

**MOU for All of Government Imagery
KiwImage**

Memorandum of Understanding

Between **Land Information New Zealand (LINZ)**, known as the **Data Custodian of KiwImage**.

And the **University of Canterbury** known as the **Partner Agency**.

Background

1. KiwImage was an All of Government project to capture accurate, high resolution imagery of New Zealand and the Offshore Islands. The project was group funded by various Government Agencies, Territorial & Regional Authorities, State Owned Enterprises (SOE), Emergency Services, Crown Research Institutes, and Universities.
2. The imagery was captured by DigitalGlobe using the Quickbird II satellite.
3. The project came to a close on 6 Dec 2012. No further imagery will be captured as part of this project
4. KiwImage was purchased on an All of Government licence and is now available to all Government Agencies, Territorial & Regional Authorities, State Owned Enterprises (SOE), Emergency Services, Crown Research Institutes, and Universities on acceptance of this Memorandum of Understanding (MOU).
5. Land Information New Zealand (on behalf of NZDF) has informally taken on the role of Data Custodian of KiwImage (even though the contractual responsibility for Data Custodian still sits with NZDF). However for the purposes of this MOU, any reference to the Data Custodian shall be a reference to LINZ.
6. On 22 February 2008 Digital Globe entered into a contract with New Zealand Defence Force (NZDF) which enables NZDF to use Kiwi Image and sublicense the product to other Government Agencies.” That licence is still in place and under that licence NZDF is the Data Custodian.

Understanding

7. The **Partner Agency** agrees to the terms and conditions contained in this MOU.

Coverage

8. As the KiwImage project has now closed, there will in no further updates of the KiwImage product. Delivery is limited to the coverage contained in this MOU.

Product Descriptions

9. The **Data Custodian** will deliver data as it was supplied to the KiwImage project. The KiwImage project requested imagery in accordance with the specification contained in this MOU.
10. KiwImage is available in the three product types contained in this MOU.

End User Licence

11. When using data supplied by Digital Globe Inc, the Partner Agency agrees to abide by the terms and conditions of the Digital Globe Product Enter User Licence Agreement and the Deed modifying Digital Globe End User Licence Agreement dated 22 February 2008 [See page 15] of this MOU and attachments.
12. The Partner Agency must pay particular attention to (and abide by) the limitations contained in the End User License Agreement that restrict the Agency's use of Digital Globe's imagery. The Partner Agency must also comply with the source requirements specified in the End User Licence Agreement.
13. The Partner Agency will be responsible for the consequences of any non compliance with this Agreement and End User Licence Agreement and for non compliance by any person to whom the Partner Agency releases the KiwImage Data.”

Signing Page

SIGNED for and on behalf of
LAND INFORMATION NEW ZEALAND by

{insert name}

{signature}

{Date}

SIGNED for and on behalf of
Partner Agency by

John Thyne, GIS Manager, Department of Geography, UC
{insert name}

{signature}

{Date}

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or

imagery@linz.govt.nz

Partner Agency: University of Canterbury

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Delivery Address: Warehouse, 20 Kirkwood Ave, Ilam, Christchurch 8041

Agency's Data Coordinator: John Thyne, GIS Manager, Department of Geography

Email: john.thyne@canterbury.ac.nz

Phone: +64 3 36429897 ext 7953

Product Descriptions:

Product 1 – Bundle Product

The 2.4m Multi-spectral and 0.6m Panchromatic Bundle Product will be delivered as strips of ortho rectified 16-bit imagery (block adjusted) as opposed to a mosaiced product. This delivery method will maintain the integrity of the pixel values for the image analyst end-users. The image strips will be delivered per date of acquisition in a non-tiled and uncompressed format.

Table 1a - Product Specifications

Product	Band	Spectral Range	Bit Depth	Radiometric Resolution	Radiometric Enhancement
Panchromatic	Black & White	450-900nm	16bit	0-2048	None
Multi-spectral	Blue	450-520nm	16bit	0-2048	None
Multi-spectral	Green	520-600nm	16bit	0-2048	None
Multi-spectral	Red	630-690nm	16bit	0-2048	None
Multi-spectral	Near Infrared	760-900nm	16bit	0-2048	None

Table 1b - Product Specifications

Product	Band	Projection	Pixel Resolution	Tiling	Format
Panchromatic	Black & White	Area dependant	0.6m	Strip	GeoTiff
Multi-spectral	Blue	Area dependant	2.4m	Strip	GeoTiff
Multi-spectral	Green	Area dependant	2.4m	Strip	GeoTiff
Multi-spectral	Red	Area dependant	2.4m	Strip	GeoTiff
Multi-spectral	Near Infrared	Area dependant	2.4m	Strip	GeoTiff

Note:

Projection details see Table 8.

Product 2 – Natural Colour Mosaic (Pan Sharpened)

The 0.6m Natural Colour Product will be delivered as an ortho-rectified, colour-balanced seamless RGB mosaic in 8-bit depth which is the most appropriate for use in a GIS-environment.

