

Licensing Terms of Use

Documented Changes



Document Updated: E204 – Master Agreement

Date of Update Implementation: October 12, 2018

Overview: The Master Agreement (E204), have been updated to reflect changes due to updated Esri policies, and clarification language derived from Esri Product Management and customer requests.

Sections(s) Impacted: Impacted due to contextual, clarification, grammar or Terms & Conditions changes, which will impact future version use.

General Changes: *Most changes are grammatical changes or updates to wording to allow for better flow of what the statement is supposed to imply. Major changes described below.*

ATTACHEMENT A GLOSSARY OF TERMS

Where: [Section 1.0 GENERAL GRANT OF RIGHTS AND RESTRICTIONS \(pg. 2\)](#)

Change:

The sections listed below have been moved from section 1.0 to section 2.6 Limited Use Programs

- 1.4 Trial, Evaluation, and Beta Licenses
- 1.5 Educational Programs,
- 1.6 Grant Programs
- 1.7 Other Esri Limited Use Programs

Why: To organize the document and have a section to point out the Limited Use Programs this was moved to Section 2.6 Limited Use Programs.

Where: [Section 1.1 Grant of Rights \(pg. 2\)](#)

Change:

- c. Authorizes Customer to copy and make derivative works of the Documentation for Customer's own internal use in conjunction with Customer's authorized use of ~~Deliverables~~ Esri Offerings. Customer will include the following copyright attribution notice acknowledging the proprietary rights of Esri and its licensors in any derivative work:

"Portions of this document include intellectual property of Esri and its licensors and are used under license. Copyright © [Customer will insert the actual copyright date(s) from the source materials.] Esri and its licensors. All rights reserved."

The grants of rights in this section (i) continue for the duration of the subscription or applicable Term or perpetually if no Term is applicable or identified in the Ordering Documents and (ii) are subject to additional rights and restrictions in this Agreement including [Attachment B](#).

Why: Deliverables were added to the definition of Esri Offerings.

Where: SECTION 2.0 SOFTWARE AND ONLINE SERVICES (pg. 2)

Change:

Adding AND ONLINE SERVICES to the title of the section

Why: To combine Software and Online Services terms into one section.

Where: 2.1 Definitions (pg. 2)

Change:

Definitions ~~License Types. Esri licenses Software under the following license types; the Documentation and Ordering Documents identify which license type(s) applies to the ordered Software:~~

Why: This broad definition was removed as it does not apply now that Online Services have been added to this section.

Where: Section 2.1 Definitions (pg. 2-3)

Change:

- a. ~~a.~~ "Anonymous Users" means all who have public access (i.e., without having to provide a Named User Credential) to any part of Customer Content or Customer's Value-Added Applications.
- b. "App Login Credential(s)" means a system-generated application login and associated password, provided when registering a Value-Added Application with ArcGIS Online, which when embedded in a Value-Added Application allows the Value-Added Application to access and use of Online Services.
- c. "Concurrent Use License": ~~Customer may~~ means a license to install and use ~~the~~ Software on computer(s) on a network, ~~provided that~~ but the number of simultaneous users may not exceed the number of licenses acquired. A Concurrent Use License includes the right to run passive failover instances of Concurrent Use License management software in a separate operating system environment for temporary failover support.
- ~~bd.~~ "Deployment License": ~~Customer may~~ means a license to incorporate ArcGIS Runtime components in Value-Added Applications and distribute the Value-Added Applications to Customer's end users.
- ~~ee.~~ "Deployment Server License": ~~Customer may~~ means a license to use ~~the~~ Software under a Server License for all uses permitted in the Agreement and as described in the Documentation.
- ~~df.~~ "Development Server License": ~~Customer may~~ means a license to use ~~the~~ Software under a Server License only to build and test Value-Added Applications as described in the Documentation.
- ~~eg.~~ "Development Use": ~~Customer may~~ means the right to install and use ~~the Software~~ Products to build and test Value-Added Applications as described in the Documentation.
- ~~fh.~~ "Dual Use License": ~~Customer may~~ means the right to install ~~the~~ Software on a desktop computer and use it simultaneously with either a personal digital assistant (PDA) or handheld mobile computer as long as the Software is only used by a single individual at any time.
- ~~gi.~~ "Failover License": ~~Customer may~~ means a license to install Software on redundant systems for failover operations, but the redundantly installed Software may be operational only during the period the primary site is nonoperational. Except for system maintenance and updating of databases, the redundant Software installation(s) will remain dormant while the primary site (or any other redundant site) is operational.
- ~~j.~~ "Named User(s)" is Customer's employee, agent, consultant, or contractor to whom Customer has assigned a unique secure named user login credential (identity) enabling access to a Product that requires such identity to access identity-managed capabilities within a Product for Customer's exclusive benefit. For educational use, Named Users may include registered students.
- ~~k.~~ "Named User Credential(s)" means an individual person's login and associated password enabling that person to access and use Products.
- ~~l.~~ "Named User License" means the right for a single Named User to use a specific Esri Offering.

