

CONTRACT
SOFTWARE MAINTENANCE AGREEMENT

by and between

CUYAHOGA COUNTY, OHIO

and

CALIPER CORPORATION

THIS AGREEMENT (the "Contract") is made and entered into this _____ day of _____, 2011, by and between Cuyahoga County, Ohio ("the County"), on behalf of the Cuyahoga County Sheriff's Department and Caliper Corporation ("Caliper"), a Massachusetts corporation with offices located at 1172 Beacon Street, Suite 300, Newton, Massachusetts 02461. (the "Provider")

WHEREAS, the County has a present need for renewal of software maintenance service of Caliper's TransCAD GIS Software Product at the Cuyahoga County Sheriff's Department; and

WHEREAS, Caliper, as the Licensor of TransCAD GIS Software Product, is the sole source that can provide maintenance service for the TransCAD GIS Software Product; and

WHEREAS, the County desires to avail itself of software maintenance of Caliper's TransCAD GIS Software Product located at the Cuyahoga County Sheriff's Department and Caliper is willing to provide such service to the County all upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Caliper and the County agree as follows:

ARTICLE I – AGREEMENT AND TERM

- 1.1 **Scope of Agreement.** During the term of this Contract, Caliper shall provide the County with all maintenance on Base TransCAD Software Support Serial Numbers TCB-123-FJS-144-YYR and TCB-095-FZG-146-PDF and as set forth in Schedule A – Quote / Invoice 062111 attached herein and incorporated by reference herein.
- 1.2 **Term.** The term of this Contract shall commence as of March 31, 2011; and, unless earlier terminated in accordance with the provisions of this Contract, shall continue in effect for a period of one year from commencement date. (3/31/11 – 3/31/12). The cost of this Contract shall not exceed **One Thousand Six Hundred Dollars and Zero Cents (\$1,600.00).**

ARTICLE II – SCOPE OF WORK

- 2.1 Rendering of Services. Caliper hereby agrees to render the services identified in Article 1.1 and Schedule A attached hereto and incorporated by reference herein at a total price which shall in no event exceed the amount of **One Thousand Six Hundred Dollars and Zero Cents (\$1,600.00).**

ARTICLE III – PAYMENT AND INVOICING

- 3.1 Payment. During the term of this contract, the County shall pay Caliper for maintenance services upon receipt of said invoice.
- 3.2 Invoicing. Caliper shall invoice the County for Maintenance Service. Caliper shall submit original invoice(s) to the following address:

Cuyahoga County Information Services Center
Business Department
1255 Euclid Avenue, 4th floor
Cleveland, Ohio 44115

ARTICLE IV - INDEMNITIES AND LIABILITIES

- 4.1 Subcontracting. This Contract was awarded to Caliper based upon Caliper's unique qualifications and skills, and no task required to be performed under this contract by Caliper shall be subcontracted to third parties without the express written consent of Cuyahoga County.
- 4.2 Indemnification. Caliper shall agree to release, indemnify and to hold harmless Cuyahoga County, the County Executive and any and all officers, agents, servants or employees thereof, from any and all responsibility or liability for its gross negligence or willful misconduct under this contract.

ARTICLE V - DISPUTE RESOLUTION AND TERMINATION

- 5.1 Dispute Resolution.
- a) In the event of any dispute or disagreement between Caliper and the County, either with respect to the interpretation of any provision of this Contract or with respect to the performance by Caliper or the County hereunder, which cannot be resolved in the normal course of business, then upon written notice of either party, each party will appoint a designated officer whose task it will be to meet for the purpose of endeavoring in good faith to resolve such dispute or to negotiate for an adjustment to such section or provision of this Contract. The designated officers shall meet as often as the parties reasonably deem necessary in order to gather and furnish to the other all information with respect to the matter in issue which the parties believe to be

appropriate and germane in connection with its resolution. Such officers will discuss the problem and/or negotiate the applicable section or provision without the necessity of any formal proceedings relating thereto. During the course of such negotiation, all reasonable requests made by one party to the other for information will be honored in order that each of the parties may be fully advised in the negotiations. The specific format for such discussions will be left to the discretion of the designated officers but may include the preparation of agreed upon statements of fact or written statements of position furnished to the other party. No formal proceedings for the binding arbitration of such dispute may be commenced until (i) resolution as contemplated in this clause has been unsuccessful and (ii) either of the parties concludes in good faith that amicable resolution through continued negotiation of the matter in issue does not appear likely and so notifies the other party.

(b) The rights and obligations of the parties under this provision shall not limit either party's right to terminate this Contract as may be otherwise permitted hereunder.