Table 2a - Product Specifications

Product	Band	Spectral Range	Bit Depth	Radiometric Resolution	Radiometric Enhancement
Mosaic	Blue	450-520nm	8bit	0-256	Colour Balanced
Mosaic	Green	520-600nm	8bit	0-256	Colour Balanced
Mosaic	Red	630-690nm	8bit	0-256	Colour Balanced

Table 2b - Product Specifications

Product	Projection	Pixel Resolution	Formats
Mosaic	Area dependant	0.6m	GeoTiff. Ecw, jp2

Note:

Projection details see Tables 9a & 9b.

Tiling details see Table 4

File Types and Compression:

Natural colour mosaic is to be provided in the following formats. Maximum file sizes will be determined by the file type, delivery basis and compression ratio.

Table 3 –File Types and Compression

File Type	Product	Basis	Compression
.ecw	Natural colour Mosaic	Sheet	1:9
.jpg2000	Natural colour Mosaic	Sheet	Loss less
GeoTiff	Natural colour Mosaic	Tiles	Nil

File Tiling Conventions:

For New Zealand, compressible imagery formats (.ecw and .jp2) will be delivered as whole NZTopo50 map sheets. GeoTiff files will be tiled, delivered in 3km x 3km tiles, based upon NZTopo50 map sheet boundary.

Table 4 –File Tiling

Area	Products		
	Natural colour Mosaic .ecw, .jp2	Natural colour Mosaic GeoTiff	Multi-spectral
New Zealand	NZTM sheet	3 * 3 km based upon NZTopo50 sheets	Strip
New Zealand offshore projections	Entire area covered	3 * 3 km based upon UTM sheet boundary	Strip

File Naming Conventions:

File naming of the 8 bit products will be NZTopo50 sheet ID (SSNN), tile Row number, prefixed by R, tile column number, prefixed by C.

NZTopo50 naming format: SSNN_RnCn.
Chatham format: Chatham_RnCn
Snares format: Snares_RnCn
Auckland format: Auckland_RnCn
Campbell format: Campbell_RnCn
Antipodes format: Antipodes_RnCn
Bounty format: Bounty_RnCn
Raoul format: Raoul_RnCn

Product 3 – Basic Product

The 2.4m Multi-spectral and 0.6m Panchromatic Basic Product will be delivered as 16-bit strips. This delivery method will maintain the integrity of the pixel values for the image analyst end-users. The image strips will be delivered per date of acquisition in an un-tiled and uncompressed format.

Table 5a - Product Specifications

Product	Band	Spectral Range	Bit Depth	Radiometric Resolution	Radiometric Enhancement
Panchromatic	Black & White	450-900nm	16bit	0-2048	None
Multi-spectral	Blue	450-520nm	16bit	0-2048	None
Multi-spectral	Green	520-600nm	16bit	0-2048	None
Multi-spectral	Red	630-690nm	16bit	0-2048	None
Multi-spectral	Near Infrared	760-900nm	16bit	0-2048	None

Table 5b - Product Specifications

Product	Band	Pixel Resolution	Tiling	Formats
Panchromatic	Black & White	0.6m	Strip	GeoTiff
Multi-spectral	Blue	2.4m	Strip	GeoTiff
Multi-spectral	Green	2.4m	Strip	GeoTiff
Multi-spectral	Red	2.4m	Strip	GeoTiff
Multi-spectral	Near Infrared	2.4m	Strip	GeoTiff

Summary of Products Delivered For Each Capture Area

Natural colour mosaic is to be provided in the following formats. Maximum file sizes will be determined by the file type, delivery basis and compression ratio.

Table 6 – Product Summary

Area	Products		
	Natural colour Mosaic	Multi-spectral	Notes
New Zealand	Product 2 - Natural colour Mosaic Formats - .ecw, .jp2, GeoTiff	Product 1- Ortho rectified bundle Product 3 - Basic Imagery Format - GeoTiff	

Product Common Specifications

Table 7 - Resolution

	Natural Colour Imagery	Bundle Imagery	
		Panchromatic	Multi-spectral
Pixel Resolution Ground Sample Distance (GSD)	0.6 m	0.6 m	2.4 m
Angle off NADIR	Less than 25 degrees	Less than 25 degrees	Less than 25 degrees
Geospatial accuracy RMSE (populated areas)	Less than 2.6 m	Less than 2.6 m	Block adjusted

Notes:

Horizontal RMSE to be 2.6m, however SKM will not guarantee accuracy if the supplied control does not enable the required level of accuracy to be attained.

