#### ATTACHMENT E: SCIENTIFIC USE END USER LICENSE AGREEMENT FOR TELEDYNE DESIS DATA

This END USER LICENSE AGREEMENT ("EULA") governs the use of hyperspectral data from Teledyne's DESIS instrument, including, without limitation, satellite imagery, vector, attribute or other data, or other related documentation, information or content first produced by the DESIS instrument (collectively, the "DESIS Data") and delivered by Teledyne Brown Engineering, Inc. ("Teledyne") to NASA pursuant to the Cooperative Agreement:

## **OWNERSHIP OF DESIS DATA:**

The DESIS Data are and will remain the exclusive property of Teledyne and its suppliers. This EULA does not grant NASA title to the DESIS Data or any copies of the same.

## LICENSE TO DESIS DATA:

Teledyne considers such DESIS Data to embody trade secrets or to comprise commercial or financial information which is privileged or confidential, and such DESIS Data will be identified by Teledyne with a suitable notice or legend identifying its use restrictions, any copyright notice required by paragraph 4 of this section, and its date of development. The DESIS Data will be maintained in confidence and subject to the licensing restrictions described herein for a period of two (2) years after development of such data (hereinafter the "Period of Restriction") and may be disclosed and used by the U.S. Government and Related Entities (under suitable protective conditions) only for Scientific Use by or on behalf of the U.S. Government during that Period of Restriction. Notwithstanding the above, NASA shall not be restricted in, nor incur any liability for, the disclosure and use of such Data not identified by Teledyne with a suitable notice or legend as set forth herein. After the Period of Restriction expires, such DESIS Data may be used by the U.S. Government and its Related Entities for any purpose.

During the Period of Restriction, this license allows the U.S. Government and its Related Entities to create Derivatives of the DESIS Data as explained in further detail below.

- Derivatives may be made available to the scientific community during the Period of Restriction through publication in appropriate journals or other established channels of public dissemination as soon as practicable and consistent with good scientific practice. Courtesy copies of upcoming reports or publications by Related Entities shall be furnished to NASA and Teledyne for informational purposes only. When possible, Related Entities should make reasonable efforts to provide these courtesy copies prior to publication.
- 2. Derivatives are not allowed for Commercial Use by NASA or Related Entities during the Period of Restriction.
- 3. NASA and Related Entities will retain rights to any Derivatives developed through the use of DESIS Data, and may store, distribute and use Derivatives (under suitable protective conditions) for U.S. Government Purposes during the Period of Restriction and for any purpose thereafter.
- 4. All DESIS Data and Derivatives, as appropriate, must contain the following copyright notice conspicuously displayed: "© Teledyne Brown Engineering, Inc. All Rights Reserved" for the DESIS

Data, and "Includes copyrighted material of Teledyne Brown Engineering, Inc., All Rights Reserved" for Derivatives. If requested, a joint citation may be used to acknowledge the investigating institution or NASA. Subject to compliance with the licensing restrictions contained herein, Related Entities are allowed to share DESIS Data with their employees, contractors, and students who are assigned to a specific project that requires access to the DESIS Data under suitable protective conditions, such as having a policy in place to ensure such recipients of privileged or confidential information are advised of the appropriate procedures for handling of such information and treatment of restricted intellectual property needed for compliance with the terms of this EULA.

Consistent with the relevant portions of section 14 CFR 1274.905 of the Cooperative Agreement NNJ12GA21A between NASA and Teledyne, Teledyne has certain enumerated rights to reproduce, distribute, and prepare derivative works of copyrighted Derivatives in the event such copyrighted Derivatives are exchanged or furnished to Teledyne for the performance of work under such Cooperative Agreement.

# **DEFINITIONS:**

<u>Commercial Use</u>: A Commercial Use as used herein means any use not specifically authorized as part of Scientific Use during the Period of Restriction, including but not limited to:

- 1. Use of the DESIS Data for the business needs of any third person or entity, including without limitation, providing any services to any third parties;
- Use in advertising, marketing and promotional materials and services on behalf of a customer, client, employer, employee or other non-governmental organization for purposes other than U.S. Government Purposes;
- 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) for purposes other than U.S. Government Purposes; and
- 4. Use in any books, news publication or journal for purposes other than U.S. Government Purposes.

