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9.2 Governing Law and Jurisdiction. This Agreement will be governed by and construed in accordance with the laws of (a) Switzerland if Licensee acquired the Open Spatial Materials in a country in Europe, Africa or the Middle East, (b) Singapore if Licensee acquired the Open Spatial Materials in a country in Asia, Oceania or the Asia-Pacific region, or (c) the State of California (and, to the extent controlling, the federal laws of the United States) if Licensee acquired the Open Spatial Materials in a country in the Americas (including the Caribbean) or any other country not specified in this Section 9.2 (Governing Law and Jurisdiction). The laws of such jurisdictions shall govern without reference to the conflicts-of-laws rules thereof. The UN Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transaction Act shall not apply to (and are excluded from the laws governing) this Agreement. In addition, each party agrees that any claim, action or dispute arising under or relating to this Agreement will be brought exclusively in (and the parties will be subject to the exclusive jurisdiction of) the Superior Court of the State of California, County of Marin, or the United States District Court for the Northern District of California in San Francisco, except that if Licensee has acquired the Open Spatial Materials in (a) a country in Europe, Africa or the Middle East, any such claim or dispute will be brought exclusively in (and the parties will be subject to the exclusive jurisdiction of) the courts of Switzerland, or (b) a country in Asia, Oceania or the Asia-Pacific region, any such claim or dispute will be brought exclusively in (and the parties will be subject to the exclusive jurisdiction of) the courts of Singapore. Nothing in the foregoing will prevent Open Spatial from bringing an action for infringement of intellectual property rights in any country where such infringement is alleged to occur.

9.3 No Assignment; Insolvency. Licensee may not assign this Agreement or any rights hereunder (whether by purchase of stock or assets, merger, change of control, operation of law, or otherwise) without Open Spatial prior written consent, which may be withheld in Open Spatial sole and absolute discretion, and any unauthorized purported assignment by Licensee will be void. In the context of any bankruptcy or similar proceeding, Licensee acknowledges and agrees this Agreement is and shall be treated as an executory contract that may not be assumed and/or assigned without Open Spatial prior written consent, which consent may be withheld in Open Spatial sole and absolute discretion whether pursuant to Section 365(c)(1) of Title 11 of the United States Code or any other applicable law respecting the treatment of executory contracts within bankruptcy. Any assignment (regardless of how or on what basis the assignment may occur) will be conditioned on compliance with the following: at least thirty (30) days before assigning or agreeing to any assignment of rights under this Agreement (including transferring any copies of or right to use the Software), (a) Licensee must provide written notice to Open Spatial, Uninstall all copies of the Software, and (without limitation of the generality of Section 9.7 (Audits)) allow Open Spatial or its designee to inspect the records, systems and facilities of (or operated for) Licensee and its subsidiaries and affiliates to verify (by any means available to Open Spatial, whether remotely or on premises) that all copies of the Software have been Uninstalled, (b) the proposed assignee must agree to comply (and Licensee must ensure that the assignee will comply) with all of the obligations of this Agreement with respect to such Software, which agreement must provide that Open Spatial is a third-party beneficiary of the assignee's agreement, and the assignee must provide a copy of the agreement to Open Spatial, and (c) Licensee and proposed assignee must comply with all other transfer procedures identified by Open Spatial.

9.4 Open Spatial Subsidiaries and Affiliates. Licensee acknowledges and agrees that Open Spatial may arrange to have its subsidiaries and affiliates engage in activities in connection with this Agreement, including, without limitation, delivering Open Spatial Materials and providing Relationship Programs and Services, provided that Open Spatial (and not such subsidiaries and affiliates) will remain subject to the obligations of Open Spatial under this Agreement. Licensee also agrees that Open Spatial subsidiaries and affiliates may enforce (including taking actions for breach of) this Agreement.

