



SMALL MUNICIPAL AND COUNTY
ENTERPRISE LICENSE AGREEMENT
(E214 12/07)

ESRI, 380 New York St., Redlands, CA 92373-8100 USA • TEL 909-793-2853 • FAX 909-793-5953

This Small Municipal and County Enterprise License Agreement (hereafter "ELA") is by and between the organization identified in the quotation ("Licensee") and Environmental Systems Research Institute, Inc. ("ESRI"), with offices at 380 New York Street, Redlands, California 92373-8100. This ELA is effective ("Effective Date") as of the date of receipt of Licensee's Purchase Order citing this ELA. This ELA licenses certain ESRI Software, Data, Web Services, and Documentation and provides maintenance over a limited, fixed period of time from the Effective Date subject to a payment of fees and the terms of this ELA.

This ELA is composed of this signature page, the ELA Terms and Conditions, Exhibit 1 Scope of Use (E300), and the ELA Quotation, which together constitute the sole and entire agreement of the parties as to the subject matter set forth herein. This ELA supersedes any previous agreements, proposals, presentations, understandings, and arrangements between the parties relating to such subject matter. Except as provided in Section 9.1 Future Versions, any modifications or amendments to the ELA must be in writing and signed by an authorized representative of each party. Licensee agrees that any different or additional terms or conditions in or with Licensee's Purchase Order shall not apply and the terms of the ELA shall govern.

Licensee may accept this agreement by signing and returning this ELA with a Purchase Order or by issuing a Purchase Order signed by Licensee, which shall reference the quotation number and shall include the following statement on the face of its Purchase Order: **THIS PURCHASE ORDER IS GOVERNED BY THE TERMS AND CONDITIONS OF THE ESRI SMALL MUNICIPAL AND COUNTY ELA, AND ANY DIFFERENT OR ADDITIONAL TERMS AND CONDITIONS IN OR WITH THIS PURCHASE ORDER SHALL NOT APPLY.**

Licensee will return this ELA and its Purchase Order to: Attn.: ESRI Customer Service, Dept. SG-ELA, 380 New York Street, Redlands, CA 92373-8100; e-mail to service@esri.com; or fax to 909-307-3083.

ACCEPTED AND AGREED:

(Licensee)

By: _____
Signature

Printed Name: _____

Title: _____

Date: _____

Licensee Contact Information

Contact: _____

Telephone: _____

Address: _____

Fax: _____

City, State, ZIP: _____

E-mail: _____

ELA Quotation Number: _____

ESRI Contract Number: _____

ELA TERMS AND CONDITIONS

ARTICLE 1—DEFINITIONS

Definitions. The terms used are defined as follows

- "Data," except as otherwise provided herein, means any ESRI or third-party data vendor(s) digital dataset(s) including, but not limited to, geographic, vector data coordinates, raster, reports, or associated tabular attributes.
- "Deploy," "Deployed," or "Deployment" means to redistribute and install or the redistribution and installation of the Enterprise Software or its having been redistributed and installed by Licensee on Licensee's hardware
- "Documentation" means all of the printed and digital materials including, but not limited to, help files, user reference documentation, training documentation, or technical information and briefings.
- "ELA Maintenance" means Tier 2 Support, updates, and patches provided by ESRI to Licensee for the Enterprise Software
- "ELA Fee" means the fee set forth in the ELA Quotation.
- "Enterprise Software" means the Software, Data, Web Services, and Documentation identified in the ELA Quotation as Enterprise Software.
- "Incident" means a failure of the Software to operate according to the Documentation in which such failure substantially impacts operational or functional performance.
- "License Agreement" and "ELA" are used interchangeably and mean the license terms and conditions including Exhibit 1 Scope of Use (E300) that apply to Enterprise Software provided to Licensee by ESRI under this agreement
- "Software" means the actual copy of all or any portion of ESRI's proprietary software technology, accessed or downloaded from an authorized ESRI Web site, or delivered on any media, in any format, including backups, updates, service packs, patches, hot fixes, sample code, sample application, add-on, sample extension, or merged copies permitted hereunder.
- "Technical Support" means a process to attempt to resolve reported Incidents through error correction; patches; hot fixes, workarounds; replacement deliveries; or any other type of Software, Data, or Documentation corrections or modifications.
- "Tier 1 Help Desk" means Licensee point of contact from which all Tier 1 Support will be given to Licensee.
- "Tier 1 Support" means the Technical Support provided by the Tier 1 Help Desk as the primary contact to Licensee in attempted resolution of reported Incidents
- "Tier 2 Support" means the Technical Support provided by ESRI to the Tier 1 Help Desk when the Incident cannot be resolved through Tier 1 Support.
- "Web Services" means software services or third-party data components that perform geographic information system (GIS) functions, tasks, or data services and are accessed over the Internet excluding Virtual Campus