<u>Related Entity</u>: As used in this EULA, Related Entity means a contractor, subcontractor, recipient, or grantee of NASA or the U.S. Government which is assigned, tasked, or contracted with to perform activities related to or using the DESIS Data during the Period of Restriction.

<u>Derivative</u>: As used herein, a Derivative means any addition, improvement, update, modification, transformation, adaptation or derivative work of or to the DESIS Data, authored, created or developed by or on behalf of the U.S. Government or its Related Entities, including, without limitation, any reformatting of the DESIS Data into a different format or media from which it is delivered and any addition of data, information or other content to the DESIS Data.

<u>Scientific Use</u>: For purposes of the Period of Restriction, Scientific Use means internal use by the U.S. Government, or a U.S. Government-initiated, U.S. Government-funded and/or U.S. Government-peer

reviewed investigation, established through a NASA Research Announcement (NRA) or similar public notice of opportunity, and performed for the purpose of conducting experiments, evaluation, research, and/or development, including applied research under the NASA Applied Sciences Program. Scientific Use is not intended for the development of commercial products or services and is exclusive of activities sponsored by non-governmental organizations, regardless of for-profit or not-for-profit status. Except as preapproved by Teledyne on a case-by-case basis, Scientific Use does not include Commercial Use.

<u>U.S. Government Purpose</u>: As used herein, U.S. Government Purpose means any activity in which the United States Government is a party, including cooperative agreements with international or multi-national defense organizations, sales or transfers by the United States Government to foreign governments or international organizations, and agreements pursuant to other transactional authority, including 51 U.S.C. § 20113. U.S. Government Purpose includes competitive procurement, but does not include the right to have or permit others to use DESIS Data for Commercial Use.

## **DATA FIRST PRODUCED BY NASA:**

Notwithstanding the foregoing provisions, any data first produced by or originating from NASA or the U.S. Government ("NASA Data") that is incorporated or aggregated into DESIS Data (including, but not limited to GPS data) shall retain its character, and the U.S. Government will have unlimited rights in such NASA Data.

### DISCLAIMER:

ALL DESIS DATA IS PROVIDED "AS IS" WITHOUT ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND. ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, ARISING BY LAW OR OTHERWISE, ARE EXPRESSLY DISCLAIMED AND EXCLUDED BY TELEDYNE, INCLUDING, WITHOUT LIMITATION ALL IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE. TELEDYNE DOES NOT WARRANT THAT THE DESIS DATA WILL BE ACCURATE, CURRENT OR COMPLETE, THAT THE DESIS DATA WILL MEET NEEDS OR EXPECTATIONS OF NASA AND/OR RELATED ENTITIES, OR THAT THE OPERATION OF THE DESIS DATA WILL BE ERROR FREE OR UNINTERRUPTED. SPATIAL, SPECTRAL, AND TEMPORAL ACCURACY CANNOT BE GUARANTEED. TELEDYNE RESERVES THE RIGHT, AT ITS SOLE DISCRETION, TO MODIFY CERTAIN IMAGE CHARACTERISTICS OF THE DESIS DATA INCLUDING, BUT NOT LIMITED TO, WATERMARKING AND DIMENSIONS.

# **LIMITATION OF LIABILITY:**

IN NO EVENT WILL TELEDYNE OR ITS SUPPLIERS BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR INDIRECT DAMAGES (INCLUDING LOST PROFITS OR LOST DATA) ARISING FROM, OR RELATING TO, THIS END USER LICENSE AGREEMENT OR THE DESIS DATA, EVEN IF TELEDYNE OR ITS SUPPLIERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

# **EXPORT CONTROL:**

The Parties will comply with all applicable laws, rules and regulations, including but not limited to exporcontrol regulations.	t