



Draft Public service contract (ARVODI 2018)

IUC number: 202504066

The undersigned:

1. The State of the Netherlands, which has its seat in The Hague, represented by the Minister of Economic Affairs, legally represented in this matter by director Mr. drs. ing. H. Z. van de Wetering, hereinafter referred to as the Contracting Authority,

and

2. [Contractor's full name and legal form], which has its registered office in ..., legally represented in this matter by ... [and ...] [signatory's name], hereinafter referred to as the Contractor,

WHEREAS:

- The Contracting Authority requires the procurement and processing of satellite data for the Netherlands Satellite Data Portal;
- The Contracting Authority has published a tender document for this purpose;
- The Contractor submitted a tender on [day month year];
- The Contracting Authority has awarded the contract to the Contractor based on this tender;
- The Contractor has sufficiently familiarised itself with what the Contracting Authority wishes to achieve;
- The Parties wish to lay down the ensuing legal relationship in a written Contract;

AGREE AS FOLLOWS:

A number of terms in this Contract are written with initial capitals. The meanings of these terms are defined in article 1 of the General Government Terms and Conditions for Public Service Contracts 2018 (ARVODI 2018).

1. Object of the Contract

- 1.1 The Contracting Authority hereby commissions the Contractor to perform services as described in the quotation submitted by the Contractor on [date] (ref. ..., see Schedule ...) based on the tender document issued by the Contracting Authority on [date] (ref. ..., see Schedule ...), in so far as this Contract does not contain any provisions to the contrary. The Contractor hereby agrees to perform these Services.
- 1.2 The following documents are an integral part of this Contract. In the event of inconsistencies, a higher ranked document takes precedence over a lower ranked document:
 1. this document including schedules;
 2. the Memorandum of Information
 3. the tender document;
 4. the ARVODI 2018;
 5. the tender submitted by the Contractor to the Contracting Authority on [date], ref ...

- 1.3 The results of the Services are delivered in the form of (Raw and Processed) datasets and reports, as described in the tender document.

2. Formation and duration of the Contract

- 2.1 This Contract comes into effect on <<date>> and has an initial contract period of Contract for a period of 3 years, running from 1 February 2026 to 1 February 2029, with three (3) times an option to extend this Contract with one (1) year, to be exercised unilaterally by the Contracting Authority, under the same conditions, with a maximum total optional period of three (3) years running from 1 February 2029 to 1 February 2032. The total duration of the Contract is therefore maximum six (6) years, including all extension options.

If the Contracting Authority does not wish to make use of an extension option, he will notify the Contractor in writing of this no later than three (3) months before the expiry of the initial or current contract period. In that case, the Contract will end by operation of law after the initial contract period or the contract period applicable at that time. In the absence of such a message from the Contracting Authority, an option to extend takes effect automatically, if and insofar as such an option is still open.

- 2.2 If, other than through force majeure, any of the Primary acquisitions and/or any of the Supplementary acquisitions have not been performed in full in accordance with the Contract within the agreed or extended term, the Contractor will immediately pay a penalty of 0.1% of the total maximum price specified for the initial three year Contract period, for each day that it fails to perform the Primary acquisition(s) and/or Supplementary acquisition(s) in question as agreed, up to a maximum of 10% of the total maximum price specified for the initial three year Contract period. If, other than through force majeure, during each optional extension period of one year the Contractor will immediately pay a penalty of 0.3% of the total maximum price specified for each of the optional one year extension Contract, for each day that it fails to perform the Primary acquisition(s) and/or Supplementary acquisition(s) in question as agreed, up to a maximum of 10% of the total maximum price specified for each of the optional one year extension Contract. If, other than through force majeure, the Contractor is permanently unable to perform the Services as agreed, the penalty will be immediately payable in full. The penalty will be payable to the Contracting Authority, without prejudice to all other rights and claims, including:
- a. the right to demand that the Services be performed as agreed;
 - b. the right to damages.

The penalty will be set off against amounts payable by the Contracting Authority regardless of whether the claim for payment of such amounts has been transferred to a third party. In addition to article 22 of the ARVODI 2018, concerning force majeure, the events of force majeure also include unusually prolonged cloudy weather conditions, different from what can be expected climatologically - taking into account changing weather patterns as a result of climate change - for the Area of Interest.

3. Price and other financial provisions

- 3.1 For the initial three year contract period the Contractor will perform the Services for a fixed aggregate fee of €... excluding Netherlands VAT and (if applicable) including local foreign VAT and all other costs and/or fees. For each extension option of one (1) year the Contractor will perform the Services for a fixed aggregate fee of €... excluding Netherlands VAT and (if applicable) including local

foreign VAT and all other costs and/or fees. Please note: the fixed aggregate fee for each optional extension contract year is the same.

For the total duration of the Contract with a maximum of six (6) years, including extension options the Contractor will perform the Services for a fixed aggregate fee of €... excluding Netherlands VAT and (if applicable) including local foreign VAT and all other costs and/or fees.

