a translation of the English language version of the Terms, then you agree that the translation is provided for your convenience only and that the English language versions of the Terms will govern your relationship with Mud Map.

3.2 If there is any contradiction between what the English language version of the Terms says and what a translation says, then the English language version shall take precedence.

### **4. Provision of the Services by Mud Map**

4.1 Mud Map reserves the right to subcontract or otherwise outsource the provision of its services, including but not limited to provision via subsidiaries or affiliated legal entities around the world ("Subsidiaries and Affiliates"). You acknowledge and agree that Subsidiaries and Affiliates will be entitled to provide the Services to you for or on behalf of Mud Map.

4.2 You acknowledge that Mud Map is constantly innovating in order to provide the best possible experience for its users and, accordingly, you agree that the form and nature of the Services which Mud Map provides may change from time to time without prior notice to you.

4.3 In relation to Mud Map's ongoing innovation, you acknowledge and agree that Mud Map may stop (permanently or temporarily) providing the Services (or any features within the Services) to you or to users generally at Mud Map's sole discretion, without prior notice to you. You may stop using the Services at any time and you do not need to specifically inform Mud Map when you stop using the Services.

4.4 You acknowledge and agree that if Mud Map disables access to any account established under or in relation to the Services, you may be prevented from accessing the Services, your account details or any files or other content which is contained in your account.

4.5 You acknowledge and agree that Mud Map may in its sole and binding discretion set a fixed upper limit on the number of transmissions you may send or receive through the Services or on the amount of storage space used for the provision of any Service to you at any time without notice and may vary the same from time to time without notice..

### **5. Use of the Services by you**

5.1 You acknowledge and agree that you may be required to provide information about yourself (such as identification or contact details) as part of the registration process for any one or more of the Services and further or in the alternative as part of your continued use of any one or more of the Services (which process or usage may also involve the creation and maintenance of an account for access to and usage of the Services). You agree that any information you give to Mud Map as part of the registration process for or your continued usage of Services will be maintained by you as accurate, correct and up to date.

5.2 You agree to use the Services only for purposes that are permitted by (a) the Terms and (b) any applicable law, regulation or generally accepted practices or guidelines in the relevant jurisdictions (including any laws regarding the export of data or software to and from Australia and other relevant jurisdictions).

5.3 You agree not to access (or attempt to access) any of the Services by any means other than through the interface that is provided by Mud Map, unless you have been given prior written permission by Mud Map. Without prejudice to the generality of the foregoing, you specifically agree not to access, attempt to access or knowingly cause or permit access to any of the Services through any automated means (including use of scripts or web crawlers) and you must ensure that you comply with the instructions set out in any robots.txt file present on the Services.

5.4 You agree that you will not engage in any activity that interferes with or disrupts the Services (or the servers and networks which provide, support or are otherwise accessed or used in relation to the Services).

5.5 Unless you have prior written permission from Mud Map, you must not reproduce, duplicate, copy, sell, trade or resell the Services for any purpose.

5.6 You agree that you are solely responsible for (and that Mud Map has no responsibility to you or to any third party for) any breach of your obligations under the Terms and for the consequences (including but not limited to any loss or damage which Mud Map may suffer) of any such breach.

## **6. Your passwords and account security**

6.1 You agree and understand that you are responsible for maintaining the confidentiality of passwords associated with any account you use to access the Services.

6.2 You agree that you will be solely responsible to Mud Map for all activities that occur under or in relation to your account.

6.3 If you become aware of any unauthorised use of your password or of your account, you must notify Mud Map immediately.

## **7. Privacy and your personal information**

7.1 You acknowledge and agree that you must read Mud Map's privacy policy at <http://www.mud-maps.com/legal/privacy>.

7.2 You agree to the use of your personal information in accordance with Mud Map's privacy policies including but not limited to transfer, storage and processing of such of your personal information to outside of your country as may be necessary in relation to this agreement. You acknowledge and agree that Mud Map may access, preserve, and disclose your personal information if required to do so by law or in a good faith belief that such access preservation or disclosure is reasonably necessary to: (a) satisfy any applicable law, regulation, legal process or governmental request, (b) enforce the terms and conditions of this agreement including but not limited to investigation of potential violations hereof, (c) detect, prevent, or otherwise address fraud, security or technical issues (including but not limited to the filtering of spam), (d) respond to user support requests, or (e) protect the rights, property or safety of Mud Map, its users, its employees, its affiliates and the public.

