HYDROSHEDS

LICENSE AGREEMENT

THE LICENSED MATERIALS (AS DEFINED BELOW) ARE PROVIDED UNDER THE TERMS OF THIS LICENSE ("LICENSE"). THE LICENSED MATERIALS ARE PROTECTED BY COPYRIGHT AND/OR OTHER APPLICABLE LAW. ANY USE OF THE LICENSED MATERIALS OTHER THAN AS AUTHORIZED UNDER THIS LICENSE OR COPYRIGHT LAW IS PROHIBITED.

BY EXERCISING ANY RIGHTS TO THE LICENSED MATERIALS PROVIDED HERE, YOU ACCEPT AND AGREE TO BE BOUND BY THE TERMS OF THIS LICENSE. TO THE EXTENT THIS LICENSE MAY BE CONSIDERED TO BE A CONTRACT, THE LICENSOR GRANTS YOU THE RIGHTS CONTAINED HERE IN CONSIDERATION OF YOUR ACCEPTANCE OF SUCH TERMS AND CONDITIONS.

1. <u>DEFINITIONS</u>

- 1.1. "Derivative Works" shall have the meaning set forth in the U.S. Copyright Act (17 U.S.C. §101 et seq).
- 1.2. **"End Users"** means those parties to whom Licensee or an authorized distributor has licensed the Licensed Materials integrated with the Licensee Programs pursuant to a written license agreement for such party's use and not for redistribution.
- 1.3. "Intellectual Property Rights" means any and all tangible and intangible: (i) copyrights and other rights associated with works of authorship throughout the world, including but not limited to copyrights, moral rights, and mask works, and all Derivative Works thereof; (ii) trademark and trade name rights and similar rights; (iii) trade secret rights; (iv) patents, designs, algorithms, utility models, and other industrial property rights, and all improvements thereto; (v) all other intellectual and industrial property rights (of every kind and nature throughout the world and however designated) whether arising by operation of law, contract, license, or otherwise; and (vi) all registrations, applications, renewals, extensions, continuations, divisions, or reissues thereof now or hereafter in force (including any rights in any of the foregoing).
- 1.4. "Licensed Materials" means WWF's *Hydrological data and maps based on SHuttle Elevation Derivatives at multiple Scales* ("HydroSHEDS") data for all regions and versions available as of the Effective Date and later developed during the term of this License, as further described in *Exhibit A*, not including any later versions or modifications.
 - 1.5. **"Personnel"** means a Party's employees, contractors (including Subcontractors) and consultants.

2. LICENSE GRANTS

- 2.1. **License.** Subject to the terms and conditions of this License, WWF hereby grants to Licensee the following rights and licenses:
- 2.1.1. **Development.** A worldwide, nonexclusive, non-transferable, paid up right and license to (i) use, reproduce, display, and perform the Licensed Materials to the extent necessary to integrate the Licensed Materials with Derivative Works; and (ii) permit third parties doing development work for Licensee ("Subcontractors") to exercise any or all of the rights set forth in (i). Licensee shall be responsible for the acts or omissions of its Subcontractors and for ensuring that use of the Licensed Materials by its Subcontractors is consistent with Licensee's obligations under this License.
- 2.1.2. **Distribution and Sublicense Rights.** A worldwide, nonexclusive, non-transferable, paid up right and license to (i) market and distribute the Licensed Materials incorporated into any Derivative Works to End Users, subject to the terms and conditions of an end user license agreement with terms that are at least as protective of the Licensed Materials as are the terms of this License; and (ii) sublicense to Licensee's authorized distributors any or all of the rights set forth in (i), pursuant to a written distribution agreement with terms that are at least as protective of the Licensed Materials as are the terms of this License. In no event shall Licensee license or distribute the Licensed Materials as a stand-alone product. Licensee's agreement with an authorized distributor shall provide that: (i) the agreement shall automatically terminate upon any termination of this License; and (ii) WWF shall be an intended third party beneficiary of the agreement and shall have the right to enforce any and all obligations of Licensee under such agreement. Licensee shall be responsible for the acts or omissions of

any of its distributors and for ensuring that use of the Licensed Materials by its distributors is consistent with the terms of this License. Each sublicense agreement shall obligate the applicable distributor to distribute the Licensed Materials to End Users only (accompanied by an end user license agreement), and shall not permit such distributor to distribute to other subdistributors. In no event will a distributor be granted the development rights set forth in Section 2.1.1.