- 3.2 It is expressly agreed that if the Contractor does not charge VAT but some or all of the Services are not exempt from VAT, the Contracting Authority will not be liable to pay the VAT in question.
- 3.3 The fee covers all Services to be performed by the Contractor under this Contract, plus any materials needed for this purpose.
- 3.4 The agreed rates are fixed and invariable during the term of this Contract.
- 3.5 There is a fixed total price and the following payment schedule applies:

For a term of 3 years:

May 1, 2026:	10% ¹ (acceptance of first delivery and reporting)
August 1, 2026:	8% ¹
November 1, 2026:	8% ¹
February 1, 2027:	8% ¹
May 1, 2027:	8% ¹
August 1, 2027:	8% ¹
November 1, 2027:	8% ¹
February 1, 2028:	8% ¹
May 1, 2028:	8% ¹
August 1, 2028:	8% ¹
November 1, 2028:	8% ¹
February 1, 2029:	10% ¹ (upon acceptance of the results of the services within the Contract with a term of 3 years)

For the first option to extend for one year:

May 1, 2029:	25% ²
August 1, 2029:	25% ²
November 1, 2029:	25% ²
February 1, 2030:	25% ² (upon acceptance of the results of the services of the first option to extend for one year)

For the second option to extend for one year:

May 1, 2030:	25% ³
August 1, 2030:	25% ³
November 1, 2030:	25% ³
February 1, 2031:	25% ³ (upon acceptance of the results of the services of the second option to extend for one year)

For the third and last option to extend for one year:

May 1, 2031:	25% ⁴
August 1, 2031:	25% ⁴
November 1, 2031:	25% ⁴

¹ From price for term of 3 years

² From price for the first optional extension of one year

³ From price for the second optional extension of one year

⁴ From price for the third and last optional extension of one year

February 1, 2032: 25%⁴ (upon acceptance of the results of the services of the third and last option to extend for one year)

- 3.6 The Contractor will submit invoices electronically in the manner prescribed in the tender document.

Only applicable to companies based in the Netherlands:

- 3.6 E-invoicing
The Contractor must send the invoices electronically to:
RVO-Netherlands Space Office
Government identification number: 00000004000000169000

The general terms and conditions that apply to this contract prescribe/contain a provision that invoices must be sent electronically (not in pdf). This can be done in different ways:

- The invoicing portal of the Dutch government;
- E-invoicing with your own (accounting) software package through Peppol;
- E-invoicing through a service provider.

For more information: <https://www.helpdesk-efactureren.nl/e-facturen-versturen>

For questions regarding e-invoicing via the portal, please contact helpdesk-efactureren@rvo.nl, 088-0424400, option 2.

For questions regarding e-invoicing via an accounting program (Peppol), please contact operations@peppolautoriteit.nl.

- 3.7 Article 17.1 of the ARVODI 2018 concerning e-invoicing does not apply to companies located outside of the Netherlands.
You must state the order number on your invoice. You can send your invoice by e-mail in PDF format to AdminNSO@spaceoffice.nl.

4. Contacts

- 4.1 The Contracting Authority's contact is Mr Mark Loos, m.loos@spaceoffice.nl, 06-1588 6297
The Contractor's contact is ...

- 4.2 Notwithstanding the provisions of article 10.2 of the ARVODI 2018, the contacts named above cannot make legally binding agreements on the Parties' behalf

5. Intellectual property rights and user rights

- 5.1 **Right of use:** The right of use applies to the Raw data (referred to as dataset 1 in the tender document) and to the Processed datasets (datasets 2-5 in the tender document) that have been significantly modified through technical manipulations, but in which the original Raw imagery remains recoverable.

- 5.1.1 Articles 24.1, 24.5 and 24.6 of the ARVODI 2018 do not apply.

- 5.1.2 The Contractor grants the Contracting Authority a non-exclusive, irrevocable right, for an indefinite period and to the extent of the intellectual property rights held by the Contractor, to:

- 1) grant basic access and user rights (view, query, web map services, and interact with the data in the satellite data portal's viewer) to the results of the Services to Dutch entities, referred to as Authorized end users;

- 2) grant full access and user rights (basic user rights, including extended functionality at the satellite data portal's viewer and download options) to the results of the Services to Dutch entities, referred to as Registered end users after registration by the Contracting Authority (now and in the future); and
- 3) publish the results of the Services, or have them published, on the National Satellite Data Portal.

This grant does not affect the rights of the respective owners of the intellectual property in the original satellite imagery and in any Value-Added Data. The Contractor represents that it has the right to grant the rights in accordance with the tender document.

5.2 **Data access and distribution:**

- Registered end users are Authorized end users that are registered by the Contracting Authority. Registered end users have registered via the National Satellite Data Portal and will continue to do so. The registration is managed by the Tendering Authority, or a subcontractor of the Tendering Authority. Upon registration, the Authorized end user explicitly declares to be a Dutch legal entity, Dutch institution or Dutch resident and the end user undertakes to comply with the license conditions of the data.
- NSO, as Tendering Authority, provides access to Raw imagery data and Processed datasets to the Authorized end users via the most suitable interface, currently in the form of the satellite data portal (www.satellietdataportaal.nl, [ftp.satellietdataportaal.nl](ftp://satellietdataportaal.nl), and api.satellietdataportaal.nl). By visiting and using the National Satellite Data Portal, the end users implicitly declares to be a Dutch legal entity, Dutch institution or Dutch resident, hence being an Authorized end user, and the end user undertakes to comply with the license conditions of the data provider.
- Authorized end users can view, query, use WMTS, and interact with the data in the satellite data portal's viewer, which is accessible only within the Netherlands.
- The data are stored on the file server and can be accessed and downloaded from there by Registered end users only, via FTP, RESTful API, or OGC-standard APIs.