ARTICLE 2—INTELLECTUAL PROPERTY RIGHTS AND RESERVATION OF OWNERSHIP

The Enterprise Software are licensed and not sold. ESRI and its licensors own the Enterprise Software, which are protected by United States and applicable international laws, treaties, and conventions regarding intellectual property and proprietary rights including trade secrets Licensee agrees to use reasonable means to protect the Enterprise Software from unauthorized use, reproduction, distribution, or publication. ESRI and its third-party licensors reserve all rights not specifically granted in this License Agreement including the right to change and improve Web Services

ARTICLE 3—GRANT OF LICENSE

3.1 Grant of License. Subject to the terms and conditions of this ELA, ESRI grants to Licensee a limited term, personal, nonexclusive, nontransferable license to

- a. Use, copy, and Deploy an unlimited quantity of the Enterprise Software excluding ESRI Developer Network (1) for the term identified in this ELA and (2) for Licensee's own internal use.
- b. Deploy one annual subscription of the ESRI Developer Network for use by a single named developer.
- c. Access and use any secure ESRI Web site resources made available to Licensee for Licensee's internal use, provided that Licensee follows ESRI's terms of use policy specified therein All password or controlled access information provided by ESRI shall be treated as ESRI confidential information.

3.2 Consultant Access. Licensee may provide access to the Enterprise Software to any consultant or contractor of Licensee, provided consultants and contractors use is for the sole benefit of Licensee while (i) working on-site at Licensee's facilities or (ii) remotely using/accessing Enterprise Software from Licensee's on-site computers or machines Licensee shall be responsible for compliance by consultants or contractors with the terms and conditions of this ELA Licensee shall require consultant or contractor to discontinue use of and access to Enterprise Software upon completion of work for Licensee.

ARTICLE 4—SCOPE OF USE

4.1 Permitted Uses

- a. Licensee may install and store the Software, Data, and Documentation on electronic storage device(s)
- b. Licensee may make one (1) copy of the Software, Data, and Documentation for archival purposes. Licensee may make routine computer backups
- c. Licensee may customize the Software using any (i) macro or scripting language, (ii) published application programming interface (API), or (iii) source or object code libraries, but only to the extent that such customization is described in the Documentation.
- d. Licensee may use, copy, or prepare derivative works of the Documentation supplied in digital format and thereafter reproduce, display, and redistribute the customized documentation only for Licensee's own internal use The portion(s) of the Documentation supplied in digital format merged with other software and printed or digital documentation shall continue to be subject to the terms and conditions of this ELA and shall provide the following copyright attribution notice acknowledging the proprietary rights of ESRI and its licensor(s) in the Documentation supplied in digital format: "Portions of this document include intellectual property of ESRI and its licensor(s) and are used herein under license Copyright © [insert the actual copyright date(s) from the source materials] ESRI and its licensor(s) All rights reserved."