- m. **"Online Services Subscription"** means a limited-term subscription conveying the right for one or more Named Users to access and use Online Services provided through the subscription.
- hn. **"Redistribution License"**: ~~Customer may~~ means a license to reproduce and distribute the Software provided that:
1. Customer reproduces and distributes the Software in its entirety;
 2. A license agreement that protects the Software to the same extent as this Agreement accompanies each copy of the Software, and the recipient agrees to the terms and conditions of the license agreement;
 3. Customer reproduces all copyright and trademark attributions and notices; and
 4. Customer does not charge a fee to others for the use of the Software.
- io. **"Server License"**: ~~Customer may~~ means a license to install and use the Software on a server computer. Server Licenses may be subject to a limited number of server cores or distributed deployment on multiple servers as described in the Ordering Documents or Documentation. If the Software description includes failover use rights, each Server License includes a Failover License.
- p. **"Service Credit(s)"** means a unit of exchange for consumption of services that ~~is allocated~~ can be used with an Online Services subscription, ~~in an amount specified in the Ordering Document.~~
- q. **"Sharing Tools"** means publishing capabilities included with Online Services and ArcGIS Website that allow Customer to make Customer Content and Value-Added Applications available to third parties or Anonymous Users.
- jr. **"Single Use License"**: ~~Customer may permit a~~ means a license for a single authorized end user to install and use the Software on a single computer. ~~Customer may permit the~~ The single authorized end user ~~may also~~ install a second copy for the end user's exclusive use on a second computer as long as only 1 copy of Software is in use at any time. No other end user may use Software under the same license at the same time for any other purpose.
- ks. **"Staging Server License"**: ~~Customer may~~ means a license to use the Software under a Server License to build and test Value-Added Applications and map caches; conduct user acceptance, performance, and load testing of other third-party software; stage new commercial data updates; and conduct training activities as described in the Documentation. Customer may use Value-Added Applications and map caches with Development and Deployment Server Licenses.

Why: Definitions were moved from Section 3.0 Online services and from Attachment A-Glossary of Terms. Updated and new definitions added to clarify terms and subscription.

Where: Section 2.2 License and Subscription Types (pg. 3)

Change:

License and Subscription Types. ~~Esri licenses provides Software Products under one or more of the the following license or subscription types identified in the definitions, above.; the The Documentation and Ordering Documents identify which license or subscription type(s) applies to the ordered Products Software:~~

Why: New section added to clarify licenses and subscription types.

Where: Section 2.3 SOFTWARE TERMS OF USE (pg. 3)

Change: ~~Permitted Uses~~ Software Terms of Use

Why: Previously Permitted Uses, renamed for constancy with the rest of the document.

Where: Section 2.4 Online Services Terms of Use (pg. 4)

Change: With re-labeling this was previously Section 3.0, 3.2, 3.3, 3.4

a.3.2 Online Services Descriptions. Esri publishes Online Services subscription-specific terms of use at <http://www.esri.com/legal/scope-of-use>. Use of Online Services is also subject to the Cloud Services terms found in Attachment B.