## **8. Content in the Services**

8.1 You acknowledge that Mud Map allows you to access and view a variety of content provided by Mud Map, its licensors, its affiliates, its users and others, such content including but not limited to photographic imagery, map and terrain data, and other related information (the "Content"). As such, you understand that each item of the Content to which you have or may have access to as part of, or through your use of, the Services is the sole responsibility of the person from which such content originated..

8.2 You acknowledge that the Content is provided for planning purposes only. You further acknowledge that weather conditions, construction projects, closures, or other events may cause road conditions or directions to differ from the Content and, accordingly, you must exercise your own personal judgment in your use of the Content.

8.3 By using the Content, you do not receive any right, title or interest in the Content, and Mud Map and other Content providers. You may not use, access or allow others to use or access the Content in any manner not permitted under the Terms, unless you have been given prior written permission to do so by Mud Map or by the owner of that Content..

8.4 You acknowledge that certain Content is provided under license from third parties, and is subject to copyright and other intellectual property rights owned by such third parties. You may be held liable for any unauthorised copying or disclosure of such Content.

8.5 You may not modify, rent, lease, loan, sell, distribute or create derivative works based on this Content (either in whole or in part) without the prior written permission of the owner of that Content.

8.6 You acknowledge that Mud Map may (but not must) pre-screen, review, flag, filter, modify, refuse or remove any or all Content from any Service. In addition, you acknowledge that there are commercially available services and software to limit access to material that you may find objectionable and that it is your sole responsibility to access or use such services and software.

8.7 You understand that by using the Services you may be exposed to Content that you may find offensive, indecent or objectionable and that, in this respect, you use the Services entirely at your own risk.

8.8 You agree that you are solely responsible for (and that Mud Map has no responsibility to you or to any third party for) any Content that you create, transmit or display while using the Services and for the consequences of your actions (including any loss or damage which Mud Map may suffer) by doing so.

## **9. Proprietary rights**

9.1 You acknowledge and agree that Mud Map (or Mud Map's licensors) own all legal right, title and interest in and to the Services, including any intellectual property rights which subsist in the Services (whether those rights happen to be registered or not, and wherever in the world those rights may exist). You further acknowledge that the Services may contain information which is designated confidential by Mud Map and that you shall not disclose such information without Mud Map's prior written consent.

9.2 Unless you have agreed otherwise in writing with Mud Map, nothing in the Terms gives you a right to use any of Mud Map's trade names, trade marks logos, domain names or other distinctive brand features.

9.3 If Mud Map gives you written permission to use any of its trade names, trade marks logos, domain names or other distinctive, your use of such features must be in compliance with that agreement, any applicable provisions of the Terms, and with Mud Map's brand feature use guidelines as updated from time to time.

9.4 Other than the limited license set forth in Section 11, Mud Map acknowledges and agrees that it obtains no right, title or interest from you (or your licensors) under these Terms in or to any Content that you submit, post, transmit or display on, or through, the Services, including but not limited to any intellectual property rights which subsist in that Content (whether those rights happen to be registered or not, and wherever in the world those rights may exist). Unless you have a separate written agreement with Mud Map to the contrary, you agree that you are responsible for protecting and enforcing rights in Content provided by you and that Mud Map has no obligation to do so on your behalf.

9.5 You must not remove, obscure, or alter any proprietary rights notices (including copyright and trade mark notices) which may be affixed to or contained within the Services.

9.6 You agree that in using the Services, you will not use any trade mark,, trade name, logo of any company or organisation an infringing manner or otherwise in a way that is likely or intended to cause confusion about the owner or authorised user of such marks, names or logos.

