

# Maptitude License Agreement

Caliper Corporation ("Caliper") provides its proprietary products to its customers on the terms and conditions set forth herein. **PLEASE REVIEW THE FOLLOWING AGREEMENT BEFORE ORDERING PRODUCTS FROM CALIPER.** By ordering or using a Product, the Licensee identified on the order form for the Product ("Licensee") indicates its acceptance of the terms of this Agreement.

Licensee and Caliper agree as follows:

## 1. Definitions.

- As used in this Agreement:
- "Software"** means the MAPTITUDE software, in executable code form, as delivered to Licensee, and includes any software updates, add-on components, web services and/or supplements and additional modules that Caliper may provide to Licensee from time to time after the date Licensee obtains its initial copy of the Software to the extent that such items are not accompanied by a separate license agreement or terms of use.
  - "Copy Protection Measure"** means a technological measure utilized for copy protection, including any hardware device provided to Licensee by Caliper.
  - "Data"** means any data, maps, images, video, audio, animations, or graphics provided by Caliper for use with the Software, and includes any updates to such data.
  - "Designated Computer"** means a computer or terminal under Licensee's control on which the Product has been installed and which has been registered with Caliper according to Caliper's standard registration procedure. Licensee may change its Designated Computer at any time, provided Licensee first uninstalls the product and complies with Caliper's standard registration procedures. If networks of computers or intelligent and nonintelligent terminals are used, each such computer or terminal is considered to be a Designated Computer.
  - "Documentation"** means any materials and documentation provided by Caliper to describe the operation of the Software.
  - "Product"** means the Software and related Data, Documentation, and any Copy Protection Measure.

## 2. Grant of License.

- Subject to all of the terms and conditions of this Agreement, Caliper hereby grants to Licensee:
- a limited, non-exclusive, non-transferable right to use the Product during the term of this Agreement on the number of Designated Computers set forth on the order form for the Product;
  - a non-exclusive, non-transferable, royalty-free right to reproduce and distribute Licensee's own software applications for use with the Software that are created using the GISDK software and the Caliper Script Language and sample code described therein provided that Licensee (i) currently has a valid license for the Software and has complied fully with its terms, (ii) distributes its application only to those who are lawfully licensed to use the Software, (iii) does not use Caliper's name, logos or trademarks to market its software applications, (iv) includes a proprietary notice on behalf of Caliper (specifically: "Portions copyright 1998-2016 Caliper Corporation") on media containing such software and on the title page of its software documentation, and (v) agrees, to the extent permitted by law, to indemnify, hold harmless and defend Caliper from and against any claims or actions, including without limitation attorneys' fees, that arise or result from the use of distribution of Licensee's software application.
- Caliper and its licensors reserve all rights not expressly granted to Licensee herein. Licensee acknowledges and agrees that Caliper and its licensors will continue to own all rights, title and interests in and to all portions of the Product (including the media on which the Product is supplied).

## 3. Limitations

- If this is a license granted to an educational institution or a student enrolled in an educational institution (an "Academic License"), Licensee's right to use the Product is limited to noncommercial uses for teaching and unsponsored research; Licensee may not use the Product in sponsored research unless Licensee purchases a commercial license to the Product. If Licensee is a student, Licensee agrees to return the Product, including any copy Protection Measure, to Caliper when Licensee ceases to be enrolled as a student at a bona fide academic institution.
  - This Agreement does not grant Licensee any rights in connection with any trademarks or service marks of Caliper.
  - Without limitation, Licensee will not, and will not permit others to: (i) distribute, use or provide access to or use of (including by timesharing or network use) the Product by or for the benefit of any third party without Caliper's prior written consent, provided, however, that Licensee may provide access to the Product to employees of Licensee (and in the case of Academic Licenses, enrolled students) to the extent necessary to utilize the Product in conformity with this Agreement; (ii) use the Product in a computer service business; (iii) make telecommunications data transmissions of the Product; or (iv) use the Product over the Internet without a license for such use or use long-haul gateways on any central processing unit on which the Product is used;
  - Licensee will not use the Product to aid in the development of software or products that are competitive with the Product; or use the Product to create data in Caliper's CDF data format for sale or any other commercial purpose without the prior written permission of Caliper.
  - Licensee will not attempt or permit others to attempt: (i) to reverse engineer, decompile, disassemble, or otherwise re-create source code or file formats from the executable code version of the Software or from other information provided by Caliper; or (ii) to circumvent the Copy Protection Measure.
  - Caliper may inspect and audit Licensee's use of the Product from time to time to verify Licensee's compliance with its obligations under this Agreement.
- ## 4. License Fee.
- In consideration of the license granted to Licensee under Section 2, Licensee agrees to pay Caliper a fee in accordance with Caliper's price list in effect at the time Licensee's order is received. If Licensee does not pay such fee within sixty (60) days after the date the Product is invoiced to Licensee, this Agreement will terminate automatically pursuant to Section 9.B.

