



BY ACCESSING OR USING MICROSOFT BING MAPS SERVICES, YOU AGREE TO BE BOUND BY THESE MICROSOFT BING MAPS SERVICES TERMS OF USE ("TERMS OF USE") AS WELL AS THE ESRI GENERAL LICENSE TERMS AND CONDITIONS OR LICENSE AGREEMENT (E200/E201/E204) AND EXHIBIT 1 SCOPE OF USE, WHICH THESE TERMS OF USE SUPPLEMENT AND INCORPORATE BY THIS REFERENCE. ACCESS TO AND USE OF MICROSOFT BING MAPS SERVICE(S) IN ANY MANNER, INCLUDING BROWSING OR ACCESSING THE SERVICES, CONSTITUTE LICENSEE'S ACCEPTANCE OF AND AGREEMENT TO THESE TERMS OF USE. PLEASE READ THESE TERMS OF USE THOROUGHLY AND MAKE SURE LICENSEE UNDERSTANDS THEM BEFORE ACCEPTING THEM.

IF LICENSEE DOES NOT ACCEPT THESE TERMS OF USE OR DOES NOT WISH TO BE BOUND BY THEM, LICENSEE MUST IMMEDIATELY CEASE ACCESS TO AND USE OF THE MICROSOFT BING MAPS SERVICES. ACCESS TO AND USE OF MICROSOFT BING MAPS SERVICES IS AUTHORIZED ONLY UPON ACCEPTANCE OF THESE TERMS OF USE.

THIS DOCUMENT INCLUDES THE FOLLOWING SECTIONS:

- [SECTION A](#), WHICH PROVIDES GENERAL TERMS AND CONDITIONS
- [SECTION B](#), WHICH PROVIDES LICENSING RELATED TERMS

SECTION A—GENERAL TERMS AND CONDITIONS

These Terms of Use constitute an agreement between you ("You" or "Licensee") and **Environmental Systems Research Institute, Inc. ("Esri")**, a California corporation located at 380 New York Street, Redlands, California 92373-8100 USA.

1. DEFINITIONS

The definitions in these Terms of Use are supplemental to the definitions contained within the Esri License Agreement.

1.1 "Provider(s)" means the third-party provider(s) of content and services including Esri licensors, data and imagery providers, and service providers.

1.2 "Web Service(s)" in addition to the "Web Service(s)" definition set forth in the License Agreement, for these Terms of Use "Web Service(s)" also includes the direct connection and seamless access to Bing Maps Services provided by the Esri Software and use of such services in conjunction with the Esri Software.

1.3 "Bing Maps Services" means maps and services sourced from and hosted by Microsoft which are accessed by Esri Software through custom connectors built into the Esri Software.

2. OWNERSHIP

Web Service(s) and any content provided therein are provided to Licensee subject to these Terms of Use. In some instances, Web Service(s) may be freely available to Licensee, but they are not in the public domain unless specified as such. Esri and Provider Web Service(s), unless otherwise specified, are protected by United States laws and applicable international laws, treaties, and conventions regarding intellectual property or proprietary rights. Unless specifically stated in writing, these Terms of Use do not transfer any rights to redistribute, prepare derivative works from, or acquire ownership interest in Web Service(s).

3. PROVIDER CONTENT

When using Web Service(s), Licensee may have the opportunity to access, view, use, and download additional content provided by Provider, including but not limited to, software, data, Provider's user generated content, and imagery. Licensee acknowledges that Provider content is solely the responsibility of the Provider. These Terms of Use do not convey to Licensee any rights to access or use including, but not limited to, copying, distributing, creating derivative works from, or publicly displaying Provider's content. Access and use of Provider content may require that Licensee agree to different or separate terms, conditions, and restrictions. Agreeing to any such terms and conditions will be between Licensee and the Provider and will not affect these Terms of Use or any separate agreements Licensee may have with Esri.

