

ERDAS INC.

ERDAS ECW/JP2 SDK Desktop Read-Only End-User License Agreement

IMPORTANT—READ CAREFULLY: This Read-Only ERDAS ECW/JP2 SDK Desktop Read-Only End-User License Agreement ("EULA") is a legal agreement between You (either an individual or a single entity) and ERDAS Inc. ("ERDAS"), having a principal place of business at 5051 Peachtree Corners Circle, Suite 100, Norcross, Georgia, 30092-2500, USA, for the ERDAS ECW/JP2 SDK Desktop Read-Only software product. By installing, copying, downloading, accessing or otherwise using the ERDAS ECW/JP2 SDK Desktop Read-Only, You agree to be bound by the terms of this EULA. If You do not agree to the terms of this EULA, do not install or use the ERDAS ECW/JP2 SDK Desktop Read-Only.

1. DEFINITIONS

- 1.1. "Decode" means to view files compressed either using Enhanced Compression Wavelet (ECW) technology or JPEG2000 technology.
- 1.2. "ERDAS ECW/JP2 SDK Desktop Read-Only" means the computer software currently marketed and licensed by ERDAS as the ERDAS ECW/JP2 SDK Desktop Read-Only, version 4.1 or higher, consisting of libraries and supporting documents designed to enable You to write software that enables end-users to Decode files but not to Encode files. Among other things, the software enables reading ECWP streams and enables decompression of files having an *.ecw extension. The ERDAS ECW/JP2 SDK Desktop Read-Only may include associated media, printed materials, and online or other softcopy documentation. No source code is included with the ERDAS ECW/JP2 SDK (Read-Only).
- 1.3. "ECWP" is the Enhanced Wavelet Compression Protocol, by which compressed files residing on a Server may be streamed to an End Application and Decoded.
- 1.4. "Encode" means to compress files using ECW technology or to otherwise compress using the ERDAS ECW/JP2 SDK Desktop Read-Only.
- 1.5. "End Application" means desktop or mobile software products that You develop and that permit an end-user to Decode (among other functionality You develop), and that are intended to be used as self-contained programs for displaying and processing imagery. End Applications do not run on a Server and are not SDKs or Libraries. However, dynamically loadable object Libraries (.dll files) included with the ERDAS ECW/JP2 SDK may be distributed as part of an End Application.
- 1.6. "Library" means file of computing functions, compiled, linked, and saved separately from the processes that use them, intended for use by programmers in connection with their development of applications that use the library. The Libraries included in the ERDAS ECW/JP2 SDK Desktop Read-Only are of two types: .lib files and .dll files.
- 1.7. "SDK" means a Software Development Kit, that is, a set of software development tools designed to facilitate the development of an End Application.
- 1.8. "Server" means a computing device in a network that is used to provide services (such as access to files or shared peripherals or any other computing function) to other computing devices in the network.
- 1.9. "Server Application" means software products that are capable of running on a Server and providing services to other computer devices in the network, and that permit an end-user to Decode. This Agreement does not authorize You to use the ERDAS ECW/JP2 SDK Desktop Read-Only to create Server Applications.

2. LICENSE TO CREATE END APPLICATIONS; PROHIBITED DEVELOPMENT; APPLICABILITY TO UPGRADES; NO SUPPORT OBLIGATION

- 2.1. Subject to Your ongoing compliance with all of the other terms of this Agreement, You are hereby granted a nonexclusive, worldwide, royalty-free license to use the ERDAS ECW/JP2 SDK Desktop Read-Only to create, use and distribute End Applications that Decode (but do not Encode).
- 2.2. For avoidance of doubt, this Agreement does not permit You to (a) use the ERDAS ECW/JP2 SDK Desktop Read-Only to create or distribute Server Applications or SDKs; (b) use the ERDAS ECW/JP2 SDK Desktop Read-Only to create Libraries; or (c) distribute header files or .lib Library files included in the ERDAS ECW/JP2 SDK Desktop Read-Only. You may distribute with your End Application any dynamically loadable object Libraries (.dll files) that are included in the "redistributables" directory of the ERDAS ECW/JP2 SDK Desktop Read-Only, and are used by your End Application.