3.3 Access to Value-Added Applications

- a. ~~Named Users have unique, individual login credentials. Named Users have private access to features of Online Services that are not publicly accessible to Anonymous Users.~~
- b. ~~Customer may use its Online Services subscription to build Value-Added Applications for internal use by Named Users in accordance with the published Online Services descriptions.~~
- c. ~~Customer may transfer Value-Added Applications to any third party for use in conjunction with the third party's own Online Services subscription.~~
- d. ~~Customer may not add third parties as Named Users to Customer's Online Services subscription. This restriction does not apply to third parties included within the definition of Named Users.~~
- e. ~~Customer may not provide a third party with access to ArcGIS Online Services enabled through Customer's ArcGIS Online subscription other than through Customer's Value-Added Applications. This restriction does not apply to third parties included within the definition of Named Users.~~
- f. ~~Customer may enable Anonymous Users to access Customer's Value-Added Applications running under Customer's own subscription, subject to the following terms:~~
 - 1. ~~Customer may charge for such access under subscription types that permit use for commercial retail business purposes.~~
 - 2. ~~Customer may embed an App Login Credential into Value-Added Applications to enable public use by Anonymous Users but may not embed a Named User Credential.~~
 - 3. ~~Customer is responsible for all Service Credits consumed in Anonymous Users' use of Customer's Value-Added Applications.~~
 - 4. ~~Customer is solely responsible for providing technical support for Customer's Value-Added Application(s).~~
 - 5. ~~Customer may not enable Anonymous Users to access Value-Added Applications that are intended for Customer's internal use only; Value-Added Applications used internally require each user to use Named User login credentials.~~

3.4 Customer's Responsibilities

- a. ~~Customer is solely responsible for the development and operation of Customer Content and Value-Added Applications and for its Named Users' compliance with this Agreement. Customer and its Named Users or Anonymous Users (if applicable) are the only persons authorized to access Online Services through Customer's subscription. Named Users' login credentials are for designated Named Users only and may not be shared with other individuals. Customer may reassign a Named User License if the former Named User no longer requires access to Online Services.~~
- b. ~~Customer must include attribution acknowledging that its application uses Esri Online Services, if attribution is not automatically displayed through the use of Online Services. Guidelines are provided in the Documentation.~~
- c. ~~Customer will ensure that Customer Content is suitable for use with Online Services and will maintain regular offline backups using the Online Services export and download capabilities~~

3.5 b. Modifications of Online Services. Esri may change Online Services and associated APIs at any time, subject to 30 days' notice of material changes and 90 days' notice for deprecations. If any modification, discontinuation, or deprecation of Online Services causes a material, adverse impact to Customer's operations, Esri may, at its discretion, attempt to repair, correct, or provide a workaround for Online Services. If a viable solution is not commercially reasonable, Customer may cancel its subscription to Online Services, and Esri will issue a prorated refund.

3.6 Subscription Fee Changes. ~~Esri may change fees for subscriptions with a term greater than 1 month by notifying Customer at least 60 days prior to expiration of the then current subscription term. Esri may change monthly subscription fees upon 30 days' notice. Outside the United States, the distributor may provide notice of rate changes.~~

3.7c. Sharing Customer Content. ~~If Customer elects to share~~ Sharing Customer Content using Sharing Tools, ~~then Customer acknowledges that Customer has enabled~~ enables third parties to use, store, cache, copy, reproduce, (re)distribute, and (re)transmit Customer Content through Online Services. Esri is not responsible for any loss, deletion, modification, or disclosure of Customer Content resulting from use or misuse of Sharing Tools or Online Services, Customer Content, ArcGIS Website, Documentation, or related materials. Customer's use of Sharing Tools is at Customer's sole risk.

3.8d. Limits on Use of Online Services, Service Credits. Each Online Services subscription includes Service Credits as described in the applicable Ordering Document. Each Service Credit entitles Customer to consume a set amount of Online Services, the amount varying depending on the Online Services that Customer is using. As Customer consumes Online Services, Service Credits are automatically debited from Customer's subscription, up to the maximum number of Service Credits available. Customer may purchase additional Service Credits as needed. Esri will notify Customer's subscription account administrator when Customer's Service Credit consumption reaches approximately 75 percent of the Service Credits allocated to Customer through Customer's subscription. Esri reserves the right to suspend Customer's access to Online Services that consume Service Credits when Customer has consumed all its Service Credits. Esri will promptly restore Customer's access to its Online Services once Customer has purchased additional Service Credits.

Why: The entire section 2.4 was re-labeled with subsection as a, b, c and d. Access to Value Added Applications was moved to Section 2.5b Named User Licenses. Customer Responsibility was moved to section 7.4 Customer Responsibilities.

Section 3.6 was removed entirely from the document as it was not necessary. There is no price protection in the Master Agreement, and 3.6 encourages the customer to seek price protection.

