



SMALL MUNICIPAL AND COUNTY ENTERPRISE LICENSE AGREEMENT

VertiGIS North America Ltd., 300 – 1117 Wharf St., Victoria, BC, Canada V8W 1T7 • Tel: (250) 381-8130 • Fax: (250) 381-8132

ELA Agreement No. 2024-11-811

This Small Municipal and County Enterprise License Agreement (hereafter "ELA") is between the licensee printed below ("Licensee") and VertiGIS North America Ltd. ("VERTIGIS NA"), as licensor of the Software, Data, Online Services and Documentation licensed under this Agreement. This ELA grants Licensee certain rights to use specific VERTIGIS NA Software, Data, Online Services, and Documentation and provides maintenance and basic technical support over a limited, fixed period of time from the effective date subject to payment of fees and the terms of this ELA. The Agreement includes (i) this signature page, (ii) the ELA Terms and Conditions, (iii) the Exhibits and (iv) VERTIGIS NA's ordering document, if applicable. The parties acknowledge that they have read and understood this Agreement and agree to be bound by the terms and conditions hereof as applicable to each party.


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, and any terms on Licensee's purchase order. Any modification(s) or amendment(s) to this Agreement must be accepted by an authorized representative of each party.

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

ACCEPTED AND AGREED:

Williamson County, TX

(Licensee)

By: 
Bill Gravell (Jan 15, 2025 10:07 CST)

Authorized Signature

Printed Name: Bill Gravell

Title: County Judge

Date: Jan 15, 2025

VERTIGIS NORTH AMERICA LTD.
(VERTIGIS NA)

By: 

Authorized Signature

Printed Name: Stephanie Payne

Title: Vice President, Operations

Date: December 23, 2024

Licensee Contact Information

Contact: _____

Telephone: _____

Address: _____

Fax: _____

City, State, ZIP: _____

E-mail: _____

Exhibit 1: Scope of Use

Exhibit 2: Enterprise Software and Fee Schedule

Reviewed by Contract Audit

SARA GREER, CGAP

Contract Auditor

Williamson County Auditor's Office

Date: Dec 30 2024 Time: 9:29 am

ELA TERMS AND CONDITIONS

ARTICLE 1. DEFINITIONS

Definitions. The terms used are defined as follows:

- “Data”, except as otherwise provided herein, means any digital data set(s) owned by VERTIGIS NA or its licensor(s), including, but not limited to, geographic, vector data coordinates, raster data reports, or associated tabular attributes.
- “Deploy,” “Deployed,” or “Deployment” means to redistribute and install or the redistribution and installation of the Enterprise Software or its having been redistributed and installed by Licensee on Licensee’s hardware.
- “Documentation” means all of the printed and digital materials including, but not limited to, help files, user reference documentation, training documentation, or technical information and briefings.
- “ELA Maintenance” means Tier 2 Support, updates, and patches provided by the ELA Maintenance Provider to Licensee for the Enterprise Software as described under Article 11 of the ELA.
- “ELA Fee” means the fee set forth in the ELA Quotation.
- “ELA Maintenance Provider” shall mean the provider of ELA Maintenance for Enterprise Software licensed under the ELA.
- “ELA Quotation” means the Small Local Government ELA sales quote.
- “Enterprise Software” means the Software, Data, Online Services, and Documentation identified in the ELA Quotation as Enterprise Software.
- “Incident” means a failure of the Software to operate according to the Documentation in which such failure substantially impacts operational or functional performance.
- “Licensee Content” means data submitted by Licensee to VERTIGIS NA through the Online Services.
- “Online Services” means the VERTIGIS NA computing and data services, and other software services, that are accessed over the internet and subscribed to by Licensee, including without limitation, third party software services or data components that perform GIS functions, tasks, or data services.
- “Product(s)” means the Software, Data, Online Services, and Documentation.
- “Software” means VERTIGIS NA’s proprietary and licensed software technology, computer software code, components, dynamic link libraries (DLLs), underlying organization, object model, and programs delivered on any media, including any release provided in source, object, or executable code format(s), inclusive of backups, updates, service packs, patches, hot fixes, sample code, sample application, sample extension, or merged copies permitted hereunder, excluding the Online Services and all related software and technology.
- “Samples” means sample code, sample applications, add-ons, or sample extensions of Software, Data, Documentation, or Online Services.
- “Technical Support” means a technical assistance process to troubleshoot and attempt to resolve reported Incidents through patches; hot fixes; workarounds; or any other type of Software issue resolution as specified in the most current applicable software maintenance policy of the ELA Maintenance Provider.
- “Tier 1 Help Desk” means Licensee point of contact from which all Tier 1 Support will be given to Licensee.
- “Tier 1 Support” means the Technical Support provided by the Tier 1 Help Desk as the primary contact to Licensee in attempted resolution of reported Incidents.
- “Tier 2 Support” means the Technical Support as described under Article 11 of the ELA which is provided by the ELA Maintenance Provider to the Tier 1 Help Desk when the Incident cannot be resolved through Tier 1 Support.