4.2 Uses Not Permitted

- a. Except as provided herein, Licensee shall not sell, rent, lease, sublicense, lend, assign, or time-share the Enterprise Software Licensee shall not act as a service bureau or commercial application service provider (ASP) that allows third party access to the Enterprise Software A commercial ASP means a Licensee who uses Enterprise Software for a site or service and operates the site or the service for a profit or generates revenue by charging for access to the site or service.

- b. Licensee shall not redistribute the Software to third parties, in whole or in part, including, but not limited to, extensions, components, or DLLs, without the prior written approval of ESRI as set forth in an appropriate redistribution license agreement.
- c. Licensee shall not reverse engineer, decompile, or disassemble the Enterprise Software, except to the extent that such activity is expressly permitted by applicable law notwithstanding this restriction.
- d. Except to the extent that applicable law prohibits this restriction, Licensee shall not make any attempt to circumvent the technological measure(s) that controls access to, or use of, the Enterprise Software
- e. Licensee shall not redistribute the Software registration number/license authorization file(s), developer license file(s), or Web Services access codes.
- f. Licensee shall not use the Software or Web Services to transfer or exchange any material in which such transfer or exchange is prohibited by intellectual property laws or any other applicable laws.
- g. Licensee shall not remove or obscure any ESRI or its licensor(s) patent, copyright, trademark, or proprietary rights notices contained in or affixed to the Enterprise Software.
- h. Licensee shall not unbundle individual or component parts of the Software or Data for independent use.
- i. Hard-copy Documentation may not be copied.
- j. Licensee shall not use, transfer, redistribute, or Deploy Enterprise Software outside of the United States.

ARTICLE 5—TERM AND TERMINATION AND EXPIRATION

5.1 Term. The term of the ELA shall be three (3) years from the Effective Date, unless this ELA is terminated earlier as provided herein. The term of all licenses and the authorized period of use for all Enterprise Software Deployed shall be concurrent with the term of this ELA. No indefinite or perpetual term license grants are provided with this ELA.

5.2 Termination for Lack of Funds. Either party may terminate this ELA for Lack of Funds. Lack of Funds is the inability of Licensee to secure appropriation of funds through the legislative or governing body's approval process for annual payments due.

5.3 Termination for a Material Breach. Either party may terminate this ELA for a material breach by the other party. The breaching party shall be given a period of ten (10) days from date of written notice to cure any material breach.

5.4 No Use Upon Expiration or Termination. Upon expiration or termination of this ELA, all licenses Deployed shall terminate. Licensee shall cease access and use of Web Services and clear Web Services client-side data cache and uninstall, remove, and destroy all Deployed Software, Data, and Documentation and any whole or partial copies, modifications, media, or merged portions in any form and execute and deliver evidence of such actions to ESRI. ELA Maintenance, Virtual Campus access, and User Conference Registrations shall also terminate.

ARTICLE 6—LIMITED WARRANTIES AND DISCLAIMERS

6.1 Limited Warranties. ESRI warrants that (i) the unmodified Software will substantially conform to the published Documentation and (ii) the media upon which the Software, Data, and Documentation are provided will be free from defects in materials and workmanship under normal use and service for a period of ninety (90) days from the date of receipt.

6.2 Data and Web Services Disclaimer. If included under this ELA, the Data and Web Services have been obtained from sources believed to be reliable, but the accuracy and completeness of the Data and Web Services are not guaranteed. The Data and Web Services may contain some nonconformities,

defects, errors, or omissions. ESRI AND ITS LICENSOR(S) MAKE NO WARRANTY WITH RESPECT TO THE DATA AND WEB SERVICES, WHICH ARE PROVIDED "AS IS." Without limiting the generality of the preceding sentence, ESRI and its licensor(s) do not warrant that the Data and Web Services will meet Licensee's needs or expectations, that the use of the Data and Web Services will be uninterrupted, or that all nonconformities can or will be corrected. ESRI and its licensor(s) are not inviting reliance on this Data or Web Services, and Licensee should always verify actual Data or Web Services

6.3 Special Disclaimer. SAMPLE CODE, SAMPLE APPLICATION, SAMPLE EXTENSION, ADD-ON, HOT FIXES, AND EVALUATION SOFTWARE ARE DELIVERED "AS IS" WITHOUT WARRANTY OF ANY KIND. LICENSEE ASSUMES ALL RISK AS TO THE QUALITY AND PERFORMANCE OF THE SAMPLE CODE, SAMPLE APPLICATION, SAMPLE EXTENSION, HOT FIXES, AND EVALUATION SOFTWARE.