The Contractor is aware of the prescribed way of user authorisation and data access and distribution, and accepts this as such.

5.3 **Intellectual property of the Raw imagery data:** the overall intellectual property concerning the Raw satellite imagery (dataset 1) contained in the Delivered Data is not included in the license given to the Contracting Authority.

Intellectual property of Value-Added Products (VAP): VAP, such as the Processed datasets (Datasets 2–5), that (a) contain original pixel information from the Raw data, or (b) in which the original Raw imagery remains recoverable, the overall intellectual property is not included in the license given to the Contracting Authority.

Intellectual property of Derivative Image Products (DIP): Any product developed by a Registered end user and derived from either the Raw data or Processed datasets by a method that irreversibly alters the Raw data, and from which the pixel information of the Raw data can no longer be derived (uncoupled from the source imagery data), are Derivative Image Products. A Registered end user is entitled to use the Raw data and Processed datasets to develop, create, reproduce, distribute and sell Derivative Image Products. The respective Registered end user owns the intellectual property rights to the method(s) to obtain the Derivative Image Products themselves.

The Contracting Authority and Authorized end users may display all Raw data and Processed datasets in printed form on the world wide web with the appropriate source reference to the respective owners of the intellectual property rights in the original satellite imagery and in the Processed datasets.

5.4 **End user license:** The end user license agreement submitted by the Tenderer with the Tender is applicable, including the terms and conditions for the use of the Raw data products and the rights regarding all Processed data products. The Contractor grants permission to all Authorized end users the right to use these data, unedited and processed, in the manner described in the Contractor's end user license agreement, where applicable. The conditions in the Contractor's end user license should contain at least the user rights

and intellectual property rights as outlined in Paragraphs 5.1-5.3 and cannot be more restrictive than the license terms of the data portfolio in the satellite data portal at the time of proposal submission for this tender by the Contractor, see for reference: <https://www.spaceoffice.nl/en/satellite-data-portal/user-licenses/>.

6. Other Terms and Conditions

- 6.1 This Contract is governed exclusively by the General Government Terms and Conditions for Public Service Contracts 2018 (ARVODI 2018), of which the Parties have already received a copy, in so far as this Contract does not contain any provisions to the contrary. Any general and special terms and conditions drawn up by the Contractor do not apply to this Contract.
- 6.2 In addition to article 21 of the ARVODI 2018, the Contractor indemnifies the Contracting Authority against any claims for damages brought by third parties as a result of its failure to discharge its obligations as referred to in article 21.3 of the ARVODI 2018. The liability amounts set out in article 21.3 of the ARVODI 2018 apply *mutatis mutandis*.
- 6.3 In addition to the provisions of article 22 of the ARVODI 2018, the Contracting Authority may cancel this Contract forthwith out of court by registered letter, without giving any warning or notice of default, in the following cases:
- a. if the Contractor has been convicted, by final and unappealable judgment, of discrimination within the meaning of articles 137c to 137g and article 429 quater of the Criminal Code; or
 - b. if a member of the Contractor's Staff has been convicted, by final and unappealable judgment, of discrimination within the meaning of articles 137c to 137g and article 429 quater of the Criminal Code and that staff member is on the Contractor's executive, management or supervisory board or has representative, decision-making or audit powers.
- In the cases set out under (a) and (b) the right to cancellation expires three years after the judgment becomes unappealable.
- 6.4 If the Contract ends (or ends early) for any reason whatsoever, the Contractor will, at the Contracting Authority's first request, take whatever action is reasonably necessary to ensure that a new contractor or the Contracting Authority itself can without impediment take over the performance of the Services. If necessary the Contractor will take part in consultations with a succeeding contractor at the Contracting Authority's request.

7. Declaration of integrity

The Contractor hereby declares that it has not offered or given members of the Contracting Authority's Staff any benefit in order to obtain the contract nor arranged for them to be offered or given any such benefit. It undertakes not to do so in the future with a view to inducing any members of the Contracting Authority's Staff to perform or refrain from performing any act.

8. Final provisions

- 8.1 Any derogations from this Contract are binding only if they have been expressly agreed by the Parties in writing.
- 8.2 Any written or oral agreements previously made by the Parties about the Services that are the object of this Contract are nullified by the signature of this Contract.

Thus agreed and duly signed by both parties,

The Hague,
[date]:

[place],
[date]:

For the Minister of Economic Affairs,

[name Contractor]

J. van Putten MBA
Team Manager Procurement Office

[position and name of signatory]

Mr. drs. ing. H.Z. van der Wetering
Director Netherlands Space Office

Schedules:

- Data Processing Agreement
- ARVODI 2018