The Bing Maps Services made available to You through the ESRI Software are owned and made available by Microsoft as the Provider. You acknowledge and agree that these Bing Maps Services are not under Esri's control, and Esri is not responsible for the information, content, or services offered through Bing Maps Services and the availability or accuracy of such information, content, or services, regardless of how they are transmitted or received. Any use or reliance on Provider content and services is at your own risk, and in no way will Esri be liable in any way for such content and services or any loss or damage of any kind incurred as a result of the use of or reliance on such content and services. Further, any links or other references to Provider Web sites do not imply an endorsement, affiliation, or sponsorship of any kind, and do not represent warranties of the quality of services provided by such Provider.

4. TRADEMARKS, LOGOS, AND COPYRIGHT

4.1 Trademark Use. Names appearing on the Bing Maps Services may be trademarks or registered trademarks of their respective trademark owners. These marks may only be used where authorized by the Provider or permitted by law. Any use not authorized by the Provider shall be considered a material breach of these Terms of Use.

4.2 Intellectual Property Notices. Licensee shall not remove any intellectual property notices, proprietary legends, and/or U.S. Government Limited/Restrictive Rights legends contained in Web Service(s), the metadata files of any of Web Service(s), and any online and/or hard-copy attribution page of any data or documentation delivered hereunder and shall affix any attribution notices as may be specified therein. Proper attribution to Esri or the appropriate Provider must be given for any use of Web Service(s), and Licensee must include the applicable Web Service(s) copyright attribution notice as set forth in the relevant data source for all uses of Web Service(s). Licensee should contact Esri if Licensee is unsure how to give proper attribution.

4.3 Copyright Information or Permissions. Inquiries regarding additional uses not provided herein may be submitted to Esri through a Copyright Information or Permissions request available at <http://gis.esri.com/emails/mail-copyright.cfm>.

5. BING MAPS SERVICES WEB SITE PRIVACY POLICY

In addition to these Terms of Use, Licensee expressly agrees that use of any data and/or imagery and Web Services provided by Microsoft Bing Maps Services, shall be governed by the terms and conditions of the Microsoft Privacy Statement. Microsoft's Privacy Statement is found at the following link: <http://go.microsoft.com/fwlink/?LinkId=21970>.

6. MODIFICATIONS TO THE WEB SITE OR TERMS OF USE

Esri and Provider reserve the right to change content provided in and access to Web Service(s) at any time without notice to Licensee. This may be done at Esri and/or the Provider's sole discretion for any reason including, but not limited to, legal compliance, change in policy, aesthetic or technological development, or internal business or legal considerations. Esri and/or Provider may also, from time to time, modify or replace applicable terms of use or privacy policies which may affect Licensee's rights to use Web Service(s) provided.

Licensee understands and agrees that Licensee's access to or use of Web Service(s) after the modified or replaced terms of use or privacy policy is posted will signify Licensee's acceptance to those terms of use and privacy policy. Licensee further understands that it is Licensee's responsibility to read the current terms of use or privacy policy—Esri will not contact Licensee to let Licensee know they have been modified or replaced.

7. INDEMNIFICATION

Esri is committed to respecting others' intellectual property rights and asks that Licensee do the same. To the extent permitted by law, Licensee agrees to defend, indemnify, and hold harmless Esri, its subsidiaries and Provider(s); officers; agents; cobranders; and alliance members or other partners, employees, or agents from any claim or demand, including reasonable attorneys' fees, made by any third party due to, or arising out of, Licensee's use of Web Service(s) including any use by Licensee employees or agents, Licensee's connection to Web Service(s), Licensee's violation of these Terms of Use, or Licensee's violation of any rights of a third party. Esri may, at its sole discretion, terminate Licensee's accounts or access rights if Licensee misappropriates, infringes, or otherwise violates the intellectual property rights of Esri or a third party, including Provider(s).

