

LICENSING AGREEMENT TERMS OF SERVICE

THIS LICENSING AGREEMENT is made by and between Woolpert, Inc. (hereinafter referred to as “WOOLPERT”) and CUSTOMER (hereinafter referred to as “CUSTOMER”).

Whereas, WOOLPERT is the designer and developer of the Service(s) licensed under this Agreement (hereinafter referred to as “Service”) with the right to license and distribute the SERVICE; and

Whereas, the CUSTOMER will use the SERVICE according to the following restrictions and obligations;

Whereas, the CUSTOMER desires a license to use the SERVICE and WOOLPERT desires to grant such a license to CUSTOMER for the sole purpose of permitting the CUSTOMER to use the SERVICE 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:

The aforementioned recital to this Agreement is hereby incorporated by reference into the Agreement.

ARTICLE 1. SERVICE DEFINITION

- 1.1 SERVICE includes the “STREAM:RASTER” subscription software service that hosts and facilitates access to geospatial imagery.

ARTICLE 2. REPRESENTATIONS AND WARRANTIES

2.1 Limited Warranty

- (A) WOOLPERT shall make reasonable efforts to ensure that the SERVICE is delivered and available in a condition suitable for its proper use. Woolpert agrees to satisfy the service level defined at <https://bit.ly/stream-sla>.
- (B) EXCEPT AS EXPRESSLY PROVIDED FOR IN THIS AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW: (a) WOOLPERT DOES NOT MAKE ANY WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE AND NONINFRINGEMENT; (b) WOOLPERT IS NOT RESPONSIBLE OR LIABLE FOR THE DELETION OF OR FAILURE TO STORE ANY CUSTOMER DATA AND OTHER COMMUNICATIONS MAINTAINED OR TRANSMITTED THROUGH USE OF THE SERVICES; (c) CUSTOMER IS SOLELY RESPONSIBLE FOR SECURING AND BACKING UP ITS APPLICATION, PROJECT, AND CUSTOMER DATA.

- 2.2 The execution, delivery and performance of this Agreement are within CUSTOMER’s power and authority, and the CUSTOMER 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 **Permitted Use** – This license is granted for the sole purpose of permitting CUSTOMER to use the SERVICE to upload raster data, and create tile caches of the data ready for use in GIS and web mapping software. The CUSTOMER will then manage and control access to their proprietary or licensed third party imagery in STREAM:RASTER with support and maintenance from Woolpert.
- 3.2 **Restrictions on Use**
- (A) The CUSTOMER shall not lease, sell, distribute, make, transfer, or assign the SERVICE or license or engage in any other transaction which has the effect of transferring the right of use of all or part of the SERVICE to a third party.
 - (B) The CUSTOMER shall inform WOOLPERT of any deficiencies which are identified in the SERVICE.
 - (C) All CUSTOMER designed materials and output (internal reports, maps, Services, etc.) will bear all copyright, trademark, and other proprietary notices required by WOOLPERT.
- 3.3 **Reserved Rights** – WOOLPERT shall retain all rights, title and interest in the SERVICE, including the right to license the SERVICE covered by this license to other CUSTOMERS.

ARTICLE 4. TERM/TERMINATION

- 4.1 This License shall comprise of, and Customer acknowledges its commitment to, a twelve-month Term, which shall automatically renew for twelve months period of time on each anniversary date, unless Customer provides Woolpert written notice of its intent to terminate service within thirty (30) days of the initial Term's anniversary or any renewal thereafter.
- 4.2 This License may be terminated by WOOLPERT at any time if the CUSTOMER fails to comply with any of the terms of service. The Customer shall have the right to correct its failure to comply within seven days of receiving said notice.
- 4.3 Woolpert may terminate this Licensee upon the Customer's filing for bankruptcy, insolvency, or assignment for the benefit of creditors.

ARTICLE 5. REMEDY

- 5.1 CUSTOMER will be eligible to receive a financial credit applied to its monthly charge for any failure by Woolpert to meet its service level provided in Section 2.1. This financial credit will be CUSTOMER's sole and exclusive remedy.
- 5.2 Any available remedy to WOOLPERT 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 WOOLPERT 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.
- 5.3 Prior to, during and/or after the term of this Agreement, CUSTOMER or any individual or entity under its control or direction shall not decompile, disassemble or reverse engineer any data, documents, processes, and/or intellectual property owned or created by WOOLPERT. CUSTOMER agrees that WOOLPERT may be irreparably harmed by a violation of this Agreement because the SERVICE is commercially valuable, confidential information that reflects the investment of substantial time and money. CUSTOMER agrees that WOOLPERT shall have the right to seek all available remedies, including injunctive and equitable relief, to remedy any breach of this Agreement.

ARTICLE 6. RELEASE AND INDEMNIFICATION

- 6.1 WOOLPERT shall not be liable for any activity involving the SERVICE with respect to the following:
- (A) Lost profits, lost savings or any other consequential damages.
 - (B) The fitness of the SERVICE for a particular purpose.
 - (C) The use of the SERVICE, or the results obtained.
- 6.2 WOOLPERT shall not be liable for indirect, special, incidental, compensatory, or consequential damages or third party claims resulting from the use of SERVICE, even if they have been advised of the possibility of such potential loss or damage.
- 6.3 **RELEASE AND INDEMNIFICATION.** The CUSTOMER, to the extent permitted by state law, hereby releases WOOLPERT and its respective partners, 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 judgements, resulting from or arising out of or in connection with or pertaining to any loss or damage resulting from the use of the SERVICE.

ARTICLE 7. MISCELLANEOUS

- 7.1 **Invalidity.** To the extent that any provision of this Agreement is determined to be in contradiction of, or in conflict with Federal, State law, or any local regulation, the Federal, State law or local regulation shall control.
- 7.2 **Confidentiality:** CUSTOMER agrees to maintain the confidentiality of the terms agreed to by the parties in the Purchase Order. CUSTOMER may not disclose those terms without the written consent of WOOLPERT.
- 7.3 **Entire Agreement.** The 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.
- 7.4 **Governing Laws.** This Agreement is made under and shall be construed in accordance with the laws and regulations of the State of Ohio. By executing this Agreement, the CUSTOMER agrees to submit to the jurisdiction of the Courts of Ohio for all matters arising hereunder.
- 7.5 **Disputes:** If a dispute between the parties arises out of or relates to this License, or the breach thereof, then the parties agree to make a good faith effort to settle the issue through direct discussion between the parties prior to having recourse to a judicial forum. It is further agreed that the parties each waive their right to indirect, special, incidental, consequential, or punitive damages. In the event of any litigation, the prevailing party shall be entitled to recover reasonable attorneys' fees in proportion to the judgment. The Purchaser agrees that Woolpert's officers, partners, agents, and employees will have no personal liability for any damages arising out of or relating to the License and any services that are provided.
- 7.6 **Amendment.** This Agreement may be changed or amended only by written agreement of the parties.
- 7.7 **Assignment/Third Parties:** The Customer shall not assign or transfer its interest in this License without the written consent of Woolpert. Customer acknowledges that Woolpert may assign this License to a third party, without the written consent of Customer.