

Standard Maintenance Agreement



Standard Maintenance Agreement No. _____

This Standard Maintenance Agreement ("SMA") is between the customer named below ("**Customer**") and **Environmental Systems Research Institute, Inc. ("Esri")**. Maintenance provided herein consists of technical support, new version software, self-paced e-learning access, hot fixes, patches, software updates, beta programs, and/or Esri International User Conference registration, as more specifically described on the Esri Maintenance and Support Program web page located at <http://www.esri.com/~media/Files/Pdfs/legal/pdfs/standard-maintenance.pdf>. Products that are eligible for maintenance can be found at <http://www.esri.com/software/maintenance/benefits> ("Qualifying Products"). Maintenance is provided subject to the terms and conditions of Customer's signed Esri license agreement, if any, or the license agreement found at <http://www.esri.com/legal/software-license> (as applicable, the "**License Agreement**"), which is incorporated by reference.

ARTICLE 1—TERM, TERMINATION, AND FEE

The initial term of this SMA will begin upon receipt of an order and will continue for twelve (12) consecutive months at the rate of fee(s) as noted in the applicable Esri quotation. Thereafter, Customer may continue annual maintenance at the then-current fee amount.

Either party may terminate this SMA by giving the other party thirty (30) days' notice prior to the end of the maintenance term.

Ordering documents must include the following statement: "**This order is subject to the terms and conditions of SMA <insert Standard Maintenance Agreement No.>. All other terms and conditions are null and void.**"

ARTICLE 2—WARRANTY, DISCLAIMER, REMEDY, AND LIMITATION OF LIABILITY

2.1 Warranty and Disclaimer. All technical support provided pursuant to this SMA shall be performed in a professional and workmanlike manner. Esri will use commercially reasonable efforts to provide corrections to a technical issue or provide a workaround, but Esri cannot guarantee that all technical issues can be fixed or resolved.

2.2 General Disclaimer. EXCEPT FOR THE ABOVE EXPRESS LIMITED WARRANTY, ESRI DISCLAIMS ALL OTHER WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINTERFERENCE, SYSTEM INTEGRATION, AND NONINFRINGEMENT. ESRI DOES NOT WARRANT AND DISCLAIMS THAT MAINTENANCE OR ANY SERVICES PROVIDED HEREUNDER WILL MEET CUSTOMER'S NEEDS; THAT CUSTOMER'S OPERATION WILL BE UNINTERRUPTED, ERROR FREE, FAULT TOLERANT, OR FAIL-SAFE; OR THAT ALL NONCONFORMITIES CAN OR WILL BE CORRECTED.

2.3 Remedy. If Esri fails to fulfill its obligations under this SMA, Customer's sole and exclusive remedy is the right to terminate this SMA immediately for affected Qualifying Products.

2.4 Limitation of Liability. IN NO EVENT SHALL ESRI BE LIABLE TO CUSTOMER FOR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; LOST PROFITS; LOST

SALES OR BUSINESS EXPENDITURES; INVESTMENTS; COMMITMENTS IN CONNECTION WITH ANY BUSINESS; LOSS OF ANY GOODWILL; OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS STANDARD MAINTENANCE AGREEMENT OR USE OF QUALIFYING PRODUCTS, HOWEVER CAUSED, ON ANY THEORY OF LIABILITY, AND WHETHER OR NOT ESRI HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

ARTICLE 3—APPLICABLE LAWS

This SMA is governed by and construed in accordance with the laws of the state identified in the License Agreement without reference to conflict-of-laws principles, except that US federal law shall govern in matters of intellectual property.

ARTICLE 4—ENTIRE AGREEMENT

This SMA constitutes the sole and entire agreement of the parties as to the subject matter set forth herein and supersedes any previous agreements, understandings, and arrangements between the parties relating to such subject matter. Any modification(s) or amendment(s) to this SMA must be in writing and signed by an authorized representative of each party.

IN WITNESS WHEREOF, the parties have caused this SMA to be executed and effective as of the last date written below.

(Customer)

By: _____
Authorized Signature

Printed Name: _____

Title: _____

Date: _____

ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE, INC.
(Esri)

By: _____
Authorized Signature

Printed Name: _____

Title: _____

Date: _____