ARTICLE 2. INTELLECTUAL PROPERTY RIGHTS AND RESERVATIONS OR OWNERSHIP

VERTIGIS NA is the owner and/or authorized licensee of all intellectual property rights in the Product(s), including, without limitation, written materials, logos, names and other support materials provided pursuant to this ELA and prior to the execution of this ELA. Subject to the licenses expressly granted by VERTIGIS NA herein, these terms of use do not transfer from VERTIGIS NA to Licensee any interest in the Product(s), all right, title and interest in which remains solely with VERTIGIS NA or its licensors. The Product(s) are licensed and not sold. VERTIGIS NA does not and has not transferred any ownership interests in any form or manner to the Licensee. VERTIGIS NA and its licensors own the Product(s), which are protected by Canadian law and applicable international laws, treaties, and conventions regarding intellectual property or proprietary rights, inclusive of trade secrets. From the date of receipt or access, Licensee agrees to use reasonable means to protect the Product(s) from unauthorized use, reproduction, distribution, or publication. VERTIGIS NA and its licensors reserve all rights not specifically granted in this ELA including the right to change and improve or discontinue Products.

ARTICLE 3. GRANT OF LICENSE

3.1 Grant of License. Subject to the terms and conditions of this ELA, VERTIGIS NA grants to Licensee a limited term, personal, nonexclusive, nontransferable license solely to

- a. Use, copy, and Deploy an unlimited quantity of the Enterprise Software (1) for the term identified in this ELA and (2) for Licensee's own internal use.
- b. Access and use any secure VERTIGIS NA Web site resources made available to Licensee for Licensee's internal use, provided that Licensee follows VERTIGIS NA's terms of use policy specified therein. All password or controlled access information provided by VERTIGIS NA shall be treated as VERTIGIS NA confidential information.

3.2 Consultant Access. Subject to 3.1, Licensee may provide access to the Enterprise Software to any consultant or contractor of Licensee, provided consultants and contractors use is for the sole benefit of Licensee while (i) working on-site at Licensee's facilities or (ii) remotely using/accessing Enterprise Software from Licensee's on-site computers or machines. Licensee shall be responsible for compliance by consultants or contractors with the terms and conditions of this ELA. Licensee shall require consultant or contractor to discontinue use of and access to Enterprise Software upon completion of work for Licensee.

3.3 Third-Party Software. Unless included in the software for the Products, Licensee will be responsible for purchasing licenses for any third-party software that is required in connection with the use of the Products, from the third-party licensors. Use of any third-party software will be subject to the terms of the applicable third-party license agreement, and VERTIGIS NA and/or its licensors and/or its Distributor provide no warranties and will have no liability in connection with Licensee's or any other party's use of such third-party software.

ARTICLE 4. SCOPE OF USE

4.1 Permitted Uses

- a. Licensee may install and store the Software, Data, and Documentation on electronic storage device(s).
- b. Licensee may make one (1) copy of the Software, Data and Documentation for archival purposes. Licensee may make routine computer backups.
- c. Licensee may customize the Software using any (i) macro or scripting language, (ii) published application programming interface (API), or (iii) source or object code libraries, but only to the extent that such customization is described in the Documentation.
- d. Licensee may use, copy, or prepare derivative works of the Documentation supplied in digital format and thereafter reproduce, display, and redistribute the customized documentation only for Licensee's own internal use. Portion(s) of Documentation supplied in digital format merged with other software and printed or digital documentation are subject to this ELA. Licensee shall include the following copyright attribution notice acknowledging the proprietary rights of VERTIGIS NA and its licensor(s): "Portions of this document include intellectual property of VERTIGIS NA and its licensor(s) and are used herein under license. Copyright © [*Insert the actual copyright date(s) from the source materials*] VertiGIS North America Ltd. and its licensor(s). All rights reserved."

4.2 Uses Not Permitted

Except to the extent that applicable law prohibits or overrides these restrictions, or as provided herein, **Licensee shall not:**

- a. Sell, rent, lease, sublicense, lend, assign, transfer, translate, export, or time-share the Product(s).
- b. Act as a service bureau or commercial Application Service Provider (ASP) that allows third-party access to the Product(s). A commercial ASP means a licensee who uses Product(s) for a site or service, and operates the site or the service for a profit, or generates revenue by charging for access to the site or service. Licensee may only use the Product for Commercial ASP Use provided that Licensee acquires a Commercial ASP Use License.
- c. Distribute the Software to third-parties, in whole or in part, including, but not limited to, extensions, components, or DLLs without prior written approval of VERTIGIS NA.
- d. Reverse engineer, decompile, cross-assemble, or disassemble the Product(s).
- e. Remove or obscure any VERTIGIS NA (or its licensor(s)) patent, copyright, trademark, proprietary rights notices, and/or legends contained in or affixed to any Product, Product output, metadata file, or online and/or hard-copy attribution page of any Data or Documentation delivered hereunder.

