

GIS DATA PRODUCTS

License Agreement

The following provisions are a license agreement between HCPSS and the undersigned customer (Customer) with respect to certain proprietary GIS Data Products (GIS Data) specified in a written request, which is considered a part of this license agreement.

The GIS Data will only be distributed to Customer on the transfer medias specified in the written request and feasible to HCPSS. Customer will need to install and operate the GIS data on properly configured and compatible computer equipment using third-party system and application software supplied by the Customer.

1. Operating Environment

In consideration for the applicable license fees, Customer will be granted a non-exclusive operations license to install, store, load, and display (collectively, Use) the GIS Data on as many local area networks and/or end-user PC or workstations as Customer reasonably needs in support of the Uses specified in Section 3 (Permitted Uses).

2. Authorized Operators

Unless otherwise specified in writing, the GIS Data Products will be operated by Customer's employees and authorized contractors only (Authorized Operators). A contractor shall be deemed authorized to Use the GIS Data Products if such Use is incidental to a larger relationship between the contractor and the Customer, and is Used for purposes no greater than reasonably needed to achieve the objectives of an actual project undertaken in connection with that relationship, and the contractor has agreed in writing to be bound by the provisions of this Agreement.

3. Permitted Uses

Customer's Authorized Operators may Use the GIS Data Products strictly in conjunction with the specific project or projects described in the written request. Authorized Operators may display the GIS Data in unaltered form, or may incorporate, in whole or part, and Use GIS Data for analysis, on plan documents prepared for the Project. Customer may distribute hard copies of such plans (and corresponding documents) to its customers, contractors, and reviewing agencies in the regular course of business related to the Project, and may submit digital versions of such plans only to public reviewing Agencies, if so required for the Project. Further reproduction or distribution of digital products containing the GIS Data is prohibited.

Customers incorporating any HCPSS GIS data into their plans under the terms of this agreement (whether by hand tracing, scanning, or importing of digital data) must place a statement of the following form in a conspicuous location on the face of such documents:

The school location and boundary line information shown on this plan is based on GIS Data from HCPSS, and may not be copied or reproduced without express written permission from HCPSS.

Customer should tailor the note slightly so as to reflect the nature of the GIS Data used, and may insert the phrase ‘in part’ between the words ‘based’ and ‘on’, if applicable.

4. Reservation of Rights

HCPSS GIS Data contains proprietary information belonging exclusively to HCPSS claims copyright and trade secret protection in the GIS Data including the selection, arrangement, and coordination of the GIS Data as a whole, and in each constituent element of data provided. Customer does not obtain any ownership or intellectual property rights in the GIS Data (including any digitally resampled or processed image derived from the GIS Data). Instead, Customer obtains a limited non-exclusive license to use the GIS Data. Customer will at all times use due diligence to safeguard and protect all such confidential and proprietary information pertaining to the GIS Data. Customer will ensure that all marks, notices, or legends pertaining to the origin, identity, or ownership of the GIS Data and all output generated from the GIS Data are properly applied and remain intact and clearly legible. HCPSS reserves all rights not expressly granted to the Customer.

5. Price and Payment

HCPSS GIS data is provided at no cost. Any cost associated with distributing data may be negotiated as needed. Hard copies of printed maps are sold through the office of public information.

6. Transfer of License

Customer may not assign, sublicense or transfer all or any part of Customer’s rights or obligations under this Agreement without HCPSS Office of School Planning’s written consent and any attempt to the contrary will be void and a material breach of this Agreement. HCPSS may withhold such consent in its sole discretion. A transfer of this Agreement will terminate any right to Customer’s continued possession or Use of the GIS Data and Customer must promptly return the original media and destroy all remaining copies of the GIS Data in Customer's possession or under Customer’s control.

7. Warranties

HCPSS MAKES NO WARRANTY, EXPRESS OR IMPLIED, AND DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, INTEGRATION, TITLE AND FITNESS OF THE GIS DATA FOR A PARTICULAR PURPOSE.

8. Liabilities

IN NO EVENT WILL HCPSS BE LIABLE, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, FOR ANY DIRECT, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES INCLUDING LOST SAVINGS OR PROFIT, ATTORNEY’S FEES, LOST DATA OR BUSINESS INTERRUPTION EVEN IF HCPSS IS NOTIFIED IN ADVANCE OF SUCH POSSIBILITY. THIS INCLUDES DAMAGES INCURRED BY CUSTOMER OR ANY THIRD PARTY.

9. Term and Termination

The term of this license will continue in full force and effect for a period of one year from the date of delivery of the GIS Data. Customer is responsible for purchasing any updated GIS Data they require during the term of this Agreement. This Agreement will terminate automatically if Customer breaches any provision of it. Customer may terminate this Agreement at any time at Customer’s election. Termination of this Agreement will terminate Customer’s right to possess or Use the GIS Data. Upon termination, Customer agrees to immediately destroy the original and all copies of the GIS Data and cease all further Use of it. Termination will have no effect on Customer’s obligation to safeguard and protect proprietary rights of HCPSS under Section 4 (Reservation of Rights), disclaimers under Section 7 (Warranties), or limitations under Section 8 (Limitation of Remedies and Liabilities).

10. Disputes, Choice of Law

THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE SUBSTANTIVE LAWS OF MARYLAND WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAW. CUSTOMER WILL BRING ANY ACTION AGAINST HCPSS IN A COURT OF COMPETENT JURISDICTION IN MONTGOMERY COUNTY, MARYLAND, WITHIN ONE YEAR AFTER THE CLAIM ARISES, OR BE BARRED. CUSTOMER WAVES ANY RIGHT TO A JURY TRIAL.

11. Miscellaneous

This License Agreement constitutes the entire and exclusive agreement between the parties with respect to the subject matter hereof and supersedes all other communications, whether written or oral. This document and a photocopy in good form shall be considered an original document with authenticated signature admissible into evidence unless the document’s authenticity is genuinely placed in question. This Agreement is expressly limited to its terms and may be modified or amended only by a writing signed by an authorized representative of HCPSS. Any provision found by a tribunal of competent jurisdiction to be illegal or unenforceable shall be automatically conformed to the minimum requirements of law and all other provisions shall remain in full force and effect. Waiver of any provision hereof in one instance shall not preclude enforcement of it on future occasions. Headings are for reference purposes only and have no substantive effect.

IN WITNESS THEREOF, for adequate consideration and intending to be legally bound, the parties have caused this Agreement to be executed by their duly authorized representatives.

HCPSS Customer:

(Agency)

Signed: _____

Name: _____

Title: _____

Date: _____