Where: Section 2.5 Named User Licenses. The following terms apply to Software and Online Services for which Customer acquires Named User Licenses. (pg. 4)

Change: With re-labeling this was previously section 3.3

a. Named Users

1. Named User login credentials are for designated users only and may not be shared with other individuals.
2. Customer may reassign a Named User License from one user to another user if the former user no longer requires access to the Software or Online Services.
3. Customer may not add third parties as Named Users, other than third parties included within the definition of Named Users.

b. Value-Added Applications

1. Customer is responsible for the development, operation and technical support of Customer Content and Value-Added Applications.
2. Customer may not embed a Named User Credential into Value-Added Applications. Value-added Applications that enable access to Customer's private data or content must require individual users to login to the application(s) with their unique Named User login credentials.
3. Customer may embed an App Login Credential into Value-Added Applications that provide access by Anonymous Users to services, content or data that have been published for shared access by Anonymous Users through the use of the Sharing Tools included with Customer's authorized use of the Software or Online Services.
4. Customer may not embed an App Login Credential into Value-Added Applications that enables access to Customer's private data or content. Value-added Applications that enable access to Customer's private data or content must require individual users to login to the application(s) with their unique Named User login credentials'
5. Customer may not provide a third party, other than third parties included within the definition of Named Users, with access to the Software or Online Services, other than through Customer's Value-Added Application(s).
6. Customer may transfer Value-Added Applications to any third party for use in conjunction with the third party's own Software license or Online Services subscription.

c. Anonymous Users. Anonymous Users may only access Software or Online Services through Value-Added Applications that provide access to services, content or data that have been published for shared access through the use of the Sharing Tools included with Customer's authorized use of the Software or Online Services.

Why: The Value-Added Applications section moved from Section 3.3 to 2.5. The Named Users and Anonymous Users section provides a unified term for both ArcGIS Enterprise named user licenses and ArcGIS Online named user licenses. This combines terms originally found in section 3.3 and footnote 21 found in Product Specific Terms of use (formerly known as E300).

Where: Section 2.6 Limited Use Programs (pg. 5)

Change: With re-labeling this was previously in sections 1.4, 1.5, 1.6 and 1.7

2.6 Limited Use Programs

- a. Trial, Evaluation, and Beta Programs. Products acquired under a trial, evaluation, or Beta program are licensed for evaluation and testing purposes only and not for commercial use. Any such use is at Customer's own risk, and the Products do not qualify for Maintenance. If Customer does not convert to a purchased license or subscription prior to the expiration of the trial, evaluation, or Beta license, Customer may lose any Customer Content and customizations made during the license term. If Customer does not wish to purchase a license or subscription, Customer should export such Customer Content before the license expires.
- b. Educational Programs. Customer agrees to use Products provided under an educational program solely for educational purposes during the educational use Term. Customer shall not use Products for any Administrative Use unless Customer has acquired an Administrative Use license. "Administrative Use" means administrative activities that are not directly related to instruction or education, such as asset mapping, facilities management, demographic analysis, routing, campus safety, and accessibility analysis. Customer shall not use Products for revenue-generating or for-profit purposes.
- c. Grant Programs. Customer may use Products provided under a grant program for noncommercial purposes only. Except for cost recovery of using and operating the Products, Customer shall not use Products for revenue-generating or for-profit purposes.
- d. Other Esri Limited-Use Programs. If Customer acquires Products under any limited-use program not listed above, Customer's use of the Products may be subject to the terms set forth in the applicable launching page or enrollment form or as described on Esri's website in addition to the nonconflicting terms of this Agreement.

Why: Moved from Section 1.0 General Grant of Rights and Restrictions to simplify the Master Agreement and organization.

Where: Section 3.1 Definitions (pg. 5)

Change: ~~3.0 ONLINE SERVICES~~

~~3.1 Definitions.~~ The following definitions supplement the definitions provided in Attachment A:

- a. ~~"Anonymous Users"~~ means all who have public access (i.e., without having to provide a Named User Credential) to any part of Customer Content or Value Added Applications. Customer may enable Anonymous Users to access Customer Content or Value Added Applications by publishing them through the use of the Sharing Tools, included with Customer's authorized use of the Online Services.
- b. ~~"App Login Credential(s)"~~ means a system-generated application login and associated password, provided when registering a Value-Added Application with ArcGIS Online, which when embedded in a Value-Added Application allows the Value-Added Application to access and use of Online Services.
- c. ~~"Service Credit(s)"~~ means a unit of exchange that is allocated with an Online Services subscription in an amount specified in the Ordering Document.

d. ~~"Sharing Tools" means publishing capabilities included with Online Services and ArcGIS Website that allow Customer to make Customer Content and Value Added Applications available to third parties or Anonymous Users.~~

Why: Moved to section 2.1 Definitions to align the document and keep definitions together.

