

**PLEASE READ CAREFULLY BEFORE DOWNLOADING OR USING DIRSIG SOFTWARE**

This End User License Agreement (“Agreement”) is by and between the Rochester Institute of Technology, a not-for profit educational institution with its principal place of business located at One Lomb Memorial Drive, Rochester, New York 14623 (“RIT” or “LICENSOR”) and the LICENSEE (“LICENSEE”, as that term is further defined below).

The LICENSOR and LICENSEE are sometimes referred to herein individually as a “party” and collectively as the “parties”.

Whereas, LICENSOR owns and has developed the software package, *Digital Imaging and Remote Sensing Image Generation (DIRSIG™)* (the “Software”, as that term is further defined below).

Whereas, LICENSEE desires to license the Software on the terms and conditions 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. “Software” means any of the computer programs, scripts, data files or operating information distributed as part of the package.
  - 1.2. “LICENSEE” means any person who accesses, runs or executes any component of the Software.
  - 1.3. “Alliance Edition” refers to the DIRSIG™ software that is available to users who have a current Alliance subscription.
  - 1.4. “Data” refers to any numerical or textual output produced by the software, including but not limited to the primary imagery, truth imagery and metadata reports.
  - 1.5. “Derived Products” means any data, software, or algorithms derived from Data produced by the Software. All distributed Data and Derived Products must include attribution.
2. **LICENSE GRANT.** LICENSOR grants to LICENSEE a limited, non-exclusive, non-transferable, revocable license to access and use the Software, including all published information to interface and execute the Software under the following terms and conditions.
  - 2.1. LICENSEE shall be bound by the terms of this Agreement.
  - 2.2. LICENSEE must have completed at least one session of “DIRSIG Basic Training” offered and conducted by RIT staff.
  - 2.3. LICENSEE shall not redistribute or sub-license the Software to any third party.
  - 2.4. LICENSEE may produce, distribute, and sell Derived Products.
  - 2.5. LICENSEE shall not integrate the Software, or any portions thereof, in the development of any other products or commercial software.
  - 2.6. LICENSEE shall not host the Software on processing environments or web services that are accessible by unlicensed third parties.

- 2.7. LICENSOR may provide updates and newer versions of the Software to the LICENSEE at LICENSOR's sole discretion. LICENSOR reserves the right to require additional documentation, conditions, requirements, training, and other terms before providing any updates.
- 2.8. LICENSEE shall not reverse engineer, decompile, or otherwise attempt to reconstruct or discover any source code, algorithms, or programming interfaces of the Software.

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

4. **REPRESENTATION AND WARRANTIES**. LICENSOR, officers, trustees, employees, or representatives make no representations and extend 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 Software. Nothing in this Agreement shall be construed as a representation made or warranty given by LICENSOR that the practice by LICENSEE of the license granted hereunder shall be accurate, or not infringe the patent or copyright rights of any third party or allow certain conclusion. LICENSEE is responsible for all technical and research outcomes from agreeing to use the 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, copyrights or other proprietary mark or intellectual property of whatever nature, whether registered or not registered, for any reason, without the written consent of LICENSOR.

6. **INDEMNIFICATION**. LICENSEE 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, and shall not apply to the extent that said claims arise out of the sole negligence of the trustees, officers, agents, or employees of LICENSOR.

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.** LICENSOR terminate this Agreement in the event of a material breach of any term, condition, or undertaking of this Agreement by LICENSEE and failure by the LICENSEE to cure the breach within thirty (30) days following receipt of written notice from LICENSOR. If LICENSEE fails to cure the material breach within thirty (30) days of such notice, then the rights, privileges, and license granted hereunder shall automatically terminate. In the event of termination for any reason the LICENSEE shall be bound by Section 10 regarding the removal of the Software. LICENSEE may also terminate this Agreement by voluntarily removing the Software.

10. **REMOVAL OF SOFTWARE.** Upon the termination of this Agreement, LICENSEE shall promptly remove all copies of the Software. All correspondence with regards to removal of the DIRSIG software will be with RIT's Intellectual Property Office and Technology Transfer Office at: <https://www.rit.edu/research/ipmo/contact-us>.

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