



Software Maintenance and Services Delivery Agreement

2915 N. Cole Rd., Boise, ID 83704 - TEL 208.514.0411

This Software Maintenance and Services Delivery Agreement (hereinafter referred to as Agreement) is made by and between the licensee printed below (hereinafter referred to as "Licensee"), and Marshall and Associates, Inc., dba MarshallGIS, (hereinafter referred to as "MarshallGIS").

DEFINITIONS:

"Software" means all or any portion of MarshallGIS proprietary software or services technology accessed or downloaded from a MarshallGIS-authorized website or delivered on any media in any format including backups, updates, service packs, patches, hot fixes or permitted merged copies.

"Services" means all or any portion of MarshallGIS Web Services, Platform as a Service Services, and/or Services delivery via virtual appliance.

ARTICLE 1---TERM AND FEE

The initial term of this Agreement will begin on receipt of order (renewal date) and will continue for twelve (12) consecutive months at the fee(s) noted in the MarshallGIS Quote. Services delivery and/or annual software maintenance will renew automatically based on the MarshallGIS quote provided 90 days prior to the renewal date, or previously agreed upon multi-year Quote. Payment is due annually in advance. If Licensee wishes to reinstate lapsed services delivery or software maintenance, Licensee agrees to pay a reinstatement fee as well as the annual service delivery or maintenance fee. Licensee agrees to pay MarshallGIS invoices before renewal date. To reinstate lapsed services delivery and/or maintenance, fees from the date maintenance and/or services delivery lapsed, in addition to the current fees, must be paid. All fees are nonrefundable.

ARTICLE 2—SOFTWARE MAINTENANCE AND SERVICES DELIVERY UPDATES

As discussed further on the MarshallGIS website named below, MarshallGIS provides technical support in response to specific inquiries as well as service delivery and software maintenance by way of patches, updates, and upgrades as applicable. Maintenance and service delivery is composed of technical support, updates, and other benefits. MarshallGIS will support/maintain the Software and Services delivery for a period of twelve (12) months. Software maintenance and Services delivery will apply only to unmodified Services and Software and commercially released updated versions of the Software and Services. Software and Services updates are provided only for standard hardware platforms and operating systems supported by MarshallGIS as described in the Software and Services documentation. Licensee is responsible for making or arranging for updates to interfaces for nonstandard devices or custom applications.

MarshallGIS services and software maintenance will be provided in compliance with the MarshallGIS **Standard Support and Maintenance Program** shown on the MarshallGIS website www.marshallgis.com. MarshallGIS supports users with the installation and maintenance of MarshallGIS Software, use of MarshallGIS Services, assistance in solving problems arising from the use of the Software and/or Services, approved hardware interfacing of peripheral devices, and logging of enhancement requests and problems or issues submitted by the user.

Licensee may contact Customer Support at:

E-mail: support@marshallgis.com

Phone: 208-514-0411

Toll-Free Phone: 1-877-348-3601

Support Web Forum: www.marshallgis.com

ARTICLE 3—TERMINATION

This Agreement may be terminated by either party giving the other party thirty (30) days' Notice of intent to terminate prior to the end of the term.

ARTICLE 4—LIMITATION OF LIABILITY AND REMEDIES

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

EXCEPT FOR THE ABOVE EXPRESS LIMITED WARRANTY, MARSHALLGIS DISCLAIMS ALL OTHER WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINTERFERENCE, SYSTEM INTEGRATION, AND NONINFRINGEMENT. MARSHALLGIS DOES NOT WARRANT THAT THE SOFTWARE, SERVICES OR DOCUMENTATION WILL MEET LICENSEE'S NEEDS, OR THAT LICENSEE'S OPERATION OF THE SAME WILL BE UNINTERRUPTED OR ERROR FREE, OR THAT ALL NONCONFORMITIES CAN OR WILL BE CORRECTED.

If MarshallGIS fails to fulfill its obligations under this Agreement, Licensee's sole and exclusive remedy is the right to terminate this Agreement immediately for the affected Software.

IN NO EVENT SHALL MARSHALLGIS BE LIABLE TO LICENSEE FOR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; LOST PROFITS; LOST SALES OR BUSINESS EXPENDITURES; INVESTMENTS; OR COMMITMENTS IN CONNECTION WITH ANY BUSINESS, LOSS OF ANY GOODWILL, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT OR USE OF THE SOFTWARE, SERVICES OR DOCUMENTATION, HOWEVER CAUSED, ON ANY THEORY OF LIABILITY, AND WHETHER OR NOT MARSHALLGIS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

ARTICLE 5—LICENSE

Maintenance, services delivery, and support are provided subject to the terms and conditions of the then-current Master License Agreement, Exhibit A General License Terms and Conditions and Exhibit B Software License Type and Scope of Use, available on MarshallGIS' website at www.marshallgis.com and included with a quote or with the deliverable Software and/or Services. Licensee may only use the type and number of copies of the Software, Services, Data, Web Services, and Documentation for which the appropriate license fees have been paid to MarshallGIS and in accordance with the Master License Agreement and Exhibits referenced above, and the licensed configuration on file with MarshallGIS Customer Support. Licensee may not assign the rights granted hereunder, or any of them, without the prior written consent of MarshallGIS.

ARTICLE 6—APPLICABLE LAWS

This Agreement is governed by and construed in accordance with the laws of the State of Idaho without reference to conflict of laws principles, except that US federal law shall govern in matters of intellectual property.

ARTICLE 7—ENTIRE AGREEMENT

This Agreement constitutes the sole and entire agreement of the parties as to the subject matter set forth herein and supersedes any previous agreements, understandings, and arrangements between the parties relating to such subject matter. Any modification(s) or amendment(s) to this Agreement must be in writing and signed by an authorized representative of each party.

The parties have agreed to these terms and have executed this Agreement on the date last signed below.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and effective as of the last date written below.

(Licensee)

By: _____
Authorized Signature

Printed Name: _____

Title: _____

Date: _____

MARSHALL AND ASSOCIATES, INC., (DBA MARSHALLGIS)

By: _____
Authorized Signature Date

Printed Name: Elizabeth Marshall

Title: CEO

Licensee Contact Information

Contact: _____

Address: _____

City, State, ZIP: _____

Telephone: _____

Fax: _____

E-mail: _____