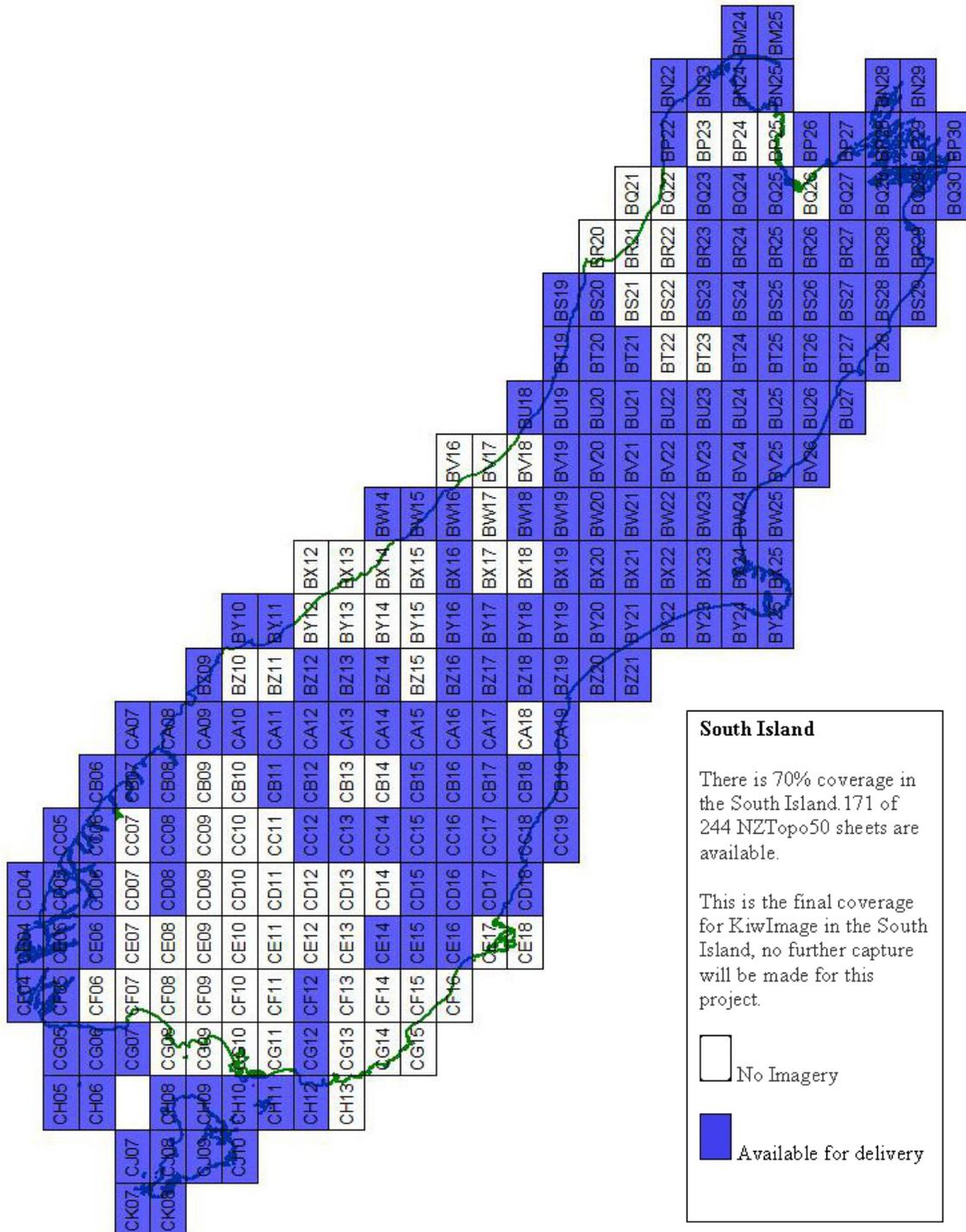
Projections:

For each area imagery shall be delivered in the following projections.

