

Unrestricted Data Use License Agreement for Government Geographic Data

This license agreement is between Her Majesty the Queen in Right of the Province of Nova Scotia, as represented by the Minister of Internal Services (ISD) and you (You).

ISD MAY MODIFY THIS AGREEMENT AT ANY TIME, AND SUCH MODIFICATIONS SHALL BE EFFECTIVE IMMEDIATELY UPON POSTING OF THE MODIFIED AGREEMENT ON THE DATALOCATOR WEB SITE. YOUR CONTINUED ACCESS OR USE OF THIS DATA SHALL BE DEEMED YOUR CONCLUSIVE ACCEPTANCE OF THE MODIFIED AGREEMENT.

BACKGROUND:

1. ISD is the owner, or licensee, of Intellectual Property Rights in and to ISD Digital Data, as described in Schedule "A" attached hereto;
2. You are interested in acquiring certain rights to the ISD Digital Data, in accordance with the terms and conditions contained herein; and
3. ISD is willing to grant you certain rights to the ISD Digital Data, in accordance with the terms and conditions contained herein;

1.0 DEFINITIONS

- 1.1 "**Agreement**" means this Unrestricted Data Use license agreement, its recitals and schedules.
- 1.2 "**ISD's Data**" means that Data contained in the ISD Digital Data, the Intellectual Property Rights of which vest in ISD.
- 1.3 "**ISD Digital Data**" means the digital Data, metadata and related documentation described in Schedule "A" attached hereto, provided by ISD to you in accordance with the terms and conditions of this agreement. ISD's Data is contained in the ISD Digital Data. ISD Digital Data may also contain Data the Intellectual Property Rights of which vest with third parties, and which is licensed to ISD.
- 1.4 "**Data**" means any expressed original data fixed in a form giving rise to Intellectual Property Rights, such as described in Schedule "A" attached hereto.
- 1.5 "**Intellectual Property Rights**" means any and all intellectual property rights recognized by the law, including but not limited to, intellectual property rights protected through legislation.
- 1.6 "**Value-Added Product**" means any product, system, sub-system, device, component, material or software you develop or manufacture, or cause to be developed or manufactured, in the exercise of your rights under this Agreement. Value-Added Products may be developed or manufactured by constructing, deriving, developing, adapting, incorporating or by any other means using the ISD Digital Data, in whole or in part.

2.0 INTELLECTUAL PROPERTY RIGHTS

- 2.1 Subject to section 2.2 hereof, and without affecting ISD's Intellectual Property Rights in and to ISD's Data and any third-party's Intellectual Property Rights in Data contained in the ISD Digital Data, all Intellectual Property Rights in and to any modification, translation or further development made by you to the ISD Digital Data in the exercise of your rights under this Agreement shall vest in you or in such person as you shall decide.

2.2 All Intellectual Property Rights in ISD's Data shall remain the property of ISD. All Intellectual Property Rights in Data contained in the ISD Digital Data which is not ISD's Data shall remain the property of the respective content owners and may be protected by copyright, other intellectual property laws, common law or international treaties.

3.0 LICENCE GRANT

3.1 Subject to this Agreement, ISD hereby grants You a royalty-free, non-exclusive, world-wide, non-assignable licence to use, reproduce, extract, modify, translate, further develop and distribute the ISD Digital Data, and to manufacture and license Value-Added Products, and to sublicense any or all of such rights, PROVIDED:

- (a) all reproductions of the ISD Digital Data shall include the notice provided in section 4.1 and shall carry the caveat contained in section 6.1 hereof;
- (b) all distributions of Value-Added Products and of the ISD Digital Data, in whole or in part, and any sublicense by you of your rights hereunder, shall be evidenced by a written agreement consistent with this Agreement and containing the terms and conditions set out in Schedule "B" attached hereto; and
- (c) you shall not disassemble, decompile except for the specific purpose of recompiling for software compatibility, or in any way attempt to reverse engineer the ISD Digital Data or any part thereof, and you shall not merge or link the ISD Digital Data with any product or database in such a fashion that gives the appearance that you may have received or had access to, information held by ISD about any identifiable individual, family, household, organization or business.

4.0 PROTECTION AND ACKNOWLEDGEMENT OF SOURCE

4.1 You shall include and maintain on all reproductions of the ISD Digital Data, produced pursuant to section 3 above, the following notice: *Reproduced and distributed with the permission of Internal Services*

4.2 Where any of the ISD Digital Data is contained within a Value-Added Product, you shall include in a prominent location on such Value-Added Product the following notice: *This product has been produced by or for (your name – or corporate name, if applicable) and includes data provided by Internal Services. The incorporation of data sourced from Internal Services within this product shall not be construed as constituting an endorsement by Internal Services of our product.* or any other notice approved in writing by ISD.

