

TERRA BASE END USER LICENSE AGREEMENT

Last Updated: June 13, 2022

This end user license agreement (this “**Agreement**”) is made between Terra Pixel, LLC. (“**Company**”) and the Ordering Activity under GSA Schedule contracts identified in the Order (in either case, “**Licensee**”). Capitalized terms used in this Agreement not defined in the applicable clauses have the meanings assigned in Clause 11.

By executing a written order for any Product, Licensee agrees to be bound by the terms and conditions of this Agreement.

Intellectual Property and Limited License

- 1.1 **Ownership.** Licensee acknowledges that all right, title and interest in and to each Product, including all corrections, enhancements, or other modifications, and all Intellectual Property Rights thereto and therein, are the sole and exclusive property of Company or its Affiliates or licensors, as applicable. All rights not expressly granted to Licensee in this Agreement are reserved by Company. Licensee will ensure that all copyright or trademark notices, copyright or trademark management information, and proprietary legend contained in or on the Product are reproduced on all copies of each Product.
- 1.2 **Limited License to Products.** Subject to Section 1.3 below, Company grants to Licensee a non-exclusive, non-transferable, non-assignable, limited license to use each Product only for Licensee’s air vehicle navigation purposes, in accordance with this Agreement and all Documentation.
- 1.3 **Limited License to TerraBase.** Where Licensee is provided a license to Company's Terra software as evidenced in the applicable Confirmation, Licensee understands and acknowledges that the common reference index of the world, enabling the air vehicle cameras to recognize the terrain and delivery position estimation to guidance systems, and all derivatives thereof (“**TerraBase**”), which is accessed through the Terra software, is the property of the U.S. Government. Licensee understands and agrees that its rights to access TerraBase is limited to access through the Terra software under the terms and conditions of this Agreement and applicable Documentation.
- 1.4 **Feedback.** If you provide Company with any feedback or suggestions regarding the Product (“**Feedback**”), you hereby assign to Company all rights in such Feedback and agree that Company shall have the right to use and fully exploit such Feedback and related information in any manner it deems appropriate. You agree that you will not submit to Company any information or ideas that you consider to be confidential or proprietary. Company acknowledges that the ability to use this Agreement and any Feedback provided as a result of this Agreement in advertising is limited by GSAR 552.203-71.
- 1.5 **Modification, Updates, and Discontinuation.** Company reserves the right, at any time, to modify, suspend, or discontinue the Products (in whole or in part) at its sole discretion with or without notice to Licensee; provided however: (a) Company will make commercially reasonable efforts to provide notice (which may include a posting on its website or sending an email to the email address last provided to Company) of any changes that would be material to Licensee's use of the Products; and (b) if Company discontinues the Product, Company will provide Licensee with a prorated refund of prepaid License Fees for the unused period of the license term. Except as explicitly stated above, you agree that Company will not be liable to you or to any third party for any modification, suspension, or discontinuation of the Products or any part thereof. Unless otherwise indicated, any future release, update, or other addition to functionality of the Products shall be subject to the terms of this Agreement. You agree to download and use only the most recent version of the Product that is made available from time to time, including downloading and using any patches made available for the Products.
2. **Restrictions.** Licensee acknowledges and agrees that each Product is the property of Company or its licensors and contains valuable assets and proprietary information of Company, its Affiliates, or its licensors. Licensee will not, and will not permit any Authorized User to:
 - a) Use any Product or TerraBase for purposes other than for internal business purposes as explicitly permitted under this Agreement;

- b) Use TerraBase other than through the Terra software;
- c) Distribute, sublicense, rent, sell, lease or loan any Product or TerraBase to any third party;

- d) Use any Product or TerraBase or the business needs of any third party, including without limitation, providing any services to any third parties;
- e) Remove, bypass or circumvent any electronic or other form of protection measure included on, in, or with any Product or TerraBase;
- f) Delete, alter, cover, obscure, distort, or remove any copyright or trademark notice, copyright or trademark management information, or proprietary legend contained in or on any Product or TerraBase;
- g) Use, modify (except modification of Licensed Data for Licensee's internal operations), access, or reverse-engineer any Product or TerraBase for any purpose not expressly permitted under this Agreement, including specifically, but without limitation, for the Consumer Market; or
- h) Upload, transmit, or distribute to or through the Product any computer viruses, worms, or any software intended to damage or alter a computer system or data;
- i) Use the Product or TerraBase in violation of any law, regulation, rule, applicable standards, or third-party rights; or
- j) Access the Product or TerraBase in order to build a similar or competitive Product or service.

