

MapSherpa API Terms of Use

MapSherpa API License Agreement

BY USING THE MAPSHERPA API (“PRODUCT”) IN ANY FASHION YOU (“LICENSEE”) AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT. DM SOLUTIONS GROUP INC. (“DMSG”) MONITORS USE OF THIS SERVICE AND ENFORCES THIS AGREEMENT. PLEASE READ THIS AGREEMENT CAREFULLY.

1. Product:

DMSG agrees to provide the Product in accordance with the terms of this agreement. The Product is provided on per server basis. The Licensee is obligated to report to DMSG at such time as its server usage increases beyond the initial contracted usage. DMSG will license additional servers based on its current price list. The Product consists of a set of software tools that allows the Licensee to display MapSherpa maps on a website, subject to the limitations and conditions described below. The Product is limited to allowing the Licensee to display maps only, and does not provide the Licensee with the ability to access the underlying map data. In the event that map data is provided to the Licensee, the Licensee will be bound by the associated data license agreement. DMSG reserves the right to release subsequent versions of the Product and to require the Licensee to obtain and use the most recent version.

2. Usage:

The Product may be used for services that are generally accessible to consumers with or without charge but may not be used for the redistribution of map images to other commercial or consumer web services. The end user may view or print a map image, but shall not be permitted to retrieve by any means any vector graphics in any format. For the purpose of this Agreement, map image “Map Image” shall be defined as a bit-mapped (raster) graphics image (including without limitation GIF or JPEG formatted images) derived from the product, or encrypted vector images (including without limitation Adobe Postscript, Adobe Encapsulated Postscript or Adobe Acrobat formatted images) derived from the product. The Licensee shall further advise all end users that they are prohibited from distributing, electronically or otherwise, the printed map images or using them to create any other product for distribution. Purchase of the Product does not entitle the Buyer or any other party to reproduce or make copies of the Product or any component thereof or to reproduce or transmit the design or any information about the design in any way whatsoever.

3. Acknowledgement:

Licensee agrees that it shall place the following acknowledgments in the Developed Application “© 2006 DM Solutions Group, Inc.” or similar, appropriate wording on every map, or on every page where maps are presented with a hyperlink to <http://maps.dmsolutions.ca> in the Developed Application and in such a manner that this

acknowledgement is plainly visible and readable by Licensee's Ultimate Information Consumers during and throughout their utilization of the Developed Application.

4. Warranty:

ALL EXPRESS OR IMPLIED CONDITIONS, REPRESENTATIONS, AND WARRANTIES INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, SATISFACTORY QUALITY, NON-INTERFERENCE, ACCURACY OF INFORMATIONAL CONTENT, OR ARISING FROM A COURSE OF DEALING, LAW, USAGE, OR TRADE PRACTICE, ARE HEREBY EXCLUDED TO THE EXTENT ALLOWED BY APPLICABLE LAW AND ARE EXPRESSLY DISCLAIMED BY DMSG, ITS SUPPLIERS AND LICENSORS. TO THE EXTENT AN IMPLIED WARRANTY CANNOT BE EXCLUDED, SUCH WARRANTY IS LIMITED IN DURATION TO THE EXPRESS WARRANTY PERIOD. BECAUSE SOME STATES OR JURISDICTIONS DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, THE ABOVE LIMITATION MAY NOT APPLY. THIS WARRANTY GIVES SPECIFIC LEGAL RIGHTS, AND ULTIMATE INFORMATION CONSUMERS MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM JURISDICTION TO JURISDICTION. THIS DISCLAIMER AND EXCLUSION SHALL APPLY EVEN IF THE EXPRESS WARRANTY SET FORTH ABOVE FAILS OF ITS ESSENTIAL PURPOSE.

5. Limitation of Liability:

In no event shall DMSG, its officers, directors, employees, agents, or servants be liable to the Buyer or any other party for any loss of profit, loss of use, incidental, consequential or special damages arising out of the sale, delivery, servicing, use, loss of use, of the products/ services or of any part thereof, irrespective of whether DMSG or any of its officers, directors, employees, agents, or servants has advance notice of the possibility of such damages. In no event will the total liability to the Buyer exceed the sum paid to DMSG by Buyer for the products/ services under this agreement in the two months preceding the date that a claim arose.

6. Proprietary Rights:

Licensee acknowledges that DMSG owns all right, title and interest, including without limitation all Intellectual Property Rights, in and to the Product and that Licensee shall not acquire any right, title, or interest in or to the Product, except as expressly set forth in this Agreement.

7. Term and Termination:

The term of this Agreement will commence on the date that a purchase order is received from the customer. The term will must be renewed on an annual basis unless otherwise negotiated with DMSG. Failure to renew this Agreement on its anniversary or to upgrade

the license to accommodate the addition of new servers will automatically terminate this Agreement.

DMSG shall be entitled to terminate this Agreement during the Term with immediate effect by notice if:

a) the Buyer has committed a material breach of its obligations hereunder; or b) upon the Buyer passing a resolution for winding-up (save for the purposes of amalgamation or reconstruction where the amalgamated or reconstructed company agrees to adhere to this Agreement; or c) suffering a winding-up order being made against it or going into administration; or d) if a receiver or administrative receiver is appointed or an encumbrancer takes possession of the undertaking or assets (or any part thereof) of the Buyer; or e) if the Buyer is unable to pay its debts or ceases to or threatens to cease to carry on its business or enters into a composition with its creditors.

Upon termination of this Agreement, Licensee will remove all copies of the Product from all servers on which it is installed.

8. General:

Either party's lack of enforcement of any provision in this Agreement in the event of a breach by the other shall not be construed to be a waiver of any such provision and the non-breaching party may elect to enforce any such provision in the event of any repeated or continuing breach by the other.

A valid Licensee for the use of the Product, binding upon the parties hereto shall come into being only upon execution of this Agreement by a duly authorized representative of Licensee and DMSG.

This Agreement is the exclusive statement of the entire agreement between DMSG and the Licensee and supersedes all prior oral or written representations or agreements between the parties as to the subject matter hereof. No amendment hereto shall be valid except as may be in writing and signed by the duly authorized representative of each party hereto.

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario CANADA.

The particular provisions of this Agreement shall be deemed confidential and neither Licensee nor Reseller shall divulge any of its provisions to any third parties except as may be required by law.

If any provision or provisions of this Agreement are held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the date first above written.

DM Solutions Group Inc. Licensee

Per: _____ Per: _____

Date: _____ Date: _____