

## COMMONWEALTH COMPUTER RESEARCH, INC.

### TERMS AND CONDITIONS

**1. TERMS AND CONDITIONS.** Client agrees to be bound by and to comply with these CCRi Standard Terms and Conditions (the "Terms") set forth herein and any invoice, statement of work or proposal (each, an "Order") offered to you by Commonwealth Computer Research, Inc. ("CCRi") or other document from CCRi which references the "CCRi Standard Terms and Conditions., including any amendments, supplements, specifications, and other documents referred to therein. The Terms supersede, replace and take precedence over any additional or alternative terms in any other document connected to with this transaction except in the event the parties to any Order have negotiated and signed a master services agreement which states that such master services agreement shall override the Terms ("Master Agreement"). In the event these terms are part of a Master Agreement between the parties, the term "Order" used herein shall mean any statement of work or purchased order issued under the Master Agreement. These Terms apply to any and all services, software or any additional items provided by CCRi under an Order.

**2. ACCEPTANCE.** ANY ACCEPTANCE OR ACKNOWLEDGMENT OF THE ORDER BY CLIENT (INCLUDING WITHOUT LIMITATION BY SUBMITTING A PURCHASE ORDER TO CCRi) SHALL BE DEEMED AS A FULL ACCEPTANCE BY CLIENT OF THESE TERMS. FAILURE TO SIGN OR ACKNOWLEDGE THE TERMS SHALL IN NO WAY EFFECT THE BINDING NATURE OF THE ORDER AND/OR TERMS. TERMS AND CONDITIONS THAT ARE DIFFERENT FROM OR IN ADDITION TO THESE TERMS, WHETHER CONTAINED IN ANY ACKNOWLEDGMENT OF THIS ORDER, SET FORTH ON A PURCHASE ORDER, OR OTHERWISE SHALL NOT BE BINDING ON CCRi, WHETHER OR NOT THEY WOULD MATERIALLY ALTER THIS ORDER, AND CCRi HEREBY OBJECTS AND REJECTS SAME. THE TERMS MAY ONLY BE MODIFIED BY A WRITTEN AGREEMENT EXECUTED BY DULY AUTHORIZED REPRESENTATIVES OF CCRi AND CLIENT.

**3. INTELLECTUAL PROPERTY.** CCRi and Client shall each retain ownership of, and all right, title and interest in and to, their respective, pre-existing Intellectual Property (defined below), and no license therein, whether express or implied, is granted by this Agreement except as provided in this Agreement. For the purposes of this Agreement, the term "Intellectual Property" means any and all industrial or intellectual property rights, including but not limited to, rights to any inventions, discoveries, methods, methodologies, procedures, processes, know-how, ideas, concepts, suggestions, modifications, improvements (whether or not patentable), patents, copyrights, trademarks, trade secrets, trade dress, industrial designs, look and feel, drawings, files, studies, photographs, data, formulas, graphs, designs, goodwill, literary and/or artistic works, computer programs, applications and software (whether in source, object or executable code and any proprietary rights in such programs, applications, software systems or software, including documentation, materials or documents related thereto), user interfaces and screen designs, compositions, techniques (including, without limitation, function, process, system and data models), compilations, databases, templates, graphics, text files, memoranda, multi-media, notes, proprietary information and processes, whether registered or not, and any applications or registrations related thereto, and all such other rights which may be recognized under law, equity or otherwise, to protect technical or other creative contributions or expressions.

**4. LICENSE.** Notwithstanding any other Intellectual Property terms herein, GeoMesa is open-source software that is and shall remain governed by the Apache License Version 2.0 ("GeoMesa"). During the course of the Work, CCRi shall retain ownership of GeoMesa and any updates, upgrades, changes, derivative works, or other Intellectual Property generated by CCRi. CCRi reserves the right to open-source any developments of or alterations to GeoMesa, so long as those developments or alterations are independent of Client's Intellectual Property. Under no circumstances will CCRi open-source the data that Client inputs into GeoMesa, or any other Client proprietary information. All other software provided by CCRi is subject to the CCRi End User License Agreement; a copy of the CCRi End User License Agreement may be found at [website].

**5. LOGO.** Client agrees to send CCRi an image file containing its logo, symbol, or whichever other symbolic identifier it typically uses to represent its company in public ("Logo"). Client grants CCRi a non-exclusive, non-transferable, royalty-free license to use Client's Logo on advertising materials, social media sites, and in presentations to Clients (collectively, the "Marketing Material"). Client has the right, in its sole discretion, to refuse the use of its Logo on any Marketing Material that it does not approve of. Client will retain all ownership rights to its own Logo, and both CCRi agrees that it will never use Client's Logo for any purpose other than to identify Client in the Marketing Material.

**6. INVOICE AND PAYMENT.** CCRi will invoice the Client charges accrued over the past month and for the subscription, hosting and/or support for the upcoming month. Payment will be due Net 30.

**7. TERMINATION/CANCELLATION.** Either party may terminate the Order at any time for convenience, upon thirty (30) days' notice; Client shall be responsible for any and all accrued charges for the month in which with Order was terminated.

#### **8. CONFIDENTIALITY.**

8.1 "Confidential Information" means any of CCRi's or CCRi affiliate's property furnished to or accessed by Client in connection with the Order (including, without limitation, drawings, specifications, data, goods, location of projects, or any other information not known to the public), and any information derived therefrom. Provided, however, Confidential Information does not include information that: (a) is or becomes generally available to the public other than as a result of disclosure by Client; (b) was available on a non-confidential basis before its disclosure to Client; (c) is or becomes available to Client on a non-confidential basis from a source other than CCRi or its affiliates when such source is not subject to a confidentiality obligation with respect to the Confidential Information, or (d) was independently developed by Client, without reference to the Confidential Information, and Client can verify the development of such information by written documentation.

