

LICENSE AGREEMENT

Effective as of the date last signed below ("Effective Date"), the University of New Brunswick (the "Licensor"), a body having corporate powers under the laws of the Province of New Brunswick, and the company named at the end of this Agreement (the "Licensee"), agree as follows:

WHEREAS, Drs. Petr Vaníček, Juraj Janak, Robert Tenzer, Mehdi Najafi, Jianliang Huang and Pavel Novak have, in the course of their research, developed a computer program and material relating to the determination of a precise geoid, and have assigned all intellectual property rights they have in this work to the Licensor; and

WHEREAS, the Licensor wishes to transfer this work for non-commercial research use and its further development and improvement, and the Licensee wishes to use this work for these purposes and on the following terms and conditions;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the premises and of the mutual covenants herein set forth, the parties hereto have covenanted and agreed as follows:

1.0 PROPERTY RIGHTS IN AND TO THE TECHNOLOGY

1.1 The parties hereby acknowledge and agree that the Licensor owns any and all right, title, and interest in and to the computer program and associated manual owned by UNB for the precise determination of geoid, and provided to the Licensee pursuant to this Agreement (the "Technology"). The parties further hereby acknowledge and agree that the Licensor owns any and all improvements, variations, updates, modifications, and enhancements made by the Licensee relating to the Technology at any time after the Effective Date (the "Improvements").

1.2 The Licensee shall, at the request of the Licensor, enter into such further agreements and execute any and all documents as may be required to ensure that ownership of the Technology and any Improvements remains with the Licensor.

1.3 In the event of development of any Improvement by the Licensee during the period in which this Agreement is in force and effect, the Licensee shall forthwith deliver in writing the details of any and all such Improvements.

2.0 GRANT OF LICENSE

2.1 In consideration of the payment reserved herein, and the covenants on the part of the Licensee contained herein, the Licensor hereby grants to the Licensee a non-exclusive license to use and modify the Technology and any Improvements during the term of this Agreement for internal, non-commercial research purposes, on the terms and conditions hereinafter set forth.

2.2 The Licensor shall provide the Technology to the Licensee within thirty (30) days of execution of this Agreement.

2.3 The computer program licensed as part of the Technology shall be stored a single location on a hard disk or other storage device, or to a file server for use on a network for the purpose of permanent installation onto hard disks or other storage devices for use of the said computer program on such a network.

- 2.4 The Licensee acknowledges that the Technology is a research tool still in the development stage and that it is being supplied "as is," without any accompanying services or Improvements from the Licensor.
- 3.0 TRANSFER
- 3.1 The Licensee shall not lease, sublicense or otherwise transfer a copy of the Technology or any Improvements to any other person, and under no circumstances will the Licensee sell, trade or otherwise accept any consideration for transfer of the Technology or any Improvements.
- 4.0 FEE
- 4.1 As part of the consideration for the rights granted by the Licensor to the Licensee hereunder, the Licensee agrees to pay to the Licensor as an initial license fee the sum of one Canadian Dollar, the receipt and sufficiency of which is hereby acknowledged by the Licensor.
- 5.0 DISCLAIMER OF WARRANTY
- 5.1 The Licensor makes no representations, conditions, or warranties, either express or implied, with respect to the Technology. Without limiting the generality of the foregoing, the Licensor specifically disclaims any implied warranty, condition, or representation that the Technology: (a) shall correspond with a particular description; (b) is of merchantable quality; (c) is fit for a particular purpose; or (d) is durable for a reasonable period of time. The Licensor shall not be liable for any loss, whether direct, consequential, incidental, or special, which the Licensee suffers arising from any defect, error, fault, or failure to perform with respect to the Technology, even if the Licensor has been advised of the possibility of such defect, error, fault, or failure.
- 5.2 Nothing in this Agreement shall be construed as: (a) a warranty or representation by the Licensor as to title to the Technology or that anything made, used, sold, or otherwise disposed of under the license granted in this Agreement is or will be free from infringement of patents, copyrights, trade-marks, industrial designs, or other intellectual property rights; (b) an obligation by the Licensor to bring or prosecute or defend actions or suits against third parties for infringement of patents, copyrights, trade-marks, industrial designs, or other intellectual property or contractual rights; or (c) the conferring by the Licensor of the right to use in advertising or publicity the name of the Licensor or any mark, trade-mark, service mark, logo, insignia, seal, design, symbol, or device used by the Licensor in any manner whatsoever.
- 6.0 INDEMNITY AND LIMITATION OF LIABILITY
- 6.1 The Licensee hereby indemnifies, holds harmless and defends the Licensor, its Board of Governors, officers, employees, faculty, students, invitees, and agents against any and all claims (including all legal fees and disbursements incurred in association therewith) arising out of the exercise of any rights under this Agreement including, without limiting the generality of the foregoing, against any damages or losses, consequential or otherwise, arising from or out of the use of the Technology or any Improvements.
- 6.2 Subject to Article 6.3, the Licensor's total liability, whether under the express or implied terms of this Agreement, in tort (including negligence), or at common law, for any loss or damage suffered by the Licensee, whether direct, indirect, special, or any other similar or like damage that may arise or does arise from any breaches of this Agreement by the Licensor, its Board of Governors, officers, employees, faculty, students, invitees, or agents, shall be limited to the amount of the initial license fee paid pursuant to Article 4.1.

