

STANDARD LICENCE

NON-EXCLUSIVE LICENCE TO USE SPOT SATELLITE PRODUCT

This EULA is entered into by and between the AIRBUS DS and the New South Wales Government (hereafter referred to as the "NSW Government") on 26 May 2020.

This EULA supersedes entirely the EULA entered into by and between AIRBUS DS and NSW Government on 19 June 2019.

The NSW Government accepts and agrees to be bound by the terms of this End-User Licence Agreement ("EULA") by doing any of the following: (a) accepting, in whole or in part, a quotation for the supply of a PRODUCT; (b) breaking the seal on the package containing a PRODUCT; (c) downloading or installing or manipulating a PRODUCT on any computer; (d) paying in whole or in part for a PRODUCT; (e) making available any DERIVATIVE WORKS; (f) damaging or destroying a PRODUCT; (g) retaining the PRODUCT for more than seven (7) days following receipt thereof.

ARTICLE 1 - DEFINITIONS

"AFFILIATED END-USER": means government agency (including New South Wales Government departments, agencies and statutory authorities) engaged in a Joint Project with the END-USER, as listed in the Government Sector Employment Act accessible via the following link <https://legislation.nsw.gov.au/#/view/act/2013>

"DERIVATIVE WORKS": means any derivative product or information developed by the END-USER from the PRODUCT, which does not contain any imagery data from the PRODUCT and is irreversible and uncoupled from the source imagery data of the PRODUCT. Notwithstanding the foregoing, by express exception, any Digital Elevation Model or Digital Terrain Model (in any form whatsoever, i.e. database for instance) derived from a PRODUCT shall never be considered as DERIVATIVE WORKS.

"END-USER": means the New South Wales Government, represented by the Department of Customer Service, located at 2/24 Rawson Pl, Haymarket NSW 2000, Australia, which is supplied with the PRODUCT and accepts the terms of the EULA.

"EXTRACT": means an extract of a PRODUCT or VAP which may consist of:

- (i) an extract of 1024 x 1024 pixels maximum; or
- (ii) if supplied with the PRODUCT (preview file) by Airbus DS, the sub-sample (ratio 32 toward original PAN (8 toward original XS)) of the original image of the PRODUCT.

"NSW GOVERNMENT INTERNET WEBSITES": means portals and web services published and owned by the NSW Government

"PRODUCT": means either

- (i) the SPOT satellite(s) product(s) or
- (ii) in the context of the article 2.1 (h) of the EULA only, the VAP developed from the mosaic created by Geospatial Intelligence from (i) above and the VAP developed by the END-USER and the AFFILIATED END-USER

"VAP": means any product developed by the END-USER, which contains imagery data from the PRODUCT, and resulting in a significant modification of the PRODUCT, through technical manipulations and/or addition of other data. Notwithstanding the foregoing, by express exception, any Digital Elevation Model or Digital Terrain Model derived from a PRODUCT shall always be considered as a VAP.

ARTICLE 2 - LICENCE

2.1 Permitted Uses

The END-USER is hereby granted by Airbus DS a limited, non-exclusive, non-transferable, licence:

- (a) to make an unlimited number of copies of the PRODUCT for the Permitted Uses specified in this Article 2.1;
- (b) to install the PRODUCT on as many individual computers as needed in its premises, including internal computer network (with the express exclusion of the Internet, except as provided under paragraph (g) below) for the Permitted Uses specified in this Article 2.1;
- (c) to use the PRODUCT for its own internal needs;
- (d) to alter or modify the PRODUCT to produce VAP and/or DERIVATIVE WORKS;
- (e) to use any VAP for its own internal needs;

- (f) to make the PRODUCT and/or any VAP available to contractors and consultants, only for use on behalf of the END-USER, subject to such contractors and consultants agreeing in writing, in advance, (I) to be bound by the same limitations on use as applicable to the END-USER, and (II) to return the PRODUCT and VAP to END-USER, and to keep no copy thereof, upon completion of the contracting or consulting engagement. By express exception, 3D PRODUCT and related VAP provided by Airbus DS shall not be made available to any third party without Airbus DS' prior written consent;
- (g) to print one EXTRACT, and to distribute such print for promotion purposes only. Such print shall include the credits as stand for in 3.4 conspicuously displayed;
- (h) to embed the PRODUCT on the NSW INTERNET WEBSITE only, in an Internet-compatible image format (without associated metadata), with the credit mentioned in 3.4 conspicuously displayed and written in full, in order to allow the users of the web map services to visualize the PRODUCT without possibility to download it;
- (i) to freely use and distribute DERIVATIVE WORKS; and
- (j) to share the PRODUCT and/or any VAP with AFFILIATED END-USERS in the framework of a Joint Project, subject to the following cumulative conditions:
 - the END-USER shall have detailed in the order form accepted by Airbus DS:
 - the name, legal structure, site address of each AFFILIATED END-USER;
 - the details of the Joint Project in which the END-USER and the AFFILIATED END-USERS are cooperating and for which the PRODUCT is ordered;
 - the END-USER shall sign with each AFFILIATED END-USER an agreement under which:
 - Each AFFILIATED END-USER may be granted the rights provided under paragraph a) to h) above;
 - the terms and conditions of such agreement shall in no event be less protective to Airbus DS and its licensor's respective rights than the provisions of this EULA; and
 - the END-USER shall guarantee that each AFFILIATED END-USER complies with the provisions and restrictions provided in the present EULA, and shall indemnify and hold Airbus DS harmless in connection thereto.

