

WorldDEM™-Streaming Service END USER LICENSE AGREEMENT

This EULA is entered into by and between

between Airbus Defence and Space GmbH

a company duly organized and existing under the laws of Germany, registered at District Court of Munich under number HRB107648, having its registered office located at Ottobrunn and having a place of business at Claude-Dornier Str., 88090 Immenstaad

hereinafter referred to as **Airbus DS**

and **END-USER**

This EULA is entered into by and between the END-USER and Airbus DS by the terms of this End-User License Agreement ("EULA") by doing any of the following:

- (a) accepting, in whole or in part, a QUOTATION made by AIRBUS DS under reference to this EULA for the grant of an access to the PRODUCT and its use within the WorldDEM™ Streaming Service;
- (b) activating the user account on the AIRBUS DS PLATFORM by means of the received service credentials.

The acceptance by the END-USER of this EULA is the condition upon which Airbus DS will make the PRODUCT available to the END-USER for the purchased data volume. The END-USER of the PRODUCT guarantees that the PRODUCT is used in strict compliance with the terms hereof.

ARTICLE 1 - DEFINITIONS

"AIRBUS DS": means Airbus Defence and Space GmbH, a company duly organised and existing under the laws of Germany, registered at District Court of Munich under number HRB107648, having its registered office located at Ottobrunn and having a place of business at Claude-Dornier Str., 88090 Immenstaad, and/or its successors.

"DERIVATIVE WORKS": means any product or information developed by END-USER from the PRODUCT within the END-USER GIS which does not contain any height information from the PRODUCT and is irreversible and uncoupled from the source PRODUCT and in which the PRODUCT origin is not recognizable (e.g., PRODUCT-based 2D cached basemaps of hillshade tiles). Notwithstanding the foregoing, by express exception any Digital Elevation Model (DEM) or Digital Terrain Model derived from the PRODUCT (in any form whatsoever, i.e. database for instance) shall never be considered as DERIVATIVE WORKS.

"END-USER": means the user acting in his own name or the legal commercial business entity or public authority (e.g. civil agency, public department), registered for AIRBUS DS PLATFORM and having been granted access rights.

If the product is supplied to a public authority, the END-USER shall be deemed to be only such part of the public authority as located at the address given in the registration.

“END-USER GIS”: means a geographic information system (GIS) such as but not limited to, for instance, Esri ArcGIS etc. used by END-USER and linking to the PLATFORM allowing the END-USER to perform 2D/3D analytics (geo-information services such as analyzing/processing digital elevation information to generate value added information, e.g. line-of-sight analysis, run-off modelling, orthorectification) and 2D/3D rendering for 2D visualization (generating an image/visual representation of a digital elevation model, e.g. colored raster image, shaded relief, contour lines map) by using the PRODUCT.

“EULA”: means this document that sets out the terms and conditions of use of the purchased PRODUCT by the END-USER.

“PLATFORM”: means the Airbus DS server to which the END-USER has been granted access as user by means of the received service credentials.

“PRODUCT”: means WorldDEM™ – the edited digital surface model (DSM) including editing of terrain features & water bodies – and WorldDEM4Ortho – the automatically generated digital elevation model optimized for the orthorectification of high-resolution (HR) and very high resolution (VHR) optical satellite imagery – both derived from the TanDEM-X Mission data and distributed by Airbus DS, as ordered by the END-USER for streaming via Web Map Title Service (WMTS) and/or Web Coverage Service (WCS).

“QUOTATION”: means the binding commercial and technical offer including details such as but not limited to price, payment, subscription package and product specifications submitted by Airbus to the End-User to which this EULA is integral part of and accepted by END-USER.

“VALUE ADDED PRODUCT (“VAP”): means any product developed by END-USER, which contains height information from the PRODUCT, and resulting in a 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.

“WCS”: means Web Coverage Service

“WMTS”: means Web Map Tile Service

“WorldDEM™”: means the edited digital surface model (DSM) incl. editing of terrain features and water bodies. Data resources used to enhance licensed data material (void filling) are listed in Annex A.

“WorldDEM4Ortho”: means the automatically generated digital elevation model optimized for the orthorectification of high-resolution (HR) and very high resolution (VHR) optical satellite imagery. Data resources used to enhance licensed data material (void filling) are listed in Annex A.