Where: Section 3.2 Permitted Uses (pg. 5)

Change: With re-labeling this was previously section 4.2

- b. Customer may include representations of the Data in hard-copy or static, electronic format (e.g., PDF, GIF, JPEG, HTML), in ArcGIS Web Maps, or in Esri Story Maps for the purposes of visualizing Data (including basic interactions such as panning, zooming, and identifying map features with simple popups) for use in presentation packages, marketing studies, or other reports or documents containing map images or data summaries derived from the use of Esri Products to third parties subject to restrictions set forth in this Agreement, provided that Customer affixes an attribution statement to the Data representations acknowledging Esri or its applicable licensor(s) as the source of the portion(s) of the Data used for the Data representation.
- c. Customer may take ArcGIS Online basemaps offline through Esri Content Packages and subsequently deliver (transfer) them to any device for use with licensed ArcGIS Runtime applications and ArcGIS Desktop. Customer may not otherwise ~~scrape, download, or store cache or download such~~ Data.

Why: This was added to clarify Data usage rights.

Where: Section 3.3 Use Restrictions (pg. 6)

Change: With re-labeling this was previously section 4.3

- b. Customer may not use or allow third parties to use Data, ~~or representations of the Data,~~ for the purpose of compiling, enhancing, verifying, supplementing, adding to, or deleting from compilation of information that is sold, rented, published, furnished, or in any manner provided to a third party.

Why: This was a redundant statement that needed to be removed to make the sentence more concise.

Where: Section 5.9 Payment; Invoices (pg. 8)

Change: With re-labeling this was previously Section 6.9

c. For Time and Materials Task Orders

- 1. Esri will submit to Customer written monthly invoices to the Customer address provided in the Task Order. The invoices will include the payment due for work performed, including travel time, and any other direct costs (ODCs) incurred as authorized under a Task Order. The amount invoiced for labor will be equal to the number of hours expended during the previous month, multiplied by the applicable labor rates. Esri will invoice meals on a per diem basis in accordance with the full daily limits specified on the government General Services Administration (GSA) website at <https://www.gsa.gov/http://gsa.gov/>. Esri and Customer may include hourly labor rates in this Agreement; if the parties elect to do so, Attachment D will identify the hourly labor rates for each labor category. Esri may change hourly labor rates for Services; any increase in the first 5 years will not exceed 5 percent per year. Esri will invoice ODCs, including travel-related expenses incurred, plus a 15 percent burden.

Why: Updated GSA web link.

Where: Section 7.1 Definitions (pg. 9)

Change: With re-labeling this was previously Section 8.1

- b. **"Esri Mobile Lab"** means a service in which Esri will deliver and set up a training environment at the Customer's site Esri equipment consisting of laptops preconfigured with Esri Software, Training Materials, hard drives, power cords, and network switches provided to Customer for use in conjunction with scheduled Esri Training Events only. The Esri Mobile Lab will include certain hardware, software, power cords, and network switches necessary for the instructor to set-up the environment.
- c. **"Esri Training Event(s)"** means an Esri site class, Esri instructor-led online class, a Customer site/private class, **workshop**, or coaching services.

Why: Change was made to rather than just an equipment loan to now a service offering. The word workshop was added to the Esri Training Event definition.

Where: Section 7.4 Customer's Responsibilities (pg. 10)

Change: With re-labeling this was previously Section 8.4

- h. If the Esri Mobile Lab is used, Customer will
1. Take delivery of the Esri Mobile Lab from the shipping agent and keep in a secure, locked area at all times;
 2. Immediately report any previously damaged Esri Mobile Lab equipment to the Esri Training Event Assistant upon receipt of the ~~equipment~~shipment; and
 2. Keep Esri Mobile Lab equipment in a secure, locked area between Esri Training Event sessions;
 3. Be financially responsible for loss of, damage to, or theft of Esri Mobile Lab equipment while in Customer's possession.;
 4. Allow the Esri instructor to check all Esri Mobile Lab equipment following the completion of an Esri Training Event. Esri will notify Customer in writing of any damage to Esri Mobile Lab equipment due to Customer use, excluding normal wear and tear. Customer will be financially responsible for any repair or replacement of equipment resulting from such damage; and
 5. Make Esri Mobile Lab equipment available for freight pickup upon the conclusion of the Esri Training Event.

