

Annexe 3 :
Droits d'utilisation des produits
fournis dans le cadre du présent marché

A. END USER LICENSE AGREEMENT FOR COSMO-SKYMED PRODUCTS

This "End User License Agreement (EULA) for COSMO-SkyMed Products" or "COSMO-SkyMed EULA" or "License" shall apply to all COSMO-SkyMed Product/s.

COSMO-SkyMed Product/s, object of this COSMO-SkyMed EULA, are property of the Government of the Italian Republic. According to Art. 2 of the Ministerial decree n. 32 dated 1 December 2006, the Italian Space Agency ("ASI") is the holder of the intellectual property rights in the COSMO-SkyMed data obtained in the framework of its programming of the Cosmo-SkyMed satellites, and therefore in the Product/s.

The Product/s is protected by the Italian and International copyright laws, and also the raw data acquired by the satellite or stored in the archives are protected by the laws governing the protection of databases, according to the EU directive 96/9 dated 11 March 1996 and to D. lgs. May, 6 1999, n. 169.

1. Definitions

Affiliated User/s: The natural or legal persons sharing the use of the Product/s with the Licensee/s, as authorized in writing by e-GEOS, in the context of a Joint Project.

COSMO-SkyMed System or System: The Satellite System or Space Segment and the Ground Segment of the X-Band radar satellites of the COSMO-SkyMed Constellation.

Derivative Product/s: A product generated from Standard or High Level or Protected Product/s by any method which significantly and irreversibly modifies the original Product/s so that the initial characteristics of the original Product/s are no longer identifiable either in whole or in part.

Internal Use: The use of the Product/s for the internal purpose of Licensee/s. It does not include any right to, disclose, sell, assign, lease, sublicense, distribute or transfer the Product/s, or Protected Product/s, or any part thereof, or to use the same in any manner or for any purpose not expressly authorized by this COSMO-SkyMed EULA.

Joint Project: The specific project to be jointly carried out by the Licensee/s and the Affiliated User/s.

Joint Use: The use of the Product/s for a specific Joint Project for which the Licensee/s is authorized in writing by e-GEOS to share the Product/s with other Affiliated User/s.

License or COSMO-SkyMed EULA: A limited, non-transferable, non-exclusive, License to use the Product/s and to develop Protected Product/s for Licensee/s internal use only.

Licensee/s or End User or User: The natural or legal person accepting the terms and conditions of this COSMO-SkyMed EULA and entitled to use the Product/s for its own Internal Use. The Licensee/s can be Single User or Multiple Users. In case of Multiple Users, a COSMO-SkyMed Multiple EULA is required.

Multiple License or COSMO-SkyMed Multiple EULA: A limited, non-transferable, non-exclusive, License to use the Product/s and to develop Protected Product/s for more than one Licensee or Multiple Users internal business only.

Product/s: the COSMO-SkyMed Standard or Higher level product, provided by e-GEOS to the Licensee/s under the terms and conditions of the present COSMO-SkyMed EULA.

Protected Product/s: Product/s generated from Standard or High Level Product/s in which the initial characteristics of the original Product/s are still identifiable in whole or in part. Copies of Protected Product/s and/or part of them in whatever form are Protected Product/s. A few not exhaustive examples are: fused imagery Product/s, orthorectified Product/s, enhanced image Product/s including any histogram manipulation, analogue Product/s (hardcopy/printed), displaying map-based Product/s. Distribution of Protected Products to third parties requires an ad-hoc authorization from e-GEOS and an additional COSMO-SkyMed EULA for the third party.

2. Object

2.1 e-GEOS grants to the Licensee/s a limited, non-transferable, non-exclusive, License to use the Product/s and to develop Protected Product/s for Licensee/s Internal Use.

2.2 The present COSMO-SkyMed EULA confers rights solely to the Licensee/s and not to any shareholders or controlling entities or consortia of which the Licensee/s is a party to.

2.3 The Licensee/s may involve in the use of the Product/s its employees, consultants or contractors only for the purposes of the Internal Use of the Licensee/s, upon written authorization by e-GEOS. Those employees, consultants or contractors are required to accept in writing the terms and conditions of the COSMO-SkyMed EULA and undertake to use the Product/s accordingly. Such employees, consultants or contractors assume no rights in the Product/s and in particular are not allowed to use the Product/s for their own purposes or to keep copies of it. They are further required to return the Product/s on completion of the activities for which the Product/s is provided.

3. Duration – Withdrawal - Termination

3.1 The present COSMO-SkyMed EULA shall be effective upon delivery of the Product/s and runs for an unlimited duration of time.

3.2 The Licensee/s may terminate at any time the present COSMO-SkyMed EULA upon 30 days prior written notice, with respect to the date of termination, to e-GEOS by registered mail,.

3.3 e-GEOS reserves the right to terminate the present COSMO-SkyMed EULA upon 15 days prior notice in writing under the following circumstances:

a) Violation of the terms and conditions of the present COSMO-SkyMed EULA.

b) The Licensee/s goes into bankruptcy or insolvency, or makes an assignment for the benefit of creditors, or goes out of business.

c) Violation of any applicable laws and regulations.