## 5. Proprietary Rights.

- Licensee acknowledges and agrees that the Product contains confidential and proprietary information of Caliper. Licensee agrees to keep the Product strictly confidential, not to disclose any of the Product to any third party, and not to use the Product except as expressly permitted by this Agreement. Licensee agrees to keep the Product secured in a way which prevents unauthorized use, disclosure or dissemination. Licensee further agrees to notify Caliper promptly upon learning of any unauthorized use, disclosure or dissemination of the Product. Licensee agrees that the injury that would result to Caliper from violation of this Agreement would be irreparable and accordingly Caliper would be entitled to injunctive relief.
- The Product is protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. The Product is licensed, not sold. Unauthorized copying of the Product and modifying, merging or including any part of the Product with any other software or product are expressly forbidden. Subject to these restrictions, Licensee may install one (1) copy of the Software and the Data on a hard disk for each copy licensed, and may make one (1) copy of the Software and the Data for each copy licensed, solely for backup purposes. Licensee must reproduce and include all proprietary notices on each backup copy. Licensee may not make copies of the Documentation or translate the Documentation into other languages.
- To the extent that use of the Product in accordance with the terms of this Agreement would, in the absence of this Agreement, infringe a claim of any patent owned by Caliper, and only to that extent, Caliper hereby agrees and covenants that it will not sue Licensee for such use so long as such use complies in all respects with the terms of this Agreement. No license, implied or otherwise, under any patents owned by Caliper is granted by this Agreement.
- Licensee agrees that the Data may be used only with the Software. Licensee acknowledges that the Data may be subject to other agreements between Licensee and Caliper or third parties restricting the use of the Data. Some versions of Maptitude include the HERE Map Content Data, whose use is subject to the supplemental license terms included with the product (available at [www.caliper.com/maptitude/here-license.htm](http://www.caliper.com/maptitude/here-license.htm)). Not recommended for NAVIGATION. The provided travel times are not accurate enough to be suitable for navigation nor are they reflective of current road conditions.

- Warranties.** Licensee acknowledges that there are errors and gaps in the Data and that Caliper does not warrant that the Product will meet Licensee's needs or is suitable or sufficiently accurate to be fit for any particular purpose or use. Licensee acknowledges that (a) the operation of the Software may not be uninterrupted or error-free; and (b) the functions of the Product may not meet Licensee's requirements. Caliper warrants that the Software will function for a period of sixty (60) days from date of delivery substantially in accordance with the Documentation. Except for this limited warranty, Caliper has no obligation to provide support services to Licensee with respect to the Product unless a support agreement is in effect. CALIPER DISCLAIMS ANY AND ALL OTHER WARRANTIES AS TO THE PRODUCT, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR USE.

- Limitation of Liability.** The liability of Caliper to Licensee, regardless of the form of action or theory of liability, whether under contract or tort (including negligence), and whether under this Agreement or any other agreement, with respect to the Product or any services provided by Caliper in connection therewith, will not exceed the sum of all amounts paid by Licensee to Caliper pursuant to this Agreement. IN NO EVENT WILL CALIPER BE LIABLE TO LICENSEE FOR SPECIAL, CONSEQUENTIAL, PUNITIVE OR INCIDENTAL DAMAGES OF ANY NATURE. In furtherance and not in limitation of the foregoing, Caliper will not be liable for any costs incurred by Licensee due to (a) loss of profits or revenues, (b) loss of use of the Product, (c) loss of data, (d) costs of substitute software, and (e) claims by parties other than the Licensee. Caliper will have no liability for any claim of copyright or patent infringement based upon the use of other than a current, unaltered release of the Product or based upon any modification or combination or use of the Product with databases or other software or products not provided by Caliper. Licensee will bring no action or claim, regardless of form, arising out of this Agreement more than one year after the action or claim has arisen.

- Exclusive Remedies.** Licensee's exclusive remedies for any claims against Caliper arising out of this Agreement will be limited to the following, at the option of Caliper: (a) replacement by Caliper of the Software with software that functions substantially in accordance with the Documentation; (b) repair by Caliper of the Software, by patch or workaround, so that it functions substantially in accordance with the Documentation; or (c) refund by Caliper of the funds received by Caliper from Licensee in respect of the Product.