- f. Make any attempt to circumvent the technological measure(s) that controls access to, or use of, the Product(s).
- g. Distribute Product authorization codes or user credentials to third parties, except as provided in this Agreement.
- h. Use Products in violation of VERTIGIS NA's, its licensor(s)', or a third party's rights, including intellectual property rights, privacy rights, non-discrimination laws, or any other applicable law or government regulation.
- i. Unbundle individual or component parts of the Software or Data for independent use.
- j. Incorporate any portion of Product into any product or service that competes with any Product.
- k. Use, incorporate, modify, distribute, provide access to, or combine any computer code provided with any Product in a manner that would subject such code or any part of the Product to open source license terms, which includes any license terms that require computer code to be (i) disclosed in source code form to third parties, (ii) licensed to third parties for the purpose of making derivative works, or (iii) redistributable to third parties at no charge.
- l. Use the Online Services to transmit spam, spoof, phish or junk email or messages, transmit offensive or defamatory material, or stalk or make threats of physical harm.
- m. Introduce any kind of malware, including but not limited to viruses, worms, Trojan horses or other harmful code that may damage the operation of the Online Services or the systems of other users of the Online Services.
- n. Attempt to gain unauthorized access to the Online Services or their related systems or networks.
- o. Use the Online Services in any manner that could damage, disable, overburden or impair any part of the Online Services, or interfere with any other user's ability to access or use the Online Services.
- p. Probe, scan or test the vulnerability of the Online Services or breach any security or authentication measures used by the Online Services.
- q. Benchmark the availability, performance, or functionality of the Online Services for competitive purposes.

ARTICLE 5. ONLINE SERVICES

5.1 User Activity. Licensee is responsible for any use of the Online Services through Licensee's account or other means of accessing the Online Services specific to Licensee, whether authorized or unauthorized.

5.2 Unauthorized Access. Licensee will use all reasonable efforts to prevent unauthorized access to or use of the Online Services and will not share any passwords, usernames, access keys or other login credentials for the Online Services. Licensee will promptly notify VERTIGIS NA of any known or suspected unauthorized access to or use of the Online Services or any loss, theft or unauthorized use of login credentials.

5.3 Modification of Online Services. VERTIGIS NA may implement updates to modify the features or functions of the Online Services ("Update") at any time and at its sole discretion. In the event an Update results in the removal of material functionality of the Online Services, VERTIGIS NA shall endeavor to provide Licensee with at least sixty (60) days notice of the Update and Licensee may, within 60 days of receiving such notice, terminate the subscription by providing written notice to VERTIGIS NA and receive a refund of any prepaid subscription fees prorated for the remainder of the subscription term following the termination date.

5.4 Suspension of Online Services. VERTIGIS NA reserves the right to temporarily suspend Licensee's access to or use of the Online Services in the event: (i) VERTIGIS NA reasonably believes that Licensee's access to or use of the Online Services may result in liability to VERTIGIS NA or adversely affect the integrity, functionality or usability of the Online Services, including without limitation, interfering with the access to or use of the Online Services by other users; (ii) Licensee is in breach of this Agreement, including without limitation, a failure to pay any amounts due under this Agreement; or (iii) the Online Services are undergoing scheduled maintenance. VERTIGIS NA shall not be responsible for any damages, liabilities or losses of Licensee in connection with any suspension of the Online Services that result from the foregoing.

5.5 Licensee Content. Licensee shall at all times remain the owner of Licensee Content. Licensee hereby grants to VERTIGIS NA a non-exclusive, royalty-free, perpetual, irrevocable, transferable, world-wide license (with the right to sublicense) to access, use, reproduce, modify, transmit, display, store, index and archive the Licensee Content solely for the purposes of: (i) providing the Online Services to Licensee, and (ii) generating and exploiting aggregated and/or statistical data, provided that such data does not contain information that is personally identifiable or identifiable with Licensee.

5.6 Transmission of Data. Licensee acknowledges that hosting data online involves risks of unauthorized access and disclosure and that such risk is inherent in Licensee's access to and use of the Online Services. Licensee agrees that VERTIGIS NA will not be responsible or liable in any manner for any Licensee Content or other data which is

lost, altered or intercepted without authorization due to errors or actions of third parties, and VERTIGIS NA offers no representations or warranties with respect to the foregoing.

5.7 Third Party Products and Services. Licensee acknowledges that the Online Services are provided in part through the use of third-party software, hardware, and hosting and storage services. While VERTIGIS NA has used reasonable efforts to engage high-quality third-party product and services providers, neither VERTIGIS NA nor its third-party suppliers shall be responsible for, and provide no representations or warranties with respect to, any third party hardware, software or services used in connection with the delivery of the Online Services.

ARTICLE 6. PRIVACY

6.1 Privacy Policy. Licensee acknowledges it has been informed about the VERTIGIS NA Privacy Policy located at <https://vertigisstudio.com/legal> (the "Privacy Policy"), which is applicable to the collection, use and disclosure by VERTIGIS NA of personal information relating to Licensee and/or its representative(s) in the context of VERTIGIS NA performing this Agreement and related purposes which is incorporated by reference into this Agreement.

6.2 Personal Data. Licensee acknowledges that Licensee Content may be capable of identifying individual users of the Online Services or other natural persons ("Personal Information"). Personal Information is collected and used by VERTIGIS NA for the purpose of providing the Online Services to Licensee in accordance with this Agreement.