All rights not expressly granted by Airbus DS under the present Article 2.1 are hereby retained by Airbus DS.

2.2 Prohibited Uses

Subject to Article 2.1 the END-USER recognizes and agrees that the PRODUCT is and shall remain the property of Airbus DS and/or its licensor, and contains proprietary information of Airbus DS and thus is provided to the END-USER on a confidential basis.

The END-USER shall not, and shall guarantee that any contractor or consultant engaged as per the provisions of Article 2.1(f) or any AFFILIATED END-USER does not:

- (a) sell, rent or lease any PRODUCT or VAP;
- (b) alter or remove any copyright notice or proprietary legend contained in or on the PRODUCT;
- (c) use a PRODUCT or an EXTRACT in the framework of competitive analysis (such as benchmarking); or
- (d) do anything not expressly permitted under Article 2.1.

ARTICLE 3 – INTELLECTUAL PROPERTY RIGHTS

3.1 The data contained in the PRODUCT are the property of:

- Centre National d'Études Spatiales (CNES) for SPOT 1 to 5 satellites imagery data;
- Airbus DS for SPOT 6 and 7 satellites imagery data.

3.2 The PRODUCT is protected by French and international copyright laws.

3.3 In addition, the PRODUCT and the satellite imagery data contained therein are protected by articles L 341-1 to 343-7 of the French Code of Intellectual Property Law as amended by the statute of 1 July 1998, relative to database copyright and to similar statutes in European countries that have incorporated EU Directive n° 96/9 of 11 March 1996 on database copyright into their laws.

3.4 The PRODUCT, VAP and/or EXTRACT, when displayed and/or printed in accordance with the Permitted Uses specified in Article 2.1 shall include the Airbus DS logo and the following credit conspicuously displayed:

- For SPOT 1 to 5 imagery data: "© CNES (year of acquisition), Distribution Airbus DS / Spot Image"
- For SPOT 6 and 7 imagery data: "© Airbus DS/Spot Image (year of acquisition)"

ARTICLE 4 – WARRANTY - LIABILITY

4.1 Airbus DS warrants that it has sufficient ownership rights in the PRODUCT to make the PRODUCT available to the END-USER under the terms hereof.

4.2 The PRODUCT is complex; Airbus DS does not warrant that the PRODUCT is free of bugs, errors, defects or omissions, and that operation of the PRODUCT will be error-free or uninterrupted nor that all non-conformities will or

can be corrected. It does not warrant that the PRODUCT shall meet the END-USER's requirements or expectations, or shall be fit for the END-USER's intended purposes. There are no express or implied warranties of fitness or merchantability given in connection with the sale or use of this PRODUCT. Airbus DS disclaims all other warranties or liabilities not expressly provided in Articles 4.1 and 4.2.

In case the PRODUCT delivered directly by Airbus DS is substantially different from the applicable technical specifications of the PRODUCT ordered or from the ordered area of interest or if the medium on which the PRODUCT is supplied by Airbus DS to the END-USER is defective, as demonstrated by the END-USER and accepted by Airbus DS, Airbus DS shall, at its sole discretion and subject to prior return of the PRODUCT and all copies thereof to Airbus DS, either replace the concerned PRODUCT or refund the price paid by the END-USER for the PRODUCT. Any such claim shall be notified to Airbus DS within seven (7) calendar days after delivery of the PRODUCT by Airbus DS. After this period, the PRODUCT shall be considered as being compliant with the specifications and unconditionally and irrevocably accepted by the END-USER.

- 4.3** In no event shall Airbus DS, nor anybody having contributed to the development and/or production and/or delivery of the PRODUCT, be liable for any claim, damage or loss incurred by the END-USER and AFFILIATED END-USERS, including without limitation indirect, compensatory, consequential, incidental, special, incorporeal or exemplary damages arising out of the use of, or inability to use, the PRODUCT and shall not be subject to legal action in this respect.

The financial cumulative liability of Airbus DS and of anybody having contributed to the development and/or production and/or delivery of the PRODUCT shall not in any case exceed the price paid by the END-USER to Airbus DS for the PRODUCT from which such loss or damage directly arose.

ARTICLE 5 – MISCELLANEOUS

- 5.1** Subject to the rights of termination under this EULA this EULA shall run in perpetuity. In addition to all other remedies to which it may be entitled under this EULA, or at law, this EULA may be terminated immediately by notice in writing if the END-USER or any AFFILIATED END-USER breaches any provision of this EULA. The END-USER shall have no claim to any kind of refund in this case. Upon termination, the END-USER shall return to Airbus DS all the PRODUCT and VAP.

- 5.2** The END-USER shall not transfer part or all of this EULA unless it has obtained Airbus DS' prior written consent.

- 5.3** In the event that any provision of this EULA is declared invalid or unenforceable, the remaining provisions hereof shall be applicable.

- 5.4** This EULA shall be governed by the laws of Australian Capital Territory, Australia. The parties submit to the non-exclusive jurisdiction of the Courts of the Australian Capital Territory and of the Federal Court of Australia for any and all disputes, claims and actions arising from or in connection with the PRODUCT provided under this EULA.

(Date)

(Name of the representative of the END USER)

(Title of the representative of the END USER)

(Name of the organization of the END USER)

(Signature of the representative of the END USER)