6.4 Internet Disclaimer. BOTH PARTIES EXPRESSLY ACKNOWLEDGE AND AGREE THAT THE INTERNET IS A NETWORK OF PRIVATE AND PUBLIC NETWORKS, AND THAT (1) THE INTERNET IS NOT A SECURE INFRASTRUCTURE, (2) NEITHER PARTY HAS CONTROL OVER THE INTERNET, AND (3) NEITHER PARTY IS LIABLE FOR DAMAGES UNDER ANY THEORY OF LAW RELATED TO THE DISCONTINUANCE OF OPERATION OF ANY PORTION OF THE INTERNET OR POSSIBLE REGULATION OF THE INTERNET THAT MIGHT RESTRICT OR PROHIBIT THE OPERATION OF THE WEB SERVICE.

6.5 General Disclaimer. EXCEPT FOR THE ABOVE EXPRESS LIMITED WARRANTIES, ESRI DISCLAIMS ALL OTHER WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINTERFERENCE, SYSTEM INTEGRATION, AND NONINFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS. ESRI DOES NOT WARRANT AND DISCLAIMS THAT THE ENTERPRISE SOFTWARE WILL MEET LICENSEE'S NEEDS; THAT LICENSEE'S OPERATION OF THE SAME WILL BE UNINTERRUPTED, ERROR FREE, FAULT TOLERANT, FAIL-SAFE; OR THAT ALL NONCONFORMITIES CAN OR WILL BE CORRECTED

6.6 Exclusive Remedy. Licensee's exclusive remedy and ESRI's entire liability for breach of the limited warranties set forth in this Article 6 shall be limited, at ESRI's sole discretion, to (i) replacement of any defective media, (ii) repair, correction, or a workaround for the Software subject to the ESRI Support Services Policy, or (iii) return of the license fees paid by Licensee for the Software or Documentation that does not meet ESRI's limited warranty, provided that Licensee uninstalls, removes, and destroys all copies of the Software or Documentation and executes and delivers evidence of such actions to ESRI.

ARTICLE 7—LIMITATION OF LIABILITY

7.1 Disclaimer of Certain Types of Liability. ESRI AND ITS LICENSOR(S) SHALL NOT BE LIABLE TO LICENSEE FOR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; LOST PROFITS; LOST SALES OR BUSINESS EXPENDITURES; INVESTMENTS, BUSINESS COMMITMENTS; LOSS OF ANY GOODWILL OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS ELA OR USE OF THE ENTERPRISE SOFTWARE, HOWEVER CAUSED, ON ANY THEORY OF LIABILITY, WHETHER OR NOT ESRI OR ITS LICENSOR(S) HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY

7.2 General Limitation of Liability. EXCEPT AS PROVIDED IN ARTICLE 8—INFRINGEMENT INDEMNITY, ESRI'S TOTAL CUMULATIVE LIABILITY HEREUNDER, FROM ALL CAUSES OF ACTION OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, BREACH OF WARRANTY, MISREPRESENTATION, OR OTHERWISE, SHALL NOT EXCEED THE AMOUNTS PAID BY LICENSEE FOR ENTERPRISE SOFTWARE PURSUANT TO THIS ELA.

