

INSTITUTE OF HIGHER EDUCATION SITE LICENSE TERMS AND CONDITIONS

ARTICLE 1—DEFINITIONS

Definitions. All definitions in other parts of the Agreement shall have the same meaning as in these Institute of Higher Education Site License Terms and Conditions. In addition, the following definitions apply to this Agreement:

- "Annual Fee" means the yearly nonrefundable fee that Licensee must pay Distributor for the specified Site License for rights to use the Software, Data, Web Services, and Documentation that are included in the specified Site License and to receive upgrades and technical support.
- "Authorized Users" means registered students, faculty, and staff members of Licensee.
- "Commercial Use" means use of the Software, Documentation, Web Services, or Data relating to "for profit" producing purposes.
- "Deploy" or "Deployment" means to redistribute or the redistribution of the Programs by Licensee to Authorized Users for use on Licensee's hardware.
- "GIS Specialist" means a technically oriented Licensee faculty/staff member (or his/her designee), listed in Appendix B and familiar with GIS technology, who is authorized to contact Distributor's technical support directly to support Authorized Users.
- "License Agreement" means the General License Terms and Conditions (E201) and Exhibit 1, Scope of Use (E300).
- "Primary Contact" means the staff member designated by Licensee to be the central point of contact between Licensee and Distributor and whose duties include, but are not limited to, management, ordering, and redistribution of Programs to Authorized Users; obtaining keycodes; identifying GIS Specialists; and assisting Authorized Users as required.
- "Programs" means any and all copies of the Software, Data, Web Services, and Documentation listed in Appendix A that are included in the specified Site License and any other Software, Data, or Documentation that may be added to this Agreement.
- "Rolled-In Software" means the Software, Data, Web Services, and Documentation current on paid maintenance that Licensee acquired for use prior to entering into this Agreement and is included in the specified Site License.
- "Site" means the Licensee of this Agreement and its campuses located within the same country in which Licensee is located.
- "Site License" means the category of Site License specified in Appendix A for which Licensee is paying the associated Annual Fee.

ARTICLE 2—GRANT OF LICENSE

Licensee's use of the Programs is subject to the License Agreement and any additional terms set forth in this Institute of Higher Education Site License Terms and Conditions. Licensee shall remain primarily responsible to ESRI for compliance with the terms and conditions of this Agreement by Authorized Users. Use of the Programs for Commercial Use, profit, or private gain is an express violation of the Agreement, entitling ESRI to all remedies available in equity or at law as well as payment in full for commercial license fees.

ARTICLE 3—SCOPE OF USE

3.1 Additional Uses Permitted. The following additional Permitted Uses are hereby granted:

- a. Licensee may copy and Deploy the Programs up to the quantity of licenses granted in Appendix A for the specified Site License for which the applicable Annual Fee has been paid, solely for research, instruction, education, and administrative uses.
- b. Licensee may only allow faculty members, coterminous with this Agreement and with each faculty member's tenure at the Site, to install and use a copy of the Programs at the faculty member's primary residence or on the faculty member's School laptop computer for the specific purpose of learning, becoming proficient with, and developing curricula or research expertise around the Programs.

3.2 Uses Not Permitted. In addition to the restrictions set forth in the License Agreement, the following Uses Not Permitted apply to the Programs:

- a. Licensee shall not allow Authorized Users to use the Programs for any nonacademic, nonadministrative, or Commercial Use.

- b. Licensee shall not Deploy the Programs to any of its other affiliated or sponsored locations, unless expressly included in this Agreement. This Agreement only applies to the Site.
- c. Except for use in research or educational fieldwork where required by Licensee, or as permitted above in 3.1(b), Licensee shall not allow Authorized Users, or any other person or entity, affiliated or unaffiliated with Licensee, to remove digital copies of the Programs from the Site.

3.3 Loss or Theft of Programs. Licensee agrees to use its best efforts to protect all Programs from loss and theft. Licensee agrees to report all losses in writing to Distributor within five (5) working days after discovering that any components are missing. Licensee agrees to replace all lost or stolen items at the then-current rates. Recurring loss or theft of Programs shall constitute a breach of this Agreement, and ESRI or Distributor may, at its discretion, terminate this Agreement and exclude Licensee from further participation in the Institute of Higher Education Site License program.