- 6.3 In no event shall the Licensor be liable for consequential or incidental damages arising from any breach or breaches of this Agreement.
- 7.0 CONFIDENTIALITY
- 7.1 The Licensee shall keep and use all of the Technology and Improvements in confidence and will not, without the Licensor's prior written consent, disclose the Technology or Improvements to any person or entity, except those of the Licensee's officers, employees, consultants, agents, and assigns who have a need to know. The Licensee covenants and agrees that it will initiate and maintain an appropriate internal program limiting the internal distribution of the Confidential Information to its officers, servants, or agents and to take the appropriate non-disclosure agreements from any and all persons who may have access to the Confidential Information.
- 8.0 ASSIGNMENT
- 8.1 Neither party may assign its rights, duties or obligations under this Agreement.
- 9.0 GOVERNING LAW
- 9.1 This Agreement shall be interpreted in accordance with the laws of the Province of New Brunswick, and shall be subject to the jurisdiction of the courts of New Brunswick.
- 10.0 NOTICES
- 10.1 All reports and notices or other documents that any of the parties hereto are required or may desire to deliver to any other party hereto may be delivered only by personal delivery or by registered or certified mail, telex or telecopy, all postage and other charges prepaid, at the address for such party set forth below or at such other address as any party may hereinafter designate in writing to the others.
- 11.0 TERM AND TERMINATION
- 11.1 This Agreement and the license granted hereunder shall terminate on the expiration of copyright in the Technology and Improvements, unless earlier terminated pursuant to this Article 11.
- 11.2 The Licensee may terminate this Agreement by giving the Licensor notice in writing at least thirty (30) days in advance of the effective date of termination selected by the Licensee.
- 11.3 The Licensor may terminate this Agreement if the Licensee is in default in providing of reports or is in breach of any provision hereof and the Licensee fails to remedy any such default, breach, or false report within thirty (30) days after written notice thereof by the Licensor.
- 11.4 Surviving any termination or expiration are any cause of action or claim of the Licensor or Licensee accrued or to accrue, because of any breach of default by the other party, and the provisions of Articles 2, 5, 6, 7, and 9 and any other provisions that by their nature are intended to survive.
- 12.0 MISCELLANEOUS COVENANTS OF LICENSEE
- 12.1 The Licensee represents and warrants that it has the expertise necessary to handle the Technology with care and without danger to the Licensee, its employees, agents, or the public.

13.0 GENERAL

- 13.1 Nothing contained herein shall be deemed or construed to create between the parties hereto a partnership or joint venture. No party shall have the authority to act on behalf of any other party, or to commit any other party in any manner or cause whatsoever or to use any other party's name in any way not specifically authorized by this Agreement. No party shall be liable for any act, omission, representation, obligation, or debt of any other party, even if informed of such act, omission, representation, obligation, or debt.
- 13.2 Subject to the limitations hereinbefore expressed, this Agreement shall enure to the benefit of and be binding upon the parties, and their respective successors and permitted assigns.
- 13.3 No condoning, excusing, or overlooking by any party of any default, breach or non-observance by any other party at any time or times in respect of any covenants, provisos, or conditions of this Agreement shall operate as a waiver of such party's rights under this Agreement in respect of any continuing or subsequent default, breach or non-observance, so as to defeat in any way the rights of such party in respect of any such continuing or subsequent default or breach and no waiver shall be inferred from or implied by anything done or omitted by such party, save only an express waiver in writing.
- 13.4 In the event that any part, section, clause, paragraph, or subparagraph of this Agreement shall be held to be indefinite, invalid, illegal, or otherwise voidable or unenforceable, the entire agreement shall not fail on account thereof, and the balance of the Agreement shall continue in full force and effect.
- 13.5 This Agreement sets forth the entire understanding between the parties and no modifications hereof shall be binding unless executed in writing by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in two counterparts, each of which shall be deemed an original but which together shall constitute one and the same instrument.

THE LICENSOR OF NEW BRUNSWICK

By: _____
Name: Gregory S. Kealey
Title: Vice President, Research
Date: _____
Address: Sir Howard Douglas Hall
3 Bailey Drive
Fredericton, NB, Canada E3B 5A3

By: _____
Name: _____
Title: _____
Date: _____
Address: _____