- 2.1.3. **Restrictions and Sublicense**. Licensee shall not decompile, reverse engineer, or disassemble the Licensed Materials, in whole or in part, except as expressly authorized by this License or by prior written consent of WWF, and shall include such restrictions in its license agreement with End Users. Licensee shall protect against unauthorized copying and/or distribution of Licensed Materials, associated license keys and/or licensing mechanisms, if applicable, with the same degree of care that it protects its Licensee confidential information.
- 2.2. **Attribution Requirements**. Licensee shall ensure that its use and distribution of the Licensed Materials includes the required attributions set forth in <u>Exhibit B</u>.

3. OWNERSHIP

Except as otherwise provided in this License, WWF, or its licensors, shall own and retain all Intellectual Property Rights in the Licensed Materials and any modifications, extensions, or improvements of the Licensed Materials however developed.

4. NO WARRANTY

- 4.1. THE LICENSED MATERIALS AND ANY OTHER INFORMATION PROVIDED TO LICENSEE BY WWF ARE PROVIDED "AS IS" AND WITH ALL FAULTS. THE ENTIRE RISK AS TO SATISFACTORY USE, PERFORMANCE, QUALITY AND ACCURACY OF THE LICENSED MATERIALS AND ANY OTHER INFORMATION PROVIDED TO LICENSEE BY WWF IS WITH LICENSEE. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, WWF DISCLAIMS AND HEREBY EXCLUDES ALL WARRANTIES, CONDITIONS AND REPRESENTATIONS, WHETHER EXPRESS, IMPLIED, WRITTEN, OR ORAL, STATUTORY OR OTHERWISE, AND WHETHER ARISING UNDER THIS LICENSE OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF DESIGN, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT OF THIRD PARTY RIGHTS, OR WARRANTIES ARISING FROM A COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OR TRADE PRACTICE. WWF SHALL NOT BE BOUND BY OR LIABLE FOR ANY REPRESENTATIONS OR WARRANTIES, WHETHER WRITTEN OR ORAL, WITH RESPECT TO THE LICENSED MATERIALS OR ANY OTHER INFORMATION PROVIDED TO LICENSEE BY WWF, MADE BY WWF OR ITS AGENTS, EMPLOYEES, REPRESENTATIVES OR ANY THIRD PARTY.
- 4.2. Licensee shall not: (a) make any representation or warranty whatsoever on behalf of WWF concerning the quality, performance or other characteristics of the Licensed Materials or any other information provided to Licensee by WWF; (b) incur any liability on behalf of WWF or purport to make any commitment binding upon WWF; or (c) make any commitment to modify any of the Licensed Materials or any other information provided to Licensee by WWF.

5. <u>INDEMNIFICATION</u>

- 5.1. As used in this Section 8, (i) "Claim" means any and all pending, actual or threatened third party claims, and any resulting losses, damages, liabilities, settlement, costs, or expenses of WWF (including legal expenses and the expenses of other professionals), as incurred, arising out of or relating to this License, and (ii) indemnification extends to the officers, directors, employees and agents of WWF, as applicable.
- 5.2. Licensee will defend, indemnify and hold WWF harmless from and against any Claim arising out of or relating to (i) the use by Licensee, its affiliates, third party developers, or End Users of the Licensed Materials or any other information provided to Licensee by WWF; (ii) the marketing or distribution of the Licensed Materials by Licensee, its affiliates, or any of their sublicensees; and (iii) any changes made to the Licensed Materials by Licensee, its affiliates, or third party developers.
- 5.3. WWF will provide Licensee prompt notice of any actual or alleged Claim, provided, that the failure to give such notice shall not relieve Licensee of Licensee's obligations hereunder except to the extent that Licensee was actually and materially prejudiced by such failure. Licensee shall have the option to defend such Claims provided that Licensee may not compromise or settle any Claim or consent to the entry of any judgment without WWF's prior written consent, which WWF shall withhold in its sole discretion.