## 9. Term and Termination.

- This Agreement will take effect upon the date of acceptance of the order by Caliper and, unless earlier terminated pursuant to Section 9.B, will continue in effect for a period of ten (10) years from such date.
  - In the event that Licensee fails to comply with any of the provisions of this Agreement, this Agreement will automatically terminate without notice. This Agreement will also automatically terminate without notice in the event of any attempt to transfer or assign this Agreement, or in the event of any change in control of Licensee.
  - Upon expiration or termination of this Agreement:
    - Licensee will return the Product to Caliper and destroy any other copies of any portion of the Product in its possession.
    - Licensee will have no further right to possess or use the Product.
  - Survival. The expiration or termination of this Agreement will not affect provisions of this Agreement which by their terms and meaning survive its termination, including, without limitation, the provisions of Section 1, 3, 5, 6, 7, 8, 9.B, 9.C, 10, 11, 12, 13.
- ## 10. Export.
- Licensee acknowledges that the Product constitutes technical data under the Export Control Regulations of U.S. Department of Commerce and agrees not to export the Product in violation of such Regulations or any other U.S. laws or regulations. Licensee agrees to defend, indemnify and hold Caliper harmless against any liability (including attorneys' fees) arising out of Licensee's failure to comply with the terms of this Section 10.

## 11. Miscellaneous.

- This Agreement sets forth the entire understanding and agreement between Caliper and Licensee with respect to the subject matter hereof and supersedes all prior understandings, representations, sales materials, and agreements, written or oral, including any purchase orders submitted by Licensee to Caliper in respect of the Product.
- This Agreement will be governed by the laws of The Commonwealth of Massachusetts, United States of America (without regard to any conflict of law rules that would provide that the law of another jurisdiction would govern), and applicable copyright laws. The parties hereby submit to the exclusive jurisdiction of the state and federal courts of The Commonwealth of Massachusetts.
- This Agreement may be modified only by a written agreement which is made subsequent to this Agreement and signed by duly authorized representatives of Caliper and Licensee.
- If any of the provisions of this Agreement will be held by a court of competent jurisdiction to be contrary to law, the remaining provisions of this Agreement will remain in full force and effect.
- The failure of Caliper to enforce any of the provisions of this Agreement will not be construed to be a waiver of Caliper's right thereafter to enforce such provisions.
- The section titles in this Agreement are used solely for the convenience of the Licensee and Caliper and have no legal or contractual significance.

- U.S. GOVERNMENT END USERS.** The Product is "commercial computer software" or "commercial computer software documentation" as those terms are defined in 48 C.F.R. §12.212 and 48 C.F.R. §27.7202. As provided therein, the Government shall have only those rights specified in this Agreement.

- MrSID Functionality.** Portions of the Software incorporating MrSID functionality are provided under license from LizardTech, Inc. The MrSID software is protected by copyright laws and international treaty provisions and by U.S. Patent No. 5,710,835. Foreign patents are pending. Some of the MrSID technology was developed through a project at the Los Alamos National Laboratory (LANL) funded by the U.S. Government, managed under contract by the Regents of The University of California ("University"). The U.S. Government and the University have reserved rights in that technology, including the following: (a) the U.S. Government has a non-exclusive, nontransferable, irrevocable, paid-up license to practice or have practiced throughout the world, for or on behalf of the United States, inventions covered by the University's Patent Rights, and has other rights under 35 U.S.C. § 200-212 and applicable implementing regulations and under the U.S. Department of Energy ("DOE") Assignment and Confirmatory License through which the DOE's rights in the technology were assigned to the University; (b) under 35 U.S.C. § 203, the DOE has the right to require LizardTech to grant a non-exclusive, partially exclusive or exclusive license under U.S. Patent No. 5,710,835 in any field of use to a responsible applicant(s) upon terms reasonable under the circumstances, if LizardTech does not adequately attempt to commercialize the MrSID technology. See, 37 CFR 401.6; (c) the University makes no warranty or representation as to the validity or scope of Patent No. 5,710,835, and neither the Government nor the University have any obligation to furnish any know-how, technical assistance, or technical data in connection with MrSID software. For further information about these provisions, contact LizardTech, 1008 Western Ave., Suite 200, Seattle, WA 98104.

## ADDITIONAL TERMS FOR MAPTITUDE FOR THE WEB LICENSE

This modification to the Maptitude License Agreement permits the use of one copy of Caliper's Maptitude for the Web, Maptitude, and/or custom programs or add-ins created with the Caliper GISDK for Maptitude as a single Web Server or connected to a single Web Server for one year from the date of purchase provided that Licensee's Web Server output displays the text "Powered by Maptitude for the Web by Caliper" as a hyperlink to [WWW.CALIPER.COM](http://WWW.CALIPER.COM) in a legible font and in a location directly above, beneath, or adjacent to the position where the output from the Caliper product appears. This license is for the benefit of a single entity and does not permit sale or rental of access to the software or data by third parties. Further, you may not sell maps based on the data provided with Maptitude or Maptitude for the Web. Maptitude for the Web does not include the HERE Map Content Data, whose use is restricted to desktop applications subject to the supplemental license terms included with the product (available at [www.caliper.com/maptitude/here-license.htm](http://www.caliper.com/maptitude/here-license.htm)). If not renewed annually the Maptitude for the Web license will terminate automatically and the software will cease to function. All other provisions of the Software License remain unchanged.