

ANNEXE 2
MARCHE CNES N° /00
LICENSE AGREEMENT
to use SPOT4/TAKE 5 Data Products

On the one part,

The Centre National d'Etudes Spatiales, hereafter referred to as the CNES, the French Space Agency, a public, scientific and technical institution, set up by Act of Parliament of December 19th 1961, and governed under article L 331-1 to 8 of the French Code of Research, having its main office 2, Place Maurice Quentin 75039 PARIS CEDEX 01, France, represented by its President, Mr Jean-Yves LE GALL, acting in the name of and on behalf of the CNES,

On the other part,

XXXXX

The LICENSEE

Individually hereinafter referred to as CNES or the LICENSEE and collectively as the "Parties"

Preamble

Within the framework of SPOT4 /TAKE 5 PROJECT, CNES grants to the Licensee, some rights to use SPOT4/TAKE 5 products, in order to prepare new observation systems providing time series of optical images with high revisit, such as Sentinel2 or Landsat Data Continuity mission...

Spot Image S.A. (hereinafter referred to as “Astrium GEO-Information Services”, produces and distributes the level 1A products to:

- CNES,
- And SPOT4/TAKE 5 project partners, on the name and behalf for CNES.

CNES produces the ORTHO products and distributes both the level 1A and ORTHO products to each user working in the frame of SPOT4/ TAKE 5 project.

ARTICLE 1 - DEFINITION

“**SPOT4/TAKE 5 Project**” means any research, study, analysis, works made on SPOT4 images acquired during 1/02/2013 and 30/06/2013, prior to its disorbitation, in order to prepare the use of new observation system with high revisit, such as Sentinel2 or Landsat Data Continuity mission.

“**DERIVATIVE WORK**” means any derivative product or information developed from a **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**.

“**PRODUCT**” means the SPOT4 /TAKE 5 products delivered in the context of the SPOT4/TAKE 5 Project:

- Either level 1A product made by Astrium GEO-Information Services and delivered to CNES or its SPOT4/TAKE 5 Project partners,
- Or “**ORTHO product**” generated by CNES from the level 1A product.

“VALUE-ADDED PRODUCT” OR **“VAP”** means any product which contains imagery data from a **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 – USES RIGHTS

2.1 RITHTS OF THE USERS

2.1.1. Permitted Uses

The **LICENSEE** is hereby granted by CNES a limited, non-exclusive, non-transferable, license with the rights to:

- Download the **PRODUCT**.
- Use the **PRODUCT**, including the right to modify this **PRODUCT** in order to produce VAP and/ or **DERIVATIVE WORKS**, exclusively in the frame of SPOT4/TAKE 5 Project.
- To provide to any third party, the **PRODUCT** and VAP, on condition that it's in the framework of SPOT4/TAKE 5 Project, and on that the Licensee commits itself to sign a sub license including the same conditions, with this third party.
- Post one extract of the content of the **PRODUCT** on a website, in an internet-compatible image format, with the credit conspicuously displayed written in full (see article 4 for copyright) “Commercial Use of the **PRODUCT** Prohibited” written in full. The posting of the **PRODUCT** shall not permit the downloading of such extract.

2.1.2 Prohibited Uses

Except as expressly provided in Article 2.1, the **LICENSEE** shall not distribute, transfer and/or display online, free of charge any **PRODUCT**, VAP out of the SPOT4/TAKE 5 Project

The **LICENSEE** shall not sell, lease, in return of payment, any **PRODUCT** and VAP.

2.2. RIGHTS OF CNES

Information about use of the data and results, and a copy of each publication resulting from the use of the data, shall be provided to CNES. CNES shall have the right to quote freely these results.

ARTICLE 3 – DURATION

This **License Agreement** is effective once the **LICENSEE** uses the **PRODUCTS** and/ or **DERIVATIVE WORK** and/ or **VALUE ADDED PRODUCT** and shall run for a duration of 10 years after the end of the SPOT4/ TAKE 5 Project.

ARTICLE 4 – INTELLECTUAL PROPERTY RIGHTS

4.1. The SPOT4 satellite data contained in the **PRODUCTS** are the property of Centre National d’Etudes Spatiales (CNES), France.

The **PRODUCT** is the property of CNES. It is protected by French and international copyright laws. In addition, and the satellite imagery data contained therein are protected by articles L 341-1 to 343-4 of the French Code of Intellectual Property as amended by the statute of 1 July 1998, related 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.

4.2. The origin of the **PRODUCT** shall be conspicuously displayed in all publication using the SPOT4/TAKE 5 data and/or all media/documents reproducing results obtained from the SPOT4/TAKE 5 data. In that respect, the following credit shall be written in full: “© CNES 2013, all rights reserved. Commercial Use of the **PRODUCT** Prohibited”. In addition, any VAP shall be associated with the following credit: “includes material © CNES 2013, all rights reserved. Commercial Use Prohibited”.

The **LICENSEE**, proprietary of **DERIVATIVE WORKS** and VAP shall endeavour to mention that such **DERIVATIVE WORKS** and VAP have been produced from SPOT4/Take 5 data.

ARTICLE 5 – WARRANTY - LIABILITY

5.1. CNES warrants that it has sufficient ownership rights to make the **PRODUCTS** available to the **USER** under the terms thereof.

CNES doesn’t 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 **USER’s** requirements or expectations, or shall be fit for the **LICENSEE’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**.

5.2 Astrium GEO-Information Services doesn't warrant that the level 1A product is free of bugs, errors, defects or omissions, and that operation of the level 1A product will be error free or uninterrupted nor that all non-conformities will or can be corrected. It does not warrant that the level 1A product shall meet the USER's requirements or expectations, or shall be fit for the LICENSEE's intended purposes. There are no express or implied warranties of fitness or merchantability given in connection with the sale or use of this the level 1A product.

5.3 In no event shall CNES, nor anybody having contributed to development and/or production and/or delivery of the PRODUCT, especially Astrium GEO-Information Services, be liable for any claim, damage or loss incurred by the LICENSEE, 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.

ARTICLE 6 – MISCELLANEOUS

6.1 CNES may, in addition to all other remedies to which it may be entitled under this license or at law, terminate immediately this license by 15 days prior notice in writing if the USER or breaches any provision of this license.

6.2 The LICENSEE shall have no claim to any kind of refund in this case.

6.3 The LICENSEE shall not transfer part or all of this license unless it has obtained CNES' prior written consent.

6.4 The License is established in English and is governed by French law
If any dispute should arise, litigation shall be referred to the competent French court.