8. TERM AND TERMINATION

8.1 Term. These Terms of Use shall continue to apply until terminated by Licensee or Esri. Termination may only occur as provided in this section.

8.2 Termination by Licensee. Licensee may terminate these Terms of Use by (a) sending a letter to the address provided herein, Attn.: Contracts and Legal Services, expressing clearly in English Licensee's desire to terminate these Terms of Use ("Termination Letter") and (b) ceasing and discontinuing Licensee's use of all Web Service(s) upon or before sending Termination Letter to Esri. Continued use of Web Service(s) after sending Termination Letter constitutes Licensee's acceptance and agreement to these Terms of Use.

8.3 Termination by Esri. Esri may terminate these Terms of Use if the following occurs:

8.3.1 Licensee has breached the terms and conditions provided in these Terms of Use through either Licensee's action or inaction.

8.3.2 Licensee has breached an agreement with Esri relating to the use of Esri products or services.

8.3.3 Esri or Provider(s) discontinue Web Service(s) on which these Terms of Use are based.

8.3.4 Esri, at its sole discretion, believes that it is in Esri's best commercial interest to terminate these Terms of Use.

8.3.5 Effects of Termination. Upon termination of these Terms of Use, all Web Service(s) license, rights, and obligations owed by the Parties shall cease except for those set forth in Articles 2, 4, 7, and 8, which shall continue indefinitely. Subject to the rights or termination of these Terms of Use set forth herein, the termination or expiration of any Web Service(s) subscription or other usage right shall not terminate these Terms of Use.

9. LANGUAGE

Licensee agrees that the English language version of these Terms of Use shall govern their interpretation. Any versions provided in a language other than English are provided for convenience only. Any inconsistencies or contradictions shall not affect the interpretation of the English language version.

10. FORCE MAJEURE

Esri and its Provider(s) shall not be liable for any delay or failure to perform their obligations under this agreement where such delay or failure results from any cause beyond their reasonable control, including, but not limited to, acts of God; labor disputes or other industrial disturbances; electrical or power outage; utilities or telecommunications failures; earthquake, storms, or other elements of nature; blockages; embargoes; riots; acts or orders of government; acts of terrorism; or war.

SECTION B—BING MAPS SERVICES SPECIAL TERMS AND CONDITIONS

1. DEFINITIONS

1.1 "External Use" means externally facing, publicly available applications without restriction (for example, login or password must not be required).

1.2 "Internal Use" means personal use and internal use within an organization including internal applications which are accessible via the internet but restricted, by password protection, for use by members of that organization only and are designed to access and use the Bing Maps Services.

1.3 "Application" means the authorized computer software program or online services developed by Licensee which incorporates Esri Software and operates in conjunction with, Web Service(s).

2. LICENSE GRANT

2.1 License Grant. Subject to these Terms of Use, You may use Bing Maps Services as described in Attachment A. Upon Your payment to Esri of the applicable fee(s), Esri grants Licensee the right to use Subscription Bing Maps as described in Attachment B.

2.2 Microsoft Terms of Use. In addition to these Terms of Use, Licensee expressly agrees that use of Bing Maps Services shall be governed by the terms and conditions of the Microsoft Terms of Use found at the following link: <http://go.microsoft.com/fwlink/?LinkID=66121>. Use of Bing Maps Services in any manner constitutes Licensee's acceptance of and agreement to the Microsoft Terms of Use identified in this Section B, Clause 2.2 and the Microsoft Privacy Statement identified in Section A, Clause 6.1. If Licensee does not wish to be bound by these Terms of Use and the Microsoft Terms of Use and Privacy Statement, Licensee should not access and use the Bing Maps Services.