3.4 Existing ESRI Software License Agreements. This Agreement supersedes any current ESRI Software License Agreements signed between these parties for Rolled-In Software. All Rolled-In Software is hereby incorporated into this Agreement, and the maintenance fee for such Rolled-In Software is included in the Annual Fee.

ARTICLE 4—MAINTENANCE

4.1 Technical Support Services. Technical support services are included and will be provided in accordance with the then-current Distributor technical support policy as modified in this Article 4.1, provided Licensee remains current on its payment of the Annual Fee. Licensee's GIS Specialist(s) will be the only individual(s) authorized to contact Distributor for technical support. Maintenance does not include technical support services for Web Services.

4.2 Upgrades. During the general commercial release of the Software, Distributor, at its sole discretion, will deliver to Licensee one (1) upgrade package for each of the Programs included in the Site License or make updates available for downloading from ESRI's Web site, provided the Annual Fee has been paid and the Agreement is current.

ARTICLE 5—PURCHASE ORDERS AND DELIVERY

5.1 Purchase Orders. Licensee shall issue a purchase order to Distributor for the initial Annual Fee upon execution of this Agreement. The subsequent Annual Fee(s) shall be payable annually to Distributor for the specified Site License. Licensee may issue purchase orders at any time during the term of this Agreement for additional Programs that are available under this Agreement at the then-current fee for such additional Programs. Distributor will invoice against each purchase order upon shipment or issuance of keycode(s) as appropriate.

5.2 Initial Deliverables. Upon receipt of Licensee's initial purchase order for the Annual Fee following execution of this Agreement, Distributor shall deliver to Licensee one (1) copy of the Software media for each of the Programs included in the specified Site License. All shipments of Software media shall be shipped EX WORKS (INCOTERMS 2000), Redlands, California, to Distributor. Distributor will ship to Licensee's shipping address listed in Appendix B, at which time and place all risk of loss and responsibility for product shall pass to Licensee. Licensee may purchase additional media sets at the prices in effect at the time of purchase. Additional hardware keys may also be ordered at the prices in effect at the time of purchase. Licensee may reduce the list of initial deliverables. However, there shall be no credit or refund given.

Licensee shall pay all value-added, sales, use, or other taxes; duties; customs; shipping; insurance; or other fees or withholding currently or subsequently imposed on all receipt and use of the Software, Data, Web Services, or Documentation under this Agreement. However, if Licensee is exempt from such taxes, duties, fees, withholding, or other charges, Licensee shall provide Distributor with evidence of exemption from such charges.

5.3 Keycodes. Software keycodes are required to run concurrent-use Programs. Licensee may be provided the capability of generating twelve (12)-month term license keycodes using ESRI's Web-based keycode generation system. If Licensee is provided this capability, ESRI will supply the Primary Contact with an account number and password to access the keycode generation system and will provide complete written instructions on proper use of the keycode generator. Provided Licensee remains current on its payment of the Annual Fee, Licensee may reissue keycodes for up to a twelve (12)-month period for each year the Agreement is current.

5.4 Changes by Supplement. Appendix A deliverables and scope of use may be modified, and new Programs and services may be added or prices reduced by notice provided by Distributor. Licensee acknowledgment is not required to activate the modifications. ESRI reserves the right to modify or remove Programs included in Site License(s) in Appendix A should ESRI commitments to third parties regarding licensed third-party technology included in ESRI products require a unit-based royalty fee or prohibit deployment or restrict redistribution rights in site licenses to ESRI licensees.

5.5 ESRI International Users Conference. Licensee shall receive registrations to the ESRI International User Conference and the Education User Conference in the quantities listed in Appendix A for the specified Site License. Third parties may not represent Licensee at any ESRI International User Conferences or Education User Conferences.

ARTICLE 6—TERM AND TERMINATION

6.1 Term. This Agreement is an annual term license. This term license will commence upon payment of the Annual Fee and remain in effect for one (1) year, unless terminated earlier as described below. Thereafter, the Agreement will automatically renew upon Licensee's payment of the Annual Fee, provided payment is made prior to expiration of the annual term license and agreement to any new terms and conditions applicable to the Programs and Web Services.

