



Document Updated: E204 – General License Terms and Conditions

Date of Update Implementation: July 6, 2016

Overview: The General License Terms and Conditions (E204) has been updated to reflect changes due to updated policies, new products, and clarification requests.

Sections(s) Impacted: Article 1 (Definitions), Article 3 (Grant of License), Article 4 (Scope of Use), Article 7 (Limitation of Liability), Article 9 (General Provisions)

Explanation of Changes:

Article 1- Definitions

What: Revised definition of “Content” and “Service Credit(s), to enhance and clarify definition. Added definition of “Self-Paced E-Learning”

Why: To enhance and clarify each definition.

Change: “Content” [means data, images, photographs, animations, video, audio, text, maps, databases, data models, spreadsheets, user interfaces, software applications, and Developer Tools.](#) ~~has the meaning provided in Addendum 3.~~

Change: “Self-Paced E-Learning” [means a collection of self-paced learning resources for the ArcGIS platform accessible from the Esri Training website.](#)

Change: “Service Credit(s)” *means a unit of exchange that is allocated with an Online Services subscription in an amount specified in the Ordering Document. Each Service Credit entitles Licensee to consume a set amount of Online Services, the amount varying depending on the Online Services being consumed. As Online Services are consumed, Service Credits are automatically debited from Licensee's account, up to the maximum number of Service Credits available. Additional Service Credits can be purchased as described in Addendum 3 (also available at <http://www.esri.com/legal>).*

Article 3- Grant of License

What: Added the words “and Documentation” to beginning sentence after the word “Ordering Documents”.

Why: To account for the use scenarios granted in the Documentation, along with an Ordering Document.

3.1 Grant of License. Esri grants to Licensee a personal, nonexclusive, nontransferable license solely to use the Products as set forth in the applicable Ordering Documents [and Documentation](#) (i) for which the applicable license fees have been paid; (ii) in accordance with this License Agreement and the configuration ordered by Licensee or as authorized by Esri or its authorized distributor; and (iii) for the applicable Term or, if no Term is applicable or identified, until terminated in accordance with Article 5. In addition to the Scope of Use in Article 4, Exhibit 1—Scope of Use (E300) applies to specific Products.



Addendum 1, Addendum 2, Addendum 3, and Addendum 4 collectively comprise Exhibit 1—Scope of Use (E300) and are also available at <http://www.esri.com/legal/software-license>. Addendums only apply to Products specifically identified within an Addendum. Exhibit 1—Scope of Use (E300) includes Addendums for the following Product types, which are incorporated by reference:

Article 4- Scope of Use

What: Section 4.1 (f) Consultant and Contractor Access, and Section 4.2 (a) and (l)

added clarification of Sections and included Export Compliance language requirements on all Consultants and Contractors.

Why: Section 4.1 (f) added clarification of Sections numbers and included Export Compliance language requirements on all Consultants and Contractors. Section 4.2 (a) and (l), adjusted for clarification.

- f. Consultant or Contractor Access. Subject to Section 3.1 ([Grant of License](#)), and Section 9.2 ([Export Compliance](#)), Esri grants Licensee the right to permit Licensee's consultants or contractors to use the Products exclusively for Licensee's benefit. Licensee shall be solely responsible for compliance by consultants and contractors with this License Agreement and shall ensure that the consultant or contractor discontinues Product use upon completion of work for Licensee. Access to or use of Products by consultants or contractors not exclusively for Licensee's benefit is prohibited.

4.2 Uses Not Permitted. Except to the extent that applicable law prohibits or overrides these restrictions, or as provided ~~herein~~ [elsewhere in this License Agreement](#), Licensee shall not

a. ~~Sell, rent, lease, sublicense, lend, time-share, or assign Products;~~ ~~or~~

d. Distribute Software, [Self-Paced E-Learning](#), Data, or Online Services to third parties, in whole or in part, including, but not limited to, extensions, components, or DLLs;

j. Unbundle or independently use individual or component parts of Software, [Self-Paced E-Learning](#), Online Services, or Data; ~~use~~ [Use Products for Commercial ASP Use or service bureau purposes](#);

~~l.m.~~ Use, incorporate, modify, distribute, provide access to, or combine any computer code provided with any Product in a manner that would subject such code or any part of the Product to open source license terms, ~~which includes any license terms~~ that require computer code to be (i) disclosed in source code form to third parties, (ii) licensed to third parties for the purpose of making derivative works, or (iii) redistributable to third parties at no charge.

