

**Election Data Services, Inc.
ENDUSER LICENSE AGREEMENT**

This is an End-user License Agreement between Election Data Services, Inc. (E.D.S., Inc.), a Washington, D.C., corporation, and _____ [name of licensee], ("Licensee"). The parties agree:

Section 1 – Definitions

- 1.1 Definitions. Capitalized terms used in this Agreement shall have the following meanings:
- (a) "Product(s)" shall mean proprietary database(s) of E.D.S. Inc. more particularly described in Attachment A.
 - (b) "License Fee" shall mean the current license fee for the Product as specified in Attachment A.

Section 2 – Grant of License

- 2.1. Grant of License. E.D.S. Inc. hereby grants to Licensee and Licensee hereby accepts a non-exclusive, non-transferable license to use and copy the Product(s) solely for internal business purposes only. This license grant is conditioned upon Licensee's compliance with the payment of all applicable fees as set forth in Section 4 below and with all other provisions of this Agreement.
- 2.2. Restrictions on the Use of the Product(s). Licensee shall use the Product(s) only for the purposes set forth in Section 2.1 above. Without limiting the generality of the foregoing, Licensee expressly agrees that it shall **not**:
- (a) allow third parties to use or obtain copies of the Product(s), except for use by third party agents of Licensee on Licensee's behalf for internal business purposes.
 - (b) publish or place the Product(s) on the World-Wide-Web (WWW).
 - (c) use the Product(s) in an application installed on the World-Wide-Web (WWW).
 - (d) distribute, disclose, market, rent, publish, sell, assign, lease, sublicense, transfer or use the Products in any manner not expressly authorized by this Agreement.
- 2.3. Restrictions on Data files. If the "Product(s)" described in Attachment A are election returns, registration or turn-out data, or any election administrative set of data (i.e., voting equipment usage in U.S. jurisdictions), then Licensee agrees to:
- (I) use the data only for internal research.
 - (II) not provide the data to any other researcher or individual or organization.
 - (III) if the results of the research are to be published, then the data source of the information shall be identified as Election Data Services, Inc.
 - (IV) a copy of said published research shall be sent to Election Data Services, Inc., at the below address.
- 2.4. Ownership of data. Licensee does not receive any, and E.D.S. Inc. retains all, ownership rights in the Product(s). The Product(s) are copyrighted and may not be copied (except for internal or business use as permitted above by this Agreement), even if modified or merged with other software or data. Licensee shall not alter or remove any copyright notice or proprietary legend contained in or on the Products.

Section 3 – Support and Maintenance

- 3.1 Support and Maintenance. E.D.S. Inc. agrees to provide technical support and maintenance of its Product(s), as long as Licensee is not in default. Licensee shall promptly give E.D.S. Inc. written notice and documentation of discovered defect and, thereafter, shall provide such additional information as E.D.S. Inc. may reasonably request.

E.D.S. Inc. shall:

- (a) use its best efforts to promptly correct any major defects discovered by Licensee in the Product(s); and
- (b) correct minor or ordinary defects by the next general commercial update of the Product(s).

- 3.2 Corrections to the Product(s). The obligations of E.D.S. Inc. to provide corrections to the Product(s) shall immediately terminate in the event that Licensee materially misuses the Product(s) and fails to correct or undertake a plan to correct within ten (10) days after written notice specifying the misuse.

- 3.3 Updates to the District Boundary File Product(s). If the "Product(s)" described in Attachment A is a Congressional or State Legislative District Boundary File and if a congressional or state legislative district boundary are changed and officially adopted during the period of time from the date of this Agreement to the next round of regularly scheduled congressional and state legislative redistricting immediately following the 2010 decennial census, E.D.S. Inc. shall provide updates to the Product(s) and Licensee shall be entitled to purchase the updated district boundary file for state in which the district boundary was changed for a fee in the amount of seventy-five percent (75%) of the current license fee for that state's district boundary file.

Section 4 –Payment

- 4.1. Payment. In consideration for the license granted in Section 2.1 above, Licensee shall pay E.D.S. Inc. the fees specified on Attachment A upon receipt of the Product(s).