Why: This section was modified to simplify language.

Where: Section 7.5 Student Registration and Training Event Change Policy (pg. 11)

Change: With re-labeling this was previously Section 8.5

- a. Customer will provide advance written notice to Esri Customer Service at service@esri.com to request a substitution, rescheduling, or cancellation of any class Esri Training Event or to substitute a student in a scheduled Esri Training Event.
- ~~a.b.~~ Customer will provide written notice to the Esri Customer Service department at service@esri.com of any student substitution, before class commencement. A replacement Student must be from the same Customer organization as the Student being replaced.
- ~~b.c.~~ If Customer reschedules an Esri Training Event three or fewer days before the scheduled start date, Esri will charge Customer 50 percent of the fee plus the cost of the rescheduled Esri Training Event.

- ~~e.d.~~ If the Customer (i) cancels an Esri Training Event 3 or fewer days before the scheduled start date without concurrently rescheduling or (ii) is absent without notice from the Esri Training Event, the Customer will be liable for the full Esri Training Event fee.
- ~~e.e.~~ If cancellation of an Esri Training Event is necessary due to causes beyond the party's reasonable control, the affected party may reschedule or cancel the [Esri Training Event](#) without incurring any liability.
- ~~e.f.~~ *Termination of Agreement.* Students who are currently registered for an Esri Training Event as of the date of termination of this Agreement may attend the scheduled [Esri Training Event](#), subject to the terms and conditions of this Agreement.

Why: This section (a) was restructured to clarify how to re-schedule or cancel a course with advanced notice to Esri.

Where: Section 7.6 Invoicing; Prepaid Fees

Change: With re-labeling, this was previously Section 8.6

- c. Training Pass ~~redemption~~~~exchange~~ rates are described at <https://www.esri.com/training/training-for-organizations/>.

Why: This change was made to be consistent with the training website.

Where: Section 8.1 Definitions (pg 11)

Change: With re-labeling this was previously Section 9.1

- a. "**Activity Description**" means a ~~confirmation email or document received from Customer~~~~mutually agreed upon written statement~~ that confirms the number of Learning and Services Credits that Esri estimates is required to perform an activity and authorizes Esri to begin work based on such estimate. The Activity Description serves as the Task Order for Services provided under the Advantage Program.
- f. "**Learning and Services Credits**" means ~~credits a contracted unit of exchange~~ that Customer may use ~~to acquire in exchange for~~ Professional Services, Training, PSS, EMCS, or related travel expenses as described below.
- h. "**Technical Advisor**" means an Esri ~~consultant~~~~advisor~~ assigned to work with Customer to provide Professional Services ~~comprising~~~~comprising~~ advising ~~Customer~~ on GIS strategies, facilitating annual account planning, and developing and coordinating a collaborative technical work plan under the Advantage Program.

Why: These changes were made to make the definition more board. Also, to clarify the meaning of a learning and service credit.

Where: Section 8.2 Advantage Program Description (pg 12)

Change: With re-labeling this was previously Section 9.2

The Advantage Program is provided on an order-by-order, annual subscription basis ~~allowing access to and is a menu of~~ Professional Services, Training, PSS, and EMCS ~~offerings~~ that provides Customer with the flexibility to select the ~~offering~~~~components~~ that best meet its needs ~~with guidance from the Technical Advisor~~. The Advantage Program may change from time to time.

- f. **No ~~Development Project~~ Services.** The Advantage Program is not designed for Esri to provide project-specific Professional Services such as custom application or database development for solutions or applications. Esri will not provide these types of Professional Services under the Advantage Program and does not warrant that Deliverables provided under an Advantage Program will comply with Specifications.

Why: This was added to help clarify the description of this program.

Where: Section 8.5 Authorization of Learning and Services Credits Use (pg 12)

Change: With re-labeling this was previously Section 9.5

Customer will contact its account manager or Technical Advisor to consume Learning and Services Credits for a particular request. Esri will submit an Activity Description Learning and Services Credit estimate by email to Customer for confirmation and authorization to use the Learning and Services Credits. Customer may authorize the consumption of Learning and Services Credits by submitting an email Activity Description. Esri will begin performance work and deduct the amount quoted estimated credit amount stated in the Activity Description from the unused Learning and Services Credits available.

Why: This was added to help clarify the description of this program.

