INSTITUTE OF HIGHER EDUCATION SYSTEMWIDE SITE LICENSE AGREEMENT
Contract No. 2000S129

THIS AGREEMENT is the expression of covenants between

Oregon Educational Technology Consortium
P.O. Box 65
Salem, Oregon 97308-0065

hereinafter referred to as "OETC," and

Environmental Systems Research Institute, Inc.
380 New York Street
Redlands, California 92373-8100, USA
Tel.: 909-793-2853

hereinafter referred to as "ESRI."

ARTICLE 1—DEFINITIONS

As used herein, the following words, phrases, or terms in this Agreement shall have the following meanings:

"Annual Fee" shall mean the yearly nonrefundable fee paid by OETC to ESRI for ongoing use of the Software, Data Sets, Related Materials, and technical support.

"Commercial Use" is defined as use of the Software, Related Materials, or Data Set(s) for any use relating to "for profit" producing purposes.

"Data" means any ESRI® or third party data vendor(s) digital data set(s) including, but not limited to, geographic, vector data coordinates, raster, or associated tabular attributes in ESRI GIS software compatible format(s) supplied under this Agreement.

"Documentation" means all of the printed and digital materials including, but not limited to, user documentation, training documentation, or technical information and briefings supplied under this Agreement.

"GIS Specialist" is defined as a technically oriented OETC faculty/staff member or his/her designee familiar with GIS technology.

"IDA Package(s)" shall mean OETC developed application(s) comprised of hardware, Software, Software scripts, data, and/or services that is for OETC's own internal, noncommercial, educational, academic, and/or research use.

"Initial Fee" shall mean the nonrefundable fee paid by OETC to ESRI in consideration of the rights granted herein. This fee includes technical support for both existing supported Software currently in possession of OETC and all additional Software and Data Set(s) and Related Materials delivered under this Agreement.

"License Manager" means the nondestructive license management software program, comprised of a confidential software keycode or hardware key, which controls the distribution of the licensed number of Software copies to requesting end user(s) of OETC.

ESRI is a trademark of Environmental Systems Research Institute, Inc., registered in the United States and certain other countries; registration is pending in the European Community.

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"Programs" is defined as any and all copies of the Software, Data Set(s), or Related Materials licensed hereunder.

"Related Materials" is defined as all of the printed materials delivered inclusive of online or hard-copy documentation, user documentation, training documentation, sample data, confidential support activation code, media, and hardware key as applicable, as supplied by ESRI for use with ESRI Software.

"Site" is defined as the OETC described in the heading on page 1 of this Agreement and the Systemwide Site License Participants identified in Appendix C, which are members of the OETC.

"Software" means the actual copy of all or any portion of ESRI's proprietary GIS software technology, computer software code, components, dynamic link libraries (DLLs), and programs delivered on any media including, but not limited to, alpha, beta, prerelease, restricted version(s), or final commercial release provided in source, object, or executable code format(s), inclusive of backups, updates, or merged copies permitted hereunder or subsequently supplied under this Agreement.

ARTICLE 2—INTELLECTUAL PROPERTY RIGHTS AND RESERVATION OF OWNERSHIP

The Software, Data, and Documentation are owned by ESRI and its licensor(s) and are protected by United States laws and applicable international laws, treaties, and conventions regarding intellectual property or proprietary rights. ESRI and its licensor(s) retain all rights, title, and ownership not granted herein to all copies of the Software, Data, and Documentation licensed under this Agreement. From the date of receipt, OETC agrees to use reasonable effort to protect the Software, Data, and Documentation from unauthorized use, reproduction, distribution, or publication. All rights not specifically granted in this Agreement are reserved to ESRI and its licensor(s).

ARTICLE 3—TERM AND TERMINATION

3.1 Term—The Term of this Agreement is one (1) year. Thereafter, the Agreement will automatically renew upon payment of the Annual Fee unless this Agreement is terminated earlier pursuant to the terms set forth in Article 3.2 below.

3.2 Termination—This Agreement and any license granted hereunder may be terminated by ESRI if OETC fails to comply with any of the terms and conditions herein or OETC fails to make any payment(s) due as described herein. The license granted with regard to each licensed Program shall remain in force until OETC discontinues the use of that licensed Program.