4.3 You shall ensure that no acknowledgment of ISD, except as permitted under sections 4.1 and 4.2 above, shall be shown in association with any form of promotion or advertisement of Value-Added Products. You shall not include in your promotional material:

- (a) the name, crest, logos, flags or other insignia or domain names of ISD, without the prior written approval of ISD, which approval may be refused at ISD's sole discretion; or
- (b) any annotation of any kind that may be interpreted as an endorsement by ISD of the Value-Added Products.

5.0 YOUR OBLIGATIONS

5.1 You shall promptly notify ISD of any infringement by third parties of the ISD Digital Data when such becomes known to you. Where possible, you will provide a sample of such infringement and co-operate with ISD in enforcing ISD's Intellectual Property Rights against the infringer. You shall not institute any suit or take any action on account of any such infringements without ISD's prior written consent.

5.2 You shall not use any identifier or mark of ISD, or the name of *Internal Services* in a manner that would imply that you have an exclusive distribution arrangement for any or all of the ISD Digital Data, or that you have access to any confidential information or information not available to any other party.

5.3 You shall not use the ISD Digital Data in any way which, in the opinion of ISD, may bring disrepute to or prejudice the reputation of ISD.

5.4 You shall supply to ISD, prior to its use or publication, a copy of all recommended marketing and promotional literature that identifies the ISD Digital Data or refers to the relationship between you and ISD. ISD shall notify you of any required changes within seven (7) days of receipt of the materials. You shall make all changes to such materials as ISD, in its sole discretion, deems advisable.

6.0 REPRESENTATIONS, WARRANTIES, INDEMNITIES

6.1 ISD MAKES NO REPRESENTATION AND GIVES NO WARRANTY OF ANY KIND WITH RESPECT TO THE ACCURACY, USEFULNESS, NOVELTY, VALIDITY, SCOPE, COMPLETENESS OR CURRENCY OF THE ISD DIGITAL DATA AND EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE ISD DIGITAL DATA.

6.2 YOU SHALL HAVE NO RECOURSE AGAINST ISD, WHETHER BY WAY OF ANY SUIT OR ACTION OR OTHER, FOR ANY LOSS, LIABILITY, DAMAGE OR COST THAT YOU MAY SUFFER OR INCUR AT ANY TIME, BY REASON OF YOUR POSSESSION OR USE OF THE ISD DIGITAL DATA, OR ARISING OUT OF THE EXERCISE OF YOUR RIGHTS OR THE FULFILMENT OF YOUR OBLIGATIONS HEREUNDER.

6.3 YOU SHALL AT ALL TIMES INDEMNIFY AND HOLD ISD AND ITS MINISTERS, EMPLOYEES AND AGENTS HARMLESS FROM ALL CLAIMS, DEMANDS, LOSSES, DAMAGES, COSTS, ACTIONS OR OTHER PROCEEDINGS MADE, SUSTAINED, BROUGHT OR PROSECUTED BY ANY PERSON IN ANY MANNER, BASED UPON, OR OCCASIONED BY, OR ATTRIBUTED TO ANY INJURY, INFRINGEMENT OR DAMAGE ARISING OUT OF ANY OF YOUR ACTIONS OR OMISSIONS, ARISING FROM ERRONEOUS COMMUNICATION MADE BY YOU, OR ARISING FROM YOUR PERFORMANCE OR NON-PERFORMANCE OF YOUR RIGHTS AND OBLIGATIONS HEREUNDER OR ARISING FROM THE MANUFACTURE, PUBLICATION, DISTRIBUTION OR THE USE OF VALUE-ADDED PRODUCTS.

7.0 EFFECTIVE DATE AND TERMINATION

7.1 This Agreement is effective as of the date and time of its acceptance by You, which shall correspond to the time of receipt by the ISD of the electronic confirmation of the activation of the "I Accept" button, and shall remain in effect for a period of one (1) year, subject to subsection 7.3

7.2 At the end of the first term, this Agreement shall automatically be extended for successive one (1) year terms, subject to section 7.3 below, provided the Licensee is not then in breach of any of the terms and conditions of this Agreement

7.3 Notwithstanding section 7.1 and 7.2 above, this Agreement may be terminated prior to its expiration:

- (i) automatically and without notice, if the You commit or permit a breach of any of its covenants or obligations under this Agreement
- (ii) upon written notice of termination by the ISD at any time, and such termination shall take effect thirty (30) days after the receipt by the YOU of such notice; or
- (iii) upon mutual agreement of the parties.