Article 6- LIMITED WARRANTIES AND DISCLAIMERS

What: Updated Section 6.2 Special Disclaimer, to include Self-Paced E-Learning

Why: To add Self-Paced E-Learning to items that are not covered under warranty



6.2 Special Disclaimer. CONTENT, DATA, SAMPLES, HOT FIXES, PATCHES, UPDATES, ONLINE SERVICES PROVIDED ON A NO-FEE BASIS, [SELF-PACED E-LEARNING](#), AND EVALUATION AND BETA SOFTWARE ARE DELIVERED "AS IS" WITHOUT WARRANTY OF ANY KIND.

Article 8- INFRINGEMENT INDEMNITY

What: Updated all sections to include Self-Paced E-Learning where applicable.

Why: In order to adequately cover Self-Paced E-Learning within the Indemnities.

8.1 Esri shall defend, indemnify as described below, and hold Licensee harmless from and against any loss, liability, cost, or expense, including reasonable attorneys' fees, arising out of any claims, actions, or demands by a third party alleging that Licensee's licensed use of Software, [Self-Paced E-Learning](#), or Online Services infringe a US patent, copyright, or trademark, provided

- a. Licensee promptly notifies Esri in writing of the claim;
- b. Licensee provides documents describing the allegations of infringement;
- c. Esri has sole control of the defense of any action and negotiation related to the defense or settlement of any claim; and
- d. Licensee reasonably cooperates in the defense of the claim at Esri's request and expense.

8.2 If Software, [Self-Paced E-Learning](#), or Online Services are found to infringe a US patent, copyright, or trademark, Esri, at its own expense, may either (i) obtain rights for Licensee to continue using the Software, [Self-Paced E-Learning](#), or Online Services or (ii) modify the allegedly infringing elements of Software, [Self-Paced E-Learning](#), or Online Services while maintaining substantially similar functionality. If neither alternative is commercially reasonable, the license shall terminate, and Licensee shall cease accessing infringing Online Services and shall uninstall and return to Esri or its authorized distributor any infringing item(s). Esri's entire liability shall then be to indemnify Licensee pursuant to Section 8.1 and (i) refund the Perpetual License fees paid by Licensee to Esri or its authorized distributor for the infringing items, prorated on a five (5)-year, straight-line depreciation basis beginning from the initial date of delivery, and (ii) for Term Licenses and maintenance, refund the unused portion of the fees paid.

8.3 Esri shall have no obligation to defend Licensee or to pay any resultant costs, damages, or attorneys' fees for any claims or demands alleging direct or contributory infringement to the extent arising out of (i) the combination or integration of Software, [Self-Paced E-Learning](#), or Online Services with a product, process, or system not supplied by Esri or specified by Esri in its Documentation; (ii) material alteration of Software, [Self-Paced E-Learning](#), or Online Services by anyone other than Esri or its subcontractors; or (iii) use of Software, [Self-Paced E-Learning](#), or Online Services after modifications have been provided by Esri for avoiding infringement or use after a return is ordered by Esri under Section 8.2.

Article 7- Limitation of Liability

What: Added the words "OR MAINTENANCE" after PRODUCTS, in the 2nd to last line.



Why: To differentiate between Products and the proceeding maintenance.

7.2 General Limitation of Liability. EXCEPT AS PROVIDED IN ARTICLE 8—INFRINGEMENT INDEMNITY, THE TOTAL CUMULATIVE LIABILITY OF ESRI AND ITS AUTHORIZED DISTRIBUTOR 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 THE PRODUCTS OR MAINTENANCE THAT GIVE RISE TO THE CAUSE OF ACTION.