5.2 Termination for Default. Either party may terminate this Contract, in whole or in part, whenever such party determines that the other has failed satisfactorily to fulfill its obligations and responsibilities hereunder and is unable to cure such failure within a reasonable period of time, not to exceed thirty (30) calendar days or such longer period of time as may be specified in writing by the terminating party, taking into consideration the gravity and nature of the default. Such termination shall be referred to as "Termination for Default". Upon determination by either party hereto that the other has failed to satisfactorily perform its obligations and responsibilities hereunder, the party seeking termination shall notify the defaulting party in writing of the failure and of the time period that has been established to cure such failure, which time period shall be not less than ten (10) days. If the defaulting party is unable to cure the failure within the specified time period, the party seeking to terminate may, by giving written notice thereof to the defaulting party, terminate this Contract, in full or in part, as of the date specified in the notice of termination. Caliper, however, shall be paid for all services and/or materials provided on or prior to the date of termination.

5.3 Termination for Financial Instability. In the event that Caliper becomes financially unstable to the point of (i) ceasing to conduct business in the normal course, (ii) making a general assignment for the benefit of creditors, or (iii) suffering or permitting the appointment of a receiver for its business or its assets, or there is a filing by or against Caliper of a meritorious petition in bankruptcy under any bankruptcy or debtor's law, the County may, at its option, immediately terminate this Contract under Section 5.2, the "Termination for Default" clause, by giving written notice thereof.

ARTICLE VI – ADHERENCE TO ELECTRONIC SIGNATURE POLICY OF COUNTY

6.1. By entering into this Contract, Caliper, its officers, employees, subcontractors, sub-grantees, agents or assigns, to conduct this transaction by electronic means by agreeing that all documents requiring county signatures may be executed by electronic means, and that the electronic signatures affixed by Cuyahoga County to said documents shall have the same legal effect as if that signature was manually affixed to a paper version of the document.

6.2 Caliper further agrees to be bound by the provisions of Chapter 304 and 1306 of the Ohio Revised Code as they pertain to Electronic Transactions and to comply with the electronic signature policy of Cuyahoga County.

ARTICLE VII – MISCELLANEOUS

7.1 Notices. Wherever one party is required or permitted to give notice to the other pursuant to this Contract, such notice shall be deemed given when delivered by hand, via certified mail with return receipt requested, via overnight courier with signature required, and addressed as follows:

In the case of the County:

Cuyahoga County Sheriff's Department
ATTN: Nadine An'Noor
1200 Ontario Street
Cuyahoga County Justice Center
Cleveland, Ohio 44113

In the case of the Caliper:

Caliper Corporation
1172 Beacon Street Suite 300
Newton, Massachusetts 02461-9926

Either party may from time to time change its designated recipient or address for notification purposes by giving the other party written notice of the new designated recipient or address and the date upon which it will become effective.

7.2 Severability. If, and only to the extent that, any provision of this Contract is declared or found to be illegal, unenforceable or void, then both parties shall be relieved of all obligations arising under such provision, it being the intent and agreement of the parties that this Contract shall be deemed amended by modifying such provision to the extent necessary to make it legal and enforceable while preserving its intent. If that is not possible, another provision that is legal and enforceable and achieves the same objective shall be substituted. If the remainder of this Contract is not affected by such declaration or finding and is capable of substantial performance, then the remainder shall be enforced to the extent permitted by law.

7.3 Waiver. No delay or omission by either party in the exercise of any right or power shall impair any such right or power or be construed to be a waiver thereof. A waiver by either of the parties of any of the covenants, conditions or agreements to be performed by the other or any breach thereof shall not be construed to be a waiver of any succeeding breach thereof or of any other covenant, condition or agreement herein contained. No change, waiver, or discharge hereof shall be valid unless in writing and signed by an authorized representative of the party against which such change, waiver, or discharge is sought to be enforced.

7.4 Survival of Terms. Termination or expiration of this Contract for any reason shall not release either party from any liabilities or obligations set forth in this Contract which (i) the parties have expressly agreed shall survive any such termination or expiration, or (ii) remain to be performed or by their nature would be intended to be applicable following any such termination or expiration.

7.5 Headings and Interpretation. The article and section headings used herein are for reference and convenience only, and shall not enter into the interpretation hereof.

7.6 Governing Law. This Contract shall be subject to interpretation under the laws of the State of Ohio.

7.7 Social Security Act. Caliper shall be and remain an independent contractor with respect to all services performed hereunder and agrees to and does hereby accept full and exclusive liability for payment of any and all contributions or taxes for social security, unemployment insurance, or old age retirement benefits, pensions, or annuities now or hereafter imposed under any Local, State or Federal Law which are measured by the wages, salaries, or other remuneration paid to persons employed by Caliper for work performed under the terms of this contract and further agrees to obey all lawful rules and regulations and to meet all lawful requirements which are now or hereafter may be issued or promulgated under said respective laws by and duly authorized State or Federal officials; and said Caliper also agrees to indemnify and save harmless Cuyahoga County from such contributions or taxes or liability.

7.8 Assignment. Caliper shall not assign, transfer, convey or otherwise dispose of this Contract, or its right to execute it, or its right, title or interest in or to it or any part thereof, or assign, by power of attorney or otherwise, any of the monies due or to become due under this Contract without approval of the Cuyahoga County Executive.