2.3 General Restrictions: Improper Use of Web Service(s). Any rights not granted herein or otherwise agreed to in writing between Licensee and Esri are prohibited. In particular, unless specifically authorized by Esri in writing, Licensee may not (or attempt to) do the following:

- a. Licensee's access to and use of Bing Maps Services containing Microsoft data and/or imagery may only be used in conjunction with Esri software.
- b. Licensee's access to and use of Bing Maps Services in a staging environment shall be for development, testing, and maintenance purposes only and not for a commercial release product.
- c. For all Applications developed by Licensee that access and use Bing Maps Services sourced and provided by Microsoft, Licensee must prominently display or hypertext link Microsoft's Privacy Statement and MapPoint Terms of Use on the bottom of each Web page containing Microsoft data and/or imagery, in the About section for desktop applications or in the end user's terms and conditions for mobile applications, as set forth above.
- d. Licensee and Licensee's end user may not use Bing Maps Services (a) to copy, store, archive, and create a database of Bing Maps Services-generated content, except that geocodes may be stored locally when used in conjunction with the Esri software; (b) in violation of local, state, federal, or equivalent privacy or other laws or regulations; (c) to create routes by optimizing the order waypoints for multiple vehicles at the same time; (d) to deliver individual maneuvers of a calculated route such that the maneuvers are presented to the end user, or the end user is alerted to the maneuvers, in any manner synchronized with the end user's sensor-based position along such route, including, for example, calculating the end user's position as the end user traverses the route and communicating a maneuver to the end user as the end user approaches the location pertaining to such maneuver; or (e) in any manner that threatens the integrity, performance, or availability of Bing Maps Services.
- e. Licensee is prohibited from using or providing access to any bird's-eye imagery (or associated metadata).
- f. Road traffic data in Bing Maps Services ("Road Traffic Data") may only be used to calculate and/or derive Traffic Transactions (defined in this section below) to deliver and display such Traffic Transactions on Internet-based Web pages (or WAP or substantially similar wireless protocol-based pages, excluding messaging protocols such as e-mail, SMS, MMS, or other plain text or rich text messaging), subject to the following restrictions:
 - Road Traffic Data may only be used in combination with Bing Maps Services and not separately. Licensee may not deconstruct or mix and match Road Traffic Data with traffic data from another supplier or

associate or add any traffic data to or in combination with Road Traffic Data. Licensee may only make the Road Traffic Data available for free and for the personal use of end users.