Failure of the Systemwide Site License Participants identified in Appendix C to reach an intergovernmental agreement for product fulfillment and payment of fees identified in Appendix A of this Agreement is a condition for termination and shall not constitute a breach of this Agreement by OETC.

Renewal of this Agreement between ESRI and OETC is contingent upon renewal of said intergovernmental agreement between Systemwide Site License Participants identified in Appendix C. In the event that the intergovernmental agreement between Systemwide Site License Participants is not renewed, this Agreement shall be terminated with the mutual consent of the parties.

In the event of termination the parties agree that the Systemwide Site License Participants may revert to the license configuration that they had on file with ESRI at the time the Systemwide Site License Agreement was executed, subject to ESRI's then current Software License Terms and Conditions.

ARTICLE 4—GRANT OF LICENSE(S)

4.1 Grant of License—ESRI grants OETC a personal, nonexclusive, nontransferable license to copy and use the Programs for OETC's own internal use for research and instruction by faculty and registered students and administrative staff including for managing OETC physical plant facilities. Use of the Programs is authorized only in the destination country. All rights not specifically granted in this Agreement are reserved to ESRI.

Use of the licensed Programs for Commercial Use, profit, or private gain is an express violation of the terms expressed herein entitling ESRI to all remedies available in equity or law, as well as payment in full for standard Program license fees.
Access and use of any secure ESRI Web site resources made available to OETC is for OETC's internal use only, provided that OETC follows any and all of ESRI's terms of use policy specified therein. All password or controlled access information provided by ESRI shall be treated as ESRI confidential information, to the extent permitted by Oregon Public Records Law.

4.2 Beta License—In the event ESRI accepts OETC into a current Beta Testing program, OETC may be provided copies of alpha, beta, and/or prerelease (hereinafter collectively referred to as “Beta”) Software for the limited purpose of testing the Beta Software in accordance with the Beta testing policies then in effect. Beta Software and Documentation delivered are confidential and proprietary to ESRI and contain trade secrets, inclusive of unpublished specifications. In consideration of the rights granted herein, OETC agrees to retain all Beta Software and Documentation provided to OETC in confidence to the extent permitted by Oregon Public Records Law, ORS 192.410 to 192.505. OETC shall maintain all results of testing in confidence and agrees to the extent permitted by Oregon Public Records Law, ORS 192.410 to 192.505, not to disclose to any third party details pertaining to the Beta Software, Documentation, test results, or errors encountered. ESRI reserves the right to determine which Beta Software and Documentation, subsequent interim beta release(s), or patch(es) will be made available to OETC to test during the term of the Agreement. Beta Software is subject to change prior to its commercial release, and may never be commercially released. OETC is advised that such Software is not suitable or licensed for full use and accepts all responsibility for use of the same and any results generated.

4.3 Evaluation License—ESRI may from time to time extend a limited term evaluation license(s) under the terms of this Agreement for the duration authorized in any supporting documentation supplied by ESRI. Any evaluation license subsequently converted to a full use license is also subject to the terms of this Agreement.

4.4 Consultant Access—OETC may provide access to the Software, Data, or Documentation to any consultant or contractor of OETC, provided that the consultant or contractor is using the Software, Data, or Documentation exclusively for the benefit of OETC, and so long as the consultant or contractor agrees to be bound by the terms and conditions of this Agreement.

ARTICLE 5—SCOPE OF USE

5.1 Permitted Uses

- OETC may install and store copies onto electronic storage device(s) and copy and use, for its own internal use, an unlimited number of copies of the Programs on OETC's computer system(s) and/or computer network(s). Certain Programs require a keycode or hardware key and additional fees may apply.
- OETC may make one (1) copy of the Software, Data, and Documentation for archival purposes during the term of this Agreement. Additionally, OETC may make routine computer backups of the Software, Data, and Documentation.
- OETC may customize the Software using any (i) macro or scripting language, (ii) open API, or (iii) source or object code libraries, but only to the extent that such customization is described in the Documentation.
- OETC may use the Data only as described in the Distribution Rights section of the Help or metadata files delivered with the Software, Data, and Documentation.
- OETC may use, copy, or prepare derivative works of the Documentation supplied in digital format, and thereafter reproduce, display, and redistribute the customized documentation only for OETC's own internal use. The portion(s) of the Documentation supplied in digital format merged with other software and printed or digital documentation shall continue to be subject to the terms and conditions of this Agreement and shall provide the following copyright notice acknowledging the proprietary rights of ESRI and its licensor(s) in the Documentation supplied in digital format: “Portions of this document include intellectual property of ESRI and its licensor(s) and are used herein under license. Copyright © [Insert the actual copyright date(s) from the source materials] Environmental Systems Research Institute, Inc., and its licensor(s). All rights reserved.”

