



V1 11/05/11

Terms and Conditions for the Utilisation of ESA's Earth Observation Data

between the
EUROPEAN SPACE AGENCY
and
the Principal Investigator

Project ID:

Issued on:

*As the duly empowered representative of ,
I hereby declare to have read and approved this document "Terms and Conditions for
the utilisation of ESA's EO data" and unconditionally accept that any activity related
to the Project disclosed above shall be governed by the herein contained provisions.*

Name:

Office held:

Date:

Signature:

V11/05/11

General Conditions for the Utilisation of ESA's EO data

I. Definitions

- *ESA* / “*the Agency*” means the European Space Agency.
- *The PI* (Principal Investigator) means the duly empowered representative of the entity having registered for the use of data within his/her project and accepted the Terms and Conditions.
- *Project* means the proposed and ESA-accepted use of data by the PI.
- The ESA Earth Observation data (*ESA's EO data*) means the data generated by the ERS, Envisat and Earth Explorer missions. The ESA EO data can be split into two major groups:
 - a) The *free dataset* including data collections available on-line without any technical or financial constraints attached. The free dataset comprises most of the data generated by the ESA EO missions.
 - b) The *restrained dataset* for which access priorities are managed differently, due to technical and financial constraints. The restrained data set comprises the data which are acquired or processed after specific PI demand (mainly the SAR data originating from the ERS and Envisat missions) and the datasets of very large volume (i.e. not suitable for transfer via Internet).

A. Data Supply

- A.1. ESA provides the agreed amount and type of ESA data to the PI on-line for the free dataset and on-line or on media for the restrained dataset.
- A.2. ESA, while duly considering the interests of the PI, reserves the right to review, modify, suspend or terminate delivery of data at any time during the Project in the event that
 - a) Funding of ESA mission or associated processing facilities operations cannot be sustained
 - b) Satellite or related ground system failure occurs
 - c) Planned activities of related ESA systems are suspended or cancelled in order to carry out special activities that ESA consider of high priority
 - d) Status check of the respective satellite(s) or performance evaluation is needed.

ESA may modify their mission operation plan(s) at any time, should they consider such corrective action necessary for ensuring mission success.

- A.3. The PI accepts to modify, suspend or terminate the utilization of ESA Data for the Project when so requested by ESA. The PI shall have no right whatsoever to claim for compensation or damage as a consequence of ESA's decision to terminate or suspend the delivery of ESA data.
- A.4. ESA does not guarantee the suitability of ESA data for the purpose of the Project and shall not be held liable for any damage derived from the use of such data by the PI or any third party.
- A.5. ESA only upon request guarantees the confidentiality of communications, reports and other documentation submitted by the PI, to the extent mutually agreed.

- A.6. In the case of the restrained dataset, the PI accepts that his project has a lower priority in case of conflict for SAR instrument planning with a project of higher priority¹.

B. General conditions of data utilisation

- B.1. The PI is required to accept these Terms and Conditions before being able to receive ESA data.
- For the free dataset, the registration and acceptance of these Terms and Conditions will authorise full access on-line to the requested data sets.
 - For the restrained dataset, the PI is required first to submit a *project proposal*, which shall be reviewed by ESA with regard to scientific relevance and required data. ESA notifies the PI of the acceptance of the proposal, assigning a maximum quota for instrument planning and/or for product delivery. Access to data is then granted upon acceptance of these Terms and Conditions.
- B.2. The PI acknowledges and takes account of scheduling and processing constraints both at satellite and ground segment levels.
- B.3. The PI understands that acceptance of these Terms & Conditions includes general acceptance of the related ESA Data Policy².
- B.4. The PI assumes full responsibility for the approved utilisation of data, including utilisation with co-investigators. The PI provides ESA with a detailed list of all co-investigators.
- B.5. The PI is authorised to undertake duplication of data (sets) as necessary for the performance of the Project, without any charges to ESA.
- B.6. In the case of the free dataset, the PI may be granted the right for onward distribution by ESA only upon request and confirmation by ESA.
- B.7. The PI and all authorised co-investigators together shall, at any time, observe the following conditions of use:
- a) Use all ESA data received exclusively for purposes of the Project
 - b) Indemnify ESA for the full amount of any loss, expense, cost or liability (other than arising from any act, omission or direction of ESA) resulting from any utilisation of data, for which ESA might be held responsible for any reason whatsoever;
 - c) Not assign any rights, obligations or interests herein without the prior written approval by ESA
- B.8. In the cases described under A.2, the PI has no right whatsoever to claim for compensation or damage as a consequence of the decision of ESA.
- B.9. The PI waives any claim against ESA in the event of any damage directly or indirectly arising from malfunction or interruption in the transmission of data for any reason whatsoever.
- B.10. Costs of equipment to receive or read ESA data or any other costs associated with the execution of the Project will be borne and / or secured by the PI.
- B.11. The PI informs ESA in case of problems with data reception or data quality.

¹ Projects of higher priority (i.e. Category-2 projects) are projects requesting an operational use of SAR data, as defined in the "Revised ESA Data Policy for ERS, Envisat and Earth Explorer Missions", http://eopi.esa.int/esa/docs/doc/download/revised_ESA_data_policy.pdf

² Revised ESA Data Policy for ERS, Envisat and Earth Explorer Missions, http://eopi.esa.int/esa/docs/doc/download/revised_ESA_data_policy.pdf

- B.12. The PI shall publish results of the Project in publications of international renown and present results at dedicated workshops organised by ESA. For a period of six months after Project completion, the PI has the exclusive right to publish the results; thereafter, this right will be shared with ESA unless the PI can demonstrate a character of confidentiality³ of the results.
- B.13. Any publication whatsoever resulting from work carried out using ESA data shall contain the following sentence: “Data provided by the European Space Agency.” The PI provides ESA with a free copy of any publication. ESA shall at any time have a royalty free right of publication and dissemination of these publications, unless the PI claims a character of confidentiality³ of his own results and to the extent that such reproduction and dissemination do not conflict with the rights of third parties.

C. Intellectual Property Rights

- C.1. The PI acknowledges the full title and ownership, including all derived rights, by ESA of all ESA data.
- C.2. The PI clearly marks all ESA data and analysed information, irrespective of the form in which it is produced), as follows: © ESA (year of reception).
- C.3. In his sphere of influence, the PI guarantees respect of ESA’s intellectual property rights and reports any evidence of unlawful use, including such of third parties, immediately to ESA in writing.
- C.4. ESA’s title and copyright of data shall not prevent recognition of copyright in favour of PI which may arise as a result of the latter’s own interpretation of ESA processed data, inputs of data or knowledge from other sources.
- C.5. In case of emergence of own intellectual property rights from direct utilisation of ESA data, the PI grants ESA free of charge, an irrevocable and non-exclusive license to use such intellectual property in the field of space research and technology. The PI informs ESA of applications for patents or similar forms of legal protection for such intellectual property within two months from the filing date. ESA treats such information as confidential during a period of eighteen months following original application, unless published before the expiration of this period by the PI.

³ The term «confidentiality» does not refer to classified information terminology.