- 2.3. This Agreement applies to the original ERDAS ECW/JP2 SDK Desktop Read-Only received by You, and to any bug fixes, updates, upgrades, modifications or enhancements provided to You by ERDAS, unless a particular bug fix, update, upgrade, modification or enhancement is accompanied by a different license agreement, in which case that license shall apply in accordance with its terms.
- 2.4. This Agreement does not entitle You to, and ERDAS undertakes no obligation to provide, maintenance, support, bug fixes, updates, upgrades or enhancements to the ERDAS ECW/JP2 SDK Desktop Read-Only. Any support, maintenance or similar services that ERDAS makes available would be provided under a separate agreement.

3. OBLIGATIONS AND RESTRICTIONS

- 3.1. Obligation to Support Both ECW and ECWP Read. You agree to: (i) support ECW files within your End Application as well as the reading of ECWP streams so that each of Your End Applications is capable of displaying the ECW-format data and receiving streamed, compressed files that adhere to the ECWP; and (ii) Each of Your End Applications must provide a means for specifying or selecting an ECWP stream that is consistent with the means for specifying or selecting other data sources in the End Application. That is, if You create or distribute End Applications, each of those End Applications must read ECW data and ECWP streams and must allow a user to access the ECW data and ECWP streams conveniently, with no more steps than is typical for access to other data formats in Your End Application.
- 3.2. No Reverse Engineering or Source Code Distribution. Components of the ERDAS ECW/JP2 SDK Desktop Read-Only used in End Applications may be distributed only in object code or executable form. You shall not decompile, disassemble or otherwise reverse-engineer the ERDAS ECW/JP2 SDK Desktop Read-Only in an attempt to discover its source code, or distribute any source code of the ERDAS ECW/JP2 SDK Desktop Read-Only; likewise You must prohibit Your End-users from reverse-engineering the ERDAS ECW/JP2 SDK Desktop Read-Only.
- 3.3. License Requirements for End Applications Created Using ERDAS ECW/JP2 SDK Desktop Read-Only. You shall distribute each of Your End Applications to end-users pursuant to a conspicuous, legally enforceable end-user license that provides ERDAS with substantially the same protections as set forth in Appendix A hereto. You must obtain commercially reasonable identity, location and contact information regarding each licensee to whom You distribute End Applications, including organization name, responsible contracting personnel name, and physical address. You agree to take all necessary steps to ensure the legal enforceability of the end-user license, including, as appropriate: (i) offering a refund of at least a portion of the purchase price of Your End Applications to end-users who disagree with the terms of the end-user license including the terms set forth in Appendix A; or (ii) preventing downloading of End Applications without acceptance of the end-user license. You also agree to take adequate steps to prevent unauthorized use of the ERDAS ECW/JP2 SDK Desktop Read-Only or its derivatives by end users who decline the end-user license offer, such as by disabling access to Your End Application or preventing access to features made possible by the ERDAS ECW/JP2 SDK Desktop Read-Only, including Decoding in Your End Application.
- 3.4. ERDAS Proprietary Rights Notice. You must include the following statement of ownership/copyright notice in the "About" box for each of Your End Applications, or any other similar location where You place proprietary rights notices pertaining to third party software incorporated in the End Application or Server Application:

This application supports the ECW data format and ECWP compression protocols. Portions of this computer program are copyright ©2007-2011 ERDAS Inc. All rights reserved. Creating compressed files using ECW technology is protected by one or more of U.S. Patent No. 6,201,897, No. 6,442,298 and No. 6,633,688.

- 3.5. Prohibition of other actions not explicitly permitted. You are not licensed to, and You agree to refrain from, any use, copying, or distribution of the ERDAS ECW/JP2 SDK Desktop Read-Only, or the creation of derivative works thereof, not explicitly permitted under this Agreement. Further, You agree to refrain from modifying the ECW file format and will pass on this prohibition to Your End Users.

- 3.6. Export Controls. You acknowledge and understand that the export or re-export of certain goods or technical data from the United States requires an export control license from the United States Government, and that failure to obtain an export control license may result in a violation of U.S. laws. The ERDAS ECW/JP2 SDK Desktop Read-Only may not be shipped, transferred, exported or re-exported into any country or used in any manner prohibited by the United States Export Administration Act or any other export laws, restrictions, governmentally-imposed embargoes, or regulations. You are responsible for obtaining any and all appropriate permission prior to exporting or re-exporting End Applications.
- 3.7. Hold Harmless. You shall hold harmless ERDAS from and against any claims or lawsuits which arise or result from the use or distribution of the End Applications.

4. DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY

- 4.1. **TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ERDAS AND ITS SUPPLIERS PROVIDE THE ERDAS ECW/JP2 SDK DESKTOP READ-ONLY "AS IS" AND WITH ALL FAULTS. ERDAS, ON BEHALF OF ITSELF AND ITS SUPPLIERS, DISCLAIMS ALL WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, AS TO ANY MATTER WHATSOEVER RELATING TO THE ERDAS ECW/JP2 SDK DESKTOP READ-ONLY, INCLUDING BUT NOT LIMITED TO ANY (IF ANY) IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OF REASONABLE CARE OR WORKMANLIKE EFFORT, OF RESULTS, OF LACK OF NEGLIGENCE, OR OF A LACK OF VIRUSES, ALL WITH REGARD TO THE ERDAS ECW/JP2 SDK DESKTOP READ-ONLY. THERE IS NO WARRANTY OF TITLE, CORRESPONDENCE TO DESCRIPTION, AUTHORITY, OR NONINFRINGEMENT WITH RESPECT TO THE ERDAS ECW/JP2 SDK DESKTOP READ-ONLY.**
- 4.2. LIMITED LIABILITY. YOU HEREBY AGREE THAT ERDAS SHALL NOT BE LIABLE FOR DAMAGES FOR ANY CAUSE WHATSOEVER, REGARDLESS OF THE FORM OF ACTION WHETHER IN CONTRACT OR IN TORT, INCLUDING NEGLIGENCE, RELATED TO THIS AGREEMENT. **IN NO EVENT SHALL ERDAS BE LIABLE FOR LOST PROFITS OR REVENUE, INCIDENTAL, DIRECT, INDIRECT, OR SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, WHETHER OR NOT ERDAS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, ARISING FROM, RELATED TO OR PERTAINING IN ANY WAY TO THIS AGREEMENT.**

5. TERM AND TERMINATION

- 5.1. Term. The term of this Agreement commences as of Your acceptance of this Agreement, and will extend until terminated.
- 5.2. Termination for Breach. If You materially breach this Agreement and fail to cure that breach to ERDAS's satisfaction within thirty (30) days after receiving written notice of the breach, ERDAS shall have the right to terminate this Agreement any time after the end of such period. Termination shall be without prejudice to ERDAS's right to seek other redress, such as damages or injunctive relief, for breach of this Agreement.
- 5.3. Survival Provisions. Notwithstanding termination of this Agreement, ERDAS shall enjoy freedom from liability under Section 4; and Your liabilities for past breaches and Your hold harmless obligations under Section 3.7 shall also survive.
- 5.4. Obligations Upon Termination. Upon termination of this Agreement, all licenses shall terminate and You must return to ERDAS or destroy all copies of the ERDAS ECW/JP2 SDK Desktop Read-Only **Software** and End Applications you have developed that are in Your possession, custody, or control, except that You may retain a reasonable number of copies [not to exceed five (5)] of End Applications, for purposes of internal use to facilitate customer support for pre-existing customers only. Upon termination, You must cease distribution of End Applications.

6. MISCELLANEOUS

- 6.1. Venue and Jurisdiction. The parties agree that the courts in or of the State of Georgia, USA, having jurisdiction over disputes arising under this Agreement are convenient to hear such disputes. The official language for this Agreement is English.