5.1.1 OETC agrees to use its best efforts to protect all Programs from loss and theft. OETC agrees to report all losses in writing to ESRI at the address stated in Article 13 within five (5) working days after discovering that any components are missing. OETC agrees to replace all lost or stolen items at the then-current rates. Recurring loss or theft of Programs shall constitute a breach of this Agreement and ESRI may, at its discretion, terminate this Agreement and exclude OETC from further participation in the Institute of Higher Education Site License program.

5.1.2 This Agreement supersedes any current Software License Agreements signed between these parties for the Programs available under this Agreement. All such currently existing Programs are hereby incorporated into this Agreement, and the technical support fee is included in the Initial and Annual Site License Fees.

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5.1.3 For purposes of this Agreement, OETC hereby represents and warrants that it will bind and hereby does bind the Systemwide Site License Participants listed in Appendix C through an intergovernmental agreement between the Systemwide Site License Participants and OETC. Every reference to OETC in this Agreement shall refer to OETC and each of the Systemwide Site License Participants. The right and license granted to OETC hereunder entitles OETC to distribute the Programs to the Systemwide Site License Participants for their internal use, subject to the terms and conditions in this Agreement.

5.2 Uses Not Permitted

- OETC shall not sell; rent; lease; sublicense; lend; assign; time-share; or act as a service bureau or Application Service Provider (ASP) that allows third party access to the Software, Data, and Documentation except as provided herein; or transfer, in whole or in part, access to prior or present versions of the Software, Data, or Documentation, any updates, or OETC's rights under this Agreement.
- OETC shall not redistribute the Software, in whole or in part, including, but not limited to, extensions, components, or DLLs without the prior written approval of ESRI as set forth in an appropriate redistribution license agreement.
- OETC shall not reverse engineer, decompile, or disassemble the Software, Data, or Documentation, except to the extent that such activity is expressly permitted by applicable law notwithstanding this restriction in order to protect ESRI and its licensior(s)'s trade secrets and proprietary information contained in the Software, Data, or Documentation.
- OETC shall not make any attempt to circumvent the technological measure(s) (e.g., License Manager, etc.) that controls access to or use of the Software, Data, and Documentation, except to the extent that such activity is expressly permitted by applicable law notwithstanding this restriction.
- OETC shall not remove or obscure any ESRI or its licensor(s)' patent, copyright, trademark, or proprietary rights notices contained in or affixed to the Software, Data, or Documentation.

ARTICLE 6—MAINTENANCE

Maintenance consists of Software, Data, or Documentation updates and access to technical support and other benefits specified in the most current applicable ESRI Support Services Policy.

ARTICLE 7—PURCHASE ORDER TRANSACTIONS

7.1 Initial Deliverables

7.1.1 Upon full execution of this Agreement and receipt of the purchase order for Initial Fee, one complete set of initial deliverables shall be delivered to each of the ship-to locations specified in Appendix B that does not have a current ESRI site license. OETC may reduce the list of initial deliverables. However, there shall be no credit or refund given.

7.1.2 Initial deliverables shall consist of one (1) copy of media and documentation and ten (10) hardware keys for ArcInfo™ and related extensions for each of the ESRI Software Programs listed in Appendix A. OETC will generate keycodes to implement the UNIX-based Software and ArcInfo for Windows NT Software using ESRI's Web-based keycode-generated system.

7.1.3 Notwithstanding the existing ESRI Programs in the inventories of the Systemwide Site License Participants, OETC shall issue a purchase order for the Initial Fee, Annual Fee, and for all additional Programs ordered hereunder. ESRI will invoice against each purchase order upon shipment or upon issuance of the keycode(s) as appropriate. OETC agrees to pay all ESRI invoices promptly.