6. LIABILITY AND WAIVER OF DAMAGES

LICENSEE ACKNOWLEDGES THAT WWF IS A NONPROFIT ORGANIZATION NOT ENGAGED IN A COMMERCIAL BUSINESS, INDUSTRY, OR TRADE. WWF'S LIABILITY TO LICENSEE, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, ARISING OUT OF OR RELATING TO THE FORMATION OR PERFORMANCE OF THIS LICENSE, SHALL NOT EXCEED THE ROYALTY, IF ANY, PAID TO WWF UNDER THIS LICENSE. ALL LIABILITY IS CUMULATIVE AND NOT PER INCIDENT. WWF WILL NOT BE LIABLE, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF USE OR OF DATA, OR INTERRUPTION OF BUSINESS), ARISING OUT OF OR RELATING TO THE FORMATION OR PERFORMANCE OF THIS LICENSE, EVEN IF THE PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THESE LIMITATIONS WILL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED HEREIN. THE PARTIES STIPULATE AND AGREE THAT THIS SECTION 6 WAS PART OF THE CONSIDERATION FOR THE AGREED-UPON ROYALTY AND ACCESS TO USE DATA NOT ORIGINALLY DEVELOPED FOR COMMERCIAL USERS.

7. <u>TERMINATION</u>

- 7.1. **Termination.** This License and the rights granted hereunder will terminate (i) automatically upon any breach by Licensee of the terms of this License; or (ii) in the sole discretion of WWF.
- 7.2. **Rights upon Termination.** If this License is terminated, all licenses to distribute and sublicense the Licensed Materials granted hereunder shall terminate; however, any End User licenses for Derivative Works that incorporate Licensed Materials that were entered into prior to the date of termination, shall not be affected and shall continue in full force and effect.
- 7.3. **Survival.** The Parties' rights and obligations under Sections 4 (No Warranty), 5 (Indemnification), 6 (Liability and Waiver of Damages), 7.2 (Rights Upon Termination), 9 (Notices) and 10 (Miscellaneous) shall survive any termination of this License.

8. PUBLICITY

8.1. **Use of Marks Prohibited**. The Licensee shall not issue any press release or any other publicity regarding this License or the Parties' relationship without WWF's express written approval. Neither Party shall use the name, trade name, trademarks, service marks or logos of the other Party without the prior written consent of the other Party.

9. NOTICES

All notices required to be given to WWF under this License are deemed effective when made in writing and received by (i) registered mail, (ii) certified mail, return receipt requested, or (iii) overnight mail, addressed and sent to the attention of:

Name: World Wildlife Fund, Inc. Address: 1250 24th Street NW

Washington, DC 20031

Attention: General Counsel

10. MISCELLANEOUS

- 10.1. **Governing Law, Jurisdiction and Venue.** This License and all matters arising out of or relating to this License shall be governed by the laws of the District of Columbia, without giving effect to any law or rule that would cause the laws of any other jurisdiction to be applied.
- 10.2. **Severability.** In the event any provision of this License is held to be invalid or unenforceable, the remaining provisions of this License will remain in full force.
- 10.3. **Waiver.** The waiver by either Party of any default or breach of this License shall not constitute a waiver of any other or subsequent default or breach.

- 10.4. **Injunctive Relief**. Licensee acknowledges that a breach of its obligations under this License would cause WWF irreparable damage. Accordingly, Licensee agrees that in the event of such breach or threatened breach, in addition to remedies at law, WWF shall have the right to injunctive or other equitable relief to prevent Licensee's violations of its obligations hereunder.
- 10.5. **No Agency, Partnership or Joint Venture.** No agency, employment, partnership, joint venture, or other joint relationship is created hereby. Licensee and WWF are each independent contractors with respect to the other and neither has any authority to bind the other in any respect whatsoever.
- 10.6. **Assignment.** This License is binding on and inures to the benefit of the Parties and their respective successors and permitted assigns. Licensee may not assign this License except with the prior written consent of WWF. WWF shall be entitled to assign, transfer, delegate or otherwise dispose of, whether voluntarily or involuntarily, by operation of law or otherwise, this License and any of its rights or obligations under this License. Any attempted assignment, delegation, or transfer in contravention of this License shall be null and void.
- 10.7. **Records**. Licensee agrees to maintain complete, clear and accurate records for at least two (2) years backwards at any point in time of its activities under this License, including, without limitation, its sales of the Licensed Materials integrated with any Derivative Works and the identity and address of each End User, in accordance with standard business practices and Generally Accepted Accounting Principles. Licensee shall permit WWF or persons designated by WWF to inspect records pertaining to the Licensed Materials and any other materials provided to Licensee by WWF to ensure compliance by Licensee with its obligations to WWF. Any such inspection and audit shall be conducted during regular business hours and in such a manner as not to interfere unduly with normal business activities of Licensee.
- 10.8. **Export Control.** The Parties agree that the export of the Licensed Materials is subject to the export control laws of the United States of America, including, without limitation, any regulations promulgated by the Department of Commerce (or its successors) or the Department of Treasury and Licensee agrees to comply with all such laws and regulation in connection with its use, distribution or licensing of the Licensed Materials.
- 10.9. **Headings.** The section headings appearing in this License are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of any such section nor in any way affect this License.
- 10.10. **Entire Agreement; Amendment.** This License, together with the Exhibits and Attachments hereto, constitutes the final, complete and exclusive agreement between the Parties relative to the subject matter hereof and supersedes all prior or contemporaneous agreements or representations, written or oral, relating to its subject matter. This License shall also supersede all terms of any additional or unsigned license terms included in any package, media or electronic version of Licensed Materials provided under this License, including but not limited to any "shrink wrap", "click wrap" or "pop-up" license terms. This License shall not be changed, modified, supplemented or amended in any manner except as agreed to in a written instrument signed by authorized representatives of both Parties.