## **10. License from Mud Map**

10.1 Where not covered by a pre-existing EULA with Mud Map, Mud Map gives you a personal, non-transferable, non-assignable and non-exclusive licence to use the software provided to you by Mud Map as part of the Services as provided to you by Mud Map (referred to as the “Software” below). This licence is for the sole purpose of enabling you to use and enjoy the benefit of the Services as provided by Mud Map in the manner permitted by the Terms.

10.2 You may not (and you may not permit anyone else to) copy, modify, create a derivative work of, reverse engineer, decompile or otherwise attempt to extract the source code of the Software or any part thereof, unless this is expressly permitted or required by law, or unless you have prior written permission from Mud Map.

10.3 You may not assign (or grant a sub-licence of) your rights to use the Software, grant a security interest in or over your rights to use the Software, or otherwise transfer any part of your rights to use the Software without written consent from Mud Map.

## **11. Content licence from you**

11.1 You retain copyright and any other rights you already hold in Content which you submit, post or display on or through, the Services. By submitting, posting or displaying the content you give Mud Map a perpetual, irrevocable, worldwide, royalty-free, and non-exclusive licence to reproduce, adapt, modify, translate, publish, publicly perform, publicly display and distribute any Content which you submit, post or display on or through, the Services. This licence is for the sole purpose of enabling Mud Map to display, distribute and promote the Services and may be revoked for certain Services as defined in the Additional Terms of those Services.

11.2 You agree that this licence includes a right for Mud Map to make such Content available to other companies, organizations or individuals with whom Mud Map has relationships for the provision of syndicated services, and to use such Content in connection with the provision of those services.

11.3 You acknowledge and agree that Mud Map, in performing the required technical steps to provide the Services to our users, may (a) transmit or distribute your Content over various public networks and in various media; and (b) make such changes to your Content as are necessary to conform and adapt that Content to the technical requirements of connecting networks, devices, services or media. You agree that this licence shall permit Mud Map to take these actions.

11.4 For each item of Content you submit or otherwise provide under or in relation to the Services, you confirm and warrant to Mud Map that you have all the rights, power and authority necessary to grant the above licence.

## **12. Software updates**

12.1 The Software which you use may automatically download and install updates from time to time from Mud Map. These updates are designed to improve, enhance and further develop the Services and may take the form of bug fixes, enhanced functions, new software modules and completely new versions. You agree to receive such updates (and permit Mud Map to deliver these to you) as part of your use of the Services.

## **13. Ending your relationship with Mud Map**

13.1 The Terms will continue to apply until terminated by either you or Mud Map as set out below.

13.2 If you want to terminate your legal agreement with Mud Map, you may do so by (a) notifying Mud Map at any time and (b) closing your accounts for all of the Services which you use, where Mud Map has made this option available to you. Your notice should be sent, in writing, to Mud Map's address which is set out at the beginning of these Terms.

13.3 Mud Map may at any time, terminate its legal agreement with you if:

(A) you have breached any provision of the Terms (or have acted in manner which clearly shows that you do not intend to, or are unable to comply with the provisions of the Terms); or

(B) Mud Map is required to do so by law (for example, where the provision of the Services to you is, or becomes, unlawful); or

(C) the partner with whom Mud Map offered the Services to you has terminated its relationship with Mud Map or ceased to offer the Services to you; or

(D) Mud Map is transitioning to no longer providing the Services to users in the country in which you are resident or from which you use the service; or

(E) the provision of the Services to you by Mud Map is, in Mud Map's opinion, no longer commercially viable.

13.4 Nothing in this Section shall affect Mud Map's rights regarding provision of Services under Section 4 of the Terms.

13.5 When these Terms come to an end, all of the legal rights, obligations and liabilities that you and Mud Map have benefited from, been subject to (or which have accrued over time whilst the Terms have been in force) or which are expressed to continue indefinitely, shall be unaffected by this cessation, and the provisions of paragraph 20.7 shall continue to apply to such rights, obligations and liabilities indefinitely.