7.2 Future Purchase Order Transactions—Following receipt of Initial Deliverables, when additional hardware keys, Software media packages, or other Programs are required, OETC may add these to this Site by paying any applicable fees. Additional copies of hard-copy Documentation may also be acquired.

7.3 Additional Installation Service—As requested by OETC, ESRI agrees to provide professional services for installing, moving, reinstalling, and/or training in use of said Software within new or relocated sites for costs not to exceed standard ESRI labor rates, travel, and per diem.

ArcInfo is a trademark of Environmental Systems Research Institute, Inc.

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7.4 Changes by Supplement—New Programs, services, or reduced prices may be added by supplements to the attachments by formal notice provided by ESRI. OETC acknowledgment is not required to activate the supplement.

ARTICLE 8—SOFTWARE SUPPORT

8.1 Support Services—Software support services are included and will be provided in accordance with ESRI’s technical support program, provided the OETC remains current on its payment of the Annual Fee. OETC’s GIS Specialists will be the only individuals authorized to contact ESRI for telephone technical support. These representatives will serve as the primary contact with ESRI for Software updates under this Agreement.

8.2 Upgrades and Support—During the general commercial release, ESRI will deliver to the OETC one (1) upgrade package for each of the Programs included in the site license.

8.3 User Conference—ESRI will register the number of OETC representatives specified in Appendix C for admission, without charge, to ESRI’s annual user conference.

ARTICLE 9—OETC’S RESPONSIBILITY

In consideration of the grant of the discount on standard license and technical support fees, OETC agrees to do the following:

a. Provide a single point of primary contact between each Systemwide Site License Participant and ESRI. This individual will coordinate internal orders from OETC and distribute the Programs within the OETC.

b. Appoint technically responsive GIS Specialists whose qualifications are acceptable to ESRI for support of all on-campus GIS Software. OETC’s GIS Specialists are designated in Appendix B. Where appropriate, encourage the use of GIS to all departments within OETC. Make best efforts to maintain a high level of expertise in the use of the Software among students and staff by offering courses, encouraging attendance at the annual ESRI User Conference, and making use of educational courses offered by ESRI.

ARTICLE 10—LIMITED WARRANTIES AND DISCLAIMERS

10.1 Limited Warranties—For a period of ninety (90) days from the latter of the date of keycode issuance or date of delivery of the Software, Data, or Documentation to OETC, ESRI represents and warrants that (i) the unmodified Software will substantially conform to the published Documentation and (ii) the media upon which the Software, Data, and Documentation is provided will be free from defects in materials and workmanship under normal use and service.

10.2 Data Disclaimer—If included under this Agreement, the Data has been obtained from sources believed to be reliable, but its accuracy and completeness are not guaranteed. The Data may contain some nonconformities, defects, errors, or omissions. ESRI AND ITS LICENSOR(S) MAKE NO WARRANTY WITH RESPECT TO THE DATA. Without limiting the generality of the preceding sentence, ESRI and its licensor(s) do not warrant that the Data will meet OETC’s needs or expectations, the use of the Data will be uninterrupted, or that all nonconformities can or will be corrected. ESRI and its licensor(s) are not inviting reliance on these Data, and OETC should always verify actual data including, but not limited to, map, spatial, raster, and tabular information.

10.3 General Disclaimer—EXCEPT FOR THE ABOVE EXPRESS LIMITED WARRANTIES, 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, NONINFRINGEMENT, SYSTEM INTEGRATION, AND NONINFRINGEMENT, ESRI DOES NOT WARRANT THAT THE SOFTWARE, DATA, OR DOCUMENTATION WILL MEET OETC’S NEEDS, OR THAT OETC’S OPERATION OF THE SAME WILL BE UNINTERRUPTED, ERROR FREE, OR THAT ALL NONCONFORMITIES CAN OR WILL BE CORRECTED.

OETC EXPRESSLY ACKNOWLEDGES AND AGREES THAT BETA AND EVALUATION SOFTWARE IS DELIVERED "AS-IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, SYSTEM INTEGRATION, AND NONINFRINGEMENT. OETC ASSUMES ALL RISK AS TO THE QUALITY AND PERFORMANCE OF THE BETA AND EVALUATION SOFTWARE.
10.4 Exclusive Remedy—OETC's exclusive remedy and ESRI's entire liability for breach of the limited warranties set forth in this Article 10 shall be limited, at ESRI's sole discretion, to (i) replacement of any defective media, (ii) repair, correction, or a workaround for the Software subject to the ESRI Support Services Policy, or (iii) return of the license fees paid by OETC for the Software, Data, or Documentation that do not meet ESRI's Limited Warranty, provided that OETC installs, removes, and destroys all copies of the Software, Data, or Documentation and executes and delivers to ESRI a Certification of Destruction in a form acceptable to ESRI.