6.3 Legal Compliance. Licensee shall comply with all applicable privacy laws in connection with its use of the Products and this Agreement. Without limiting the generality of the foregoing, Licensee will notify all of its personnel and other individuals using the Online Services about the information handling practices detailed in this Article 6 and the Privacy Policy and will obtain all necessary consents required under applicable privacy law from such individuals with respect to the foregoing. Licensee acknowledges and agrees that: (i) the Online Services are only offered in jurisdictions in which the Online Services are not in violation of applicable privacy laws, including without limitation, any "do not track" legislation, (the "Legal Jurisdictions"); (ii) Licensee is responsible for determining the legality of the Online Services in the Licensee's jurisdiction; and (iii) all licenses and subscriptions granted to Licensee hereunder are not valid outside the Legal Jurisdictions.

ARTICLE 7. TERM AND TERMINATION AND EXPIRATION

7.1 Term. The term of the ELA shall be three (3) years from the Effective Date, unless this ELA is terminated earlier as provided herein. The term of all licenses and the authorized period of use for all Enterprise Software Deployed shall be concurrent with the term of this ELA.

7.2 Termination for Lack of Funds. Either party may terminate this ELA for Lack of Funds. Lack of Funds is the inability of Licensee to secure appropriation of funds through the legislative or governing body's approval process for annual payments due.

7.3 Termination for a Material Breach. Either party may terminate this ELA for a material breach by the other party. The breaching party shall be given a period of ten (10) days from date of written notice to cure any material breach.

7.4 No Use Upon Expiration or Termination. Upon expiration or termination of this ELA, all Enterprise Software Deployed, shall terminate. Licensee shall cease access and use of Online Services and clear Online Services client-side data cache and uninstall, remove, and destroy all Deployed Software, Data, and Documentation and any whole or partial copies, modifications, media, or merged portions in any form and execute and deliver evidence of such actions to VERTIGIS NA. ELA Maintenance and any other products or services provided as part of this Agreement shall also terminate.

ARTICLE 8. LIMITED WARRANTIES AND DISCLAIMERS

8.1 Limited Warranties. For a period of ninety (90) days from the date of receipt of Software or Online Services authorization or keycode file(s) by Licensee, VERTIGIS NA warrants that (i) the unmodified Software and Online Services will substantially conform to the published Documentation and (ii) the media upon which the Software, Data, and Documentation is provided will be free from defects in materials and workmanship under normal use and service.

8.2 Data Disclaimer. If included under this ELA, Licensee acknowledges and agrees that the Data has been obtained from sources believed to be reliable, but the accuracy and completeness of the Data are not guaranteed and the Data may contain some nonconformities, defects, errors, or omissions. VERTIGIS NA AND ITS LICENSOR(S) MAKE NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE DATA, AND THE

DATA IS PROVIDED "AS IS." Without limiting the generality of the preceding sentence, VERTIGIS NA and its licensor(s) do not warrant that the Data will meet Licensee's needs or expectations, that the use of the Data will be uninterrupted, or that all nonconformities can or will be corrected. VERTIGIS NA and its licensor(s) are not inviting reliance on the Data, and Licensee should always verify Data before any such reliance.

8.3 Fault Tolerance Disclaimer

The Product(s) are not fault-tolerant and are not designed, manufactured, or intended for resale or use in insurance underwriting or with critical health and safety or online control equipment in hazardous environments that require fail-safe performance, such as, but not limited to, in the operation of nuclear facilities, aircraft navigation, or communication systems, air traffic control, real-time emergency response, real-time terrorism prevention or response, life support, or weapons systems ("Fault-Intolerant Activities"). VERTIGIS NA, ITS DISTRIBUTOR, AND ITS LICENSOR(S) SPECIFICALLY DISCLAIM ANY EXPRESS OR IMPLIED WARRANTY OF FITNESS FOR USE IN FAULT-INTOLERANT ACTIVITIES.

8.4 Special Disclaimer. SAMPLES AND HOT FIXES ARE DELIVERED "AS IS" WITHOUT WARRANTY OF ANY KIND. LICENSEE ASSUMES ALL RISK AS TO THE QUALITY AND PERFORMANCE OF THE SAMPLES AND HOT FIXES.

8.5 Internet Disclaimer. THE PARTIES EXPRESSLY ACKNOWLEDGE AND AGREE THAT THE INTERNET IS A NETWORK OF PRIVATE AND PUBLIC NETWORKS, AND THAT (1) THE INTERNET IS NOT A SECURE INFRASTRUCTURE, (2) THE PARTIES HAVE NO CONTROL OVER THE INTERNET, AND (3) NONE OF THE PARTIES ARE LIABLE FOR DAMAGES UNDER ANY THEORY OF LAW RELATED TO THE DISCONTINUANCE OR OPERATION OR SERVICE INTERRUPTIONS TO ANY PORTION OF THE INTERNET OR RELATED INFRASTRUCTURE OR POSSIBLE REGULATION OF THE INTERNET THAT MIGHT RESTRICT OR PROHIBIT THE OPERATION OF THE ONLINE SERVICES. LICENSEE FURTHER ACKNOWLEDGES THAT USE OF THE ONLINE SERVICES INVOLVES RISKS OF UNAUTHORIZED ACCESS AND DISCLOSURE AND THAT SUCH RISK IS INHERENT IN LICENSEE'S ACCESS TO AND USE OF THE ONLINE SERVICES. LICENSEE AGREES THAT VERTIGIS NA WILL NOT BE RESPONSIBLE OR LIABLE IN ANY MANNER FOR ANY LICENSEE CONTENT OR OTHER DATA WHICH IS LOST, ALTERED OR INTERCEPTED WITHOUT AUTHORIZATION DUE TO THE ERRORS OR ACTIONS OF THIRD PARTIES AND VERTIGIS NA OFFERS NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE FOREGOING.