## **14. EXCLUSIONS**

14.1 UNDER OR IN RELATION TO EACH OF THE PROVISIONS OF THIS SECTION 14 AND SECTION 15 OF THIS AGREEMENT. THE LIABILITIES OF MUD MAP, ITS SUBSIDIARIES, ITS AFFILIATES, ITS OFFICERS, ITS DIRECTORS, ITS AGENTS, ITS REPRESENTATIVES, ITS EMPLOYEES AND ITS LICENSORS ARE LIMITED OR EXCLUDED (AS THE CASE MAY BE) TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

14.2 YOU EXPRESSLY UNDERSTAND AND AGREE THAT YOUR USE OF THE SERVICES IS AT YOUR SOLE RISK AND THAT THE SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE"

14.3 WITHOUT PREJUDICE TO ANY OTHER PROVISION OF THIS AGREEMENT, MUD MAP, ITS SUBSIDIARIES AND AFFILIATES, AND ITS LICENSORS DO NOT REPRESENT OR WARRANT TO YOU THAT:

(A) YOUR USE OF THE SERVICES WILL MEET YOUR REQUIREMENTS,

(B) YOUR USE OF THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE OR FREE FROM ERROR,

(C) ANY INFORMATION OBTAINED BY YOU AS A RESULT OF YOUR USE OF THE SERVICES WILL BE ACCURATE OR RELIABLE, OR

(D) THAT DEFECTS IN THE OPERATION OR FUNCTIONALITY OF ANY SOFTWARE PROVIDED TO YOU AS PART OF THE SERVICES WILL BE CORRECTED.

14.4 ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICES IS DONE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR OTHER DEVICE OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL.

14.5 NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM MUD MAP OR THROUGH OR FROM THE SERVICES SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THE TERMS.

14.6 MUD MAP FURTHER EXPRESSLY DISCLAIMS ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

## **15. LIMITATION OF LIABILITY**

15.1 SUBJECT TOPARAGRAPH 14.1 ABOVE, YOU EXPRESSLY UNDERSTAND AND AGREE THAT MUD MAP, ITS SUBSIDIARIES, ITS AFFILIATES, ITS OFFICERS, ITS DIRECTORS, ITS AGENTS, ITS REPRESENTATIVES, ITS EMPLOYEES AND ITS LICENSORS ARE NOT LIABLE TO YOU FOR:

(A) ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL CONSEQUENTIAL OR EXEMPLARY DAMAGES WHICH MAY BE INCURRED BY YOU, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY. THIS SHALL INCLUDE, BUT NOT BE LIMITED TO, ANY LOSS OF PROFIT (WHETHER INCURRED DIRECTLY OR INDIRECTLY), ANY LOSS OF GOODWILL OR BUSINESS REPUTATION, ANY LOSS OF DATA SUFFERED, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR OTHER INTANGIBLE LOSS;

(B) ANY LOSS OR DAMAGE WHICH MAY BE INCURRED BY YOU, INCLUDING BUT NOT LIMITED TO LOSS OR DAMAGE AS A RESULT OF:

(I) ANY RELIANCE PLACED BY YOU ON THE COMPLETENESS, ACCURACY OR EXISTENCE OF ANY ADVERTISING, OR AS A RESULT OF ANY RELATIONSHIP OR TRANSACTION BETWEEN YOU AND ANY ADVERTISER OR SPONSOR WHOSE ADVERTISING APPEARS ON THE SERVICES;

(II) ANY CHANGES WHICH MUD MAP MAY MAKE TO THE SERVICES, OR FOR ANY PERMANENT OR TEMPORARY CESSATION IN THE PROVISION OF THE SERVICES (OR ANY FEATURES WITHIN THE SERVICES);

(III) THE DELETION OF, CORRUPTION OF, OR FAILURE TO STORE, ANY CONTENT AND OTHER COMMUNICATIONS DATA MAINTAINED OR TRANSMITTED BY OR THROUGH YOUR USE OF THE SERVICES;

(III) YOUR FAILURE TO PROVIDE MUD MAP WITH ACCURATE ACCOUNT INFORMATION; OR

(IV) YOUR FAILURE TO KEEP YOUR PASSWORD OR ACCOUNT DETAILS SECURE AND CONFIDENTIAL.