ARTICLE 11—LIMITATION OF LIABILITY

11.1 Disclaimer of Certain Types of Liability—IN NO EVENT SHALL ESRI OR ITS LICENSOR(S) BE LIABLE TO OETC FOR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; LOST PROFITS; LOST SALES OR BUSINESS EXPENDITURES; INVESTMENTS; OR 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 AGREEMENT OR USE OF THE SOFTWARE, DATA, OR DOCUMENTATION. HOWEVER CAUSED, ON ANY THEORY OF LIABILITY, AND WHETHER OR NOT ESRI OR ITS LICENSOR(S) HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

11.2 General Limitation of Liability—IN NO EVENT WILL ESRI'S TOTAL CUMULATIVE LIABILITY HEREUNDER, FROM ALL CAUSES OF ACTION OF ANY KIND, INCLUDING BUT NOT LIMITED TO CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, BREACH OF WARRANTY, MISREPRESENTATION, OR OTHERWISE, EXCEED THE AMOUNTS PAID TO ESRI BY OETC FOR SOFTWARE, DATA, OR DOCUMENTATION PURSUANT TO THIS AGREEMENT.

11.3 Applicability of Disclaimers and Limitations—OETC agrees that the limitations of liability and disclaimers set forth in this Agreement will apply regardless of whether OETC has accepted the Software, Data, or Documentation or any other product or service delivered by ESRI. The parties agree that ESRI has set its prices and entered into this Agreement in reliance upon the disclaimers and limitations set forth herein, that the same reflect an allocation of risk between the parties (including the risk that a contract remedy may fail of its essential purpose and cause consequential loss), and that the same form an essential basis of the bargain between the parties.

ARTICLE 12—INFRINGEMENT INDEMNITY

12.1 ESRI shall defend, indemnify, and hold harmless OETC from and against any loss, liability, cost, or expense, including reasonable attorneys' fees, which may be incurred by OETC against any claims, actions, or demands by a third party alleging that the Software, Data, or Documentation infringes a U.S. patent, copyright, or trademark provided

(a) OETC promptly notifies ESRI in writing of the claim thereof;
(b) ESRI has sole control of the defense of any actions and negotiations related to the defense or settlement of any claim; and
(c) OETC cooperates fully in the defense of the claim.

12.2 If ESRI believes that the Software, Data, or Documentation is or will become the subject of an infringement claim, or in the event that use of the Software, Data, or Documentation is enjoined, ESRI, at its own expense, may either (i) obtain the right for OETC to continue using the Software, Data, or Documentation or (ii) modify the Software, Data, or Documentation to make it noninfringing while maintaining substantially similar software functionality or data/informational content. If neither of such alternatives is commercially practical, the infringing items shall be returned to ESRI and ESRI's sole liability shall be to refund license fees paid by OETC prorated over a five (5) year period.

12.3 ESRI shall have no obligation hereunder to defend OETC or to pay any resulting costs, damages, or reasonable attorneys' fees for or with respect to any claims, actions, or demands alleging (i) infringement that arises by reason of combination of noninfringing items, however acquired; (ii) infringement to the extent arising from material alteration of the Software, Data, or Documentation by anyone other than ESRI, its agents, or its contractors; (iii) the direct or contributory infringement of any process patent by OETC through the use of the Software, Data, or Documentation other than a process patent that is necessarily infringed by the internal processes executed within the Software or Data itself when the Software or Data is executed for its intended purpose; (iv) continued allegedly infringing activity by OETC after it has been notified of the possible infringement; or (v) continued allegedly infringing activity by
OETC to the extent it arises from failure of OETC to use the updated or modified Software, Data, or Documentation provided by ESRI for avoiding infringement.

THE FOREGOING STATES THE ENTIRE OBLIGATION OF ESRI WITH RESPECT TO INFRINGEMENT OR ALLEGATION OF INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY.