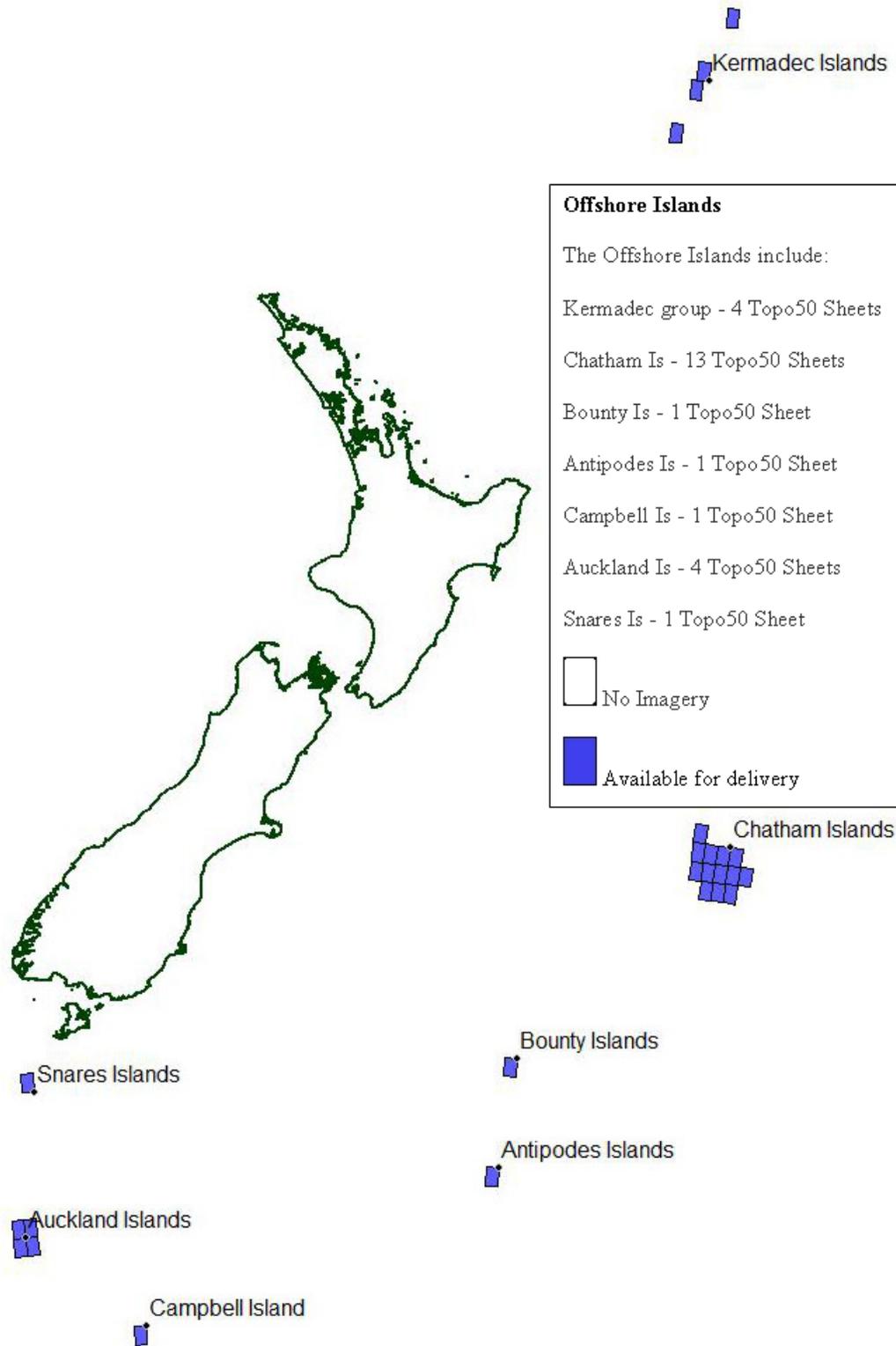
Table 8 - Projections

Area	Projection and Datum																		
New Zealand	<p>New Zealand Transverse Mercator (NZTM) in terms of NZ Geodetic Datum 2000 (http://www.linz.govt.nz/rcs/linz/5684/nztm.pdf).</p> <p>For New Zealand off shore islands the corresponding new offshore islands projection is to be used.</p> <p>Origin Latitude = Equator in all cases</p> <p>False Northing = 10,000,000 North</p> <p>False Easting = 3,500,000 East</p> <p>Central meridian Factor = 1.0000</p> <p>Reference ellipsoid = GRS80</p> <table border="1" data-bbox="574 835 1401 1297"> <thead> <tr> <th data-bbox="574 835 769 867">Area</th> <th data-bbox="769 835 1143 867">Projection Name</th> <th data-bbox="1143 835 1401 867">Origin Longitude</th> </tr> </thead> <tbody> <tr> <td data-bbox="574 867 769 930">Chatham Islands</td> <td data-bbox="769 867 1143 930">Chatham Islands Transverse Mercator 2000</td> <td data-bbox="1143 867 1401 930">176° 30' West</td> </tr> <tr> <td data-bbox="574 930 769 1020">Snares and Auckland Islands</td> <td data-bbox="769 930 1143 1020">Auckland Islands Transverse Mercator 2000</td> <td data-bbox="1143 930 1401 1020">166° 00' East</td> </tr> <tr> <td data-bbox="574 1020 769 1083">Campbell Island</td> <td data-bbox="769 1020 1143 1083">Campbell Island Transverse Mercator 2000</td> <td data-bbox="1143 1020 1401 1083">169° 00' East</td> </tr> <tr> <td data-bbox="574 1083 769 1176">Antipodes and Bounty Islands</td> <td data-bbox="769 1083 1143 1176">Antipodes Islands Transverse Mercator 2000</td> <td data-bbox="1143 1083 1401 1176">179° 00' East</td> </tr> <tr> <td data-bbox="574 1176 769 1297">Raoul Island and Kermadec Islands</td> <td data-bbox="769 1176 1143 1297">Raoul Island Transverse Mercator 2000</td> <td data-bbox="1143 1176 1401 1297">178° 00' West</td> </tr> </tbody> </table>	Area	Projection Name	Origin Longitude	Chatham Islands	Chatham Islands Transverse Mercator 2000	176° 30' West	Snares and Auckland Islands	Auckland Islands Transverse Mercator 2000	166° 00' East	Campbell Island	Campbell Island Transverse Mercator 2000	169° 00' East	Antipodes and Bounty Islands	Antipodes Islands Transverse Mercator 2000	179° 00' East	Raoul Island and Kermadec Islands	Raoul Island Transverse Mercator 2000	178° 00' West
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Coverage - South Island