7.4 Notwithstanding termination of this Agreement:

- (a) you may continue to distribute Value-Added Products for the purpose of completing orders made before the termination of this Agreement, provided you continue to comply with the requirements to protect and acknowledge the source, as required under section 4.0 and the requirements set out in Schedule "B" attached hereto; and

(b) you continue to be bound by all agreements that you have entered into in the exercise of your rights under this Agreement prior to the termination.

7.5 All obligations which expressly or by their nature survive termination of this Agreement shall continue in full force and effect. For greater clarity, and without limiting the generality of the foregoing, the following provisions survive expiration or termination of this Agreement:

- (a) section 4.0 (*Protection and Acknowledgement of Source*)
- (b) section 6.0 (*Representations, Warranties and Indemnities*);
- (c) section 7.4 (a) and (b)

8.0 GENERAL PROVISIONS

8.1 Applicable Law

This Agreement shall be construed and enforced in accordance with, and the rights of the Parties shall be governed by, the laws in effect in the Province of Nova Scotia, and the laws of Canada, as applicable.

8.2 Entire Agreement

This Agreement, including the recitals and Schedules "A" and "B" constitute the entire agreement between ISD and you with respect to your rights to browse through, download, access or otherwise use the ISD Digital Data and supersedes any prior agreement or communication of any kind between ISD and you. This Agreement may be amended by ISD, in the manner set out at the beginning of this Agreement.

8.3 No Waiver

No condoning, excusing or overlooking by ISD of any default by you, at any time or times, in performing or observing any of your obligations hereunder, will operate as a waiver, renunciation, surrender of or otherwise affect the rights of ISD in respect of any continuing or subsequent default. No waiver of these rights will be inferred from anything done or omitted by ISD except by an express waiver in writing.

8.4 Order of Precedence

If there is a conflict or ambiguity between this Agreement and any schedules thereto, this Agreement shall prevail.

8.5 No Authority to Bind

The Parties expressly disclaim any intention to create a partnership, joint venture or joint enterprise. You acknowledge and agree that nothing contained in this Agreement nor any acts of ISD shall constitute or be deemed to constitute you and ISD as partners, joint ventures or principal and agent in any way or for any purpose. You do not have the authority to act for, or to assume any obligation or responsibility on behalf of ISD.

8.6 No updates

ISD assumes no obligation or liability whatsoever for the provision of updates to the ISD Digital Data.

SCHEDULE "A"

to the No-Fee Unrestricted Data Use License Agreement

DESCRIPTION OF ISD DIGITAL DATA

1:10 000 Nova Scotia Topographic Databases (NSTDB) OR ANY PART THEREOF

SCHEDULE "B"

to the No-Fee Unrestricted Use License Agreement

You shall include these terms and conditions in all agreements you enter into with third parties for:

- 1) the distribution of Value-Added Products; and**
- 2) whenever you are sublicensing any or all of the rights granted to you under section 3.1 of this No-Fee Unrestricted Use License Agreement For ease of reference and unless**

otherwise indicated, capitalized words contained in this Schedule have the meaning ascribed to them in the No-Fee Unrestricted Data Use License Agreement.

The word "Customer", as used below, refers to the customer with whom you are entering into an agreement for the distribution of Value-Added Products or a license agreement. You may replace in your own agreements the word "Customer" with an equivalent term.

TERMS TO BE INCLUDED IN YOUR AGREEMENTS FOR THE DISTRIBUTION OF VALUE-ADDED PRODUCTS YOU HAVE DEVELOPED:

1. Her Majesty the Queen in Right of the Province of Nova Scotia ("ISD") is the owner, or a licensee, of Intellectual Property Rights in _____ [insert product name]; and has licensed to _____ (your name) certain rights to such intellectual property, including the right to sublicense it to third parties, on certain terms and conditions. With payment of the requisite fee (where applicable), Customer is hereby granted a non-exclusive, world-wide, non-assignable license to exercise such of ISD's Intellectual Property Rights in _____ [insert product name] as is necessary for Customer to use, reproduce, extract, modify, translate, further develop and further distribute _____ [insert product name], and as is necessary for Customer to manufacture and distribute products that Customer may develop by constructing, deriving, developing, adapting, incorporating or by any other means using _____ [insert product name], in whole or in part.
2. Customer shall include on all products Customer develops or causes to be developed in the exercise of Customer's rights under section 1 above, in a prominent location, the following notice:
This product has been produced by or for _____ (Customer's name) and includes data provided by Internal Services. The incorporation of data sourced from Internal Services within this product shall not be construed as constituting an endorsement by Internal Services.
3. All copyright, other proprietary notices of ISD and metadata appearing on or incorporated into _____ [insert product name], as well as any and all conditions of use associated with _____ [insert product name], shall be incorporated and maintained on all reproductions of _____ [insert product name].
4. Customer shall not disassemble, decompile except for the specific purpose of recompiling for software compatibility, or in any way attempt to reverse engineer _____ [insert product name] or any part thereof.
5. Customer shall not merge or link _____ [insert product name] with any product or database in such a fashion that gives the appearance that Customer may have received, or had access to, information held by ISD about any identifiable individual, family, household, organization or business.
6. _____ [INSERT PRODUCT NAME] IS PROVIDED ON AN 'AS-IS' BASIS. CUSTOMER ACKNOWLEDGES AND AGREES THAT ISD HAS MADE NO REPRESENTATION OR WARRANTY OF ANY KIND WITH RESPECT TO THE ACCURACY, USEFULNESS, NOVELTY, VALIDITY, SCOPE, COMPLETENESS OR CURRENCY OF _____ [INSERT PRODUCT NAME] OR ANY ELEMENTS THEREIN CONTAINED AND HAS EXPRESSLY DISCLAIMED ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF _____ [INSERT PRODUCT NAME].
7. CUSTOMER SHALL HAVE NO RECOURSE AGAINST ISD, WHETHER BY WAY OF ANY SUIT OR ACTION OR OTHER, FOR ANY LOSS, LIABILITY, DAMAGE OR COST THAT CUSTOMER MAY SUFFER OR INCUR AT ANY TIME, BY REASON OF CUSTOMER'S POSSESSION OR USE OF _____ [INSERT PRODUCT NAME].

TERMS TO BE INCLUDED WHERE YOU ARE LICENSING TO A THIRD PARTY ALL OF THE RIGHTS THAT ISD HAS GRANTED TO YOU

1. Her Majesty the Queen in Right of the Province of Nova Scotia (“ISD”) is the owner, or a licensee, of Intellectual Property Rights in _____ (the “ISD Digital Data”); and has licensed to _____ (your name) certain rights to the ISD Digital Data, including the right to sublicense those rights to third parties, on certain terms and conditions.
2. With payment of the requisite fee (where applicable), Customer is hereby granted a non-exclusive, world-wide, non-assignable license to use, reproduce, extract, modify, translate, further develop, distribute the ISD Digital Data, and to manufacture or cause to be manufactured and distributed products Customer develops by constructing, deriving, developing, adapting, incorporating or by any other means using the ISD Digital Data, in whole or in part, PROVIDED Customer includes and maintains on all reproductions of the ISD Digital Data, as well as all metadata that was provided by _____ (your name) with the ISD Digital Data, the following notice: *Reproduced and distributed with the permission of _____ (Your name), authorized licensee of Internal Services*
3. Customer shall include on all products Customer develops or causes to be developed in the exercise of Customer’s rights under section 2 above, in a prominent location, the following notice:
This product has been produced by or for _____ (Customer’s name) and includes data provided by Internal Services The incorporation of data sourced from Internal Services within this product shall not be construed as constituting an endorsement by Internal Services.
4. All copyright, other proprietary notices of ISD and metadata appearing on or incorporated into the ISD Digital Data, as well as any and all conditions of use associated with the ISD Digital Data, shall be incorporated and maintained on all reproductions thereof.
5. Customer shall not disassemble, decompile or in any way attempt to reverse engineer the ISD Digital Data or any part thereof.
6. Customer shall not merge or link the ISD Digital Data with any product or database in such a fashion that gives the appearance that Customer may have received, or had access to, information held by ISD about any identifiable individual, family, household, organization or business.
7. CUSTOMER ACKNOWLEDGES AND AGREES THAT ISD HAS MADE NO REPRESENTATION OR WARRANTY OF ANY KIND WITH RESPECT TO THE ACCURACY, USEFULNESS, NOVELTY, VALIDITY, SCOPE, COMPLETENESS OR CURRENCY OF THE ISD DIGITAL DATA AND HAS EXPRESSLY DISCLAIMED ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE ISD DIGITAL DATA.
8. CUSTOMER SHALL HAVE NO RECOURSE AGAINST ISD, WHETHER BY WAY OF ANY SUIT OR ACTION OR OTHER, FOR ANY LOSS, LIABILITY, DAMAGE OR COST THAT CUSTOMER MAY SUFFER OR INCUR AT ANY TIME, BY REASON OF CUSTOMER’S POSSESSION OR USE OF THE ISD DIGITAL DATA.