7.3 Applicability of Disclaimers and Limitations. The parties agree that ESRI has set its prices and entered into this ELA in reliance upon the disclaimers and limitations set forth herein, that the same reflect an allocation of risk between the parties (including the risk that a contract remedy may fail of its essential purpose and cause consequential loss), and that the same form an essential basis of the bargain between the parties

ARTICLE 8—INFRINGEMENT INDEMNITY

8.1 ESRI shall defend, indemnify, and hold harmless Licensee from and against any loss, liability, cost, or expense, including reasonable attorneys' fees, which may be incurred by Licensee against any claims, actions, or demands by a third party alleging that the Software infringes a U.S. patent, copyright, or trademark provided

- a. Licensee promptly notifies ESRI in writing of the claim;
- b. Where patent indemnity is sought, Licensee provides a claim chart that clearly explains how the Software allegedly infringes each claim of the patents at issue;
- c. ESRI has sole control of the defense of any actions and negotiations related to the defense or settlement of any claim, and
- d. Licensee cooperates fully in the defense of the claim.

8.2 If the Software is found to infringe a U.S. patent, copyright, or trademark, ESRI, at its own expense, may either (i) obtain rights for Licensee to continue using the Software or (ii) modify the allegedly infringing elements of the Software while maintaining substantially similar software functionality or data/informational content. If neither alternative is commercially reasonable, the infringing items shall be returned to ESRI, the license shall terminate, and ESRI's entire liability shall be to indemnify Licensee pursuant to section 8.1 and to refund license fees paid by Licensee prorated on a five (5) year, straight-line depreciation basis beginning from the initial date of delivery.

8.3 ESRI shall have no obligation to defend Licensee or to pay any resulting costs, damages, or attorneys' fees for any claims or demands alleging direct or contributory infringement of the Software by (i) the combination of or integration with a product, process, or system not supplied by ESRI; (ii) material alteration by anyone other than ESRI, its contractors, or its agents acting on behalf of ESRI; (iii) use after Licensee has been notified of possible infringement; or (iv) use after modifications are provided or a return is ordered by ESRI under section 8.2.

THE FOREGOING STATES THE ENTIRE OBLIGATION OF ESRI WITH RESPECT TO INFRINGEMENT OR ALLEGATION OF INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY

ARTICLE 9—GENERAL PROVISIONS

9.1 Future Versions. Updated or new Enterprise Software may require additional or revised terms and conditions. Terms and conditions subject to revision are limited to Article 1—Definitions, Section 4.2 Uses Not Permitted and Exhibit 1 Scope of Use (E300), or any term as required by law. ESRI may provide notice of the revisions to Licensee in writing or by posting them on ESRI's Web site at www.esri.com/legal. The revisions shall be

incorporated into this ELA upon use of the updated or new Enterprise Software. Should Licensee reject the revisions, then Licensee shall not install or use the revised, updated, or new Enterprise Software.

9.2 Export Control Regulations. Licensee expressly acknowledges and agrees that Licensee shall not export, reexport, transfer, or release the Enterprise Software, in whole or in part, to (i) any U.S. embargoed country (or to national or resident of any U.S. embargoed country); (ii) any person on the U.S. Treasury Department's list of Specially Designated Nationals; (iii) any person or entity on the U.S. Commerce Department's Table of Denial Orders; or (iv) any person or entity to where such export, reexport, or provision violates any U.S. export control laws or regulations including, but not limited to, the terms of any export license or licensing provision and any amendments and supplemental additions to U.S. export laws as they may occur from time to time

9.3 Taxes and Fees. License fees quoted to Licensee are exclusive of any and all taxes or fees including, but not limited to, sales tax or use tax.

9.4 No Implied Waivers. The failure of either party to enforce any provision of this ELA shall not be deemed a waiver of the provisions or of the right of such party thereafter to enforce that or any other provision.

9.5 Severability. The parties mutually agree that if any provision of this ELA is held to be unenforceable for any reason, such provision shall be reformed only to the extent necessary to make the intent of the language enforceable

9.6 Counterparts. This ELA may be executed in counterparts, all of which, taken together, shall be deemed one (1) original document.