Coverage – Off shore Islands



End User Licence Agreement



AND

DIGITALGLOBE INC

DEED MODIFYING DIGITALGLOBE END USER LICENCE

THIS DEED is made on the 22nd day of February 2008

BETWEEN HER MAJESTY THE QUEEN in the right of Her Government in New Zealand acting by and through the Chief of Defence Force ("NZDF") **AND**

DIGITALGLOBE INC a company incorporated under the laws of the United States of America and having its principle place of business at 1601 Dry Creek Dr., Suite 260, Longmont, CO 80503, United States of America (DigitalGlobe)

Background

A. The NZDF wishes to enter into a contract with **SINCLAIR KNIGHT MERZ PTY LIMITED (SKM) of MELBOURNE, AUSTRALIA** for provision of digital imaging services pursuant to NZDF tender number 0701601 (the Request for Tender). SKM's tender includes an End User Licence Agreement (EULA) with DigitalGlobe which imposes certain terms and conditions which NZDF is unable to comply with.

B. In consideration of NZDF entering into a contract with SKM, DigitalGlobe is prepared to alter its EULA terms in accordance with clause 12.f of the EULA by a binding written instrument.

C. NZDF and DigitalGlobe have agreed to modify the EULA provision by entering into this Deed.

The Parties Agree

1. This Deed includes DigitalGlobe's EULA annexed hereto as schedule 1.
2. DigitalGlobe confirms that this Deed and the EULA will govern the use of DigitalGlobe's satellite imagery of the whole of New Zealand, selected South Pacific Islands, and areas of Antarctica, which is being supplied pursuant to the Contract.
3. DigitalGlobe acknowledges that the NZDF is the lead agency in relation to the contract and that the digital imaging services will be distributed to Central, Regional, Local and other Government Agencies in New Zealand (the "Government") under license from DigitalGlobe.
4. Pursuant to the use requirements the NZDF has requested under Part E, Sections 4.3 and 4.4 of the Request for Tender and DigitalGlobe agrees to make the following modifications and clarifications to the EULA:

- For the purposes of DigitalGlobe's EULA, the "Customer Group" shall be all New Zealand Government sponsored organisations located within New Zealand.
- "Internal Use" for the purpose of the EULA shall mean use within the "Customer Group" defined above – which means use by and within the Government and for the use of its consultants, contractors and agents, under supervision of the Government.
- All derivative uses and products made from DigitalGlobe's imagery by the Government are to be non-commercial. They may be supplied to the public and displayed in organisations within the Customer Group specified above, but shall not be offered to the public for sale or as part of commercial offerings. The Government shall not undertake commercial projects using DigitalGlobe's imagery without DigitalGlobe's express approval.

ESL

- Any display of imagery on the Internet shall be made with source acknowledgements – either by displaying DigitalGlobe's copyright or through an acknowledgement of DigitalGlobe's imagery in proximity to the website's display of a derivative work incorporating the imagery. However, DigitalGlobe will not require DigitalGlobe copyrights to be placed on vector products derived from the imagery, but which do not actually contain any portion of the imagery.
- The Government will continue to own any and all intellectual property that is combined with DigitalGlobe's imagery on any derivative works that the Government prepares.

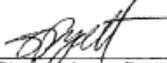
- DigitalGlobe agrees to waive the Government's obligation to indemnify DigitalGlobe and hold it harmless as provided in Section 11 of the EULA.

5. By accepting DigitalGlobe's imagery the NZDF confirms that the Government's use will conform to the above conditions, as well as the EULA that are unmodified by this agreement.

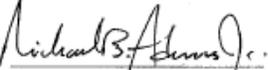
6. This Deed may be executed and delivered in one or more counterpart copies (including by facsimile), each of which shall be deemed an original, and, when taken together, shall constitute a single instrument.

Executed as a Deed

SIGNED for CHIEF OF DEFENCE FORCE by)
 Lieutenant Colonel Edward Bruce Crisp, RNZIR) 
 being the Director, Joint Geospatial Support Facility)
 in the presence of:)

Witness
 Signature: 
 Name: Stephen James Pyatt
 Occupation: Public Servant
 Address: Joint Geospatial Support Facility
 HMNZ Naval Base
 Auckland, New Zealand

SIGNED for and on)
 behalf of DigitalGlobe Inc)
 by) 
 being the)
 in the presence of:)

Witness
 Signature: 
 Name: Michael B. Adams Jr.
 Occupation: Associate Counsel
 DigitalGlobe, Inc.