8.6 General Disclaimer. EXCEPT FOR THE ABOVE EXPRESS LIMITED WARRANTIES, VERTIGIS NA AND ITS LICENSOR(S) DISCLAIM ALL OTHER WARRANTIES OR CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY OR COMPLETENESS, NONINTERFERENCE, SYSTEM INTEGRATION, AND NONINFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS. VERTIGIS NA DOES NOT WARRANT THAT THE PRODUCT(S) WILL MEET LICENSEE'S NEEDS, OR THAT LICENSEE'S OPERATION OF THE SAME WILL BE UNINTERRUPTED, ERROR FREE, FAULT TOLERANT, FAIL-SAFE OR THAT ALL NONCONFORMITIES CAN OR WILL BE CORRECTED. PRODUCT(S) ARE NOT DESIGNED, MANUFACTURED, OR INTENDED FOR USE IN ENVIRONMENTS OR APPLICATIONS THAT MAY LEAD TO DEATH, PERSONAL INJURY, OR PHYSICAL PROPERTY/ENVIRONMENTAL DAMAGE.

8.7 Exclusive Remedy. Licensee's exclusive remedy and VERTIGIS NA's entire liability for breach of the limited warranties set forth in this Article 8 shall be limited, at VERTIGIS NA's sole discretion, to (i) replacement of any defective media; (ii) repair, correction, or provision of a work-around for the defective Software or Online Services such that it substantially conforms to the published Documentation; or (iii) a refund of the License fees actually paid by Licensee for the defective Software or Online Services, provided that the Licensee uninstalls, removes, or destroys all copies of the Software and ceases access to and use of the Online Services, and executes and delivers evidence of such actions to VERTIGIS NA or its Distributor.

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9.2 General Limitation of Liability. EXCEPT AS PROVIDED IN ARTICLE 9—INFRINGEMENT INDEMNITY, VERTIGIS NA'S TOTAL CUMULATIVE LIABILITY HEREUNDER, INCLUDING, BUT NOT LIMITED TO, CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, BREACH OF WARRANTY, MISREPRESENTATION, OR OTHERWISE, SHALL NOT EXCEED THE AMOUNTS PAID BY LICENSEE FOR ENTERPRISE SOFTWARE PURSUANT TO THIS ELA.

9.3 Applicability of Disclaimers and Limitations. . Licensee agrees that the limitations of liability and disclaimers set forth in this ELA will apply regardless of whether Licensee has accepted the Product(s) or any other product or service delivered by VERTIGIS NA or its distributor. The parties agree that VERTIGIS NA or its distributor has set its prices and entered into this ELA or agreed to the supply of the Product(s) or maintenance and/or technical support services for Products licensed under this ELA in reliance upon the disclaimers and limitations set forth herein, and that the same form an essential basis of the bargain between the parties.

THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

THE FOREGOING WARRANTIES, LIMITATIONS, AND EXCLUSIONS MAY NOT BE VALID IN SOME JURISDICTIONS AND APPLY ONLY TO THE EXTENT PERMITTED BY APPLICABLE LAW IN LICENSEE'S JURISDICTION. LICENSEE MAY HAVE ADDITIONAL RIGHTS UNDER LAW THAT MAY NOT BE WAIVED OR DISCLAIMED. VERTIGIS NA DOES NOT SEEK TO LIMIT LICENSEE'S WARRANTY OR REMEDIES TO ANY EXTENT NOT PERMITTED BY LAW.

ARTICLE 10. INFRINGEMENT INDEMNITY

10.1 VERTIGIS NA shall defend, indemnify as described below, and hold harmless Licensee from and against any loss, liability, cost, or expense, including reasonable attorney's fees, arising out of any claims, actions, or demands by a third party alleging that Licensee's use of the Software or Online Services infringes a U.S. or Canadian patent, copyright, or trademark provided:

- a. Licensee promptly notifies VERTIGIS NA in writing of the claim;
- b. Licensee provides VERTIGIS NA documents describing the allegations of infringement;
- c. VERTIGIS NA has sole control of the defense of any actions and negotiations related to the defense or settlement of any claim; and
- d. Licensee reasonably cooperates fully in the defense of the claim at VERTIGIS NA's request.