3. License Fee

The License Fee will be as stated in the Confirmation in accordance with the GSA Schedule Pricelist and will be calculated on a per video stream basis.

4. License Duration

The term of the license granted to Licensee for each Product will begin upon delivery of the Product to Licensee and will continue until Company requests the return of the Products in writing, or as otherwise stated in the Confirmation.

5. Audit

- 5.1 Company has the right to perform an audit to the extent necessary for Company to determine Licensee's compliance with this Agreement and the licenses granted hereunder. Licensee shall undertake, at its own expense, to promptly cooperate and provide assistance and access to the information needed to complete the audit, including granting Company's designated auditors access to the business location(s), books and records, employees and/or Contractors pertaining to or involved with Licensee's use of each Product and TerraBase.

For any audits performed hereunder, Company shall: (a) where commercially reasonable, provide at least thirty (30) days prior written notice to Licensee; (b) unless the audit is triggered by a government entity or legal action, conduct routine audits no more than once per calendar year; (c) make commercially reasonable efforts to conduct audits during reasonable business hours; and (e) subject the audit findings to reasonable confidentiality and Government security requirements.

- 5.2 If an audit results in a finding of non-compliance, Company may, at its discretion: (a) invoice additional license fees based on the standard Company fees in effect at the time of the original license grant; (b) assess interest charges from the time of the original fee payment due date at the the interest rate established by the Secretary of the Treasury as provided in [41 U.S.C. 7109](#), which is applicable to the period in which the amount becomes due, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid. Licensee must pay all amounts so invoiced within thirty (30) days following the date of invoice.

6. Indemnification

- 6.1 Reserved.

- 6.2 Company shall indemnify and hold harmless Licensee from and against any and all claims, damages and

losses incurred as a result of any third party claim brought against the Licensee based on the allegation that the use, of the Product constitutes an infringement of any third party's Intellectual Property Rights provided that: (a) the Licensee promptly notifies Company in writing of any such claim; (b) that Company is given authority to handle the defense thereof; and (c) Company shall not be obligated to indemnify hereunder to the extent the alleged infringement arises from (i) use of the Products in combination with data, software, hardware, equipment, or technology not provided by Company, (ii) modifications to the Products not made by Company; or (iii) misuse, including use in breach of any of the terms of this Agreement. Nothing contained herein shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute 28 U.S.C. §516.

- 6.3 In the event that the Products are held to constitute an infringement or their further use is enjoined, Company may, at its own expense and option, take any of the following mitigating measures: (a) procure for Licensee the right to continue the use of such Products; (b) replace or modify the same with non-infringing products without detracting from the function and performance of the Products, or (c) where the foregoing options are not reasonably available take back the infringing Products and refund the relevant License Fee payments hereunder.
- 6.4 Company's indemnification obligation as stated herein sets forth Licensee's sole remedy and Company's sole liability and obligation for any actual, threatened, or alleged claims that the Products infringe, misappropriate, or otherwise violate any Intellectual Property Right of any third party.

7. Limited Warranty and Disclaimer

- 7.1 Company warrants to Licensee only that each Product, as delivered by Company, will comply in all material respects with this Agreement and the applicable Specification. Company's sole obligation and Licensee's exclusive remedy for a breach of this warranty is for Company, at its option and expense, to: (i) repair, modify, or replace the non-conforming Product; or (ii) refund all fees paid by Licensee for the non-conforming Product. Any claim under this limited warranty must be made within sixty(60) days after delivery of the non-compliant Product to Licensee. This limited warranty is void if any non-conformity has resulted from any accident, abuse, misuse, misapplication or modification of or to the Product by any party other than Company, or from any breach by Licensee of this Agreement.
- 7.2 EXCEPT AS EXPRESSLY WARRANTED IN CLAUSE 7.1, EACH PRODUCT IS PROVIDED "AS IS", WITHOUT ANY WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, CUSTOM, TRADE, QUIET ENJOYMENT, ACCURACY OF INFORMATION, CONTENT OR RESULTS, OR CONDITIONS ARISING UNDER ANY OTHER LEGAL REQUIREMENT. COMPANY DOES NOT WARRANT THAT ITS PRODUCT WILL BE ACCURATE, CURRENT OR COMPLETE, THAT EACH PRODUCT WILL MEET LICENSEE'S NEEDS OR EXPECTATIONS, OR THAT THE OPERATION OF EACH PRODUCT WILL BE ERROR FREE OR UNINTERRUPTED. FURTHER, SPATIAL, SPECTRAL AND TEMPORAL ACCURACY IS NOT GUARANTEED OR WARRANTED.

