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This End User License Agreement (“Agreement”) is by and between the Rochester Institute of Technology (“LICENSOR”), a not-for profit educational institution with its principal place of business located at One Lomb Memorial Drive, Rochester, New York 14623 and you (“LICENSEE”), sometimes referred to herein individually as a “party” and collectively as the “parties”. This Agreement governs Licensee’s use of the *Digital Imaging and Remote Sensing Image Generation (DIRSIG™)* software including any of the computer programs, scripts, data files or operating information distributed as part of the package (“DIRSIG Software”). LICENSEE may access and use the DIRSIG Software only on the condition that LICENSEE: 1) has completed at least one DIRSIG Software training session offered and conducted by LICENSOR, and 2) agrees to all terms and conditions of this Agreement. By installing, copying, downloading, accessing or otherwise using the DIRSIG Software, LICENSEE agrees to be bound by the terms of this Agreement.

Now therefore, in consideration of the foregoing, the mutual covenants contained in this Agreement, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **DEFINITIONS.**

- 1.1. “Data” refers to any numerical or textual output produced directly by the DIRSIG Software, including but not limited to the primary imagery, truth imagery and metadata reports.
- 1.2. “Derived Products” means any data, software, or algorithms derived from Data produced by the Software. All distributed Data and Derived Products must include attribution.
- 1.3. “Plugin” means native run-time software that extends the capability of the Software through the use of the DIRSIG Software Developer Kit.
- 1.4. “Software Integration” means integrating the DIRSIG software into a software platform that is accessed by untrained DIRSIG users for free or at a cost.

2. **LICENSE GRANT.** LICENSOR grants to LICENSEE a limited, non-exclusive, non-transferable, non-sublicensable, royalty-free, revocable right to access and use the DIRSIG Software to: 1) produce, distribute, and sell Derived Products; 2) produce, distribute, and sell Plugins; 3) perform Software Integration for the development of any other commercial product; and 4) host the DIRSIG Software on processing environments or webservices that are accessible by unlicensed third parties. LICENSEE shall not reverse engineer, decompile, or otherwise attempt to reconstruct or discover any source code, algorithms, or programming interfaces of the DIRSIG Software.

3. **INTELLECTUAL PROPERTY.** LICENSOR has and will retain all rights, title to and interest in the DIRSIG Software.

4. **REPRESENTATION AND WARRANTIES.** LICENSOR, including LICENSOR’S officers, trustees, employees, or representatives, makes no representations and extends no warranties of any kind, either express or implied, including but not limited to

warranties of merchantability, fitness for a particular purpose, validity of patent, trademark, or copyright rights claims, issued or pending, and the absence of latent or other defects, whether or not discoverable regarding this DIRSIG Software. Nothing in this Agreement shall be construed as a representation made or warranty given by LICENSOR that the practice by LICENSEE of the rights granted hereunder shall be accurate, or not infringe the intellectual property rights of any third party or allow certain conclusion. LICENSEE is responsible for all technical and research outcomes from agreeing to use the DIRSIG Software. The provisions of this paragraph shall survive termination of this Agreement.

5. **MARKS OF LICENSOR.** LICENSEE shall not use LICENSOR'S trademarks, tradenames, trade dress, service marks, logo or logotypes, symbols, emblems, name, or other proprietary mark of whatever nature, whether registered or not registered, for any reason, without the written consent of LICENSOR.

6. **INDEMNIFICATION.** LICENSEE agrees to indemnify, defend, and hold harmless LICENSOR, its Board of Trustees, and their respective officers, agents and employees, from and against any and all damages, losses and all claims, counterclaims, suits, demands, actions, causes of action, setoffs, liens, attachments, debts, judgments, liabilities or expenses including, without limitation, attorney's fees and legal costs by reason of any claim, suit or judgment arising or alleged to arise from, or relating to: (1) this Agreement; (2) the negligent acts or willful misconduct of LICENSEE, its employees, officers, agents or contractors. This paragraph shall survive the termination or expiration of this Agreement.