Section 5 – Confidentiality

- 5.1 Confidentiality of the Product(s). Licensee shall maintain the confidentiality of the Product and shall use at least the same degree of care that it uses to protect its own confidential Product(s). The Product(s), including all portions, together with all materials and knowledge related thereto (the "Confidential Items"), are obtained by Licensee, and its employees, agents and representatives, in confidence and trust and except as expressly permitted by this Agreement, shall not be used, duplicated or disclosed by any of them in any form for the use or benefit of any person or entity. Licensee may disclose relevant aspects of the Confidential Items to its employees, agents or representatives with a need to know who have been advised of and are bound by the confidentiality provisions of this Agreement. Licensee shall notify E.D.S. Inc. immediately if Licensee learns of any misappropriation of the Product(s) or use of the Product(s) by anyone in any manner not expressly authorized by this Agreement and shall cooperate with any efforts by E.D.S. Inc. to prevent any misappropriation or misuse of the Product(s). In the event of any violation or suspected violation of any provision of this Section, Licensee shall immediately notify E.D.S. Inc. and shall, at Licensee's expense, assist E.D.S. Inc. in E.D.S. Inc.'s enforcement of this Section against any current or former employee, agent or representative.

Section 6 – Proprietary Notice

- 6.1 Proprietary Notice. In acknowledgment of the valuable property rights of E.D.S. Inc. in the Product(s), Licensee is prohibited from distributing copies of the Product and all copies of any electronic media containing the Product or parts absent the approval of E.D.S. Inc. Any such copies of the Product must protect

the proprietary interests of E.D.S. Inc. and must display the following notice prominently.

© 200_ Election Data Services, Inc. All rights reserved. This material is proprietary and the subject of copyright protection and other intellectual property rights owned by or licensed to Election Data Services, Inc. The use of this material is subject to the terms of a License Agreement. You will be held liable for any unauthorized copying or disclosure of this material."

Section 7 – Warranty Disclaimer

- 7.1 Warranty Disclaimer. EXCEPT FOR THE WARRANTIES SET FORTH IN THIS AGREEMENT, THE PRODUCT IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OR MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND OTHERWISE, EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT.

E.D.S. Inc. warrants that it has full right and title to provide the Product to Licensee, and shall indemnify, protect, defend and hold harmless from any claims by third parties that the provision of such Product violates the rights of such third parties.

E.D.S. Inc. disclaims and shall not be liable for any losses or damages, whether direct, indirect, incidental, consequential, special, or exemplary, arising from the use of the Product(s). E.D.S. Inc.'s liability in any event shall be limited to the aggregate amount of fees paid to E.D.S. Inc. under Section 4 of this Agreement.

Licensee shall be barred from any claim where it has not given E.D.S., Inc., prompt written notice of such claim.

Section 8 –Termination

- 8.1 Termination. Either party may terminate this Agreement upon default if (a) the other party commits a material breach of this Agreement, (b) the non-breaching party gives notice of such breach, and (c) said breach has not promptly been cured to the reasonable satisfaction of the non-breaching party.
- 8.2 Obligations of Licensee upon Termination. Upon termination of this Agreement, Licensee shall:
- (a) return to E.D.S. Inc. all copies of the Product(s) in its possession, or destroy all such copies and provide confirmation of all copies destroyed;
 - (b) immediately discontinue all use of the Product(s); and
 - (c) provide an affidavit signed by an officer, or other authorized individual, attesting to the performance of items 9.2(a)–(c) and acknowledging the continuing obligations of confidentiality under Section 5.

Section 9 – Miscellaneous Provisions

- 9.1. Entire Agreement. This Agreement constitutes the entire Agreement of the parties as to the matter set forth herein and supersedes any previous agreements, understandings, and arrangements between the parties relating hereto. Except as otherwise expressly provided herein, any amendment to this Agreement must be in writing and signed by an authorized representative of each party.
- 9.2. Successors and Assigns. This Agreement shall be binding upon the parties hereto and their respective successors and assigns, and shall not be construed to confer any right, interest or benefit in favor of any other person. Notwithstanding the foregoing, Licensee may not assign or transfer its rights and interests

under this Agreement, in whole or in part, without the prior written consent of E.D.S. Inc., which consent shall not be unreasonably withheld.