ARTICLE 13—NOTICE

Notice required or contemplated by any party must be delivered in person or by commercial courier service or facsimile addressed to the party for whom it is intended at the address specified herein. Notice shall be deemed as being given on the date received.

OETC:

OREGON EDUCATIONAL TECHNOLOGY CONSORTIUM
P.O. Box 65
Salem, OR 97308-0065
Attn.: Thor Fritchard
Fax: _____________________________

With a Copy to

OREGON UNIVERSITY SYSTEM
CHANCELLOR'S OFFICE
270 Susan Campbell Hall
University of Oregon
Eugene, OR 97403
Attn.: Ben Rawlins and Chris Mahoney
Fax: _____________________________

ESRI:

ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE, INC.
380 New York Street
Redlands, CA 92373-8100, USA
Attn.: Contracts Manager
Fax: 909-307-3020

Either party may change its address for notice by giving prompt notice to the other party of the change.

ARTICLE 14—GENERAL PROVISIONS

14.1 Future Orders—Any order received for delivery of ESRI Software, Data, Documentation, or maintenance will be licensed under the terms and conditions of this Agreement. ESRI reserves the right to modify the terms and conditions of this Agreement for future versions of the ESRI Software, Data, and Documentation delivered as newly offered deliverables or under either maintenance or upgrade programs. Notwithstanding any other provisions of purchase orders issued by OETC for additional licenses, such purchase orders shall be governed solely by the terms and conditions of this Agreement.

14.2 Export Control Regulations—OETC expressly acknowledges and agrees that OETC shall not export, reexport, or provide the Software, Data, or Documentation, in whole or in part, to (i) any country to which the United States has embargoed goods, (ii) to any person on the U.S. Treasury Department's list of Specially Designated Nationals, (iii) any person or entity on the U.S. Commerce Department's Table of Denial Orders, or (iv) any person or entity where such export, reexport, or provision violates any U.S. export control law or regulation. OETC shall not export the Software, Data, and/or Documentation or any underlying information or technology to any facility in violation of these or other applicable laws and regulations. OETC represents and warrants that it is not a national, resident, located in or under the control of, or acting on behalf of any person, entity, or country subject to such U.S. export controls.

14.3 Taxes and Fees, Shipping Charges—License fees quoted to OETC are exclusive of any and all taxes or fees including, but not limited to, sales tax, use tax, VAT, customs, duties, or tariffs, and shipping and handling charges.

14.4 No Implied Waivers—The failure of either party to enforce any provision of this Agreement shall not be deemed a waiver of the provisions or of the right of such party thereafter to enforce that or any other provision.

14.5 Severability—The parties mutually agree that if any provision of this Agreement is held to be unenforceable for any reason, such provision shall be reformed only to the extent necessary to make the intent of the language enforceable.
14.6 Counterparts—This Agreement may be executed in counterparts, all of which, taken together, shall be deemed one (1) original document.

14.7 Successor and Assigns—OETC shall not assign, sublicense, or transfer OETC’s rights or delegate its obligations under this Agreement without ESRI’s prior written consent, and any attempt to do so without consent shall be void. This Agreement shall be binding upon the respective successors and assigns of the parties to this Agreement.

14.8 Survival of Terms—The provisions of Articles 3, 10, 11, 12, and 14 of this Agreement shall survive the expiration or termination of this Agreement for any reason.

14.9 Equitable Relief—OETC agrees that any breach of this Agreement by OETC may cause irreparable damage and that, in the event of such breach, in addition to any and all remedies at law, ESRI shall have the right to an injunction, specific performance, or other equitable relief in any court of competent jurisdiction to prevent violation of these terms and without the requirement of posting a bond or undertaking or proving injury as a condition for relief.

ARTICLE 15—ENTIRE AGREEMENT, AMENDMENTS

This Agreement and any Appendix(es) constitute the sole and entire agreement of the parties as to the subject matter set forth herein and supersede any previous agreements, understandings, and arrangements between the parties relating to such subject matter. Except as otherwise expressly provided herein, any modification(s) or amendment(s) to this Agreement must be in writing and signed by an authorized representative of each party.

