

# Licensing Terms of Use

## Documented Changes

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**Document Updated:** E204 – Master Agreement

**Date of Update Implementation:** February 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 with 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.*

[Where: Section 3.2 Online Services Descriptions, previously labeled "Subscription to Online Services"](#)

Change: **Subscription to Online Services Descriptions.** Esri publishes Online Services subscription-specific terms of use at <http://www.esri.com/~media/Files/Pdfs/legal/pdfs/e300.pdf>. <http://www.esri.com/legal/scope-of-use>. Use of Online Services is also subject to the Cloud Services terms found in Attachment B.

Why: Update of link to allow for multiple languages to be provided for the Product Specific Scope of Use. Re-insure Customer knows that Attachment B also applies to such use.

[Where: Section 3.4 Customer Responsibilities \(Online Services\)](#)

Change: [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](#)

Why: Added additional responsibility to ensure Customer only provides Customer Content that is suitable for the environment and creates a backup for their own export and download capability.

[Where: Section 3.7 Sharing Customer Content \[formerly Customer Content\] \(Online Services\)](#)

Change: **3.7 Customer Content**

~~a.—Ownership. Customer retains all right, title, and interest in Customer Content. Customer hereby grants Esri and Esri's vendors or licensors a nonexclusive, nontransferable, worldwide right to host, run, and reproduce Customer Content solely for the purpose of enabling Customer's use of Online Services. Without Customer's permission, Esri will not access, use, or disclose Customer Content except as reasonably necessary to support Customer's use of Online Services, respond to Customer's requests for customer support, or troubleshoot Customer's subscription or for any other purpose authorized by Customer in writing. If Customer accesses Online Services with an application provided by a third party, Esri may disclose Customer Content to such third party as necessary to enable interoperation between the application, Online Services, and Customer Content. Esri may disclose Customer Content if required to do so by law or regulation or by order of a court or other government body, in which case Esri will reasonably attempt to limit the scope of disclosure. It is Customer's sole responsibility to ensure that Customer Content is suitable for use with Online Services and for maintaining regular offline backups using the Online Services export and download capabilities.~~

**b.—Sharing Customer Content.** If Customer elects to share Customer Content using Sharing Tools, then Customer acknowledges that Customer has enabled 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.

~~e.—Retrieving Customer Content upon Termination. Upon termination of this Agreement or any trial, evaluation, or subscription, Esri will make Customer Content available to Customer for download for a period of 30 days unless Customer requests a shorter window of availability or Esri is legally prohibited from doing so. Thereafter, Customer's right to access or use Customer Content with Online Services will end, and Esri will have no further obligations to store or return Customer Content.~~

Why: Removed unnecessary language, moved information to a different area, and condensed wording to be more precise. Customer Content language moved to Attachment B, Section 8.3.

## **ATTACHMENT A** **GLOSSARY OF TERMS**

Where: Attachment A Glossary of Terms

Change: "**Deliverables**" means anything that Esri delivers to a Customer as a result of performance of Professional Services ~~other than Products, Training, or Services performed under EEAP.~~

Why: Redefined certain terms to clear up uncertainty between Deliverable with Professional Services and other Esri Offerings

## **ATTACHMENT B** **GENERAL TERMS AND CONDITIONS**

Where: Article 1- General Use Restrictions

Change: a. Sell, rent, lease, sublicense, distribute, lend, time-share, or assign Esri Offerings;

~~b.—Use Software for Commercial ASP Use or service bureau purposes;~~

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~~b.~~ Distribute or provide direct access to Esri Offerings to third parties, in whole or in part, including, but not limited to, extensions, components, or DLLs;

~~d.c.~~ Distribute Authorization Codes to third parties;

~~e.d.~~ Reverse engineer, decompile, or disassemble any Product or Deliverable delivered in compiled form;

~~f.e.~~ Make any attempt to circumvent the technological measure(s) that controls access to or use of Esri Offerings;

~~g.f.~~ Store, cache, use, upload, distribute, or sublicense Content or otherwise use Esri Offerings in violation of Esri's or a third-party's rights, including intellectual property rights, privacy rights, nondiscrimination laws, export laws, or any other applicable law or regulation;