EXHIBIT A

LICENSED MATERIALS

The Licensed Materials under this License include the HydroSHEDS (and HydroBASINS) data layers as listed in Table 1 below. Data layers are provided either in Raster or Vector format; Raster files are provided in ESRI's GRID format and BIL format; Vector files are provided in ESRI's Shapefile format. Data is provided in geographic projection (lat/long); resolutions include 3 arc-seconds (approximately 90m at the equator), 15 arc-seconds (approximately 500m at the equator) and 30 arc-seconds (approximately 1km at the equator).

Table 1: Licensed Materials

	HydroSHEDS data layer	Version	Format	Resolution(s)
1	Void-filled elevation (DEM)	1.0	Raster	3 sec, 15 sec, 30 sec
2	Hydrologically conditioned elevation (CON)	1.0	Raster	3 sec
3	Drainage directions (DIR)	1.0	Raster	3 sec, 15 sec, 30 sec
4	Flow accumulation (ACC)	1.0	Raster	15 sec, 30 sec
5	River network (RIV)	1.0	Vector	15 sec, 30 sec
6	Drainage basins (BAS)	1.0	Vector	15 sec, 30 sec
7	HydroBASINS (standard and customized format)	1.c	Vector	15 sec

The spatial extent of the Licensed Materials includes the following continents (as defined in the HydroSHEDS and HydroBASINS Technical Documentations, available at http://www.hydrosheds.org):

Table 2: Spatial extent of Licensed Materials (as available)

	Region
1	Africa
2	Asia (incl. Siberia)
3	Australia
4	Europe and Middle East
5	North America (incl. Arctic)
6	South America
7	Greenland

Data is provided as described in the HydroSHEDS and HydroBASINS Technical Documentations. All data include metadata files. Licensed Materials also include related online help files.

EXHIBIT B

REQUIRED ATTRIBUTIONS

The following copyright statement must be displayed with, attached to or embodied in (in a reasonably prominent manner) the documentation or metadata of any Licensee Product or Program provided to an End User when utilizing the Licensed Materials:

This product [insert Licensee Derivative Product name] incorporates data from the HydroSHEDS database which is © World Wildlife Fund, Inc. (2006-2013) and has been used herein under license. WWF has not evaluated the data as altered and incorporated within [insert Licensee Derivative Product name], and therefore gives no warranty regarding its accuracy, completeness, currency or suitability for any particular purpose. Portions of the HydroSHEDS database incorporate data which are the intellectual property rights of © USGS (2006-2008), NASA (2000-2005), ESRI (1992-1998), CIAT (2004-2006), UNEP-WCMC (1993), WWF (2004), Commonwealth of Australia (2007), and Her Royal Majesty and the British Crown and are used under license. The HydroSHEDS database and more information are available at http://www.hydrosheds.org.

The scientific citation for the HydroSHEDS database is:

Lehner, B., Verdin, K., Jarvis, A. (2008): New global hydrography derived from spaceborne elevation data. Eos, Transactions, AGU, 89(10): 93-94.

The scientific citation for the HydroBASINS layers is:

Lehner, B., Grill G. (2013): Global river hydrography and network routing: baseline data and new approaches to study the world's large river systems. Hydrological Processes, 27(15): 2171–2186.