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

OREGON EDUCATIONAL TECHNOLOGY CONSORTIUM (OETC)  
Signature:  
Printed Name:  R THOR POLICHARD  
Title:  EXECUTIVE DIRECTOR  
Date:  5/1/2001

ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE, INC. (ESRI)  
Signature:  
Printed Name:  LAURA DANGERMOND  
Title:  VICE PRESIDENT  
Date:  5/10/01
APPENDIX A
Initial Deliverables and Fees

Initial deliverables consist of one (1) copy of installation kit and documentation for each item listed below and a total of ten (10) hardware keys. One (1) set of initial deliverables will be delivered to each ship-to address listed in Appendix B that does not have a current ESRI site license.

Description

- ArcInfo™ Installation Package
- Two (2) sets of ArcInfo Documentation
- ArcCAD®
- ArcIMS™
- ArcLogistics™ Route
- ArcPad™
- ArcPress™ for ArcView® for UNIX
- ArcPress for ArcView for Windows
- ArcView 3D Analyst™ Extension for UNIX
- ArcView 3D Analyst Extension for Windows
- ArcView GIS 3 for Macintosh
- ArcView GIS for UNIX
- ArcView GIS for Windows
- ArcView Internet Map Server for UNIX
- ArcView Internet Map Server for Windows
- ArcView Network Analyst Extension for UNIX
- ArcView Network Analyst Extension for Windows
- ArcView Spatial Analyst Extension for UNIX
- ArcView Spatial Analyst Extension for Windows
- Atlas GIS™
- BusinessMAP® PRO
- ESRI® Data Package Master LAB KIT
- Geostatistical Analyst (when commercially available)
- MapObjects®
- MapObjects Internet Map Server
- NetEngine™ University Developer Kit
- PC ARC/INFO®

Notes:

- ESRI Installation Services shall be invoiced at ESRI's standard installation rates.
- Maplex Software license terms and fees are not included.
- The ArcInfo Installation Package includes the following Software: ArcInfo, ARC NETWORK™, ARC TIN™, ARC COGO™, ARC GRID™, ArcScan™, ArcPress, ArcSDE™, ArcStorm™, and ArcFM™ Water.
- The ESRI Data Package Master LAB KIT includes the following data sets: ArcUSA™, ArcWorld™, ArcScene™ World Tour, Digital Chart of the World, and ESRI U.S. Street Database.

Fees

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<th>Fee</th>
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<td>Initial Fee</td>
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</tr>
<tr>
<td>Annual Fee</td>
<td>$70,000.00</td>
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</tbody>
</table>

ArcCAD, ArcView, BusinessMAP, ESRI, MapObjects, and PC ARC/INFO are trademarks of Environmental Systems Research Institute, Inc., registered in the United States and certain other countries; registration is pending in the European Community. ArcInfo, ArcIMS, ArcLogistics, ArcPad, ArcPress, 3D Analyst, NetEngine, ARC NETWORK, ARC TIN, ARC COGO, ARC GRID, ArcScan, ArcSDE, ArcStorm, ArcFM, ArcUSA, ArcWorld, and ArcScene are trademarks of Environmental Systems Research Institute, Inc.
APPENDIX A-1
Additional Services

<table>
<thead>
<tr>
<th>Service</th>
<th>Price</th>
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<tr>
<td>Training at ESRI</td>
<td>40% off list price</td>
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<tr>
<td>Additional GIS Specialist Annual Technical Support Subscription Fee</td>
<td>$1,500.00 each</td>
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<td>Additional ESRI Software Documentation and Tutorials (excluding ESRI</td>
<td>40% off list price</td>
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<td>Additional User Conference Registrations</td>
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<td>Additional ArcInfo for Windows NT Hardware Key (minimum of three keys</td>
<td>$30 per key</td>
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APPENDIX B
Registered Client Information Profile

University of Oregon

Primary Contact:
Hans Kuhn
Academic User Support Specialist
1225 Kincaid
Academic User Services
University of Oregon
Eugene, OR 97403
hak@oregon.uoregon.edu
Phone: 541-346-1714
Fax: 541-346-4397

Software Shipped for Distribution:
Hans Kuhn
Academic User Support Specialist
1225 Kincaid
Academic User Services
University of Oregon
Eugene, OR 97403
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## APPENDIX C
### Systemwide Site License Participants

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<th>University</th>
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