ARTICLE 2: LICENSE

2.1 Permitted Uses:

Under the terms and conditions of this EULA, Airbus DS grants to END-USER a limited, non-exclusive, non-sublicensable, non-transferable license to use the PRODUCT for END-USER's own internal needs on the END-USER GIS linking to the PLATFORM.

To that respect the END-USER is granted the right

- a) To use the PRODUCT during the subscription period as stipulated in the QUOTATION to produce VAP and/or DERIVATIVE WORKS inside the END-USER GIS. For the avoidance of doubt: neither the PRODUCT nor VAPs will at any time be made available, physically transferred or otherwise made accessible outside the END-USER GIS;
- b) to use the WorldDEM4Ortho for the sole purpose of orthorectification of satellite imagery;
- c) to temporarily cache snippets up to 4096x4096 pixels for the sole purpose of performing actual 2D/3D analytics and 2D/3D rendering provided that the temporary cache is cleared after a session (logging out of the END-USER GIS);
- d) to use VAP in END-USER GIS solely during the subscription period as stipulated in the QUOTATION. For the sake of clarity: no permanent saving of VAP is allowed;
- e) to publish the PRODUCT, VAP, and/or DERIVATIVE WORKS as hardcopy prints/media, digital screen captures, and in presentations pursuant to the use and attribution terms of the EULA and provided that the END-USER visually affixes the credit as indicated in Article 3.3 below; and
- f) to freely use and distribute DERIVATIVE WORKS produced inside the END-USER GIS.

All rights not expressly granted in this EULA are hereby retained by Airbus DS.

2.2 Prohibited Uses:

As far as not expressly permitted under article 2.1, and except to the extent that applicable law prohibits or overrides these restrictions the END-USER shall not:

- a) reverse engineer, decompile or disassemble the PRODUCT;
- b) download the PRODUCT and/or VAP in excess to the temporary download in the cache as permitted above in 2.1.c);
- c) allow the downloading, including any type of physical data download of the PRODUCT and/or VAP by any third party;
- d) provide third parties access to the PRODUCT, VAP or PLATFORM;
- e) post the PRODUCT and/or VAP for any other purpose than END-USER business promotion as browsable image or equivalent (without containing any elevation/ height information) to Internet web sites without notifying Airbus DS of the URL that will be used and without END-USER conspicuously marking the copyright as indicated in Article 3.3 below;
- f) sublicense, disseminate, sell, rent, lease, lend, time-share or assign the PRODUCT, or parts thereof and/or VAP to a third party;

- g) use the PRODUCT in the context of competitive analysis of other data (e.g. for benchmarking for commercial purposes);
- h) remove, alter or obscure any Airbus DS or its licensor's patent, copyright, trademark, proprietary rights notices and or legends contained in or affixed to any PRODUCT, and/or any VAP, metafile data, etc.;
- i) do anything not expressly permitted in this EULA.

ARTICLE 3: INTELLECTUAL PROPERTY RIGHTS

3.1 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 END-USER on a confidential basis and under the terms and conditions of this EULA.

The satellite data, except those listed in Annex 1, contained in the PRODUCT is the property of the Deutsche Zentrum für Luft- und Raumfahrt e. V. (DLR) and is protected in accordance with the copyright laws of Germany and applicable international laws.

The PRODUCT is produced by Airbus DS and is protected in accordance with the copyright laws of Germany and applicable international laws.

3.2 END-USER shall not be allowed to use the Airbus DS trademarks or logos except with the prior written consent of Airbus DS.

3.3 The PRODUCT and/or VAP, when displayed in accordance with the Permitted Uses specified in Article 2.1 e) shall visually affix the following credit written in full:

- For WorldDEM, WorldDEM4Ortho, and/or VAP:
Copyright attribution notice: "© DLR e.V. ____ (year of acquisition) and © Airbus Defence and Space GmbH ____ (year of production)."
Source attribution notice: "Source: Airbus Defence and Space GmbH"

ARTICLE 4: END-USER OBLIGATIONS

4.1 END-USER recognizes and agrees that the PRODUCT is subject to the "Satellitendatensicherheitsgesetz (SatDSiG)" (German Satellite Data Security Act). END-USER shall comply with such regulations and shall supply all information necessary to Airbus DS to that respect.