15.2 THE LIMITATIONS ON MUD MAP'S LIABILITY TO YOU IN PARAGRAPH 15.1 ABOVE APPLY WHETHER OR NOT MUD MAP HAS BEEN ADVISED OF OR SHOULD HAVE BEEN AWARE OF THE POSSIBILITY OF ANY SUCH LOSSES ARISING.

15.3 WHERE APPLICABLE, MUD MAP HEREBY LIMITS ITS LIABILITY TO THE SUPPLY OR RESUPPLY OF THE SERVICES.

## **16. Copyright and trade mark policies**

16.1 You acknowledge that it is Mud Map's policy to respond to notices of alleged copyright infringement that comply with applicable international intellectual property law (including, in the United States, the Digital Millennium Copyright Act) and to terminate the accounts of repeat infringers.

## **17. Advertisements**

17.1 You acknowledge that some of the Services are supported by advertising revenue and may display advertisements and promotions. These advertisements may be targeted to the content of information stored on the Services, queries made through the Services or other information.

17.2 The manner, mode and extent of advertising by Mud Map on the Services are subject to change without notice to you.

17.3 In consideration for Mud Map granting you access to and use of the Services, you agree that Mud Map may place such advertising on the Services.

## **18. Other content**

18.1 You acknowledge that the Services may include hyperlinks to other web sites, content or resources and that Mud Map may not have any control over web sites, content or resources which are provided by companies or persons other than Mud Map.

18.2 You acknowledge and agree that Mud Map is not responsible for the availability of any such external sites or resources, and does not endorse any advertising, products or other materials on or available from such web sites or resources.

18.3 You acknowledge and agree that Mud Map is not liable for any loss or damage which may be incurred by you as a result of the availability of those external web sites or resources, or as a result of any reliance placed by you on the completeness, accuracy or existence of any advertising, products or other materials on, or available from, such web sites or resources.

## **19. Changes to the Terms**

19.1 You acknowledge and agree that Mud Map may make changes to the Universal Terms or Additional Terms from time to time. When these changes are made, Mud Map will make a new copy of the Universal Terms available at <http://www.mud-maps.com/legal> and any new Additional Terms will be made available to you from within, or through, the affected Services.

19.2 You understand and agree that if you use the Services after the date on which the Universal Terms or Additional Terms have changed, Mud Map will treat your use as acceptance of the updated Universal Terms or Additional Terms.

## **20. General legal terms**

20.1 Sometimes when you use the Services, you may (as a result of, or through your use of the Services) use a service or download a piece of software, or purchase goods, which are provided by another person or company. Your use of these other services, software or goods may be subject to separate terms between you and the company or person concerned. If so, the Terms do not affect your legal relationship with these other companies or individuals.

20.2 The Terms constitute the whole legal agreement between you and Mud Map and govern your use of the Services (but excluding any services or other thing which Mud Map may provide to you under a separate written agreement), and completely replace any prior agreements between you and Mud Map in relation to the Services.

20.3 You agree that Mud Map may provide you with notices, including those regarding changes to the Terms, by email, regular mail, or postings on the Services.

20.4 You agree that if Mud Map does not exercise or enforce any legal right or remedy which is contained in the Terms (or which Mud Map has the benefit of under any applicable law), this will not

be taken to be a formal waiver of Mud Map's rights and that those rights or remedies will still be available to Mud Map.

20.5 You agree that if any court of law, having the jurisdiction to decide on this matter, rules that any provision of these Terms is invalid, then that provision will be removed from the Terms without affecting the rest of the Terms. The remaining provisions of the Terms will continue to be valid and enforceable.

20.6 You acknowledge and agree that each member of the group of companies of which Mud Map is the parent shall be third party beneficiaries to the Terms and that such other companies shall be entitled to directly enforce, and rely upon, any provision of the Terms which confers a benefit on (or rights in favour of) them. Other than this, no other person or company shall be third party beneficiaries to the Terms.

20.7 The Terms, and your relationship with Mud Map under the Terms, are governed by the laws of the State of Victoria, Australia. This agreement is subject to jurisdiction of the courts of the State of Victoria and any courts competent to hear appeals therefrom.