



April 2020

## VEXCEL END USER LICENSE AGREEMENT (“EULA”)

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THIS END USER LICENSE AGREEMENT (THE “AGREEMENT”) APPLIES TO YOUR USE OF THE VEXCEL IMAGING US, INC. (“VEXCEL”) GEOSPATIAL INFORMATION RELATED TO A SPECIFIC GEOGRAPHIC AREA, INCLUDING BUT NOT LIMITED TO, ORTHORECTIFIED IMAGERY, MEASURABLE OBLIQUE IMAGES, 3D ELEVATION MAPS, AND ASSOCIATED METADATA OF SUCH AREAS AND WEBVIEWER (“LICENSED CONTENT”).

This Agreement is entered into by Vexcel and you as the Licensee. By signing or otherwise indicating acceptance of this Agreement or downloading, accessing or using any Licensed Content, you are accepting and agreeing to be bound by this Agreement, as of the date any one of the foregoing activities first occurs (the “Effective Date”).

1. **DEFINITIONS.** For the purposes of this EULA, the following definitions apply.
  - A. “Geospatial Information” shall mean aerial imagery both vertical and oblique, 3D Elevation data such as Digital Surface Models or point clouds created by Vexcel.
  - B. “Licensee” or “You” shall mean the user of the Licensed Content.
  - C. “Third Party Content” means any content, software or other data that is owned by a Third Party and not owned by Vexcel or its Affiliates.
  - D. “Vexcel” shall mean Vexcel Imaging US, Inc.
  - E. “Webviewer” shall mean a user interface accessible through either an Internet browser or mobile device which provides access to Geospatial Information and tools to visualize and analyze such.
  
2. **GRANT OF LICENSE.** Vexcel hereby grants you a non-exclusive, worldwide, non-transferable, license to the Licensed Content to access and use the Licensed Content as integrated into a Webviewer, product or service provided by a Vexcel authorized integrator (an “Authorized Party”), solely to the extent provided in the agreement between you and the Authorized Party (the “Customer Agreement”). In the event of a conflict between the terms of this Agreement and your Customer Agreement, where the Customer Agreement has provided you with less restrictive rights to access and use the Licensed Content, then are set forth in this Agreement, so long as you are operating in good standing under your Customer Agreement, the rights set forth in the Customer Agreement will control. Otherwise, this Agreement will control in the event of a conflict between this Agreement and the Customer Agreement.



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3. **RESTRICTIONS.** Except as provided in Section 2 above, you will not, and you will not allow any third party to: (a) make, copy, modify, store, access, reproduce, or display the Licensed Content, (b) create any derivatives from the Licensed Content whatsoever, including without limitation, via formatting, editing, and/or data combination; or (b) distribute, sublicense, rent, sell, lease or loan the Licensed Content or derivatives to any third party or display in a public portal; or (c) remove, bypass or circumvent any electronic or other forms of protection measure included on or with the Licensed Content; or (d) extract geographic features, human-made features, persons or animals or related data from the Licensed Content via identification, measurement, and/or analysis, or (e) alter, obscure or remove any copyright notice, copyright management information or proprietary legend contained in or on the Licensed Content.
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  1. Google Maps/Google Earth. The Google Maps/Google Earth Additional Terms of Service posted at [https://www.google.com/intl/en\\_us/help/terms\\_maps.html](https://www.google.com/intl/en_us/help/terms_maps.html).
  2. If there is any inconsistency between the Agreement and these Project Terms, on the one hand, and the terms and conditions of the applicable Third-Party Terms, on the other hand, the Third-Party Terms will apply to that Third-Party Content. Use of Google Maps/Google Earth is not subject to the Annual Gigabyte Allocation.
  3. "Third Party Content" means any content, software or other data that is owned by a Third Party and not owned by Vexcel or its Affiliates.
  4. "Third Party Terms" means those terms and conditions that apply to the use of Third-Party Content.
5. **OWNERSHIP AND ATTRIBUTION.** The Licensed Content and any other data generated by using the Licensed Content is owned by Vexcel. Licensee hereby consents and authorizes Vexcel to the use of and sharing of Customer Information ("Customer Information" shall mean all information Vexcel deems necessary and/or useful to fulfill its obligations under this Agreement) with Vexcel and its affiliates, and its authorized third parties for the following purposes: (1) to disseminate Customer Information to other Vexcel licensees that are under contractual agreements containing use restrictions with Vexcel; (2) use the Customer Information for new and enhanced features and improvements to the Vexcel databases Vexcel and its authorized third parties shall consider such Customer Information to be confidential and shall treat such information with the same degree of care that it uses to protect its own confidential information of a similar nature.