10.2 If the Software or Online Services is found to infringe a Canadian or US patent, copyright, or trademark, VERTIGIS NA, at its own expense, may either (i) obtain rights for Licensee to continue using the Software or Online Services, or (ii) modify the allegedly infringing elements of the Software or Online Services while maintaining substantially similar functionality. If neither alternative is commercially reasonable, the License shall terminate, and Licensee shall cease accessing or using the infringing Software or Online Services, and shall uninstall and return to VERTIGIS NA or its Distributor any infringing item(s). VERTIGIS NA's entire liability shall then be to indemnify Licensee pursuant to Article 10.1 and refund the License fees paid with respect to the remainder of the Term.

10.3 VERTIGIS NA shall have no obligation to indemnify or defend Licensee or to pay any resultant costs, damages, or attorney's fees for any claims or demands alleging direct or contributory infringement to the extent arising out of (i) the combination or integration of the Software or the Online Services with a product, process, or system not supplied by VERTIGIS NA or specified by VERTIGIS NA in its Documentation; (ii) material alteration of the Software or the Online Services by anyone other than VERTIGIS NA or its subcontractors; or (iii) use of the Software or the Online Services after modifications have been provided by VERTIGIS NA for avoiding infringement or use after a return is ordered by VERTIGIS NA under Article 10.2.

10.4 THE FOREGOING STATES THE ENTIRE OBLIGATION OF VERTIGIS NA, ITS LICENSOR(S) AND ITS DISTRIBUTOR WITH RESPECT TO INFRINGEMENT OR ALLEGATION OF INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY.

ARTICLE 11. ELA MAINTENANCE

ELA Maintenance for Software provided under this ELA is included with the ELA Fee. ELA Maintenance includes standard maintenance benefits specified in the most current applicable software maintenance policy of the ELA Maintenance Provider available at <https://vertigisstudio.com/legal> as modified by this Article 11—ELA Maintenance.

a. Tier 1 Support Provided by Licensee

- (1) Licensee shall provide Tier 1 Support through the Tier 1 Help Desk to all Licensee's authorized users.
- (2) The Tier 1 Help Desk shall use analysts fully trained in the Software they are supporting.
- (3) At a minimum, Tier 1 Support shall include those activities that assist Licensee in resolving how-to and operational questions as well as questions on installation and troubleshooting procedures.
- (4) Tier 1 Support analysts shall be the initial points of contact for all questions and Incidents. Tier 1 Support analysts shall obtain a full description of each reported Incident and the system configuration from Licensee. This may include obtaining any customizations, code samples, or Data involved, if applicable, to the Incident. Analysts shall also use any other information and databases they may develop to satisfactorily resolve Incidents.
- (5) If the Tier 1 Help Desk cannot resolve the Incident, and authorized Tier 1 Help Desk individual may contact Technical Support of the ELA Maintenance Provider. The Tier 1 Help Desk shall provide support in such a way as to minimize repeat calls and make solutions to problems available to Licensee.
- (6) The Licensee may assign up to two (2) Tier 1 Help Desk individuals who will be the only individuals authorized to contact the ELA Maintenance Provider directly for Tier 2 Support. The Licensee shall identify such individuals in writing to the ELA Maintenance Provider. Licensee may revise such individuals upon written notice to the ELA Maintenance Provider.

b. Tier 2 Support Provided by the ELA Maintenance Provider

- (1) ELA Maintenance Provider shall log calls received from the Tier 1 Help Desk individuals.
- (2) ELA Maintenance Provider shall attempt to resolve the Incident by assisting the Tier 1 Help Desk individuals.
- (3) When the Incident is resolved, ELA Maintenance Provider shall communicate the information to the Tier 1 Help Desk individuals, and the Tier 1 Help Desk shall disseminate the resolution to Licensee.
- (4) Tier 2 Support does not include Technical Support for troubleshooting access to Online Services, including access to Software licensed as software-as-a-service (SaaS). Incidents specific to a SaaS version of the Software are eligible for Tier 2 Support.

VERTIGIS NA may, at VERTIGIS NA's sole discretion, make patches, hot fixes, or updates available for downloading from VERTIGIS NA's Web site or through any other means authorized by VERTIGIS NA.

ARTICLE 12. ORDERING, ADMINISTRATIVE PROCEDURES, DELIVERY, AND DEPLOYMENT

12.1 Purchase Orders, Delivery, and Deployment

- a. Licensee shall issue a Purchase Order payable to VERTIGIS NA or Distributor upon execution of the ELA and annually thereafter in accordance with the payment schedule. Payment shall be due and payable within thirty (30) days of the anniversary date of the Effective Date, with the initial payment due within thirty (30) days of execution of the ELA.
- b. Upon receipt of the initial Purchase Order from Licensee, VERTIGIS NA shall make available for access the Software, Data, and Documentation to Licensee for Deployment activities.
- c. VERTIGIS NA shall provide registration numbers or keycodes, as applicable, to activate the Software.
- d. Licensee shall Deploy, install, configure, and track installation of the Software.