DigitalGlobe Inc's
End User License Agreement





DIGITALGLOBE® PRODUCT

END USER LICENSE AGREEMENT

DigitalGlobe, Inc. ("DigitalGlobe") is willing to license the product (the "Product") provided with this Agreement to you only on the condition that you accept all of the terms and conditions in this Agreement. If you do not agree to these terms and conditions, DigitalGlobe is not willing to license the Product to you and, if the product was delivered to you on a tangible medium such as a CD, you must return the Product in its original packaging, without breaking the seal, or, if the product was made available to you in an electronic format, you must not download or use the product. In the event that you do not return the Product as specified or you download or use the Product, you acknowledge that you will be bound by all of the terms and conditions of this Agreement.

PLEASE READ THE TERMS AND CONDITIONS PROVIDED BELOW CAREFULLY. BY USING THE PRODUCT, YOU ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT AND AGREE TO BE BOUND BY ITS TERMS AND CONDITIONS.

1. **Definitions.** For purposes of this Agreement, the following definitions apply:
- a. **Commercial Exploitation or Commercial Purpose.** Redistribution, retransmission or publication for profit or fee, which may include, without limitation: (i) advertising; (ii) use in marketing and promotional materials and services on behalf of a customer, client, employer, employee or for your own benefit; (iii) use in any materials or services for sale or for which fees or charges are paid or received (e.g., textbook supplemental materials, books, syllabi, course packs); and (iv) use in any books, news publication or journal without an Educational Purpose.
 - b. **Customer Group.**
 - i. one individual;
 - ii. one company, corporation, or similar legal entity (excluding affiliates or subsidiaries which will be treated as a separate Customer Group);
 - iii. one subsidiary or affiliate of an entity;
 - iv. one department of a federal agency at the U.S. Cabinet level (e.g., office of the U.S. Dept. of Agriculture or U.S. Dept. of Interior, but excluding sub-agencies);
 - v. one civilian federal agency below the U.S. Cabinet level;
 - vi. one department of the four branches of the military, a defense agency, one of the unified commands, one of the non-Dept. of Defense entities identified in 50 U.S.C. Section 401a or the State Department;
 - vii. one department of a foreign military or an international defense or intelligence agency;
 - viii. one state or provincial agency;
 - ix. one county or local government;
 - x. one non-governmental organization or non-profit organization;
 - xi. one department within a single educational organization within a single country;
 - xii. one international agency such as NATO, but excluding the United Nations and the European Union;
 - xiii. one office or department within the United Nations or the European Union; or
 - xiv. any one entity equivalent to any of the entities listed above, located outside the United States.
 - c. **Demonstration Purpose.** Any non-commercial use for demonstration, promotional or training purposes and not for Commercial Exploitation for a period of 90 days from product shipment.
 - d. **Derivative Works.** Any products or works derived from the Product, which derivation was created or developed as permitted under this Agreement and in which the Product may be recast, transformed, adapted, or included, and which, if prepared without authorization of DigitalGlobe, would constitute a copyright infringement.
 - e. **Educational Purpose.** Any non-commercial study or research that is undertaken solely in furtherance of education and not for Commercial Exploitation.
 - f. **Federal Civil Government Agency.** Any government agency at the federal level, EXCLUDING all U.S. Department of Defense agencies and those agencies defined under U.S. Code Title 50. The U.S. Army Corp of Engineers is included in the definition of Federal Civil Government Agency under this Agreement.
 - g. **Joint Project.** An undertaking between you and one or more other Customer Groups based on a contractual relationship existing at the purchase of the license.
 - h. **State and Local Government Agency.** Any government agency at the state and local level. With regard to the United States, the term "state" includes the 50 United States and the United States' territories and possessions.

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2. **Grant of License.** Subject to the terms and conditions of this Agreement and payment of the applicable license fees, DigitalGlobe grants to you a non-exclusive, non-transferable license to use the Product by the number of users identified on the applicable order confirmation, solely for your internal business purposes, or for Demonstration Purpose or Educational Purpose as set forth on the applicable order confirmation, and only as provided below:

- a. If you are not a Federal Civil Government Agency or a State and Local Government Agency, you may post the Product and Derivative Works on your website at a resolution no better than 10 meters in a static, non-downloadable, non-distributable, non-interactive fashion and in a manner that does not allow a third party to extract or access the Product as a standalone file;
- b. If you are a Federal Civil Government Agency, you may post the Product and Derivative Works to publicly accessible Internet web sites provided that: (a) the quality of the image data available for download is presented in a color composite jpeg or a 50:1 compressed file format without associated geospatial information, and the Product or Derivative Works posted to publicly accessible websites are in a secure format that allows printing and viewing at no better than ten meter resolution and (b) the proper copyright is conspicuously marked. The Product and any Derivative Works may be posted to secure Intranet websites and may be used only for the purposes of a Joint Project and subject to Section 3;
- c. If you are a State and Local Government Agency, you may post the Product and Derivative Works on your website at full resolution for non-Commercial Purpose in a non-downloadable, non-distributable fashion and in a manner that does not allow a third party to extract or access the Product as a standalone file;