- 9.3. Governing Law. This Agreement shall be governed by the laws of the District of Columbia without reference to conflicts of law principles. All disputes relating to this Agreement shall be settled by arbitration under the rules of the American Arbitration Association with hearings to be held in the District of Columbia. Any award made by the arbitration panel, however constituted, shall be final, binding and conclusive on all parties for all purposes and judgment may be entered thereon by any state or federal court having jurisdiction. In addition to any settlement in a dispute, the prevailing party shall be entitled to the recovery of its reasonable attorneys' and associated fees and expenses.
- 9.4. Sales and Use Taxes. Licensee shall be responsible for any sales and use taxes on this License.
- 9.5. Severability. In the event that any provision or part of a provision of this Agreement is determined to be invalid, illegal, or unenforceable, such provision or part thereof shall be stricken from this Agreement and the remainder of this Agreement shall be valid, legal, and enforceable to the maximum extent possible. If any provision or part thereof is stricken from this Agreement in accordance with this Section, such provision or part thereof shall be replaced, to the extent possible, with a valid, legal, and enforceable provision that is as similar in tenor to the stricken provision as is legally possible.
- 9.6. Force Majeure. Neither party shall be liable or be deemed to be in default for any delay or failure in performance or interruption resulting directly or indirectly from any cause or circumstance beyond its reasonable control, equipment or telecommunications failure, labor dispute, or failure of any third party to perform any agreement that adversely affects such party's ability to perform its obligations hereunder.
- 9.7. Notices. All notices and communications required or permitted under this Agreement shall be in writing and shall be sent by registered or certified mail, postage prepaid, return receipt requested, or by facsimile transmission ("Fax") with confirmed answer back, to the parties at their respective addresses set forth below or to such other address as either party may from time to time specify by notice to the other given as provided in this Section.

If to E.D.S. Inc.:
Election Data Services, Inc.
6171 Emerywood Court
Manassas, Virginia 20112-3078
Attention: Kimball W. Brace
Tel.: (703) 580-7267 or (202) 789-2004
Fax: (703) 580-6258

If to Licensee:

Attention: _____
Tel.: _____
Fax: _____

9.8. Effective Date. Date of this Agreement _____.

IN WITNESS WHEREOF, the parties have executed this Agreement as a sealed instrument by their duly authorized officers as of the date below.

Election Data Services, Inc.

Licensee: _____

(duly authorized signature)

(duly authorized signature)

Kimball W. Brace

(print or type name)

(print or type name)

President

(title)

(title)

(date)

(date)

ATTACHMENT A

1.1 Product(s). The following Product(s) as delivered to Licensee by E.D.S. Inc.:

(a) Geographic Information System Boundary Files:

(i) U.S. Congressional Districts

Digital boundary file based on U.S. Census TIGER/Line[®] files for districts of the 110th United States Congress that were in effect for the 2006 General Elections in _____[format type] format.

Digital boundary file based on TANA (Tele Atlas N.A. Inc.) Dynamap[®]/2000 files for districts of the 110th United States Congress that were in effect for the 2006 General Elections in _____[format type] format.

(ii) State Legislative District:

Digital boundary file based on U.S. Census TIGER/Line[®] files for senate and house districts of the fifty states and districts of the Council of the District of Columbia of the United States that were in effect for the 2006 General Elections in _____[format type] format.

Digital boundary file based on TANA (Tele Atlas N.A. Inc.) Dynamap[®]/2000 files for senate and house districts of the fifty states and districts of the Council of the District of Columbia of the United States that were in effect for the 2006 General Elections in _____[format type] format.

(b) Zip+District Equivalency Files (options available, select one from each level):

(i) ZIP Code Level

1. _____ Five-digit ZIP

2. _____ Nine-digit ZIP

(ii) District Level

1. _____ Congressional District

2. _____ State Legislative

(iii) File Level

1. _____ Nationwide

2. _____ Specific State (s): _____

(iv) Updates (25 percent of base price)

1. _____ With Quarterly Updates

2. _____ No Updates

(c) County Level Election Returns data:

(i) File Information

1. _____ Presidential Only

2. _____ Full Returns, Regis, Turn-out

(ii) Year (s) _____

(d) Election Administration dataset _____

Details attached as Appendix B to this agreement

2.1 License Fee. License fee for the Product(s) _____[fee].

3.1 Delivery. E.D.S. Inc. will ship the Product(s) to Licensee within three to five (3–5) business days of E.D.S. Inc.'s receipt of the executed Agreement.