8. Limitation of Liability

TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL COMPANY OR ANY AFFILIATE BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OR DAMAGE TO DATA, INACCURACY OF DATA, LOSS OF ANTICIPATED REVENUE OR PROFITS, DEATH OF OR INJURY TO ANY PERSON WHOMSOEVER, WORK STOPPAGE OR IMPAIRMENT OF OTHER ASSETS OR LOSS OF GOOD WILL, WHETHER OR NOT FORESEEABLE AND WHETHER OR NOT A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF THE DAMAGES AND NOTWITHSTANDING ANY FAILURE OF THE ESSENTIAL PURPOSE OF THIS AGREEMENT OR ANY LIMITED REMEDY HEREUNDER. IN NO EVENT WILL THE TOTAL LIABILITY OF COMPANY AND ITS AFFILIATES ARISING OUT OF OR IN CONNECTION WITH COMPANY'S PRODUCTS EXCEED THE FEES PAID BY LICENSEE FOR THE PRODUCT(S) GIVING RISE TO THE CLAIM. TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE FOREGOING LIMITATIONS APPLY TO ALL CAUSES OF ACTION IN THE AGGREGATE, INCLUDING WITHOUT LIMITATION, BREACH OF CONTRACT, BREACH OF WARRANTY, INDEMNIFICATION, NEGLIGENCE, STRICT LIABILITY, MISREPRESENTATION AND ANY OTHER TORTS AND STATUTORY CLAIMS. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO (1) PERSONAL INJURY OR DEATH

RESULTING FROM LICENSOR'S NEGLIGENCE; (2) FOR FRAUD; OR (3) FOR ANY OTHER MATTER FOR WHICH LIABILITY CANNOT BE EXCLUDED BY LAW.

9. Termination

When the End User is an instrumentality of the U.S., recourse against the United States for any alleged breach of this Agreement must be brought as a dispute under the contract Disputes Clause (Contract Disputes Act). During any dispute under the Disputes Clause, Company shall proceed diligently with performance of this Agreement, pending final resolution of any request for relief, claim, appeal, or action arising under the Agreement, and comply with any decision of the Contracting Officer. Upon termination or expiration of the license, Licensee will (i) stop all use of each Product; (ii) permanently delete all Products from all devices and systems and destroy any copies on disk; and (iii) within ten (10) days following termination or expiration, certify to Company in writing that all copies of all Products have been deleted or destroyed. The expiration or termination of this Agreement does not relieve either party of any obligations that have accrued on or before the effective date of the termination or expiration.

10. General Terms

- 10.1 **GOVERNMENT AUTHORIZATION.** Licensee is responsible for compliance with all applicable foreign and national export control restrictions such as laws, regulations, authorizations, exemptions and/or end user undertakings applicable to export controlled products and associated technical data and technical assistance. Licensee shall furthermore not grant unauthorized digital access to export controlled products, technical data and technical assistance. Unauthorized access includes making available decryption keys or passwords that enable access to export controlled products or technical data. Licensee shall not export, verbally or physically, export controlled products, technical data and technical assistance in violation of any applicable laws, regulations, authorizations or end user undertakings.
- 10.2 **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties with respect to use of each Product and supersedes all previous and contemporaneous agreements, understandings and arrangements, whether oral or written, in respect of the same Product(s).
- 10.3 **ASSIGNMENT.** Licensee may not transfer or assign any of its rights or delegate any of its obligations under this Agreement, in whole or in part and including any transfers by operation of law, without the prior written consent of Company. Any attempted assignment or transfer in violation of this Clause 10.3 will be null and void. This Agreement will be binding on and inure to the benefit of the parties and their respective permitted successors and assigns.
- 10.4 **RIGHT TO AMEND.** Company has the right to non-materially change or add to the terms of this Agreement at any time, solely with prospective effect, and to change, delete, discontinue, or impose conditions on use of the Products by posting such changes on its website. Non-material Changes will come into effect 10 days after Company posts the changes to its website on any existing licensees of the Products. Licensee's use of a Product more than 10 days after Company publishes any such changes on its website (or 10 days after Company sends notice via email, whichever comes first), shall constitute Licensee's acceptance of the terms of the non-materially modified Agreement. Licensee can access a copy of the current terms of this Agreement on Company's website at any time. Licensee can find out when this Agreement was last changed by checking the "Last Updated" date at the top of the Agreement.
- 10.5 **WAIVER.** The failure or delay by a party to require performance of any provision of this Agreement does not constitute a waiver. All waivers must be in writing and signed by the party granting the waiver. The waiver by a party of any of its rights or remedies in a particular instance will not be construed as a waiver of the same or a different right or remedy in a subsequent instance.
- 10.6 **SEVERABILITY.** If any provision of this Agreement is invalid, illegal or unenforceable, that provision will be deemed to be restated so that it is enforceable to the maximum extent permissible under law and is consistent with the original intent and economic terms of the invalid provision.
- 10.7 **COMPLIANCE WITH LAWS.** Licensee is responsible for its own compliance with laws, regulations and other legal requirements applicable to the conduct of its business and this Agreement, and agrees to comply with all these laws, regulations and other legal requirements including, without limitation, the 1997 OECD Convention on Combating Bribery of Foreign Government Officials, the 2003 United Nations Convention