~~h.g.~~ Remove or obscure any Esri or its licensors' patent, copyright, trademark, proprietary rights notices, or legends contained in or affixed to any Esri Offerings, output, metadata file, or online or hard-copy attribution page of any Data or Documentation;

~~i.h.~~ Unbundle or independently use individual or component parts of Esri Offerings;

~~j.i.~~ Incorporate any portion of Esri Offerings into a product or service for third-party use that competes with the Esri Offerings;

~~k.j.~~ Publish or in any other way communicate the results of benchmark tests run on Beta Products without the prior written permission of Esri and its licensors; or

~~k.~~ Use, incorporate, modify, distribute, provide access to, or combine any Esri Offerings in a manner that would subject any part of the Esri Offerings to open-source or open-database license terms that require any part of the Esri Offerings to be:

1. Disclosed in source code form to third parties;

2. Licensed to third parties for the purpose of making derivative works; or
3. Redistributable to third parties at no charge.

Why: Changes in (b) are due to duplicative language in (a) and the use right for ASP or as a service bureau are not explicitly allowed in the scope or grant of the agreement. Special agreements may be discussed if such use is required.

Changes in (f), formerly (g), are to add export to use in violation of the other listed laws, rights, or regulations.

Where: Article 3.1- Limited Warranties

Change: 3.1 Limited Warranties. Except as disclaimed below, Esri warrants to Customer that (i) ~~Esri Offerings~~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 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~~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: Language updated to correct warranty of Product and Training versus Services. Additional language at end of section to ensure Customer understands warranty period for acceptance only applies if an acceptance period is included in the agreement and is for specific Services.

Where: Article 4.1 Disclaimer of Liability.

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, or~~ lost profits, lost sales, or loss of goodwill; costs of procurement of substitute goods or services; or damages exceeding the applicable license or current subscription fees paid or owed to Esri for the Esri Offerings giving rise to the cause of action.

Why: Language updated to correct ensure Customer is aware that liability for a subscription is limited to the specific current subscription and does not include prior subscriptions.

Where: Article 7.1 Security

**7.1 Security.** Esri publishes its security capabilities at ~~<http://doc.arcgis.com/en/trust/security/security-overview.htm>~~ <http://trust.arcgis.com>.

Why: Update proper reference link to Esri Security Page.

Where: Article 8.3 Customer Content [all former sections moved down in sequence]

Change: 8.3 Customer Content.

- a. Customer grants Esri and its subcontractors a nonexclusive, nontransferable, worldwide right to host, run, modify and reproduce Customer Content as needed to provide Cloud Services to Customer. Esri will not access, use, or disclose Customer Content without Customer's written permission except as reasonably necessary to support Customer's use of Cloud Services. Except for the limited rights granted to Esri under this Agreement, Customer retains all its rights, title, and interest in the Customer Content.
- b. If Customer accesses Cloud Services with an application provided by a third party, Esri may disclose Customer Content to such third party as necessary to enable interoperation between the application, Cloud Services, and Customer Content.

- c. Esri may disclose Customer Content if required to do so by law or regulation or by order of a court or other government body, in which case Esri will reasonably attempt to limit the scope of disclosure.
  - d. When Customer's use of Cloud Services ends, Esri will either:
    - (i) Make Customer Content available to Customer for download for a period of 30 days unless Customer requests a shorter window of availability or Esri is legally prohibited from doing so; or
    - (ii) Download all Customer Content in Esri's possession to a medium of Customer's choosing and deliver such Customer Content to Customer.
- Esri will have no further obligations to store or return Customer Content at the conclusion of the Cloud Services.

Why: Location of this language allows for coverage to include more than just Online Services.

Where: Article 9.5- Taxes and Fees; Shipping Charges

Change: **9.5 Taxes and Fees; Shipping Charges.** Fees that Esri quotes to Customer are 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. Esri will add any such taxes that it is required to remit to the total amount of its invoice to the Customer. For Customers outside the United States, the distributor may quote taxes or fees in accordance with its own policies.

Why: Added sentence to ensure that Customer knows taxes will be added as required to the total amount of an invoice.