3.4 e-GEOS reserves the right to terminate the present COSMO-SkyMed EULA in the case of violation of the terms and condition of the COSMO-SkyMed EULA by any Affiliated User/s. **3.5** In the cases specified in paragraphs 3.2, 3.3 and 3.4 above, the Licensee/s and any Affiliated User/s are not entitled to further use the Product/s and/or Protected Product/s In such case Licensee/s and any Affiliated User/s shall make its best effort to return or destroy the Product/s, any parts of it, copies and relative documentation;

4. Permitted Use

4.1 The Licensee/s is authorized to copy the Product/s to new digital media, or to install it on its computers for back-up purposes.

4.2 The Product/s may be processed using also information from outside the COSMO-SkyMed System in order to elaborate Derivative Product/s.

4.3 The Licensee/s may be authorized in writing by e-GEOS to share the Product/s with Affiliated User/s, when this is necessary to carry out a Joint Project, under the following conditions:

a) Characteristics and duration of the Joint Project are indicated in the Product/s order;

b) Details of the Affiliated User/s are made available to e-GEOS at the time of ordering;

c) Each Affiliated User/s accepts in writing and in advance the terms and conditions of the present COSMO-SkyMed EULA.

d) The Affiliated Users acknowledge that they retain no rights of use of the Product/s beyond those necessary for carrying out the Joint Project. At the end of the Joint Project, the Affiliated User/s are required to promptly return or destroy the Product/s according to the instructions given by e-GEOS.

5. Prohibited use

5.1 Any use other than those specified in articles 2 and 4 above is prohibited, unless expressly authorized in writing by e-GEOS.

5.2 e-GEOS and ASI reserve all rights in the Product/s not specifically granted by the present COSMO-SkyMed EULA.

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6. Intellectual Property Rights

6.1 The Licensee/s recognizes the intellectual property rights of ASI in the Product/s and Protected Product/s and undertakes to reproduce the copyright notice as follows: "COSMO-SkyMed Product – © ASI [year of acquisition] processed under license from ASI – Agenzia Spaziale Italiana. All rights reserved. Distributed by e-GEOS".

6.2 It is prohibited to alter, modify or delete the copyright notice attesting ASI's intellectual property rights ownership in the Product/s, as well as any associated trademarks

6.3 The Licensee undertakes to comply with ASI's intellectual property rights in the Product/s and undertakes to refer promptly and in writing to e-GEOS any of unlawful use, including those by third parties, of this Product/s and/or Protected Product/s processed under the terms this COSMO-SkyMed EULA. Licensee/s also undertakes to use all his/her best efforts and to take all adequate measures to prevent the infringement of ASI intellectual property rights by any third parties.

6.4 ASI's title to intellectual property rights in the Product/s does not preclude recognition of joint and/or distinct copyrights of the Licensee/s on a Derivative Product/s in case Licensee/s mention the original Product/s as source for the production of Derivative Product/s. In such case ASI requires full acknowledgment of ASI's rights in the original Product/s.

7. Guarantee and Limitation of Liability

7.1 If a Product is defective, e-GEOS guarantee is limited to the replacement of the Product/s, if available, or with a refund of the fee paid by the Licensee/s.

7.2 Any claim regarding defects in the Product/s must be submitted to e-GEOS by fax or registered post within 15 working days of the date the Product/s was delivered by e-GEOS to the Licensee/s, after which time e-GEOS will not accept any complaint.

7.3 e-GEOS and ASI are not responsible for the accuracy and/or suitability of the Product/s for any intended use by the Licensee/s.

7.4 e-GEOS and ASI accept no responsibility/nor liability for any damage, direct or indirect, suffered by the Licensee/s, caused by the Product/s, or connected to the use or non-use of the Product/s.

7.5 In case contractual responsibilities of e-GEOS to the Licensee/s are anyway found to be applied, the liability of e-GEOS shall be limited to the amount of the price for the Product/s paid by the Licensee/s.

8. Force Majeure

8.1 e-GEOS is not responsible for any delays and/or inadequacies in obligations foreseen by the present COSMO-SkyMed EULA due to force majeure, such as System malfunctions, natural events, strikes, etc.

8.2 The Licensee/s acknowledges and agrees that the competent Italian security governmental authorities may at any time prevent the reception and/or distribution of the Product/s. The Licensee/s therefore expressly accepts that delivery of the Product/s, may be prevented, without any liability of ASI and/or e-GEOS.

9. Miscellaneous

9.1 The present COSMO-SkyMed EULA replace any preceding agreement, understanding or negotiation between the Parties concerning the subject of this COSMO-SkyMed EULA.

9.2 This COSMO-SkyMed EULA may only be amended by written agreement of both Parties.

9.3 Each Party undertakes to treat in confidence and in accordance with applicable law any information received from the other Party. The Licensee/s accepts that information provided to e-GEOS may be transmitted to ASI, which undertakes to treat it in confidence.

9.4 This COSMO-SkyMed EULA shall be governed by Italian Law.

9.5 Any controversy or claim between the Parties hereto arising out of or in connection with this License that will not be settled amicably and in good faith by the Parties, shall be referred to the courts of Rome, Italy.