12.2 Purchase Order Requirements

- a. All orders pertaining to this ELA shall be processed through Licensee's centralized point of contact.
- b. The following information shall be included in each Purchase Order:
 - (1) Licensee name, VERTIGIS NA customer number, if known, and bill-to and ship-to addresses
 - (2) Purchase Order number
 - (3) Applicable annual payment due
 - (4) On the face page of its Purchase Order (or ordering document), Licensee shall insert: THIS PURCHASE ORDER IS GOVERNED BY THE TERMS AND CONDITIONS OF THE SMALL MUNICIPAL AND COUNTY ELA, AND ANY DIFFERENT OR ADDITIONAL TERMS AND CONDITIONS IN OR WITH THIS PURCHASE ORDER SHALL NOT APPLY.

ARTICLE 13. GENERAL PROVISIONS

13.1 Future Versions. Updated or new Enterprise Software may require additional or revised terms and conditions. Terms and conditions subject to revision are limited to Article 1—Definitions, Article 4—Scope of Use and Exhibit 1—Scope of Use (L300), or any term as required by law. VERTIGIS NA may provide notice of the revisions to Licensee in writing. The revisions shall be incorporated into this ELA upon use of the updated or new Enterprise Software. Should Licensee reject the revisions, then Licensee shall not install or use the revised, updated, or new Enterprise Software.

13.2 Renewal. Upon expiration of this ELA, the parties will evaluate Licensee's requirements. Any follow-on ELA will be offered in accordance with license terms and conditions and pricing then in effect and based upon Licensee's then current population count.

13.2 Export Control Regulations. Licensee expressly acknowledges and agrees that Licensee shall not export, reexport or provide the Enterprise Software in whole or in part, to (i) with the exception of Cuba, any country to which Canada or the United States has embargoed goods; (ii) any person on the U.S. Treasury Department's list of Specially Designated Nationals; (iii) any person or entity on the U.S. Commerce Department's Table of Denial Orders; or (iv) any person or entity where such export, reexport, or provision violates any export control laws or regulations including amendments and supplemental additions as they may occur from time to time.

13.3 Taxes and Fees. License fees quoted to Licensee are exclusive of any and all taxes or fees, including, but not limited to, sales tax, use tax, value-added tax (VAT), customs, duties, or tariffs, and shipping and handling charges. Licensee is tax exempt.

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

13.5 Severability. If any provision of this Agreement is held to be unenforceable for any reason, (i) such provision will be reformed only to the extent necessary to make the intent of the language enforceable, and (ii) all other provisions of this Agreement will remain in effect.

13.6 Successor and Assigns. Licensee shall not assign, sublicense, or transfer Licensee's rights or delegate its obligations under this ELA without VERTIGIS NA's prior written consent, and any attempt to do so without consent shall be void. This ELA shall be binding upon the respective successors and assigns of the parties to this ELA.

13.7 Equitable Relief. The parties agree that any breach of this ELA may cause irreparable damage and that, in the event of such breach, in addition to any and all remedies at law, VERTIGIS NA or Distributor shall have the right to seek an injunction, specific performance, or other equitable relief in any court of competent jurisdiction.

13.8 Force Majeure. Except with respect to payment obligations under this ELA, none of the parties shall be held liable or responsible to the other party nor be deemed to have defaulted under or breached this ELA for failure or delay in fulfilling or performing any obligation under this ELA when such failure or delay is caused by or results from, directly or indirectly, causes beyond the reasonable control of the affected party, including but not limited to fire, floods, earthquakes, epidemic, embargoes, war, acts of war (whether war is declared or not), insurrections, riots, civil commotions, strikes, lockouts or other labor disturbances, cyberattacks, disruptions or outages of third party services, acts of God or acts, omissions or delays in acting by any governmental authority; provided, however, that the affected party shall use reasonable commercial efforts to avoid or remove such causes of nonperformance, and shall resume performance hereunder as commercially reasonable whenever such causes are removed. The affected party shall provide the other parties with prompt written notice of any delay or failure to perform that occurs by reason of Force Majeure.

13.9 Survival of Terms. The provisions of Articles 2, 6, 8, 9, 10 and 13 of this ELA shall survive the expiration or termination of this ELA.

13.10 Governing Law, Arbitration

This ELA shall be governed by and construed in accordance with the laws of Texas and the jurisdiction of Williamson County without reference to its conflict of laws principles.

EXHIBIT 1
SCOPE OF USE (SMC)
(L300 04/2023)

The scope of use for each VERTIGIS NA Software identified below is described in the applicable footnotes listed in parentheses.

VertiGIS Studio Enterprise Edition (1, 2, 3, 5, 6, 7, 8)

- VertiGIS Studio Workflow (15, 16, 19)
- VertiGIS Studio Reporting (15, 16, 19, 22)
- VertiGIS Studio Printing (15, 16, 19, 22)
- VertiGIS Studio Workflow Builder Edition (15, 17, 19)
- VertiGIS Studio Reporting Builder Edition (15, 17, 19, 22)
- VertiGIS Studio Printing Builder Edition (15, 17, 19, 22)
- VertiGIS Studio Mobile (GXM) (15, 19, 20, 21)
- VertiGIS Studio Web (GXW) (15, 19, 20)
- VertiGIS Studio Access Control (16, 19)
- VertiGIS Studio Search (19)

VertiGIS Studio Analytics (5, 7, 8, 19)

