

## PUBLIC ACCESSIBILITY COPYRIGHT LICENSE AGREEMENT

This Public Accessibility Copyright License Agreement ("Agreement") is made by and between South Dakota State University, a nonprofit public institution of higher education of South Dakota under the control and management of the South Dakota Board of Regents with its principal place of business at Box 2201, SAD 130, Brookings, South Dakota 57007-0291 ("SDSU"), and Jeffrey R. Irwin, the copyright holder having a residence at 400 N. Dominic Ave, Sioux Falls, SD 57107, ("Licensor") (together the "Parties" or individually "Party") on this 27 day of April, 2018 ("Effective Date").

### RECITALS

A. Licensor created the copyrighted work and associated data entitled 'QUANTIFICATION OF UNDERSTORY FUELS IN THE SUPERIOR NATIONAL FOREST USING LIDAR DATA

\_\_\_\_\_ " (hereinafter "Material") during their employment duties at South Dakota State University.

B. South Dakota Board of Regents Policy 4:34(4)(B)(1) ordinarily waives title to the copyrights for scholarly and creative works back to the creator which is the Licensor.

C. Licensee desires to have the Material made publically available and SDSU has the capabilities of making the Material publically available.

NOW, THEREFORE, in consideration of the promises, conditions, covenants and warranties herein contained, the parties agree as follows:

#### 1. Rights Granted.

Licensor hereby grants to SDSU a non-exclusive right, fully paid, royalty-free license and privilege worldwide (the "Territory") to:

- a. deposit the Materials into the Public Access Institutional Repository for public availability; and
- b. make the Materials publically available during the Term of this Agreement.

#### 2. Licensor's Rights and Obligations.

- a. Licensor warrants and represents that it owns all right, title and interest in and to the Material.
- b. Licensor reserves unto itself all rights of every kind and nature except those specifically granted to Licensee herein.

#### 3. SDSU's Rights and Obligations.

a. SDSU shall be solely responsible for providing all funding and technical expertise to make the Materials publically available and depositing the Materials in the Public Access Institutional Repository.

#### **4. Warranty and Indemnification.**

The Parties shall be solely responsible for any and all actions, suits, damages, liability or other proceedings brought against it as a result of the alleged negligence, misconduct, error or omission of any of its officers, agents or employees. Neither party is obligated to indemnify the other party or to hold the other party harmless from costs or expenses incurred as a result of such claims; and each shall continue to enjoy all rights, claims and defenses available to it under law.

#### **5. Term and Termination.**

a. The term of this Agreement from the date of execution by both parties until the last copyright has expired on the Materials, unless terminated earlier pursuant to this section ("Term").

b. This Agreement may be terminated at the election of Licensor, in the event that Licensor determines that the work should not be made publically available.

c. This Agreement may be terminated by SDSU for any reason given thirty (30) days notice to Licensor.

#### **6. General Provisions.**

##### **a. Successors/Assigns.**

This Agreement is binding upon and shall inure to the benefit of the respective successors and/or assigns of the parties hereto.

##### **b. Integration.**

This Agreement sets forth the entire agreement between the parties with respect to the subject matter hereof, and may not be modified or amended except by written agreement executed by the parties hereto.

##### **c. Governing Law: Forum.**

This Agreement shall be governed by the laws of the State of South Dakota, applicable to agreements made and to be wholly performed therein.

##### **d. Notice.**

The address of each party hereto as set forth below shall be the appropriate address for the mailing of notices, checks and statements, if any, hereunder. All notices shall be sent certified or

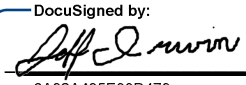
registered mail and shall not be deemed received or effective unless and until actually received. Either party may change their mailing address by written notice to the other.

IN WITNESS WHEREOF, the parties have caused this License Agreement to be executed on the Effective Date.

**South Dakota State University "SDSU"**

Jeffrey R. Irwin **"Licensor"**  
(Print name)

By: \_\_\_\_\_  
(Signature)

DocuSigned by:  
By:  \_\_\_\_\_  
(Signature) 6A92A465E88D479...

Title: \_\_\_\_\_

Title: STUDENT

Date: \_\_\_\_\_

Date: 4/27/2018 | 17:46 CDT