

TEXAS DEPARTMENT OF INFORMATION RESOURCES
APPENDIX E to Contract Number: DIR-CPO-4691

INVISION LICENSE AGREEMENT

Agreement No. _____

This Appendix to DIR Contract Number: DIR-CPO-4691, InVision License Agreement (“License Agreement”) is between _____ (“Licensee”) and **Cartegraph Systems LLC (“CARTEGRAPH”)**, a Delaware corporation having its principal place of business at 3600 Digital Drive, Dubuque, Iowa 52003, USA.

This License Agreement is subject to the terms and conditions set forth in the Texas Department of Information Resources (DIR) Contract Number DIR-CPO-4691 and all Appendixes thereto (collectively, the “**DIR Contract**”). In the event of a conflict between this License Agreement and the DIR Contract, the DIR Contract shall control.

ARTICLE 1—DEFINITIONS

Definitions. The terms used are defined as follows:

- a. "Data" means any Licensee or third-party digital dataset(s) including, but not limited to, information, independent works, or other material collected by the Software, geographic vector data coordinates, raster, reports, or associated tabular attributes.
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- f. "Web Services" means software services or Licensee or third-party data provided that perform geographic information system functions, tasks, or data services and are accessed over the Internet.

ARTICLE 2—INTELLECTUAL PROPERTY RIGHTS AND RESERVATION OF OWNERSHIP

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Texas Department of Information Resources
Appendix E to DIR Contract Number: DIR-CPO-4691

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ARTICLE 3—GRANT OF LICENSE

3.1 Grant of License. Subject to the terms of the DIR Contract and this License Agreement, CARTEGRAPH grants to Licensee a nonexclusive, nontransferable License solely to

- a. Use the type and number of copies of Software and Documentation (i) for which the applicable license fees have been paid in accordance with Section 1 of Appendix A of the DIR Contract, (ii) for Licensee's own internal use, and (iii) in accordance with the Licensed Product Configuration that has been purchased by Licensee and authorized by CARTEGRAPH or its authorized distributor.
- b. Access and use any secure CARTEGRAPH website resources such as client log in for help, documentation, or product support made available to Licensee for Licensee's own internal use, in accordance with the DIR Contract. All password or controlled access information provided by CARTEGRAPH or its authorized distributor shall be treated as CARTEGRAPH confidential information.

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ARTICLE 4—SCOPE OF USE

4.1 Permitted Uses

- a. Licensee may install and store Software and Documentation on electronic storage devices, sufficient to serve the specified number of authorized users under this License Agreement. Licensee shall promptly confirm to CARTEGRAPH upon periodic request, and authorizes CARTEGRAPH to electronically retrieve from Licensee's system, information on the identity of users for the purpose of verifying compliance with the limitations on authorized users or devices and payment of required annual user License fees under this License Agreement.
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- c. Licensee may customize Software using any (i) macro or scripting language, (ii) published application programming interface, or (iii) source or object code libraries, but only to the extent that such customization is described in Documentation. Customizations employed as specifically described in the Documentation will not negate CARTEGRAPH's obligation to provide product support.
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Texas Department of Information Resources
Appendix E to DIR Contract Number: DIR-CPO-4691

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**Texas Department of Information Resources
Appendix E to DIR Contract Number: DIR-CPO-4691**

ARTICLE 5—TERM, TERMINATION, AND FEES

This License Agreement is effective upon installation of Software by or on behalf of the Licensee, or at ninety (90) days from this License Agreement signature date, whichever is first (the “Effective Date”). This License Agreement and any License granted hereunder shall continue until (i) such time that Licensee elects in writing to discontinue use of Software or Documentation and terminates such License; (ii) expiration of the License term; or (iii) either party terminates this License Agreement in accordance with the DIR Contract.

Upon termination of any License, CARTEGRAPH may, without limitation, mark such Software’s Product ID as invalid to prevent further installations or usage.

For the purposes of this License Agreement, the duration of the License shall be one (1) year from the Effective Date. Thereafter, Licensee may renew the License per annum at pricing contained in the DIR Contract. Invoices and Payments shall be handled in accordance with Section 8 of Appendix A of the DIR Contract..

ARTICLE 6—LIMITED WARRANTIES AND DISCLAIMERS

6.1 Limited Warranties. Except as otherwise provided in this Article 6, CARTEGRAPH warrants that (i) the unmodified Software will substantially conform to the published Documentation and (ii) media on which the Software and Documentation are provided will be free from defects in materials and workmanship under normal use and service for a period of ninety (90) days from the Effective Date.