9.7 Successor and Assigns. Licensee shall not assign, sublicense, or transfer Licensee's rights or delegate its obligations under this ELA without ESRI's prior written consent, and any attempt to do so without consent shall be void. This ELA shall be binding upon the respective successors and assigns of the parties to this ELA

9.8 Survival of Terms. The provisions of Articles 2, 4.2, 5, 6, 7, 8, and 9 of this ELA shall survive the expiration or termination of this ELA.

9.9 Equitable Relief. Licensee agrees that any breach of this ELA by Licensee may cause irreparable damage and that, in the event of such breach, in addition to any and all remedies at law, ESRI shall have the right to seek an injunction, specific performance, or other equitable relief in any court of competent jurisdiction

9.10 Governing Law. This ELA shall be governed by and construed in accordance with the laws of the state in which Licensee is located without reference to conflict of laws principles, except that U.S. federal law shall govern in matters of intellectual property

ARTICLE 10—ELA MAINTENANCE

ELA Maintenance for Software provided under this ELA is included with the ELA Fee. ELA Maintenance includes standard maintenance benefits specified in the most current applicable ESRI U.S. Software Maintenance Program document (found at www.esri.com/legal) as modified by this Article 10—ELA Maintenance. ELA Maintenance does not include Technical Support for Web Services.

a. Tier 1 Support Provided by Licensee

- (1) Licensee shall provide Tier 1 Support through the Tier 1 Help Desk to all Licensee's authorized users.
- (2) The Tier 1 Help Desk shall use analysts fully trained in the Software they are supporting
- (3) At a minimum, Tier 1 Support shall include those activities that assist Licensee in resolving how-to and operational questions as well as questions on installation and troubleshooting procedures.
- (4) Tier 1 Support analysts shall be the initial points of contact for all questions and Incidents. Tier 1 Support analysts shall obtain a full description of each reported Incident and the system configuration from Licensee. This may include obtaining any customizations, code samples, or Data involved, if applicable, to the Incident. Analysts shall also use any other information and databases they may develop to satisfactorily resolve Incidents.
- (5) If the Tier 1 Help Desk cannot resolve the Incident, an authorized Tier 1 Help Desk individual may contact ESRI Technical Support. The Tier 1 Help Desk shall provide support in such a way as to minimize repeat calls and make solutions to problems available to Licensee.
- (6) Tier 1 Help Desk individuals identified by Licensee are the only individuals authorized to contact ESRI directly for Tier 2 Support. Licensee may revise named individuals by written notice.

b. Tier 2 Support Provided by ESRI

- (1) ESRI shall log calls received from the Tier 1 Help Desk individuals.
- (2) ESRI shall attempt to resolve the Incident by assisting the Tier 1 Help Desk individuals.
- (3) When the Incident is resolved, ESRI shall communicate the information to the Tier 1 Help Desk individuals, and the Tier 1 Help Desk shall disseminate the resolution to Licensee.

ESRI may, at ESRI's sole discretion, make patches, hot fixes, or updates available for downloading from ESRI's Web site or deliver them on media.

ARTICLE 11—ORDERING, ADMINISTRATIVE PROCEDURES, DELIVERY, AND DEPLOYMENT

11.1 Purchase Orders, Delivery, and Deployment

- a. Licensee shall issue a Purchase Order upon execution of the ELA and annually thereafter in accordance with the payment schedule. Payment shall be due and payable within thirty (30) days of the anniversary date of the Effective Date, with the initial payment due within thirty (30) days of execution of the ELA.
- b. Upon receipt of the initial Purchase Order from Licensee, ESRI shall deliver two (2) sets of media containing the Software, Data, and Documentation to Licensee for Deployment activities. ESRI shall ship the media to the ship-to address identified on the Purchase Order, FOB Destination, with shipping charges prepaid. Licensee may purchase additional media sets at the prices in effect at the time of purchase.
- c. ESRI shall provide Licensee with up to ten (10) hardware keys. Additional hardware keys may be ordered at the prices in effect at the time of purchase.
- d. ESRI shall provide registration numbers or keycodes, as applicable, to activate the nondestructive copy protection program that enables the Software to operate.
- e. Licensee shall Deploy, install, configure, and track installation of the Software and Data.