Article 9- General Provisions

What: Updated Section 9.2 (Export Compliance), added new section 9.3 (Force Majeure), added new section 9.4 (Compliance Review), updated section numbers, updated Section 9.11 [previously Section 9.9] (US Government Licensee), and updated Section 9.13 [previously Section 9.11] (Maintenance).

Why:

1. Section 9.2 (Export Compliance) has been updated to make the provision mutual, account for all necessary laws and regulations, and
2. 9.3 (Force Majeure) has been added as this provision was missing and was a common request.
3. 9.4 (Compliance Review) has been added to assist in the prevention of misuse, and allow Esri or Esri's Distributors to conduct a compliance review of Licensee's use of Software and obligations under the License Agreement.
4. Section 9.11 [previously Section 9.9] (US Government Licensee), updated to incorporate new provision, update terminology and clarify requirement.

Change: **9.2 Export Control Regulations.**

Each party will comply with all applicable export laws and regulations, including the US Department of Commerce's Export Administration Regulations (EAR), the US Department of State's International Traffic in Arms Regulations (ITAR) and other applicable export laws. Licensee will not export, reexport, resell, transfer, release or otherwise dispose of, in whole or in part, or permit access, transfer or use of Products to any United States embargoed countries, denied entities or persons except in accordance with all then-current applicable US government export laws and regulations. Licensee will not use Products for the development, design, manufacture, use or production of missiles or nuclear, chemical, or biological weapons without proper authorization from US government. Licensee shall immediately notify Esri in writing if any US government entity or agency denies, suspends or revokes Licensee's export privileges.

~~Each party will comply with all applicable export laws and regulations, including the US Department of Commerce's Export Administration Regulations (EAR), the US Department of State's International Traffic in Arms Regulations (ITAR) and other applicable export laws. Licensee will not export, reexport, resell, transfer, release or otherwise dispose of, in whole or in part, or permit access, transfer or use of Products to any United States embargoed countries, denied entities or persons except in accordance with all then-~~



~~current applicable US government export laws and regulations. Licensee will not use Products for the development, design, manufacture, use or production of missiles or nuclear, chemical, or biological weapons without proper authorization from US government. Licensee shall immediately notify Esri in writing if any US government entity or agency denies, suspends or revokes Licensee's export privileges.~~

Change: [9.3 Force Majeure](#). [A party will not be liable for any failure of or delay in the performance of this License Agreement for the period that such failure or delay is due to causes beyond the party's reasonable control. Such causes may include, but are not limited to, acts of God, war, strikes or labor disputes, cyber attacks, laws or government orders, or any other force majeure event.](#)

Change: [9.4 Compliance Review](#). [Licensee will keep accurate and complete records and accounts pertaining to its compliance with its obligations under this License Agreement. Esri or its authorized distributor may conduct a compliance review of these records and accounts no fewer than seven \(7\) business days' written notice, or may appoint an independent third party to conduct such a compliance review on its behalf. Licensee will promptly correct any noncompliance identified during the compliance review. Neither Esri nor distributor may conduct a compliance review of Licensee within twelve \(12\) months after the conclusion of any prior compliance review that does not reveal a material Licensee noncompliance.](#)

Change: ~~**9.9.11 US Government Licensee**~~. [The Products are commercial items, developed at private expense, provided to Licensee under this License Agreement. If Licensee is a US government entity or US government contractor, Esri licenses Products to Licensee in accordance with this License Agreement under FAR Subparts 12.211/12.212/12.213 or DFARS Subpart 227.7202, or equivalent policy for intellectual property or technology developed at private expense, as applicable. Esri Data, and Content and Online Services are licensed under the same DFARS Subpart 227.7202 policy as commercial computer software for acquisitions transactions made under DFARS, as these items contain, are bundled with, or are provided for use with Software or Online Services. Products are subject to restrictions, and this License Agreement strictly governs Licensee's use, modification, performance, reproduction, release, display, or disclosure of Products. License provisions that are inconsistent with federal law will not apply. A US government Licensee may transfer Software to any of its facilities to which it transfers the computer\(s\) on which such Software is installed. If any court, arbitrator, or board holds that Licensee has greater rights to any portion of Products under applicable public procurement law, such rights shall extend only to the portions affected.](#)