

County of Charleston, SC

Geographic Information Data License Agreement

Date:

User's Name:

Address:

City/State:

Phone:

Email:

PRODUCT LICENSING AGREEMENT TERMS AND CONDITIONS

THIS LICENSING AGREEMENT is made as of the date specified on the cover hereof between the County of Charleston, SC (hereinafter referred to as "COUNTY") and _____ (hereinafter referred to as "USER").

Whereas, COUNTY is the designer and developer of the geographic information system (GIS) products delivered under this agreement (hereinafter referred to as "DATA") with the right to license and distribute the DATA; and

Whereas, USER will make use of the DATA in its business activity according to the following restrictions and obligations;

Whereas, USER desires a license to use the DATA and the COUNTY desires to grant such a license to USER for the sole purpose of permitting USER to use the DATA in its business activity.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree to the following terms and conditions:

ARTICLE 1. DATA DEFINITION [\[Describe data being requested\]](#)

ARTICLE 2. REPRESENTATIONS AND WARRANTIES

2.1 Limited Warranty

- (A) COUNTY shall make reasonable efforts to deliver DATA in the format requested by USER.
- (B) COUNTY disclaims any other warranties, express or implied, respecting this agreement or the DATA.
- (C) The DATA and associated materials are provided "as is," without warranty as to their performance, merchantability, or fitness for any particular purpose. The entire risk as to the uses, results, or performances of DATA is assumed by USER.

2.2 The execution, delivery and performance of this Agreement are within USER's power and authority, and USER has duly authorized, executed, and delivered such Agreements and has taken or will take all action necessary to carry out and give effect to the transactions contemplated by the Agreement.

ARTICLE 3. USE

3.1 **NOTICE** is hereby provided that Section 30-2-50(A) of the SC Code of Laws prohibits a person or private entity from obtaining or using any personal information obtained from the public records of a public body such as the County of Charleston for purposes of commercial solicitation directed to any person in the state of South Carolina.

NOTICE is further given that Section 30-2-50(D) of the SC Code of Laws provides that any person knowingly obtaining or using public records from a public body such as the County of Charleston for purposes of commercial solicitation shall be guilty of a misdemeanor and, upon conviction, must be fined an amount not to exceed five hundred dollars or imprisoned for a term not to exceed one year, or both.

3.2 Restrictions on Use

- A. USER is authorized to use the data described herein for the sole purpose of [describe permitted uses]
- B. USER shall not disclose, lease, sell, distribute, make, transfer, or assign the DATA or engage in any other transaction which has the effect of transferring the right of use of all or part of the DATA.
- C. USER shall inform COUNTY of any inaccuracies which are identified in the DATA. COUNTY will make the required changes upon appropriate verification and make corrected data available without charge.

- D. All USER designed materials and output (internal reports, maps, products, etc.) will bear all copyright, trademark, and other proprietary notices required by COUNTY (Example: Copyright 2002, County of Charleston, South Carolina)
- E. USER may not publish, in the public domain, DATA in any form without written approval of the County.
- F. All USER materials will bear the date of the DATA.

3.3 **Reserved Rights** - COUNTY shall retain all rights, title, and interest in the DATA, including the right to license the DATA covered by this license to other users.

ARTICLE 4. TERM/TERMINATION

- 4.1 This Agreement may be terminated by COUNTY at any time if USER fails to comply with any of the terms of the Agreement.
- 4.2 This Agreement shall remain in effect for one year unless this Agreement is terminated or the DATA is recalled or otherwise withdrawn from public record.

ARTICLE 5. REMEDY

- 5.1 USER's sole and exclusive remedy for breach of this limited warranty will be to return the DATA, which may be replaced by COUNTY at its discretion.
- 5.2 Any available remedy to COUNTY shall be cumulative and shall be in addition to every other remedy given under this Agreement now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. In order to entitle the COUNTY to exercise any remedy available to them in this Article, it shall not be necessary to give notice other than such notice as may be required by law.

ARTICLE 6. RELEASE AND INDEMNIFICATION

- 6.1 COUNTY shall not be liable for any activity involving the DATA with respect to the following:
 - (A) Lost profits, lost savings or any other consequential damages.
 - (B) The fitness of the DATA for a particular purpose.
 - (C) The installation of DATA, its use, or the results obtained.
- 6.2 COUNTY shall not be liable for indirect, special, incidental, compensatory, or consequential damages or third party claims resulting from the use of DATA, even if they have been advised of the possibility of such potential loss or damage.

- 6.3 USER, *to the extent allowed by state law*, hereby releases the COUNTY and the State and their respective officers, directors, members, employees, attorneys and agents, (hereinafter collectively referred to as “Indemnified Parties”) from, and agrees that such Indemnified Parties shall not be liable for, and agrees to indemnify and hold harmless the Indemnified Parties against any or all liability or loss, cost or expense, including without limitation, attorney’s fees, fines, penalties and civil judgments, resulting from or arising out of or in connection with or pertaining to any loss or damage resulting from the use of the DATA.

ARTICLE 7. CONSIDERATION. [Determined by GIS Department from published Fee Schedule]

ARTICLE 8. MISCELLANEOUS

- 8.1 **Invalidity.** To the extent that any provision of this Agreement is determined to be in contradiction of, or in conflict with the Code, any State law, or any regulation, the Code, State law or regulation shall control.
- 8.2. **Entire Agreement.** This LICENSE contains the entire agreement of the parties hereto with respect to the matters covered hereby, and no other agreement, statement or promise made by any party hereto, which is not contained herein, shall be binding or valid.
- 8.3 **Governing Laws.** This Agreement is made under and shall be construed in accordance with the laws and regulations of the State of South Carolina. By executing this Agreement, USER agrees to submit to the jurisdiction of the COUNTY and the Courts of South Carolina for all matters arising hereunder. In the event of a dispute, the COUNTY shall have standing to represent the State of South Carolina.
- 8.4 **Amendment.** This Agreement may be changed or amended only by written agreement of the parties.

WITNESS the hands and seals of the parties this day and date first above written:

Charleston County, South Carolina

USER

Signature

Signature

Title

Title