

Legally Binding License Orthophotography

**Please Read Carefully. If You Do Not Accept the Terms and Conditions
Below, Please Return the Data and Any Other Materials.**

STATEMENT OF POLICY. We, the West Virginia Statewide Addressing and Mapping Board, were created by the Legislature to improve the quality of 9-1-1 emergency dispatch and response in West Virginia. One of the deliverables of our several year long project is orthophotography of the State. We still retain ownership over the orthophotography, but are licensing its use for other projects that benefit the State of West Virginia and its political subdivisions. Any further use or distribution is strictly prohibited.

In addition, you are receiving our orthophotography free of charge. We have hired among the best mapping and geospatial information technology professionals in the world to compile this orthophotography. However, we cannot allow the success of the project to be jeopardized by lawsuits, or to allow the creation of liability on our part or on the part of others involved in the project by our distribution of our orthophotography free of charge. Therefore, this license expressly disclaims all warranties, guarantees and liability.

YOUR AGREEMENT. BY USING OUR ORTHOPHOTOGRAPHY OR OUR OTHER DATA, YOU AGREE THAT YOU ARE PLACING NO RELIANCE WHATSOEVER ON ANYTHING CONTRARY TO THIS LICENSE, AND YOU AGREE TO BE LEGALLY BOUND BY THIS LICENSE. ANYTHING TO THE CONTRARY IS SUPERCEDED. Please carefully read below.

OWNERSHIP. The West Virginia Statewide Addressing and Mapping Board is the exclusive owner of our orthophotography and related data. You have no right to re-distribute our orthophotography or related data without the express written permission of the West Virginia Statewide Addressing and Mapping Board.

AUTHORIZED USERS. The orthophotography or related data may be used only by you, your employees and agents, and only on the governmental project for which you received the orthophotography or related data. All other use or distribution of the data is strictly prohibited.

NO WARRANTY. You understand that the orthophotography and/or any and all other data (including but not necessarily limited to geographic data, tabular data, analytical data, electronic data structures or files) are provided "AS IS." YOU AGREE THAT YOU ARE ENTITLED TO NO WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

NO GUARANTEE OR RELIANCE. You agree that you are receiving no guarantee whatsoever. You explicitly disclaim reliance on the data or on any oral or written statements or representations made by us, by our agents, directors, project managers, employees, members or contractors, or by anyone else.

YOUR RESPONSIBILITIES. You are responsible for educating yourself about our project and your role, if any, in it.

You are also responsible for using the data in accordance with this license. If you use or distribute this data without our express written permission, you are acting unlawfully and you will be prosecuted. ANY DISTRIBUTION OR USE OF THE DATA NOT EXPLICITLY AUTHORIZED IN WRITING BY THE WEST VIRGINIA STATEWIDE ADDRESSING AND MAPPING BOARD (“WVSAMB”) IS EXPRESSLY PROHIBITED.

YOU MAY HAVE OTHER RESPONSIBILITIES IMPOSED UNDER A LICENSE AGREEMENT OR BY LAW. YOU ARE RESPONSIBLE FOR DETERMINING YOUR LEGAL RESPONSIBILITIES. YOU WILL BE PROSECUTED TO THE FULLEST EXTENT OF THE LAW IF YOU VIOLATE YOUR RESPONSIBILITIES.

EXCLUSION OF DAMAGES AND LIABILITY. IN NO EVENT SHALL WE BE LIABLE FOR DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR SPECIAL DAMAGES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, LOSS OF ANTICIPATED PROFITS OR BENEFITS ARISING OUT OF USE OF OR RELIANCE ON THE ORTHOPHOTOGRAPHY OR OTHER DATA. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING SENTENCE, WE DO NOT ACCEPT ANY LIABILITY WHATSOEVER FOR ANY STATEMENTS OR MISREPRESENTATION CAUSED BY INACCURACIES IN THE ORTHOPHOTOGRAPHY OR OTHER DATA OR AS A RESULT OF CHANGES TO THE DATA CAUSED BY SYSTEM TRANSFERS OR OTHER TRANSFORMATIONS OR CONVERSIONS, NOR DO WE ASSUME ANY RESPONSIBILITY WHATSOEVER TO MAINTAIN THE DATA IN ANY MANNER OR FORM. USE OF THE DATA IS ENTIRELY AT YOUR OWN RISK.

NO WAIVER; AMENDMENT ONLY IN WRITING. You acknowledge that none of our agents, directors, project managers, employees, members, contractors or any other party has the authority to amend or waive this license. It may be amended or waived only in writing and only after a duly constituted vote of the West Virginia Statewide Addressing and Mapping Board. YOU EXPRESSLY AGREE THAT YOU CANNOT JUSTIFIABLY RELY UPON ANYTHING ANYONE SAYS OR REPRESENTS TO YOU TO THE CONTRARY.

“WE,” “US,” “OUR,” “YOU,” “YOUR.” References to “we,” “us” or “our” mean (1) the West Virginia Statewide Addressing and Mapping Board; and, with respect to the exclusions from liability and damages, (2) the Rahall Appalachian Transportation

Institute (“RTI”); (3) the West Virginia Department of Transportation, Division of Highways (“WV DOH”); (4) their agents, directors, project managers, employees, members and contractors; and (5) any other agencies, persons, firms or corporations that may be connected with the West Virginia Statewide Addressing and Mapping Project, or that may supply funding to WVSAMB or RTI. References to “You” and “Your” mean the County Commission, County Auditor, County 9-1-1 Center, or any other organization whatsoever receiving the data under this license, and all persons they may allow access to our data.

STATE LAW. This license is governed by the law of the State of West Virginia, including but not limited to the following provisions of the West Virginia Code where applicable:

§24E-1-8. Liability limitation.

No person is liable for damages for injury, death or loss to persons or property arising from any act or omission, except willful or wanton misconduct, in connection with developing or implementing the statewide addressing and mapping to be accomplished by this article or in connection with providing information or assistance related to the addressing and mapping or as a result of providing funding to the statewide addressing and mapping fund created by section five of this article.

§24-6-8. Limitation of liability.

A public agency or a telephone company participating in an emergency telephone system or a county which has established an enhanced emergency telephone system, and any officer, agent or employee of the public agency, telephone company or county is not liable for damages in a civil action for injuries, death or loss to persons or property arising from any act or omission, except willful or wanton misconduct, in connection with developing, adopting or approving any final plan or any agreement made pursuant to this article, or otherwise bringing into operation or participating in the operation of an emergency telephone system or an enhanced emergency telephone system pursuant to this article.