Where: 8.7 Travel and Per Diem Expenses (pg 13)

Change: With re-labeling this was previously Section 9.7

Any Esri travel and per diem expenses will be quoted separately. Travel expenses will include a 15 percent burden and per diem will be determined in accordance with the full daily limits specified on the government General Services Administration (GSA) website at <https://www.gsa.gov/http://gsa.gov/>. Customer may ~~direct Esri to~~ use Learning and Services Credits for travel and per diem expenses. ~~or Customer may issue a purchase order and Esri will invoice Customer for the travel and per diem expenses as set forth in the "Professional Services" section of this Agreement.~~

Why: Updated the GSA URL. All charges will be on one invoice for travel expenses.

Where: Section 8.10 Invoicing

Change:

b. Pricing for ~~annual~~ program renewals and new or additional Services will be in accordance with Esri's standard pricing at the time of purchase or renewal.

Why: By removing annual this covers both the annual customer and the EA customer at the time of renewal.

Where: Attachment A Glossary of Terms (pg 14-15)

Change:

"Esri Offering(s)" means any Product or Documentation. If Esri provides Training or Professional Services directly to Customer, then Esri Offerings also include Deliverables ~~provided on a firm fixed price basis~~ and Training Materials. Esri Offerings exclude Services and Third-Party Content.

"Personal Use" ~~means personal, noncommercial use by an individual Customer. Personal Use excludes use for the benefit of any third party, including commercial, educational, governmental, or nonprofit entities.~~

"Named User(s)" ~~is Customer's employee, agent, consultant, or contractor to whom Customer has assigned a unique secure named user login credential (identity) enabling access to a Product that requires such identity to access identity managed capabilities within a Product for Customer's exclusive benefit. For educational use, Named Users may include registered students.~~

"Named User Credential(s)" ~~means an individual person's login and associated password enabling that person to access and use Products.~~

"Named User License" ~~means the right for a single Named User to use a specific Esri Offering.~~

"Training" means- ~~(i) Product training or (ii) related training, standard Product training~~ that Esri provides under this Agreement.

"Training Materials" means digital or printed content required to complete Training, which may include, but is not limited to, workbooks, data, concepts, exercises, [assessments](#), and exams.

[Why: Named Users, Named User Credentials and Named User License definitions were all moved to section 2.1.
The Term Personal Use was removed as it is not referenced in the body of this agreement.](#)

ATTACHMENT B GENERAL TERMS AND CONDITIONS

[Where: Article 1 General Use Restrictions \(pg. 16\)](#)

Change:

Except as expressly permitted in this Agreement, Customer will not

- a. Sell, rent, lease, sublicense, distribute, lend, time-share, or assign [Services or](#) Esri Offerings;
- b. Distribute or provide direct access to [Services or](#) Esri Offerings to third parties, in whole or in part, including, but not limited to, extensions, components, or DLLs;

[Why: Adding the term Services to the General Terms and Conditions along with Esri Offerings.
Added to clarify these use restrictions apply to Services as well as Esri Offerings.](#)

[Where: Article 2.3- Term and Termination \(pg. 16-17\)](#)

Change:

2.3 Upon any termination [or expiration](#) of a license or subscription, Customer will

- a. Stop accessing and using the terminated [or expired](#) Esri Offerings;
- b. Clear any client-side data cache derived from the terminated [or expired](#) Cloud Services; and
- c. Stop using and uninstall, remove, and destroy all copies of [the terminated or expired](#) ~~affected~~ Esri Offerings in Customer's possession or control, including any modified or merged portions thereof, in any form, and execute and deliver evidence of such actions to Esri or its authorized distributor.

[Why: This was added to clarify this could be termination or expiration of an agreement.](#)

[Where: ARTICLE 3- LIMITED WARRANTIES AND DISCLAIMERS \(pg. 17\)](#)

Change:

3.1 Limited Warranties. Except as disclaimed below, Esri warrants to Customer that (i) Products and Training will substantially comply with the applicable Specifications and (ii) Services will substantially conform to the professional and technical standards of the industry. The warranty period for Esri Offerings ~~and Services~~ offered under a Perpetual License ~~and for Services~~ runs for 90 days from the date of delivery or from the date of acceptance if this Agreement provides an acceptance period. The warranty period for Esri Offerings ~~and Services~~ offered under a subscription or Term License basis runs for the lesser of (i) the duration of the subscription or term or (ii) 90 days from delivery or acceptance if this Agreement provides an acceptance period.