7.9 Contract Processing. Caliper shall submit one (1) original contractual agreement with original signatures to the following:

Cuyahoga County Information Services Center
ATTN: Business Department
1255 Euclid Avenue, 4th Floor
Cleveland, Ohio 44115

7.10 Commencement of Contract Performance. In order to protect the interest of Cuyahoga County this contract must be executed by the County Executive before compensation for the services or products set forth in this contract can be provided. Upon approval by the County Executive of this contract, however, any and all prior performance under this contract shall be deemed ratified and said performance shall be deemed to be included in this contract. Payment(s) for said prior performance shall not increase the amount of the contract limit.

7.11 Entire Agreement and Modification. This Contract, including any Schedules and documents referred to in this Contract or attached hereto, each of which is incorporated herein, constitutes the entire and exclusive statement of the agreement between the parties with respect

to its subject matter and there are no oral or written representations, understandings or agreements relating to this Contract which are not fully expressed herein. The parties agree that any other terms or conditions included in any quotes, acknowledgments, bills of lading or other forms utilized or exchanged by the parties shall not be incorporated herein or be binding unless expressly agreed upon in writing by authorized representatives of the parties. No modification, change or amendment hereof shall be valid unless such is in writing and signed by the authorized representative of the party against which such modification, change or amendment is sought to be enforced.

THIS AGREEMENT shall be subject to interpretation under the laws of the State of Ohio, and is subject to the review of the County Prosecutor's Office as to legal form and correctness.

IN WITNESS WHEREOF, THE County and Caliper have each caused this Contract to be signed and delivered by its duly authorized representative as of the date first written.

Caliper Corporation

Cuyahoga County, Ohio

Edward FitzGerald, County Executive

BY: Howard Scavin
HOWARD SCAVIN, PRESIDENT

BY: Ed FitzGerald/apc
2012-04-06 16:52:18
Edward FitzGerald, County Executive

Fed. TIN# 04-2806868

Caliper Corporation**PRO FORMA INVOICE**

1172 Beacon Street Suite 300
Newton, MA 02461
Phone 617-527-4700 Fax 617-527-5113

PRO FORMA INVOICE #062111-CUYAHOGA-M
DATE: JUNE 21, 2011

TO:
Nadine An-Noor
Cuyahoga County Sheriff's Office
216-443-8144
Dottie Sievers
dsievers@cuyahogacounty.us
nannoor@cuyahogacounty.us

Schedule A

COMMENTS OR SPECIAL INSTRUCTIONS:

Make all checks payable to Caliper Corporation.

SALESPERSON					
Margaret Holmes	Margaret@caliper.com				

QUANTITY	DESCRIPTION	UNIT PRICE	TOTAL
2	Base TransCAD Software Support Serial Numbers TCB-123-FJS-144-YYR & TCB-095-FZG-146-PDF Support Period March 31, 2011 – March 31, 2012	\$800.00	\$1,600.00
SUBTOTAL			\$1,600.00
SALES TAX			
SHIPPING & HANDLING			0
TOTAL DUE			\$1,600.00

If you have any questions concerning this quote, contact Margaret Holmes phone 617-527-4700 email Margaret@caliper.com

Margaret Holmes

TransCAD 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:

- A. "Software" means the TRANSCAD 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.
- B. "Copy Protection Measure" means a technological measure utilized for copy protection, including any hardware device provided to Licensee by Caliper.
- C. "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.
- D. "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.
- E. "Documentation" means any materials and documentation provided by Caliper to describe the operation of the Software.
- F. "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. 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;
- B. 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 (specifying "Port of copyright 1998-2011 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

- A. 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.
- B. This Agreement does not grant Licensee any rights in connection with any trademarks or service marks of Caliper.
- C. 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;
- D. 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.
- E. 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.
- F. 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.

- A. 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.
- B. 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.
- C. 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.
- D. 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.

- 6. **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.

- 7. **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 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.

- 8. **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.

- A. 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 ninety-nine (99) years, or five (5) years in the case of an Academic License, from such date.
- B. 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.
- C. Upon expiration or termination of this Agreement:
 - i. Licensee will return the Product to Caliper and destroy any other copies of any portion of the Product in its possession.
 - ii. Licensee will have no further right to possess or use the Product.
- D. 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.

- A. This Agreement sets forth the entire understanding and agreement between Caliper and Licensee with respect to the subject matter hereof and supercedes 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.
- B. 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.
- C. 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.
- D. 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.
- E. 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.
- F. The section titles in this Agreement are used solely for the convenience of the Licensee and Caliper and have no legal or contractual significance.

- 12. **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. §227.7202. As provided therein, the Government shall have only those rights specified in this Agreement.

- 3. **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 C.F.R. 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 TRANSCAD FOR THE WEB LICENSE

This modification to the TransCAD License Agreement permits the use of one copy of Caliper's TransCAD for the Web, TransCAD, and/or custom programs or add-ins created with the Caliper GISDK for TransCAD 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 TransCAD for the Web by Caliper" as a hyperlink to <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 TransCAD or TransCAD for the Web. If not renewed annually the TransCAD for the Web license will terminate automatically and the software will cease to function. All other provisions of the Software License remain unchanged.

Margaret Johnson