VertiGIS Studio Item Manager (19, 23)

1. "Development Server License." Licensee may install and use the Software on a single computer to design and build applications that interface with or utilize server Software as described in the Documentation.
2. "Staging Server License." Licensee may use and install the Software for the following purposes; user acceptance testing, performance testing, load testing of other third-party software, staging new commercial data update, and training activities.
3. "Production Server License." Licensee may install and use the Software or Data to provide services to multiple users on the same or other computer(s).
4. "Single Application License." Licensee may install and use the Software or Data for one (1) web-GIS application serving multiple users on the same or other computer(s). An application is defined as a discrete web-GIS viewer with a specific URL.
5. "License." Licensee may use the subscription(s), Software, Online Services and Data for a limited time period. When the license term expires Licensee must either stop using the subscription(s), Software, Online Services, and Data, or renew or extend the license upon payment of applicable fees. Licensing is based on the greater of the number of Licensee's activated ArcGIS® Identities (Online and Portal combined) or the number of ArcGIS® Enterprise GIS Server ArcGIS® Server and ArcGIS® Enterprise cores deployed by Licensee.
6. Extensions to Software programs and GEDS Software follow the same scope of use as that granted for the corresponding Software programs.
7. The administrative tools for the Software may be copied and redistributed throughout the Licensee's organization.
8. Redundant Software installation(s) for failover operations may be implemented during the period the primary site is nonoperational. The redundant Software installation(s) shall remain dormant except for system maintenance and updating of databases while the primary site or any other site is operational.
9. Reserved.
10. Reserved.
11. Reserved.
12. Reserved.
13. Reserved.
14. Reserved.
15. For Commercial ASP Licensees, Commercial ASP Use is restricted to on premise deployment.
16. Licensed for use with a VertiGIS Studio or Geocortex Viewer (GVH). Not for use with Esri's Web AppBuilder for ArcGIS®.
17. Licensed for use with Esri's Web AppBuilder for ArcGIS®. Not for use with a VertiGIS Studio or Geocortex Viewer (GVH).
18. Reserved.
19. Active VertiGIS Studio subscription required to use this Product.

20. Value-Added Applications:

- i. Value-Added Applications built with the Product are subject to the terms of use of ArcGIS Runtime Standard Level. Value-Added Application means an application developed by Licensee for use in conjunction with the authorized use of the Products.
- ii. Licensee may use the Product to create Value-Added Applications and distribute and license those Value-Added Applications to its end users in accordance with this Agreement to use anywhere not prohibited under export regulation or in violation of applicable privacy regulations and laws. Licensee is responsible compliance with applicable export control regulations and laws.
- iii. Licensee is responsible for the development, operation, and technical support of Licensee Content and Value-Added Applications.

21. Licensee may not use the Product to develop Internet or server-based Value-Added Applications.

22. Subscription license includes a SaaS consumption limit of 1GB per month. Licensee consumption in excess of 1GB per month may result in additional consumption costs to Licensee.

23. VERTIGIS NA disclaims and makes no representations or warranties whatsoever and provides no indemnities to Licensee for this Product or Licensee's use thereof. The Product is offered as-is and is available for use at Licensee's own risk. There is no maintenance or technical support provided for this Product. VERTIGIS NA reserves the right to discontinue this Product in its sole discretion without providing notice to Licensee.

EXHIBIT 2
ENTERPRISE SOFTWARE AND FEE SCHEDULE

Licensee may Deploy the Software, Data, and Documentation and access Online Services up to the total quantity of licenses indicated below to Licensees. The quantities identified are the cumulative quantities available in any given year for the term of this ELA.

Table A
Enterprise License Software

Product	Total Qty
SMC-ELA includes: <ul style="list-style-type: none"> • VertiGIS Studio Workflow for use with Geocortex Viewer for HTML5, VertiGIS Studio Web or Web AppBuilder for ArcGIS® • VertiGIS Studio Reporting for use with for use with Geocortex Viewer for HTML5, VertiGIS Studio Web or Web AppBuilder for ArcGIS® • VertiGIS Studio Printing for use with for use with Geocortex Viewer for HTML5, VertiGIS Studio Web or Web AppBuilder for ArcGIS® • VertiGIS Studio Item Manager • VertiGIS Studio Access Control • VertiGIS Studio Mobile • VertiGIS Studio Web • VertiGIS Studio Search • VertiGIS Studio Analytics • Maintenance and unlimited basic technical support 	Unlimited
Virtual or Self-Directed Training Courses	1 course (Year 1)
VertiGIS Studio Solutions Engineer (Year 1)	4 hours

Table B
Enterprise License Software

The ELA Fee is \$ USD. The ELA Fee is in consideration of the Enterprise License Software, inclusive of the ELA Maintenance and basic technical support for the Term of this ELA. The Offer below expires Jan 31, 2025.

	Year 1*	Year 2	Year 3	ELA Fee
Payments	\$32,434	\$36,650	\$36,650	\$105,734

*Year 1 includes a credit of \$4216 for Maintenance Paid up to Jan 15th 2024. The credit calculated is dependent upon the date of signature and will be re-calculated if the agreement is signed on a different date.