11.2 Purchase Order Requirements

- a. All orders pertaining to this ELA shall be processed through Licensee's centralized point of contact
- b. The following information shall be included in each Purchase Order.
 - (1) Licensee name, ESRI customer number, if known, and bill-to and ship-to addresses
 - (2) Purchase Order number
 - (3) Applicable annual payment due
 - (4) On the face page of its Purchase Order (or ordering document), Licensee shall insert: THIS PURCHASE ORDER IS GOVERNED BY THE TERMS AND CONDITIONS OF THE ESRI SMALL MUNICIPAL AND COUNTY ELA, AND ANY DIFFERENT OR ADDITIONAL TERMS AND CONDITIONS IN OR WITH THIS PURCHASE ORDER SHALL NOT APPLY

ARTICLE 12—ENDORSEMENT AND PUBLICITY

This ELA shall not be construed or interpreted as an exclusive dealings agreement or an endorsement of ESRI by Licensee. Licensee agrees that upon execution of the ELA, ESRI may publicize the existence of this ELA with Licensee.

ARTICLE 13—ADMINISTRATIVE REQUIREMENTS

13.1 OEM Licenses. If Licensee obtains Software, Data, Web Services, or any component thereof as part of an original equipment manufacturer (OEM) software program or product developed and licensed by an OEM business partner of ESRI, Licensee shall not be entitled to or seek any discount from the OEM business partner or ESRI, directly or indirectly, as a result of or based on the availability of such Software, Data, or Web Services, as Enterprise Software under this ELA. In addition, such Software, Data, Web Services, or any component thereof included in the OEM software program or product will be licensed through the license agreement provided by the OEM business partner and not through this ELA

13.2 Product Obsolescence. During the term of this ELA, some Enterprise Software items may become obsolete, may no longer be commercially offered, or may no longer be available for unlimited quantity Deployment. Licensee may continue to use such Enterprise Software that has been Deployed for the term of the ELA, but updates for such obsolete Enterprise Software may not be available. ESRI's Life Cycle Support Policy, available at <http://support.esri.com/index.cfm?fa=knowledgebase.productLifeCycles> gateway, defines the support phases and overall support plans. ELA Maintenance shall be subject to the Product Life Cycle Support Status, which can be found at <http://support.esri.com/index.cfm?fa=software.gateway> by selecting the product type, then clicking the Product Life Cycle link for specific product plans.

13.3 Renewal. Upon expiration of this ELA, the parties will evaluate Licensee's requirements. Any follow-on ELA will be offered in accordance with license terms and condition and pricing then in effect and based upon Licensee's then current population count.



**EXHIBIT 1
SCOPE OF USE
(E300 5/07B)**

ESRI, 380 New York St., Redlands, CA 92373-8100 USA • TEL 909-793-2853 • FAX 909-793-5953

The scope of use for each ESRI Software identified below is described in the applicable footnotes listed in parentheses.

Desktop GIS

- ArcReader (1 and 20)
- ArcView (either 1, 2, or 6 and 17)
- ArcEditor (either 1, 2, or 6 and 17 and 26)
- ArcInfo (either 2 or 6 and 17, and 26)
- ArcGIS Desktop Extensions (7)
- ArcView 3.x and Extensions (1, 7, and 17)

Server GIS

- ArcGIS Server and Extensions
 - Workgroup (either 3, 5, or 6 and 7, 8, 9, 28, 29, 30, 32, 38, 39, and 40)
 - Enterprise (3, 4, 5, or 6 and 7, 8, 9, 27, 31, 38, 39, and 40)
- ArcIMS
 - ArcIMS and Extensions (either 3, 4, 5, or 6 and 7, 8, 10, and 31)
 - ArcIMS ArcMap Server (either 3, 4, 5, or 6 and 31)
- Tracking Server (5 and 31)
- ArcGIS Image Server and Extensions (either 3, 4, 5, or 6 and 7, 8, 31, 41, and 42)
- RouteMAP IMS (either 3, 4, or 5 and 8, 15, and 31)