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6.3 Software Disclaimer. CARTEGRAPH does not warrant Software to be error-free and does not warrant particular results of Software’s application to particular Data or Web Services nor its compatibility with particular hardware utilized by Licensee. Without abrogating the limitation of remedies elsewhere in this License Agreement, CARTEGRAPH warrants the basic functionality of Software (as modified from time to time by CARTEGRAPH through hot fixes, patches or updates addressing identified issues) in the visualization and analysis of uncorrupted and error-free data presented in a format and utilizing hardware meeting the

Texas Department of Information Resources
Appendix E to DIR Contract Number: DIR-CPO-4691

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6.6 Internet Disclaimer. THE PARTIES EXPRESSLY ACKNOWLEDGE AND AGREE THAT THE INTERNET IS A NETWORK OF PRIVATE AND PUBLIC NETWORKS AND THAT (i) THE INTERNET IS NOT A SECURE INFRASTRUCTURE, (ii) THE PARTIES HAVE NO CONTROL OVER THE INTERNET, AND (iii) EXCEPT AS PROVIDED BY THE DIR CONTRACT, NONE OF THE PARTIES SHALL BE LIABLE FOR DAMAGES UNDER ANY THEORY OF LAW RELATED TO THE DISCONTINUANCE OF OPERATION OF ANY PORTION OF THE INTERNET OR POSSIBLE REGULATION OF THE INTERNET THAT MIGHT RESTRICT OR PROHIBIT THE OPERATION OF SOFTWARE.

6.7 General Disclaimer. EXCEPT FOR THE ABOVE EXPRESS LIMITED WARRANTIES, CARTEGRAPH DISCLAIMS ALL OTHER WARRANTIES OR CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR SYSTEM INTEGRATION, AND NONINFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS. CARTEGRAPH DOES NOT WARRANT AND DISCLAIMS THAT SOFTWARE OR DOCUMENTATION WILL MEET LICENSEE'S NEEDS; THAT LICENSEE'S OPERATION OF THE SAME WILL BE UNINTERRUPTED, ERROR FREE, FAULT TOLERANT, OR FAIL SAFE; OR THAT ALL NONCONFORMITIES CAN OR WILL BE CORRECTED. SOFTWARE AND DOCUMENTATION ARE NOT DESIGNED, MANUFACTURED, OR INTENDED FOR USE IN ENVIRONMENTS OR APPLICATIONS THAT MAY LEAD TO DEATH, PERSONAL INJURY, OR PHYSICAL PROPERTY/ENVIRONMENTAL DAMAGE. ANY SUCH USE SHALL BE AT LICENSEE'S OWN RISK AND COST.

ARTICLE 7—LIMITATION OF LIABILITY

Limitation of Liability shall be handled in accordance with Section 10.L of Appendix A of the DIR Contract.

ARTICLE 8—INFRINGEMENT INDEMNITY

Infringements shall be handled in accordance with Section 10 of Appendix A of the DIR Contract.

ARTICLE 9—GENERAL PROVISIONS

9.1 Future Updates. New or updated Software and Documentation shall be governed by the DIR Contract and this License Agreement. Licensee acknowledges that from time to time this License Agreement may need to

Texas Department of Information Resources
Appendix E to DIR Contract Number: DIR-CPO-4691

be updated to address improved functionality or capabilities of Software and Documentation, and Licensee agrees not to unreasonably withhold consent to any such modification requested by CARTEGRAPH. No changes may be made to this License Agreement without written agreement of both Licensee and CARTEGRAPH.

9.2 Export Control Regulations. Licensee expressly acknowledges and agrees that Licensee shall not export, re-export, transfer, or release Software or Documentation, in whole or in part, to (i) any US embargoed country (or to a national or resident of any US embargoed country); (ii) any person on the US Treasury Department's list of Specially Designated Nationals; (iii) any person or entity on the US Commerce Department's Denied Persons List, Entity List, or Unverified List; or (iv) any person or entity where such export or re-export violates any US export control laws or regulations including, but not limited to, the terms of any export license or license exemption and any amendments and supplemental additions to US export laws as they may occur from time to time.

9.3 Taxes and Fees, Shipping Charges. Taxes shall be handled in accordance with the DIR Contract. CARTEGRAPH is responsible for all shipping and handling charges.

9.4 No Implied Waivers. The failure of either party to enforce any provision of this License Agreement shall not be deemed a waiver of the provisions or of the right of such party thereafter to enforce that or any other provision.

9.5 Severability. The parties agree that if any provision of this License Agreement is held to be unenforceable for any reason, such provision shall be reformed only to the extent necessary to make the intent of the language enforceable and the remainder of the provisions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

9.6 Successor and Assigns. Except as provided by the DIR Contract, neither party shall not assign, sublicense, or transfer such party's rights or delegate its obligations under this License Agreement without the other party's prior written consent, and any attempt to do so without consent shall be void. This License Agreement shall be binding upon the respective successors and assigns of the parties to this License Agreement.