- Road Traffic Data may not be licensed to or used (i) by radio/television stations; (ii) by newspaper Web services; (iii) by any Web sites owned by (i) and (ii); (iv) by any government-sponsored traveler information services, including, without limitation, 511 services, consumer Web sites, or variable message signs on roads; (v) for television or radio broadcast; (vi) as part of or in conjunction with weather-related services; (vii) for animation; (viii) for storing or the provision of continuously updated traffic data or alerts to end users; or (ix) to develop a stand-alone (traffic only) traffic application.
 - Road Traffic Data may not be used or made available by Licensee to its end users for use on an Accurate Positioning Device. "Accurate Positioning Device" means a device or system with the capability to determine its physical location within a positioning accuracy of two hundred (200) meters or less. If a device that is not an Accurate Positioning Device based on the foregoing definition has the capability to transmit the data to an Accurate Positioning Device, then such device will be considered an Accurate Positioning Device. "Traffic Transaction" means the provision of any one of the following: (i) presentation of the Road Traffic Data on or related to a map that is presented through icon(s), text, or voice; (ii) presentation of the Road Traffic Data in connection with driving directions, direct or indirect use of the Road Traffic Data to determine travel time for all or any portion of a route, and presentation of available traffic information along a route, all through icon(s), text, or voice; (iii) direct or indirect use of the Road Traffic Data to calculate or create routes or alternate routes; and (iv) audio or textual presentation of the Road Traffic Data in a manner that does not involve use of a map or map information and that does not include items (i)–(iii) listed above.
- g. Licensee and Licensee's end users shall not use Bing Maps Services to monitor or track the location or movement of Asset(s). "Asset" means one of any of the following classes: person, vehicle, device, or other mobile object.
 - h. Licensee shall not perform or facilitate any act to defeat or remove any of the following items from the Bing Maps Services-generated content: (i) proprietary notices and logos of Microsoft or its suppliers or (ii) the digital watermark on any image or derivative image.
 - i. Bing Maps data and/or imagery is provided *as-is* without warranty, and use of such data and/or imagery accessed by Licensee shall be at Licensee's sole risk.
 - j. Geocodes may not be stored for any purpose except caching for performance
 - k. Geocodes may not be displayed on any map other than a Bing Map
 - l. Use or sublicense others to use the Web Service(s) beyond applicable transaction limits;
 - m. Manually or systematically harvest information and data contained within Web Service(s);
 - n. Distribute the client-side data cache, routes, or geocodes derived from Web Service(s) to third parties;
 - o. Use Web Service(s) in connection with any real time navigation system that provides users with turn-by-turn route guidance (i.e., determination of a route and/or travel times whereby the route and/or travel time is continuously updated as the user traverses the route);
 - p. Provide others with access to Web Service(s) through unauthorized Software or Applications;
 - q. Reverse-engineer, decompile, access, disassemble, or hack Web Service(s) not made readily available to Licensee (without consideration as to how reasonable the means used are to keep such secure);
 - r. Use Web Service(s) in such a manner as to adversely affect Esri's commercial interests or the commercial interests of Provider(s);
 - s. Alter, obstruct, or remove any proprietary rights notices provided with Web Service(s);
 - t. Use Web Service(s) for illegal, improper, or inappropriate purposes (including, but not limited to, defamation or harassment of others, distribution of obscene or indecent material, stalking, or distribution of content in violation of the proprietary rights of others);
 - u. Sell, rent, lease, lend, time-share, assign, or transfer any right to use Web Service(s) to any third party without the prior express written permission of Esri;
 - v. Distribute, post, or link via Applications to content that violates any third party intellectual property rights, including any patents, trade secrets, trademarks, copyright, database rights, or any information subject to a confidentiality agreement.;
 - w. Store the results derived from Licensee's use of Web Service(s) for the purpose of creating a value-added, Web-enabled Application that Licensee intends to resell, license, or otherwise distribute to third parties without the prior express written permission of Esri;
 - x. Create derivative Web Service(s) or add value to Web Service(s) and thereafter resell or otherwise distribute Web Service(s) as Licensee's own services without the prior express written permission of Esri;

- y. Use, reformat, or display Web Service(s) in an attempt to mirror and/or make External Use of an Esri or Provider(s) Web site;
- z. Use Applications to transmit any virus, worm, trojan horse, time bomb, or other form of malicious code; and
- aa. If Licensee or Licensee's end user licenses any application that contains any Bing Maps data and/or imagery accessed as part of the Microsoft Bing Maps Services to the U.S. Government, the following terms shall apply:

1. *Cost or Pricing Data/Commercial Item.* Microsoft represents that Bing Maps Services is a "Commercial Item" as defined in FAR Part 2.101. Licensee acknowledges that Microsoft will not, under any circumstances, accept service orders under this Agreement that would require the submission of cost or pricing data as defined by 48 CFR 15.4 or the submission of noncommercial items.
2. *Clauses Incorporated by Reference.* The following FAR clauses are incorporated by reference into this Agreement for any orders that are placed on behalf of the United States Federal Government. The version of each clause shall be that version incorporated into Licensee's prime contract with a United States Federal Government customer.