6.2 Termination. In the event this Agreement is terminated by Licensee for convenience, Licensee shall not be entitled to a refund of all or partial amount of the Annual Fee(s) paid. Either party may terminate this Agreement for a material breach by the other party. The breaching party shall be given a period of ten (10) days from the date of written notice to cure any material breach. Upon termination of this Agreement by ESRI or Distributor for a material breach (including Licensee's failure to pay the Annual Fee), or by Licensee for convenience, all licenses Deployed shall also terminate. Licensee shall (i) cease access and use of Web Services and clear Web Services client-side data cache and (ii) uninstall, remove, and destroy all whole or partial copies in any form including modified copies of the Deployed Programs (except upon prior written approval by ESRI, such approval not to be unreasonably withheld, Licensee may retain a copy for archive purposes only). Licensee shall represent in writing to ESRI or Distributor that all copies have been destroyed. Licensee may continue to use Rolled-In Software following termination of this Agreement subject to compliance with the License Agreement, with the exception of termination for Licensee's material breach.

ARTICLE 7—LICENSEE'S RESPONSIBILITIES

In consideration of the grant of the discount on standard license and technical support fees, Licensee agrees to do the following:

- a. Appoint a Primary Contact.
- b. Appoint the number of GIS Specialists listed in Appendix A for the specified Site License.
- c. Appoint a Virtual Campus subscription administrator. This individual will be responsible for receiving the master subscription code from ESRI and using it to generate individual course access codes for faculty, staff, and student course attendees. The Virtual Campus subscription administrator may also be the Primary Contact.
- d. Appoint an ArcWeb Services Coordinator. This individual will be responsible for managing and distributing the ArcWeb Services credits to Authorized Users. The ArcWeb Services Coordinator may also be the Primary Contact.
- e. Where appropriate, encourage the use of GIS to all departments within the Site.
- f. Make best efforts to maintain a high level of expertise in the use of the Software among students and staff by offering courses, encouraging attendance at the annual ESRI Education User Conference, the International User Conference, and making use of educational Virtual Campus courses offered by ESRI, as appropriate.

ARTICLE 8—LEGAL NOTICES

Any notice, report, demand, or other communication shall be properly given when made in writing in English and sent by courier, registered or certified airmail, or by facsimile or other electronic transmission and confirmed by courier or by registered or certified airmail, properly addressed to the appropriate party at the address set forth above, until changed by notice in writing by either party hereto to the other party. If sent by courier or airmail, notice shall be effective seven (7) days from the date of deposit with the courier service or post office. If sent by electronic transmission, notice shall be effective upon receipt, provided confirmation is given as specified herein. Notices shall be given at the following addresses:

To: ESRI
380 New York Street
Redlands, CA 92373-8100
Attn.: Manager, Contracts and Legal Services

To: Licensee (See Appendix B)

To: Distributor (See Appendix B)

**APPENDIX A
DELIVERABLES**

Licensee may copy and Deploy the Programs listed below up to the total quantity of licenses indicated in the column that corresponds with the specified Site License. Therefore, this Agreement applies only to one of the following types of Site Licenses for which Licensee has paid the Annual Fee to Distributor:

- Basic Site License
- Intermediate Site License
- Full Site License

| Deliverables | TOTAL QUANTITY/SEATS | | |
|---|---|---|---|
| | Basic Site License | Intermediate Site License | Full Site License |
| | Quantity | Quantity | Quantity |
| Desktop GIS | | | |
| ArcGIS ArcInfo and ArcInfo Workstation | 10 | 20 | Unlimited |
| ArcEditor (Single and Concurrent Use) | | | Unlimited |
| ArcView (Single and Concurrent Use) | Unlimited | Unlimited | Unlimited |
| ArcGIS 3D Analyst (Single and Concurrent Use) | Unlimited | Unlimited | Unlimited |
| ArcGIS Network Analyst (Single and Concurrent Use) | Unlimited | Unlimited | Unlimited |
| ArcGIS Spatial Analyst (Single and Concurrent Use) | Unlimited | Unlimited | Unlimited |
| ArcGIS Geostatistical Analyst (Single and Concurrent Use) | Unlimited | Unlimited | Unlimited |
| ArcScan for ArcGIS (Single and Concurrent Use) | Unlimited | Unlimited | Unlimited |
| ArcGIS Publisher (Single and Concurrent Use) | Unlimited | Unlimited | Unlimited |
| ArcGIS Schematics (Single and Concurrent Use) | Unlimited | Unlimited | Unlimited |
| ArcGIS Military Analyst (Single and Concurrent Use) | Unlimited | Unlimited | Unlimited |
| Maplex for ArcGIS (Single and Concurrent Use) | Unlimited | Unlimited | Unlimited |
| Server GIS | | | |
| ArcGIS Server Advanced Enterprise, with Spatial, 3D, and Network Extensions | Unlimited | Unlimited | Unlimited |
| ArcIMS | Unlimited | Unlimited | Unlimited |
| ArcIMS Route Server—Data is not included, delivered by request only | | | |
| ESRI Developer Network (EDN) for Education consisting of | | | |
| ▪ EDN Software | Unlimited | Unlimited | Unlimited |
| ▪ ArcWeb Services | 1 Block of 100,000 credits (per year) | 1 Block of 100,000 credits (per year) | 1 Block of 100,000 credits (per year) |
| Mobile GIS | | | |
| ArcPad Application Builder including ArcPad | Unlimited | Unlimited | Unlimited |
| Business GIS | | | |
| BusinessMAP | Unlimited | Unlimited | Unlimited |
| ArcLogistics Route | Unlimited | Unlimited | Unlimited |
| Other Programs | | | |
| MapObjects—Windows and Java Editions | Unlimited | Unlimited | Unlimited |
| Production Line Tool Set (PLTS) for ArcGIS— Mapping Agency Solution | Unlimited | Unlimited | Unlimited |