8.2 The Client shall not disclose or use any Confidential Information except to the extent required to perform this Order. Except to the extent required to perform this Order, Client shall not permit copies to be made of any Confidential Information without CCRi's prior written authorization; in which case Client shall mark the copy "CCRi Confidential – Do Not Use, Disclose, Reproduce or Distribute without CCRi Permission." These confidentiality obligations shall continue indefinitely. Upon expiration or termination of this Order for any reason or at any time upon CCRi's request, Client shall promptly return to CCRi or, if authorized by CCRi, destroy (with such destruction certified in writing by Client) all Confidential Information, including any copies thereof.

8.3 Other NDAs. If the parties hereto entered into a non-disclosure agreement ("NDA") concerning negotiations or otherwise, the terms of the NDA shall supersede these Terms with regard to all confidential information disclosed under the NDA, unless agreed otherwise by the parties a Master Agreement.

**9. ASSIGNMENT.** Neither Party may assign, novate, or transfer, by operation of law or otherwise, this Agreement, in whole or in part, without the prior written approval of the other Party. Any assignment, novation, or transfer shall be a material breach of this Agreement, which shall entitle the non-breaching Party to terminate this Agreement immediately.

**10. COMPLIANCE WITH LAWS.** In the course of performance hereunder, the Parties shall comply with all applicable local, state, federal, and international laws and regulations.

**11. EXPORT.** Client shall not export or re-export, or allow the export or re-export of the Software or any copy, portion or direct product of the foregoing, in violation of any export laws, restrictions, national security controls or regulations of the United States or any other applicable foreign agency or authority. Client agrees to comply strictly with all applicable import and export regulations and acknowledges that Client has the responsibility to obtain all licenses required to export, re-export, transfer or import the Software. By accepting this Agreement, Client represents and warrants that Client: (i) is not located in, under control of, or a national or resident in a United States embargoed or sanctioned country, (ii) is not on the United States Treasury Department's list of Specially Designated Nationals or the United States Commerce Denied Person's List or Entity List, and (iii) does not intend to export or re-export the Software to any national or resident of a United States embargoed or sanctioned country, or any person that is on the United States Treasury Department's list of Specially Designated National or the United State Commerce Denied Person's List or Entity List. As of the date of these Terms, the United States embargoed and/or sanctioned countries are Cuba, Iran, North Korea, Sudan and Syria.

**12. WAIVER.** Neither Party shall be deemed to have waived any right or remedy unless such waiver is made expressly and in a signed writing.

**13. GOVERNING LAW; FORUM.** These Terms are governed by the laws of the Commonwealth of Virginia, without regard to conflicts of laws principles, and the parties expressly attorn to the exclusive jurisdiction of the state and federal courts located in Charlottesville, Virginia for enforcement thereof.

**14. INDEMNIFICATION.** The Parties shall defend, indemnify, and hold harmless each other, their parents and affiliates and their respective, officers, directors, employees, and agents from and against any and all loss, injury, damage, claim, liability, costs, and expenses (including reasonable attorneys' fees) arising out of or relating to, directly or indirectly, the negligent acts or omissions or intentional misconduct of such Party and its respective officers, directors, employees, contractors and agents.

**15. WAIVER OF DAMAGES; LIMITATION OF LIABILITY.** Notwithstanding anything in this Agreement to the contrary, under no circumstances shall CCRi be liable for any damages whatsoever, including direct, special, incidental, or consequential damages arising from or caused, directly or indirectly, whether foreseeable or not, or that are in any way related to the use or inability to use the Software, the results generated from the Software, the quality of Software, any defect in the Software, failure of the Software to perform as represented or expected, loss of goodwill or profits, the performance or failure of CCRi to perform under these terms, any other act or omission of CCRi, by any other cause whatsoever; or based upon breach of warranty, breach of contract, negligence, strict liability, or any other legal theory. In no event will the liability of CCRi for any claim exceed the fee actually paid to CCRi by You. The amount of the fee for the Software is a consideration in limiting the liability of CCRi.

**16. WARRANTY.** ALL SOFTWARE AND/OR SERVICE(S) IS PROVIDED "AS IS", WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. CCRi DOES NOT MAKE ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR THAT THE SOFTWARE OR SERVICE WILL NOT INFRINGE ANY THIRD PARTY PATENTS, COPYRIGHTS, TRADEMARKS OR OTHER RIGHTS. THERE IS NO WARRANTY BY CCRi OR BY ANY OTHER PARTY THAT THE FUNCTIONS CONTAINED IN THE SOFTWARE WILL MEET YOUR REQUIREMENTS OR THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE. YOU ASSUME ALL RESPONSIBILITY AND RISK FOR THE SELECTION OF THE SOFTWARE TO ACHIEVE YOUR INTENDED RESULTS AND FOR THE INSTALLATION, USE AND RESULTS OBTAINED FROM IT.

**17. SEVERABILITY.** Each provision of this Agreement is severable. If one provision is declared void, illegal, or unenforceable, the remaining paragraphs shall retain their full force and effect.

**18. HEADINGS/CAPTIONS.** The headings and captions included in this Agreement are intended for convenience only and shall not be used to construe, explain, or modify this Agreement in any manner whatsoever.