9.5 Exceptions to Prohibitions; Severability.

9.5.1 Exceptions to Prohibitions. The prohibitions contained in this Agreement will not apply where and to the extent applicable law does not allow such prohibitions to be enforced. Licensee may have other rights under the laws of the state or country within the Territory where the Licensed Materials are acquired, and this Agreement does not change Licensee's rights under the laws of such state or country if and to the extent the laws of such state or country do not permit this Agreement to do so. Licensee will bear the burden of proof to demonstrate that applicable law does not allow (i) the enforcement of such prohibitions; or (ii) this Agreement to change particular rights in a state or country (and that Licensee has not exceeded the bounds of the unenforceable prohibitions and unchangeable rights).

9.5.2 Severability. If and to the extent any provision of this Agreement is held illegal, invalid, or unenforceable in whole or in part under applicable law, such provision or such portion thereof will be ineffective as to the jurisdiction in which it is illegal, invalid, or unenforceable to the extent of its illegality, invalidity, or unenforceability and will be deemed modified to the extent necessary to conform to applicable law so as to give the maximum effect to the intent of the parties. The illegality, invalidity, or unenforceability of such provision in that jurisdiction will not in any way affect the legality, validity, or enforceability of such provision or any other provision of this Agreement in any other jurisdiction.

9.6 No Waiver. No term or provision of this Agreement will be considered waived, and no breach excused, unless such waiver is in writing signed on behalf of the party against which the waiver is asserted. No waiver (whether express or implied) will constitute consent to, waiver of, or excuse of any other, different, or subsequent breach.

9.7 Audits. Licensee agrees that Open Spatial has the right to require an audit (electronic or otherwise) of the Open Spatial Materials and the Installation thereof and Access thereto. As part of any such audit, Open Spatial or its authorized representative will have the right, on fifteen (15) days' prior notice to Licensee, to inspect Licensee's records, systems and facilities, including machine IDs, serial numbers and related information, to verify Licensee's Installation of and Access to the Open Spatial Materials. Additionally, within fifteen (15) days of the audit request, Licensee will provide to Open Spatial all records and information requested by Open Spatial in order to verify Licensee's Installation of and Access to the Open Spatial Materials. Licensee will provide full cooperation to enable any such audit. If Open Spatial determines that Licensee's Installation of or Access to the Open Spatial Materials is not in conformity with the applicable agreements or terms of service, Licensee will obtain immediately and pay for valid license(s) to bring Licensee's Installation and Access into compliance and pay the reasonable costs of the audit. In addition to such payment rights, Open Spatial reserves the right to seek any other remedies available at law or in equity.

9.8 Language. The English language version of this Agreement is legally binding in case of any inconsistencies between the English version and any translations.

9.9 Construction. Ambiguities in this Agreement will not be construed against the drafter.

9.10 Force Majeure. Open Spatial will not be liable for any loss, damage or penalty resulting from delays or failures in performance resulting from acts of God, supplier delay or other causes beyond Open Spatial reasonable control.

9.11 U.S. Government Rights. For U.S. Government procurements, all Open Spatial Materials are deemed to be commercial computer software as defined in FAR 12.212 and subject to restricted rights as defined in FAR Section 52.227-19 "Commercial Computer Software - Restricted Rights" and DFARS 227.7202, "Rights in Commercial Computer Software or Commercial Computer Software Documentation", as applicable, and any successor regulations. Any use, modification, reproduction release, performance, display or disclosure of the Open Spatial Materials by the U.S. Government shall be solely in accordance with license rights and restrictions described herein.

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Exhibit A

Definitions

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37. "Territory" (a) means the country, countries or jurisdiction(s) specified in the License Identification, or (b) if there is no such License Identification, or no country or jurisdiction is specified in the License Identification, means the country in which Licensee acquires a license to the Open Spatial Materials. If the License Identification specifies, or Licensee acquires the Open Spatial Materials in, a member country of the European Union or the European Free Trade Association, Territory means all the countries of the European Union and the European Free Trade Association.
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Exhibit B

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