| | | | |
|---|-----------|-----------|-----------|
| ArcView 3.x | | | |
| ArcView 3.x with ArcView Spatial Analyst, Network Analyst, 3D Analyst, and ArcPress for ArcView | Unlimited | Unlimited | Unlimited |
| ArcView 3.0a for Macintosh | Unlimited | Unlimited | Unlimited |
| Additional Benefits | | | |
| GIS Specialists | 2 | 3 | 3 |
| Passes to the ESRI International User Conference including the Education User Conference | 2 | 3 | 5 |

The list above is subject to change should ESRI commitments to third parties regarding licensed third-party technology included in ESRI products prohibit or not provide redistribution rights in Site licenses to ESRI licensees.

The following is also included in the Annual Fee for all Site License:

1. Ten (10) hardware keys to implement concurrent use Software.
2. An unlimited Virtual Campus standard training subscription (every year), on the condition that the Annual Fee has been paid and the contract is current. An ESRI Virtual Campus standard training subscription gives access to all asynchronous, auto-attended Virtual Campus courses authored by ESRI. These are primarily technology courses that teach ESRI Software.

To participate in the Virtual Campus training subscription, the Virtual Campus subscription administrator will need to fill out the Virtual Campus Training Subscription Activation form located at <http://campus.esri.com/subscription/activation>.

Once this online form is received, the account will be verified. Upon verification, a "master code" will be sent to the Virtual Campus subscription administrator. That code will act as a password to Licensee's subscription page where the administrator can generate individual course access codes for Licensee's students. The Virtual Campus subscription administrator may appoint up to ten (10) faculty or staff to aid in issuing codes and agrees to notify ESRI in writing whenever such appointments are made. *Note:* This program is for educational institutions only.

Optional Add-on Software ("Add-on Options")

The following Add-on Options may be included in this Agreement for any Site License. Each Add-on Option gives Licensee the right to install, copy, and use an unlimited number of copies of the add-on Software, Data, and Documentation in accordance with the terms of this Agreement, subject to Licensee's payment of the additional annual fee specified by Distributor for each below Add-on Option.

| Add-on Option | Additional Annual Fee |
|---|---|
| ArcGIS Survey Analyst (Single Use or Concurrent Use) | Subject to Payment of Additional Annual Fee |
| ArcView Tracking Analyst | Subject to Payment of Additional Annual Fee |
| ArcGIS Tracking Analyst (Single Use or Concurrent Use) | Subject to Payment of Additional Annual Fee |
| ArcGIS Data Interoperability (Single Use or Concurrent Use) | Subject to Payment of Additional Annual Fee |
| ArcGIS Server Data Interoperability | Subject to Payment of Additional Annual Fee |
| ArcIMS Data Delivery (Single Use or Concurrent Use) | Subject to Payment of Additional Annual Fee |
| Image Server | Subject to Payment of Additional Annual Fee |
| Image Server Orthorectification Extension | Subject to Payment of Additional Annual Fee |
| Image Server Seamline Extension | Subject to Payment of Additional Annual Fee |