4.2 END-USER will implement commercially reasonable, modern tools and/or safeguard measures to be able to do the following:

- a) Identify the origin of Platform user (user account/credential and/or IP address).
- b) Prevent third parties from using the END-USER account
- c) Prevent third parties from harvesting DEM data from the PRODUCT or VAP.
- d) Prevent third-parties from reconstructing the PRODUCT or VAP to create a DEM.

ARTICLE 5: LIMITATION OF LIABILITY

5.1 In cases of gross negligence and willful intent Airbus will be liable according applicable law.

5.2 In cases of slight negligence – with the exception of cases of injury to life, body or health – Airbus shall be liable only insofar as essential contractual obligations, basic and fundamental duties and obligations resulting from the contractual relationship which are of particular importance for the proper fulfilment of the EULA, are infringed and such liability shall be limited to typical and foreseeable damages in connection with this EULA.

5.3 In cases of Article 5.2 any liability for indirect, consequential, incidental and /or intangible or unforeseeable damages, such as but not limited to loss of business, loss of production, operating losses, missed deadlines, loss of data or information, loss of profit, stand-by cost, recovery cost, lost savings and economic loss due to a third party claim etc., are hereby excluded.

5.4 In cases of Article 5.2 the overall cumulative liability of Airbus and its licensors shall not exceed the price paid by the END-USER to Airbus for the PRODUCT from which such loss or damage directly arose.

5.5 For any transactions performed through the PLATFORM, AIRBUS DS shall not be liable for any dysfunction in the END-USER'S Internet connection, dysfunction of the END-USER's equipment or END-USER GIS, or for the incorrect selection by the END-USER of the area of interest.

5.6 Any further reaching liability than provided in these terms and conditions shall – regardless of the legal basis of such claim – be excluded.

5.7 In so far as the liability of Airbus is excluded or limited pursuant to Articles 5.2, to 5.6 hereof this shall also apply to the personal liability of any employee, representative, assistant, agent and any other person engaged in the performance of Airbus obligations.

ARTICLE 6: TERM and TERMINATION

6.1 This EULA and the rights granted herein expire at the end date of the subscription period as stipulated in the QUOTATION, if not terminated earlier.

6.2 Airbus may, in addition to all other remedies to which it may be entitled under this EULA or at law, terminate immediately this EULA by notice in writing if the END-USER breaches any provision hereof. The END-USER shall have no claim to any kind of refund in this case. Upon termination, the END-USER shall on request of Airbus certify that the PRODUCT and VAP has been completely removed from its systems.

ARTICLE 7: MISCELLANEOUS

7.1. Price:

The PRODUCT is provided to the END-USER for the streaming service package, subscription period and at the price as set forth in the QUOTATION to which this EULA is part of.

7.2 Assignment

The END-USER shall not assign or transfer part or all of this EULA unless he has obtained written consent from AIRBUS DS.

AIRBUS DS may, without consent, assign this EULA as a result of a merger or a sale of all or substantially all of the assets or stock of that Party to a parent, subsidiary or affiliate as part of any internal reorganization provided that such party assumes in writing the terms and conditions of this EULA.

7.3 Changes:

Any change of this EULA must be made in writing.

7.4 Severability:

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

7.5 Applicable Law:

This EULA shall be governed by the laws of the Germany, except for the provisions of the Uniform Law on the International Sale of Goods and the Uniform Law on the Formation of Contracts for the International Sale of Goods. The exclusive place of jurisdiction for all disputes shall be Munich.