Mobile GIS

- ArcPad (1, 12, and 13)
- ArcPad Application Builder (1)
- ArcGIS Mobile ADF Application Deployments (1, 15, and 16)

Developer GIS

- ESRI Developer Network (EDN) Software, Web Services, and Data (6, 7, 24, 25, 33, 34, 35, and 36)
- ArcGIS Engine Developer Kit (either 1 or 6 and 14, 15, 22 and 43)
 - Extensions (7)
- ArcGIS Engine Runtime (1, 15, and 22)
 - Extensions (7)
- MapObjects—Windows Edition (1, 14, 15, 16, and 18)
- MapObjects—Java Edition (1, 5, 8, 15, 18, and 19)
- MapObjects LT (1, 14, and 16)

- NetEngine (1, 5, and 15)
- NetEngine Internet (5)

GIS Viewers and Connectors

- ArcExplorer—Java and Windows Editions (1 and 20)
- ArcGIS Explorer (1 and 20)
- ArcGIS For AutoCAD (1 and 20)

Business GIS

- ArcGIS Business Analyst (either 1 or 2)
- ArcView Business Analyst (1)
- ArcLogistics Route (either 1 or 2 and 11)
- BusinessMAP (1)

Cartographic Production

- Maplex (1)
- Military Overlay Editor (1)
- Production Line Tool Set (PLTS) for ArcGIS, GIS Data ReViewer, Job Tracking for ArcGIS (JTX) (either 1 or 2), Job Tracking for ArcGIS Server (either 4 or 5 and 7)

Web Services

- ArcGIS Online (6, 25, 33, 34, and 35)
- ArcWeb Services (6, 16, 25, and 36)

Data

- ESRI Map Data (either 1 or 5 and 23 and 37)
- Demographic Data (either 1 or 5)
 - CommunityInfo
 - Retail Marketplace
 - Consumer Expenditure
- Community Tapestry Data
 - For Appending to Customer Records (6 and 21)
 - For Area Profiles (either 1 or 2 and 21)
- Community Coder (6 and 21)
- *Sourcebook America* (1)
- Portfolio Product Suite (1)
- ArcGIS Data Appliance (6, 23, and 25)
- ArcGIS Data Appliance (Server Bundle) (6, 23, and 25)
- ArcGIS Data Appliance (Data Only) (6, 23, and 25)

1. "Single Use License." Licensee may permit a single authorized end user to install and use the Software, Data, and Documentation on a single computer for use by that end user on the computer on which the Software is installed. Remote access is not permitted. Licensee may permit the single authorized end user to make a second copy for end user's exclusive use on a portable computer so long as only one (1) copy of the Software, Data, and Documentation is in use at any one time.

2. "Concurrent Use License." Licensee may install and use the Software, Data, and Documentation on computer(s) on a network, but the number of simultaneous users may not exceed the number of licenses acquired.
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4. "Staging Server License." In addition to the Development Server License Rights, Licensee may use and install the Software for the following purposes: user acceptance testing, performance testing, load testing of other third-party software, staging new commercial data updates, and training activities.
5. "Deployment Server License." In addition to the Staging Server License Rights, Licensee may install and use the Software or Data to provide services to multiple users on the same or other computer(s).
6. "Term License." Licensee may use the subscription(s), Software, Web Services, and Data for a limited time period or while Licensee has available credits or transactions to use the subscription(s), Software, Web Services, and Data as described in the Documentation. When the license term, subscription, credits, or transactions expire, Licensee must either stop using the subscription(s), Software, Web Services, and Data, and uninstall/clear data cache or renew or extend the license upon payment of applicable fees.
7. Extensions to Software programs follow the same scope of use as that granted for the corresponding Software programs.
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