- d. Make unlimited copies of the Product for internal use only;
- e. Create Derivative Works for internal use, including reformatting the Product into different formats or media from which it is delivered, modifying the Product through manipulation techniques and/or the addition of other data, and making copies of the resulting bundled image product;
- f. Publish the Product, in a non-digital format and for a non-Commercial Purpose, in research reports or similar publications after obtaining the express written consent of DigitalGlobe; and
- g. All Products or Derivative Works must contain the following copyright notice conspicuously displayed: "© DigitalGlobe, Inc. All Rights Reserved" for the Product, and "Includes copyrighted material of DigitalGlobe, Inc., All Rights Reserved" for Derivative Works.

3. **Sublicense.**

a. Subject to Section 3(d), you may sublicense the rights granted under Section 2 to Customer Groups identified by you at the time you acquire this license who are engaged in a Joint Project with you. The number of permitted Customer Groups sublicensed hereunder depends on the type of license purchased by you as follows:

Type of License Purchased	Number of Permitted Customer Groups
Base	Up to five
Group	From six to ten
Enterprise	From 11 to 25
Enterprise Premium	More than 25
Educational	One
Demonstration	One

- b. If the number of individuals of a sublicensed Customer Group using the Product exceeds the number of users permitted under this Section 3, the Customer Group will be counted as multiple sublicensees based on the number of individuals using the Product, for purposes of determining compliance with the table above. If a Customer Group is involved in multiple Joint Projects, the Customer Group will be counted as multiple sublicensees, based on the number of Joint Projects involved, for purposes of determining compliance with the table above.
- c. Subject to Section 3(d), you may also sublicense the rights granted under Section 2 to any independent contractor hired by you to perform customization services for the Product.
- d. You may grant a sublicense to a sublicensee under Section 3(a) or 3(c) provided that (i) such sublicensee agrees to be bound by this Agreement, (ii) the sublicense is limited to using the Product solely for the purposes of the Joint Project or for purposes of performing the customization services, and (iii) you are responsible for any noncompliance by such sublicensee and such sublicensee's breach of this Agreement shall be deemed to be your breach of this Agreement.

4. **Prohibited Use.** You recognize and agree that the Product is the property of DigitalGlobe and contains valuable assets and proprietary information of DigitalGlobe. Accordingly, you will not:

- a. Use the Product or Derivative Works for any purpose not expressly permitted under this Agreement, including without limitation for Commercial Exploitation;
- b. Sell, license, rent, transfer, give away, disclose, copy or reproduce (even if merged with other materials), create Derivative Works of, display, or distribute the Product, except as expressly permitted under this Agreement; or
- c. Alter or remove any copyright notice or proprietary legend contained in or on the Product.

You acknowledge that you need to obtain a separate distribution license from DigitalGlobe in order to distribute or publish the Product or any Derivative Work in any form not expressly permitted under Section 2.

5. **Ownership.** The Product, and all intellectual property rights therein, are the exclusive property of DigitalGlobe and its suppliers. All rights in and to the Product not expressly granted to you are reserved by DigitalGlobe and its suppliers. This Agreement does not grant you title to the Product or any copies of the Product.
6. **Confidentiality.** The Product includes metadata and other confidential and proprietary information of DigitalGlobe ("Confidential Information"). You will not use any Confidential Information for any purpose not expressly permitted hereunder and will disclose Confidential Information only to your employees and permitted sublicensees who have a need to know for purposes of this Agreement and who are under a duty of confidentiality no less restrictive than your duty hereunder. You will protect the Confidential Information from unauthorized use, access, or disclosure in the same manner as you protect your own confidential or proprietary information of similar nature and with no less than reasonable care.
7. **Audit.** At DigitalGlobe's request, you will provide assurances that you are using the Product consistent with the terms of this Agreement. Upon notice, DigitalGlobe may inspect your records, accounts and books relating to the use of the Product to ensure that the Product is being used in accordance with this Agreement.
8. **Term and Termination.** This Agreement remains in full force until terminated as provided below. DigitalGlobe has the right to terminate this Agreement, effective immediately upon notice to you, if you breach any provision of this Agreement. Upon termination of this Agreement, all rights granted to you hereunder shall immediately cease. You and your sublicensees will (i) discontinue all use of the Product; (ii) if the product was delivered on a tangible medium, return to DigitalGlobe the Product and all copies thereof; (iii) purge all copies of the Product or any portion thereof from all computer storage device or medium on which you have placed or permitted others to place the Product; and (iv) give DigitalGlobe a written certification that you have complied with all of your obligations hereunder.
9. **Limited Warranty.** DigitalGlobe warrants that for a period of thirty (30) days after delivery, the Product will perform substantially in accordance with its applicable specification. DigitalGlobe's sole obligation and your entire remedy for breach of the above warranty is for DigitalGlobe, at its option and expense, to (i) repair or replace the non-conforming Product returned during the warranty period; or (ii) refund all fees paid by for the non-conforming Product returned during the warranty period.