Against Corruption and the Foreign Corrupt Practices Act of the United States of America.

- 10.8 **NOTICES.** All notices of termination or breach must be in writing, in English. The email address for notices sent to Company is info@terrapixel.com. Notice is treated as given upon receipt, as verified by written or automated receipt or electronic log, as applicable.
- 10.9 **CONTROLLING LANGUAGE.** This Agreement is drafted in the English language only. English will be the controlling language in all respects, and all versions of this Agreement in any other language are for accommodation only and will not be binding on the parties.
- 10.10 **RESERVED.**
- 10.11 **GOVERNING LAW.** This Agreement and any dispute or claim arising out of or in connection with their subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the Federal laws of the United States.

11. Definitions

“Affiliate” means any legal entity controlling, controlled by or under common control with Terra Pixel, LLC, where “control” means (a) the ownership of more than fifty percent (50%) of the equity or beneficial interest of the entity; (b) the right to vote for or appoint a majority of the board of directors or other governing body of the entity; or (c) the power to direct or cause the direction of the management and policies of such entity by any means.

“Agreement” means this end user license agreement, incorporating each related Confirmation.

“Authorized Distributor” means a distributor authorized by Company to resell and distribute licenses to use Company’s Products.

“Authorized User” means an employee or Consultant that is authorized by Licensee to use the Product(s).

“Confirmation” means Company’s or any Authorized Distributor’s written confirmation to Licensee of ordered Product(s).

“Consultant” means an individual contracted by Licensee, either directly or through a consulting company or other entity, to provide services on behalf of or for the benefit of Licensee.

“Consumer Market” means all individuals and all households that purchase goods and services for personal use and includes all products and services designed for the general consumer.

“Documentation” shall mean the written, digital or otherwise submitted technical and/or user

documentation in relation to a Product that may be provided to Licensee by Company or an Authorized Distributor.

“Intellectual Property Rights” means all past, present, and future trade secret rights, patent rights, copyrights, moral rights, contract rights, trademark rights, service marks, and other proprietary rights in any jurisdiction, including those rights in inventions, software, domain names, know-how, technology, methods, processes, information and technology.

“License Fee” means the aggregate amount to be paid by Licensee to Company or an Authorized Distributor for the right to use the Product(s).

“Licensed Data” means the data product originating from and provided by Company, as well as data generated in connection with usage of software, hardware or a combination of software and hardware originating from Company and delivered by Company or an Authorized Distributor to Licensee pursuant to this Agreement. Licensed Data includes any future version and specific adaptation of the original Licensed Data if originating from Company and if and when purchased separately by Licensee.

“Licensed Program” means each computer software product identified by title version number in a Confirmation in object code format and delivered by Company or an Authorized Distributor to Licensee pursuant to this Agreement. Licensed Program includes any future version and specific adaptation of the original Licensed Program if and when purchased separately by Licensee.

“Product” means a Licensed Data or a Licensed Program.

“Specification” means, unless a particular specification has otherwise been agreed upon in writing between Company or an Authorized Distributor and Licensee and specifically referred to as the Specification, the technical and functional description(s) of each Product as described or referred to in Documentation and/or a Confirmation.