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Annex 1:

The following data resources have been used to enhance data material (gap filling) of the WorldDEM™:

- ASTER Global Digital Elevation Map retrieved from <https://asterweb.jpl.nasa.gov/gdem.asp>, NASA/METI/AIST/Japan Space Systems, and U.S./Japan ASTER Science Team
- STRM Digital Elevation Data retrieved from <http://earthexplorer.usgs.gov/> and from <http://srtm.csi.cgiar.org/> U.S. Geological Survey, https://lta.cr.usgs.gov/sites/default/files/Data%20Citation_1.pdf
- GMTED2010 Elevation Data retrieved from <http://earthexplorer.usgs.gov/> produced by the U.S. Geological Survey, https://lta.cr.usgs.gov/sites/default/files/Data%20Citation_1.pdf
- NASA LP DAAC, 2013, NASA Shuttle Radar Topography Mission Global 1 arc second, Version 3.0. NASA EOSDIS Land Processes DAAC, 2013 USGS Earth Resources Observation and Science (EROS) Center, Sioux Falls, South Dakota (<https://lpdaac.usgs.gov/>), accessed May 2nd 2017 at <https://doi.org/10.5067/MEaSURES/SRTM/SRTMGL1.003>.
- ALOS World 3D-30m (AW3D30) provided by Japan Aerospace Exploration Agency (JAXA)

The following data resources have been used to enhance data material (gap filling) of the WorldDEM4Ortho:

- ALOS World 3D-30m (AW3D30) provided by Japan Aerospace Exploration Agency (JAXA)
- ASTER Global Digital Elevation Map retrieved from <https://asterweb.jpl.nasa.gov/gdem.asp>, NASA/METI/AIST/Japan Space Systems, and U.S./Japan ASTER Science Team
- NASA LP DAAC, 2013, NASA Shuttle Radar Topography Mission Global 1 arc second, Version 3.0. NASA EOSDIS Land Processes DAAC, 2013 USGS Earth Resources Observation and Science (EROS) Center, Sioux Falls, South Dakota (<https://lpdaac.usgs.gov/>), accessed May 2nd 2017 at <https://doi.org/10.5067/MEaSURES/SRTM/SRTMGL1.003>.
- STRM Digital Elevation Data retrieved from <http://earthexplorer.usgs.gov/> and from <http://srtm.csi.cgiar.org/> U.S. Geological Survey, https://lta.cr.usgs.gov/sites/default/files/Data%20Citation_1.pdf
- For Greenland: Greenland Mapping Project (GIMP) Digital Elevation Model retrieved from <https://www.pgc.umn.edu/guides/user-services/acknowledgement-policy/> Howat, I., A. Negrete, and B. Smith. 2015. MEaSURES Greenland Ice Mapping Project (GIMP) Digital Elevation Model, Version 1. Boulder, Colorado USA. NASA National Snow and Ice Data Center Distributed Active Archive Center. doi: <http://dx.doi.org/10.5067/NV34YUIXLP9W>.
- For Alaska: USGS NED 2 retrieved from <https://www.usgs.gov/information-policies-and-instructions/copyrights-and-credits> U.S. Geological Survey, Department of the Interior/USGS.
- For Canada: Canadian Digital Elevation Data retrieved from <https://www.nrcan.gc.ca/terms-conditions/10847> Natural Resources Canada, <http://open.canada.ca/en/open-government-licence-canada>.

- For Iceland: Free Digital Data retrieved from [http://www.lmi.is/en/stafraen-gogn/National Land Survey of Iceland](http://www.lmi.is/en/stafraen-gogn/National_Land_Survey_of_Iceland), <http://www.lmi.is/wp-content/uploads/2013/10/licenceNLSI.pdf>.
- For Scandinavia and Russia: Free Digital Data retrieved from <http://viewfinderpanoramas.org/index.html> Viewfinder Panoramas, Jonathan de Ferranti, Developed Digital Elevation Models based on data collected by the 2000 Shuttle Radar Topography Mission, retrieved at <http://viewfinderpanoramas.org/dem3.html>
- For Antarctica: Antarctic Mapping Project Digital Elevation Model, retrieved from <https://nsidc.org/data/nsidc-0082>
Liu, H., K. C. Jezek, B. Li, and Z. Zhao. 2015. Radarsat Antarctic Mapping Project Digital Elevation Model, Version 2. [subset used]. Boulder, Colorado USA. NASA National Snow and Ice Data Center Distributed Active Archive Center.

The foregoing list of data sources and hyperlinks is for informational purposes only. END-USER is not bound by any supplemental terms and conditions associated with these data sources or contained at these hyperlinks (e.g. additional attribution requirements, restrictions, prohibitions).