FAR Clause	Title
52.219-8	Utilization of Small Business Concerns
52.222-26	Equal Opportunity
52.222-35	Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era
52.222-36	Affirmative Action for Workers with Disabilities
52.222-39	Notification of Employee Rights Concerning Payment of Union Dues or Fees
52.222-41	Service Contract Act of 1965
52.222-50	Combating Trafficking in Persons
52.222-51	Exemption from Application of Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements
52.222-53	Exemption from Application of the Service Contract Act to Contracts for Certain Services—Requirements
52.247-64	Preference for Privately Owned U.S.-Flag Commercial Vessels

3. *Disputes under a Government Contract.* Regarding any claims, controversies, or disputes concerning matters that are subject to the Contract Disputes Act applicable to the prime contract between Licensee and a United States Federal Government customer, the parties' rights shall be determined in accordance with that Act. In the event that Microsoft is affected by a decision of the U.S. Government under the prime contract and Licensee does not elect to take Microsoft's claim forward on Licensee's own, Microsoft will have a right of indirect claim and appeal to include Licensee's reasonable cooperation in filing and sponsoring a claim against the United States Federal Government customer, which right may be exercised within fifteen (15) business days of Licensee's notice to Microsoft that the Licensee will not proceed with a claim. Any election by Microsoft to pursue a claim shall be at Microsoft's sole expense, and Microsoft will be responsible for all activities associated with prosecution of Microsoft's appeal.
4. *Disclosure of Confidential Information.* Licensee may disclose Microsoft confidential information contained in this Agreement or Addendum to a United States Federal Government customer solely as required under Licensee's prime contract with the United States Federal Government customer, provided Licensee identifies such confidential information in writing as being subject to 18 U.S.C. Section 1905 (Trade Secrets Act) and 5 U.S.C. Section 552 (Freedom of Information Act).

Any of the above, whether merely attempted or successfully executed, are a material breach of these Terms of Use.

2.4 Esri reserves the right to determine if Licensee's use of Web Service(s) qualifies as a no-charge use or a use that require payment of a license fee. Esri reserves the right to interrupt or limit Your access to the Web Service(s) to enforce these Terms of Use and to assign a unique identifier to your Applications to monitor Your use of the Web Service(s).

2.5 As a condition of the grant of license to integrate Bing Maps Services generated content and functionality into Web or Mobile Application(s), Licensee shall have in place an enforceable agreement with its third party customers consistent with these Terms of Use and which protects the intellectual property rights of Esri and its Provider(s).

ATTACHMENT A

Product	Use Rights	Limitations Applicable to Use Rights
ArcGIS Desktop: ArcView, ArcEditor, ArcInfo, ArcGlobe, ArcGIS Engine, ArcGIS Explorer	Unlimited use for Internal Use	None.
ArcGIS Server: ArcGIS API for JavaScript, ArcGIS API for Flex, ArcGIS API for Silverlight, ArcGIS Mapping for SharePoint, ArcGIS .NET ADF, ArcGIS Java ADF	Limited use for Internal Use	ArcGIS Server 10 includes access to Bing Maps for up to 2,000,000 transactions per four cores per year ("Cap"). ArcGIS Server 9.3.1 includes the right to a free 90-day trial.

ATTACHMENT B

Product	Use Rights	Limitations Applicable to Use Rights
ArcGIS Desktop: ArcView, ArcEditor, ArcInfo, ArcGlobe, ArcGIS Engine, ArcGIS Explorer	Limited use for External Use	One-year Subscription.
ArcGIS Server: ArcGIS API for JavaScript, ArcGIS API for Flex, ArcGIS API for Silverlight, ArcGIS Mapping for SharePoint, ArcGIS .NET ADF, ArcGIS Java ADF	ArcGIS Server 9.3.1: Limited use for Internal Use and External Use	One-year Subscription for increments of 100,000 transactions.
	ArcGIS Server 10: Limited use for both Internal Use and External Use	One-year Subscription for increments of 100,000 transactions for internal use above the Cap identified in Attachment A and for external use
ArcGIS Web Mapping: ArcGIS API for JavaScript, ArcGIS API for Flex, ArcGIS API for Silverlight, ArcGIS Mapping for SharePoint, SOAP and REST access to ArcGIS Online services	Limited use for Internal Use and External Use	One-year Subscription for increments of 100,000 transactions.