- 6.2. Remedies. In addition to the termination right set forth above, You acknowledge that ERDAS will be irreparably harmed if You breach this Agreement or infringe or otherwise violate the intellectual property rights of ERDAS, that damages or other remedies at law would be inadequate, and that ERDAS shall be entitled to equitable relief, including temporary restraining orders and preliminary and permanent injunctive relief against any such breach or violation, without any requirement of bond or other security.
- 6.3. Entire Agreement. This Agreement together with the attached Exhibits sets forth the entire agreement and understanding of the parties relating to the subject matter herein and merges all prior discussion(s) between them. No modification of or amendment to this Agreement, nor any waiver of any rights under this Agreement, will be effective unless set forth in writing signed by officers of both parties hereto.
- 6.4. Notices. Any notice to ERDAS required or permitted by this Agreement shall be in writing and either delivered by hand or sent by prepaid, registered or certified mail, return receipt requested, or by nationally recognized overnight courier service, addressed to ERDAS, attention: President, at the address shown at the beginning of this Agreement.
- 6.5. Assignment and Binding Effect. You may not transfer or assign Your rights or obligations under this Agreement without the prior written consent of ERDAS. This Agreement will be binding upon and inure to the benefit of the parties hereto, and to ERDAS's successors and assigns and Your permitted successor and assigns, if any.
- 6.6. Partial Invalidity. If any provision of this Agreement is held to be invalid by a court of competent jurisdiction, then the remaining provisions will nevertheless remain in full force and effect.
- 6.7. No Waiver. No waiver of any term or condition of this Agreement will be valid or binding on either party unless the same will have been mutually assented to in writing by an officer of both parties. ERDAS's decision at any time to refrain from enforcing any of the provisions of the Agreement, or the failure to require at any time performance by You of any of the provisions of this Agreement, will in no way be construed to be a present or future waiver of such provisions, nor in any way affect the validity of an effort by ERDAS to enforce each and every such provision thereafter.
- 6.8. Interpretation. Headings are provided for convenience but are not part of this Agreement. Words in the plural have the same meaning as words in the singular, except multiplied. Defined conjugate verbs have the same meaning as the defined derivative, modified as appropriate in context. (For example, Decoding has similar meaning to the defined term Decode.)

APPENDIX A

Required EULA Terms for ERDAS ECW/JP2 SDK Desktop Read-Only End Applications

You shall distribute the End Application to end users with an End User License Agreement ("EULA") in a manner that forms a contract binding the end user to the EULA terms under applicable law. You shall provide clear notice to end users before or at the time of delivery of the End Application that the End Application contains technology owned by ERDAS. You may include in the EULA additional notices or other provisions, so long as they are no less protective of ERDAS than the terms set forth below.

The EULA shall contain the following terms or legally equivalent terms:

- You have acquired a product ("Product") that includes software licensed from ERDAS Inc., having a principal place of business at 5051 Peachtree Corners Circle, Ste 100, Norcross, GA 30092-2500 USA ("ERDAS"). Those installed software products of ERDAS origin, as well as any associated media, printed materials, and "online" or electronic documentation ("Software) are protected by copyright laws and international copyright treaties. The Software is licensed, not sold.
- If You do not agree to this End User License Agreement ("EULA"), do not use [or download] the Product. If you have paid consideration in return for authorization to use the Product, promptly contact the person from whom You received this Product for instructions on return of the unused Product(s) for a refund. Any use of the Software, including but not limited to use of the Product, will constitute Your agreement to this EULA (or ratification of any previous consent).
- NO WARRANTIES FOR THE SOFTWARE. THE SOFTWARE IS PROVIDED "**AS IS**" AND WITH ALL FAULTS. THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE AND ACCURACY IS WITH YOU. ALSO, THERE IS NO WARRANTY AGAINST INTERFERENCE WITH YOUR ENJOYMENT OF THE SOFTWARE OR AGAINST INFRINGEMENT. IF YOU HAVE RECEIVED ANY WARRANTIES REGARDING THE PRODUCT OR THE SOFTWARE, THOSE WARRANTIES DO NOT ORIGINATE FROM, AND ARE NOT BINDING ON, ERDAS.
- NO LIABILITY FOR CERTAIN DAMAGES. EXCEPT AS PROHIBITED BY LAW, ERDAS SHALL HAVE NO LIABILITY FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES ARISING FROM OR IN CONNECTION WITH THE USE OR PERFORMANCE OF THE SOFTWARE. THIS LIMITATION SHALL APPLY EVEN IF ANY REMEDY FAILS IN ITS ESSENTIAL PURPOSE.
- Prohibition of Reverse Engineering, Decompilation and Disassembly. You may not reverse engineer, decompile, or disassemble the Software or modify the ECW file format in any manner.
- Export Restrictions. You acknowledge that the Software, or any part thereof, or any process or service that is the direct product of the Software is of U.S. origin. You agree to comply with all applicable international and national laws that apply to these products, including the U.S. Export Administration Regulations, as well as end-user, end-use and destination restrictions and embargoes issued by U.S. and other governments having jurisdiction.