EXCEPT AS PROVIDED ABOVE, THE PRODUCT IS PROVIDED "AS IS" WITHOUT ANY WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, AND ALL WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY DISCLAIMED. DIGITALGLOBE DOES NOT WARRANT THAT THE PRODUCT WILL MEET YOUR NEEDS OR EXPECTATIONS, OR THAT OPERATIONS OF THE PRODUCT WILL BE ERROR FREE OR UNINTERRUPTED.

The limited warranty is void if any non-conformity has resulted from accident, abuse, misuse, misapplication, or modification by any person other than DigitalGlobe.

10. **Limitation of Liability.** IN NO EVENT WILL DIGITALGLOBE OR ITS SUPPLIERS BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR INDIRECT DAMAGES (INCLUDING LOST PROFITS AND LOST DATA) ARISING FROM OR RELATING TO THIS AGREEMENT AND THE PRODUCT, EVEN IF DIGITALGLOBE OR ITS SUPPLIERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. DIGITALGLOBE AND ITS SUPPLIERS' TOTAL CUMULATIVE LIABILITY IN CONNECTION WITH THIS AGREEMENT AND THE PRODUCT, WHETHER IN CONTRACT OR TORT OR OTHERWISE, WILL NOT EXCEED THE AMOUNT OF LICENSE FEES PAID TO DIGITALGLOBE FOR THE PRODUCT. THIS SECTION SHALL BE GIVEN FULL EFFECT EVEN IF THE WARRANTIES PROVIDED IN SECTION 9 IS DEEMED TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.
11. **Export Control.** You will not export or re-export the Software in violation of the U.S. Export Administration regulations or other applicable laws and regulations. You will defend, indemnify, and hold harmless DigitalGlobe from and against all fines, penalties, liabilities, damages, costs, and expenses incurred by DigitalGlobe as a result of any violation of such laws and regulations by you or any of your agents or employees.
12. **Miscellaneous Terms.**
 - a. You acknowledge that any actual or threatened breach of Section 2, 4, or 6 will constitute immediate, irreparable harm to DigitalGlobe for which monetary damages would be an inadequate remedy, and that injunctive relief is an appropriate remedy for such breach. If any action is brought to enforce this Agreement, the prevailing party will be entitled to receive its reasonable attorney's fees, court costs, and other collection expenses, in addition to any other relief it may receive.
 - b. Failure to require performance of any provision of this Agreement does not waive DigitalGlobe's right to subsequently require full and proper performance of such provision. If any provision of this Agreement is determined to be invalid or unenforceable, the remaining provisions of this Agreement shall continue to be valid and enforceable.
 - c. Neither this Agreement nor any of the rights or obligations hereunder may be assigned or transferred by you without the prior written consent of DigitalGlobe. This restriction on assignment or transfer shall apply to assignments or transfers by operation of law, as well as by contract, merger or consolidation. Any attempted assignment or transfer in violation of the foregoing will be null and void.
 - d. This Agreement shall be governed by the laws of the State of Colorado, U.S.A., without regard to conflicts of law principles that would require the application of the laws of any other state or jurisdiction. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. Any action or proceeding arising from or relating to this

Agreement must be brought in a federal court or a state court in Boulder County, Colorado, and each party irrevocably submits to the jurisdiction and venue of any such court in any such action or proceeding.

- a. The software portion of the Product is "commercial item" as that term is defined in 48 C.F.R. 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212. Any technical data provided with or included in the Product is "commercial technical data" as defined in 48 C.F.R. 12.211. Consistent with 48 C.F.R. 12.211 through 12.212, 48 C.F.R. 227.7202-1 through 227.7202-4, and 48 C.F.R. 252.227-7015, all U.S. Government end users acquire the Product with only those rights set forth therein.
 - f. This Agreement represents the entire agreement between you and DigitalGlobe as to the matters set forth herein and integrates all prior discussions and understanding between us. Your acceptance of this Agreement is expressly limited to the terms and conditions set forth herein; any additional or inconsistent terms provided by you in any other documents such as a purchase order will not have any legally binding effect. This Agreement may be modified only by a binding written instrument entered into by you and DigitalGlobe.
13. **Notices.** Any notices relating to this Agreement should be sent by personal delivery or U.S. certified mail (return receipt requested) to the address provided below and will be effective upon receipt:

DIGITALGLOBE, INC.
ATTN: LEGAL DEPT.
1601 Dry Creek Dr., Suite 260
Longmont, CO 80503, USA

