

## CSDA Program USG EULA - November, 9, 2020, Revision 3

This United States Government End User License Agreement (EULA) hereafter referred to as “this Agreement” is an agreement between the United States Government (USG) (Licensee) and the Contractor (Licensor). The EULA is incorporated into Licensor’s contract (“the Contract”) and is legally binding on the parties.

1. The following definitions apply to this Agreement:
  - 1.a “Licensed Material” means the data, metadata, and products provided by Licensor that are delivered or otherwise made available for Licensee’s use as set forth in the Agreement. This term strictly applies to the forms, formats, and other supporting data as received by Licensee.
  - 1.b “Licensed User” means an authorized recipient and end user of Licensed Material according to Section 3 of this Agreement.
  - 1.c “Value-Added Product” means a work that is created when a Licensed User modifies Licensed Material—through technical manipulation, addition of data, or both—where the principal features and characteristics of the source Licensed Material are retained in the work and are extractable through technical means. Value-Added Products created from Licensed Material received under this agreement will be considered as Licensed Material.
  - 1.d “Derived Product” means a work that is created when a Licensed User exploits Licensed Material in a manner that irreversibly modifies and uncouples the work from its source, such that extraction of the principal features and characteristics of the source Licensed Material is impracticable. This includes but is not limited to License User derived Digital Elevation Models. Derived Products are not considered Licensed Materials.
  - 1.e “Share” or “Sharing” means the transfer of Licensed Material to a Licensed User.
  - 1.f “Third-Party” means any organization or party that is not listed as a Licensed User in Section 3 of this Agreement.
2. Per this Agreement, the Licensor grants the USG a perpetual, non-exclusive, non-transferable, irrevocable, worldwide license to the Licensed Materials as set forth below:
  - 2.a License purchased rights for Licensed Materials are in perpetuity.
  - 2.b Licensed Users may generate and share unlimited hardcopies and softcopies of the Licensed Materials purchased under Section 3.
  - 2.c Licensed Users may generate unlimited Value-Added Products from Licensed Materials and share such products as described in Section 3.
  - 2.d Licensed Users may generate unlimited Derived Products from the Licensed Materials and share without restriction.
  - 2.e Licensee and Licensed Users shall preserve Licensor’s copyright markings and copyright metadata in Value-Added Products.
  - 2.f Copyright markings shall be included on all Derived Products as appropriate.

3. Per this Agreement, Licensor grants the Licensee the following U.S. Government license for the purchase of Licensed Materials which allows for unlimited sharing to Licensed Users as described herein:
  - 3.a Licensed Materials are shareable across all portions of the USG defined under Title 5 U.S.C. 101–105.
  - 3.b Licensed Materials are shareable with the Executive Office of the President (EOP), members of Congress, and Congressional staff involved in the oversight of the entities identified in Section 3.a.
  - 3.c Licensed Materials are shareable with State and Local Governments, Territories, and Tribal Authorities within the US.
  - 3.d Licensed Materials are shareable with Non-Governmental Organizations and/or Non-Profit Organizations working for the purpose of entities found in Sub-Sections 3.a, 3.b, and 3.c.
  - 3.e Licensed Materials are shareable with contractors, subcontractors, partners, and/or grantees supporting entities identified in Sub-Sections 3.a, 3.b, 3.c, and 3.d for the purpose of executing their contracts.
  
4. Per this Agreement, Licensor grants the Licensee the rights to share Licensed Materials subject to the following restrictions:
  - 4.a The Licensee will exercise reasonable efforts to avoid providing copies of or access to the Licensed Materials beyond what is necessary for the operation of the contract. The Licensor and Licensee will collaborate and coordinate regarding any concerns regarding improper copies or access to licensed material.
  - 4.b The Licensee will exercise reasonable efforts to avoid making the Licensed Materials available under any open source license or agreement to any third party or use the Licensed Materials in a manner that would subject the Licensed Materials to become subject to any open source license, except where stated herein. The Licensor and Licensee will collaborate and coordinate regarding any concerns regarding improper open source release.
  - 4.c The Licensee will exercise reasonable efforts to avoid making the Licensed Materials available to a commercial entity or other third party for any commercial or revenue generating purpose except where stated herein. The Licensor and Licensee will collaborate and coordinate regarding improper commercial use.
  - 4.d The Licensee will exercise reasonable efforts to avoid providing copies of or access to the Licensed Materials to a third party for their own use, apart from supporting the applicable contract, except where stated herein. The Licensor and Licensee will collaborate and coordinate regarding any concerns regarding improper third party use.

- 4.e The Licensee will exercise reasonable efforts to avoid allowing a third party to disclose or share the Licensed Materials with another third party (or the public), either publicly or privately, except where stated herein. The Licensor and Licensee will collaborate and coordinate regarding any concerns regarding improper third party use.
  - 4.f The Licensee may not place the Licensed Materials, or allow the Licensed Materials to be placed, into the public domain, or otherwise be publicly shared (e.g. public websites), except where stated herein.
  - 4.g The Licensee will exercise reasonable efforts for oversight and control of the use of the Licensed Materials. The Licensor and Licensee will collaborate and coordinate regarding any concerns regarding improper use of the licensed material.
  
- 5. Data First Produced By NASA:  
Notwithstanding the foregoing provisions, any DATA first produced by or originating from NASA or the U.S. Government (“NASA DATA”) that is incorporated or aggregated into Licensed Materials (including, but not limited to Global Positioning System (GPS) DATA) shall retain its character, and the U.S. Government will have unlimited rights in such NASA DATA.
  
- 6. Limited Warranty:
  - 6.a The Licensor disclaims all other warranties of any kind, whether express or implied, relating to the Licensed Material, including: (a) any implied warranty of merchantability, fitness for a particular purpose, title, or non-infringement; and (b) any warranty arising out of course of dealing, usage, or trade. The Licensor does not warrant that the Licensed Material will be uninterrupted, or free of errors. Upon notification, corrective action will be taken in accordance with the contract or purchase order the USG will notify the licensor in writing within twenty-one (21) calendar days after the date of delivery if the Licensed Material does not conform to the stated specifications.
  - 6.b The USG will notify the Licensor in writing within twenty-one (21) calendar days after the date of delivery if the Licensed Material does not conform to the stated specifications.
  
- 7. Liability:
  - 7.a To the fullest extent permitted by law, in no event will the Licensor or its affiliates be liable to the USG for any indirect, incidental, special, consequential, or punitive damages (including damages for loss of profits, goodwill, or any other intangible loss) arising out of or relating to the USG’s use of the Licensed Material whether based on warranty, contract, tort (including negligence), statute, or any other legal theory.

- 7.b This Agreement shall not impair the USG's right to recover for fraud or other crimes arising out of or related to this Agreement under any federal fraud statute, including the False Claims Act, 31 U.S.C. 3729-3733. Furthermore, this Agreement shall not impair nor prejudice the USG's right to express remedies provided in an existing government contract.
8. Any provisions of this Agreement that conflict with USG regulations are hereby superseded by the USG regulations to the extent required by applicable law. If there are any inconsistencies in this Agreement, the contract terms and conditions and Statement of Work shall take precedence.
  9. The Program Office is granted authority to unilaterally uplift (as defined in the SOW within the Limitations of Funds Clauses) Licensed Material upon request from a Licensed User.
  10. The Licensee may not assign or transfer this Agreement, or USG rights under this Agreement, outside the scope of this Agreement, in whole or in part, by operation of law or otherwise, without the Licensor's prior written consent.
  11. Questions or concerns regarding this Agreement or the Licensed Material described under this Agreement should be directed to the Commercial Smallsat Data Acquisition Program office.