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7. **LIMITATION OF LIABILITY.** IN NO EVENT WILL VEXCEL OR ITS SUPPLIERS BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, WHETHER OR NOT FORESEEABLE AND WHETHER OR NOT A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF THE DAMAGES AND IN NO EVENT WILL THE TOTAL LIABILITY OF VEXCEL AND ITS SUPPLIERS ARISING OUT OF OR IN CONNECTION WITH THE LICENSED CONTENT EXCEED \$1,000.00 USD LICENSED CONTENT. THE FOREGOING LIMITATIONS APPLY TO ALL CAUSES OF ACTION IN THE AGGREGATE, TO THE EXTENT PERMITTED BY APPLICABLE LAW.
8. **TERMINATION.** This EULA will terminate upon termination of your Customer Agreement without further notice to you. In addition, if you or the Authorized Party is in breach of any agreement with Vexcel, Vexcel may immediately suspend your access to the Licensed Content and terminate this Agreement without further notice to you. You may terminate this Agreement at any time by (a) permanently deleting the Licensed Content and derivatives from all devices and systems and destroying any copies on disk, and (b) certifying to Vexcel in writing that all copies of all Licensed Content and derivatives have been deleted or destroyed. Upon termination or expiration of this Agreement, you will (i) stop all uses of the Licensed Content and derivatives; and (ii) if you have not already done so, undertake the actions set forth in subsections (a) and (b) of this Section. The termination of this Agreement does not relieve either party of any obligations that have accrued on or before the effective date of termination.
9. **COMPLIANCE WITH LAWS.** You are responsible for your own compliance with laws, regulations and other legal requirements applicable to the conduct of your business and this Agreement, and you agree to comply with all laws, regulations and other legal requirements, including, without limitation, all customs and export control laws and regulations.



- 10. INDEMNIFICATION.** Licensee shall protect, defend, indemnify, and hold harmless Vexcel, its parent and affiliates, and their respective officers, employees, directors, partners, shareholders, agents, attorneys and advisors from and against any and all claims, suits, losses, liabilities, damages, judgments, awards, expenses and costs, including legal fees and court fees incurred by Vexcel from any litigation, as well as claims, losses, liabilities, attorney's fees, and fees incurred out of court, arising out of, based upon, or caused by (a) the unlawful or tortious conduct of or a breach of duty by Licensee, Licensee's employees, agents, subsidiaries, or independent contractors, or (b) any damage or injury (including death) to persons or property caused by or sustained in connection with Licensee's performance under the EULA or by conditions created thereby, or based upon Licensee's violation of any statute, ordinance, code or regulation, and the defense of any such claims or actions. Vexcel shall give Licensee notice of any such claim and provide at Vexcel's own expense such commercially reasonable assistance as Licensee may require,
- 11. GENERAL TERMS.** This Agreement constitutes the entire agreement between the parties with respect to access to and use of the Licensed Content and supersedes all previous and contemporaneous agreements, understandings and arrangements, whether oral or written.
- A. The failure or delay of either party to exercise any right under the EULA shall not be deemed a waiver of that or any other right. A waiver or consent given by either party on any one occasion is effective only in that instance and will not be construed as a waiver of any right on any other occasion.
  - B. Any other provisions contained herein to the contrary notwithstanding, neither party hereto shall be liable to the other party for loss, injury, delay, or damages, or other casualty suffered or incurred by such other party due to governmental regulations or directions, outbreak of a state emergency, Act of God, war, warlike hostilities, terrorism, civil commotion, riots, epidemics, storms, fires, strikes, lockouts, and any other similar cause or causes beyond the reasonable control of the party whose performance is affected by such cause or causes.
  - C. Licensee shall not assign (by operation of law or otherwise), rent, sell, sub-license, sub-contract or otherwise transfer the EULA or any portion thereof to any other person, firm, or entity without Vexcel's express prior written consent. Any attempted assignment or transfer in violation of this Section will be null and void.
  - D. In the event Vexcel must seek the services of an attorney to enforce the provisions of the EULA, Licensee shall pay all reasonable attorney's fees, costs and damages incurred by Vexcel, whether such attorney's fees, costs and damages are incurred in or out of court.
  - E. Any disputes arising out of this Agreement or the performance of Services will be governed, construed, and enforced in accordance with the laws of the State of Colorado, U.S.A., without giving effect to its conflict of law rules. Each Party consents to the exclusive jurisdiction and venue of the state and federal courts located in Denver, Colorado, U.S.A.
  - F. This Agreement may be amended or supplemented only by a writing that is signed by both parties. This Agreement is drafted in the English language only. English will be the controlling language in all respects, and all versions of this Agreement in any other language are for accommodation only and will not be binding on the parties.



- G. The EULA will be binding upon and inure to the benefit of Vexcel and its respective successors and assigns.
  
- H. Licensee hereby grants permission and consent to receive information and notice via facsimile or other electronic mail transmissions from Vexcel.

**YOU ACKNOWLEDGE THAT YOU HAVE READ THIS EULA, UNDERSTAND IT, AND AGREE TO BE BOUND BY ITS TERMS AND CONDITIONS, AND FURTHER AGREE THAT THIS IS THE COMPLETE AND EXCLUSIVE STATEMENT BETWEEN VEXCEL AND YOU RELATING TO THIS AGREEMENT.**