[Why: Syntax correction.](#)

Where: Article 4- LIMITATION OF LIABILITY (pg. 17)

Change:

4.1 Disclaimer of Liability. Neither Customer, Esri, nor any Esri distributor or licensor will be liable for any indirect, special, incidental, or consequential damages; lost profits; lost sales; loss of goodwill; costs of procurement of substitute goods or services; or damages exceeding the applicable license or current subscription fees or Services fees paid or owed to Esri for the Esri Offerings or Services giving rise to the cause of action.

Why: Clarify the cap on liability for Services.

Where: ARTICLE 5- INDEMNIFICATIONS (pg. 18)

Change: 5.1 Definitions:

d. "**Loss(es)**" means ~~out-of-pocket loss~~expenditure, damage award, settlement amount, cost, or expense, including awarded attorneys' fees.

Why: Clarification of this definition removing the term "out-of-pocket" as this does not translate well in other languages.

Where: Article 5.2 Infringement Indemnity (pg. 18)

Change:

a. Esri will defend, ~~and~~ hold all Indemnitees harmless from, ~~any Infringement Claim~~ and indemnify any Loss arising out of an Infringement Claim ~~as set forth in the following paragraphs.~~

Why: Clarification.

Where: Section 5.3 General Indemnity (pg. 18)

Change:

Esri will defend and hold all Indemnitees harmless from, and indemnify any Loss arising out of, any Claim for bodily injury, death, or tangible or real property damage brought against any of the ~~indemnified parties~~Indemnitees to the extent arising from any negligent act or omission or willful misconduct by Esri or its directors, officers, employees, or agents performing Services while on Customer's site.

Why: Clarification to make use of the defined term, "Indemnitee".

Where: Article 7- Security and Compliance (pg. 19)

Change:

7.4 Privacy. Esri will process personal data according to the terms of the Data Processing Addendum available at <https://www.esri.com/en-us/privacy/privacy-gdpr>

Why: This section has been added due to the European Union General Data Protection Regulation(GDPR) regarding privacy on personal data. This new link has been added that will lead to our site with more information and Addendum.

Where: Article 9: Section 9.5 Taxes and Fees; Shipping Charges (pg. 21)

Change:

Fees Pricing of Esri Offerings and Services that Esri quotes to Customer ~~are is~~ exclusive of any and all applicable taxes or fees including, but not limited to, sales tax, use tax, or value-added tax (VAT); customs, duties, or tariffs; ~~and~~ shipping and handling charges; and vendor enrollment fees. Esri will add any ~~such taxes fees~~ that it is required to pay to the total amount of its invoice to ~~the~~ Customer. Esri may include estimated taxes and shipping and handling charges in its quotations but may adjust these fees on invoicing. For Customers outside the United States, the distributor may quote taxes or fees in accordance with its own policies.

Why: This language was added to be consistent with Esri's business practices.

Where: Article 9: Section 9.11 US Government Customer (pg. 22)

Change:

The Products are commercial items, developed at private expense, provided to Customer under this Agreement. If Customer is a US government entity or US government contractor, Esri licenses or provides subscriptions to Customer in accordance with this Agreement under FAR Subparts 12.211/12.212 or DFARS Subpart 227.7202. Esri Data and Online Services are licensed or subscribed under the same DFARS Subpart 227.7202 policy as commercial computer software for acquisitions made under DFARS. Products are subject to restrictions, and this Agreement strictly governs Customer's use, modification, performance, reproduction, release, display, or disclosure of Products. Agreement provisions that are inconsistent with federal law regulation will not apply. A US government Customer may transfer Software to any of its facilities to which it transfers the computer(s) on which it has installed such Software. If any court, arbitrator, or board holds that a US government Customer has greater rights to any portion of the Products under applicable public procurement law, such rights will extend only to the portions affected. ~~Online Services are FISMA Low authorized~~ ArcGIS Online has been granted FedRAMP tailored low authorization but does not meet higher security requirements including those found in DFARS 252.239-7010.

Why: This has been modified to reflect our new FedRAMP authorization. The Federal Risk and Authorization Management Program (FedRAMP) is an assessment and authorization process which U.S. federal agencies have been directed by the Office of Management and Budget [1] to ensure security is in place when accessing cloud computing products and services. Esri's product security team find FedRAMP a more significant accomplishment than FISMA.