9.7 Survival of Terms. Survival shall be handled in accordance with Section 4.E of Appendix A of the DIR Contract.

9.8 US Government Licensee. Software and Documentation are commercial computer software and commercial computer software documentation. This License Agreement contains CARTEGRAPH's commercial license terms and conditions for such items. The commercial license rights in this License Agreement strictly govern Licensee's use, reproduction, or disclosure of Software and Documentation. Except as provided by the DIR Contract, no other license terms or conditions shall apply unless expressly agreed in writing by CARTEGRAPH and Licensee. CARTEGRAPH Software source code is unpublished, and all rights to Software and Documentation are reserved. In the event any court, arbitrator, or board holds that the Licensee has greater

**Texas Department of Information Resources
Appendix E to DIR Contract Number: DIR-CPO-4691**

rights to any portion of Software or Documentation under applicable public procurement law, such rights shall extend only to the portions affected.

9.9 Governing Law, Venue. The DIR Contract, this Agreement, and any purchase order placed with CARTEGRAPH for the Licensed Product shall be governed by the laws of the State of Texas in accordance with the DIR Contract. Venue for all actions shall be in accordance with the DIR Contract.

9.10 Amendments. Except as provided by the DIR Contract and as expressly provided above, any modification or amendment to this License Agreement must be in writing and signed by both Licensee and CARTEGRAPH.

ARTICLE 10—SOFTWARE MAINTENANCE, UPDATES, UPGRADES

CARTEGRAPH provides technical support in response to specific inquiries as well as Software maintenance by way of patches, updates, upgrades, and releases as applicable for qualifying Software. Maintenance is composed of technical support, and Software and Documentation updates. CARTEGRAPH will support/maintain Software for the term of this License Agreement. Software maintenance will apply only to unmodified Software and commercially released modified versions of Software, to the extent that such customizations are in compliance with Section 4.1.c of this License Agreement. Software updates are provided only for standard hardware platforms and operating systems supported by CARTEGRAPH. Licensee is responsible for implementing provided patches, updates, upgrades, or releases to installations of Software and to any interfaces for nonstandard devices or custom applications.

CARTEGRAPH supports authorized users installing and maintaining qualifying Software, assistance in solving problems arising from the use of Software, hardware interfacing of peripheral devices, and logging of enhancement requests and problems or issues submitted by authorized users.

Licensee may contact Technical Support at: support@cartegraph.com

Standard response times are between the hours of 7:00 a.m. to 7:00 p.m. Central Time, Monday through Friday (exclusive of State of Texas published holidays listed on the Texas Comptroller of Public Accounts website at: http://www.window.state.tx.us/taxinfo/state_holidays.html).

From time to time, CARTEGRAPH will make available at no additional charge to a Licensee current in their Software payments (Term License or Maintenance) and only for their Licensed Product Configuration, the following:

- a. Updates to Software (designated as a change to the version number to the right of the decimal point, e.g., 2018.1 to 2018.2, and including minor functional enhancements and error corrections).
- b. Upgrades to Software (designated as a change to the release number to the left of the decimal point, e.g., 2018.2 to 2019.0, and including major functional enhancements)

Licensee will implement all Updates and Upgrades as soon as is reasonably practical. CARTEGRAPH will have no responsibility to provide maintenance support for any Software other than that of the current and immediately previous Software release without prior written agreement.

**Texas Department of Information Resources
Appendix E to DIR Contract Number: DIR-CPO-4691**

Licensee will be entitled to access the CARTEGRAPH CAMPUS, an online knowledgebase and information resource for users.

ARTICLE 11—MAINTENANCE SUPPORT

CARTEGRAPH will use commercially reasonable efforts to provide corrections or workaround solutions for any problem or issue reported and determined to be in Software or Documentation at no cost to Licensee for the term of this License Agreement. While it is CARTEGRAPH's goal to provide an acceptable resolution for incoming problems/issues and incidents, CARTEGRAPH cannot predict a resolution time and is unable to guarantee that all problems or issues can be resolved or addressed.

CARTEGRAPH will provide support for Software via telephone, e-mail, and web and will use commercially reasonable efforts to communicate a qualified response or status for any unresolved problems. CARTEGRAPH's assistance will consist only of providing general advice on the installation, operation and use of the Software and assistance with suspected problems with the Software.

For reported problems, CARTEGRAPH will work to determine the source of the problem and will attempt to correct documented problems reported by Licensee that CARTEGRAPH is able to recreate at its facility. Licensee shall perform tasks as requested by CARTEGRAPH to aid in the resolution of problems and shall implement all reasonable workarounds to problems as directed by CARTEGRAPH. Upon the reasonable request of CARTEGRAPH and as necessary to resolve an issue, Licensee will provide CARTEGRAPH with a copy of requested data and information in an organized and machine-readable format.

CARTEGRAPH may identify errors as arising from non-CARTEGRAPH hardware or software, or from unauthorized modifications to the Licensed Software. In such a case, CARTEGRAPH reserves the right to charge Licensee for correcting such errors at its then-current rates for such services.

ARTICLE 12—OTHER

If CARTEGRAPH fails to fulfill its obligations, Licensee's remedies shall be in accordance with the DIR Contract.

**Texas Department of Information Resources
Appendix E to DIR Contract Number: DIR-CPO-4691**

EXHIBIT A: InVision Licensed Product Configuration