7. **LIMITATIONS OF LIABILITY.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL LICENSOR BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, SPECIAL, OR EXEMPLARY DAMAGES OR LOST PROFITS ARISING OUT OF OR THAT RELATE IN ANY WAY TO THIS AGREEMENT OR ITS PERFORMANCE. THIS EXCLUSION WILL APPLY REGARDLESS OF THE LEGAL THEORY ON WHICH ANY CLAIM FOR SUCH DAMAGES IS BASED, WHETHER THE LICENSOR HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER SUCH DAMAGES WERE REASONABLY FORESEEABLE, OR WHETHER APPLICATION OF THE EXCLUSION CAUSES ANY REMEDY TO FAIL OF ITS ESSENTIAL PURPOSE.

8. **GOVERNING LAW.** This Agreement shall be construed and governed in accordance with the laws of the State of New York without and any dispute arising hereunder shall be resolved in a court of competent jurisdiction in the State of New York.

9. **TERMINATION.** LICENSEE'S rights under this Agreement will terminate automatically if LICENSEE fails to comply with any of its terms. In the event of termination for any reason LICENSEE shall be bound by Section 10 regarding the removal of the DIRSIG Software. LICENSEE may also terminate this Agreement by voluntarily removing the DIRSIG Software.

10. **REMOVAL OF SOFTWARE.** Upon the termination of this Agreement, LICENSEE shall promptly remove all copies of the DIRSIG Software and will promptly notify

LICENSOR's Intellectual Property Management Office at <https://www.rit.edu/research/ipmo/contact-us> of its removal.

11. **WAIVER.** The failure of either party hereto to insist in any instance upon the strict performance of any provision of this Agreement or to exercise any election contained herein shall not be construed as a waiver or relinquishment for the future of such provision or election. No waiver or modification by any party shall have been deemed to have been made unless expressed in writing and signed by both parties.

12. **FORCE MAJEURE.** If either party is unable to perform any obligation hereunder by reason of any event beyond such party's reasonable control, including but not limited to fire, flood, epidemic, earthquake, explosion, act of God or public enemy, riot or civil disturbance, strike, lockout or labor dispute, war (declared or undeclared), terrorist threat or activity, epidemic or pandemic, or any federal state or local government law, order, or regulation, order of any court or jurisdiction, or other cause not reasonably within either party's control (each a "Force Majeure" event or occurrence), such party shall be excused from performance and may terminate this Agreement upon written notice to the other party.

13. **ASSIGNMENT.** Neither this Agreement nor the limited rights granted herein may be assigned by any party without prior written consent of the other parties hereto.

14. **SEVERABILITY.** If any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable, all other provisions hereof shall remain in full force and effect, and be interpreted to the extent possible consistent with the intent of the parties expressed by this Agreement.

15. **RELATIONSHIP OF PARTIES.** Nothing contained in this Agreement shall be construed as establishing an employer/employee, partnership or joint venture relationship between the LICENSOR and LICENSEE. The relationship between LICENSOR and LICENSEE shall be that of independent contractors.

16. **EXPORT CONTROL.** LICENSEE shall comply with all United States laws and regulations controlling the export of certain commodities and technical data, including without limitation all Export Administration Regulations of the United States Department of Commerce. Among other things, these laws and regulations prohibit or require a license for the export of certain types of commodities and technical data to specified countries. LICENSEE hereby gives written assurance that it will comply with all United States export control laws and regulations, that it bears sole responsibility for any violation of such laws and regulations by itself, and that it will indemnify, defend, and hold LICENSOR harmless (in accordance with the terms of this Agreement) for the consequences of any such violation.

17. **ENTIRE AGREEMENT.** This Agreement supersedes all prior negotiations, understandings and agreements between the parties hereto and constitutes the final and complete understanding of the parties regarding the subject matter hereof, and both parties acknowledge and agree that neither party has relied on any representations or promises in connection with this Agreement not contained herein. This Agreement may not be amended or modified except by a



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subsequent written instrument evidencing the express consent of each of the parties, duly executed by the parties.